

NO. 11-948

**In The
Supreme Court of the United States**

TITAN MARITIME, LLC, dba TITAN SALVAGE, A CROWLEY
COMPANY,

Petitioner,

vs.

CAPE FLATTERY LIMITED,

Respondent.

**On Petition for Writ of Certiorari
To the United States Court of Appeals
For The Ninth Circuit**

**RESPONDENT CAPE FLATTERY LIMITED'S OBJECTION TO
MOTION FOR LEAVE TO FILE AND PROPOSED BRIEF OF
AMICI CURIAE LAW PROFESSORS IN SUPPORT OF TITAN
MARITIME, LLC'S PETITION FOR WRIT OF CERTIORARI**

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CERTIFICATE OF INTEREST

Respondent CAPE FLATTERY LIMITED is a Hong Kong corporation, and no publicly held corporation owns ten percent (10%) or more of its stock; however, Pacific Basin Shipping Limited, a Bermuda corporation publicly-listed on the Hong Kong Stock Exchange, indirectly owns 100% of CAPE FLATTERY LIMITED.

**RESPONDENT CAPE FLATTERY LIMITED'S OBJECTION
TO OBJECTION TO MOTION FOR LEAVE TO FILE AND
PROPOSED BRIEF OF *AMICI CURIAE* LAW PROFESSORS
IN SUPPORT OF TITAN MARITIME, LLC'S
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The proposed *amicus curiae* Brief (the "Proposed Brief") fails to meet the standards of Rule 37.1 of the Rules of the Supreme Court. The Proposed Brief largely repeats and paraphrases the Petitioner's argument. It also argues issues not present in this case.

The Proposed Brief is based on the postulate that the Ninth Circuit's opinion is contrary to "the clear and unambiguous choice of law/arbitration clause." Proposed Br. at 9. However, in this case, both Courts below concluded that the Agreement between the parties failed to specify a non-federal law that governs its interpretation and construction. Moreover, the Ninth Circuit expressly concluded that the arbitration clause drafted by the Petitioner is ambiguous.

The Proposed Brief disregards the actual holdings of both Courts below, and argues a case that is not before this Court. It also fails to address the actual question before the Court, *i.e.*, whether the Ninth Circuit properly defaulted to the federal substantive law of arbitrability where (1) the Agreement between the parties failed to specify a non-

federal law that governs its interpretation and construction, and (2) the Petitioner did not ask either of the two Courts below to determine such non-federal law by the applicable conflict-of-laws rules.

Accordingly, the Proposed Brief is irrelevant, redundant, and potentially misleading.

Respectfully submitted,

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**CERTIFICATE OF SERVICE RE RESPONDENT CAPE
FLATTERY LIMITED'S OBJECTION TO MOTION FOR LEAVE
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CERTIFICATE OF SERVICE RE RESPONDENT CAPE FLATTERY
LIMITED'S BRIEF IN OPPOSITION TO BRIEF AMICI CURIAE OF
THE CALIFORNIA BANKERS ASSOCIATION, THE AMERICAN
FINANCIAL SERVICES ASSOCIATION,
AND THE CONSUMER MORTGAGE
COALITION IN SUPPORT OF PETITIONER

The undersigned hereby certifies that one (1) true and correct copy of Respondent Cape Flattery Limited's Brief In Opposition to Brief Amici Curiae of The California Bankers Association, The American Financial Services Association, and The Consumer Mortgage Coalition In Support of Petitioner was duly served on the following parties by U.S. Mail, postage prepaid, on March 6, 2012.

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