

CASE NO.

40

NORTHERN DISTRICT

SAN JOSE GRANT

YGNACIO PACHECO

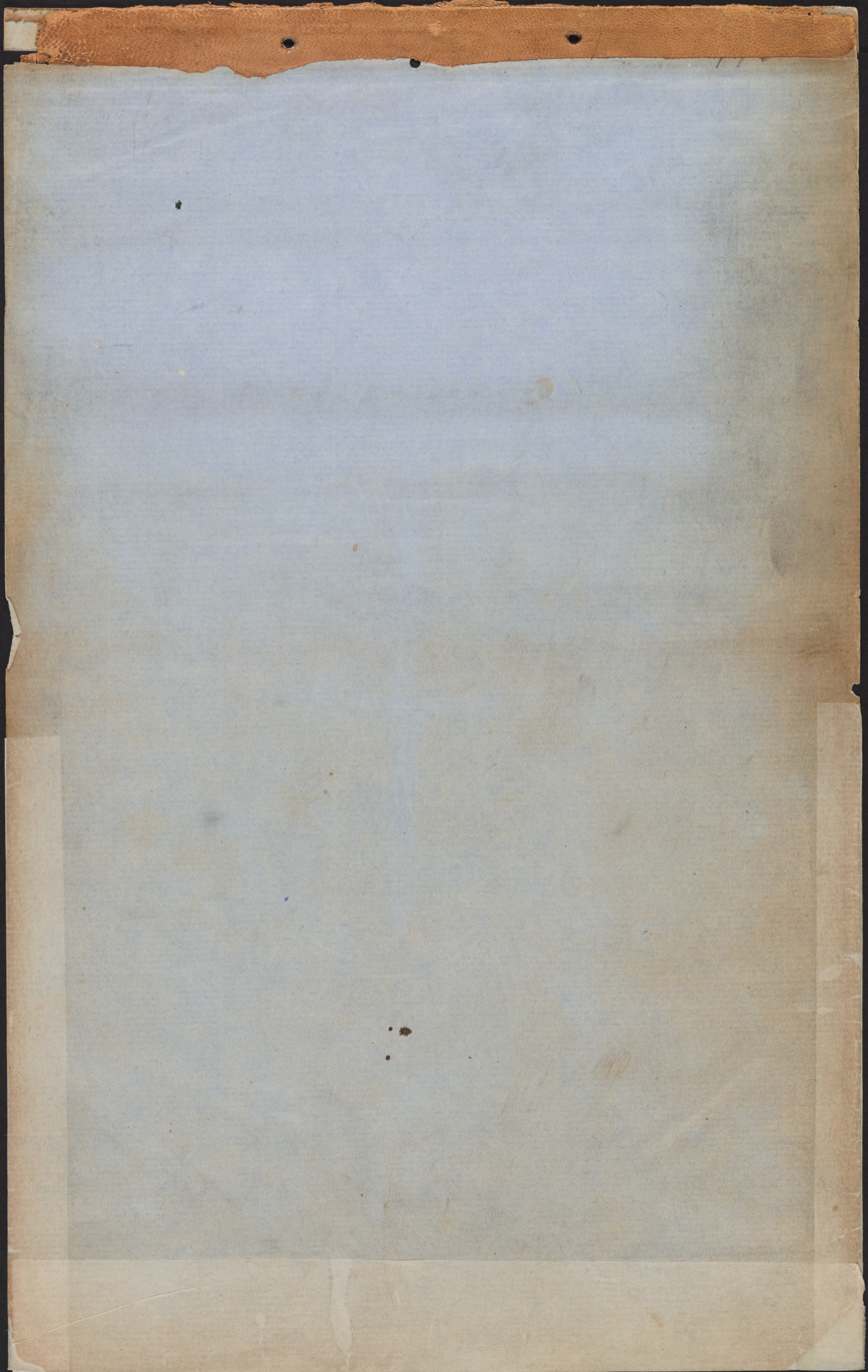
CLAIMANT

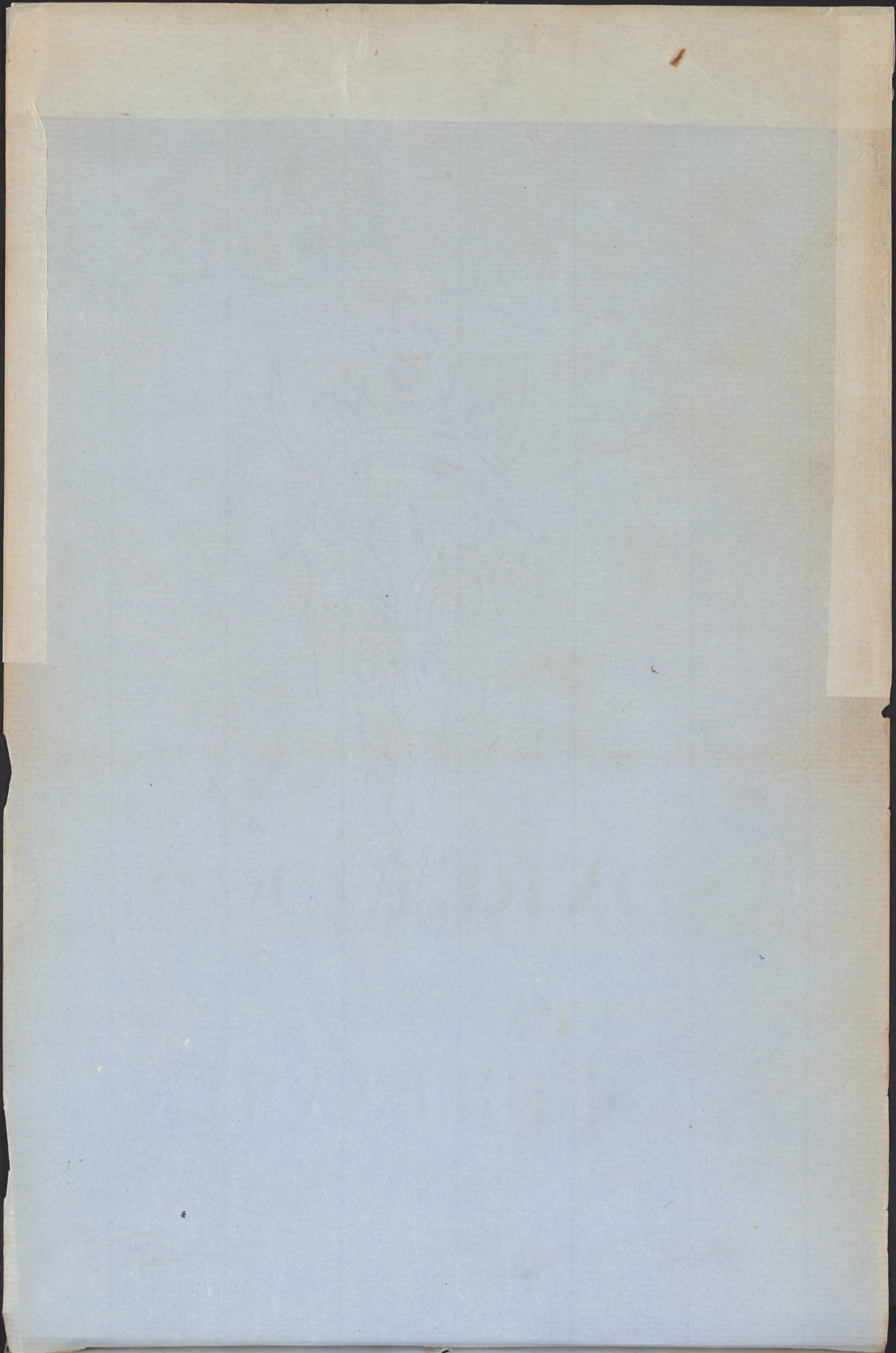
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PAGE 1

# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO.

*198*

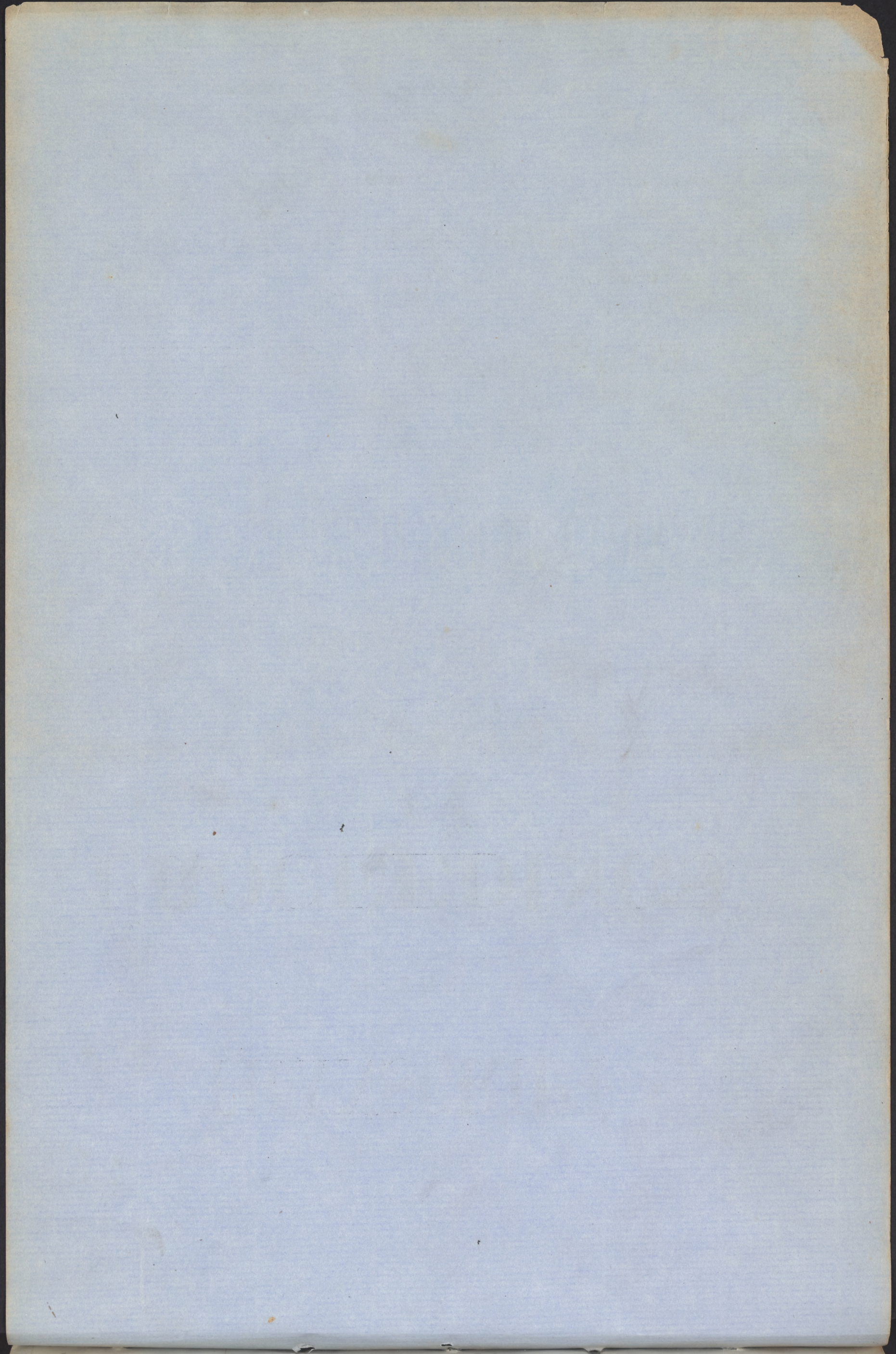
*Ignacio Pacheco* CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

*San Jose*



198  
Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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Be it Remembered, that on this *twenty third day of April*, Anno Domini One Thousand Eight Hundred and Fifty-*Two*, before the Commissioners to ascertain and settle the Private Land Claims in the State of California, sitting as a Board in the City of San Francisco, in the State aforesaid, in the United States of America, the following Proceedings were had, to wit;

The Petition of *Ignacio Pacheco*.

for the Place named

*San José*

was presented, and ordered to be filed and docketed with No. 198 and is as follows, to wit;

(Vide page 3 of this Transcript.)

Upon which Petition the following subsequent Proceedings were had in their chronological order, to wit;

*San Francisco June 26' 1852*

The following case was set for hearing and ordered to be placed on the Trial Docket - No. 198  
*Ignacio Pacheco - "San José"*

*San Francisco December 14' 1852*

In case No. 198 *Ignacio Pacheco* for the place named "*San José*", the deposition of *Manuela Jones* a witness in behalf of the claimant, taken before Commissioner *Henry J. Thornton*, was filed, and is in the words and figures as follows, to wit;

(Vide page 3 of this Transcript)

In same case the deposition of *Carmita Rufus*, a witness in behalf of the claimant taken

before Commissioner Mary J. Thompse was filed:

(Vide page 3 of this Transcript)

In same case the deposition of Wm R. B. Cooper, a witness in behalf of the claimant taken before Commissioner Mary J. Thompse was filed:

(Vide page 3 of this Transcript)

San Francisco Mar. 14 '1853.  
Ordered on motion of the 'United States Law Agent', that case no. 198 be placed on the Final Decree.

San Francisco Mar. 25 '1853.  
Case No. 198 Ignacis Pacheco for the place named "San Jose", called: the Counsel for the claimants, Mr. Halleck, read the petition and the papers in evidence, the United States Associate Law Agent filed his brief, submitted and taken under advisement.

San Francisco Apr. 11 '1853.  
In Case No. 198 Ignacis Pacheco for the place named "San Jose", Commissioner William Hall delivered the opinion and the decree of final confirmation:  
(Vide page 26 of this Transcript)



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## Petition

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To the Hon. the Board of Land Commissioners  
for settling private Land claims in California

The Petition of Ignacio Pacheco  
respectfully submits to your Hon. Board the accom-  
panying Title & Translation of a grant of land made  
to him on the 3<sup>rd</sup> Oct 1840 by Gen Alvarado by virtue  
of the Laws of Mexico, which said land is situated in  
the County of Marin and bounded by the pass of  
Las Gallinas by the Creek of San Jose, the Creek  
of Pachecos the Sierra & the Esteros and consist of  
one league and a half

Your Petitioner further submits that said land has been  
in constant occupancy & cultivation since 1839 & there  
is no conflicting claim to it as known to your  
Petitioner

All which is respectfully submitted for such  
action as the nature and justice of the case may require

Iving & Rose  
for Petitioners

Espediente Marked B

Translation " C

Filed in Office April 23<sup>rd</sup> 1852

Geo Fisher

Secy

San Francisco Oct 28<sup>th</sup> 1852

On this day before Com<sup>r</sup> Henry J. Thornton came Earnest  
Deposition of Rufus a witness in behalf of the claimant Ignacio  
Earnest Rufus Pacheco Petition No 198 and was duly sworn his  
Evidence being given in English

The U.S. Associate Law Agent was not present  
Questions propounded by claimants present in claim  
No 198 on file in the Secretaries Office

Quest 1. What is your name, age & place of Residence

Answer My name is Earnest Rufus, my age is 42 years & place of Residence Los Angeles

Ques 2 Are you acquainted with Ignacio Pacheco the Claimant if so when & where did you become acquainted with him

Ans I am acquainted with him, I became acquainted with him at his house near San Rafael in the Rainy, either in the latter part of 1845 or in the early part of 1846

Ques 3 Do you know or not whether he had a grant of land from the Mexican Government?

Ans I know from having been told by others and from common Report that he had a grant of land from the Mexican Government!

Ques 4 Where is said land situated?

Ans In Marin County near San Rafael

Ques 5 Do you know or not whether he had any improvements on said land and what were they & when made?

Ans I know from having been at his house at the time above mentioned and from personal observation that he had a house on his land which he was then occupying with his family - that he had a Corral and a field in Cultivation & a large quantity of Stock of Cattle and horses

Ques 6 How long from the appearance of his house and other improvements on his land would you suppose that he had been in possession of said land

Ans From the appearance of his house & improvements I think he must have been in the occupation of his land a number of years probably five or six years

Earnest Rufus

No objection to the above on the part of R Greenhow Esq Law Agent

Filed in Office Dec 11<sup>th</sup> 1852

Sworn to and subscribed me

Geo Fisher

on the 28<sup>th</sup> October 1852

Scty

Henry J Thornton.

5

San Francisco Nov 18th 1852

Deposition of Manuel Torres

On this day before Com<sup>o</sup> He J Thornton came Manuel Torres a witness in behalf of the claimant Ignacio Pacheco petition N<sup>o</sup> 198 and was duly sworn his Evidence being given in Spanish.

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The U.S. Associate Law Agent was not present  
Deposition of Manuel Torres in claim N<sup>o</sup> 198

Witness states that he is 27 years of age resides at Saucitito & has been a resident of California for the last ten years, that he is acquainted with Ignacio Pacheco the Claimant herein & has been acquainted with him ever since his first arrival in California & knows that a grant of land was made to him by the Mexican Gov<sup>t</sup> of the place called San Jose which is situated in Marin county three or four leagues from San Rafael that said Pacheco built a house on said land and was occupying it with his family in 1843, that he also had a corral & stock of horses & cattle on said land, & ground in cultivation & that he has continued to occupy and cultivate it from that time to the present

Manuel Torres

N<sup>o</sup> Objection to the above on the part of

R. Greenhow Asst Law Agent

Seen to and subscribed before me

Nov 18 1852 Heary J Thornton Com<sup>o</sup>

Filed in Office Dec 14<sup>th</sup> 1852

Geo Fisher

Secy

San Francisco Nov 18th 1852

Deposition of John B R Cooper

On this day before Com<sup>o</sup> Heary J Thornton came John B R Cooper a witness in behalf of the claimant Ignacio Pacheco petition N<sup>o</sup> 198 and was duly sworn his Evidence being given in English

The U.S. Associate Law Agent Not present

Deposition of John B R Cooper in Claim No 198

Witness states that his age is 60 years, his residence is at Monterey and that he has resided in California since the year 1827 that he is acquainted with Ignacio Pacheco the Claimant herein and has known him for the last 20 years, he knows that a grant of land by the name of San José Situada near San Rafael was made to him by the Mexican Government that he had a house Corral on said land & ground in cultivation in 1838 when he was occupying said house with his family that he continued to occupy and cultivate said land from 1838 to the present time that he knows this from his own personal knowledge having staid with him at said house and seen said improvements & also stock of horses and cattle on said land at various times in travelling through that section of Country

John B. R. Cooper

No Objection on the part of R Greenhow Ap<sup>t</sup> Law Agent

The deposition on the other side of this sheet sworn to & subscribed before me on the 18<sup>th</sup> Nov<sup>r</sup> 1852

Henry J Thornton

Filed in Office Dec<sup>r</sup>

Com<sup>r</sup> & C

14<sup>th</sup> 1852

Geo Fisher

De<sup>y</sup>

V. A. D. R.

Jurisdicción  
de Lomoma }

Año de 1838.

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# Expediente

Promovido por el Cano Ignacio  
Pacheco en Solicitud del parage  
nombrado

"San José"

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Don Jefe Politico

St. Clara Mayo. Ignacio Pacheco vecino de esta  
 24 de 1838 — frontera ante V. Sen la mejor forma  
 Informe la Comandancia de derecho me presento y digo  
 mandancia que siendo uno de los que al dar  
 militar de la frontera principio a esta colonizacion vino en  
 tera si el terreno clase de Sargento de la comp. de  
 que se pretende S. Form. co. para bienes sem orientes  
 es Valdivia, si no cuando verifico el Don Comandante  
 pertenece a la de estos puntos por el estrecho de  
 propiedad para Barquines con objeto de estable  
 ticular de algun cerse y fundar un Rancho. En  
 individuo o pueblo efecto el Señor Jefe Politico a  
 y si se halla en pedim. mi me concedi el  
 estado de adju. nombr. Agua caliente segun el  
 dicarse en col. a dj. unto titulo num. 1. Mi soli  
 nicacion conforme a situad fue hecha sin conocer  
 a las leyes. Era bien el terreno y desde que este  
 cuando esta conoci intentel pedir un otro por  
 formalidad q. el arriba mencionado no es pro  
 pasaria el expe. pio p. el cultivo q. crey emprender  
 diente a informe y lo abandonè. Por estas  
 de los administradores razones. A. V. S. suplico se  
 dores de las ex. obra concederme el parage nom  
 m. arifiones brado S. Jose entre Sonoma y  
 de Sonoma y S. Rafael, cediendo al derecho.  
 Rafael. q. pudiera tener al de la agua  
 En concepto que caliente en favor de la N. de vin  
 mientras tanto en la estencion a que de lugar  
 se practican las el diseno que acompaña y la  
 diligencia sin linea que lo divide de q. recibire  
 sermentes p. de merced.

el interesado es  
 establecer en el  
 sus labores y  
 situarse provi  
 sionalmente  
 Alvarado.

Sonoma Mayo 12. de 1838

Ignacio Pacheco

280

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### Por Deseo Superior Político

Cumpliendo con el decreto que antecede en la presente solicitud del Sr. Ignacio Pacheco debe informar esta Comand. de la frontera de mi Cargo: que el terreno que se solicita esta baldío; y no pertenece a la propiedad de alg<sup>o</sup> particular, es uno de los muchos terrenos que sin objeto ostensible han pertenecido de nombre a la Misión de S. Rafael con el unico derecho de estar en sus inmediaciones pero si antes ni ahora ha contenido bienes demorritos, de nombre a la Misión de San Rafael tiene el parage de Vicario q<sup>o</sup> le es bastante p<sup>o</sup> cincuenta mil reses num<sup>o</sup>. que es difícil que posea y por tanto el de S. José y otros estan y deben adjudicarse en Colonización.

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Sonora Ab. 24 de 1838

Mano J. Vallejo.

Sello primero seis pesos

Habilitado provisionalmente por la Administración de la Aduana Maritima de Monterey de la Alta California para los años de mil ochocientos treinta y cuatro y ochocientos treinta y cinco.

Regencia Revalidado por el venio de A. Ramirez  
 Gutierrez 1836 y 1837. A. Ramirez

C. C. Coronel Mariano Chico, representante de la Nación, Deseo superior político i Comandante gral de la Alta California.

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Por cuanto Ignacio Pacheco ha pretendido para su beneficio personal i el de su familia el terreno conocido con el nombre de Agua Caliente cerca de Patuluma i Sonora segun el Deseo que obra en el expediente, practicadas previamente las diligencias y averiguaciones con cermentes segun lo dispuesto por las leyes i reglamentos de la materia, i

usando de las facultades que me son con-  
feridas en decreto de este día i a nombre  
de la nacion he venido en concederle el  
mencionado terreno declarandole la pro-  
piedad de el por los presentes letras a  
reserva de la aprobacion de la C. Dipu-  
tacion, bajo las condiciones siguientes  
1.ª Que se sometera a las que establezca  
el reglamento que se ha de formar p.  
la distribucion de terrenos baldios, i entan-  
tanto, ni el agraciado ni sus herederos  
podran dividir ni enagenar el que se les  
adjudica, imponer censo, vinculo patronato  
fanja, ni otro gravamen aunque sea por  
cusa piadosa, ni pasarlo a manos muer-  
tas.

2.ª Podra cercarlo sin perjudicar las  
haverias, caminos, i servidumbres lo dis-  
putara libre y esclusivamente destinan-  
dolo al uso o cultivo que mas le acomode  
pero dentro de un año a lo mas fabricara  
casa i estara habitada.

3.ª Solicitara del Juez respectivo que  
le de posesion juridica en virtud de  
este despacho por el cual se demarcaran  
los linderos en cuyos limites pondra a  
mas de las mojoneras, algunos arboles  
frutales o silvestres de alguna utilidad

4.ª El terreno de que se hace donacion  
es de poco mas de un sitio de ganado  
mayor. El Juez que diese la posesion  
lo hara medido conforme a ordenanza.

5.ª Si contraviniese a estas condiciones  
perdera sus derechos, i sera denunciado  
por otro.

En consecuencia mando  
que sirviendole de titulo el presente  
i teniendose por firme i valido se tome  
razon de el, en el libro respectivo, i se



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entregue al interesado para su resguardo  
y demás fines. Monterey Mayo siete de mil  
ochocientos treinta y seis.

J. del Castillo Man. Chio

Negrete Riv.

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Queda tomada razón a fojas 113 i señar  
-lado con el número 109 en el libro respec-  
-tivo que obra en la Secretaría de mi car-  
-go. Monterey Mayo 20 de 1836.  
Dios 10 p.<sup>o</sup> Castillo.

56

Here follows

Map

Por Jefe C. Político

La administracion de esta finca  
confiada à mi cuadal y por tanto debo in-  
formar contrayendome al informe y  
como Com<sup>te</sup> militar de esta front<sup>a</sup>  
està p primer lugar.

Yonoma Abril 24 de 1838.

M<sup>no</sup> G Vallejo

Monterey 3 de Octubre de 1840.

Vista la peticion con que da principio  
este expediente el informe del Jefe Co-  
mand<sup>te</sup> de la Frontera del Norte con  
todo lo demas con que se tuvo presente  
y ver convido de conformidad con las  
leyes y regl<sup>am</sup>tos de la Materia declar-  
ado dueño en propiedad à D<sup>n</sup> Ignacio  
Pacheco del paraje nombrado San José  
colindante con el portesuelo de las  
Gallinas con el Arroyo de San José  
con el nombrado de los Cocheros y la  
sierra; estendiase el despacho correspon-  
diente tomese razon en el libro respectivo  
y dirigase este expediente à la Exma  
Junta departamental. El Señor de  
D<sup>n</sup> Juan B. Alvarado Gobernador Consti-  
tucional del departam<sup>to</sup> de las Califor-  
nias así lo decretó y firmó

Juan B. Alvarado Gobernador Consti-  
tucional del Departamento de las Califor-  
nias.

Por Cuanto D<sup>n</sup> Ignacio Pacheco  
ha pretendido para su beneficio personal  
y el de su familia el paraje conocido con  
el nombre de San José colindante con  
el portesuelo de las Gallinas con el Arroyo  
de San José con el Arroyo de los Cochero-  
nos y las Sierras practicadas previa-

mente las diligencias y averiguaciones  
consermentes segun lo dispuesto por leyes  
y reglamentos usando de las facultades  
que me son conferidas à nombre de la  
Nacion Mexicana he venido en conce-  
-derle el terreno mencionado declaran-  
-dolo la propiedad de el por las pre-  
-sentes letras sujetandose à las aproba-  
-cion de la Coma junta Departamentaria  
y à las condiciones siguientes:

1.ª Podra cercarlo sin perjudicar las tra-  
-vesias, Caminos y servidumbres lo  
disputara libre y exclusivamente des-  
-tinandolo al uso ó cultivo que mas le à  
-comode pero dentro de un año fabrica-  
-ra casa y estara habitada.

2.ª Solicitara del Juez respectivo que  
le de posesion juridica en virtud de  
este despacho por el cual se demarca-  
-ran los linderos en cuyas limites pondra  
à mas de las nofondas algunos arboles  
frutales ó silvestres de alguna utilidad

3.ª El terreno de que se hace mencion es  
de un sitio de ganado mayor <sup>porco</sup> mas ó menos  
segun explica el disenõ que corre en el  
expediente. El juez que diese la posesion  
lo hara medir conforme à Ordenanza  
quedando el sobrante que resulte à la  
Nacion para los usos convenientes.

4.ª Si contraviniese à estas condici-  
-ones perdera su derecho al terreno y sera  
denunciabile por otro.

En consecuencia mando que  
teniendo se por firme y valedero este  
titulo se tome rason de el en libro à que  
corresponde y se entregue al interesado  
para su resguardo y demas fines. Dado  
en Monterrey a tres de Octubre de mil  
Ocho cientos cuarenta.

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Office of the Surveyor General of the  
United States for California.

I Samuel D. King Surveyor  
General of the United States for the  
State of California and as such now  
having in my Office and under my custo-  
-dial protection of the Archives of the former  
Spanish and Mexican Territory of Upper  
California do hereby certify that the  
preceding and hereunto annexed pages  
of tracing paper numbered from One to  
nine inclusive and each of which  
is verified by my initials (S. D. K.)  
exhibit true and accurate copies of  
certain documents on file and for-  
-ming part of the said Archives in this  
Office

In testimony whereof I  
have hereunto signed my name  
Officially and affixed my pri-  
-vate Seal (not having a Seal of Office  
at the City of San Francisco Cal. the  
fourteenth day of December 1853.

Samuel D. King  
Surv. Gen. Cal.

Filed in Office  
Dec. 15<sup>th</sup> 1853  
Geo. Fisher  
Clerk

160  
13.02

Translation

Señor Political Chief

Ygnacio Pacheco resident

Espediente

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of this Frontier in the most proper form of law presents him  
 Santa Clara March 11 before you Exc. & says that being one of those who at  
 24, 1838 at the beginning of the Colonization of this place came in the  
 Military Commandant Character of Sergeant of the Company of San Francisco  
 of the Frontier he passed his Cattle through the Straights of Leaguines  
 inform whether the land with the object of Establishing himself & founding a  
 solicited is vacant, whether Rancho, at the time the Señor Commandante of those  
 it belongs to any private points vacant, In and the Señor Political Chief at my  
 person, or Pueblo & whether it request granted me the place named Agua Caliente  
 can be granted in Coloniza according to the annexed Title N<sup>o</sup> 1 My Petition was  
 then conformably to the laws made without knowing well the land & as soon as I  
 this information being given found it out I intended to ask another place because the  
 let the Expediente pass for the above mentioned was not proper for the Cultivation which  
 report of the Administrator I thought to undertake and I abandoned it; For that  
 of the Extirpation of Sonoma reason I beseech you Exc. to grant me the place named  
 & San Rafael. In the mean San José between Sonoma and San Rafael (Ceding what  
 time while the steps come ever right I may have had to that of the Agua Caliente  
 being it are being taken in favor of the Nación) to the extent comprehended by  
 the interested person may the annexed map & the line which divides it by which  
 go on with his Cultiva I shall receive favor

tion & establish himself

Sonoma March 12 1838

provisionally.

Ygnacio Pacheco

Alvarado

Señor Political Chief

Agreeably to the preceding decree to the present petition  
 of Citizen Ygnacio Pacheco the Commandancy of the  
 Frontier under my Charge must report that the land  
 solicited is vacant & does not belong to any private  
 individual - it is one of the many tracts which without  
 any ostensible object had belonged in name only to the  
 Mission of San Rafael, with the sole right of being in

its vicinity but it did not before or even now contain any stock, San Rafael has the place Tinicassia which is sufficient for fifty thousand head of Cattle a number which it is difficult for it to possess & therefore that of San Jose & others are and ought to be allowed for Colonization

Sonoma April 24 1838  
M<sup>no</sup> G. Vallejo

The Citizen Genl Mariano Chico Representative of the Nacion Superior Politi Chief & Commandante General of Upper California

Whenas Ygnacio Pacheco has petitioned for his own benefit & that of his family for a tract of land known by the name Agua Caliente near Petaluma & Sonoma according to the plat annexed to this Expediente and having previously complied with the requirements investigations in the matter agreeably to the laws & regulations concerning it by virtue of Authority in me vested by decree of this day & in the name of the Nation I have thought proper to grant the aforesaid land declaring the same to be his property by these present letters subject to the approval of the Ex<sup>o</sup> D<sup>o</sup>putation under the following Conditions

1. That he will submit to such Conditions as may be established by the regulations which are to be made for the distribution of vacant lands & in the mean time neither the grantee nor his heirs shall divide or alienate that which is granted to them nor subject it to rent, Mortgage, patronage security or any other incumbrance whatsoever, although it be for Chantalle purposes or convey it in Mortmain
2. He may fence it without obstructing the Crossings roads or Servitudes, he shall enjoy it freely

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and exclusively putting it to such use or culture as may suit him best, but within one year at most he must build a house & it shall be inhabited

3 He shall solicit of the respective judge to give him judicial possession by virtue of this dispatch by whom the boundaries shall be marked out at limits of which he shall set besides the land marks some fruit trees or wild ones of some usefulness

4 The land of which donation is made is of little more than one square league the judge who may give possession will cause it to be measured according to ordinances

5 If he contravenes these conditions he shall lose his right & it shall be alienable by another

Whence I command that this present serving as a title and holding it as firm and valid let the same be entered in the proper Book & be returned to the interested party for his security & for further ends

Monterey May 7<sup>th</sup> 1836

Francisco del Castillo  
Nagote  
Sec

Ma-  
Leicos

See

Entry has been made of this on folio 113 & marked with N<sup>o</sup> 109 in the proper Book filed in the Secretaries Office under my charge

Monterey May 20<sup>th</sup> 1836

Castillo

Señor Superior Political Chief

The Administration of this Estate is confided to my care therefore I must report confining myself to the information which as Military Commandant of this Frontier I gave in the first place

Sanoma April 24<sup>th</sup> 1838

M<sup>o</sup> G. Vallejo

Monterey Oct 3<sup>o</sup> 1840CASE 40 ND  
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In view of the Petition with which this Expediente begins the Report of the Señor Commandant of the Frontier of the North & what ever else that seems to be proper in conformity with the laws and regulations on the matter I declare Don Ignacio Pacheco owner in fee of the place named San José bounded by the Portezuelo (gap) of the Las Gallinas by the Arroyo of San José by that of the name of Los Choceros & the Sierra Let the proper Grant be made out let it be entered in the proper Book and let this Expediente be transmitted to the Ex<sup>te</sup> Departmental Assembly: Thus did Don Juan B Alvarado Constitutional Gov<sup>r</sup> of the Department of the Californias decree & assign  
Juan B Alvarado Constitutional Governor of the Department of the Californias

Whereas Don Ignacio Pacheco has asked for his own personal benefit & that of his family the place known by the name of San José bounded by the Portezuelo de las Gallinas the Arroyo of San José by that of Los Choceros & the Sierra the steps & investigations concerning it being previously taken according to the laws and regulations, using the powers conferred on me, in the name of the Mexican Nation I have thought proper to concede him the mentioned land declaring in him the ownership of it by these present letters subjecting it to the approval of the most Ex<sup>te</sup> Departmental Assembly & to the following

- 1 He may enclose it without prejudice to the crossings roads and servitudes, he shall enjoy it fully and exclusively putting it to such use & culture as may best suit him but within one year he shall build a house & it shall be inhabited
- 2 He shall solicit of the proper judge to give him juridical possession by virtue of this dispatch by whom the boundaries shall be marked out at the limits of which he shall put besides landmarks fruit trees or forest trees of some use.



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The land of which mention is made is of one square league a little more or less as is represented by the map which goes with the Expediente. The Judge who may give possession shall cause it to be measured according to the Ordinance leaving the surplus which may result to the Nation for Government uses.

4

If he Contravenes these conditions he shall lose his right to the land & it shall be alienable by another.

Wherefore I command that holding firm and valid this title, entry be made of it in the proper book and it be given to the interested person for his security & other purposes Given in Monterey on the 3<sup>rd</sup> of October 1844

I Certify the foregoing to be a true & correct translation from an authenticated fac-simile copy of the original Spanish Document on file in the Office of the U.S. Surveyor Genl. which authenticated copy is on file in this Office in case No 198. Ygnacio Pacheco for the place named 'San José',  
George Fisher  
Secy

Filed in Office Dec 15<sup>th</sup>  
1852

Geo Fisher  
Secy

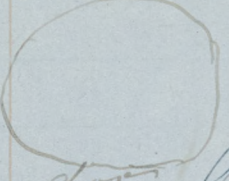


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Little

Sells 1<sup>o</sup> seis pesos  
 Habilitado provisionalmente por la Aduana  
 maritima de Monterey para los años de 1839.  
 y 1840.  
 Alvarado. Antonio M<sup>o</sup> Osio

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Juan B. Alvarado Goberna-  
 dor Constitucional del Departamento  
 de las Californias.

Por cuanto Don Ignacio Pacheco  
 ha pretendido para su beneficio personal  
 y el de su familia, el terreno conocido con  
 el nombre de San Jose, colindante con el  
 portezuelo de las Gallinas con el Arroyo de  
 San Jose con el llamado de los Chocher-  
 nas, con la Sierra y con los Esteros: prae-  
 ticadas previamente las diligencias y  
 averiguaciones correspondientes segun lo  
 dispuesto por leyes y reglamentos, usando  
 de las facultades que me son conferidas  
 a nombre de la Nacion Mexicana he ve-  
 nido en concederle el terreno mencionado  
 declarandole la propiedad de el por las  
 presentes letras y sujeto a la aprobacion  
 de la Exma Junta Departamental  
 y a las condiciones siguientes.

- 1<sup>o</sup> Podrá cercarlo sin perjudicar las  
 travesias, caminos y servidumbres: lo  
 disfrutara libre y esclusivamente, des-  
 tinandolo al uso o cultivo que mas le  
 acomode; pero dentro de un año fabrica-  
 ra casa y estara habitada.
- 2<sup>o</sup> Solicitara del Juez respectivo le de  
 posesion juridica en virtud de este des-  
 pacho por el cual se demarcaran los  
 linderos en cuyas limites pondra a mas  
 de las mojoneras algunos arboles frute-  
 les o silvestres de alguna utilidad.

250

3<sup>a</sup> El terreno de que se hace donacion es de un sitio y medio de ganado mayor, poco mas o menos, segun explica el diseño q<sup>ta</sup> corre en el expediente. El Juez que diese la posesion lo haria conforme a ordenanza quedando el sobrante que resulte a la Nacion para los usos convenientes.

4<sup>a</sup> Si contraviniese a estas condiciones perdera su derecho al terreno y sera denunciabile p<sup>or</sup> otro.

En consecuencia, mando que teniendo se por firme y validero este titulo, se tome razon de el en el libro a que corresponde y se entreguen al interesado, para su resguardo y demas fines. Dado en Monterey a tres de Octubre de mil ochocientos cuarenta.

150  
4.00

Juan B. Alvarado

Man<sup>te</sup>. Jimeno

Ofi<sup>o</sup> del Despacho.

Filed in Office April 23<sup>rd</sup> 1852

Geo. Fisher Secy.

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Translation

1<sup>st</sup> Stamp: Six dollarsProvisionally authorized by the Maritime Custom  
House of Monterey for the year 1839 & 1840Alvarado                      Signia                      Antonio M<sup>o</sup>. OsioCASE 40 ND  
PAGE 23

Maritime Custom  
House of Monterey

Juan B. Alvarado Constitutional Governor of the  
Depart of the Californias

Whereas Don Ignacio Pacheco has  
solicited for his personal benefit and that of his family the  
land known by the name of San Jose' being bounded by the  
pass (portecuelo) of Los Gallinas by the Creek of San Jose'  
the Creek called de las Cholenas the mountains (Sierras)  
and the Sloughs (Esteros) Having previously executed the  
acts and requirements concerning the same, according to the  
provisions of the laws and regulations, in exercise of the  
powers conferred upon me in the name of the Mexican  
Nation I have resolved to grant him the aforementioned  
land declaring it to be his property by these letters, and subject  
to the approval of the most excellent Departmental Assem-  
bly (Junta) and to the following conditions

1<sup>st</sup> He may fence it without injuring the crossings  
roads and Servitudes, he shall enjoy it freely and  
exclusively, putting it to the use or cultivation which  
may best suit him; but within a year he shall  
build a house and it shall be inhabited

2<sup>nd</sup> He shall solicit of the proper Judge to give him ju-  
dicial possession by virtue of this dispatch by whom  
the boundaries shall be marked out in which  
limits he shall place besides corner posts fruit trees  
or useful forest trees

3<sup>rd</sup> The land of which mention is made is one Square  
league and a half (un sitio y medio de ganada  
Mayor) more or less as is represented by the map  
which is attached to this Expediente. The Judge who

CASE 40 ND  
PAGE 24

Shall give possession shall cause it to be measured conformably  
to Ordinance leaving the surplus which may result to  
the nation for proper uses

4 If he contravene these conditions he shall lose his  
right to the land and it shall be alienable  
by another

In consequence I command that this title  
being held as firm and valid entry be made of it in the  
proper book & it be delivered to the interested party for his  
security & for other purposes.

Given in Monterey on the 3<sup>rd</sup> October 1840

Mans Jimeno

Juan B Alcarado

Secy of Dispatches

Entry has been made of this title in the  
proper book on folio 3

1 Jimeno

{  
L  
P

I certify the foregoing to be a true and correct transla-  
tion from the original Spanish document on  
file in case N<sup>o</sup> 198 Ygnacio Pacheco for the place  
named "San Jose".

Geo Fisher

Secy

Filed in Office April 23<sup>rd</sup> 1852

Geo Fisher

Secy

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N<sup>o</sup> 198 Ignacio Pacheco Claimant

## Opinion of the Board

CASE 40 ND  
PAGE 25

The Claim is for a tract of land of one and a half leagues in extent called San Jose' situated in the County of Marin

An original Grant is produced from Gov Alvarado to the Claimant dated October 3 1840 and it appears by a copy of the Expediente from the public Archives that a provisional grant or license to occupy had been made to the Claimant on the 24 of March 1838 and by other evidence that he built a house on the land in which he lived the same year & that he has continued residing on the place from that time to the present cultivating the land and raising stock, There is no Evidence that the grant has been approved by the Departmental Assembly or that judicial possession of the land was given, But we have heretofore held these objections to be insufficient to invalidate a claim otherwise unobjectionable and this appears to be a case in which the long possession of the Claimant ought very clearly to overcome these

In this case there is a discrepancy between the first draft of the grant which is on file in the public Archives & the grant produced by the Claimant the former declaring the land to be of the extent of one square league a little more or less & the latter of the extent of one and a half square leagues a little more or less both papers describing the land as being that represented on the map which is attached to the Expediente The original draft of the grant on file is not signed by the Governor or Secretary and as there appears to be no doubt of the genuineness of the grant that was signed by both these Officers & delivered to the party as the evidence of his title, we think that should

prevail over the other and we accordingly confirm the  
Claim for one and a half square leagues provided that  
quantity be embraced within the boundaries mentioned  
in the grant repeating as we have heretofore done in  
other cases the words "a little more or less" as impera-  
tive the surplus land being reserved to the Nation

In this result Commissioner Thornton concurs  
Neiland Keall

N<sup>o</sup> 198 Ignacio Pacheco Claimant

Decree of final Confirmation, This Board on full consideration having come to the conclu-  
sion that the Claim is valid now proceed to make its  
decree for the final Confirmation of the same as follows viz

It is decreed that the said Claim be  
Confirmed to the extent and quantity of one and one  
half square leagues being the same land described in  
the original grant which was given in Evidence & of  
which land the Claimant is proved to have long possessed  
Provided that the said quantity of land now confirmed  
be contained within the boundaries called for in said  
grant and if there be less than the said quantity within  
said bounds then we confirm to the Claimant that  
less quantity

Given under our hands this 11<sup>th</sup> day  
of April 1853

Neiland Keall

Henry J. Thornton } Commissioner

Filed in Office April 11<sup>th</sup> 1853

Geo Fisher

J. Coy



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

CASE 40 ND

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I, *George Fisher* Secretary to the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, do hereby certify the foregoing *twenty seven* pages, numbered from 1 to *27*, both inclusive, to contain a true, correct and full Transcript of the Record of the Proceedings and of the Decision of the said Board, of the Documentary Evidence and of the Testimony of the Witnesses, upon which the same is founded, on file in this Office, in Case No. *198* on the Docket of the said Board, wherein

*Ignacio Pacheco* is the Claimant against the United States, for the place known by the name of *San Jose*



In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this *fourteenth* day of *June* A. D. 1854, and of the Independence of the United States of America the seventy-eighth

*Geo. Fisher.*

*[Signature]*  
Sy.

40

40

40 ND  
40



No 198

40

CASE 40 ND

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Office of the Attorney General of the United States,

Washington, 11<sup>th</sup> September 1854.

*Ygnacio Pacheco*

vs.

*The United States*

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30<sup>th</sup> day of June 1852, the appeal in the district court of the United States for the Northern district of California will be prosecuted by the United States.

*Cushing*

Attorney General.

No 40  
U. S. Dist. Court.

---

The United States,  
— vs —  
Ygnacio Pacheco,

---

Notice to present  
appeal.

Filed Oct. 21. 1854.  
Juv. A. Monroe,  
Clerk.

CASE 40 ND

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CASE 40 ND  
PAGE 30

To the Hon the District Court of  
the United States in and for the North  
District of California.

The United States  
Appellant } Case No 40  
vs }

Gnacio Pacheco }  
The petition of the  
United States by their attorney, rep-  
resents, that this case is an applica-  
tion for a review of the decision of  
the Board of Commissioners whereby  
the claim of the said appellant was  
confirmed as appears by the reference  
to the records in the case; that a trans-  
cript of the said records was filed  
in this court on the day of

ND 185, that a notice of appeal  
was filed on the day of A.D.  
185, and that the said claim lies  
in the said district

That the said claim is invalid  
wherein appellant pray that the said  
decision of the Board of Commissioners  
be reversed and that this court deem  
the said title to be recorded

Respectfully  
Wm Blomding  
District

No 40.

U. S. Dist. Court,

The United States,

— vs —

Ignacio Pacheco.

Plaintiff,

Filed Jan 31, 1857,

W. H. Chenn,  
Deputy.

In the District Court of the United States for the Northern District of California

CASE 40 ND

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The United States  
Appellant  
vs

Case No 40

Gnacio Pacheco

Gnacio Pacheco by his attorney affirms the validity of the title set out in the petition of the said appellant. And prays that the decision of the Board of Commissioners be affirmed and, that said title be decreed to be good and valid.

Thompson & Irving,  
Atty for Claimant,

N<sup>o</sup> 40.

U. S. Dist. Court,

The United States,

- vs -

Ygnacio Pacheco,

Answer,

Filed July 31, 1857.  
W. F. Cheno,  
Deputy.

CASE 40 ND

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UNITED STATES DISTRICT COURT,  
Northern District of California.

San Francisco, *July 6<sup>th</sup>* 18 *57*

ON this day, before *Saml A. Monroe* a  
Commissioner of the United States for the Northern District of California, duly  
authorized to administer oaths, &c., &c., came *R. C. Hopkins*  
\_\_\_\_\_ a witness produced on behalf of the

*Claimant*  
in Case No. *40*, being an appeal from the Board of Commissioners to ascertain and settle the Private Land Claims in the State of California, in Case No. *198* on the Docket of the said Board of Commissioners, and was duly sworn and testified as follows — ~~his evidence being interpreted by~~

~~\_\_\_\_\_~~  
a sworn interpreter

PRESENT:

*R. A. Thompson* for  
*Claimant*

QUESTION BY

*Counsel for Claimant*

*State your name age and present employment*

*Answer - My name is R. C. Hopkins aged 36 years and am a clerk in the office of the Surveyor General for California having in part charge of the Archives.*

*Question Describe the paper now produced here by you and state where the said paper is now*

deposited

Answer - The paper purports to be the original title issued by Gov. Alvarado to Ignacio Peches for a place called San Jose - it is on file in case 198 in the late Board of Land Commissioners in which Ignacio Peches is claimant - I have compared it with the paper filed in the Transcript on file in the U.S. Dist Court for the U.S. of Colo. marked on the margin "Title" and find it to be the original of said copy, with the exception that in said copy there is omitted "Linda tomada razon de este titulo en el libro respectivo" a \$ 203. Limes"

the latter being the number of the entry in the proper book

I have seen Gov. Alvarado write and have no doubt the signature to the original is genuine  
R. C. Hopkins

Santiago E. Aguillo being duly sworn deposes and says -  
( His testimony being interpreted by Clinton Palmer a sworn interpreter - )

My age is forty three years and I reside in San Diego -

Question Examine the document produced here by R. C. Hopkins

and described in his deposition  
this day taken in this case,  
and state whether the signatures  
of Juan B. Alvarado, Antonio  
Molina Osio and Manuel Linares  
are their genuine signatures or  
not - and also your means of  
knowledge as to the fact -

Answer - The signatures are all  
genuine and my means of know-  
it is that I have seen them all  
wrote frequently and I have no  
doubt as to the genuineness of the  
signatures - and that the document  
is a genuine original -

Santiago E. Aguillo

Manuel Castro - duly sworn  
says I am 35 years of age and  
reside in San Francisco.

I have examined the document  
referred to in the deposition of  
Santiago E. Aguillo, this day taken  
in this case. I have seen Antonio  
Molina Osio, Manuel Linares, Juan  
B. Alvarado, wrote and their  
signatures on the document are  
original and genuine -

From the seal signatures and  
appearance of the paper I have  
not the slightest doubt of its  
being a genuine and original  
document -

Manuel Castro

I am subscribed before me  
February 6th. 1857.  
J. W. Moore  
U.S. Commr

I have noted and consent that  
the foregoing depositions be filed and  
read at the hearing of the case,

Feb 9. 1857.

Wm Blanding  
U.S. Dist Atty

No 40

U.S. Dist. Court,  
The United States,

—vs—  
Ignacio Pacheco,

Depositions of  
Robtino Arguello,  
and Castro,

Filed Feb 6. 1857.  
W. A. Chivers,  
Deputy,

CASE 40 ND

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In the U.S. District Court for the  
Northern District of California

CASE 40 ND

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The United States

Plaintiff

vs

Ygnacio Pacheco

Def

Secre

Stated Term, February 23, 1857.

This cause coming on to be  
heard on this day upon the petition  
and answer, the certified transcript of  
the proceedings and decision of the  
Board of Commissioners to ascertain  
and settle private land claims in  
the state of California, together with  
the papers and evidence on which the  
same are founded, and upon the  
further evidence taken by order of this  
court, was argued by counsel

In consideration whereof the court  
doth adjudge, order, and decree  
that the decision of the said Board  
of Commissioners be and the same  
is hereby affirmed, and that the  
lands claimed by the said Ygnacio  
Pacheco be confirmed to him in  
conformity with the decree of the  
~~Board~~ of the said Board of  
Commissioners, to which reference is  
hereby made

Ogden Hoffman  
Deut Judge

U.S. District Court  
No. 40

United States

vs  
Ygnacio Pechero  
~~Ygnacio Pechero~~

Deer,

Filed February 23, 1857

W. H. Church,  
Deputy,

CASE 40 ND

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CASE 40 ND  
PAGE 40

At a Stated Term of the District Court of the  
UNITED STATES OF AMERICA, for the Northern District of  
California, held at the Court Room, in the City of SAN FRANCISCO,  
on *Tuesday* the *twenty fourth* day of  
*March* in the year of our Lord one thousand  
eight hundred and fifty-seven.

Present:

*The Honorable* OGDEN HOFFMAN, *District Judge.*

*The United States*

*Ignacio Pacheco*

*D.C. 40: S.C. 198.*

*In this case, on appli-  
cation of the United States Attorney, made  
in open Court, it is ordered by the Court  
that an appeal in behalf of the United  
States from the final decision of this Court  
rendered at the present term, be, and the  
same is hereby granted; and that a certi-  
fied transcript of the pleadings, evidence,  
depositions and proceedings in the said  
cause be sent to the Supreme Court of  
the United States without delay.*

40

United States District Court, Northern  
District of California.

*The United States*

vs.

*Ignacio Pacheco*

ORDER.

*granting appeal*

Filed *March 24<sup>th</sup>* 1857

*John A. Monroe,*  
CLERK.

By *W. H. Chevers,*  
DEPUTY.

CASE 40 ND  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
FILED  
MAR 24 1857  
JOHN A. MONROE  
CLERK

*Ignacio Pacheco*  
*March 24 1857*  
*W. H. Chevers*  
*Deputy Clerk*



CASE 40 ND  
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At a Stated Term of the District Court of the  
UNITED STATES OF AMERICA, for the Northern District of  
California, held at the Court Room, in the City of SAN FRANCISCO,  
on *Friday* the *31st* day of  
*July* in the year of our Lord one thousand  
eight hundred and fifty-seven.

Present :

The Honorable OGDEN HOFFMAN, District Judge.

*The United States*

*v.*

*Ignacio Pacheco,*

*D. C. 40: S. C. 198.*

The Attorney General  
of the United States having given notice that  
appeal in this case will not be prosecuted  
and a stipulation to that effect having  
been entered into by the District Attorney:

On motion of the  
U. S. Attorney, it is Ordered, Adjudged and  
Decreed that the appeal to the Supreme  
Court of the U. S. heretofore granted herein,  
be vacated, and that claimant have  
leave to proceed under the decree of this  
Court heretofore rendered in his favor, as  
under final decree.

*Ogden Hoffman*  
*Dist Judge*

40

United States District Court, Northern  
District of California.

*The United States*

vs.

*Ignacio Pacheco*

ORDER.

*Vacating appeal*

Filed

*July 31.*

1857

*John A. Minner*

CLERK.

By

*W. A. Cherry*

DEPUTY.

CASE 40 ND

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In the District Court of the United States  
for the Northern District of Calas.

---

The United States

D. C. 40: L. C. 198

Ignacio Pacheco

---

In pursuance of notice  
from the Attorney General of the United  
States it is hereby stipulated and agreed  
that the appeal heretofore taken in this  
case to the Supreme Court of the United  
States be vacated, and that claimant  
have leave to proceed under the decree  
of this Court heretofore rendered in his  
favor as under final decree.

San Francisco July 31st 1857.

P. Della Torre -

vs. atty -

R. Aug Thompson,

U. S. District Court

The United States

Ignacio Pacheco

---

Stipulation

---

Licid July 31. 1857.

W. H. Chivers,

Deputy.

No. 198

Appeal to District Court.

United States }  
vs }  
Ignacio Pacheco }

This claim was confirmed by the Board of Commissioners to the tract known as "San José" to the extent of one and a half square leagues, being the same land described in the original grant and of which long possession has been enjoyed.

Ed

This title originates in the Petition of Ignacio Pecheo dated Sonoma 12 March 1838. The petition recites that there has been granted to him herebefore the tract known as "Agua Caliente" but finding it unsuitable for his purposes he prays for a grant of the tract named "San José" to the extent comprehended in the annexed Map and the line which decides it. "ceding whatever right he has to "Agua Caliente" in favor of the Nation".

Upon the usual information and Report on 7<sup>th</sup> May 1824 a grant by Mariano Chico, appeared in the Expediente for "Agua Caliente" which is referred to in the above petition, for one league square -

In 3<sup>rd</sup> October 1840 Alvarado decreed in favor of the petitioner for the tract "San José" declaring him the owner in fee bounded by the Portolinos

de los Gallinas, by the Runys of San José, by Los Cochinos, and the Sierra.

On the same date a formal grant appears in favor of said petitioner to which no signature is attached and is for the lands as described in the above decree, among the conditions is one declaring the lands to be one league in extent.

This grant is certified to be a correct translation from an authenticated fac-simile copy of the original Spanish document on file in the office of the U. S. Surveyor General.

The conclusion of the grant requires that "entry be made of it in the proper book, and it be delivered to the interested party for his security."

As evidence of title a grant from Alvarado of the same date and corresponding in its terms with the above, except

as hereinafter mentioned, and signed by him, is produced. In this the extent of the land by the 3 condition is declared to be one league and a half.

In the Dep. of Rufus who first knew Pacheco in 1845-6. it is said "I knew from common report that Pacheco had a Grant from the Mexican Gov."

In the Dep. of Manuel Jones "know that a grant of land was made to him of the place called San José, that he built a house on it and was occupying it in 1843. and that he had occupied it ever since - Juan B. H. Cooper testifies to the same.

It will be perceived that the two Grants in the Record differ as to the quantity, one being for one square league, and the other for one and a half square leagues. The Grant to Pacheco for "Agua Caliente" was for one square league. this he relinquished



in consideration of the Grant of  
"San José"

CASE 40 ND  
PAGE 50

If the Grant produced in evi-  
dence for one and a half Square  
leagues has been conclusively es-  
tablished by the proof I am not  
prepared to say that this should not  
have been used as controlling the  
rights of the parties. The difference  
between these two Grants is not  
satisfactorily accounted for. The  
Commissioners say "as there appears  
to be no doubt of the genuineness  
of the Grant that was signed  
and delivered to the party as  
evidence of his title we think  
that should prevail over the  
other."

The depositions were taken  
in the absence of the Law Agent  
of the Gov<sup>t</sup> but there is not a  
word said in them to show the  
genuineness of the Grant.

I have compared the Copies  
of the two Grants in the Spanish  
and find independent of the dif-

ference as to Quantity in the 3<sup>d</sup>  
Condition, the following discrep-

CASE 40 ND

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ances

In the 1<sup>st</sup> the description is - "el parage  
convocado"

" " 2 " " el terreno convocado"

" " 1 " " Con el Arroyo de los Cochinos"

" " 2 " " Con el Arroyo San José"

" " 1 " " y las Sierras"

In the 2<sup>d</sup> " " Con el Estanado de los Chibchas

" " " " Con la Sierra y con los Esteros"

In the 2<sup>d</sup> condition the words are

In the 1<sup>st</sup> "que le deposicion Quivira"

" " 2<sup>d</sup> "deposicion Quivira"

In all other respects these two  
grants are identical; The first  
following the description in the  
Decree, and the 2<sup>d</sup> differing in the  
above particulars -

In my opinion it is  
not for the Government to raise  
a doubt to prevent a confirma-  
tion as the Commissioners seem  
to suppose, but it is for the party  
applying for it, to present a clear  
and indisputable case. In the

Absence of all evidence to sustain  
the genuineness of the Grant relied  
on, the party was not entitled to a  
confirmation of any land whatever  
much less to a quantity greater than  
the amount called for in the trace  
Copy found in the Expediente and  
filed in the Archives.

Upon the case as it appears  
from the Record I dissent from  
the decision in this case and re-  
commends that the appeal be pro-  
secuted.

P. Phillips.

Hon Caleb Cushing

Atty Genl

U.S.

Let me know your determination.

No. ~~195~~ 40

Appeal to Dist Court

United States

v.

Ignacio Recheo

CASE 40 ND

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Recommends appeal  
to be prosecuted

P. Phillips.

*[Faint, illegible handwritten notes in the right margin]*

CASE 40 ND  
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Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

San Francisco, July 13, 1854

John A. Monroe Esq.

Clerk of the U. S. District Court for the  
Northern District of California.

Sir;

I herewith transmit you, pursuant to the requirements of the Act of Congress, approved August 31st, 1852, a Transcript of the Record of the Proceedings and of the Decision of this Board, of the Documentary Evidence and of the Testimony of the witnesses upon which the same is founded, in Case No. 198 on the Docket of the said Board, wherein

Yonacio Pacheco is the Claimant against the United States, for the place known by the name of San José and request your receipt for the same.

I am, Respectfully,

Your Obedt Servant,

Geo. Fisher  
G. Fisher