

CASE No.

450

NORTHERN DISTRICT

PORTION of RANCHO de NAPA GRANT

J. WALTER WARD Jr

CLAIMANT

CASE NO. 450 N. D.

FEB 5 1963

U.S.A.
25% COTTON FIBER
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Formaldehyde

p. 540

No. 450

U. S. District Court,
DISTRICT OF CALIFORNIA.

In re petition of
J. Walter Wood Jr

vs.

for Confirmation to him of
portion of Rancho de Napa
IN ADMIRALTY.

PAPERS IN THE CASE.

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PAGE 1

No. 450 (p 540)

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

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

Now comes *J. Walter Word, Jr.* 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:

*Lots One - Two - Three - and Four - of
Subdivision of Lots Three - Four and Five
of Lawley's addition to Napa City -*

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

That your petitioner deraigns 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.

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PAGE 5

Wallace & Johnston and J. Walter Wood
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"

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

J. E. Brown } Power Attorney
to } Deed dated Nov. 10. 1851.
W. Garry & Brown }

J. E. Brown }
to } Deed dated Jan'y 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 Aug 19. 1870.
J. S. Hogan }

J. S. Hogan }
to } Deed dated Aug 21. 1877.
J. Walter Wood Jr }

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In the U. S. Dist Court

J. Walter Word for

vs

The United States

Petition

450 ND

PAGE 8

Filed June 19th 1885

Southard & Hoffman

Clerk

Phel D. Grimwood

Deputy Clerk

Wallace & Johnston
and J. Walter Word for
Attys for Petitioner

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

3 In the Matter of the Petition
4

5 J. Walter Ward
6 for confirmation of a portion
7 of Rancho de Napa
8

9 Now comes the United States
10 by S. G. Hilborn its attorney
11 and answers the petition of
12 J. Walter Ward on file herein
13 and for answer thereto denies
14 generally and specifically
15 each and every allegation
16 in said petition contained.

17 S. G. Hilborn

18 United States Attorney
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United States District Court

DISTRICT OF CALIFORNIA.

In the Matter of the Petition
of J. Walter Ward
~~Plaintiff~~
~~vs~~
for confirmation of portion
of Rancho de Napa
~~Defendant~~

Answer and Opposition
of United States

Filed July 7th 1885
Southard Hoffman
Clerk
By J. D. Grimwood
Deputy Clerk

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

Service of within and receipt of a copy
thereof admitted, this day of 188

Attorney for

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

In the matter of the Petition of
Walter Ward, Jr. for confirmation
of title to land in Sapa County, Cal. } No. 450
- ifernia, part of the Rancho de Sapa,
under Act of Congress passed June 30th, 1884

450 ND
PAGE 11

To the Honorable Ogden Hoffmann,
Judge of said District Court.

Your Petitioner, Otto H. Frank, by
his attorneys C. 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 con-
- firmee by a prior decree of this Court, and is
now the owner in fee simple of the same land
whereof said Walter Ward, Jr. asks for confirma-
- tion in his favor, and such confirmation
would interfere with this petitioner and
his rights.

Otto H. Frank
by C. J. + J. H. Moore
his Attorneys.

No. 450

U. S. District Court
District of California

In the Matter of the
Petition of Walter Ward Jr

Petition of Otto A. Frank
for leave to intervene

450 ND

PAGE 12

Filed July 21 1885

Southard & Co. Clerk

By W. Grimwood
Deputy Clerk

O. J. A. Moore

Attys for Interveners

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

PAGE

In the Matter of the Petition of
J. Walter Ward Jr. for confirmation
of title to portion of Rancho de Napa,
in Napa County, under the Act of Congress
passed June 20th 1884,

No. 450.

450 ND

PAGE 13

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 J. Walter Ward Jr. asks to
have confirmed to him herein, the same being within
the boundaries of the Rancho de Napa in Napa
County in this State.

That said Rancho was formerly
granted to Don Salvador Vallejo by the Mexican
Government, September 21st 1838.

That on December 20th 1851, said
Salvador Vallejo sold and conveyed by Deed
to one Herman Wehler "all his right, title

1 and interest in and to all the lands belonging
 2 to said Rancho de Napa, and all lands
 3 appertaining to the Rancho of that name gran-
 4 ted to the said Vallejo by the Mexican Government,
 5 which had not been before that date, to wit,
 6 December 20th 1851, sold and conveyed by
 7 him, Vallejo by deeds which had been before
 8 that date duly recorded in the County Recorder's
 9 Office of said Napa County.

10 That said Deed from said Vallejo
 11 to said Wohler was thereupon, on said Decem-
 12 ber 20th 1851, duly recorded in said County
 13 Recorder's office in Book "73" of page 109.

14 That thereafter on March 20th A. D.,
 15 1852, said Herman Wohler sold and conveyed
 16 by deed to this Intervenor "all his right, title
 17 and interest in and to all the lands belonging
 18 to the Rancho de Napa and all the land ap-
 19 pertaining to the Rancho by that name, granted
 20 to Don Salvador Vallejo, by the Mexican Govern-
 21 ment which had not been before that date,
 22 to wit; March, 20th 1852, conveyed by said
 23 Salvador Vallejo, or by the said Herman Wohler,
 24 by deeds which had been before that day
 25 duly recorded in the Office of the County
 26 Recorder of Napa County," which said deed
 27 from said Wohler, was afterwards on
 28 the 22nd day of April, 1852, duly recorded in

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

PAGE

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450 ND

PAGE 15

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

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

17 That the lands for which said petitioner
18 J. Walter Ward Jr, now herein asks for con-
19 firmation are portion of said lands so
20 confirmed to this Intervenor.

21 This Intervenor further pleading
22 herein, denies all and singular the allegations
23 contained in said petition filed herein by said
24 J. Walter Ward Jr, after ^{including} the following words
25 on page 2 line 17 thereof, to wit: "That
26 your petitioner is the claimant and owner
27 of the following described portion of said
28 Rancho," &c (found at page 2 line 17)

1 thereof) excepting that he, (Frank,) admits to be
 2 true, that portion of said petition which al-
 3 leges as follows; viz; That the claim of
 4 the original grantee was good and valid
 5 under the Mexican law relating to such cases,"

6 This Intervenor therefore prays
 7 that the aforesaid petition by said J. Walter
 8 Ward Jr. be dismissed and that his claim
 9 for confirmation be disallowed.

E. J. & J. H. Moore
 Atty for Intervenor O. H. Frank



450 ND
 PAGE 16

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No. 450,
In the U.S. District Court.
District of California -

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PAGE

450 ND
PAGE 17

In the Matter of the Petition
of
J. Walter Ward Jr.

Intervention by Otto H. Frank

Service by copy of written Intervention
this August 31 1885 admitted
Wallace Johnston
Atty for Ward

Fried Sept 16th 1885
Doubleday & Spencer
Clerk

per
E. J. Moore
Atty for Intervenor
Otto H. Frank.