

1954

Walter F. Morgan et al v. Bert Sorenson et al : Brief of Respondents

Utah Supreme Court

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Eldon A. Eliason; Attorney for Appellants;

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IN THE SUPREME COURT of the STATE OF UTAH

WALTER F. MORGAN, HAROLD T. MORGAN, GEORGE CROMAR, LESLIE CROMAR, WILLIAM CROMAR, EUGENE CROMAR, and ARLENE CROMAR GEAR,

Plaintiffs and Respondents,

— vs. —

BERT SORENSON, DICK WIND, MRS. BERT SORENSON, and MRS. DICK WIND,

Defendants and Appellants,

— AND —

VERRUE THEOBALD, Administrator of the Estate of James T. Morgan, Deceased; VERRUE THEOBALD, Administrator of the estate of Frank A. Cromar, Deceased; Mrs. Frank Cromar, whose true and correct name is otherwise unknown; JOHN BARNARD, and HAROLD EVANS,

Cross-Defendants and Respondents.

Case No.
8153

FILED
JUN 19 1954
Supreme Court, Utah.

BRIEF OF RESPONDENTS

Appealed from the Fifth Judicial Court in and for
Juab County, Utah, Hon. Will L. Hoyt, Judge

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NARD, and HAROLD EVANS,

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BRIEF OF RESPONDENTS

STATEMENT OF CASE

This action was begun by the named plaintiffs upon
an ordinary complaint to quiet title to the Black Jack

Lode Mining Claims numbered 1 to 5 inclusive, situated in Erickson Mining District, Juab County, Utah, against the named defendants. Paragraph 1 of the complaint (R.) alleges:

“That the plaintiffs Walter F. Morgan and Harold T. Morgan are the only surviving heirs at law of James Morgan, also known as James T. Morgan, deceased; and that plaintiffs George Cromar, Leslie Cromar, William Cromar, Eugene Cromar and Arlene Cromar Gear are the only surviving heirs at law of F. A. Cromar, deceased.”

Defendants came into court with a motion for extension of time in which to answer (R.) supported by an affidavit (R.) in which it is alleged:

“That more particularly the affiant herein (Eldon A. Eliason) herein has been unable to find any record, after careful search, of the appointment of an administrator or executor in either the estate of James T. Morgan or F. A. Cromar, both deceased, and both original locators on whom the plaintiffs make their purported claim. That there is no record of conveyances before death which would divest these individuals, their heirs or creditors of interest in the mining property described in the complaint. There is no order establish heirship of either of the deceased locators.”

The order was granted, and some time after which the named defendants filed their Answer and Cross-Complaint wherein they allege: (R.)

“1. That Verrue Theobald is the duly appointed, qualified and acting administrator of the

estate of James Morgan, also known as James T. Morgan, deceased.

“2. That Verrue Theobald is the duly appointed, qualified and acting administrator of the estate of F. A. Cromar, also known as Frank Cromar, or Frank A. Cromar, deceased.”

And in which cross-complaint defendants claim to be owners of the Black Queen Lode Mining Claims numbered 1 to 5, inclusive, and Johnny Boy claim, which claims covered approximately the same area covered by the Black Jack Claims, and allege that the Black Jack Claims were by the plaintiffs and their grantors and locators abandoned and forfeited prior to the location by the defendants; and that the required labor and improvements were not performed upon the Black Jack Claims for any year since 1948. (R.) And also say that Verrue Theobald as such administrators, are parties who have, or may have some right title or interest in and to said mining property, etc.

Pursuant to a pre-trial a Pre-trial Order was made in which the premises on which the issues herein are stated as follows: (R.)

“4. The plaintiffs claim that said Black Jack locations were valid and subsisting locations at the time of the attempted location of said mining ground by the defendants, and claim that assessment work upon said Black Jack claims was made for the assessment year ending July 1, 1950.

“5. The plaintiffs claim that the mining ground embraced in the mining claims under

which the defendants claim, to wit: Black Queens . . . and Johnny Boy, was not open to location at the time of location by the defendants, and that each and all of said claims are invalid.

“6. The defendants and cross-complainants claim that the plaintiffs and their predecessors have failed to do any assessment work upon the Black Jack claims at any time since the year 1949, and that the ground embraced in the Black Jack Claims was therefore open to relocation at the time of defendants claims, to wit June 21, 1951.”

Upon the issues arising from such premises the parties went to trial, P. N. Anderson appearing for the plaintiffs and cross-defendants Verrue Theobald, administrator of the estate of James Morgan, deceased and Verrue Theobald, administrator of the estate of Frank Cromar deceased. (R.) Default of defendants Harold Evans and John Barnard was entered. (Tr. 2)

In order to more concisely and clearly argue our position we deem it necessary to make a statement of facts and set forth substantial parts of the evidence which support the Findings of Facts made by the Trial Court.

STATEMENT OF FACTS

Walter F. Morgan and Harold T. Morgan are sons of the late James Morgan or James T. Morgan and the named Cromars plaintiffs were the only surviving heirs at law of Frank Cromar. (Tr. 2-3-4) Amended locations for Black Jack Claims 1 to 5 inclusive (Ex. 2 to 6) were

made in 1930 by James Morgan and Frank Cromar, and the location notices for claims 1 to 4 inclusive were prepared by Arthur A. Miller, a mineral surveyor, and which depict how the claims were staked and marked with 4" by 4" corner posts. Over the course of the ensuing years the claims were worked and held by said Morgan and Cromar. One, D. H. Evans, performed work and improvements under a lease (Ex. 9; Tr. 223) upon the Black Jack claims, which provided that he should so do. (Par. 5)

On April 10, 1949, James Morgan executed and delivered a quit claim deed (which was not recorded until in 1951, Ex. 7; Tr. 2) to his aforementioned sons; but continued his efforts upon the claims until the month he died, November 26, 1949. On July 8th, 1949 he made as co-owner and had recorded a notice of intention to hold under the Congressional Act Public Law 107. (Ex. 8; Tr. 222) That the plaintiffs claimed the benefit of that Act and to have the work and improvements made upon said claims between July 1, 1948 and July 1, 1949, credited upon and for the assessment year July 1, 1949 and July 1, 1950. (Tr. 229-294-295)

WALTER F. MORGAN testified:

“Q. What comment was made by your father at the time he gave this (deed) to you?

A. His exact words I don't remember, but he just wanted us to have all of his personal holdings because he was getting old.”

The consideration was only one dollar. James Morgan died November 26, 1949.

O. H. EVANS, for plaintiff, testified: He had a lease on the Black Jack claims dated May, 1948 (Ex. 9; Tr. 223-224) That between July 1, 1948 and July 1, 1949, he did work and made improvements upon the claims, particularly he sank a winze at the end of the tunnel from a depth of 20 feet to 70 feet, approximately 50 feet. About \$6000.00 was spent by Evans and associates under the lease. (Tr. 225 to 229) He mined and shipped some commercial ore; about 8 inches of high grade lead-zinc ore in bottom of winze. Fighting water made for big cost in operation; it comes up from every direction; have to keep it pumped down. (Tr. 230-231) Ernest P. Lancaster and others were employed in the work July 1948 to July 1, 1949. (Tr. 234) The water raised about 2 feet per minute, 48-49 wet winter. (Tr. 242) The ground upon which pumped water is delivered is gravel and shale; water sinks in; no chance to spread out from ravine; no mud—sinks right in. Water pumped from winze to level of tunnel and runs out through tunnel—not piped. (Tr. 251-252).

He and others did work on claims about July 7 to 16th, 1949 in Tunnel on Black Jack No. 1 (This is the main tunnel) Three men helped. Pumped out winze at end of tunnel; installed stalls, sills, and head boards to hold ground in case of future operations. Five days of 24 hours for pumping and 1 day timbering between 50 feet and 70 feet down winze. Most of timbers were obtained from James Morgan, who had quite a lot. Retail price

would be quite high. Purchased gasoline, one check \$98.38. Work required 36-8 hour shifts, at standard miners' wages of \$10.85 per shift. (Tr. 225-228)

Thirty-six 8 hour shifts at \$10.85 per shift is \$390.60; gasoline \$98.38, and while we find no price on timbers they would come quite high and at least \$11.02; making a total of \$500.00 within the assessment year July 1, 1949 and July 1, 1950. (Tr. 226-228)

ERNEST P. LANCASTER, for plaintiffs, testified: He worked with others for Evans between July 1, 1948 and July 1st, 1949 on Black Jack claims, back in winze at end of main tunnel; water in winze, chased him out several times in 48-49; work—sinking winze, skidding and tramping waste, timbering and blasting. (Tr. 272-273) Around middle of July, 1949, sawed timbers for use in Black Jacks. (Tr. 274) He and all went down (from the mines) for the 4th of July. (Tr. 281)

VICTOR BRAY, for plaintiffs, testified: Was acquainted with James Morgan, who died latter part of November, 1949. Knew the Black Jack claims. Went with Morgan on claims the first time the latter part of July, 1949; again about middle of September, and again the first part of November, 1949. Stayed three days each time. They cleaned around track and dug ditches for drainage for winze inside tunnel. (Tr. 253-55-57) Morgan was not a very well man. (Tr. 258) Water was running out of mouth of tunnel; it showed that there had been

more water than there was running out, because water had run over the track (in tunnel). (Tr. 258-260) Settlement for time—Morgan called it even on account owing him by Bray for loans, and paid Bray \$30.00 cash. (Tr. 255)

RAY SPAR, for defendant, testified: Considered himself a mining engineer, and had in December 1941, gone on the Black Jack property with James Morgan who pointed out to Spar the working (tunnel) and Spar learned of the shaft and water at end of tunnel, and became interested in property. Went on property three times in Dec. 1941 and Feb. 1942. (Tr. 142) The next time Spar went on Black Jacks in 1945 and then in 1949; and in interim a new winze had been sunk, he observed on July 3rd 1949. Morgan told him in 1941 good ore was in the bottom—62% lead. He saw ore in bin. (Tr. 145-146-176) Morgan told me it came out of the winze. (Tr. 174) Morgan pointed out markers to him and said property had been surveyed. (Tr. 185) The road up to tunnel was same July 3, 1949 as when he first went up with Morgan, no change. (Tr. 147) In 1945 Morgan had ore in bin, Spar observed. (Tr. 149) Spar and Sorenson had claims located together in the Erickson Topaz District. On the first trip on Black Jack claims in July 1949 Sorenson was with him. (Tr. 174-175) Spar went again on claims

First time in July, 1949, water was up to level of tunnel and running from tunnel; there was evidence at one time previous the water had been pumped out, but

how long before he could not say; could see where water had been running down the hill on the outside, indicating some activity in way of pumping prior to July, 1949. (Tr. 178-179) As of July 2 or 3, the markings which indicated there probably had been an air compressor set up beside the tunnel were such to indicate it had probably been within a month previous to that. (Tr. 199) July 3rd, 1949, he and Sorenson followed the road and walked up. (Tr. 180) Sorenson never paid Spar for services at any time and owes Spar nothing. (Tr. 173)

BERT SORENSON heretofore referred to as Sorenson, defendant, testified: First time he was on Black Jack claims was about July 3, 1949. (Tr. 18) He with Ray Spar went into tunnel and at end observed a pond of water and ore showings. Saw other improvements on claims—a drift on No. 5; other workings on No. 4 (Tr. 21-233-23) He saw markers 4" by 4" and piles of rock. (Tr. 25-26) An ore bin had been constructed and a road made up to the bin. (Tr. 33) He did not remember if water was running out of tunnel July 3, 1949. (Tr. 116) He could not say the road up to the tunnel site had not been used; it was traversible by a touring car; it could have been used in the past. (Tr. 123-124)

He went on Black Jack ground July 3, July 20 and October 10, 1949, to either locate it or lease it. He did not know who had the claims; did not try to find out; and did not know the ground was Black Jack claims. He did not know ore (on ground) had any value. (Tr. 113-114)

And Ray Spar was with him. (Tr. 20) (See Spar's testimony in connection herewith) He knew in 1950 by whom Black Jack Claims were claimed (Tr. 114) but did not attempt to contact claimants. (Tr. 115) The Tunnel was 300 feet to 400 feet in length. (Tr. 21) A cabin and the ore bid is near mouth of tunnel. (Tr. 107) The road goes up a gulch, up a ridge, turns back down through a swale and stops at cabin. (Tr. 113) Sorenson never paid Spar for anything; they prospected together here and there. (Tr. 140)

STATEMENT OF POINTS

POINT 1.

The evidence is sufficient to sustain the finding that neither the plaintiffs or their predecessors abandoned or ceased to claim ownership of the Black Jack Claims after the locations thereof.

POINT 2.

That the evidence is amply sufficient that there was at least \$500.00 worth of labor and improvements performed upon the Black Jack claims between July 1, 1948 and July 1, 1949, for and on account of plaintiffs and predecessors in interest.

POINT 3.

That the evidence fully justified the finding that the quit-claim deed from James Morgan to his sons was intended as a deed of gift and to take effect upon death of grantor and that James Morgan had sufficient interest in the claims to authorize him to effectively make and file the Intention to hold Mining Claims under Public Law 107 of the 81st Congress as shown by plaintiffs' exhibit '8'.

POINT 4.

That plaintiffs were entitled to invoke the benefit under said Public Law 107 to have credit for the work and improvements performed between July 1st, 1948 and July 1, 1949, applied to and for the assessment year July 1, 1949 to July 1, 1950.

POINT 5.

That the issues involved did not require proof of the required assessment work subsequent to July 1, 1950.

ARGUMENT

POINT 1.

The amended location notices depict 4" by 4" markers having been used. Spar said Morgan pointed out corners and said the claims had been surveyed. After 19 years Sorenson himself identified some of such markers. The fact that he could not locate more corners or monuments than he did is no evidence of abandonment.

In JUPITER MINING CO. vs. BODIE MINING COMPANY, 4 Morrison Mining Rep. 411, 11 Fed. 666, one of the oldest leading cases and which has been followed by many others, says:

“After a location has been lawfully made, the right of the locator cannot be divested by the mere obliteration of the marks or monuments or removal of the stakes without his fault, he having performed the other acts required by the Statute.”

POINT 2.

Defendants' evidence as to the work and improvements on the claims is principally that the witnesses did not see or observe any, reminding us of the case of CHAMBERLAIN vs. MONTGOMERY, (Utah 1953) 261 Pac. 2nd 942, wherein it appears that the would be claim jumper hired an engineer to make observations as to any work that might be performed upon the desired claims, and who reported and testified that only three days work had been done within the assessment year, but in which case it appears that the workmen had back filled with muck after their working period obstructing from the view of trespassers the inside working which showed a good vein of ore. In that case the Court said:

“... the trial Court's findings that the work was in fact done during the questioned year, whether or not it was easily discoverable by appellant, supports the conclusion that the respondents retained their prior claim.”

In the case at bar we have the testimony of two dis-

interested witnesses (at the time of trial) who had been engaged in the work of sinking the additional 50 feet of winze at the end of the main tunnel on Black Jack No. 1, at a cost of about \$6000.00, cost being high because of the water pumping. One tenth of that figure was sufficient, and then there was additional work done after July 1 1949 to apply for the year July 1, 1949 to July 1, 1950, with the carry-over under public law 107 Act of Congress. The track in the tunnel evidently was in good shape as far as any proof to the contrary. The road up to the tunnel was traversible by a touring car. And defendants' witness Spar testified that on July 3, 1949 there was evidence that water had previously been pumped out, because he could see where water had been running down the hill on the outside of the tunnel, which indicated some activity in the way of pumping; and certainly such physical evidence must have been made after the spring thaw. And he also said that the markings which indicated there probably had been an air compressor set up beside the tunnel were such to indicate it had probably been within a month previous to that—July 3, 1949.

The burden of proof is upon the party alleging that the work was not done—And the proof should be clear and convincing.

40 C. J. 845, page 303;

Morrisons Mining Rights (16th Ed.) 130; and numerous cases.

After reciting the evidence in CHAMBERLAIN vs.

MONTGOMERY, *supra*, the Court said:

“This certainly was sufficient evidence of the fact that the work was done and this Court cannot pass on the credibility of the witnesses before the lower Court.”

That quotation certainly applies in this case with reference to the countenance and evasiveness of defendant Sorenson when he testified that he did not know of the Black Jack claims or who the holders were July 3, 1949, when he went with Spar, mining engineer, who knew very much about the claims, and both were interested in leasing or locating the claims; or when he, Sorenson was questioned as to the condition of the road to the tunnel, what he observed at the end of the tunnel, and as to other workings on the claims which he apparently tried to avoid testifying to. (Tr. 120-122) There can not rationally be any doubt but what Sorenson, prospecting with Spar, who knew about the Black Jack claims from Morgan as far back as 1941 where they were located and had been surveyed, that there was good ore at bottom of winze, saw ore in bin, and told that some went 62% lead, knew about these claims and the owners thereof, and conceived a bright picture of becoming the owner rather than lessee thereof.

“As a general rule of law, forfeitures are not favored.” JUPITER MINING CO vs. BODIE MNG. CO., *supra*.

In BETTS vs. STEPHENSON, 223 Pac. 2nd 651, (Calif.) it is said:

“A forfeiture of a mining claim for failure to do the annual work can be established only upon clear and convincing proof of such failure. (Citing cases) Every reasonable doubt will be resolved in favor of the validity of a mining claim as against the assertion of a forfeiture.” Citing Thornton v. Karfman, (Mon.) 106 Pac. 361.

In NEW MERCUR MNG. CO. vs. SOUTH MERCUR MNG. CO., 102 Utah 131, 128 Pac. 2nd 269, the Court says:

“Law does not favor forfeitures, and hence ordinarily the party claiming forfeiture of a title must plead and establish it by clear and convincing proof.”

The same rule prevails generally, and in LUCKY 5 MNG. CO vs. CENTRAL IDAHO PLACE MNG. CO. (Idaho) 235 Pac. 2nd 319 it is held:

“If trial Courts’ findings are sustained by competent, substantial though conflicting evidence, they will not be distributed on appeal.”

To the same effect is PEASE vs. JOHNSON, ET AL., (Calif.) 235 Pac. 2nd 229.

That assessment work and improvements might be made by a lessee is not disputed; and so held in NEW MERCUR MNG. CO. vs. SOUTH MERCUR MNG. CO., *supra*.

The evidence also discloses the work done after

July 1st, 1949, by Evans and others, and Bray and Morgan upon the claims. The work done by Evans was done before he terminated his lease. According to the testimony 36 shifts of 8 hours were put in by Evans and crew in July, 1949, pumping and timbering in the winze, at standard miners' wages of \$10.85 per shift, or \$390.00; gasoline \$98.38; and certainly the timbering material for which there was no figure given, but would run quite high, would make up \$11.02; making a total of \$500.00. This evidence is not refuted except by testimony of defendants' that they did not observe evidence of it on July 20th, 1949, when Sorenson and Spar went out. But an examination of their testimony in this case will lend considerable credence to the testimony of plaintiffs' witnesses

It is significant that Evans, in July, drained the winze so he could timber down between the 50 feet and 70 feet depth in case of future operations; and then the latter part of July Morgan and Bray went out and cleaned up along the track in tunnel and cleaned out the water drain trench. And for this work Bray received credit in full for loans theretofore had from Morgan, and was paid \$30.00.

So aside from the carry-over credit of the previous year to the assessment year July 1, 1949 to July 1, 1950, there was the required amount of work performed in and for the latter year.

POINTS 3. AND 4.

The findings and conclusions of the Court are fully supported by the evidence and law as to the deed.

When James Morgan made and gave the quit-claim deed to his sons, consideration only one dollar, he wanted them to have his holdings, Morgan was getting old, and as witness Bray stated, Morgan was not a very well man. Morgan wanted his sons to have his holdings after his death. This conclusion is fully justified by the fact that Morgan continue his interest in the claim up until the first part of the month he died, November 26, 1949. He wanted to see to it that his sons did receive his holdings with all the benefits attached thereto; so he made and recorded the notice of intention to hold under Public Law 107, as CO-OWNER. Morgan continued his interest toward work and improvement upon the claims, going upon the claim at three different times and contributing his efforts—a man of his advanced years and paying out his cash. He furnished timber for Evans in July, 1949. No court or jury could or would hold that Morgan was a stranger or trespasser upon the claims, if such were an issue under the state of facts herein. Morgan made and filed the notice to hold as co-owner. He was a co-owner with the other owners, a co-tenant. He was a claimant, as the word is intended to mean as used in Public Law 107. He had an interest in the claims, and his interest was recognized by the sons in withholding the recording

of the deed until after his death. Regardless of the testimony of Morgan or his claim it is most evident that James Morgan did intend to retain control and right of possession and occupancy of the property after the deed was made, for that is what he did, and which negatives the idea that in legal effect there was complete delivery to pass title.

As to the effect of the delivery of the deed it is stated in 18 C. J. 198, after stating the general rule:

“The question of whether or not there has been a delivery must therefore be determined upon the facts of each particular case, and although certain principles are generally applicable, they do not furnish conclusive rules under all circumstances.”

Supporting this text is the case of *ALWARD vs. LOBINGIER*, 87 Kan. 106, 108, 123 P. 867, holding that—

“Principles which correctly solve the particular problem presented are sometimes stated in the form of general rules, which do not admit of universal application.”

And in *GAYLORD vs. GAYLORD*, 150 N. C. 222, 63 S.E. 1028, it was held:

“It is a familiar principle that the question of the delivery of a deed or other written instrument is very largely dependent on the intent of the parties at the time and is not at all conclusively established by the manual or physical passing of the deed from the grantor to the grantee.”

The Court in *WEIGAND vs. RUTSCHKE*, 253 Ill. 260, 97 N.E. 641, held:

“The mere placing of a deed in the hands of the grantee does not necessarily constitute a delivery. The question is one of intention whether the deed was then intended by the parties to take effect according to its terms.”

Incidentally we might quote counsel for defendants when the deed was offered in Evidence:

“MR. ELIASON: Your Honor, I am going to object to the receiving of Exhibit 7 on the ground that it is invalid, there is no proper grantee shown in the instrument, and of course no witnesses shown on the instrument, and I believe that because of two persons named as grantees, with the “and” and “or”, it doesn’t amount to a valid instrument, and I am going to object to it. MR. FINLINSON: On the further ground that it doesn’t describe the property in question.” (Tr. 10)

Even though the deed was and is invalid and that there was no complete delivery and transfer of title intended the Morgan plaintiffs succeeded to the interest of their father upon his death.

The case of *JUPITER MNG. CO. vs. BODIE MNG. CO.*, supra, was removed from the State Court (California) to the Circuit Court of the United States, where it was tried by a jury. Action in trespass—in which defendant pleaded title to the locus in quo. The reports of this case seem to set out the instructions given to the

jury, but it has been extensively cited and followed as the law. It is said, as applicable to the case at bar:

“Work done by any of the grantors of defendant while holding the claim, whether holding the legal or equitable title, during the performance of the labor or work, is available to preserve the claim, and no mere relocation for forfeiture, made before the forfeiture actually attached by actual default, would be valid to defeat the claim.”

And we believe that upon an issue as to the validity of the deed between the Morgan sons and the estate of James Morgan, deceased, and based upon the competent evidence reflected in this case, the Court would hold the title did not pass from James Morgan, and that certainly was the view of Eldon A. Eliason when in the affidavit for extension of time in which to answer he said: “That there is no record of conveyance before death which would divest these individuals (James T. Morgan or F. A. Cromar), their heirs or creditors of interest in the mining property described in the complaint . . .” and he could find no record of appointment of an administrator for either of the deceased locators; then proceeded to have appointments made and the administrators made parties to this action.

And thus, the benefit of the extension Act Public Law 107 would enure to the successors in interest.

POINT 5.

The defendants' locations were attempted in June

1951. The issue involved was as to work and improvements in and for the years July 1, 1948 to July 1, 1949, and July 1, 1949 and July 1, 1950. Sufficient work and improvements having been performed and creditable for such years made the attempted locations of defendants premature, ineffective and invalid.

The materiality of work and improvements performed after July 1, 1950, would go to the point of refuting the allegations of abandonment of the property; and the record is clear as to additional work and improvements done after that date.

CONCLUSION

Surely in a case such as this, when the record reflects more than 19 years of effort and expenditures by the locators showing the work and improvements upon the claims as related in the evidence, and in view of the evidence amply supporting the trial court's findings and the conclusions being consistent therewith, now, when there appears prospects for reward to the heirs of the locators, who undoubtedly made sacrifices and contributions in the course of those years, this Court will, in the spirit of the Courts in the past as expressed in the cited decisions, affirm the judgment herein; and not reward an opportunist who went upon the claims the day before the FOURTH of July, 1949, with one, Spar, who knew the claimant Morgan and had learned about and locations of

the claims and their prospective value, ostensibly for the purpose of leasing but never contacting the owners.

Respectfully submitted,

P. N. ANDERSON &

EKSAYN ANDERSON

Attorneys for Respondents

By (S) P. N. ANDERSON

One of counsel.