

CASE No.

398

SOUTHERN DISTRICT

LOS CORRALITOS GRANT

FRANCISCO HERNÁNDEZ, ET AL

CLAIMANT

LAND CASE S.D. 398 30 pages

NOV 9 1962

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U.S.A.

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

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To His Honor James S. K. Ogden, Judge of the Court  
aforesaid.

For Petitioners Francisco Hernandez,  
Juana Hernandez, Concepcion Hernandez, Basca  
Hernandez, children and heirs at Law of Felipe  
Hernandez deceased, Francisca Hernandez, Jose  
Hernandez, Josefa Beatrice Hernandez, children  
and heirs at Law of Ventura Hernandez, deceased,  
who was a child and heir at law of the said  
Felipe Hernandez, deceased, and Dolores Hernan-  
dez, child and heir at law of Maria Hernandez  
deceased, who was also a child and heir  
at law of the said Felipe Hernandez deceased,  
complaining shew unto your Honor, that on  
the seventh day of February in the year of Our  
Lord one thousand eight hundred and fiftysix  
sum, in and under certain proceedings before  
that time instituted under the provisions of  
an Act of Congress, entitled an Act to ascer-  
tain and settle the private land claims in  
the state of California. Approved March 3, 1851,  
and Jose Amesti obtained before the Board of  
Land Commissioners raised by the Act afove-  
said, the confirmation to him of the follow-  
ing described tract or parcel of land, situated

in the County of Santa Cruz, Southern District of California, and bounded and described as follows, to wit, the land known as the Rancho Los Banalitos, bounded as follows. On the Rancho of Don Rafael Bastin up to a spot called Cuatro Leguas. With the Rancho of Don Sebastian Rodriguez up to a spot where there is an inlet and an oak tree, the only one looking into the stream running by it called Salsipuedes, and with the Rancho of Don Manuel Jimeno, and the arroyo of the same name Salsipuedes. The great Saguen. The canal, taking a direct north line to the mountains. The boundaries on the side of the Canada Merced being the low hills adjoining the mountains, and on the west next to the mesa Bastin, the Canada de containing four leagues of land.

Four Petitioners further show that an appeal was duly taken by the United States from the decree of confirmation aforesaid of the said Board of Land Commissioners, to the District Court of the United States for the Southern District of California, when such proceedings were had, that afterwards, to wit, on the eighteenth day of January in the year of Our Lord one thousand eight hundred and fifty six, Prudencia Balliza Anesti, Executrix, and Ascencia Mendia and Francisco Arana, Executors of the last will and testament of the said Jose Anesti

deceased, and who pending the proceedings had  
died, were substituted as parties Appellants in  
the aforesaid appeal in the District Court aforesaid,  
and when such proceedings were afterwards  
held that the appeal aforesaid was dismissed  
and the aforesaid judgment or decree of the  
said Board of Land Commissioners was  
made final by an order of the District Court  
aforesaid duly entered on the twenty eighth day  
of January in the year of Our Lord one thou-  
sand eight hundred and fifty seven.

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Four Petitioners <sup>upon information and belief</sup> further claim, that since the final con-  
firmation of the lands claimed as aforesaid,  
by said Executors and Executors, the said parties  
claimants have caused a pretended survey of  
the same to be made, by the Surveyor General  
of the United States for the State of California,  
with a view of procuring the Patent of the Uni-  
ted States to be issued to the said claimants  
for the same. - That in making said survey,  
they have caused to be included within the  
exterior lines of the same, a tract of land annu-  
-ed and possessed in said County of Santa Cruz,  
by four Petitioners, known by the name of  
the Rancho de Laguna de Calabazas, and  
bounded by the aforesaid Rancho of Banal-  
-itas and the surrounding hills as explained  
by the grant and map of the same, being of

The extent of one league and one quarter in length  
and half a league in width.

From Petitioners fur-  
ther show that they derive title to the last  
mentioned and described tract of land as fol-  
lows.

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Firstly. By a definitive grant made in full  
possession by Don Figueroa former Governor of the  
Department of the Californias, to Felipe Bernan-  
dez the ancestor of Juan Petitioner, of the date  
of the thirtieth day of December in the year of  
our Lord one thousand eight hundred and  
thirty, and in which said grant the said tract  
of land is described as "a quadrilateral of one  
and one quarter of a league in longitude and  
half a league in latitude as is explained in the  
delineation", and which said grant was duly  
approved by the excellent territorial deputa-  
tion of the Government aforesaid on the seven-  
teenth day of May in the year of our Lord one  
thousand eight hundred and thirty four.

Secondly. As children, grand children, and  
heirs at Law of the said Felipe Hernandez  
who is now deceased.

Thirdly. By virtue of a decree of the District  
Court of the United States for the Southern  
District of California, duly made and entered  
on the seventeenth day of June in the year  
of our Lord one thousand eight hundred

and fifty eight, confirming said lands to said  
Petitioners, and which said decree was made  
and entered by said Court in a certain pro-  
ceeding, before the late Board of Land Com-  
missioners under the provisions of the Act of  
Congress, entitled an Act to ascertain and set-  
tle the private land claims in the State of  
California. Appeared March 3. 1857, that had  
before that time been commenced by Charles  
E. Morse, Mark Verins, Francis Wright and  
Robert Bartlett, Public Administrator of the  
aforesaid County of Santa Cruz, praying for a  
confirmation to them of said land, and  
which said claim was rejected by said  
Board of Land Commissioners, and from  
which an appeal was duly presented to the  
aforesaid District Court by said Claimants,  
when afterwards, to wit, on the sixteenth  
day of June in the year of our Lord one  
thousand eight hundred and fifty eight, an  
order was duly entered by said District Court  
substituting said Petitioners as parties claim-  
ant and appellants therein, and which said  
decree of said District Court remains final  
and unreviewed, and which has not been  
appealed from on the part of the United States,  
all of which will more fully appear refer-  
ence being had to the records, files, and tran-  
scripts in cases numbered 293 and 175 in the

office of the Clerk of this Court, also to the original expedients, grants, papers and records among the Archives in the office of the Surveyor General of the United States for the State of California.

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And your Petitioners aver that if the said Prudencia Ballijo Amesti, Executrix, and Ascencia Mendia and Francisco Arana, Executors of the last will and Testament of the said Jose Amesti, deceased, their agents and attorneys, are permitted to proceed and sue out the Patent aforesaid, covering and including the land of your Petitioners heretofore described it will be to the irreparable damage and injury of your Petitioners.

Now therefore in consideration of the premises, your Petitioners pray your Honor to hear and determine this their Petition, and all the premises and things therein set forth and alleged, and that they may be heard concerning the aforesaid alleged title to the land in controversy, and introduce such evidence as proof tending the same as they may be advised, and contest the same and alleged claim to the land in dispute, and that your Petitioners may be heard the law for answer of the same.



And your Petitioner prays that upon the hearing  
of this Petition a writ of Injunction may be  
granted by your Honor and issued out of,  
and under the seal of this Court and di-  
rected to the said Prudencia Vallejo Amesti  
Executrix and Ascencio Mendia and Fran-  
cisco Arana Executors of the last will and  
testament of the said Jose Amesti deceased,  
their agents or attorneys, and each and every  
person or persons claiming said lands in any  
part thereof, by, through, or from them, the  
said Executrix and Executors, and directed  
to said Executrix and Executors and such persons  
so claiming under them, commanding, in-  
joining, and restraining them and each of  
them under a certain penalty therein named  
from suing out or receiving a Patent for  
the same until the title to said disputed land  
shall have been fully and 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 a-  
greeable to equity and good conscience and  
the nature of the case requires, and your  
Petitioner will ever pray &c. by

John Wilson

Atty for Petitioner.

Isaac Hartman

Of Counsel

State of California }  
Southern District }

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Isaac Hartman being duly sworn upon his oath says that he is of counsel for the Petitioners in this cause, and as such is as well, or better acquainted with the facts stated in the foregoing Petition, than the Petitioners themselves. Deponent states as a reason why he makes this oath is, that the residence of the Petitioners, as he is informed and believes, in the Counties of Santa Cruz, Santa Clara and other Counties about the Bay of San Francisco, California, at least 400 miles distant from the City of Los Angeles the residence of His Honor the Judge of said Southern District of California, and that a considerable time would necessarily elapse before the oath of any one of the Petitioners could be procured here to. Deponent further says he has read the foregoing Petition and is acquainted with the contents thereof, 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

Summons to and subscribed before me this 26<sup>th</sup>  
day of February A.D. 1861.

G. L. May

Clerk of the  
Sud. Court for the South Dist. of Cal.

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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 adverse party, commanding them 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 in the Post office  
in Los Angeles, 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. Dist. Judge

No 398

In U.S. District Court

Francisco Hernandez et. al.

vs

Prudencia Vallijo Anesti

Excentis et. al.

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Petition for

Injunction

-----

Filed July 26, 1861

G. L. Mitchell

for John W. Adams

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Wilson Atty for Pet<sup>r</sup>

Wardman of Counsel

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

Francisco Hernandez et als

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PAGE 11

Prudencia Vallejo's Arrest  
Executrix +c, Et als

J. Gustavus L. Mix

Clerk of the United States District Court for the  
Southern District of California, do hereby certify  
that I did <sup>on</sup> 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 Injunction 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.

G. L. Mix, Clerk.

No 398

U. S. District Court  
South Dist of Cal

Franc. Hernandez et al

vs

Andew. V. Amesto Secy  
et al

Certificate of transmission of  
Injunction etc

Filed July 28, 1861

J. H. Mitchell  
J. W. Roberts Deputy

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

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Francisco Hernandez et al

vs.

Judenciana Valles de Amesti  
Executors, Asencio Mendia and  
Francisco Arana Executors &c

Please take notice that upon the petition & order of  
Injunction issued from this Hon: Court and the  
answer filed thereto, and upon the Patent referred to  
in said answer a motion will be made before this  
Hon: Court on the 13<sup>th</sup> day of May 1861 or as soon  
thereafter as counsel can be heard, at the court room  
in the city of Los Angeles to vacate & dissolve the said  
Injunction & to dismiss this action & proceeding & all proceedings  
connected therewith on the ground that the patent was  
issued before said injunction was issued or served,  
and on the ground that this Hon: Court has no juris-  
diction to entertain this action or to afford either  
party any relief, or to determine any of the conflicting  
rights or titles set out in said petition

Yours &c

M. M. How & J. L. Brent  
Attys for Defs

J. O.

W. S. Dist Court  
no 398  
Southern Dist Cal.

Francisco Hernandez et al  
vs.  
— vs. —

Pudenciana Valleso de  
Amesté et al

notice of motion

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W. W. Stoner and

J. L. Bunk

attys for defts

Filed April 9, 1862

James White clk



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

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Francisco Hernandez et al

vs.

Pudenciano Valljo de Amesti  
Executors & Ascencio Mendia and  
Francisco Arana Executors &c

The above named depts to wit, Pudenciano Valljo de Amesti, Ascencio Mendia and Francisco Arana, answering the petition filed by the above named Francisco Hernandez et al in this Court on the 26 day of February 1861, make answer and say, that the summons, petition and Injunction or Order of Injunction so filed and issued by the Hon. the Judge of this Court, was not served on these depts. or any of them until the 13th day of April A.D. 1861

These defendants & respondents further answering say, that long prior to said service, to wit, on the 28th day of February 1861. The United States Government under the seal of the General Land Office and under the signature of James Buchanan President of the United States, and in due form of Law issued a patent to Defendants for the lands called

Los Correllitos, therein & thereby describing such Lands, by the same description, boundaries, courses & distances as said Lands were, and are described in the official survey thereof made by J. E. Merrill, U. S. Deputy Surveyor, under official Instructions from S. W. Mandeville U. S. Sur. Gen. for the state of Cal., on the \_\_\_\_\_ day of \_\_\_\_\_ 1860, and which final and official survey, was finally confirmed by Decree of this Court on the 18th day of December 1860.

And these depts further say, that said Patent so issued as aforesaid was received at the Surveyor General's office of the U. S. for the State of California on the 25th day of March 1861, and was on the 26th day of March 1861 duly & officially delivered by said Sur Genl to these defendants, to wit, W. W. Snow Esq, their attorney.

And these depts say that such issuance and delivery of said patent was prior to the service on them, or either of them of the summons, petition and order in this action, and was prior to the service of the same on the General Land office of the U. S. at Washington.

And these depts aver & insist that this Hon: Court has no jurisdiction to try the question of right or title to the Land embraced and

included in said patent and no jurisdiction  
to continue the said order of Injunction, &  
defendants pray that this action be dismissed and  
that the order of Injunction heretofore issued by the  
Judge of this Court may be vacated & dismissed  
dissolved

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W. W. Stow  
and J. L. Brent  
Plffs Atty

U. S. of America  
State of California

City & County of San Francisco } W. W. Stow being sworn, says  
he is attorney for above named defendants, that  
the foregoing answer is true of his own knowledge  
except as to the matter therein stated to be  
upon the information or belief of defendants and  
as to those matters he believes it to be true.  
That he makes this verification because the  
facts stated in said answer are within his  
personal knowledge and for the reason that the  
defts reside about 100 miles from deponent and  
he is unable to communicate with them in  
time to put in this answer.

Sworn to before me  
this 2<sup>d</sup> day of May 1861 } W. W. Stow  
Curtis McAllister  
us for



398  
U. S. Dist. Court  
Southern Dist - California

Francisco Hernandez et al

vs.

Prudenciano Nallio de  
Arnesti et al  
Exrs &c

Answer

*[Signature]*  
D. L. Green  
Atty for defts

Filed May 7th 1861  
D. L. Meix

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

Francisco Hernandez et. als

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vs  
Pudencio Vallejo Amesti.

Executors &c. et als

Injunction

The President of the United States

vs  
Pudencio Vallejo Amesti, Executors  
And Ascencio Meléndez and Francisco Arana Executors of  
the last Will and Testament of Jose Amesti deceased  
The above named Francisco Hernandez and  
Juana Hernandez, <sup>Hernandez, Bassa</sup> Concepcion ~~Hernandez~~ Hernandez  
Children and heirs at law of Felipe Hernandez de-  
ceased, Francisco Hernandez, Jose Hernandez, Josefa  
Beatrice Hernandez Children and heirs at law of Gen-  
tura Hernandez deceased, who was a child and heir  
at law of the said Felipe Hernandez deceased, and  
Dolores Hernandez child and heir at law of Maria  
Hernandez deceased, who also was a child and heir  
at law of the said Felipe Hernandez deceased, having  
filed their Petition in our District Court of the United  
States for the Southern District of California against  
the said Pudencio Vallejo Amesti, Executors and Ascencio  
Meléndez and Francisco Arana Executors of the last  
Will and Testament of Jose Amesti deceased, Praying  
for an Injunction against them the said Executors and

And Executors, requiring them to refrain from certain acts in said Petition, and hereinafter more particularly mentioned.

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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 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 and each of you, that until the further Order 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 Executors and Executors as in said Petition stated, and which said Survey as is alleged embrace and include certain lands belonging to Petitioners. The said Survey purporting to be of lands confirmed to said Executors and Executors in Case No 145 of the Docket of this Court, and which said lands are described in the aforesaid final Decree of Confirmation, as the tract of land known as the Los Corralitos in the County of Santa Cruz - said Southern District and described as follows:

"Corte Rancho of Don Rafael Castro up to a spot called Cuatro Sequas, with the Rancho of Don Sebastian Rodriguez up to a spot where there is an inlet and an oak tree, the only one looking into the stream

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Running by it called Salispuedes, and with the Rancho  
of Don Manuel Jimenez, and the Arroyo of the same  
name Salispuedes, The Great Lagoon; the Saucal;  
taking a direct North line to the mountains, the  
boundaries on the side next the Canada Verde, being  
the low hills adjoining the mountains and on that next  
to the mesa Cuesta the Canada de Cans (S) contain-  
ing four leagues of land " according to the Grants  
and acts of Judicial Possession



Witness the Honorable Roger Taney Chief Justice  
of the Supreme Court of the United States of America  
this the 26<sup>th</sup> day of February AD 1861. With the Seal  
of our United States District Court for the Southern Dis-  
trict of California affixed.

Attest  
G. M. Clerk of the United States District  
Court for the Southern District of California  
J. M. Whelan Deputy

No 398

U.S. Dist Court  
South Dist Cal

Francisco Hernandez  
et al

vs

Trudencia Valley Ameste  
Exec<sup>ts</sup> et al

Injunction



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

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Francisco Hernandez et. als.

Prudencia Vallejo Amesti,

Executrix et. als.

Injunction

The President of the United States.

vs Prudencia Vallejo Amesti, Executrix, and Ascencio Mendia and Francisco Arana Executors of the last will and testament of Jose Amesti deceased.

The above named Francisco Hernandez and Juana Hernandez, <sup>Concepcion</sup> Bessa Hernandez children and heirs at law of Felipe Hernandez deceased, Francisca Hernandez, Jose Hernandez, Josefa Beatrice Hernandez children and heirs at law of Ventura Hernandez deceased who was a child and heir at law of the said Felipe Hernandez deceased, and Dolores Hernandez child and heir at law of Maria Hernandez deceased, who also was a child and heir at law of the said Felipe Hernandez deceased, having filed their Petition in our District Court of the United States for the Southern District of California against the said ~~Prudencia~~ Prudencia Vallejo Amesti, Executrix, and Ascencio Mendia and Francisco Arana Executors of the last will and testament of Jose

Amist, deceased, praying for an injunction against  
them the said Executors and Executrix, requiring  
them to refrain from certain acts in said Pe-  
tition, and hereinbefore more particularly mentioned  
-tion, and hereinbefore more particularly mentioned  
398 SD <sup>upon</sup> <sup>by</sup> <sup>the</sup> <sup>said</sup> <sup>parties</sup>. On reading said Petition duly verified <sup>upon</sup> <sup>by</sup>  
PAGE 24 <sup>the</sup> <sup>said</sup> <sup>parties</sup>, and it satisfactorily appearing to His Honor  
the Judge of said Court, that it is a proper case for  
injunction, and that sufficient grounds exist there-  
-for. - He therefore in consideration thereof and  
of the particular matters in said complaint set  
forth, do strictly enjoin you and each of you,  
there under the further order of our said Court,  
you do absolutely refrain and desist from suing  
and or receiving a Patent from the United States,  
for certain lands <sup>late</sup> surveyed by the Surveyor General  
of the United States for the State of California for  
the said Executors and Executrix as in said Pe-  
-tition <sup>states</sup> alleged, and which said survey as is al-  
-leged embrace and include certain lands be-  
-longing to Petitioners, the said survey for parting  
to be of lands confirmed to said Executors  
and Executrix in case No 175 of the Records  
of this Court, and which said lands are de-  
-scribed in the aforesaid final decree of con-  
-firmation, as the tract of land known as the  
San Benavides in the County of Santa Cruz said  
San Benav. District and bounded and described  
as follows. "On the Rancho of San Rafael

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Castro up to a spot called Puerto Leguas. With  
the Rancho of <sup>don</sup> Sebastian Rodriguez up to a spot  
where there is an inlet and an oak tree. The  
only one looking into the stream running by  
it called Salsipuedez, and with the Rancho of  
Don Manuel Jimeno, and the arroyo of the  
same name Salsipuedez. The great leagues:  
the Sanzuel, taking a direct north line to  
the mountains. The boundaries on the side  
next the Canada Verde being the low hills  
adjoining the mountains and on their next  
to the mesa Castro the Canada de Buenos(?) con-  
taining four leagues of land, according to the  
grant and act of judicial possession.

Witness My Hand & Seal at the Chief  
Justice of the Supreme Court of the United  
States of America this 26<sup>th</sup> day of Feb-  
ruary A.D. 1861. and of our Independence



Attest - R. S. Miff Clerk of  
the District Court of the  
U.S. for the Southern  
District of California  
with the usual paid Court  
affid.

*[Handwritten signature]*

No 398  
U. S. Dist Court  
South Dak Cal

Francisco Hernandez vs. alr.

vs  
Prudencia Bellis Amisti

injunction

No. 398

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

Franc. Hernandez et al

<sup>vs</sup>  
Pudencio Vallejo et al  
Defendants et al

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S. Hartman

att. for def

United States of America.

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

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Francisco Hernandez et als

vs  
Prudencia Talley Amest  
Executors et als

Action brought in said District  
Court and the Complaint filed 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

Prudencia Talley Amest, Executors, and Ascencio Mendia  
& Francisco Arana Executors of the last Will & Testament  
of Jose Aceto deceased

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 Sundays  
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 *La Corralitos* situated in the County of Santa Cruz District aforesaid & which said land is more ~~fully~~ particularly described in the Petition aforesaid, and if you fail to appear and plead, answer, or demur, as herein required, judgement by default will be entered against you and each of you.

Witness, the Honourable 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 South-  
-ern District of California affixed.



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N<sup>o</sup> 398

U. S. Dist Court  
South Dist Cal

Francis Hernandez et al

vs

Mauden's Valley Music  
Society et al

Summons

Hernandez 5

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