



Defendants' Answer

Lena P. Kneubuhl Folio

Estate and Court Documents

Opelle v. Adeline P. Kneubuhl Trust et al

HCCA No. 50-04

Answer to Complaint

Filed June 24, 2004

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8 IN THE HIGH COURT OF AMERICAN SAMOA

9 TRIAL DIVISION

10 FRANCES OPELLE,
11)
12 Plaintiff,
13 -vs-)
14 ADELINE PRITCHARD KNEUBUHL,
15 LAND TRUST, MARGARET K.
16 LANDRIGAN, BENJAMIN F.
17 KNEUBUHL, HR., DOUGLAS C.
18 KNEUBUHL, HEIRS OF JOHN
ALEXANDER KNEUBUHL, ALFRED J.P.
KNEUBUHL,
Defendants.

HCCA NO. 50 - 2004
ANSWER TO COMPLAINT FOR
DECLARATORY RELIEF AND
AFFIRMATIVE DEFENSES

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20 Defendants, Benjamin F. Kneubuhl, Jr., Margaret K. Landrigan and Gilian Robin Kneubuhl

21 Roush sued herein as one of the Heirs of John Alexander Kneubuhl, for themselves only, admit,
22 deny, respond and otherwise plead to Plaintiff's Complaint as follows.

- 23 1. Defendants admit that Plaintiff purports to bring her action under A.S.C.A.
24 §43.1101 as alleged in paragraph 1 of the Complaint.
25 2. Defendants admit on information and belief that Plaintiff, Frances Opellee (sic) is a
26 resident of San Juan Capistrano, California as alleged in paragraph 2 of the Complaint.
27 3. Defendants admit that Plaintiff is the daughter of Adeline Pritchard Kneubuhl,
28

HIGH COURT OF AMERICAN SAMOA
Clerk's Office
FILED TIME: 1:40 p.m.
E.J. 6/24/04
ROBERT L. GORNIAK
CLERK OF COURTS

1 deceased, as alleged in paragraph 3 of the Complaint. In response to the remaining allegations set
2 forth in Paragraph 3 of the Complaint to the effect that Plaintiff is "an heir to her late mother's
3 estate", this allegation contains a legal conclusion for which no response is deemed necessary. To
4 the extent that a response is deemed necessary, Defendants deny each and every remaining
5 allegation in paragraph 3.

6 4. In response to the allegations set forth in Paragraph 4 of Plaintiff's Complaint,
7 Defendants admit that Exhibit "A" attached to Plaintiff's complaint speaks for itself. Except as
8 expressly admitted herein, Defendants deny the remaining allegations in paragraph 4 of the
9 Complaint.

10 5. In response to the allegations set forth in Paragraph 5 of Plaintiff's Complaint,
11 Defendants admit that Exhibit "B" attached to Plaintiff's complaint speaks for itself. Except as
12 expressly admitted herein, Defendants deny the remaining allegations in paragraph 5 of the
13 Complaint..

14 6. Defendants admit the allegations set forth in paragraph 6 of Plaintiff's Complaint.

15 7. Defendants lack sufficient information and belief to either admit or deny the
16 allegations of Paragraph 7 of Plaintiff's Complaint and therefore deny these allegations for lack of
17 information and belief.

18 8. Defendants admit that the beneficiaries have not appointed a trustee to handle the
19 trust as alleged in paragraph 8 of Plaintiff's Complaint. Except as expressly admitted herein,
20 Defendants deny the remaining allegations set forth in paragraph 8 of Plaintiff's Complaint.

21 9. Defendants lack sufficient information and belief to either admit or deny the
22 allegations set forth in Paragraph 9 of Plaintiff's complaint and therefore deny the allegations for
23 lack of information and belief.

24 10. Defendants lack sufficient information and belief to either admit or deny the
25 allegations set forth in Paragraph 10 of Plaintiff's complaint and therefore deny the allegations for
26 lack of information and belief.

27 11. In response to the allegations set forth in Paragraph 11 of Plaintiff's Complaint,
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1 these answering Defendants deny that any of them were contacted by Plaintiff concerning any
2 assignment of interests in the trust land for "fair market value". In further response to Paragraph
3 11 of Plaintiff's Complaint, these answering Defendants lack sufficient information and belief to
4 either admit or deny that any of the other siblings or heirs were approached concerning an
5 assignment of Plaintiff's interest in the trust land as alleged in Paragraph 11 and therefore deny
6 these allegations for lack of information and belief.

7 12. In response to the allegations set forth in Paragraph 12 of Plaintiff's Complaint,
8 Defendants refer to and incorporate herein by reference their previous response to paragraph 11,
9 above, as though fully set forth at this point. In further response to the allegations in Paragraph 12
10 of Plaintiff's Complaint, these answering Defendants lack sufficient information and belief to either
11 admit or deny the allegations in Paragraph 12 concerning the other siblings and heirs and therefore
12 deny these allegations for lack of information and belief.

13 13. In response to the allegations set forth in Paragraph 13 of Plaintiff's Complaint,
14 these answering Defendants refer to and incorporate herein by reference their previous responses to
15 paragraph 11 and paragraph 12, above, as though fully set forth at this point. In further response to
16 the allegations of Paragraph 13 of Plaintiff's Complaint, Defendants lack sufficient information and
17 belief to either admit or deny the allegations concerning the other siblings or heirs and therefore
18 deny these allegations for lack of information and belief.

19 14. Defendants lack sufficient information and belief to either admit or deny the
20 allegations set forth in Paragraph 14 of Plaintiff's complaint and therefore deny these allegations
21 for lack of information and belief.

22 15. In response to the allegations in Paragraph 15 of Plaintiff's Complaint, these
23 allegations contain legal opinions and/or legal conclusions for which no response is deemed
24 necessary. To the extent that a response is required, Defendants deny the allegations contained in
25 Paragraph 15 of Plaintiff's Complaint.

26 16. In response to Paragraph 16 of Plaintiff's Complaint, Defendants lack sufficient
27 information and belief to either admit or deny what Plaintiff "believes" and therefore deny,
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1 generally and specifically, the allegations in Paragraph 16.

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3 AFFIRMATIVE DEFENSES

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5 As their first separate and distinct affirmative defense, Defendants allege that the complaint
6 fails to state a claim upon which relief can be granted.

7 As a second separate and distinct affirmative defense, Defendants allege that the actions,
8 conduct and/or the statements of Plaintiff are such that Plaintiff is barred from recovery by the
9 equitable doctrine of "unclean hands".

10 As a third separate and distinct affirmative defense, Defendants allege that the actions,
11 conduct and/or the statements of Plaintiff are such that Plaintiff is barred from recovery under the
12 equitable doctrine of "estoppel".

13 As a fourth separate and distinct affirmative defense, Defendants allege that the actions,
14 conduct and/or the statements of Plaintiff are such that Plaintiff is barred from recovery under the
15 equitable doctrine of "waiver".

16 As a fifth separate and distinct affirmative defense, Defendants allege that the actions,
17 conduct and/or the statements of Plaintiff are such that Plaintiff is barred from recovery under the
18 equitable doctrine of "laches".

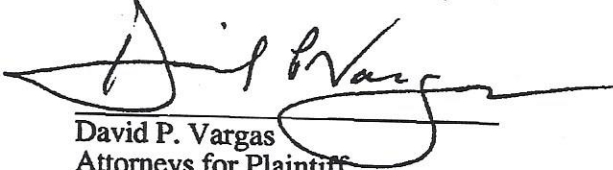
19 As a sixth separate and distinct affirmative defense, Defendants allege that the claimed relief
20 is barred by A.S.C.A. §§43.0120(5), (6) and (7).

21 As a seventh separate and distinct affirmative defense, Defendants allege that relief
22 requested is governed by the Lena Pritchard Kneubuhl Trust and not a proper matter for the court's
23 determination.

24
25 WHEREFORE, Defendants pray that the complaint be dismissed, that Plaintiff's prayer for
26 relief be denied in its entirety and that Defendants be awarded the fees and costs necessarily
27 incurred in responding to the complaint. Defendants also request such other and further relief as
28 deemed just and appropriate under the premises.

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ROSE JONESON VARGAS, P.C.


David P. Vargas
Attorneys for Plaintiff

Dated: June 24, 2004

VERIFICATION

We, Benjamin F. Kneubuhl, Jr., Margaret Landrigan and Gilian Robin Kneubuhl Roush
aver, upon our oath, that we have read the foregoing answer to the complaint, that the allegations set
forth therein are true and correct to the best of our knowledge, information and belief, except as to
those matters based upon information and belief, which we believe to be true.

Dated: June 23, 2004


BENJAMIN F. KNEUBUHL, JR.

Dated: June ____, 2004

MARGARET K. LANDRIGAN

Dated: June ____, 2004

GILIAN ROBIN KNEUBUHL ROUSH

ACKNOWLEDGEMENT

On this 23rd day of June 2004, before the undersigned, a Notary Public in and for
the Territory of American Samoa, personally appeared BENJAMIN F. KNEUBUHL, JR., known
to me to be the persons whose name is subscribed to the within instrument, and acknowledged that
he executed the same for the intents and purposes set forth therein.




NOTARY PUBLIC
My Commission Expires: 12/31/2004

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ACKNOWLEDGEMENT

On this _____ day of June 2004, before the undersigned, a Notary Public in and for the County of _____, State of _____, personally appeared MARGARET K. LANDRIGAN known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that she executed the same for the intents and purposes set forth therein.

NOTARY PUBLIC
My Commission Expires:

ACKNOWLEDGEMENT

On this _____ day of June 2004, before the undersigned, a Notary Public in and for the County of _____, State of Connecticut, personally appeared GILIAN ROBIN KNEUBUHL ROUSH., known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that she executed the same for the intents and purposes set forth therein.

NOTARY PUBLIC
My Commission Expires:

06/23/2004 09:58 FAX

0000

Dated: June 23rd, 2004

MARGARET K. LANDRIGAN

Gilian Robin Kneubuhl Roush
GILIAN ROBIN KNEUBUHL ROUSH

ACKNOWLEDGEMENT

On this 23rd day of June 2004, before the undersigned, a Notary Public in and for the Territory of American Samoa, personally appeared BENJAMIN F. KNEUBUHL, JR., known to me to be

Dated: June 23rd, 2004

MARGARET K. LANDRIGAN

Gilian Robin Kneubuhl Roush
GILIAN ROBIN KNEUBUHL ROUSH

ACKNOWLEDGEMENT

On this 23rd day of June 2004, before the undersigned, a Notary Public in and for the Territory of American Samoa, personally appeared BENJAMIN F. KNEUBUHL, JR., known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that he executed the same for the intents and purposes set forth therein.

NOTARY PUBLIC

My Commission Expires: 12/31/2004

ACKNOWLEDGEMENT

On this _____ day of June 2004, before the undersigned, a Notary Public in and for the County of _____, State of _____, personally appeared MARGARET K. LANDRIGAN known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that she executed the same for the intents and purposes set forth therein.

NOTARY PUBLIC

My Commission Expires:

ACKNOWLEDGEMENT

On this 23rd day of June 2004, before the undersigned, a Notary Public in and for the County of New Haven, State of Connecticut, personally appeared GILIAN ROBIN KNEUBUHL ROUSH, known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that she executed the same for the intents and purposes set forth therein.

Phyllis D. Tucker
NOTARY PUBLIC

My Commission Expires: 10/31/04

Answer to Complaint – Opelle v. Kneubuhl, et al.

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- 5

PHYLLIS D. TUCKER
NOTARY PUBLIC
MY COMM. EXPIRES OCT. 31, 2004

VERIFICATION

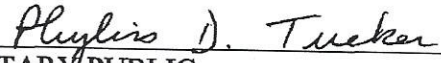
We, Benjamin F. Kneubuhl, Jr., Margaret Landrigan and Gilian Robin Kneubuhl Roush aver, upon our oath, that we have read the foregoing answer to the complaint, that the allegations set forth therein are true and correct to the best of our knowledge, information and belief, except as to those matters based upon information and belief, which we believe to be true.

Dated: June 23, 2004


GILIAN ROBIN KNEUBUHL ROUSH

ACKNOWLEDGEMENT

On this 23rd day of June 2004, before the undersigned, a Notary Public in and for the County of New Haven, State of Connecticut, personally appeared Gilian Robin Kneubuhl Roush, known to me to be the persons whose name is subscribed to the within instrument, and acknowledged that she executed the same for the intents and purposes set forth therein.


NOTARY PUBLIC

My Commission Expires: 10/31/04

Answer to Complaint - Opelle v. Kneubuhl, et al.

PHYLLIS D. TUCKER
NOTARY PUBLIC
MY COMM. EXPIRES OCT. 31, 2004