

S218176

IN THE
SUPREME COURT OF CALIFORNIA

SUPREME COURT
FILED

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FLAVIO RAMOS et al.,
Plaintiffs and Appellants,

Frank A. McGuire Clerk

Deputy

v.

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

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

qth

**DEFENDANT AND RESPONDENT PORTER WARNER'S JOINDER IN THE
REPLY BRIEF ON THE MERITS OF DEFENDANT AND RESPONDENT
ALCOA, INC.**

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PORTER WARNER INDUSTRIES, LLC

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**DEFENDANT AND RESPONDENT PORTER WARNER'S
JOINDER IN THE REPLY BRIEF ON THE MERITS OF
DEFENDANT AND RESPONDENT ALCOA, INC.**

Defendant and respondent Porter Warner Industries, LLC ("Porter Warner") hereby joins in the Reply 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 Porter Warner.

By this joinder, respondent Porter Warner joins in and incorporates by reference the entire Reply Brief on the Merits. Porter Warner is similarly situated to Alcoa, Inc. in that plaintiffs make identical allegations as to each defendant, and Porter Warner, 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 Reply Brief on the Merits apply equally to Porter Warner.

In the Petition for Review and the Opening Brief on the Merits, Defendants presented the following issue: Is a supplier of multi-use raw material for injuries allegedly caused while the material is subjected to manufacturing processes by an intermediary purchaser, without any input from or control by the supplier? (PFR 1; OBOM 1.)

Plaintiffs contend that raw material and component suppliers should be responsible for any injuries caused by the “intended uses” of the materials they supply. (ABOM 11-13.) However, this contention is contrary to the longstanding principle, explained by this Court in *O’Neil v. Crane Co* (2012) 53 Cal.4th 335, 349, that tort liability should be imposed only on those entities that exercise control over the circumstances or products giving rise to injury. Here, plaintiffs did not and cannot establish that the raw materials supplied to plaintiff’s employer by Porter Warner were inherently dangerous or defective. Plaster and zircon sand can be used in a multitude of ways and processes to make a multitude of products.

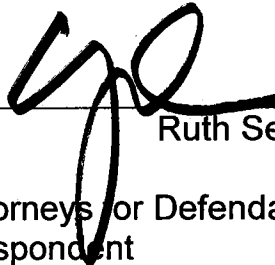
As with the aluminum tubing and ingots supplied by Alcoa, the only potential danger from the raw materials supplied by Porter Warner arises from the purchasing manufacturer’s actions in the manufacturing process. Thus, as a matter of law, Porter Warner is not responsible for the injuries alleged because the record contains no allegations that Porter Warner had any control or influence over the manufacturing process, or that Porter Warner’s products were tainted or otherwise defective before the employer subjected it to the manufacturing process.

For these reasons, and those set forth in the Opening and Reply Briefs, this Court should reverse the ruling by the Court of Appeal and uphold the trial court’s sustaining of the demurrer and dismissal of plaintiffs’ claims with prejudice.

February 13, 2015

LYNBERG & WATKINS
RUTH SEGAL
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By: _____

A handwritten signature in black ink, appearing to be 'RS', written over a horizontal line.

Ruth Segal

Attorneys for Defendant and
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CERTIFICATE OF WORD COUNT
(Cal. Rules of Court, rule 8.520(c)(1))

Counsel for Defendant and Respondent PORTER WARNER INDUSTRIES, LLC hereby certifies that the enclosed Joinder contains **887** words, including footnotes, in compliance with Rule 8.520(c)(1) of the *California Rules of Court*. Counsel relies on the word count measured by Microsoft Office Word 2010 word processing software.

Dated: February 13, 2015

LYNBERG & WATKINS, APC
Ruth Segal
Rosemary Do

By: _____



Ruth Segal

Attorneys for Defendant and
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INDUSTRIES, LLC

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 888 South Figueroa Street, 16th Floor, Los Angeles, California 90017.

On February 13, 2015, I served the foregoing document(s) described as **DEFENDANT AND RESPONDENT PORTER WARNER'S JOINDER IN THE REPLY BRIEF ON THE MERITS OF DEFENDANT AND RESPONDENT ALCOA, INC.** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

SEE ATTACHED SERVICE LIST

- X BY MAIL: As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. Postal Service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing an affidavit.**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed February 13, 2015, at Los Angeles, California.


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