

CASE No.

397

SOUTHERN DISTRICT

---

TRES OJO DE AGUA GRANT

---

THOMAS RUSSELL

CLAIMANT



LAND CASE S.D. 397

19 pages

NOV 9 1962

*Continued*

PLOVER BOND

25% COTTON FIBER

U.S.A.



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

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To His Honor Isaac S. R. Aguirre, Judge of the  
Court aforesaid.

I am Petitioner Thomas Ruf-  
-all a resident of the County of Santa Cruz  
in the aforesaid Southern District of Califor-  
-nia, complaining, sheweth unto your  
Honor that sometime in the year of Our Lord  
one thousand eight hundred and forty-two,  
Manuel Michelmore, then constitutional  
Governor of the Department of the California,  
did by his certain writing of that date made  
in due form of law, give and grant unto  
one Jose Roman Puebla the following de-  
-scribed piece or parcel of land, situate in the  
County of Santa Cruz aforesaid, called the "llano  
del ojo de agua", and bounded and descri-  
-bed as follows, to wit, on the north by the  
place called the Paradero de San Pedro de Reg-  
-lado, on the south by the lands of Nicolas  
Dobson and Majors, on the west by the  
Acuimiento of the ojo de agua and above  
it, and on the east by the vista la division,  
which is the edge of the plain where the divi-  
-sion of Santa Cruz is seen between the tables, be-  
-ing in extent from the mea to the said ojo



de agua about 800 varas from east to west,  
and from the lands of the señor Maguay  
to the señor Pastores de San Pedro de Negredo  
about 400 varas from north to south ac-  
cording to the calls of the grant.

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June Petitioner further sheweth unto your Honor that on  
the 15<sup>th</sup> day of August in the year of Our Lord  
one thousand eight hundred and forty two,  
Manuel Jimeno then Senior member of the De-  
partmental Assembly, and acting Governor  
ad interim, did by his certain grant in writing  
of that date, made in due form of law grant  
unto one Don Manuel the following described  
piece or parcel of land situated in the aforesaid  
Canton of Santa Cruz and known by the name  
of the Pastores de Rincon de San Pedro Negredo,  
which is in extent five hundred varas from  
east to west, and six hundred varas from  
south to north as is more fully and par-  
ticularly described in the decreto accompanying  
said grant.

June Petitioner further sheweth unto  
your Honor, that he is now the owner  
in fee of the one undivided and half part  
of the aforesaid lands or parcels of land, and  
that he desires title thereto as follows.

First. By deed executed in due form of law,  
by the señor Ramon Bucena to Thomas J. San



them of the date of September 28<sup>th</sup> 1847 for the whole of the tract first mentioned herein.

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Second. By deed executed in due form of law by the said Jose Roman Bullera to Eliza M. Farnham widow and administratrix of the said Thomas J. Farnham of the date of September 19. 1851 for the whole of the tract first mentioned herein.

Third. By deed executed in due form of law by Jose Arana to Thomas J. Farnham of the date of October 4. 1847 for the whole of the tract of land secondly mentioned herein.

Fourth. By deed executed in due form of law by Jose Arana to Eliza M. Farnham of the date of March 26. 1855 for the whole of the tract of land secondly mentioned herein.

Fifth. By deed executed in due form of law by the said Eliza M. Farnham to James Petitioner of the date of March 23. 1852 for the one undivided and half part of both the foregoing described tracts as parcels of land, and all of which said deeds of conveyance James Petitioner is ready and willing to produce and exhibit in such manner as James Roman may order and direct.

James Petitioner further shews to James Roman that under the act of Congress approved March 3. 1857



entitled an act to ascertain and settle the fi-  
nal land claims in the State of California,  
from Petitioners in conjunction with the said  
Eliza M. Farnham duly filed a petition be-  
fore the Board of Land Commissioners, and  
thereby by the act aforesaid, praying for the  
confirmation to them of the several tracts a-  
foresaid; that such proceedings were held by  
and before said Board, so that on the 23<sup>rd</sup>  
day of October A.D. 1858, the said Board re-  
jected the claim of said Petitioners and the  
said Eliza M. Farnham to the tract of land  
herein first mentioned and described, and  
confirmed to them the tract or parcel of  
land herein secondly set forth and descri-  
bed; that an appeal was duly presented  
by said Petitioners and the said Eliza M. Farn-  
ham to this Court from the judgment and  
decree of the said Board of Commissioners,  
when such proceedings were held, that on the  
18<sup>th</sup> day of June A.D. 1859 both of said tracts  
of land were duly confirmed to the Claimants  
therefor, and from which said last decision,  
to wit, on the 14<sup>th</sup> day of September A.D. 1859  
the United States prayed for and such was  
an appeal to the Supreme Court of the United  
States, when the same is still now pending.  
All of which will more fully and at

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large appeal reference being had to the Transcripts  
files and records now in the Office of the  
Clerk of this Court in Case No 383.

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John Petitioner further claims that one Nic-  
olas Dodero, pretending to have a grant in  
due form of land from Manuel Micheltot-  
-rena Governor as Governor of the Depart-  
-ment of the Californias aforesaid, of a  
tract of land adjoining and contiguous to  
the lands herein first and secondly descri-  
bed, and which said land of the said  
Dodero by him claimed is described as  
follows, to wit, a tract of land of 1300 var-  
-as the limits of which are the principal wall  
to the east on the south, and towards the  
west in the direction of said Mission up to  
the lands occupied by the citizen Rafael  
Castro, and on the north by the mountains  
adjoining the first spring of water, and the  
limits on the west side being up to the limits  
of the land actually occupied by the Indian  
Seranimo; after procuring a confirmation  
of said tract or parcel of land to him by  
the aforesaid Board of Lower California,  
and after procuring an affirmation of said  
deed of confirmation of said Board, by this  
Court on appeal from the decision of said  
Board to this Court; and after the appeal  
from this Court to the Supreme Court of



The United States had been dismissed by  
said United States, and the decree of this  
Court had been made final by an order  
of this Court duly entered, as will more  
fully appear reference being had to the Trans-  
cript files, and records in the office of

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The Clerk of this Court in case No 285, be  
The said Nicolas Dodson did on or about  
the month of November or December A.D.  
1859 procure a survey of the lands so con-  
signed to him as aforesaid to be made  
by the Surveyor General of the United States  
for the State of California, and upon which  
said survey the said Nicolas Dodson his  
agents or attorneys are now attempting to  
procure the patent of the United States for  
the lands included in said survey.

From Petitioner further shows and he  
charges, upon information and belief, the  
truth to be, that the said Dodson and  
his agents or assigns in making, or causing  
to be made, the survey of the tract of land  
of him the said Nicolas Dodson aforesaid,  
with intent to cheat and defraud from  
Petitioner and the said Eliza W. Farnham,  
caused to be included in said survey the  
greater portion of their lands herein first  
and secondly described; but from Petitioner  
and the said Eliza W. Farnham and he cannot see justice and de-



scribe with accuracy the quantity of their  
lands so included and embraced in said  
survey, until a final location and survey  
of the same.

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And your Petitioner avers that  
if the said Doderer his agents and attorney  
are permitted to proceed and sue and the  
future aforesaid, it will be to the imper-  
able injury of your Petitioner and the said  
Eliza M. Farnham.

Now therefore in consid-  
eration of the premises, your Petitioner prays  
your Honor to hear and determine this his  
Petition, ~~and all the several matters and~~  
~~things therein set forth as aforesaid, and~~  
~~that he may be heard concerning the alleged~~  
~~tittle to the land in controversy, and that~~  
~~he may be heard as to the evidence~~  
~~adduced as proof touching the~~  
~~same as he may be advised, and that~~  
~~the said survey and alleged claims to the~~  
~~lands in dispute, and that your Petitioner~~  
~~and the said Eliza M. Farnham may be heard~~  
~~the lawful owners of the same.~~

And your  
Petitioner prays, that upon the hearing of  
this Petition a writ of Injunction may  
issue be granted by your Honor and issued  
out of and under the seal of this Court and  
directed to the said Nicolas Doderer his agents



an attorney, and each and every person or persons claiming said lands as any part thereof, by, from, through or under him the said Dodson, and directed to said Dodson and such persons so claiming under him, commanding, requiring and restraining them

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and each of them under a certain penalty therein named from suing and receiving a judgment for the same until the title to said disputed land shall have been finally decided, and for such other and further relief in the premises as to this Honorable Court shall seem meet and proper and as shall be agreeable to equity and good conscience, and your Petitioner will ever pray, &c. by

Isaac Bastman

Atty for Petitioner.

State of California }  
Southern District }

Isaac Bastman being duly sworn upon his oath says that he is the attorney for the Petitioner in this cause, and as such is as well as better acquainted with the facts stated in the foregoing Petition than the Petitioner himself. Deponent further says as a reason why he makes this oath is, that the residence of the



Petitioner is at the town of Santa Cruz  
in the County of Santa Cruz California,  
about 400 miles distant from the City  
of Los Angeles the residence of His Honor  
the Judge of the Southern District, and  
that a considerable time would necessarily  
elapse before the acts of Petitioner could  
be produced here. The former further says  
he has read the foregoing Petition and is  
acquainted with its contents, and that the  
same is true of his own knowledge except  
as to matters stated as information and  
belief and as to those matters he believes  
it to be true.

Isaac Hartman

Emancipator and subscriber before me this  
20th day of February A.D. 1861

G. L. Noy Clerk

of the United States Dist Court for the  
Southern Dist of California

It is ordered that the Clerk of this Court issue an  
Injunction as prayed for in the foregoing Petition.  
Also that he issue a summons with a certified  
copy of the Petition to be served upon the answer  
party commencing him to appear and answer the  
same in thirty days from and after the service  
of the same. It is also ordered that the Clerk of  
this Court transmit to the Commissioner of the



General Land Office of the United States at the  
City of Washington a copy of said injunction, by  
depositing the same enclosed in an envelope  
and placing the same in the Post Office in Los An-  
geles, directed to said Commissioner.

Thus done  
in open Court this 26<sup>th</sup> day of February A.D. 1861.

James M. Ogden  
U.S. District Judge

No. 397

In U.S. District Court S. Dist.

Thomas Russell

vs  
Nicolai Doolen

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Petition for  
Injunction  
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Filed July 26, 1861

G. L. May Clerk

J. M. Whelan Deputy

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Washington  
for Petitioner



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

Thomas Russell

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PAGE 11 Nicolas Orders

}  
}  
}  
}

"Injunction"

J. G. L. Mix Clerk of

the United States District Court for the Southern  
District of California do hereby certify that I did on  
this day deposit in the Post Office in the City of  
Los Angeles, a certified copy of the order allowing  
an Injunction in this cause as also a copy of the In-  
junction itself enclosed in an envelope and addressed  
to the Commissioner of the General Land Office at  
Washington City in the District of Columbia



In witness whereof I have hereunto set  
my hand and affixed the seal of said  
Court this the 28th day of February  
A. D. 1861.

J. G. L. Mix  
Clerk



No. - 397  
U. S. Dist Court  
South<sup>n</sup> Dist of Cal<sup>a</sup>

Thomas Russell

vs

Nicolas Lodero

Certificate of transmittal of  
injunction + order for same

Filed May 28, 1861

Wm. H. Mix clk  
J. S. [Signature]



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

Thomas Russell

Nicholas Roden

Injunction

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The President of the United States

Nicholas Roden.

The above named Thomas Russell having filed  
his Petition in our District Court of the United States for  
the Southern District of California against the said  
Nicholas Roden, praying for an injunction against  
him the said Roden, requiring him to refrain from  
certain acts in said petition, and hereinafter more partic-  
ularly mentioned. On reading said petition duly  
verified upon oath, and it satisfactorily appearing  
to His Honor the Judge of said Court, that it is a proper  
Case for an Injunction, and that sufficient grounds  
exist therefor.

We therefore in consideration thereof, and  
of the particular matters in said Complaint set forth  
do strictly enjoin you, that until the further orders of  
our said Court, you do absolutely refrain and desist,  
from suing out or receiving a Patent from the United  
States for certain lands lately surveyed by the Surveyor  
General of the United States for the State of California



For the said Nicolas Dodson as in said Petition  
stated, and which said Survey as is alleged embraces  
and includes certain lands belonging to Petitioner

The said Land Survey purporting to be of lands  
Confirmed to said Nicolas Dodson in Case No. 285  
of the Roster of this Court, and which said lands  
are deculid in the aforesaid final decree of Confir-  
-mation as follows, to wit: "A tract of land of 1300  
varas, the limits of which are the Principal Road to  
the Coast on the south, and towards the west in the  
direction of said mission up to the lands occupied  
by the Citizen Rafael Castro, and on the north by the  
Mountains adjoining the first Spring of Water, and  
the limits on the west side being up to the limits of the  
land actually occupied by the Indian Geronimo." accor-  
-ding to the Grant and act of Judicial Possession

Witness the Hand Roger B. Taney, Chief  
Justice of the Supreme Court of the United States  
of America this the 26<sup>th</sup> day of February A.D.  
1861. With the seal of the said District Court of  
the United States District for the Southern District  
of California affixed.

Attest *[Signature]* Clerk of the  
District Court of the United States for the Southern  
District of California  
*[Signature]*





No. 397

U.S. Dist Court  
South<sup>th</sup> Dist of Cal

Thomas Russell

(vs)

Nicolas Dodero

Induction

Russell J

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United States of America.

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

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Thomas Russell

Petitioner

vs

Nicolas Doders

Defendant

Action brought in the said District  
Court and the complaint filed in  
in the City & County of Los Angeles,  
in the office of the Clerk of said  
District Court.

The President of the United States of America,  
Greeting: To

You are hereby required to appear in an action brought  
against you by the above named Petitioner in the  
District Court of the United States, for the Southern  
District of California, and to file your plea, answer,  
or demurrer to the Petition filed therein, (a copy of  
which accompanies this summons,) in the office  
of the Clerk of said Court in the City & County  
of Los Angeles within thirty days (exclusive of Sunday  
and day of service,) after the service on you of this  
Summons - or judgment by default will be taken



against you.

The said action is brought to enjoin you and each of you from suing out or receiving a Patent from the United States for the tract of land known as "a tract of land of 1300 Varas" ~~land~~ situated in the County of Santa Cruz District aforesaid & which said land is more particularly described in the Petition aforesaid, and if you fail to appear and plead, answer, or demur, as herein required, judgment by default will be entered against you and each of you.

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Witness, the Honorable Roger B. Taney,  
Chief Justice of the Supreme Court of the  
United States of America, this Twenty  
Sixth day of February in the year of our  
Lord one thousand eight hundred and  
sixty one and of our Independence the  
eighty fifth with the seal of our said  
U. S. District Court for the Southern District  
of California affixed

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No. 397  
U.S. Dist Court  
South Dist. Cal

Thomas Russell

vs  
Nicolas Loders

Summons

Russell S.

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No. 397

U. S. Dist. Court

South Dist. Cal.

Thomas Russell

vs

Nicholas Dodero

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