

IN THE SUPERIOR COURT OF THE CITY AND COUNTY OF  
SAN FRANCISCO, STATE OF CALIFORNIA.

Juan M. Luco, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Robert S. Baker, Arcadia )  
 )  
 B. de Baker and California )  
 )  
 Star Oil Works Company, )  
 )  
 Defendants. )

AFFIDAVIT ON MOTION FOR CHANGE OF  
PLACE OF TRIAL.

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

Robert S. Baker and Arcadia B. de Baker, being each severally duly sworn, each for himself and herself and not the one for the other, deposes and says:

I.

The summons and complaint in this action were served on me on the 29th day of January, 1887, in the County of Los Angeles, State of California.

II.

I further say I am one of the defendants in the above entitled action, and that I have fully and fairly stated the case in this cause to Wells, Van Dyke & Lee, my attorneys and counsel, who are attorneys at law, residing in the City of Los Angeles, County of Los Angeles, State of California, and who have their office in rooms 11 to 17 Baker Block in said City of Los Angeles; and after such statement I am by them advised and I verily believe that I have a good and substantial defense on the merits to the action.

III.

I am now, and was at the time of the commencement of this ac-



tion, a resident of the City and County of Los Angeles, State of California, and not of the City and County of San Francisco.

IV.

That this is an action for the determination of a right or interest in real property, and that said real property is wholly situate in the County of Los Angeles, State of California.

V.

I have fully and fairly stated to my counsel the facts which I expect to prove by each and every one of the following witnesses, to wit, B. Cohn, Chas Prager, W. J. Broderick, Ygnacio Carrera, Juan de Toro, Jose D. Sepulveda, Leonardo Cota, John Forster, Marcus Forster, T. E. Rowan, John Roberts, Tom Phelan, T. Lynch, B. Guirado, Pedro Laso, I. W. Hellman, Samuel Prager, Jose Maria Abila, Chas H. Forbes, Tomas Alvarado, Francisco Higuero, Bernardino Malchado, Francisco Sepulveda, Andronico Sepulveda, Parcual Marquez, Bonifacio Marquez, Jesus Hernandez, Alfredo Stokes, Edward Stokes, C. Ducommun, H. Newmark, E. Poyoreno, Juan Sepulveda, Cyrus Lyon, Robert S. Baker, and Arcadia B. de Baker; and each and every one of them is a material and necessary witness for my defense on the trial of this cause, as I am advised by my said counsel, and verily believe, and that without the testimony of each and every one of said witnesses, I can not safely proceed to the trial of this cause, as I am also advised by my said counsel, and verily believe.

VI.

That each and every one of said witnesses resides in the County of Los Angeles, State of California.

VII.

The facts which I expect to prove by said witnesses are as follows, to wit:

2 That Pio Pico, neither by himself or with Robert S. Baker, Ed-



ward F. Beale, Sanford Lyon, Juan Foster, or Francisco P. Foster, or otherwise or ever or at all discovered, located or claimed for mining purposes the tract of land described in the complaint; but on the contrary that said pretended discovery and location was fictitious and void, and that said Pio Pico, or any other person for or on his behalf, never took possession of said mining claim or worked the same in accordance with the local mining laws of said District, or of the mining laws of the United States.

That said Pio Pico never had any interest in said tract of land, either as discoverer, locator, or otherwise or at all.

Said defendants also expect to prove by said witnesses that said Robert S. Baker never made any of the representations alleged in said complaint to the said Pio Pico or to any other person whomsoever.

Also that said Pio Pico after making the said pretended location and claim set out in said complaint and long before the execution of the deed set forth in said complaint, abandoned said mining location, and had, and made no further claim thereto.

Also that the deed made and executed by the said Pio Pico on the 14th day of June, 1877, to Robert S. Baker was made for a good, valuable and sufficient consideration and not for the purpose of correcting the deed previously made by said Pio Pico to Robert S. Baker but on the contrary said deed of June 14th, 1877, was made for the purpose of extinguishing any and all interest, apparent or otherwise which said Pio Pico then had in said property described in said complaint.

That by reason of the said notice of location referred to in said complaint and said declaration of trust, the said Pio Pico apparently had an interest in said property and that said deed of June 14th, 1877, was for the purpose of quitclaiming to the said R.S.



Baker and conveying to him any and all interest which said Pio Pico had in said property by reason of said declaration of trust or otherwise, whether apparent or real, and not otherwise.

Also that the said Pio Pico is not now and never has been entitled to any account from defendants or either of them for any of the transactions set out in said complaint.

Also that neither the said R. S. Baker or the California Star Oil Works Company or any person whomsoever mentioned in the complaint ever conspired and confederated together to cheat and defraud the said Pio Pico out of his interest in said Pico Oil Springs Mining Claim, or out of his proportionate share of the products thereof, or that they ever did defraud or cheat the said Pico out of any of his interest in said property described or referred to in the complaint.

That there never was any such conspiracy as set forth in said complaint; and that said R. S. Baker and his co-tenants never fraudulently conveyed the property or any portion thereof mentioned in the complaint.

Also that none of the acts and transactions of the defendants or either of them referred to in said complaint were fraudulent or in pursuance of any conspiracy whatever.

Also that the plaintiff in said action has no interest in the subject matter of the action whatever, and that said Pio Pico never duly sold, assigned or transferred any interest whatever which he is alleged to have had in said Pico Oil Springs land to the plaintiff in said action.

Also that said Pio Pico can not be believed under oath.

Defendants also expect to prove by the records of the United States Land Office located at Los Angeles, as well as by the records of the San Fernando Petroleum Mining District which are located in



the County of Los Angeles, State of California, that the pretended locations made on the part of Pio Pico were never perfected; that he abandoned any interest which he might have had thereunder; and that he never complied with the mining laws of the United States in relation thereto or with the local rules and regulations in said mining district.

That said defendants will also be compelled to refer to and use in evidence the original records in the office of the County Recorder of the County of Los Angeles, which are located in the City of Los Angeles, County of Los Angeles, State of California, to establish the fact that said Pio Pico never had any real interest in said mining location.

That the transactions between Robert S. Baker and the California Star Oil Works Company were in good faith and <sup>that they</sup> did not cheat, wrong or defraud the said Pio Pico.

That said defendants will also be compelled to refer to and use upon the trial of this action the original files and records of the United States Land Office located in the City of Los Angeles, County of Los Angeles, State of California, and of the said San Fernando Mining District which is also located in said Los Angeles County, for the purpose of disproving the allegations made in said complaint with reference to the interest or pretended interest of the said Pio Pico and of the plaintiff in this action in the property described in the complaint.

Sworn and subscribed to before me  
this 23rd, day of February, 1887.

*Robert S. Baker*

*Aracida Pau Baker*

*H. W. O'Malley*

Notary Public.



No. 19531.  
Superior Court,  
CITY AND COUNTY OF SAN FRANCISCO,  
State of California.

Dept. No. 3

Juan M. Lugo

Plaintiff

vs.  
Robert S. Baker  
et al.

Defendant

Notice of motion for change of  
venue of depts. R. S. and A. Baker, de-  
mand and consent to, and affidavit  
in support thereof

Due Service of within .....  
admitted this 9<sup>th</sup> day of

188

Attorney for

Filed

Wm. J. RUDDICK,

Clerk.

By

D. F. Linnell

Deputy Clerk.

Wells, Van Dyke and Co.,  
City and County of San Francisco,  
Los Angeles, Cal.

Service of within notice of motion, demand  
of depts. R. S. and Arcadia Baker and demand of depts. Cal  
Star Oil Wks Co., consent, and affidavit hereby admitted  
this ninth day of March, 1887.

J. J. Horn  
Atty for plaintiff