

S218176

IN THE
SUPREME COURT OF CALIFORNIA

FLAVIO RAMOS et al.,
Plaintiffs and Appellants,

v.

BRENNTAG SPECIALTIES, INC. et al.,
Defendants and Respondents.

SUPREME COURT
FILED

SEP 8 - 2014

Frank A. McGuire Clerk
Deputy

AFTER A DECISION BY THE COURT OF APPEAL,
SECOND APPELLATE DISTRICT, DIVISION FOUR, CASE No. B248038

DEFENDANT AND RESPONDENT SCOTT SALES CO.'S
JOINDER IN THE OPENING BRIEF ON THE MERITS OF
DEFENDANT AND RESPONDENT ALCOA, INC.

8th

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**IN THE
SUPREME COURT OF CALIFORNIA**

FLAVIO RAMOS et al.,
Plaintiffs and Appellants,

v.

BRENNTAG SPECIALTIES, INC. et al.,
Defendants and Respondents.

**DEFENDANT AND RESPONDENT SCOTT SALES
CO.'S JOINDER IN THE OPENING BRIEF ON
THE MERITS OF DEFENDANT AND
RESPONDENT ALCOA, INC.**

Defendant and respondent SCOTT SALES CO. ("Scott Sales") hereby joins in the Opening Brief on the Merits filed by defendant and respondent Alcoa, Inc. This joinder is filed pursuant to California Rules of Court, rule 8.200(a)(5), to avoid duplication and needless waste of paper, and yet to protect the interests of defendant and respondent Scott Sales.

By this joinder, respondent Scott Sales hereby joins in and incorporates by reference the entire Opening Brief on the Merits.

Scott Sales is similarly situated to Alcoa, Inc. in that plaintiffs make identical allegations as to each defendant, and Scott Sales, like Alcoa, supplied raw materials for a manufacturing process undertaken by plaintiff's employer, who exercised total control over

the process that allegedly gave rise to plaintiff's claimed injuries. The grounds set forth in the Opening Brief on the Merits are equally available to Scott Sales.

Mr. Ramos worked as a mold maker, machine operator and laborer at Supreme Castings from 1972 to 1978 and 1981 to 2009. [9 AA 2280] During his employment, Ramos worked with and around various sand, plaster, and metal products. [9 AA 2280] Appellants allege that Scott Sales supplied silica sands to Mr. Ramos' employer, Supreme Castings. [9 AA 2272]

Defendant Scott Sales is a seller and supplier of silica sand, one of the most abundant raw materials on Earth. Silica sand is used in innumerable ways in industrial processes, and it is a building block of countless products and industries, including manufacture of glass (bottles, mirrors, windows, lightbulbs, fiberglass), ceramics (tableware and ornaments), construction (concrete, tiles and paint), water filtration systems, adhesives, molds, and sports facilities (volleyball courts and golf courses). It is hard to imagine life without the many uses of silica sand. Indeed, courts have expressly identified sand as a "versatile", "basic raw material". [*Maxton v. Western States Metals* (2012) 203 Cal.App.4th 81, 90; *Arena v. Owens Corning Fiberglas Corp.* (1998) 63 Cal.App.4th 1178, 1191; *In re TMJ Implants Products Liability Litigation* (1996) 97 F.3d 1050, 1057.] Plaintiffs have identified no defect in the silica sand sold by Scott Sales, nor is there anything inherently dangerous about silica sand. Nor does Scott Sales have any influence or control over the innumerable manufacturing


processes undertaken by the purchasers of its silica sand, including Mr. Ramos's employer.

The ruling by Division Four of the Second Appellate District improperly expands the duties of raw material suppliers based on mistakes of law and fact, and should be reversed.

September 5, 2014

SCHAFFER, LAX, McNAUGHTON &
CHEN
A Professional Corporation

By:



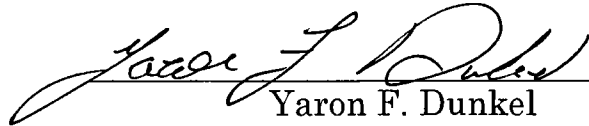
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CERTIFICATE OF WORD COUNT
(Cal. Rules of Court, rule 8.520(c).)

The text of this brief consists of 576 words as counted by the Microsoft Word version 2010 word processing program used to generate the brief.

Dated: September 5, 2014


Yaron F. Dunkel

CERTIFICATE OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 515 South Figueroa Street, Suite 1400, Los Angeles, California 90071.

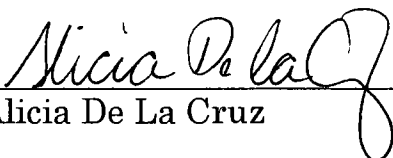
On September 5, 2014, I served true copies of the following document(s) described as **DEFENDANT AND RESPONDENT SCOTT SALES CO.'S JOINDER IN THE OPENING BRIEF ON THE MERITS OF DEFENDANT AND RESPONDENT ALCOA, INC.** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Schaffer, Lax, McNaughton & Chen's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on September 5, 2014, at Los Angeles, California.


Alicia De La Cruz

SERVICE LIST
Ramos vs. Brenntag Specialties, et al.
Case No. BC449958
Court of Appeal No. B248038

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