

1/24/24

NO: 23-917

In The
Supreme Court of the United States

Jeffrey Allen: family Witzeman, *Petitioner*

v.

STATE OF CALIFORNIA,

Attorney General, Rob Bonta, et. al.

Respondent(s)

ON PETITION FOR A WRIT OF CERTIORARI TO
United States Court of Appeals, Appellate Court

PETITION FOR WRIT OF CERTIORARI

Jeffrey Allen: family Witzeman
c/o: 29513 Anthony Road
Valley Center, California [92082]

Pro Se

QUESTIONS PRESENTED

The United States District Court, District of California lacked lawful jurisdiction in cause no: 3:22-cv-1433-AGS-MSB for the reasons below:

1. The Complaint (Nonfeasance, Breach of Trust, and Restraint of Trade cause no: 3:22-cv-1433-AGS-MSB) presents a detailed recitation of Petitioners' assertions that more than satisfies the pleading requirements of a Nonfeasance, Breach of Trust, and Restraint of Trade Challenge of the Trial Court.
2. Consideration of the Complaint, at LAW, as a whole demonstrates that said complaint meets the requirements established under the Federal Rules for a lawful challenge of the Courts error by STATE OF CALIFORNIA, Attorney General, Rob Bonta.
3. A County Recorder is required to file documents proving land ownership, especially in relation to Titles invoking Land Patent Rights originating in Treaty law. Therein, there is a difference between "Title" by Patent and "Color of Title" by Deed.
4. In reviewing a facial challenge, which contests the sufficiency of the pleadings, "the court must only consider the allegations of the complaint and documents referenced therein and attached thereto, in the light most favorable to the Petitioner NOT the alleged merits of the cause in question as it was presented to the court.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page

[X] All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- 1.) Jeffrey Allen: family Witzeman, Petitioner
- 2.) STATE OF CALIFORNIA,

Attorney General, Rob Bonta,

1300 "I" Street, Sacramento, California [95814-2919]

3.) California Secretary of State, Shirley N. Weber, Ph.D.
1500 11th Street
Sacramento, California [95814]

4.) COUNTY OF SAN DIEGO, Ernest J. Dronenburg, Jr., County Recorder
1600 Pacific Highway, Suite 260
PO Box 121750
San Diego, California [92112-1750] Respondents

TABLE OF CONTENTS

	Page
Questions Presented for Review	i
List of Parties.....	iii
Table of Contents.....	iv
Appendix.....	vi
Table of Authorities.....	vii
Cases.....	viii
Opinions.....	1
Jurisdiction Opinion.....	3
Petition for Writ.....	4
Opinions Below.....	4
Jurisdiction.....	5
Constitutional and Statutory Provisions Involved	6
Statement of the Case.....	7
Parties.....	8
Issue.....	10
Reasoning.....	12

TABLE OF CONTENTS --- Continued

Cause of Action for Nonfeasance.....	16
Cause of Action for Breach of Trust.....	17
Cause of Action for Restraint of Trade.....	19
Analysis.....	23
Factual Background.....	28
Proceedings Below.....	33
Reasons for Granting the Writ.....	46
Conclusion.....	49
Proof of Service.....	51

APPENDIX

APPENDIX A: US District Court Southern District of California	
.....	App. 1
APPENDIX B: US Court of Appeals for the Ninth Circuit	
.....	App. 7
APPENDIX C: US District Court Southern District of California	
.....	App. 8
APPENDIX D: US District Court of Appeals for the Ninth Circuit	
.....	App. 12
APPENDIX E: US Court of Appeals for the Ninth Circuit	
.....	App. 13
APPENDIX F: US Court of Appeals for the Ninth Circuit	
.....	App. 14
APPENDIX G: Land Patent Case Law References	
.....	App. 20

TABLE OF AUTHORITIES

Land Patent Basic Laws:

“The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States.”

- a. U.S. Constitution Articles, Article IV, Section III, Clause 11
- b. Land Patent Act 1820, 3 Stat. 566.
- c. Homestead Act 1862, 12 Stat. 392.
- d. Treaty of Guadalupe Hidalgo, 9 Stat. 631.
- e. Summa Corp. v California Ex Rel. State Lands Commission, 466 US 198 (1984).
- f. Private Law 114-31 (2016).
- g. Ballentine’s Law Dictionary, 3rd Ed., page 858
- h. Appendix G

CASES

Osborn v. Bank, 22 U.S. 738 (1824)

Wilcox v. Jackson 13 Peter, US 498

Leading Fighter v. County of Gregory, 230 n. w. 2d 14, 116 (1975)

Young v. Miller, 125 so. 2d 257, 258 (1960)

Sanford v. Sanford 139 u. s. 290 (1891)

Raestle v. Whitson, 582p. 2d 170, 172 (1978)

Cleveland v. smith, 132 US 318

Mitchell v. city of Rockland 15 Me. 496

Cassidy v. Aroostock, 134 ME. 34

Stanton v. Sullivan, 63 RI. 216696 (1839)

State v. Hewitt Land Co., 134 p. 474, 479 (1913)

Sabo v. Horvath, 559 p. 2d 1038, 1040 (aka. 1976)

Marshall v. Ladd, 7 Wall. (74 U.S.) 106 (1869)

Land Patents, Opinions of the United States Attorney General's office. (Sept.1869)

Stone v. United States, 1 Well. (67 U.S. 765 (1865)

Gibson v. Chauteau, 13 Wall 92 (1871)

Bagnell v. Broderick, 38 U.S. 438 (1839)

United States v. Cherokee Nation, 474 f. 2d 628,634 (1973)

Marsh v. Brooks, 49 U.S. 223,233 (1850)

Walton v. United States, 415 f2d 121,123 (10th cir. (1969)

State v. Crawford, 475 p.2d (Ariz. app. 1970)

City Of Los Angeles V. Board Of Supervisors Of Mono County, 292 P. 2d 539 (1956)

Squire v. Capoeman, 351 U.S. 1, 6 (1956)

Carter v. Ruddy, 166 U.S. 493, 496 (1896)

Hughes v. Miller's Mutual Fire Insurance co., 246 S.W. 23 (1923)

Langdon V. Sherwood, 124 U.S. 74,81 (1887) Constitution of The United States Of America, Article IV, Section III, Clause 11

Klais v. Danowski, 337 Mich. Reports 1964

Hafer v. Melo, 90 681 U. S. (1991)

McConnell v. Wilcox, I scam. (ILL) 381 396 (1837)

Squire v. Capoeman, 351 U. S. 1, 6 (1956)

Carter v. Ruddy 166 U.S. 493, 496 (1896)

Hooper et. al. v. Scheimer, 64 US. (23 how.) 235 (1859)

G. Thompson, Title To Real Property, Preparation And Examination Of Abstracts, Ch. 3 Para. 73, P. 93 (1919)

Joplin Brewing Co. v. Payne, 197Mo. 422, 94 s. W. 896 (1906)

Wright v. Mattison, 18 How. (U. S.) 50 (1855)

Mahrenholz v, County Board of School Trustees of Lawrence County, et. al., 93 Ill ap. 3d 366 (1981)

Dempsey v. Burns. 281 Ill. 644, 65 (1917)

Dryden v Newman 1161LL 186 (1886)

Hinckley v. Green. 52 ILL 223 (1869)

Busch v. Huston, 75 III 343 (1874); Chickering V. Failes, 26 ILL. 508 (1861)

Safford v. Stubbs 117 ILL. 389 (1886)

Kendrick v. Latham 25 Fla. 819 (1889)

Walker v. Converse, 148 ILL. 622 629 (1894)

Society v. New Haven, 21 U.S. (8 Wheat.) 464 (1823)

OPINIONS

For the case from the Federal Courts:

The original complaint for case number 3:22-cv-1433 was dismissed on September 8, 2023, USDC ECF 26, Appendix A. The original Notice of Appeal on case number 3:22-cv-01433 (entered on September 29, 2023) was returned by the Ninth Circuit Court of Appeals Appellate Clerk (case number 23-55820) due to lack of a "Final Order." (Appendix B). Thereafter, Petitioner-Appellant filed a Motion with the lower court (USDC San Diego, case number 3:22-cv-1433) to obtain its "Final Order" (Mandate) to proceed on appeal, Appendix C. On November 17, 2023, the Ninth Circuit Court of Appeals Appellate Clerk (case number 23-55820) entered a Mandate from the appellate court, Appendix D.

Because of the new dismissal Petitioner-Appellant filed a new Notice of Appeal. As a result of that filing a new appellate case number was issued, 23-3846, and was dismissed as duplicative to appeal 23-5580, Appendix E.

1. The opinion of the United States District Court, District of California appears at Appendix A to the petition and is

[] reported at _____; or

[] has been designated for publication but is not yet reported; or

[X] is unpublished

For the case from the Appellate Court:

2. The opinion of the Ninth Circuit Court of Appeals appears at

Appendices D and E to the petition and
is

reported at _____; or
 has been designated for publication but is not yet reported; or
 is unpublished

JURISDICTION OPINION

For cases from Federal Courts:

1. The date on which the United States district Court, District of California decided the original cause was September 8th, 2023.

No petition for rehearing was timely filed in my case

A timely petition for rehearing was denied by the United States Court of appeals on the following date: _____,

And a copy of the order denying rehearing appears at Appendix _____

An extension of time to the petition for the writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No: N/A

PETITION FOR WRIT OF CERTIORARI

Petitioner, Jeffrey Allen: family Witzeman respectfully presents his Petition for a Writ of Certiorari before judgment to review a decision of a United States District Court for the Southern District of California.

OPINIONS BELOW

The opinion of the United States District Court for the Southern District of California for which this petition is filed is reported of Cause No. 2:21-cv-2112-APG-VCF which was filed under 28 USC 1331. [Decision is show in Exhibit "A"]

JURISDICTION

The case is docketed in the United States Court of Appeals for the Ninth Circuit as Cause No. 23-3846 and was decided on December 5, 2023, before Molly C. Dwyer, Clerk of Court, Circuit. [See Appendix E]

This court has federal jurisdiction as The Parties are operating within the confines of International Treaty Law for its contractual usage in relation to Land ownership. Therein, The Treaty Power is granted by Article II, Section 2 of the United States Constitution. Therein, the State courts lack jurisdiction over the subject matter. This is codified at Title 28 U.S.C. §1331, federal question.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Equal Protection Clause of Section 1 of the Fourteenth Amendment provides that no State shall “deny to any person within its jurisdiction the equal protection of the Laws.”
2. The United States Court of Appeals for the Ninth Circuit in moving forward violated the U.S. Constitution Articles, Article IV, Section III, Clause II, as the Land Patent rights transferred to “assigns” affect the Rights of the Petitioner.
3. The United States Constitution is a permanent injunction against the Public Trustees holding office for the benefit and protection of the Estate Holders, herein Petitioner appearing as an undiminished capacity Secured Party Creditor in relation to his Estate.

STATEMENT OF THE CASE

Petitioner requests this Court exercise its power and discretion under Rule 14.1(e) of its rules to grant a Writ of Certiorari after judgment to the United States Court of Appeals for the Ninth Circuit, which has entered judgment on an appeal of this case. The case presents questions about Land Rights associated with the Land Patent and its International Treaty. This Court, and all public offices, is defined under FRCP Rule 4(j) as a FOREIGN STATE, and as defined under TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE in accord with the Foreign Sovereign Immunities Act (FSIA) of 1976, which is a United States law, codified at Title 28 U.S.C. Sections 1330, 1332, 1391(f), 1441(d), and 1602-1611.

PARTIES

Petitioner is a man living on the soil of California on that Land known as:

"That portion of the South Half of the Southwest Quarter of the Northwest Quarter of Section 1, Township 11 South, Range 2 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to United States Government Survey and more fully described on exhibit 'A' attached hereto and made a part hereof."

Defendant, STATE OF CALIFORNIA, is represented by the Attorney General, Rob Bonta, Office of the Attorney General, 1300 "I" Street, Sacramento, California 95814-2919.

Defendant, Ernest J. Dronenburg, Jr., (or successor therein) operates by and through the office of County

Recorder, 1600 Pacific Highway, Suite 260, PO Box 121750, San Diego, California 92112-1750.

Defendant, Shirley N. Weber, Ph.D., operates by and through the office of California Secretary of State, 1500 11th Street, Sacramento, California [95814].

ISSUE

Petitioner sued for an order to cause the Defendants to file his Declaration of Land Patent documents.

"The Treaty of Guadalupe Hidalgo ended the Mexican-American War (1846–48). By its terms, Mexico ceded 55 percent of its territory, including parts of present-day Arizona, California, New Mexico, Texas, Colorado, Nevada, and Utah, to the United States. Mexico relinquished all claims to

Texas, and recognized the Rio Grande as the southern boundary with the United States.

The Mexican government had surrendered to the United States..."

Therein, the Land in question owned by Petitioner is subject to proving that he is a successor of the Treaty Land "assigns[ed]" Rights in accord with the Treaty.

Defendants are blocking his access to public recordation in restraint of trade.

A Land Patent is the only way a perfect title can be had in my name. *Wilcox v. Jackson*, 13 Pet. (U.S.) 498, 10 L.Ed. 264: All questions of fact decided by the General Land Patent are binding everywhere, and injunctions and mandamus proceedings will not be against it. *Litchfield v. Register*, 9 Wall (U.S.) 575, 19 L.Ed. 681.

REASONING

A land patent is a form of letters patent assigning official ownership of a particular tract of land that has gone through various legally-prescribed processes like surveying and documentation, followed by the letter's signing, sealing, and publishing in public records, made by a sovereign entity.

It is the highest evidence of right, title, and interest to a defined area. It is usually granted by a central, federal, or state government (office holder) to an individual, partnership, trust, or private company. **The Treaty IS THE EVIDENCE OF ASSIGNMENT.**

Therein, the issue of "heirs" and "assigns" becomes an issue to publicly declare on the County at Large, San Diego, that petitioner is the owner of said Land. This differentiates from "Real Estate" or "Deeds," i.e. color of title.

Therein, petitioner complained for the purpose of performing an action for nonfeasance and restraint of trade in relation to having the San Diego County Recorder, Ernest J. Dronenburg, Jr., to allow the filing of the Declaration of Land Patent and Abstract of Title to show succession of interest(s).

Defendant Recorder failed to accept and file petitioner's "Declaration of Land Patent," etc. which invokes the rights of the United States Treaty known as The Treaty of Guadalupe Hidalgo, see *Summa Corp. v. Cal. State Lands Comm'n*, 466 U.S. 198 (1984).

In the United States, treaties are federal law and thus preempt state law. The treaty power is granted by Article II, Section 2 of the Constitution, under which the President may make a treaty by and with the advice and consent of the Senate, with the concurrence of two-thirds of those present.

"California cannot at this late date assert its public trust easement over petitioners property, when petitioners predecessors-in-interest had their interest confirmed without any mention of such an easement in the federal patent proceedings. The interest claimed by California is one of such substantial magnitude that regardless

of the fact that the claim is asserted by the state in its sovereign capacity, this interest must have been presented in the patent proceedings or be barred. Cf. Barker v. Harvey, 181 U.S 481; United States v. Title Ins. & Trust Co. [466 U. S. 198, 199] 265 U.S. 472; United States v. Coronado Beach Co., 255 U. S. 472. Pp. 205-209." Summa, *supra*.

Therein, STATE OF CALIFORNIA via COUNTY OF SAN DIEGO, both corporations, are attempting to assert authority over petitioner's Land by engaging in restraint of trade actions to restrict his ability to give public notice of his "...predecessor[s]-in-interest...", *Summa supra*, on said Land by and through his "assigns" interest via The Treaty of Guadalupe Hidalgo.

"The land patent is the highest evidence of title and is immune from collateral attack" *Raestle v. Whitson*, 582p. 2d 170,172 (1978)

"A patent for land is the highest evidence of title and is conclusive as against the government and all claiming under junior patents or titles," *United States v. Stone*, 2 US 525. "Patents are issued (and theoretically passed)

between sovereigns and deeds are executed by persons and private corporations without those sovereign powers". *Leading Fighter v. County of Gregory*, 230 n. w. 2d 14, 116 (1975)

"legal title to property is contingent upon the patent issuing from the government." *Sabo v. Horvath*, 559 p. 2d 1038, 1040 (aka. 1976)

CAUSE OF ACTION FOR NONFEASANCE

A cause of action for a NONFEASANCE arises where there is a governmental trustee fiduciary relationship. Defendants failed to perform their known legal duty to record said documents governed by the Treaty.

"Nonfeasance. The failure to act where duty requires an act. Of public officer: neglect or refusal, without sufficient excuse, to do that which is the officer's legal duty to do, whether willfully, or through malice, ignorance, or oversight. *State ex rel. Hardie v. Coleman*, 115 Fla 119, 155 So 129, 92 ALR 988... the omission to do some act which ought to be performed. A matter of 'not doing.' 35 AmJur 1st M & S, §586." *Ballentine's Law Dictionary*, 3rd Ed., page 858.

CAUSE OF ACTION FOR BREACH OF TRUST

Defendants engaged in a breach of trust when the County Recorder refused to record Land documents; 1. Quit Claim Deed (transferring the property from Equity to Law), 2. Declaration of Land Patent (establishing the At Law status of the Land secured by the Rights of the Patent (by doctrine of "assigns" or heir apparent")), and 3. Abstract of Title showing the property title succession to prove status as an "assigns." The Homestead Declaration was an additional document that was also denied, which seemed very strange for a County Recorder to deny, however, STATE OF CALIFORNIA Public Trustees have been doing a lot of "communist like" actions with their Public Offices of late.

Breach of trust. Any act done by a trustee contrary to the terms of his trust, or in excess of his authority and to the detriment of the trust; Or the wrongful omission by a trustee of any act required of him by the terms of the trust. A violation by the trustee of any duty which he owes to the beneficiary. *Bruun v. Hanson*, 103 F.2d 685 (9th Cir. 1939). Blacks law dictionary 6th Edition, page 189.

Defendants had a known legal duty to perform the recordation and therein breached their public constitutional trust in failing to do so. The Federal and State Constitutions are Grantor Trusts. The office holders operate as Public Trustees.

CAUSE OF ACTION FOR RESTRAINT OF TRADE

Defendants engaged in a restraint of trade when they failed to record 1. Quit Claim Deed, 2. Declaration of Land Patent, and 3. Abstract of Title.

Restraint. Confinement, abridgment, or limitation. Prohibition of action; holding or pressing back from action. Hindrance, confinements, or restriction of liberty. Obstruction, hindrance or destruction of trade or commerce.

Black's Law Dictionary 6th, page 1314

Unlawful restraint. Unlawful restraint is knowingly and without legal authority restraining another so as to interfere substantially with his liberty.

Black's Law Dictionary 6th, page 1314

Restraint of Trade. Contracts or combinations which tend or are designed to eliminate or stifle competition, effect a monopoly, artificially maintained prices, or otherwise hamper or obstruct with the course of trade and commerce as it would be carried on if left to the control of natural economic forces. *U.S. v. Reading Co.*, 253

U.S. 26, 40 S.Ct. 425, 429, 64 L.Ed. 760; U.S. v. Socony-Vacuum Oil Co., 310 U.S. 150, 221, 60 S.Ct. 811, 84 L.Ed. 1129. Term as used in Sherman Act means "unreasonable restraints of trade" which are illegal per se restraints interfering with free competition in business and commercial transactions which tend to restrict production, affect prices, or otherwise control market to detriment of purchasers or consumers of goods and

services, or those restraints of trade, ordinarily reasonable, but made unreasonable because accompanied with specific intent to accomplish equivalent of a forbidden restraint. Klor's Inc. v. Broadway-Hale Stores, Inc., C.A.Cal., 255 F.2d 214, 230. Restraint of Trade is also covered by Title 18 U.S.C. §371.18 U.S. Code § 371 - Conspiracy to commit offense or to defraud United States

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each

shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

(June 25, 1948, ch. 645, 62 Stat. 701; Pub. L. 103-322, title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

The Land rights are associated with the Treaty of Guadalupe Hidalgo transfer to petitioner and through "heirs" and "assigns." Defendants are restraining said rights.

ANALYSIS

It is the premise herein wherein the County Recorder is a governmental office with a Trustee office holder, Ernest J. Dronenburg, Jr. or his delegate, that has a "known legal duty" to follow the Supreme Law of the Land. That law being the Constitution for the united States of America, 1787, and the corresponding California State Constitution, wherein treaty law is found within the Supremacy Clause. Said Treaty governs legal relations of the Land in question. Said Treaty is the Law of the Land. Therein, the San Diego County Recorder controls that public-filing-venue for disclosure and conflict avoidance, which is the whole point of having

governmental trustees in the first place. This is found in the phrase "domestic tranquility."

Defendant County Recorder has a "known legal duty" pursuant to the Supremacy Clause; Article VI, Paragraph 2 of the U.S. Constitution. It establishes that the federal constitution, and federal law generally, take precedence over state laws, and even state constitutions.

Therein, this court has jurisdiction over the subject matter superior to the state court.

The land patent is not to be confused with a land grant. Patented lands may be lands that had been granted by a sovereign authority in return for services rendered or accompanying a title or otherwise bestowed gratis, or they may be lands privately purchased by a government, individual, or legal entity from their prior owners.

"Patent" is both a process and a term. As a process, it

is somewhat parallel to gaining a patent for intellectual property, including the steps of uniquely defining the property at issue, filing, processing, and granting. Unlike intellectual property patents, which have time limits, a land patent is permanent.

In the United States, all claims of land ownership can be traced back to a land patent, first-title deed, or similar document regarding land originally owned by France, Spain, the United Kingdom, Mexico, the Kingdom of Hawaii, Russia, or Native Americans. Other terms for the certificate that grants such rights include "first-title deed" and "final certificate." [citation needed]

A land patent is known in law as "letters patent" and usually issues to the original grantee and to their heirs and assigns forever. The patent

stands as supreme title to the land because it attests that all evidence of title existent before its issue date had been reviewed by the sovereign authority under which it was sealed and was so sealed as irrefutable. Thus, the land patent itself becomes at law the title to the land defined within its four corners.

In practice, the irrefutability of counterclaims is relative, but once a patent is granted, permanence of title is established.

The Treaty of Guadalupe Hidalgo, that brought an official end to the Mexican American War (1846-1848), was signed on February 2, 1848, at Guadalupe Hidalgo, a city north of the capital where the Mexican government had fled with the advance

of U.S. forces. By its terms, Mexico ceded 55 percent of its territory, including the present-day states

California, Nevada, Utah, New Mexico, most of Arizona and Colorado, and parts of Oklahoma, Kansas, and Wyoming. Mexico also relinquished all claims to Texas and recognized the Rio Grande as the southern boundary with the United States.

Defendants have a “known legal duty” to process the documents in question (Declaration of Land Patent, etc.) to update, and adjust their land records.

In fact, the case of *Summa Corp. v. Cal. State Lands Comm'n*, 466 U.S. 198 (1984), “California cannot at this late date assert its public trust easement over petitioner's property, when petitioner's predecessors-in-interest had their interest confirmed without any mention of such an easement in the federal patent proceedings.” Herein,

petitioner is attempting to establish that petitioner is an “assign.” In order to establish said status as an “assign” petitioner must establish the lineal chain of title of succession. Therein, the petitioner is required to place said lineal chain of title into evidence at the County Recorder's Office.

FACTUAL BACKGROUND

A. Petitioner

Petitioner, Jeffrey Allen: family Witzeman, is a Secured Party Creditor with Filings with the Colorado Secretary of State, UCC # 20222028395. An Affidavit of Notice was sent to the United States District Court, Southern District of California, giving notice of said status. Petitioner does not take any benefits from the government as the Birth Certificate and Social Security was discharged through the United States Secretary of State as well as other Government Agencies. Therein, Petitioner appears in an undiminished capacity. This is an important distinction as most Americans are operating in a diminished capacity, Osborn, *infra*.

Petitioner obtained Land through lawful process and attempted to provide and give Public Notice of said

acquisition by and through the San Diego County Recorder's Office. In doing so, Petitioner did make claim to all Rights granted by and through the original Land Grant via “assigns” through the Treaty of Guadalupe Hidalgo of 1848. There is a huge difference between holding Land via Patent and “Real Estate” by [Warranty] Deed. One is for living men (Patent) and one is for fictions at law in equity. Rights

emanating are two completely different worlds, and one is in diminished capacity, *Osborn v. Bank*, 22 U.S. 738 (1824).

“But if the plain dictates of our senses be relied on, what state of facts have we exhibited here? Making a person, makes a case; and thus, a government which cannot exercise jurisdiction unless an alien citizen of another State be a party, makes a party which is neither alien nor citizen, and then claims jurisdiction because it has made a case. If this be true, why not make every citizen a corporation sole, and thus bring them all into the Courts of the United States quo minus?” *Osborn v. Bank of the United States*, 22 U.S. 738 (1824).

This is the same motivation for converting Petitioner’s estate from a “minor” (Title 31 CFR §363.6) with his estate held in trust by the “common-law trustee” aka United State Attorney General found at Title 50 USC §4312. Petitioner seeks to not be operating in “diminished capacity” (*Osborn supra*) in either his personal legal relations or his Land relations. Hence the reason for invoking the Rights transferred via Treaty law.

Defendants via SAN DIEGO COUNTY RECORDER blocked, obstructed, and restrained trade by not allowing Petitioner to file his Quit Claim Deed from Equity to Law, his Declaration of Land Patent invoking the rights associated therein, and the Abstract of Title that delineated and described the assigns connections of Land Patent holder (USA) to A to B to C ... to Petitioner. The Abstract of Title is required to establish said Rights of ownership.

There also lies the question of STANDING by a MUNICIPAL CORPORATION, COUNTY OF SAN DIEGO, RECORDER’S OFFICE in blocking actual Title (Patent) not “color of title” (Deed) as “A corporation can have no local habitation.” *Society v. New-Haven*, 21 U.S. (8 Wheat.) 464 (1823).

Additionally, Petitioner has the dubious future problem of his State Governor (Newsome) and Hillary Rodam Clinton in attempting to “gift” the Land of California to a foreign power in Xi Jinping who is a Chinese politician who has been the general secretary of the Chinese Communist Party and chairman of the Central Military Commission, and thus as the paramount leader of China, since 2012. Xi has also been the president of the People’s Republic of China since 2013. This would be disastrous for all those residing on California Land and would result in unknown number of unalienable Rights violations protected by the permanent injunction known as the Constitution for the united States of America (1787) and the State Constitution. Both the American revolutionary war and (it could be

argued) the War Between the States were started on similar premises – i.e. Rights violations by rogue Public Trustees.

PROCEEDINGS BELOW

A. The Federal Court:

This Action commenced on September 22, 2022, in the United States District Court, Southern District of California, by Judge Ruth Bermudez Montenegro.

The Complaint demanded that the defendants file documents into the County Recorder's Office for proof of Land Patent Rights under title 28 USC 1331. The request of filing was ignored in any/all matters. [See Appendix A for ruling on The United States District Court, Southern District of California.] This was an error pursuant to the following court cases:

- a) "A patent for land is the highest evidence of title and is conclusive as against the government and all claiming under junior patents or titles [United States v. Stone, 2 US 525]
- b) "The patent alone passes land from the United States to the grantee and nothing passes a perfect title to public lands but a patent." [Wilcox v. Jackson 13 Peter, US 498]
- c) "Patents are issued (and theoretically passed) between sovereigns and deeds are executed by persons and private corporations without those sovereign powers". [Leading Fighter v. County of Gregory, 230 n. w. 2d 14, 116 (1975)]
- d) "A patent regularly issued by the government is the best and only evidence of a perfect. The actual patent should be secured to place at rest any question as to validity of entries". [Young v. Miller, 125 so. 2d 257, 258 (1960).]
- e) "title under patent from the government is subject to control to protect the rights of parties acting in a fiduciary capacity. [Sanford v. Sanford 139 u. s. 290 (1891).]
- f) "The land patent is the highest evidence of title and is immune from collateral attack" [Raestle v. Whitson, 582p. 2d 170,172 (1978)]
- g) "Actual or threatened exercise of power over another is coercion and duress which will render the payment involuntary." [Cleveland v. smith, 132 US 318]
- h) "Neither a town nor its officers have any right to appropriate or interfere with private property." [Mitchell v. city of Rockland -15 me. 496]

- i) "At common law there was no tax lien." [Cassidy v. Aroostock, 134 ME. 34]
- j) "After the American revolution, lands in this state (Maryland) became allodial, subject to no tenure, nor to any services or taxes there to" (Matthews v. Ward 10 Gill & J. (Md) 443 (1839)]
- k) "The entire taxing and monetary system are hereby, placed under the UCC." [The Federal Tax Lien Act of 1966]
- l) "An estate of inheritance without condition, belonging to the owner, and alienable by him, transmissible to his heirs, absolutely and simply, is an absolute estate in perpetuity and the largest possible estate a man can have, being in fact allodial in its nature." [Stanton V. Sullivan. 63 RI. 216696 (1839)]
- m) "unless fraud is shown, this rule is held to apply to patents executed by the public authorities." [State v. Hewitt Land Co., 134 p. 474,479 (1913)]
- n) "legal titles cannot be conveyed except in the form provided by law." [McGarrahan v. Mining Co. 96 U.S. 316 (1877)]
- o) "legal title to property is contingent upon the patent issuing from the government." [Sabo v. Horvath, 559 p. 2d 1038, 1040 (aka. 1976)]
- p) "that the patent carries the fee and is the best title known to a court of law is settled doctrine of this court," [Marshall v. Ladd, 7 Wall. (74 U.S.) 106 (1869)]
- q) "a patent issued by the government of united states is legal and conclusive evidence of title to the land described therein, of equitable interest, however strong, to land described in such patent can prevail at law, against the patent." [Land Patents, Opinions of the United States Attorney General's office. (Sept.1869)]
- r) "a patent is the highest evidence of title, and is conclusive against the government and all claiming under junior titles, until it is set aside or annulled by some judicial tribunal." [Stone v. United States, 1 Well. (67 U.S. 765 (1865))]
- s) "the patent is the instrument which, under the laws of congress, passes title from the United States and the patent when regular on its ,face, is conclusive evidence of title in the patentee, when there is a confrontation between two parties as to the superior legal title, the patent is conclusive evidence as to ownership." [Gibson v. Chauteau, 13 Wall 92 (1871)]
- t) "congress having the sole power to declare the dignity and effect it's titles has declared the patent to be the superior and conclusive evidence of the legal title." [Bagnell v. Broderick, 38 U.S. 438 (1839)]

- u) "issuance of a government patent granting title to the land is 'the most accredited type of conveyance known to our law' ", [United States v. Creek Nation, 295 U.S. 103,111, (1935)]; [United States v. Cherokee Nation, 474 f. 2d 628,634 (1973)]
- v) "the patent is *prima facie* conclusive evidence of the title." [Marsh v. Brooks, 49 U.S. 223,233 (1850)]
- w) "a patent, once issued, is the highest evidence of title, and is final determination of the existence of all facts," [Walton v. United States, 415 f2d 121,123 (10th cir. (1969)]
- x) "a patent is *prima facie* valid and if its validity can be attacked at all, the burden of proof is upon the defendant" [State v. Crawford, 475 p.2d (Ariz. app. 1970)]
- y) "a patent to land is the highest evidence of title and may not be collaterally attacked" [State v. Crawford, 441p2d 586,590 (Ariz.app.1968)]
- z) "the land patent is the highest evidence of title and is immune from collateral attack." [Raestle v. Whitson, 582 p.2d 170,172 (1978)]
- aa) "patents rights to the land is the title in fee." [City Of Los Angeles V. Board Of Supervisors Of Mono County, 292 P. 2d 539 (1956)]
- bb) "the patent is the fee simple," [Squire v. Capoeman, 351 U.S. 1, 6 (1956)]
- cc) "and the patent is required to carry the, fee," [Carter v. Ruddy, 166 U.S. 493, 496 (1896)]
- dd) "it is the largest estate in land that the law will recognize, a fee simple estate still exists even though the property is mortgaged or encumbered" [Hughes v. Miller's Mutual Fire Insurance co., 246 S.W. 23 (1923)]
- ee) "state statutes that give less authoritative ownership of title than the patent can not even be brought into federal court." [Langdon V. Sherwood, 124 U.S. 74,81 (1887)]
- ff) "the congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." [Constitution Of The United States Of America, Article IV, Section III, Clause 11.]
- gg) "based on the supreme law of the land, patents to land were not cut off by the subsequent creation of the state and that the state has no jurisdiction on the patented lands." [Klais v. Danowski, 337 Mich. Reports 1964]

hh) [Hafer v. Melo, 90 681 U. S. (1991)], that held under title 42, United States Code, sec. 1983 suits “every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the constitution and laws, shall be liable to the party injured.”

ii) “The patent is the only evidence of the legal fee simple title.” [McConnell v. Wilcox, I scam. (ILL) 381 396 (1837)]

jj) “Patent rights to the land is the title in fee.” [City of Los Angeles v. Board of Supervisors of Mono County, 292p. 2d539(I956)]

kk) “The patent the fee simple [Squire v. Capoeman, 351 U. S. l, 6 (1956)]

ll) “and the patent is required to carry the fee “[Carter v. Ruddy 166 U.S. 493, 496 (1896)]

mm) “I affirm that a patent is unimpeachable at law, except, perhaps, when it appears on its own face to be void; and the authorities on this point are so uniform and unbroken in the courts, federal and state, that little else will be necessary beyond a reference to them.” [Hooper et. al. v. Scheimer, 64 US. (23 how.) 235 (1859)]

nn) “Deeds are actually color of title” [G. Thompson, Title To Real Property, Preparation And Examination Of Abstracts, Ch. 3 Para. 73, P. 93 (1919)]

oo) “In fact, any instrument may constitute color of title when it purports to convey the title to the land, as well as the land itself; although it is void as a muniment of title” [Joplin Brewing Co. v. Payne, 197Mo. 422, 94 s. W. 896 (1906)]

pp) “A color of title is that which in appearance is title but which in reality is not title.” [Wright v. Mattison, 18 How. (U. S.) 50 (1855)]

qq) “A warranty deed is like any other deed of conveyance [Mahrenholz v, County Board of School Trustees of Lawrence County, et. al., 93 Ill ap. 3d 366 (1981)]

rr) “A warranty deed or deed of conveyance is a color of title.” (Dempsey v. Burns. 281 Ill. 644, 65 (1917)

ss) “Deeds constitute colors of title” (Dryden v Newman 1161LL 186 (1886)

tt) “A deed that purports to convey interest in the land is a color of title.” [Hinckley v. Green. 52 ILL 223 (1869)]

uu) "A deed which on its face, purports to convey a title, constitutes a claim and color of title "[Busch v. Huston, 75 Ill 343 (1874); Chickering v. Failes, 26 Ill. 508 (1861)]

vv) "A quit claim deed is color of title "[Safford v. Stubbs 117 Ill. 389 (1886)]

ww) "Sheriffs deeds also are colors of title "[Kendrick v. Latham 25 Fla. 819 (1889)]

xx) "Thus any tax deed which purports, on its face, to convey title is a good color of title" [Walker v. Converse, 148 Ill. 622 629 (1894)]

B. The Court of Appeals:

The original notice of appeal was filed September 27, 2023, and entered on September 29th, 2023, Appendix F. The Ninth Circuit court dismissed the case for allegedly not having jurisdiction because the trial court had allegedly not provided a final order, October 26, 2023, Appendix B.

The original complaint for case number 3:22-cv-1433 was dismissed on September 8, 2023, USDC ECF 26, Appendix A. The original Notice of Appeal on case number 3:22-cv-01433 (entered on September 29, 2023) was returned by the Ninth Circuit Court of Appeals Appellate Clerk (case number 23-55820) due to lack of a "Final Order." (Appendix B). Thereafter, Petitioner-Appellant filed a Motion with the lower court (USDC San Diego, case number 3:22-cv-1433) to obtain its "Final Order" (Mandate) to proceed on appeal, Appendix C. On November 17, 2023, the Ninth Circuit Court of Appeals Appellate Clerk (case number 23-55820) entered a Mandate from the appellate court, Appendix D.

Because of the new dismissal, Petitioner-Appellant filed a new Notice of Appeal. As a result of that filing a new appellate case number was issued, 23-3846, and was dismissed as duplicative to appeal 23-5580, Appendix E.

REASONS FOR GRANTING THE WRIT

This Court Should Exercise Its Power to Grant Review Before Judgment.

For several reasons, the circumstances of this case make it appropriate for granting Petitioner's request for ordering the San Diego County Recorder to file proof of Land title ownership related to the Rights transferred by International Treaty by and through the Treaty of Guadalupe Hidalgo. This constitutes actual title, not color of title. This is important because of the fact that Public Trustee of the Municipal Corporation, STATE OF CALIFORNIA, have a habit, custom, and practice of

imposing communist-like edicts and unconstitutional legislative enactments that violate Rights protected by that permanent injunction known as the Constitution for the United States of America, circa 1787/9.

First, the case presents issues of fundamental importance. It concerns important constitutional and civil rights, and the resolution of these issues will almost certainly have effects that extend far beyond the parties to the case.

Second, this Court knows that pursuant to the case of *Summa Corp. v. Cal. State Lands Comm'n*, 466 U.S. 198 (1984), "This fundamental distinction reflects an important aspect of the 1851 Act enacted by Congress. While the 1851 Act was intended to implement this country's obligations under the Treaty of Guadalupe Hidalgo, the 1851 Act also served an overriding purpose of providing repose to land titles that originated with Mexican grants. As the Court noted in *Peralta v. United States*, 3 Wall. 434 (1866), the territory in California was undergoing a period of rapid development and exploitation, primarily as a result of the finding of gold at Sutter's Mill in 1848. See generally J. Caughey, *California* 238-255 (2d ed. 1953). It was essential to determine which lands were private property and which lands were in the public domain in order that interested parties could determine what land was available from the Government. The 1851 Act was intended to place the titles to land in California upon a stable foundation, and to give the parties who possess them an opportunity of placing them on the records of this country, in a manner and form that will prevent future controversy." Therein, having the ability to register actual Land Ownership not just "color of title" is important to avoid future controversies.

CONCLUSION

This court should order Defendants to process Petitioner's Land documents for recording and adjust the County Land records to reflect petitioner's status as an "assign." Petitioner requests that the court order defendants to process Petitioner's Land documents for recording and adjust the County Land records to reflect his ownership interest in Law; and

Petitioner further requests that this court order all expenses generated as a result of this suit and the inconvenience therein be paid to petitioner as compensation in the amount of \$32,000.00; and

Petitioner further requests that this court order compensation in accordance with his Secured Party Creditor UCC1 Amendment filing, Legal Notice and Demand, pages 4 and 5, wherein all expenses generated as a result of this deprivation of Rights, and the inconvenience therein be paid to petitioner as compensation in the amount of \$2,000,000.00; and

Petitioner requests that this court issue whatever remaining relief that would be fair and equitable in light of the actions and inactions of defendants.

For the foregoing reasons, Jeffrey-Allen: family Witzeman respectfully requests this honorable court grant his petition for certiorari before judgment the petition for a writ of certiorari should be granted.

Done so, this 24th date in the month of January 2024

Respectfully submitted,



Jeffrey-Allen: family Witzeman