

CASE No.

95

SOUTHERN DISTRICT

---

A LOT OF GROUND AT SAN GABRIEL GRANT

---

SIMEON - INDIAN

CLAIMANT



LAND CASE 95 SD

51 pgs.

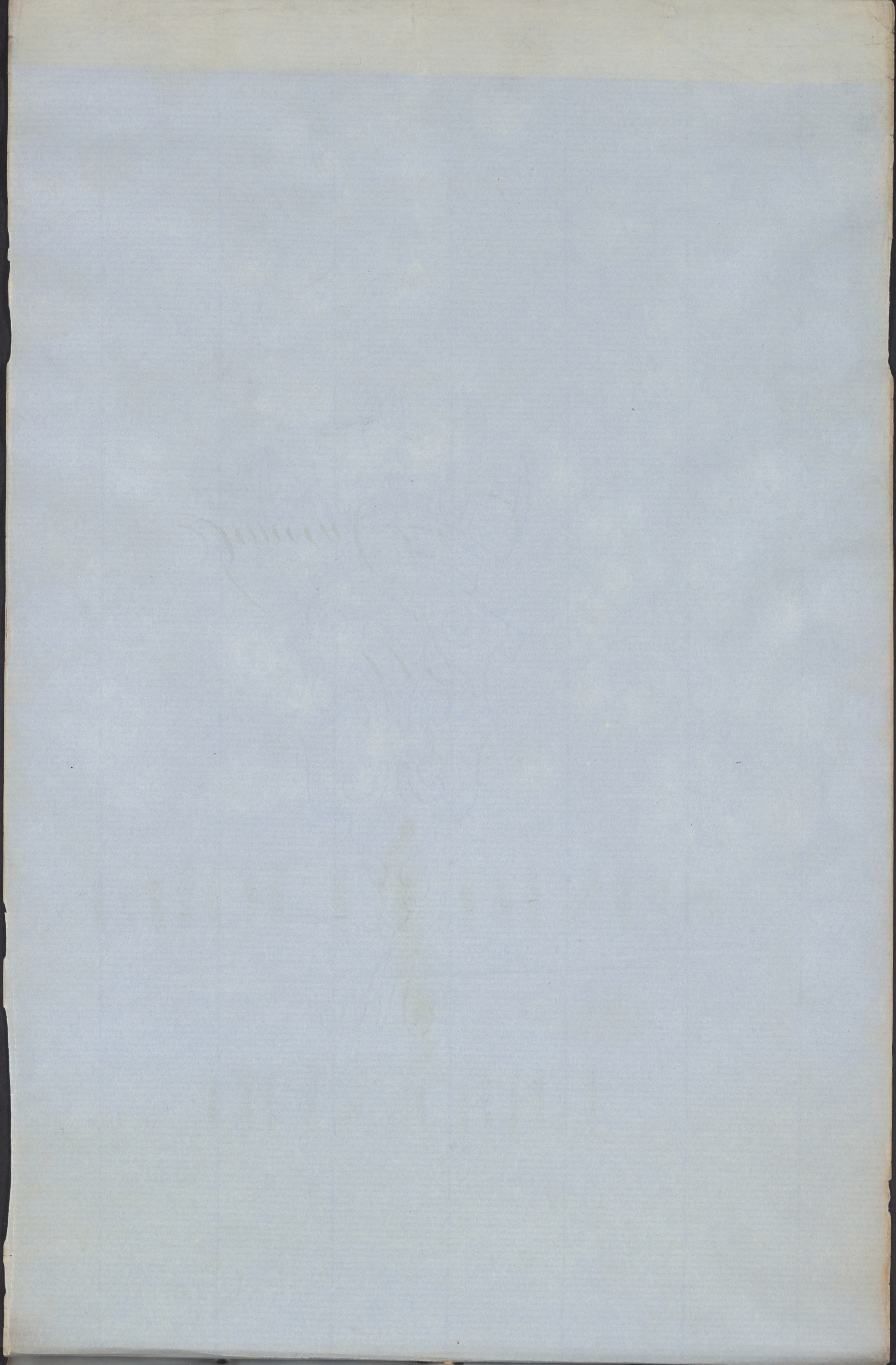
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11-11-19







# TRANSCRIPT

OF THE

# PROCEEDINGS

IN CASE

NO. 449

*Simcon (Indian)* CLAIMANT

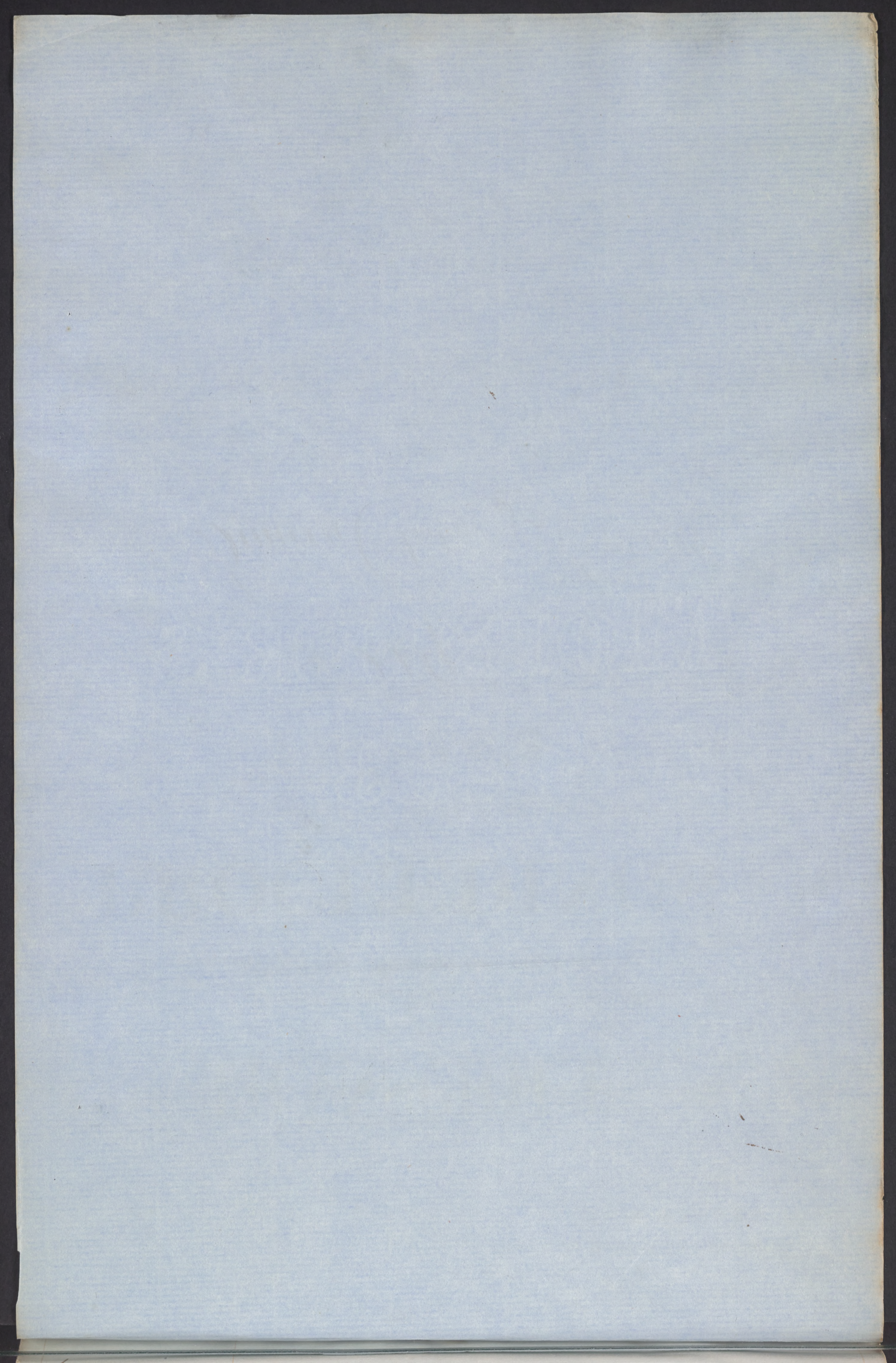
VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"*A lot of ground at San Gabriel*"







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 first day of November, Anno Domini One Thousand Eight Hundred and Fifty Three, 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 Simoon (Indian)  
for the Place named

A lot of ground at San Gabriel  
was presented, and ordered to be filed and docketed with No. 449 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;

Los Angeles Nov. 5<sup>th</sup> 1853

In Case no. 449 Simoon for a lot of ground at San Gabriel, the deposition of Hugo Reich, a witness in behalf of the claimant taken before Commissioner Richard Wall, with document marked A. B. no. 1 and a translation thereof of marked ~~xxxxxx~~ B. annexed thereto, non filed.  
(Vide page 4 of this Transcript)

San Francisco Sept. 1<sup>st</sup> 1853

Case no. 449, called; The counsel for the claimant read the Evidence; argued, submitted and taken under advisement by the Board.



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San Francisco Dec. 13<sup>th</sup> 1853.

In the same case Commissioner Alphonse Fitch  
delivered the opinion of the Board confirming  
the claim:

(See page 7 of this Transcript.)

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To The Hon<sup>ble</sup> The Board of U. S. Land Com-  
-missioners appointed to settle Private  
Land Claims in California

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Petition

The Petition of Simeon an emancipated  
Indian of San Gabriel, respectfully represents:  
That on or about the 1<sup>st</sup> of June  
1846, Pio Pico, then Governor of California,  
in the name of the Mexican Nation by  
virtue of the laws then in force, the usages  
and customs of the country affecting  
grants of land in California, granted  
in full property unto your petitioners  
that certain tract of land situate at  
the Ex Mission of San Gabriel in the  
present County of Los Angeles, being

about five hundred varas front North  
to South by about two hundred varas  
front East to West, as described in the  
records, papers and documents relating  
to said grant of land. That the orig-  
-inal grant of said land is now in the  
possession of Your Petitioners ready to  
be produced and proved before Your  
Hon<sup>ble</sup> Board and a copy of said grant  
is herewith filed as part of this petition

Your petitioners further represents  
that he has been ever since the date  
of said grant is now in the peaceable  
and quiet possession of said lands  
so granted to him as aforesaid,

There is no conflicting claim  
to said lands known to Your petitioners  
and the same have not been surveyed



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by the U.S. Surveyor General for California  
The evidence upon which your  
petitioners relies in support of this claim  
consists of the records of this grant, papers  
and Maps in the Archives in Custody  
of the U.S. Surveyor General for California  
original papers in the possession of  
your petitioners and the testimony of  
witnesses to be produced before Your  
Honor Board.

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Respectfully submitted  
for such action as the justice and nature  
of this claim may require.

E. O. Crosby  
of Counsel.

Filed in Office Nov<sup>r</sup> 11<sup>th</sup> 1852.

Geo. Fisher Sec

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Los Angeles Nov<sup>r</sup> 5<sup>th</sup> 1852,  
On this day before Court H. Keall  
came Henry Reed, a witness in behalf  
of the Claimant "Simon" petition No.  
449, and was duly sworn, his evidence  
being given in English.

The U.S. Associate Land Agent was  
present.

In answer to questions by Counsel  
for the Claimant the witness testified  
as follows.



My name is Hugo Reed, my age is forty one years, I reside in Los Angeles County at San Gabriel & have lived in California nineteen years.

I am acquainted with the hand writing and signatures of Pio Pico & Jose Martin Moreno.

A paper is now shown me purporting to be a grant to Simeon an Indian, dated June 1<sup>st</sup> 1846.

The names of said Pio & Moreno upon said paper I believe to be their genuine signatures. Said paper is hereto annexed & marked No. 1.

Simeon was in possession of the land for about two years before it was granted. He had a house on it in which he lived & he was cultivating the land. The document was handed for the purpose of having me give judicial possession to the claimant, but I delayed it until the American flag was raised when supposing my authority had ceased I omitted to do it in form. I however measured off his ground for him & placed landmarks.

He has been in possession of the land, being on it & cultivating it to the present time.

Hugo Reed

Sworn & subscribed

Before me

Herland Keall Comr.

Filed in Office Nov<sup>r</sup> 5<sup>th</sup> 1852.

Geo. Fisher Sec



Pio Pico Constitutional Governor of  
the Department of the Californias

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Translation  
of No. No. 1.

L. S. Whereas the San Gabriel Indian  
Simon has claimed for his personal  
benefit and that of his family the tract  
provisionally granted to him within  
the limits of the said Mission by the  
Rev. Father Fr. Tomas Estenaga, in  
recompense for his good services which  
he rendered during many years in that  
Establishment. In the exercise of the  
powers wherewith I am invested in the  
name of the Mexican Nation. I do now  
by decree of this day grant unto him  
the tract in question in conformity  
with the Law of 18<sup>th</sup> of August 1824,  
and regulation of 21<sup>st</sup> of November 1828  
under the following conditions:

1<sup>st</sup> He may enclose it without prejudicing  
the crossroads highways and rights of  
way he may enjoy it freely and exclusive-  
ly devoting it to the use or cultivation  
that best may behoove him.

2<sup>nd</sup> He shall solicit the competent  
Magistrate to give him the judicial  
possession by virtue of this decree.

Such Magistrate shall mark out the  
boundaries with the appropriate land-  
marks.

3<sup>rd</sup> The tract hereby granted to him  
consists merely of five hundred varas  
from North to South and from East to  
West two hundred varas.

4<sup>th</sup> He shall not have power to alienate this



tract to any individual nor reduce it to mortmain nor convey it to any corporation or town, but he shall enjoy it for himself and his heirs and shall not prejudice the structures of San Gabriel.

Wherefore I order that the present title being held as firm and valid be delivered to the party in interest for his protection and further purposes.

Given at the City of Los Angeles on this common paper there being none stamped on the 1<sup>st</sup> of June one thousand eight hundred and forty six.

Pio Pico  
Jose Matias Moreno  
Secretary and Interim

Filed in Office Nov<sup>r</sup> 1<sup>st</sup> 1852.  
Geo. Fisher Sec

Opinion by  
Com<sup>r</sup> Alpher  
Belch.

Simoneon (an Indian)	}	For a peice of
do		land 230 by 500
The United States		varas. near
		the Mission of San
		Gabriel in Los
		Angeles County

The Claimant presents the Original Grant of the land claimed by him, signed by Governor Pio Pico and bearing date June 1<sup>st</sup> 1846. the genuiness of whose signature is duly proved.



Hee has also proved by the Deposition of Hugo Reid that he was in possession of the land claimed and had a house on it in which he lived and cultivated the land about two years before the grant was made to him and has continued to cultivate and reside upon it to the present time. The only question which can arise in disposing of the case as it is presented in the proofs, is one of location and boundary.

The land granted is described in the grant as the tract previously granted to him with the limits of said Mission by the Rev. Fathers Fr Tomas Estenega in recompense for his good services &c. "The tract hereby granted to him consists merely of five hundred varas from North to South and from East to West two hundred and thirty varas. The grantee was required to obtain judicial possession & have the boundaries marked out and the monuments placed.

It is evident nevertheless from the whole tenor of the grant that it was a concession by metes and bounds and not a mere right to locate land which could be defined and segregated from the National lands so as to pass under the grant only when such judicial measurement was made.

The land granted is that which the grantee held at the time of the concession.



under a provisional grant from the Rev. Fathers of the Mission: on which he then lived and had under cultivation, and which the witness Reid, testifies he has so occupied and cultivated ever since. The size of the lot is given in the grant and the direction of its extension lines: but we have no proof of the precise description contained in the provisional grant from the Rev. Fathers, which is adopted in this description. It would seem however there could be little difficulty in identifying and running the lines of the land so as to embrace the property thus held and cultivated under the provisional grant for so many years.

The deposition of the same witness above mentioned also states that Simeon applied to him to give him judicial possession, which he did not do, but he measured off the ground for him and placed land marks. We do not understand this to be a new and arbitrary demarcation of the lands, but a designation of it according to the provisional grant by the Priest and the possession held under it.

On a consideration of all the proof in the case we are inclined to the opinion that there will be no practical difficulty in ascertaining the precise land granted, and we shall enter a decree of confirmation describing the land according to the proofs & confirmed.



Simon (an Indian)  
vs  
The United States

Decree of  
Confirmation

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In this case on hearing the proofs and allegations, it is adjudged by the Commission that the claim of the petitioners is valid, and it is therefore hereby decreed that the same be confirmed to him.

The land of which confirmation is hereby made is situated in Los Angeles County and is the same which was granted to him provisionally by the Rev. Fathers Fr. Tomas Estevaga for his good services which he rendered many years in the Mission and also by grant by Governor Pio Pico on the first day of June 1846. The said land being five hundred varas from north to south and from East to west, two hundred and thirty varas, and the same on which said claimant resides and which he has occupied and resided upon during many years, and with the exterior lines as originally assigned to him and as measured off and designated by land marks by Henry Reid after said claimant went into the occupancy of said land reference for further designation thereof to be had to said grant by said Pico and to the deposition of Henry Reid on file in this case.

Filed in Office  
Dec. 13 1853  
Asst. Fisher  
Sec.

Alphens Belch  
Thompson Campbell  
R. Aug. Thompson  
Commissioners



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Por Vicio Gobernador Constitucional del departamento de las Californias,

Doc. H. H. No. 1  
annul to the Depo  
of Hugo Reid ha  
ben before Com.  
H. Hall

Por cuanto el Indigena de San Gabriel Dimeon ha pretendido para su beneficio personal y el de su familia el terreno que interinamente le concedio en la misma el R. P. Tomas Esteneza, en merito de mis buenos servicios que puesto por muchos años en aquel establecimiento; usando de las facultades con que me hallo autorizado a nombre de la Nacion Mexicana he venido por decreto de este dia en concederle el mencionado terreno de conformidad con la ley de 18 de Agosto de 1824 y reglamento de 21 de Noviembre de 1828 bajo las condiciones siguientes. 1<sup>a</sup> Podra cercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutar a libre y exclusivamente destinandolo al uso o cultivo que mas le convenga. 2<sup>a</sup> Solicitara del juez respectivo le de la posesion juridica en virtud de este despacho por el cual se demarcan los linderos con las mojoneras <sup>respectivas</sup> siguientes. 3<sup>a</sup> El terreno de que se le hace donacion es compuesto de quinientas varas de Norte a Sur y de Oriente a Poniente de doscientas treinta varas. 4<sup>a</sup> No podra enagenar este terreno a ningun particular ni a manos muertas, corporacion o pueblo, sino que lo disfrutara para si y sus herederos y no perjudicara en nada a la finca de San Gabriel. En consecuencia mando que teniendo el presente titulo por firme y validero se entregue al interesado para su resguardo y demas fines.

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Dado en la ciudad de los Angeles en este papel  
comun por no haber sellado, a primeros de Junio  
de mil ochocientos cuarenta y seis  
Pio Pico

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Jose Matias Moreno  
Su interm

Filed in Office Nov. 5<sup>th</sup> 1852.

Geo. Fisher Secy.



Office of the Board of Commissioners,

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

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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 *twelve* pages, numbered from 1 to *12*, 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. *449* on the Docket of the said Board, wherein

*Simon (Indian)* is the Claimant against the United States, for the place known by the name of *A lot of ground at San Gabriel*

In Testimony Whereof, I hereunto set my hand and affix my private Seal (not having a Seal of Office) at San Francisco, California, this *twelfth* day of *September* A. D. *1851*, and of the Independence of the United States of America the seventy=*ninth*



*Geo. Fisher.*  
*G. Fisher*



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U. S. DISTRICT COURT,

*Southern* District of California.

No. 95. *Docket*

THE UNITED STATES,

vs.

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*Simcon (Indian)*

*"A lot near San Gabriel,"*

TRANSCRIPT OF THE RECORD

FROM THE

BOARD OF U. S. LAND COMMISSIONERS,

Case No. *449*

*September 20<sup>th</sup> 1854*

*W. H. Carter*  
*clerk*

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Office of the Attorney General of the United States,  
Washington, 30th November 1854.

Gineon (Indian).  
vs.  
The United States. } 449.

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 30th day of August 1854 the appeal in the district court of the United States for the *Sutro* district of California will be prosecuted by the United States.

*Cushing*

Attorney General.



N<sup>o</sup> 95.

U. S. District Court  
Southern District.

The United States  
vs.  
Simion (Indian)

Appeal Notice.

Filed Jan'y 10<sup>th</sup> 1858.

J. E. Farr.  
clk.







" Indian of San Gabriel, respectfully  
" represents:

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" That on or about the 1<sup>st</sup> of June  
" 1846, Pio Pico, then Governor of California,  
" in the name of the Mexican Nation by  
" virtue of the laws then in force, the  
" usages and Customs of the Country affec-  
" ting grants of land in California, gran-  
" ted in full propriety unto your petitioner  
" that certain tract of land situate at the  
" Ex Mission of San Gabriel in the present  
" County of Los Angeles, being about five  
" hundred Varas from North to South by  
" about two hundred Varas from East to  
" West, as described in the records, papers  
" and documents relating to said grant of  
" land. That the original grant of said  
" land is now in the possession of your  
" petitioner ready to be produced and proved  
" before Your Hon<sup>le</sup> Board and a Copy of  
" said grant is herewith filed as part of  
" this petition. Your petitioner further  
" represents that he has been ever since  
" the date of said grant in now in the  
" peaceable and quiet possession of said  
" lands so granted to him as aforesaid.  
" There is no conflicting claim



" to said lands known to your petitioner  
" and the same have not been surveyed  
" by the U.S. Surveyor General for Cali-  
" fornia

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" The evidence upon which your  
" petitioner relies in support of this claim  
" consists of the records of this grant,  
" papers and maps in the Archives in  
" custody of the U.S. Surveyor General  
" for California original papers in the  
" possession of your petitioner and the  
" testimony of witnesses to be produced  
" before your Hon. Board

" Respectfully submitted for  
" such action as the justice and nature of  
" this claim may require."

Your petitioner further represents, that  
thereafter, to wit, on the 13<sup>th</sup> day of Dec-  
ember A D 1853, the said Commissioners  
confirmed, by final decree, the said claim  
of the said SIMMONS, in the words  
and figures following, to wit.

" In this case on hearing the proofs and  
" allegations, it is adjudged by the Com-  
" mission that the claim of the petitioner  
" is valid, and it is therefore hereby decreed  
" that the same be confirmed to him.

" The land of which confirmation



" is hereby made is situated in Las  
 " Angeles County and is the same which  
 " was granted to him provisionally by  
 " the Rev. Father Fr. Tomas Estrenga  
 " for his good services which he rendered  
 " many years in the Mission and also by  
 " grant by Governor Pio Pico on the first  
 " day of June 1846, the said land being  
 " five hundred Varas from North to South  
 " and from East to West, two hundred  
 " and thirty Varas, and the same on which  
 " said Claimant resides and which he has  
 " occupied and resided upon during many  
 " years, and with the exterior lines as  
 " originally assigned to him and as meas-  
 " ured off and designated by land marks  
 " by Hugo Reid after said Claimant  
 " went into the occupancy of said land  
 " reference for further designation thereof  
 " to be had to said grant by said Pico  
 " and to the deposition of Hugo Reid  
 " on file in this case."

" Alphens. Felch

" Thompson Campbell

" R. Aug. Thompson

" Commissioners "

That thereafter, to wit, on the 20<sup>th</sup> day of



September A D 1854, a duly Certified transcript of the said decree, and proceedings, and the papers and evidence on which it was founded in said Cause, was filed in the office of the Clerk of the District Court of the United States for the Southern District of California and marked No 95. (Transcript No 449) reference to which it is prayed may be had and made a part of this petition.

That on the 30<sup>th</sup> day of August A D 1854, the Honourable Caleb Cushing Attorney General of the United States received a duly Certified duplicate of said transcript of said final decree and proceedings of said Commissioners in said Cause (No 449) and the papers and evidence on which said decree was founded.

That thereafter, to wit on the 10<sup>th</sup> day of January A D 1855, the said Attorney General of the United States, filed or caused to be filed, on behalf of the United States, a notice with the said Clerk of said District Court for the Southern District of California, that the appeal, in said Cause of Simson vs The United States, from the decision



Handwritten cursive flourishes in three vertical columns.

of the said Commissioners to assist



of the said Commissioners to ascertain and settle the private land claims in the State of California, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States.

Your petitioner further represents that the land claimed as above said is within the jurisdiction of this Honorable Court.

And your petitioner further represents and insists that the said decree of said Commissioners is erroneous, and ought to be <sup>reviewed,</sup> reversed, and set aside, for many errors and imperfections of law and evidence, apparent in said Certified transcript of said Cause, now on appeal from said Commissioners to this Honorable Court.

And your petitioner further represents that the said Claim is invalid, and the said decree erroneous, on the following grounds.

I. And the said Attorney denies all and singular each and every allegation in the said petition of the said Claimant to said Commissioners of said date. And he further denies that any grant.



Handwritten cursive script, possibly a name or address, written vertically on the left side of the page.

Handwritten cursive script, possibly a name or address, written vertically in the center of the page.

Handwritten cursive script, possibly a name or address, written vertically on the right side of the page.



for said land was ever made as alleged in said petition. And he denies further that the said Claimant has shown any or sufficient evidence of the validity of the said Claim.

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II. That at the date of the said alleged grant, the said land Claimed as aforesaid, was occupied by, and in the possession of the Missions of Upper California; and it was held and occupied particularly by the mission of San Gabriel; and could not therefore be colonized.

III. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico, of the 18<sup>th</sup> day of August A. D. 1824, and the regulations for the Colonization of the Territories of Mexico of the 25<sup>th</sup> of November A. D. 1828.

IV. That Pio Pico Governor of California had no lawful authority to grant the land Claimed, it being within the limits and belonging to the Pueblo of San Gabriel.

V. That the alleged grant does not describe the location and boundaries of the land Claimed, so that it can be identified and surveyed. That there is no map of the land shown. That the said alleged grant is not executed upon the lawful stamped



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paper. That it is vague and indefinite,  
and void for uncertainty.

VI. That the records papers and maps, in  
the U. S. Surveyor General's office for Califor-  
nia, relating to this alleged grant and  
relied upon in support of the same, are  
not produced by said Claimant.

VII. That the said Claimant fails to show  
that the said alleged grant was ever approved  
by the Departmental assembly of California,  
or the Supreme Government of Mexico.

VIII. That the said Claimant shows no  
judicial possession of the land claimed.

IX. That the said Claimant fails to show  
the pretended provisional grant of land  
made by the Rio Father Fr. Tomas Espinosa.

And no sufficient proof having been  
made by said Claimant, of the allegations  
of his said petition, or in support of his  
said claim filed as aforesaid, no decree  
ought to have been made, or grounded  
thereon; but the said petition ought to  
have been dismissed, and said claim  
rejected by said Commissioners, upon  
the grounds aforesaid. And the said  
Claimant having no valid right or title,  
derived from the Spanish, or Mexican

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Government, to the land claimed by him, as aforesaid, the lawful right, or title in and to the said land, was required by, and it may belong to the said United States, by virtue of the treaty of peace, friendship, limits and settlements, with the Republic of Mexico, dated at the City of Guadalupe Hidalgo, February 2<sup>nd</sup> A D 1848.

Wherefore the said Pacificus Ord, attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress, entitled "An act to ascertain and settle the private land claims in the State of California" approved March 3<sup>rd</sup> A D 1851, and the laws and statutes in such case made and provided, prays that the said Simson may be served with a copy of this petition; and that this Honorable Court will review the said decision, or final decree of Confirmation, of said Commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Simson, for said land claimed and confirmed as aforesaid; and that the same may be decreed invalid. And all such other

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orders, judgments, or decrees, as may be  
just. With Costs and general relief.

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*J. O. W.*

Attorney of the United States  
for the Southern Dist. of Cal.<sup>a</sup>



No 95

U. S. District Court.  
Southern Dist. of Cal.

Simeon (an Indian)  
appellee.

vs.

The United States.  
appellant.

Petition of U. S. atty for  
review.

Filed Aug. 24<sup>th</sup> 1855

J. E. Farr.  
Clk.

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

Jimou (an Indian)

Appellee

vs

The United States

Appellant

Case U<sup>o</sup> 95-

Transcript U<sup>o</sup> 449.

"Lands in Ex-emption of  
San Gabriel".

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And now comes the above named  
Appellee, by J. R. Scott his Attorney, and for an-  
swer to the Petition for Review filed herein by  
the Appellants, avers that his title to the lands  
claimed by him in this case, and described in  
the said Petition of Review, and in the Trans-  
cript of the proceedings of the United States Land  
Commission, therein referred to, is good and valid.

Therefore, this Appellee prays the  
Judgment of this Honorable Court, that the de-  
cision of the Board of United States Land Com-  
missioners may be affirmed, and that the title  
of the Appellee to the said lands may be decreed  
to be valid, and that he may be hence discharged  
with his costs herein expended, & such further  
or general relief as to Equity & Conscience belong  
& his case may require.

J. R. Scott

Attorney for Appellee



Case No 95.  
U. S. Dist. Court. Southern  
District of California

Simmons (an Indyan)  
Appellee

vs  
The United States  
Appellant.

Answer

Filed Oct 23/85

95 SD / E. Lam.  
PAGE 29  
C. A.

A. R. Scott, Appellate Atty.

I served this answer on P. Ord. U. S. Atty. by delivering to him  
a copy of the same at his office this Dec 5<sup>th</sup> 1855

Edward Hunter  
U. S. Marshal

\$3.00

Marshall cost for answer



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

The United States appellant } Case

Simon an Indian appellee }

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and now moves the appellee by J R Scott  
his Atty & moves the Court to set aside  
the verdict in this case & to grant a new  
trial for the reason that the same was  
improvidently submitted to the Court whilst  
the atty for appellee was incompetent  
to attend to the same from illness

J R Scott

Atty for appellee

State of California  
Southern District of California

J R Scott being duly  
sworn deys that at the time this case was  
submitted he was unable from sickness  
to give proper attention to the same and  
that the same was submitted by Ed Brent  
who submitted the same <sup>by order of affiant</sup> as affiant is insane  
& helms without examination supposing the  
same was ready for submission but affiant  
states that he is insane & helms that the  
appellee can produce proof of effort to  
show his claim valid if a new trial  
be granted to affiant states that his claim  
was submitted without the proper proof  
from mistake & inadvertence

J R Scott

Sworn to & subscribed  
before me this 18th of Dec. 1855.

f. E. Jones  
U.S. Commissioner



No 95

US Dist Court,  
South Dist of Cal.

The United States

Ameson, an Indian

Affidavit of J. R. Scott  
on motion to set aside,

Filed Dec 18<sup>th</sup> 1855

J. R. Scott  
Att. Gen.



Siméon (an Indian)

appie

vs.

The United States

applt

No 95.

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Deposition of Daniel Sexton, a witness  
for the part of the Appellee in the above  
cause, taken this 11<sup>th</sup> day of July, 1856,  
before Charles E. Cas. U.S. Commissioner  
for the South Dist of California  
Present J. R. Scott for Appellee  
P. D. Usaty for Appellant.

Daniel Sexton being duly sworn  
answers to questions propounded  
by Counsel for the several  
parties as follows to wit:

{ { {

Ques. What is your name age & place  
of residence

Ans. My name is Daniel Sexton, my  
age is thirty seven, my residence  
Los Angeles County.

Ques. Do you know Siméon an Indian.  
If so, how long have you known  
him and where did he reside



from the year 1843, up to the present time.

Ans. I do know him, I think it is some time in 1843, that I first knew him. He then resided near the Mission of San Gabriel, where he lived till last year. He still lives near the mission.

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Ques. State anything you know about a tract of land occupied by him during the time you have mentioned. State how far from the Mission of San Gabriel and in what direction.

Ans. He occupied the land when I first knew. He occupied the land up to 1854. - The tract is about one mile north west of the Mission of San Gabriel.

Ques. State any well known land marks that surround the place on which you say he resided.

Ans. The Lauja running from the Laguna to the Mission bounded him on the north - this is a well known point - the Lauja has been running there ever since the settlement of the mission.



Another point is the Arroyo on the  
East running from the <sup>Huerta de Cuati</sup> ~~Guatemala~~  
past the Mission. This is also  
a well known point. ~~It is~~  
<sup>Cuati is</sup> ~~founder~~ north of the Ranja. It is  
bounded on the west by lands

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occupied in 1846, by Leonardo Aguilar  
and on the south by vacant lands.

Ques. How long did you know of anyone  
occupying this tract of land.

Ans. I think it was in 1843 I first  
knew him in occupation of the  
land. He occupied it until  
1854.

Ques. State the manner of the way in which  
he occupied it.

Ans. He had an orchard of Peaches,  
Pears & fruit trees, and planted  
Corn & Beans on the place.  
He had a fully house and  
lived there with his family, he  
made it his residence.

Ques. During the time from the year  
1843 to 1854, did you ever know  
Someone to occupy any other  
place than the one you <sup>have</sup> described.

Ans. I did not.

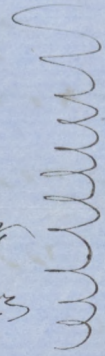
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The District Atty being present  
& reserving all legal objections  
to the foregoing questions & answers  
Daniel Dexter

Sworn to & subscribed  
this 11<sup>th</sup> day of February  
1856. before me,

J. E. favor  
U.S. Comr.



1095

U.S. Dist. Court  
South Dist. of Cal.

Lincoln (An Inmate)  
Appel

vs.

The United States  
Appel

Deposition of Daniel  
Dexter

Filed Feb 11<sup>th</sup> 1856  
95 SD  
PAGE 35  
J. E. favor  
Clerk



Ameon (an Indian)

appellee

vs.

The United States

applt.

No 95.

95 SD

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Testimony of Augustin Oloera, ~~the~~  
a witness on the part of appellee, taken  
in open Court on the trial of the  
above entitled cause, this 18th day of  
Feb'y 1846. P. D. Asst'y & J. R. Scott, att'y for appellee  
present. Augustin Oloera being duly  
sworn, in answer to questions propounded  
by Counsel deposes as follows.

}  
}  
}  
}

}  
}  
}  
}

Ques. What is your name age & place of  
residence -

Ans. My name is Augustin Oloera, my  
age is thirty five years my residence  
in the City of Los Angeles.

Ques. State if you know who acted as  
alcalde of Los Angeles in the  
year 1846.

Ans. It was Perfecto Najo Reid.

Ques. Is he now living or dead, if dead



when did he die.

Ans.

He is dead, I think he died in the year 1852.

Augustus Obera

Sworn to & Subscribed  
this 18th day of Feb 18th  
1856. before me,

C. E. Jones  
Clerk.

\_\_\_\_\_

No 95

U. S. Dist Court,  
South District Cal.

Hanson (an Indian)  
appellee

vs,

The United States,  
appellor

Repetition of  
Augustin Obera,

Filed Feb 18th 1856.

C. E. Jones  
Clerk

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PAGE



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

Simcoe (an Indian)  
Appellee

vs

The United States

Appellants

Case No 95-

Lands in Ex Mission of  
San Gabriel.

95 SD

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This cause coming on to be heard on ap-  
peal from the final decision of the United  
States Board of Land Commissioners to as-  
certain and settle the private land claims  
in the State of California, under an Act of  
Congress, approved March 3<sup>d</sup> 1851, ~~and~~ on a  
Transcript of the Proceedings and Decision  
of said Board, and of the Papers and evidence  
upon which said decision was founded, and  
it appearing to the Court that said Transcript  
and the Notice of Appeal have been duly filed  
according to law, and counsel for the respec-  
tive parties having been heard,

It is ordered adjudged and decreed,  
that the said Decision of the said Board of  
United States Land Commissioners be, and  
the same hereby is, affirmed; - and it is  
further adjudged and decreed that the  
~~title~~ claim of the above named Appellee is  
good and valid, and the same is hereby  
confirmed to him &c.

The lands of which Confirmation is  
hereby made, are those for a long time occu-  
pied by said Appellee, to the extent of five  
unmored varas from North to South, and



two hundred and thirty acres from East to West, reference for the boundaries and location thereof being had to the testimony of Daniel Sexton, filed in this case bounded on the North by the Rancho running from the Laguna to the Mission <sup>of San Gabriel</sup>, separating it from the lands called Huerta de Quati; east by the Arroyo running from the Huerta de Quati past said Mission, west by lands occupied in 1846 by Eugenio Aguilar, and south by vacant lands, the above described tract of land being situated about one mile north-west from said Mission of San Gabriel.

James McQueen  
U.S. Dist. Judge

Case 22-957

U.S. Dist. Court, Southern Dist. of Cal.

James (an Indian)

Plaintiff

vs

The U. States

Defendant.

~~Deceit~~

Filed July 19 1882

J. J. [Signature]

Records in Registry

95 SD



**IN THE DISTRICT COURT OF THE UNITED STATES,**

**FOR THE SOUTHERN DISTRICT OF CALIFORNIA,**

**Los Angeles, ..... December Term, 1855.**

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*Simon (Indian)*

APPELEE,

VS.

UNITED STATES,

APPELLANT.

No. *95.*

(No. *449.* of Transcript.)

On Appeal from the United States Land Commission.

On motion of P. ORD, Attorney of the United States for the Southern District of California, it is hereby

ORDERED by the Court, that an appeal be granted the United States, to the Supreme Court of the United States, from the judgment of this Court against the said United States in the above entitled cause, rendered on or about the *18.* day of *February* A. D. 1856.

*P. Ord*  
*Dist. Ct.*



No. 95.

W. S. DuFont  
Judge Dist of California

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Simon (an Indian)

advs Appelles  
The United States  
Appellants

---

W. S. DuFont

Filed March 7th 1850

C. E. Carr Clerk

By C. Morgan Deputy

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California Land Claims  
Attorney General's Office  
4 October, 1856

Sir;

95 SD  
PAGE 42

In the case of the  
claim of Lincoln (Indian) con-  
firmed to the claimant by  
the Commissioners, (case no  
two hundred and forty  
nine, 449,) and also con-  
firmed on appeal by the  
District Court, appeal in  
the Supreme Court will  
not be prosecuted by the  
United States. I am

Respectfully  
P. Prosser.  
U. S. Attorney  
Clinton



v 95

Simion (Indian)

449

Filed 24th February 1857

Wm Sims clerk  
J. H. Coleman  
clerk

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Recd Nov 11 1856



United States of America, }  
Southern District of California. } SS.

TO

The President of the United States,

*Simeon. (and Indian)*

95 SD

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GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, ~~and each of you~~, in the District Court of the United States, in and for the Southern District of California, on the *24<sup>th</sup>* day of *August* in the year of our Lord one thousand eight hundred and fifty-*five* at the City and County of Los Angeles, in said District, by

*P. Ord. U.S. Dist. Atty: for*

*The Southern District of Cal<sup>o</sup> praying  
the Court to review upon the grounds  
therein set forth the decision of the Board of  
U.S. Land Commissioners appointed to ascertain  
and settle private land claims in the State  
of Calif<sup>o</sup> confirming said claim on or about  
the 13<sup>th</sup> day of September A.D. 1853. Your claim  
is a piece of land near San Gabriel.*

and that you, ~~and each of you~~, are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, or that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs. *The pet<sup>r</sup> will apply to the*

*Court for the relief demanded therein*

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this *Seventeenth* day of *October* — in the year of our Lord one thousand eight hundred and fifty-*5* at Los Angeles aforesaid.



*A. E. Carr* Clerk.  
*By W. Ross Dep*



Marshals fees

Copying memo 1.50  
Amiry 3.00  
" Copy of Return 3.00  
46.90

United States of America,  
Southern District of California,  
U. S. DISTRICT COURT.

The United States,

vs

Emoro. an Indian

SUMMONS.

95 SD

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I served this summons along with the proper copy of the petition upon

*J R Scott*  
Atty for Appellee by delivering to him  
a true copy of the same

at Los Angeles  
the 18<sup>th</sup> day of Oct

in the Southern District of California on  
A. D. 1855.

Sworn to and subscribed before me, 18<sup>th</sup> day  
of Oct 1855 C. C. Can Clerk.

By John A. King  
for

Edward Hunter  
M. D. Marshal.



The United States, appellants  
vs  
Suncion (an Indian) appellee

95 SD  
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The claim in this case is founded on a grant from Governor Pico, to the present claimant, bearing date 1<sup>st</sup> June 1846.

The genuineness of the grant is not questioned, and a certified copy of it is introduced in evidence. The only other testimony in the case is the deposition of Hugo Reid.

The grant describes the land as ~~being~~ that which the tract provisionally granted to him, within the limits of the Mission of San Gabriel, by the Real Father "Thomas Estenega", and consists merely of five hundred varas from North to South and from East to West two hundred varas.

This is the only description of the land which is to be found in the record.

The deposition of Reid, is to the effect that the Indians <sup>kept a house</sup> lived upon the land about two years before it was granted — He says also that the document (referring I presume to the grant) was handed to him to give the judicial possession, but that he delayed doing so until his authority



ceased, he says he however measured of  
the land and placed land marks—  
he gives no description of the boundaries or  
of the particular location of the tract—  
The grant describes it as being within the  
limits of the San Miguel Mission of San Gabriel—  
what those limits are, is not known  
nor is any attempt made to prove them  
in that the land which Ruiz says he  
measured off to the Camerick, after his  
James Council, was within three leagues  
there is nothing in the record by which  
the land can be identified—

The Commissioners say that it is evidently  
a grant by metes and bounds, but where  
is the description of those metes and bounds,  
to be ~~seen~~ found, there is nothing in the  
grant to designate them, except the  
reference to the provincial grant, that  
document is not produced, nor is the  
occupation of any particular tract of  
land under its authority shown—

If the Act of Ruiz, in marking out the  
boundaries of the land, after the change  
of Government, has any effect it must  
be the effect of a judicial possession  
under the grant from Pico— but where  
is the evidence and to make of any value



such. there must be some evidence to show what Reid gave him possession of. Reid says he measured the land and placed land marks, but how much he measured in what shape he knows it off. in what part of the whole state of California the land he did measure is located it is impossible for the evidence to discover - The description in the grant in the following words: "the tract primarily granted to him within the limits of the said Mission" is too vague and indefinite to bring this case within the rule applied in by the Supreme Court in Freeman's Case.

In that case the eastern limit were laid down definitely, and the tract claimed was proven to be within those limits. In this case the eastern boundaries are indefinite, and there is no evidence to show that the land occupied by Simon was within the limits of the Mission.

~~Therefore that that~~ referred to in the Grant - The claim must therefore be rejected and a decree will accordingly be entered reversing the decision of the Commissioners & rejecting the claim.



The United States  
by  
Simon an Indian

Simon



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

Simon (an Indian)

Annex

vs

The United States

Appellant.

Case No 95.

Transcript No 449

"Land in Ex-Mission

of San Gabriel."

95 SD

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pp. 3. 4. Petition to Commission

4. 5. Deposition of Hugo Reid.

6. 7. Translation of Title (below)

7. 9. Opinion

10. Decree of Confirmation

11. 12. Title to Claimant, from Governor Pico.  
June 1<sup>st</sup> 1840. (translation above)



Case 2° 95.  
U.S. Dist. Court, Southern  
District of California

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J.  
Simco (an Indian)  
Appellee  
vs  
The United States  
Appellant.

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Index of Transcript 449

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