

CASE No. 446 N. D.

CASE No.

446

NORTHERN DISTRICT

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PORTION of RANCHO de NAPA GRANT

KATE H. STONEY

CLAIMANT



LAND CASE 446 ND pgs.18

FEB 5 1963

U.S.A.  
25% COTTON FIBER  
PROVER BOND  
*(Signature)*



p. 536.

No. 446

U. S. District Court,  
DISTRICT OF CALIFORNIA.

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In re petition of  
Kate M. Stoney

vs.

for Confirmation to her of a  
portion of Rancho de Napa.

IN ADMIRALTY.

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PAPERS IN THE CASE.

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446 ND

PAGE 1

No. 446

p. 536.



446 ND

PAGE 2

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

To the HON. OGDEN HOFFMAN,

Judge of said Court:

Now comes Kate M. Stoney and presents this her 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  $16^{\circ}$  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:

*Lots One and Sixteen (1+16) of Block "A" of Lawley's Addition to Napa City - The said lots fronting  $181\frac{5}{8}$  feet on main Street, and running back 480 feet to Gajome Street - and bounded on the South by the premises owned by Mrs. E. A. Baynton -*

*Also - all that portion of Lawley's Addition bounded as follows: Commencing at the North Easterly corner of Main & Jackson Streets of Napa City, and running thence Northerly along the Easterly line of Main Street one hundred and twenty feet; thence at right angles Easterly two hundred and ten feet:*



100  
446 ND  
PAGE 4

to the westerly line of Adrian Street; thence  
southerly along the said line of Adrian St,  
sixty (60) feet; thence at right angles  
westerly one hundred and five (105) feet;  
thence at right angles southerly sixty (60)  
feet to the southerly line of Jackson street;  
thence along said line of Jackson street  
westerly to the place of beginning.

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



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 and Thomas P. Stoney*  
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."

446 ND

PAGE 7

Salvador Vallejo }  
to } Deed dated Aug 8. 1850  
John E. Brown }

John E. Brown }  
to } Power Attorney dated  
Ed<sup>rd</sup> McGarry and } Nov. 10. 1851  
Wm C. Brown }

John E. Brown }  
to } Deed dated Jany 17. 1853  
J. M. Horbin }

J. M. Horbin }  
to } Deed dated March 22. 1853  
Thomas Earl }

Thomas Earl }  
to } Deed dated Feby 5. 1858.  
John Lowley }

John Lowley }  
to } Deed dated Nov 1. 1868  
Thomas P. Stoney }

Thomas P. Stoney } Deed dated -  
P. D.<sup>5</sup> Bailey }



P. D. Bailey  
to  
Kate M. Stoney } Deed dated Sep. 18. 1874

446ND  
PAGE 8

John Lawley  
to  
John S. Hogan } Deed dated Aug 19. 1870.

John S. Hogan  
to  
Kate M. Stoney } Deed dated July 3. 1876

John S. Hogan  
to  
Kate M. Stoney } Deed dated March 13. 1877.



536. 446.

In the U. S. Dist Court

Kate M. Stoney

- vs -

The United States.

Petition

Filed June 17th 1883

Southard Hoffman  
Clerk

By D. Grimwood

Deputy Clerk

446 ND

PAGE 9

Wallace & Johnston and  
Thomas P. Stoney  
attys for Petitioner



In the District Court of the United  
States, District of California.

In the Matter of the petition

of

Walter M. Stoney

for confirmation of part of

Rancho de Napa

Now comes the answer filed by  
S. G. Wilborn its attorney and answers  
the petition of Walter M. Stoney on  
file herein and for answer thereto  
denies generally and specifically  
each and every allegation in said  
petition contained

S. G. Wilborn

U.S. Atty

446 ND

PAGE

10



No. HHG

United States ~~Dist~~ Court

DISTRICT OF CALIFORNIA.

In the Matter of the  
Petition of Kate M.  
*Plaintiff*

*vs.*  
Stoney for confirmation of  
portion of Rancho de  
Mapa.  
*Defendant*

Answer and Opposition  
of United States

Filed July 7th. 1883  
Southard Hoopman Clerk  
By P. D. Grimwood  
446 ND *deputy clerk*

PAGE 11

S. G. HILBORN,  
UNITED STATES ATTORNEY  
For the District of California.

Service of within .....  
thereof admitted, this ..... day of ..... 188 .....

Attorney for .....



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

446 ND  
PAGE 12

In the matter of the Petition  
of Kate N. Stanley for Confirmation  
of title to land in Napa County,  
California part of the Rancho  
de Napa Under Act of Congress  
passed June 20<sup>th</sup> 1884. } No 446

To the Honorable Ogden Hoffman  
Judge of said District Court.

Your Petitioner Otto H. Frank  
by his Attorney 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  
Confirmer by a prior Decree  
of this Court and is now the  
owner in fee simple of the same  
land whereof said Kate N. Stanley asks  
for Confirmation in her favor and  
such Confirmation would interfere  
with this petitioner and his rights.

Otto H. Frank

by E. J. + J. H. Moore  
his attys



No 446

U. S. District Court  
District of California

In the matter of  
the Petition of  
Kate M. Stonely

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Petition of Otto  
H. Frank for  
leave to intervene

446 ND

PAGE 13

Filed July 24 1885  
Southard Hoffmann Clerk  
By D. Grimwood  
Deputy Clerk

E. J. & J. Hallowe  
attys for intervenors



In the District Court of the United States,  
District of California.

PAGE

In the Matter of the Petition of  
Kate M. Stoney for confirmation of  
title to portion of Rancho de Napa, in  
Napa County, under the Act of Congress  
passed June 20<sup>th</sup> 1884,

No. 446,

446 ND  
PAGE 14

Petition of Intervention of Otto A. Frank.

Now comes Otto A. Frank by leave  
of Court first obtained, and for petition of Inter-  
vention herein alleges -

I  
That he is the sole owner in fee of the  
tracts of land, and each and all thereof  
which the petitioner Kate M. Stoney asks to have  
confirmed to her herein, the same being within  
the boundaries of the Rancho de Napa, in Napa  
County in this State.

That said Rancho was formerly gran-  
ted to Don Salvador Vallejo, by the Mexican Gov-  
ernment, September 21<sup>st</sup> 1838.

That on December 20<sup>th</sup> 1851, said  
Salvador Vallejo, sold and conveyed to deed  
to one Herman Wohler, 'all his right, title



1 and interest in and to all the lands belonging to  
2 said Rancho de Napa, and all lands appertaining  
3 to the Rancho of that name granted to the said  
4 Vallejo, by the Mexican Government which  
5 had not been before that date to wit, December,  
6 30<sup>th</sup> 1851, sold and conveyed by him, Vallejo,  
7 by Deeds which had been before that date duly  
8 recorded in the County Recorder's Office of  
9 said Napa County."

10 That said Deed from said Vallejo  
11 to said Wohler was thereupon, on said Decem-  
12 ber, 20<sup>th</sup> 1851, duly recorded in said County  
13 Recorder's Office in Book "B." of Deeds page 109,

14 That thereafter on March 20<sup>th</sup> A. D.,  
15 1852, said Herman Wohler sold and conveyed  
16 by Deed to this Intervenor, "all his right, title <sup>and</sup>  
17 interest in and to all the lands belonging to  
18 the Rancho de Napa, and all the lands appertaining  
19 to the Rancho of that name granted to Don  
20 Salvador Vallejo by the Mexican Government,  
21 which had not been before that date, to wit,  
22 March 20<sup>th</sup> 1852, conveyed by said Salvador  
23 Vallejo, or by the said Herman Wohler by deeds  
24 which had been before that day duly recorded  
25 in the office of the County Recorder of Napa,  
26 County," — which said deed from said Wohler  
27 was afterwards on the 22<sup>d</sup> day of April,  
28 1852, duly recorded in the office of the



1 said County Recorder of Napa County in  
2 Book "B" of Deeds at page 160.

PAGE

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3 That on June, 12<sup>th</sup> 1858, the Hon.  
4 the District Court of the United States for the  
5 District of California, confirmed to said Otto  
6 St. Frank, the lands last described, by the  
7 same descriptions contained in said last named  
8 Deed, and on appeal afterwards taken by  
9 the United States from the aforesaid decree  
10 of confirmation, said appeal was duly dismissed  
11 and said decree is now final.

12 That said confirmation enured to the  
13 benefit of this Intervenor, who by means  
14 thereof, under the aforesaid Deed from Herman  
15 Mohler, thereupon became, and he now is the  
16 owner in fee, and entitled to the possession of said lands.

17 That the lands for which said petitioner  
18 Kate M. Storey now herein asks for confirmation  
19 are portion of said lands so confirmed to  
20 this Intervenor.

21 This Intervenor further pleading  
22 herein, denies all and singular the allegations  
23 contained in said petition filed herein by  
24 said Kate M. Storey, after <sup>including</sup> the following words on page  
25 79 line 17 thereof, to wit; That your petitioner  
26 is the claimant and owner of the following  
27 described portion of said Rancho "vc  
28 (found at page 2 line 17 thereof) excepting

446 ND

PAGE 16



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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  
law relating to such cases."

This Intervenor therefore prays - that  
the aforesaid petition by said Kate M. Stoney  
be dismissed and that her claim for con-  
firmation be disallowed.

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



446 ND  
PAGE 17



No. 446,  
In the U. S. District Court  
District of California

PAGE

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In the Matter of the Petition  
of  
Kate M. Stoney =

Intervention by  
Otto H. Frank -

Service by copy of writ of habeas corpus -  
vention this August 27 1885 admitted

This is Stoney - Wallace &  
Johnston attys for Pet

Filed September 16<sup>th</sup> 1886  
Deputy Clerk Hoffman  
446 ND

PAGE 18

E. J. H. Moore  
attys for Intervenor  
Otto H. Frank.