

CASE No.

145

SOUTHERN DISTRICT

GUAJOME GRANT

ANDRES, ET AL

CLAIMANT

Microfilm

SD

LAND CASE 145 SD pgs. 55

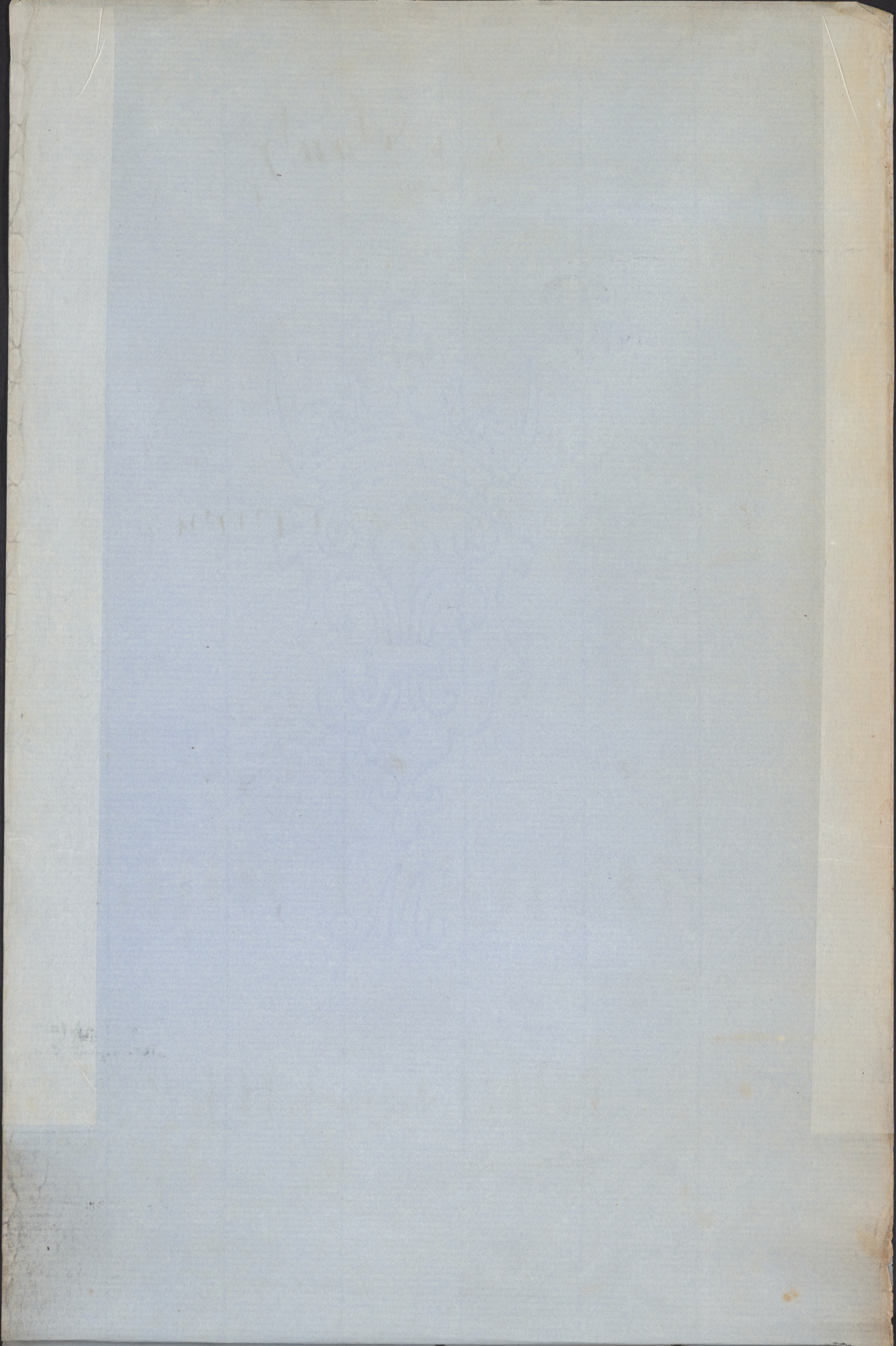
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481



TRANSCRIPT

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PAGE 1

OF THE

PROCEEDINGS

IN CASE

NO. 481

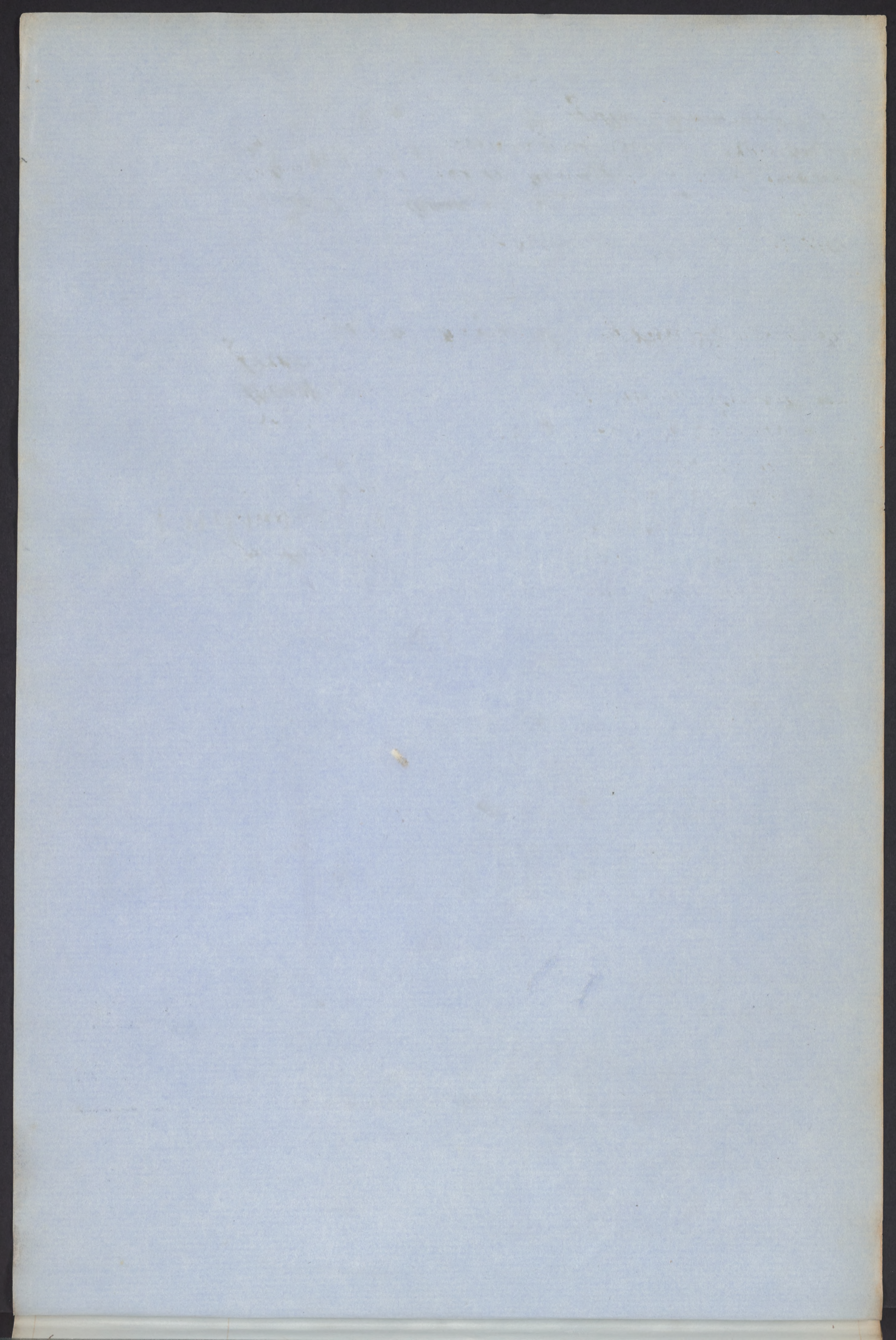
Andres, et al, CLAIMANT *J*

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Guajomé".



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

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

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The Petition of *Anares et al:*
for the Place named
"*Gua Jarne*"
was presented, and ordered to be filed and docketed with No. 481 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 November 13' 1852.
In case no. 481, *Anares et al:* for the place named "*Gua Jarne*," the deposition of *Abel Stearns* a witness in behalf of the claimants, taken before Commissioner *Steward Hall*, with documents marked *N. N. W. 129*, and translations thereof marked *annexed thereto* was filed:

(Vide page 3 of this Transcript.)

Los Angeles December 13' 1852.
In the same case the deposition of *Basilio Valdez*, a witness in behalf of the claimants taken before Commissioner *Steward Hall* was filed:
(Vide page 6 of this Transcript.)

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San Francisco Oct. 14' 1853
Case no. 481 was called, submitted on briefs and
taken under advisement by the Board.

San Francisco February 7' 1854,
In the same case Commissioner Thompson
Campbell declined the opinion of the Board
concerning the claim:
(See page 17 of this Transcript.)

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To the Honorable
The United States Commis-
sioners for ascertaining and settling private
Land Claims in California

Petition

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Your Petitioners Andres, Solme and
Catarina residents of San Diego County,
State of California, humbly represent:
That they claim to be joint owners
in fee simple of the place called "Cuajome"
in said County, situate, containing one
square league of land, said place was
originally granted in fee jointly to the
said Andres & Jose Manuel by Pio Pico,
when Governor of California, and as
such vested with ample powers in the
premises, by deed of concession, dated
the 19th of July A.D. 1843. The said
Jose Manuel died about the year 1850,
leaving no other heirs than his widow
Catarina above named and his mother
Solme aforesaid.

The said Grantees for many years prior
to said grant, occupied and cultivated said
place; judicial possession of which was
given said Grantee August 4th A.D.
1845 by the proper authority; and since
that time the said Andres and Jose
Manuel, or his legal representatives, have
even occupied and cultivated it, said
place is further described as follows:
Being near the Mission of San Luis
Rey, in said County, and thus bounded:
Beginning at a point of the boundary
line of the lands of the Indian Felipe

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where is a land mark, thence northward 5000
varas to a high hill next to a lake, where
there is a land mark; Thence easterly
to high hill, where there is a land mark;
Thence southerly along said hill so as to
include one league; Thence westerly
2500 varas to a deep ravine, where a
land mark is placed, Thence to the
place of beginning, containing, according
to the act of judicial possession one square
league. All the conditions of the
said grant have been fulfilled:

There is no interfering claim: it has
not been surveyed by the U.S. Surveyor
General for California.

Your petitioners will rely in support
of their claim upon the following docu-
mentary evidence, filed herewith:

1st Copy of the Original Grant, marked
"A". 2nd Copy of the Act of judicial
possession marked "B".

These papers are accompanied by the
translations marked "C & D".

They will rely upon such other documen-
tary and such oral testimony, as may
be thought necessary to establish
their claim.

The said Solamé and Catarina claim
in equal undivided parts, the one undi-
vided half of said place. Your peti-
tioners pray that your sense of
justice and knowledge of law will
confirm them in property and

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possession of their said claim and as
in duty bound &c
Angeles Nov 9 1852. Scott & Cranger
Atty for Petitioners.

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Filed in Office Nov 12 1852.
Geo. Fishers Sec.

Deposition
of Abel Steens

Los Angeles November 13 1852.
On this day Com^r Neiland Hall came
Abel Steens a witness in behalf of the
Claimants Andres et al. petition N^o 481
and was duly sworn. His evidence being
given in English.

The U.S. Associate Land Agent was
present.

In answer to questions by claim-
ants Counsel the witness testified as follows,

My name is Abel Steens, my age is
fifty four years & I reside in Los
Angeles.

A paper is now shown me pur-
porting to be a grant to Andres & Jose
Manuel, Indians of San Luis Rey,
dated 19th of July 1845. The signatures
of Pio Pico & Jose M^a Covarrubias
on said paper I believe to be genuine.
I am acquainted with their signa-
tures.

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Said paper is hereto annexed and marked
H. H. N^o 1.

Another paper is shown me purporting
to be a testimonial of judicial possession
dated 2nd of July 1845.

The signatures of Jose R. Arguello &
Juan M^o. Manan on said papers on
said papers in those places I believe
to be genuine. I am acquainted with
their signatures. Jose R. Arguello was
acting as Alcalde at the time of
said possession. said papers is hereto
annexed and marked H. H. N^o 2.

Abel Sterns

Sworn & Subscribed

Before me

Neiland Hall Com^r

Filed in Office Nov^r 13th 1852

Geo. Fisher Secy

Los Angeles Nov^r 15th 1852.

On this day before Com^r Neiland Hall
came Baitey Valdez, a witness in
behalf of the Claimants Andres & Jose
Manuel, petition N^o 481 - and was
duly sworn, his evidence being in-
terpreted by the Secretary.

The U.S. Associate Land Agent was
present.

In answer to questions by counsel

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for the Claimant the witness testified
as follows.

My name is Bacito Valdez,
my age is sixty years & over & I reside
in Los Angeles.

I know the place called
Guayome near San Luis Rey. I know
the Indians Andres & Jose Manuel.
About eight years ago I was at the
place & they were living on it.

They had some work oxen and some
cows and horses & mules, & had a house
and lived in it, had a garden and fruit
trees, & cultivated some of the land.

I have not been there since but have
understood that they continue to live
there to the present time.

Jose Manuel I understand is dead.

He left a widow named Solomé who
is living on the place.

He left a sister called Catalina
I did not know him to have any chil-
dren. Andres is living as I under-
stand.

In Answer to questions by the
Associate Land Agent - the witness says:
He does not know how they became
possessed of the land, but as they
were children of the Mission, he
supposes they asked for it and had
it granted them.

Bacito Valdez
Sworn & Subscribed
Before me

J

Wiland Hall
Comr

Filed in Office Dec^r 13¹ 1852
Lieut. Fisher
Sec

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PPan
D^r follows

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El Sr. Gobernador Superior del Departamento de los Calif.^{os}
Por cuanto los Indígenas de la Misión de S^{ta} Luis Rey
Ambrosio y José Manuel, han presuntivo para su beneficio y el
de sus familias las tierras aguarje del paraje de Guajome
que hace tiempo ocupan y cultivan, practicadas previamente
las diligencias y omisiones convenientes, ejemplar de las facultades
que me son conferidas a nombre de la Nación Mexicana
en virtud de concederles las expresadas tierras y el usufructo al
que contienen declarandoles la propiedad de ellas por las presentes
letras y bajo las condiciones siguientes.

1^o Las tierras de que se les hace donación son de la extensión
de media legua en cuadrado. = El Jefe que les poseiere los hará
medir y señalar sus límites, cuidando poner suficientes mo-
numentos. 2^o Los dichos señores y sucesores, declarando
los al uso y cultivo que más le acomode. = En consecuencia
mando que serviendo les el presente de título, se tenga por
firmé y válido. Se tome razón de él en el libro respectivo
y se entregue al interesado para su uso y demás
finer. Dado en la ciudad de los Angeles en papel común
por no haber del sellado, a diez y nueve de Julio de mil
ochocientos Cuarenta y cinco. El Sr. Pío.

2
José M^{te} Covarrubias. = queda tomada razón en
el respectivo libro de este Superior Despacho.

Angel. Aha ut Supra. Covarrubias.

Pileot in office. Nov. 13th 1852.

Jos. Fisher.

Secy.

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San Diego Governor ad interim of the
Department of the Californias.

"C"
Translation
of Grant

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Whereas the natives of the Mission
of San Luis Rey, Andres & Jose Manuel,
have petitioned for their personal benefit
and that of their families for the lands
and the Spring of the place of Cayome
which they have for some time occupied
and cultivated, the proper investigations
having been previously had; and
in exercise of the powers conferred upon
me, I have concluded in name of
the Mexican Nation to grant them
the aforesaid lands and the Spring
which they contain, declaring them
to be their property by the present
letters and under the following
conditions;

1st The lands of which grant is made
are of the extent of a half League square;

The Judge who shall give possession
shall have them measured and des-
ignated as to their boundaries, ordering
sufficient land marks to be set up.

2nd They may farm them freely
and exclusively devoting them to the
use and culture which may best
suit them.

Wherefore I order that the pre-
sent serving them for title, it be held
firm and valid, that account be
taken in the respective books, and
be delivered to the parties interested for

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their protection, and further ends.

Given in the City of Los Angeles on
Common Papers for want of the Sealed,
the 19th day of July 1848.

(Signed) Pio Pico

Jose M. Covarrubias
Secretary

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Account of this Superior's Despatch
remains taken in the respective Books
Angeles date as above.

Covarrubias

Filed in Office Nov^r 12th 1852.
Geo. Fisher, Sec

"
" *Alonzo*
" *Doc*
" *fills*

In el pueblo de 1^o Diego a los veinte y siete dias del mes de Julio del año de mil ochocientos Cuarenta y cinco, ante mi José B. Argüello Alcalde Segundo Constitucional de este referido pueblo y su demarcacion. En virtud de la Solicitud verbal hecha por los Indios Andres y José Manuel de la Misión de San Luis Rey manifestandome su titulo expedido por el Sup^o Gobierno de este Departamento con fecha diez y nueve de Julio del presente año solicitando; lo pudiese en posesion jurídica del terreno de Guajome y en cumplimiento a la Sup^o disposicion, pare presenté y testigos de abta. el paraje y pongase en segura posesion a dichos Indigenas. Así yo el Juez que suscribe mandé y firmé estas con las de abta. Segun derecho. José B. Argüello.

De abta. Juan Ma. Manow. De abta. Fran^{co} B. Elizalde.

Estando en el paraje de Guajome a los cuatro dias del mes de Agosto del mismo año y en cumplimiento por lo dispuesto por el Sup^o Gobierno dispuse nombrar dos oficiales conductores que por no saber firmar se omiten sus nombres a los que le tome el juramento respectivo quienes se encargaron de acompañar firmemente lo que asiende por diligencia que autorisé y firmo con mi go y las de mi abta. Segun derecho. José B. Argüello.

abta. Juan Ma. Manow. abta. Fran^{co} B. Elizalde.

En el mismo día, mes y año estando en el paraje de Guajome a efecto de verificar las medidas de posesion de los Indigenas Andres y José Manuel en vista del titulo ya expresado por las partes todas las requisitos de estilo y estando ante mi los testigos de abta. y conductores hice medir un cordel que tenía cuarenta y los extremos unos sancoas de madera por la observacion y cubierto por mi disposiciones pasadas en el Juicio ultimo del Indio Felipe que las sujeté a ambos; se tiró el cordel rumbo al Norte se midieron y contaron cinco mil varas que remataron en una loma alta junto de una laguna donde se les mandó a las vitucas las pudiesen la respectiva motivara en seguida se tiró el cordel rumbo al oriente para el completo de la legua y expresado remataron a una

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Cañavla una donde les mandé a los interesados que pusiesen
su respectiva moción en donde se expresase que quedaba
en seguida se tuvo el rumbo al viento para el completo de la
segunda legua y a espresada remataron en una bonita alta donde
les mandé a los interesados que pusiesen su moción en seguida
se tuvo el cordel rumbo al poniente se midieron y contaron 9 es
mil y quinientas varas que remataron dos y mil y quinientas
varas que remataron en una canchada onde les mandé a los
interesados que pusiesen sus respectivas mociones; a donde les
impuse que quedaban en segunda y pacifica pacelion para que
lo disputaran libre y francamente sacaron por conclusio
el acto que autorizo y firmo con los de esta legua
derecho. Losé A. Aguirre. esta. Juan M^o Narro
esta. Fran^{co} del alote.

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Filwe in office. Nov. 13th 1852.

S. Polier.

Gen. Fisher.

Secy.

In the Prefectura of San Diego the 27th day of the month of July of the year 1845 before me José R. Aguello, Second Constitutional Alcalde of this point referred to and its jurisdiction. By virtue of the verbal requests made by the Indians Andres, and José Manuel of the Mission of San Luis Rey, exhibiting to me this Title issued by the Superior Government of this Department, at date of the 19th July of the present year, soliciting that I should put them in judicial possession of the land of Guafamé and in fulfilment of the Superior orders, proceed myself and assistant witnesses to the place, and put the said natives in secure possession.

Thus I the judge, that subscribes, ordered and subscribed with the assistants according to Law.

(Signed) José R. Aguello
Asst. Asst.

Juan M^o. Manon. Franco H. Elisalde

Being in the place of Guafamé the 4th day of the month of August of the same year, and in fulfilment of the disposition made by the Superior Government, I proceeded to appoint two official cord bearers, whose names are omitted, because they could not write them, who took the proper oath, and agreed to discharge faithfully their trust, which I set down for a proceeding.

"L6"
Translation
of Act of
Judicial possession.

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which I authorized and subscribed with my assistants according to law.

(Signed) Jose R. Aguello.
Asst. Juan M. Moreno. Asst. Juan H. Echealde

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On the same day, month and year, being in the place of Guejoni with the object of verifying the measurements of possession to the natives, Andres & Jose Manuel, in view of the Title and Order, all the legal requisites, having been previously had, and my assistants witnesses and cord bearers being in my presence, I caused a cord to be measured which contained one hundred varas and wooden stakes attached to the ends, after previous observation and calculation for my direction, stopped at the last boundary line of the Indian Felipe, which served both parties, the cord was extended, course to the north, there were measured and counted 5000 varas which terminated at a high hill next to a lake, where the parties interested were ordered to set the proper land mark.

Thence the cord was extended, course to the East to complete the league aforesaid, which terminated at a high hill, where I ordered the parties interested that they should set their land mark: Thence the cord was extended, course to the west, and

there were measured and counted two thousand (2500) and five hundred varas, which terminated in a deep ravine, where I ordered the parties interested to set their proper land marks; & I instructed them that they remained in secure and peaceable possession, that they might farm it freely and frankly with which the act concluded, which I authorized and subscribed to with the assistants, according to law.

(Signed) Jose R. Agnello.

Asst.

Asst.

Juan M.^a Manon Fran^{co} H. Ehrhard

Filed in Office Nov^r 12th 1852.

Geo. Fisher Sec

Opinion by
Commissioner
Thompson
Campbell

Andres Polmi & Catarina

vs

The United States

} Guajome
} One half square
} League

The Claimants in this case represents in their petition that, on the 19th of July A.D. 1845. Governor Pio Pico granted to Andres, one of the Petitioners in this case jointly with one Jose Manuel. both Neophyte Indians of the Mission of San Luis Rey, the tract of land called "Guajome" containing one square league. It is further represented in

said petition that on the 4th day of August A.D. 1848, judicial possession of said place was duly given by the proper Officers.

The Petitioners also represent and show that the year 1850 one of the same Granters, Jose Moriel died, leaving as his only heirs his wife Catarina, and his mother Dolme.

In Support of the foregoing Allegations and averments the said petitioners have placed on file the original grant made to Andres and Jose Manuel accompanied with satisfactory proof of its genuineness.

They have also placed on file, properly proved and authenticated, the original record of judicial possession.

They have proved by the deposition of Abel Steins the death of Jose Manuel, and the heirship of Dolme and Catarina, as alleged in this Petition.

It is also proved by the same witness that the original Grantees had a house on said place in which they lived, had stock on it, and cultivated a portion of the land, all of which the witness saw, about eight years previous to the time of taking his deposition which was in the year 1852.

This statement is corroborated by the Grant in which it is recited that the parties had before that time occupied and cultivated the land described in the grant.

There is no proof of any approval having been made by the Departmental Assembly.

The parties have placed on file what purports to be a record of the judicial measurements of the premises in question. But the officers who made the measurement, seems to have been sadly mistaken in the quantity of land he was authorized to measure by the terms of the grant; instead of measuring half a league of land, he proceeds to measure an entire league, and his calls lines and distances are so completely unintelligible, that it is impossible to trace the boundaries which he has attempted to establish.

The grant calls for a half league in a square form.

The translation makes it read "a half league square", this makes a material difference in the quantity granted, the latter would only be one quarter of a square league, while the former is one half.

The great difficulty in this case is the identity of the land, the merits of the case are unquestionable.

That the Officers had not power to measure more land than the grant, by virtue of which he acted, called for, is not an open question.

If the Officer could by act of judicial measurement, give to the party two two leagues, when his grant only allowed him one, the

officers would be doubted with the granting powers, which I apprehend was never the design of the Mexican Colonisation Law; Yet the Counsel for the petitioners seriously claim double the quantity of land called for in the grant which they have produced, and which is the foundation of their rights whoever they are.

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The judicial measurement, as made, may be useful for a single purpose, it establishes a point of beginning, and although this point is not very definite, it may be ascertained, the point where the judicial measurement referred to was commenced, is represented as being at the last boundary line of the Indian Felipe, which line, it seems served both parties, that is, as it was a dividing line between them. As there was a house on the land at the time the grant was made, and as a portion of the land was cultivated, its precise location can be readily found, and the dividing line which I serve as a boundary between the lands of the Grantee and the lands of Felipe, may be ascertained with certainty commencing at the point designated in the judicial survey, and running north a sufficient distance to make one side of a square, the superficies of which, will contain a

of a square.

The land contained within the limits of this square is the precise tract of land granted.

For these reasons we are of opinion that the claim in this case should be confirmed.

A decree will therefore be entered confirming to Audus the one undivided half of said half league of land, and to Solme and Cataline the other undivided one half of said tract, in conformity with the prayer of the Petitioners.

Dated in Office Feby 7th 1854
Asst. District Sec

Audus Solme & Cataline
vs
The United States

Decree

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 decreed that the same be confirmed. The lands of which confirmation is hereby made are known by the name of "Guafoime", and are bounded and described as follows: to wit, commencing at the point known as the last boundary line of the Indian Delize

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and running north a sufficient distance to make one side of a square, the superficies of which shall contain a half league of land, and from that point running in an eastern direction the same distance, thence south the same distance, thence to the place of beginning, containing in all one half of a square league of land, in a square form.

The confirmation hereby to each of the said claimants is as follows, to wit:

To Andrew the one undivided half of said tract of land, and to Sabine and Catalina the remaining undivided half as tenants in common

Alphens Welch
Thompson Campbell
R. Aug Thompson
Commissioners

Filed in Office July 7th 1854
Geo. Fishers
Sec

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 *twenty three* pages, numbered from 1 to *23*, 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. *481* on the Docket of the said Board, wherein *Andres, et al*, are

the Claimant against the United States, for the place known by the name of "*Guajome*"

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

Geo. Fisher.



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U. DISTRICT COURT,
Southern District of California.

No. *145*, Docket

THE UNITED STATES,

vs.

Andrus, et. al

"Supreme" 145

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. *481*

Filed, *November 8th* 1854.

J. E. Farr,
Clerk

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Office of the Attorney General of the United States,

Washington, 17th January 1855.

Andrus et al.

vs.

The United States

} 481.

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 13th day of September 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

S.C.

No 145.

U. S. District Court
Southern District

The United States
vs.

Andres, et al.

Notice of Appeal from Atty Gen.

Filed Feb'y 27th 1855.

J. E. Farr.
clerk

Office of the Attorney General of the United States,

Washington, 17th January 1855.

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Andrus et al.

vs.

The United States.

} 481.

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 13th day of September 1854 the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 145.

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

The United States,

vs.

Andres, et al.,

appeal notice.

Filed March 8th 1855.

C. E. Jan.
clerk.

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Andres, et al, app^{es}
ad^r.

Docket No. 145.

The United States, app^t.

Transcript No. 481.

TO THE HON. ISAAC S. K. OGIER, JUDGE:

The Petition of Pacificus Ord, a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the 12th day of November A. D. 1852, Andres, Solme, and Catarina

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called Guajome, situate in the County of San Diego — State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 7th day of February A. D. 1854, the said Commissioners confirmed, by final decision, the said claim of said petitioners. That thereafter, to wit: on or about the 8th day of November A. D. 1854, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, 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. 481; reference to which it is prayed may be had and made part of this petition. That on or about the 13th day of September A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and

evidence on which said decision was founded. That thereafter, to wit:
^{or about} on the 27th day of February — A. D. 1855, the said
Attorney-General of the United States filed, or caused to be filed, in
behalf of the United States, a notice with the Clerk of said District
Court of the United States, that the appeal in said cause from the said
decision of the said Commissioners, 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 aforesaid, is situate in the Southern District of California, and within
the jurisdiction of this Honorable Court. Your petitioner further represents
and insists, that the said claim is invalid; and the said decision of said
Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for
many errors and imperfections of law and evidence, apparent in said certified
transcript of the proceedings and decisions of said Commissioners in said
cause, filed and appealed from as aforesaid. And your petitioner denies all
and singular, each and every allegation in the said petition of said claimants
presented as aforesaid to said Commissioners. And your petitioner further
denies that the said claimants ~~has~~ ^{have} any valid right or title to said land claimed
as aforesaid, or any part thereof.

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And no sufficient proof having been made of the allegations in said pe-
tition to said Commissioners, or in support of the said claim, no decision con-
firming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, 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 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimants or ~~his~~^{their} attorneys may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the same, and decree the alleged title to be invalid: with costs and general relief.

145 SD
PAGE 31

J. Ord
Attorney of the United States for
the Southern District of California.

No 145.

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

Andres et al apprs

adrs.

The United States Appr.

Petition for Review.

Filed Nov 8th, 1855.

J. E. Carr
Clerk.

145 SD

PAGE 32

P. O. M. [Signature]

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

TO

The President of the United States,

Andres, Solmē, and Catarina

145 SD

PAGE 33

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 *8th* day of *November* 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

J. P. Ord U.S. Atty for the Southern District of California in behalf of the United States praying said Court to review the decision of the U. S. Land Commissioners of the 7th day of February A. D. 1854 confirming your claim to the land called *Guajome* situate in the County of San Diego and appealed by the Attorney General of the United States

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 plaintiff 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 *tenth* day of *November* in the year of our Lord one thousand eight hundred and fifty-five at Los Angeles aforesaid.

J. E. San.

Clerk.

Marshals Court,

Copying Summons \$ 1.00,
Serving Summons, 2.00,
" Petition, 1.00,
\$ 6.00.

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

Andres, et al. appear,

adv. { 100.45 }

The United States apply

SUMMONS.

Return 13th 1855

Edward Hunter

U.S. Marshal

145 SD

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I served this summons along with the proper copy of the petition upon J. R. Scott Atty
for Andres Solome, & Katrina by serving upon, and
delivering to him personally a copy of the same

at Los Angeles
the twentieth day of Novr

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

Sworn to and subscribed before me, Nov 21.
1855. }
J. E. San. Clerk.

Edward Hunter
U.S. Marshal.

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

TO The President of the United States,

Andres, Solome, and Catarino

145 SD

PAGE 35

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 *9th* day of *November* in the year of our Lord one thousand eight hundred and fifty-~~five~~ *five* at the City and County of Los Angeles, in said District, by

J. Pd U.S. attorney for the Southern

District of California praying said in behalf of the United States praying said Court to review the decision of the U.S. Land Commissioners of the 7th day of February AD 1854 confirming your claim to the land called Guajome situated in the County of San Diego and appealed by the Attorney General of the United States

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 plaintiff 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 *tenth* day of *November* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.



J. E. Sam

Clerk.

Marshall Court,
Copying Summons - Co.
Serving No. 2.
" " Petition No. 3.
D. C. Co.

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

Andres, et al., appellees.
adv. { No 145.
The United States, appellants.

SUMMONS.
Revised Nov 13th 1855
Edward Hunter
U. S. Marshal

145 SD
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I served this summons along with the proper copy of the petition upon J. R. Scott
Attorney for Andres, Solome & Cathrina
by delivering to him copies for each of
them
at Los Angeles in the Southern District of California on
the 20th day of Nov A. D. 1855

Sworn to and subscribed before me, Nov 21.
1855. }
J. E. Farr Clerk.

Edward Hunter
U. S. Marshal.

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

TO

The President of the United States,

Andres, Solome and Catrima

145 SD

PAGE 37

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 *5th* day of *November* 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

J. Od U.S. Attorney for the Southern District of California in behalf of the United States praying said Court to reverse the decision of the U.S. Land Commissioners of the 7th day of February A.D. 1854 confirming your Claim to the Land called Guajome situate in the County of San Diego and appealed by the Attorney General of the United States

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 plaintiff 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 *tenth* day of *November* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.

J. E. San.

Clerk.

Marshal cost
 Copying summons, 50
 Serving summons 3,000
 " Return 3,000
 \$6,500

145

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

Andres, et al. appcos.
 vs. No 145.
 The United States, app.

SUMMONS.
 Received 13th 1855
 Edward Hunter
 M. J. Marshall
 145 SD
 PAGE 38

I served this summons along with the proper copy of the petition upon J. R. Scott Atty.
 for Andres, Solomon & Katrina, by delivering to
 to him a copy of the same

at Los Angeles in the Southern District of California on
 the twentieth day of Novbr A. D. 1855.

Sworn to and subscribed before me, Nov 21st
 1855. J. E. Jan. Clerk.

Edward Hunter
 U.S. Marshal.

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

Andres, Solme and
Catarina -

Appellees,

vs

The United States

Appellants

Case No 145.

Transcript 481

"Guajome"

145 SD
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And now come the above named
Appellees, Andres, Solme and Catarina
by their Attorney, Jonathan R. Gott, and
for answer to the Petition for Review, fi-
led in this cause by the Appellants, say
That their title to the lands in this
case is good and valid,

Wherefore they pray the Judg-
ment of this Honorable Court that the
decision of the United States Board of Land
Commissioners confirming the same may
be affirmed, and their title to said lands
may be decreed to be valid, and for costs
of suit and such other or further and
general relief as to Equity and Conscience
belong and the nature of their case
may require -

J R. Gott

Attorney for Appellees.

Marshall vs. Fox
\$ 3.00

I served this return on J. C. M. & Co. Atty
by delivering to him a certified copy of the
same at his office this Dec 5th 1855
Edward Hunt
U. S. Marshall

Case. 145.
U. S. Dist. Court, Southern
District of California

Bushes et al
Appellees

vs

The United States
Appellants.

Shelburne

Filed Nov. 22^d 1855

145 U.S.D. 145
PAGE 40

J. C. M. & Co. Atty for App

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

Andres, Solme
and Caterina
Appellees

Case No. 145.

145 SD

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By
The United States
Appellants.

"Guajome"

This cause coming on to be heard
on appeal from the final decision of
the United States Board of Land Com-
missioners to ascertain and settle the
private land claims in the State of Cal-
ifornia, under an Act of Congress, appro-
ved March 3^d, 1851, 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 has been duly filed, accor-
ding 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
be, and the same hereby is, ~~in all things~~
affirmed; and it is further adjudged
and decreed that the claim of the above
named Appellees is good and valid, and
the same is hereby confirmed to the extent
mentioned in the Grant, to wit, one half

of one square league in a square form, commencing at the initial point of the Act of Judicial Possession, and taking the course therefrom as given in said Act of Judicial Possession, shortening the measurements or distances therein given, so as to include the said quantity of one half of one square league of land in a square form; confirming to said Andres the undivided one half of said premises, and to said Solme and Caterina, jointly, the undivided one half.

James H. Boyd
U.S. Dist. Judge

Cause 145
U.S. Dist Court South
Dist of California

Andres Solme and
Caterina
Appellees

vs
The United States
Appellants

Decree of Confirmation

Filed January 10th 1858

145 S.D. Jan. 1858
PAGE 42

Recorded on Page 182

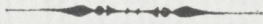
J.R. Scott.

IN THE DISTRICT COURT OF THE UNITED STATES,
FOR THE SOUTHERN DISTRICT OF CALIFORNIA,

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

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Andres, et al



.....	} No. <i>145</i> .	
APPELLEE		} (No. <i>481</i> , of Transcript.)
VS.		
UNITED STATES,	} On Appeal from the United States Land Com- mission.	
APPELLANT.		

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 *17* day of *December* A. D. 1855.

P. Ord
Dist. Ct.

No 145

W. S. Dubfont
Smith & Dub of California

Andes Erat
appellus

ad
The United States
appellants

Notice of Appeal &c

Filed March 1st 1880
C. E. Can clerk
By O. Morgan Deputy

California Land Claims.

Attorney General's Office

18 September 1851.

145 SD

PAGE 45

Sir:

In the case of the claim of Andres et al., confirmed to the claimants by the Commissioners, case no. four hundred and eighty-one, (481), and also confirmed on appeal by the District Court, appeal in the Supreme Court will not be prosecuted by the United States.

I am

Respectfully

Clatney

Pacificus Ord Esq.

U. S. Atty Las Angeles
Cal.

W

145.

Andrus et al.

481

Filed 24th February 1857
C. S. S. et al.
J. A. Coleman
Sip

145 SD

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Rec'd 21 1856

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

Wm. H. W. Rogers Esq.

Andres et al vs The States Appellant

145 SD

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Case No 145-
Trans No 481

On motion of P. Ord. Atty of the United States for the Southern District of California and on suggestion to the Court that it is not the intention of the United States to prosecute the appeal heretofore allowed in the above Cause

It is ordered by the Court, the order allowing an appeal in said Cause to the Supreme Court heretofore made, be and the same is hereby vacated and it is further ordered that the Appellee have leave to proceed under the Decree of this ^{Court} heretofore rendered as a final decree
July 24th 1857

Wm. H. W. Rogers
US Dist Judge for
S Dist of California

United States of America
Southern Dist of California

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I, J. P. Jones, Clerk of the United States District Court for the Southern District of California, hereby certify that the above foregoing ~~is~~ is a full true correct copy of the original order made in said cause, as appears of record in my office.



In Witness Whereof I have hereunto set my hand and affixed the Seal of said Court this the 9th day of June A.D. 1858

J. P. Jones
Clerk
U.S. Dist. Court for S.D.
of California

No 143-

Andrews et al
vs
The United States

Certified Copy of
Order dismissing
appeal

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

Arinos, Catalina & Solene

Appellants.

vs

The United States

Appellant.

Case No 145.

Transcript 481.

"Guajome"

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No.	Page	Description
1.	3, 4, 5	Petition to Commission
2.	5, 6.	Deposition of Abel Stearns
3.	6, 7.	do do Patricia Valdez.
4.	9.	Title from Gov. Pico, July 19, 1845 - H.H. 1.
5.	11, 12	Translation of Acate Title No 4
6.	13, 14	Judicial Possession H.H. 2.
7.	15, 16, 17	Translation of Judicial Possession No 6.
8.	17 c 22	Opinion
9.	22, 23.	Decree of Confirmation

Case No 145
U.S. Dist Court South
Dist. of California

Andres et alice
Appellees

vs

The United States
Appellant.

Index of Transcript 481.

The United States, appellants }
vs. }
Andres & others appellees. }

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The claim in this case is founded on a grant from Governor Pico, to Andres one of the present claimants, jointly with one Jose Manuel, both neophyte Indians of the Mission of San Luis Rey, bearing date 19th of July 1845. The genuineness of the grant is proven and a certified copy of it is offered in evidence.

The original grant was offered in evidence before the Commission and its genuineness proven — An authenticated copy of the act of judicial possession is also in evidence.

The grant is for a ~~tract~~ ^{the place} of land called Guafome, and its extent is one half of a square league in a square form.

The judicial possession is for nearly double the quantity called for in the grant — The Commissioners confirm the ^{claim} grant for the quantity called for in the grant.

The only difficulty in the case is that the judicial possession does not conform to the terms of the grant. But I do

and

consider this sufficient to invalidate
the grant provided we can gather
from it or from other sources what
was the particular tract mentioned
& be granted with sufficient cer-
tainty to enable a survey to be
made upon the land and survey it—

I think this can be done from the
evidence in the record. The grantees
had had the land under cultivation
and had a house upon it for some
time before the grant was made.

The officer who gave the possession, went
upon the land and commenced his
measurement from the corner of a
line which served as the boundary between
the lands occupied by the grantees and
An Indian named Felipe, he thus fixed
a beginning point for the survey, he ran
the first line to the south. ~~5000 paces~~ —
~~which was in accordance with the agree-~~
~~ments of the grant. but he should have~~
~~only run one half the distance which~~
~~he measured. this line then to reach~~
~~its extent is fixed. his next line was born~~
~~to the east, so that if that it commenced~~
~~at a point and by taking his courses true~~
and shortening the distances so as

to conform to the terms of the grant.
and you would have the land in
the shape and quantity called for by
the terms of the grant.

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The Officer giving the possession had no
power to extend the tract beyond the
quantity called for in the grant, but
his survey done so certainly ought not
to vitiate the grantee's rights - he
commenced his survey at a point which
he says served as boundary of the lands
occupied by the claimant, from
whence the beginning point, the land is to
be in a square form; the courses he runs
in making the survey show the location of
the land with sufficient accuracy I
think to enable a surveyor to locate the
particular tract; the claim on it there-
fore to be confirmed.

The petition alleges the death of one of
the original grantees Jose Manuel and
that he left his wife Salome and his
sister Catalina as his heirs. These
allegations are proven by the burial
testimony of Valdez - all the other
objections to the claim have been
considered and overruled in other
cases by this Court, a decree

will therefore be entered, affirming
the decision of the Commission and
confirming the claim.

The United States
as
Attorney at Law

Opposition

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