No. 1279 Dept

In the Superior Court,

Of the State of California

IN AND FOR LOS ANGELES COUNTY.

Geo K Porter et al

Plaintiff

vs.

John Doe Rogers et al

Defendants

Affidavit

Filed Oct 10 1885

Alex H Denniston Clerk.

By A P Fanning Deputy Clerk.

Service of the within

is hereby admitted this 16

day of 188

Attorney for

WELLS, VAN DYKE & LEE.

Rooms, 11 to 17 Baker Block, Los Angeles, Cal.

Attorneys for Defts

IN THE SUPERIOR COURT OF THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

Geo. K. Porter, et al. Plaintiffs, vs. John Doe Rogerio, et al. Defendants.	A F F I D A V I T.

State of California,
County of Los Angeles. } ss.

G. Wiley Wells being first duly sworn deposes and says, that he is special assistant U. S. Attorney in Mission Indian cases for Southern California.

That the defendants herein are Mission Indians of the San Fernando Mission. That the suit herein was brought in the late District Court of the 17th Judicial District of the State of California, in and for the County of Los Angeles, on the 31 day of January 1875, against nine persons designated by fictitious names for the recovery of the northwesterly half of the ex Mission of San Fernando rancho, by Messrs. Brunson, Pastman and Graves, as attorneys for plaintiffs.

That thereafter on the 11th day of December an amendment was filed to the complaint, which purported amendment to said complaint was signed by T. M. Nidey, as attorney for plaintiffs, without any substitution, or any evidence showing on what authority he appeared as attorney for plaintiffs.

Said amendment purported to give the true names of the persons so designated on the fictitious names as aforesaid, to-wit: That the true name of John Doe Rogerio is Rogerio Rocha, the true name of John Doe Maria is Maria Rocha, the

true name of John Doe Juana is Juana Rias, of John Doe Rice is Jose Maria Vages, of John Doe is Julian Sepulveda and of John Doe Smith is Germana. There is no evidence in the records of any service of this purported amendment to the complaint on the defendants.

On the 11th day of December 1883, what purports to be a judgment was entered, recitting that the cause came on for trial, on that day, before the Court without a jury, and that judgment was taken therein against the said defendants last above named by default, for the north half of the rancho ex Mission of San Fernando. And that the action was continued against the three remaining defendants, to-wit: Richard Roe, John Roe and Richard Doe, for the future action of the Court.

The judgment-roll and record do not show any default entered by the clerk appended or attached to the complaint, or otherwise; or the entry of a default in any way.

On the 22d day of July 1885, the Sheriff makes return that he received the writ of possession on the 24th day of May 1885; went to the place in accordance with instructions from F. M. Witney, Esq. and agreed with the said defendants that they should vacate the premises before the expiration of fifty days from the receipt of the writ,' and that he returned the writ in obedience of an order of the Court to stay further proceedings. The said order is appended to the return and was issued upon a motion then pending to quash the said writ on the ground that the same was improvidently issued, and ordered a stay of all proceedings after said execution until the said motion to recall and quash said writ of possession could be heard.

That thereafter on September 5th 1885, in the Superior

Court, Department No. 1, whereupon the following order was entered in said cause, "Motion to set aside default denied."

That no order has been made by said Court on the question of quashing ~~the~~ said or setting aside said former writ, as appears from the minutes of the Court, nor has any order been made directing an alias or other writ to be issued.

On the 29th of September 1885, the clerk of said Court issued an alias writ of possession without any ~~authority~~ ~~the~~ order of the Court therefor, upon the application of the plaintiffs, and placed the same in the hands of the Sheriff for execution, and that he is about to execute the same, and will proceed to do so unless prevented by an order of this Court. That as affiant believes, and as relief, the said alias writ was issued without any authority of law therefor.

Wherefore affiant asks this Court to issue an order to show cause, on the said plaintiffs, returnable at such date as may seem proper, why said alias writ should not be recalled and quashed; and in the meantime that all proceedings thereunder should be stayed.

Subscribed and sworn to before me this 9th day of October 1885.

[illegible]

[illegible]

IN THE SUPERIOR COURT,

OF THE STATE OF CALIFORNIA

In and for the County of Los Angeles.

The People of the State of California to the Sheriff of Los Angeles County, Greeting:

WHEREAS, on the Eleventh day of December A.D. 1883

George H. Porter and Charles Maclay

Plaintiff, recovered a judgment and Decree in the said Superior Court of the State of California, in and for the County of Los Angeles, against Rosario Rocha, Maria Rocha, Juana Rios, Ana Maria Vargas, Julio Sepulveda, Germans Defendants for the possession of certain premises in said judgment and Decree, and hereinafter more particularly described, as the

South half of the Rancho El Muerto of San Fernando
Los Angeles Co Cala.

as appears to us of record.

AND WHEREAS, the Judgment Roll in the action in which said Judgment was entered is filed in the Clerk's office of said Court, in the County of Los Angeles, and the said judgment was docketed in said Clerk's office, in the said Los Angeles County, on the day and year first above written.

NOW, THEREFORE, You, the said Sheriff, are hereby commanded and required to place the said George H. Porter and Charles Maclay in the quiet and peaceable possession of the lands and premises in said Judgment and Decree described as follows, to wit: The South half of the Rancho El Muerto of San Fernando Los Angeles Co Cala