

CASE NO. 437 N. D.

CASE No.

437

NORTHERN DISTRICT

PORTION of RANCHO de NAPA GRANT

JOHN BULMAN

CLAIMANT

LAND CASE 437 ND pgs. 20

FEB 4 1963

U.S.A.
25% COTTON FIBER

FLOWER BOND

Command

p. 527.

437 No. 437

U. S. District Court,
ND
DISTRICT OF CALIFORNIA.

In re petition of
John Puhman

vs.

for Confirmation to him of
petition of "Rancho de Napa"
IN ADMIRALTY.

PAPERS IN THE CASE.

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In the United States District Court in and for the District of California.

To the HON. OGDEN HOFFMAN,
Judge of said Court:

Now comes John Behman and presents this his petition and claim for certain lands situate in Napa County, California, the same being a portion of that tract of land commonly known as the "Rancho de Napa," which petition and claim is made by authority of an Act of Congress, approved June 20th, 1884, entitled "An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title," of which Act a true copy is hereunto annexed marked Exhibit "A," and made a part of this petition.

That in accordance with said Act your petitioner respectfully represents:

That on the 21st day of September, A. D. 1838, Juan B. Alvarado, then Political Chief of Upper California, granted to one Salvador Vallejo a tract of land known as "Napa," which tract of land is situate in the County of Napa, State of California, and is the same tract of land named in the said Act of Congress as the "Rancho de Napa."

That said grant was presented to the Departmental Assembly of Upper California, and was by that body duly and legally approved on the 23rd day of September, 1838.

That on the 8th of February, 1844, juridical possession of the lands granted as aforesaid was delivered to the said Salvador Vallejo.

That the tract of land thus granted to said Vallejo was never presented as an entirety to the Board of Commissioners created by Act of Congress of date March 3rd, 1851, for confirmation, although portions of said land were presented to said Board in accordance with the requirements of said last named Act, and the portions and parcels thereof thus presented were finally confirmed thereunder.

That the exterior boundaries of said Rancho were finally surveyed in October, 1858, by C. C. Tracey, U. S. Deputy Surveyor, and the survey thereof finally approved by the proper authorities. That said Rancho was by said survey segregated from the public domain, and the boundaries

thereof thus established, conformed to the boundaries of said Rancho as defined in the original title of Salvador Vallejo.

That the boundaries thus established have ever since been recognized by all parties and the United States as the true boundaries of said Rancho.

That the boundaries of said Rancho as established by said survey are as follows:

"Commencing at a large, dead oak standing on the right bank of the Arroyo Napa, established by the Mexican authorities at the time of giving juridical possession, as one of the corners of said Rancho, thence (variation 16° E.) S. $22\frac{1}{2}^{\circ}$ W. along the division line between the Rancho de Napa and the Rancho Entre Napa, 302.61 chains to the center of Carneros Creek, the center of said Creek at said point being the common corner of said Rancho de Napa and the Rancho Entre Napa; thence up the center of said Creek, following its meanderings, to a stake marked "N. No. 3," in a mound of stones, which stake is set where the old trail from Napa to Sonoma crossed said creek at the upper crossing; thence N. $14\frac{1}{2}^{\circ}$ E. 427 chains to the S. W. corner of the Caymus Rancho; thence N. $14\frac{1}{2}^{\circ}$ E. 140 chains to the center of Napa River; thence down the center of Napa River, following its meanderings, to the junction of Napa River and Napa Creek; thence up Napa Creek to the place of beginning.

That your petitioner is the claimant and owner of the following described portion of said Rancho:

Commencing at the South East corner of Edward Letterell's (formerly) tract of fifty acres on the small creek, and running down the meanders of said creek to where the hills reach the creek near a very large white oak; thence due West a distance sufficient so that when a line drawn North to a point opposite the South West corner of Letterell's (formerly) land, and then a line due East to said corner and along Letterell's (formerly) South line to the place of beginning will make an area of fifty acres.

Second tract. - Commencing at a stake on the Eastern bank of Napa Creek, opposite a large white oak, formerly the South East corner of the above described tract, on the Western side of said Creek, and running North $53^{\circ} 35'$ East 16 chains & links to a stake; thence N. $26^{\circ} 25'$ W. to a stake, thence S. $53^{\circ} 35'$ W. to a stake on the bank of said Napa Creek, opposite the North East corner of the above described fifty acre tract on the Western side of said Creek; and from thence following the meanders of said creek to the place of beginning, and containing 50 acres of land.

Third Tract. - Commencing at the point A. at a large oak tree blazed, which tree is on the border of Napa Creek, and running up said creek N. $27^{\circ}35'E$ 6 chs 50 links; thence N. $35^{\circ}25'W$ 29 chains - on this station the offsets to the creek have been taken: at 5 chains offset to the right - 2 chs 34 lks; at 10 chains, 4 chs; at 15 chs, 6 chs; at 20 chs, 4 chs; at 25 chs 3 chs; at the terminus or 29 chs, 4 chs; - thence S. $54^{\circ}35'W$. 18 chs. 6 lks to the top of the mountain; thence along the top of the mountain S. $35^{\circ}25'E$ 31 chs 95 lks; thence N. $54^{\circ}35'E$. 8 chs 27 lks to place of beginning, containing 50 acres

Fourth Tract. - Said tract being situate on the Western side of Napa Creek and adjoining the land of Edward Cotterell (formerly); said land bounded as follows: On the East by Napa Creek; on the West by the summit of the mountains, on the South by the land of the said Cotterell; and on the North by a line drawn parallel with said Cotterell's North line, and for enough so that the area of the tract herein described and conveyed shall contain fifty acres.

That said lands are included within the exterior boundaries of said "Rancho de Napa."

That your petitioner derains title to said land last above described through the original Mexican grantee, the said Salvador Vallejo.

That "Exhibit B" hereto annexed and made a part of this petition, exhibits the deraignment of title from said Salvador Vallejo to petitioner.

That the deeds set forth in said deraignment of title are of record in the Recorder's office, of said Napa County, and are sufficient in form and legal effect to, and do vest in the petitioner the title of said Vallejo to that portion of said Rancho now in petitioner's possession.

That neither the claim of petitioner, nor that of his predecessors in title, to that portion of said Rancho now in his possession has ever been passed upon by proper authority.

That the claim of the original grantee to said lands was good and valid under the Mexican

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laws relating to such cases.

That there is not now, nor has there ever been, any valid adverse claim to said land which petitioner claims or any part thereof existing under the pre-emption, homestead or other laws of the United States.

That there is not now, nor has there ever been any person or persons having or holding any portion of said lands under valid claims under the pre-emption, or homestead, or other laws of the United States.

That there are no persons entitled to receive releases from this claimant to any portion of said land in his possession, as provided by said Act of June 20th, 1884.

That petitioner is in the sole and exclusive possession of the lands to which he seeks for a confirmation of his title, and he and his predecessors in title have been in such sole and exclusive possession since the year 1844.

Wherefore your petitioner prays for a decree of this Honorable Court, confirming the claim of petitioner to the lands herein petitioned for, and for such other general and special relief as may be meet in the premises. And your petitioner will ever pray.

Wallace + Johnston

Attorneys for Petitioner.

EXHIBIT "A."

An Act authorizing claimants to the Rancho de Napa, in Napa County, California, to prove up their title.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the claimants to the lands situated in Napa County, California, known as the Rancho de Napa, who deraign title through the original Mexican grantee of said Rancho, and whose claims or those of their predecessors in title have not been hitherto passed upon by proper authority, are hereby permitted and authorized to present their claim to said lands in the District Court of the United States, for the district of California, within one year next after the passage of this Act, and not afterward, for examination; and upon the hearing of said case if it shall appear to said Court that the claim of the original grantee was good and valid under Mexican laws relating to such cases, and that the claimants are entitled to have such confirmation, the said Court shall by decree confirm said claim: *Provided*, that no lands shall be confirmed to said claimants to which there are any valid claims existing under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act; nor shall any decree of confirmation affect any valid adverse right of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may loose by pre-emption, homestead, or other claims or rights as aforesaid: *Provided further*, that said claimants before filing their claim shall execute releases to any person who may have or hold any portion of said lands under valid claims under the pre-emption, homestead, or other laws of the United States, at the date of the passage of this Act to the portions of said lands so held respectively; and before rendering a decree of confirmation the said Court shall ascertain that said releases have been duly executed.

SECTION 2. That the United States and any party in interest are hereby granted the right of appeal to the Supreme Court of the United States, within six months next after any decree shall be entered, in the manner allowed in other cases of appeal; and the said Court in the examination of the claims presented by any person under this Act shall be governed, so far as applicable, by the provisions of the Act passed March 3rd, A. D. 1851, entitled "An Act to ascertain and settle private land-claims in the State of California."

SECTION 3. That the United States Surveyor General for California is hereby directed, upon the filing in his office by said claimants of a certified copy of a final decree of confirmation under the provisions of this Act, to cause said claim to be surveyed as other claims of like nature are now surveyed under existing laws and, upon the approval of said survey, by the proper authority a patent shall issue to said claimants in the usual form.

Approved June 20th, 1884.

Exhibit "B."

1 Salvador Vallejo + wife } Power of attorney dated
to } Dec. 27. 1850, recorded
John E. Brown } Liber A of Deeds h 2572 Topa Co Rec

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2 Salvador Vallejo + wife }
to } Deed dated April 15, 1851.
S. J. Mount }

3 Salvador Vallejo } Power of attorney
to } dated April 28th 1851
Southwick + D'Homecourt }

4 Salvador Vallejo }
to } Deed dated July 20, 1851
S. J. Mount. }

5 S. J. Mount + wife }
to } Deed dated July 30th 1861.
Dwight Brandall }

6 Dwight Brandall + wife }
to } Deed dated July 13, 1865
Mary Lockwood }

7 John A. Lockwood + wife }
to } Deed dated April 9th 1873.
John Buchanan }

8 Salvador Vallejo }
 to } Deed dated April 10th 1851.
Edward Cotterell }

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8 }
9 Salvador Vallejo + wife }
 to } Deed dated July 20. 1851
James Hornback }

10 James Hornback + wife }
 to } Deed dated Feby 19. 1853
E. Cotterill }

11 E. Cotterill + wife }
 to } Deed dated Oct 10. 1859
J. M. Bassford + wife }

12 J. M. Bassford + wife }
 to } Deed dated Nov. 27. 1861.
S. J. Mount }

13 S. J. Mount }
 to } Deed dated Oct 20. 1852.
A. J. King }

14 A. J. King }
 to } Deed dated, October 17. 1864
J. M. Bassford }

15 J. M. Bassford }
 to } Deed dated June 5. 1869
 Samuel Stedman }

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16 Saml. Stedman }
 to } Deed dated March 24. 1871
 H. W. Haskell }

17 H. W. Haskell }
 to } Deed dated April 7th 1873.
 A. P. + A. D. Butler }

18 A. P. + A. D. Butler }
 to } Deed dated June 1885.
 John Behrman }

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In the U.S. Dist Court

John Buhman

- vs -

The United States

Petition

Filed June 5th: 1885

Southard Hoffman Clerk

By R.D. Grimwood

Deputy Clerk

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Wallace & Johnston
Attys for Petitioner

In the District Court of
the United States in and for the
District of California

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In the matter of the petition
of John Bukman for confirmation
to him of lands in the Rancho de Napa

now comes the United States
by S. G. Kilborn United States
Attorney and answers the petition
of said John Bukman filed herein
and denies generally and specifically
each and every allegation in said
petition contained

S. G. Kilborn
United States Attorney

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U.S. Dist. Ct.
Dist. of Col. for

In the matter of
the petition of
John B. B. B.
for appointment
of a receiver
Re: Rock de M.

Ans.

Filed June 10th 1883
Southard Hoffman Clerk
By W. D. Gumwood
Deputy Clerk

S. G. Wilson
U.S. Atty

In the District Court of the United States
For the District of California

In the Matter of the Petition of John Buhman
for confirmation of title to land in Napa County
California part of the Rancho de Napa under
act of Congress passed June 20th 1884

No 437

To the Honorable Ogden Hoffman
Judge of said District Court

Your Petitioner Otto H Frank
by his Attorneys E J & J H Moore respectfully asks
leave of Court to file his Intervention herein on the
following grounds; to wit;

That said Otto H Frank is a confinee
by a prior decree of this Court and is now the owner
in fee simple of the same land whereof said John
Buhman asks for confirmation in his favor and
such confirmation would interfere with the peti-
tioner's and his rights

Otto H Frank
by E J & J H Moore
his Attorneys

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U. S. District Court
Dist of California

In the matter
of the Petition of
John Rehnau

~~Rehnau~~
Petition of Otto
H. Frank for
leave to intervene

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Filed July 24th 1885

Southard Hofmann Clerk

~~Myrd Grimwood~~
Deputy Clerk

E. J. + J. W. Haines
Attys for Petitioner

1 In the District Court of the
2 United States,

3 District of California

4 In the matter of the
5 Petition of John Puchman
6 for Confirmation of title to
7 portion of Rancho de Tapa,
8 in Tapa County California } No. 437
9 under the Act of Congress
10 passed June 20th 1884

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12 Petition of Intervention of
13 Otto. H. Frank,

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15 Now comes Otto. H. Frank
16 by leave of Court first obtained
17 and for petition of Intervention
18 herein alleges. That he is the sole
19 owner in fee of the tracts of land
20 and each and all thereof which
21 the petitioner John Puchman,
22 asks to have confirmed to him ^{herein} the
23 same being within the boundaries
24 of the Rancho de Tapa in Tapa
25 County of this State. (The lands
26 mentioned in petitioner's descrip-
27 tion as land of Edward Cottrell
28 being also claimed by said Frank)

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1 That said Rancho was formerly
2 granted to Don Salvador Vallejo
3 by the Mexican Government Sep-
4 tember 21st 1838.

5 That on December 20th 1851
6 said Salvador Vallejo sold and
7 conveyed by Deed to one "Herman
8 Wohler" all his right title and
9 interest in and to all the land
10 belonging to said Rancho de
11 Napa, and all land appertaining
12 to the Rancho of that name granted
13 to the said Vallejo by the Mexican
14 Government which had not been
15 before that date, to wit: December
16 20th 1851, sold and conveyed by
17 him, Vallejo, by deeds which had
18 been before that date duly record-
19 ed in the County Recorder's office
20 of said Napa County.

21 That said Deed from said
22 Vallejo to said Wohler was thereup-
23 on, on said December 20th 1851
24 duly recorded in said County
25 Recorder's office, in Book B of
26 deeds at page 109.

27 That thereafter on March 20th
28 A. D. 1852, said Herman Wohler

1 sold and conveyed by deed
2 this

25 Deeds at page 109.
26 That thereafter on March 20th
27 A. D. 1852. said Herman Wohler
28

PAGE

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1 Sold and Conveyed by Deed to
2 this Intervenor" all his right
3 title and interest in and to
4 all the land belonging to the
5 Rancho de Napa, and all the
6 land appertaining to the Rancho
7 of that name, granted to Don
8 Salvador Vallejo by the Mexican
9 Government which had not been
10 before that date, to wit March
11 20th 1852, Conveyed by said Salvador
12 Vallejo, or by the said Herman
13 Wohler by deed which had
14 been before that day duly recorded
15 in the office of the County Recorder
16 of Napa County, which said
17 Deed from said Wohler was
18 afterwards, on the 22nd day of
19 April 1852 duly recorded in the
20 Office of the said County Rec-
21 order of Napa County in Book
22 "B" of Deeds of page 160.

23 That on June 12th 1858 the
24 Hon the District Court of the
25 United States for the District
26 of California, Confirmed to said
27 Otto St. Frank, the land last
28 described by the same description

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1 Contained in said last named
 2 Deed & made under said Grant &
 3 and on appeal afterwards taken
 4 by the United States from the afore
 5 said Decree of Confirmation, said
 6 appeal was duly dismissed, and
 7 said Decree is now final.

8 That said Confirmation ensued
 9 to the benefit of this Intervenor who
 10 by means thereof, under the aforesaid
 11 Deed from Herman Wohler, thereupon
 12 became and he now is the owner
 13 in fee and entitled to the possession
 14 of said lands.

15 That the lands for which said
 16 petitioner Rehman herein asks
 17 for Confirmation are a portion
 18 of said lands so confirmed to this
 19 Intervenor.

20 This Intervenor further pleading
 21 herein denies all and repugnant
 22 the allegations contained in
 23 said petition filed herein by
 24 said John Rehman after ^{and including} the
 25 following words on page 2
 26 lines thereof to wit, "That your
 27 petitioner is the claimant and
 28 owner of the following described

XX

1 portion of said Parcel"
 2 at 4

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owner of the following

portion of said Ranchos (found at page 2 line 17 thereof) Excepting that he & Frank & admits to be true that portion of said petition which alleges as follows viz:

"That the claim of the Original grantee was good and valid under the Mexican laws relating to such cases."

This Intervenor therefore prays that the aforesaid petition by said John Beckman be dismissed and that his claim for Confirmation be disallowed.

E. J. & H. Moore
Attys for Intervenor. St. Frank



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No. 437,
Buchman
In the U.S. Dist Court

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District of
California

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In the matter of
the Petition
of _____

John Buchman

Intervention of
Alto. H. Frank

Service by copy of within interven-
ted the August 30, 1885 admitted

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Wallace & Johnston
Atty for Petitioner

Filed September 11th 1885

Jonathan Hoffman
Clerk

E J J Hillwood
Atty for Intervenor
A H Frank