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IN THE HIGH COURT OF AMERICAN SAMOA

LANDS AND TITLES DIVISION

FRANCES OPELLE, et. Al,)	
)	
Plaintiffs,)	
)	
-vs-)	LT NO. 20-2013
)	
DOUGLAS C. KNEUBUHL,)	
)	
Defendant.)	
)	
)	

Before the Honorable Associate Justice **LYLE L. RICHMOND**;
presiding; and Associate Judges **MAMEA SALA, JR.**, and
TUNUPOPO ALAALAFAGA.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

held on

TUESDAY, OCTOBER 6, 2015

Juliana Ah Ching-Iosefo, CSR

1 A P P E A R A N C E S:

2

3 For Plaintiffs:

MR. FITI SUNIA
Attorney at Law
Pago Pago, AS 96799
(684) 699-7508

5

6

7 For Defendant MIKE KNEUBUHL:

MR. ROY J. D. HALL, JR.
Attorney at Law
P.O. Box 2506
Pago Pago, AS 96799

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11 For Defendant MARK KNEUBUHL:

MR. MARK KNEUBUHL
pro-se

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16

17 COURT CLERK:

CHRISTEL

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1 FAGATOGO, AMERICAN SAMOA; TUESDAY, OCTOBER 6, 2015; A.M. SESSION

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5 THE CLERK: Lands and Titles of the High Court of American
6 Samoa division is now reconvened.

7

THE COURT: LT 20-13 and Civil Action 28-13.

8

When you're ready, let's have your appearances.

9

MR. SUNIA: Good morning, Your Honor.

10

Fiti Sunia for the plaintiffs in both matters.

11

MR. HALL: Roy J D Hall, Jr., Your Honor, on behalf of
12 defendants except in the cases of Mark Kneubuhl.

13

THE COURT: What happened to him?

14

MR. HALL: He's here. He's representing himself.

15

THE COURT: Okay.

16

THE COURT: Well, if you're ready, let's have your opening
17 statements.

18

MR. SUNIA: Thank you, Your Honor.

19

Good morning.

20

Your Honor, these two consolidated matters are related
21 because at the core of the two disputes is the 1960 trust
22 created by Adeline Pritchard Kneubuhl conveying interest of land
23 to her children. This trust has been before the court
24 previously, and the court will recall that it was modified in
25 1969, and it was also sort of modified in 1982 by two separate

1 | agreements that the court previously found valid. And the
2 | latest ruling that the court made on this trust or relating to
3 | this trust was in 2006, but prior to that ruling and after that
4 | ruling, events occurred that the court will be hearing about
5 | today or over the course of this trial, and it made -- it's made
6 | it necessary to bring this trust and its modifications back
7 | before this court hopefully for the last time.

8 | The plaintiffs Frances Opelle and Ben Kneubuhl are
9 | children of Adeline Kneubuhl so is defendant
10 | Douglas C Kneubuhl. The other plaintiff Robin Kneubuhl is a
11 | granddaughter of Adeline Kneubuhl.

12 | The court will hear testimony from Robin Kneubuhl as
13 | well as Frances Opelle at least from the plaintiff's side. And
14 | essentially the facts will develop themselves through the
15 | testimony so I won't trouble the court with that in my opening,
16 | but I'd like to take the opportunity to try and set out for the
17 | court why we're here, why my clients are here.

18 | My clients seek to determine their rights and the
19 | extent of their rights under the 1960 trust and the effect of
20 | the 1982 settlement agreement on those rights.

21 | My clients also seek to determine the effect of the
22 | 2006 ruling by this court on the nature of the interests that
23 | were conveyed under this trust, and what it means for other
24 | transactions that occurred previously prior to the ruling and
25 | after the ruling.

1 Of particular interest of Frances Opelle, she's also
2 here to ask whether certain rules of common law and arguably
3 common decency permit the defendants to hold her land especially
4 her brother Mike Kneubuhl, Douglas Crane Mike Kneubuhl, whom she
5 consider to be her trustee.

6 The court will hear evidence on facts of the actual
7 sales, the actual pricings, the actual accountings, the actual
8 disposition. The court will hear evidence -- testimony on
9 nondisclosure of material facts and things of that nature.

10 In the end, based on the testimonies that the
11 plaintiffs intend to put forth notwithstanding the evidence
12 from the defendants, we anticipate that the court will find
13 sufficient evidence to hold in favor of the plaintiffs on all of
14 those grounds.

15 Thank you.

16 THE COURT: Mr. Hall, now or later?

17 MR. HALL: Yes, Your Honor.

18 THE COURT: Now.

19 MR. HALL: I'm prepared to do my opening statement.

20 THE COURT: Okay.

21 MR. HALL: Your Honor, if it pleases the court, this trial
22 arises out of consolidated cases filed by the plaintiffs
23 Robin Kneubuhl Roush, Frances Opelle and Benjamin Kneubuhl. And
24 the second case is plaintiff Frances Opelle by herself against
25 my clients, and we represent the defendants in both these cases,

1 Mike Kneubuhl, Doug Kneubuhl, Jr., Carrie Kneubuhl Eckert and
2 Kelly Kneubuhl Fultz. I'm not representing Mark Kneubuhl, as I
3 said earlier, but Mark Kneubuhl stands in the same transactional
4 events as Douglas Kneubuhl, Jr., who is my client for the
5 purpose of this trial for land that was purchased from their
6 aunt Frances Opelle.

7 THE COURT: Mark is a party; right?

8 MR. HALL: Excuse me?

9 THE COURT: Mark is a party to this action?

10 MR. HALL: Yes, and he's a party to the second case, Your
11 Honor.

12 The first case was filed by plaintiffs Robin, Frances
13 and Ben, and the plaintiffs in that case are asking that the
14 court enter declaratory relief as to the interpretation of the
15 Lena P. Kneubuhl land trust, and they're challenging the
16 transactions which impact on the trust.

17 The second case was filed by Frances Opelle, who wants
18 the court to grant declaratory relief, quiet title, injunctive
19 relief on lands -- as to the land Olo in the Lena trust and
20 breach of fiduciary duties and unjust enrichment concerning
21 other properties.

22 The defendants are asking the court to declare that
23 both these cases are subject to the forfeiture clause of the
24 1982 settlement agreement, and that the plaintiffs
25 Robin Roush, Kneubuhl Roush, Ben Kneubuhl and Frances Opelle

1 have violated the forfeiture clause by bringing or causing to
2 bring actions against the trust in violation of the 1982
3 settlement agreement, and that they forfeit their respective
4 shares in the -- in the trust, and those shares would be divided
5 among the remaining beneficiaries.

6 For background purposes, and this had been mentioned
7 by counsel, the Lena Pritchard Kneubuhl Trust on
8 August 15, 1960, established a land trust for the benefit of the
9 enjoyment of her children, share and share alike. The names of
10 the children in the trust are Alfred James Pritchard,
11 Benjamin Jr., John Alexander, Douglas Crane,
12 Margaret Kneubuhl Wood Landrigan, Frances Opelle, and if they
13 pass away, their shares shall go to their children. I don't
14 think that there's any -- any dispute that the children and
15 grandchildren of Lena Kneubuhl have less than 50 percent Samoan
16 blood.

17 The Fono created an exception to restrictions to
18 alienation of land to allow the establishment of trust for
19 children who are married to non Samoans or their children who
20 are married to non Samoans or had less than 50 percent Samoan
21 blood.

22 The Lena Trust was found to be valid by the High
23 Court. In the case of **Opelle versus Lena Land Trust**, a 2006
24 case, the court found that the trust established as -- as a
25 necessary alternative to giving her children full legal title to

1 her individually owned lands and that her intent was to give
2 each beneficiary an interest in the trust lands generally and in
3 the Olo land particularly approximating legal ownership to the
4 fullest extent possible under existing law.

5 In 1969, the settler, the trustee and all the
6 beneficiaries of the trust signed a partitioning agreement and
7 modified the trust. The trust as counsel have said has been
8 involved in numerous legal disputes in the past between various
9 Kneubuhl family members, and the courts have rendered decisions
10 concerning the trust and the beneficiaries. In the
11 ***Kneubuhl versus Kneubuhl*** 1980 case, the court found that the
12 Kneubuhl trust beneficiaries hold an equitable interest in the
13 trust land as beneficiaries. A beneficiary's equitable interest
14 in trust property is recognized -- is a recognized interest in
15 property separate from the trustees interests. Therefore, the
16 equitable interest would allow the children and grandchildren
17 our position of the trust to be able to encumber a lease or sell
18 or otherwise dispose of their property as long as a right of
19 first refusal was given to all other beneficiaries. It would
20 appear that it was the intent of the settler Lena Kneubuhl that
21 she did not wish to restrict her children's and grandchildren's
22 control over the land, therefore no majority of approval of the
23 beneficiaries was required for a sale or transfer of the
24 equitable title by the beneficiary and the legal title would
25 remain in the trustee. And I believe that the beneficiaries

1 have by -- by their own counsel or counsel of separate counsel
2 have elected to use the quitclaim deed as a method of or as an
3 instrument to transfer this equitable interest.

4 The court will hear testimony of the 1982 settlement
5 agreement after years of litigation between the Kneubuhl family
6 members, a settlement agreement was signed by all the Kneubuhl
7 children, and it contains a forfeiture clause wherein it states
8 all the parties hereby further agree consistent with the opinion
9 of Chief Justice Miyamoto's order granting partial summary
10 judgment in **Douglas Kneubuhl versus B F Kneubuhl**, Land and
11 Titles No. 012-80, dated March 23, 1982, that the
12 August 15, 1960 trust as modified by the September 1969
13 agreement is valid and enforceable. If any individual party
14 takes or causes to be taken any contrary position in any
15 judicial proceeding, he or she shall immediately forfeit all
16 right, title and interest to any and all assets held in the
17 August 15, 1960 trust, and such interest shall be divided
18 equally among the other beneficiaries of the trust. This is in
19 Section 14, Your Honor.

20 Plaintiffs in the two consolidated cases or in the
21 consolidated cases are beneficiaries of the trust. They have
22 instituted these actions against defendant Mike Kneubuhl,
23 another beneficiary of the trust, and his children seeking to
24 invalidate and set aside one or more sales or transfers to
25 Mike Kneubuhl and those children, which represent their

1 equitable interest in the trust property. The plaintiffs
2 Robin Kneubuhl Roush, Frances Opelle and Ben Kneubuhl have
3 thereby either directly or indirectly taken positions contrary
4 to the validity and enforceability of the trust instrument as
5 amended, and have thereby violated Section 14 of the 1982
6 settlement agreement.

7 I'd like to emphasize the law favors and encourages
8 compromised settlements because it is sound public policy in
9 settling and quieting litigation, and this court likewise has
10 encouraged settlements, and there is a case of

11 ***Samoa Aviation versus ASG*** where the court said as in most
12 disputes seeking judicial resolution we encourage settlement.
13 Settlement agreements are enforced by courts to promote peace
14 and goodwill of the community and reduce the expense of
15 litigation.

16 In 2003, in the ***Kneubuhl versus Ala'i*** case, Your
17 Honor, the court held that the equitable trust beneficiaries
18 were allowed to hold equitable interest in the trust land as
19 beneficiaries. And in the 2006 ***Opelle versus Kneubuhl*** land
20 trust, the court ruled that while the beneficiary of the
21 Kneubuhl trust has no claim to legal title in trust lands as a
22 beneficiary of the trust, he or she has an equitable property of
23 interest in the subject matter of the trust lands, and the court
24 found that under the terms of the 1960 trust, a beneficiary can
25 sell his or her equitable interest in trust lands without having

1 the sale approved by a majority of the trust's beneficiaries.
2 But two, any sale of a beneficiary's equitable interest is
3 subject to a right of first refusal for the other trust
4 beneficiaries. Therefore, any transactions or land transfers
5 that happened before 2006, there was no established requirement
6 for beneficiaries to give the right of first refusal to other
7 beneficiaries.

8 The plaintiffs seek declaratory relief to have the
9 court find that all the beneficiaries hold a life estate and not
10 an equitable interest in trust lands. This is a question that
11 is squarely before the court for determination. The court must
12 look to the intent of the trustor or settler Lena Kneubuhl to
13 determine that. It's the position of the defendants that
14 trustor Lena Kneubuhl's intent was to give the beneficiaries,
15 her children and grandchildren, the best value for their
16 equitable interest and not be restricted to a mere life estate.
17 That is the reason the court allowed for giving notice of right
18 of first refusal to the other beneficiaries. It's my opinion
19 that if it is merely a life estate, there would be no need for
20 this notice of right of first refusal.

21 And as to Frances Opelle's claims to land known as
22 Fagaiofu in Upolu, the lateness of her claims are barred by
23 laches, waiver, estoppel and unclean hands. Further, it is
24 clear that Frances Opelle signed the 1984 deed, and the court
25 can under the Trial Rules of Civil Procedure and Evidence can

1 make a factual determination that her signature is authentic and
2 genuine.

3 The defendants Mike Kneubuhl and his children
4 respectfully request that the court find from the evidence that
5 the party plaintiffs Robin Kneubuhl Roush, Frances Opelle and
6 Ben Kneubuhl in these consolidated cases have violated the
7 forfeiture clause of Section 14 of the 1982 settlement agreement
8 and have thereby forfeited their right, title and interest to
9 any and all assets held by the trust and that those interests be
10 divided equally among the other beneficiaries of the trust, and
11 that their actions be dismissed.

12 Alternatively, defendants Mike Kneubuhl and family,
13 pray for the entry of judgment declaring that the interest of a
14 beneficiary of the 1962 Lena Land Trust, as amended, is an
15 equitable interest in land that may be sold or transferred
16 subject only to the right of first refusal made to the other
17 trust beneficiaries.

18 Finally, that the court find that plaintiff
19 Frances Opelle did sign the 1984 deed to the Fagaiofu parcel in
20 the presence of Mike Kneubuhl and under notarial seal and that
21 Frances Opelle's signature is genuine and separately, the court
22 apply equitable remedies that Frances Opelle's claims on the
23 Fagaiofu property are barred by the doctrines of laches, waiver
24 by acquiescence, equitable estoppel, and unclean hands and
25 should not benefit or be rewarded from her claims set forth in

1 her complaints.

2 I've also filed with the court this morning a trial
3 memorandum of authorities which go into greater detail in
4 regards to the past cases of -- of this court concerning this
5 litigation personally in regards to the issue of forfeiture
6 equitable estate versus life estate.

7 Thank you very much, Your Honor.

8 THE COURT: Now, you represent all the defendants except
9 for Mark Kneubuhl?

10 MR. HALL: That's correct.

11 THE COURT: Is he in here in the courtroom today?

12 MR. HALL: Yes, he is.

13 THE COURT: You're entitled to participate in this. You
14 want to sit up front? You want to sit up front?

15 MR. MARK KNEUBUHL: I'm fine here. Thank you.

16 THE COURT: Okay.

17 Do you want to make any opening statement at this
18 point?

19 MR. MARK KNEUBUHL: No. Thank you.

20 THE COURT: Okay.

21 Let's proceed with the plaintiffs' case.

22 I know the registrar is here.

23 Are you going --

24 MR. SUNIA: Yes.

25 We call the registrar first, Samuel white.

1 THE COURT: Okay.

2

3

SAMUEL WHITE,

4

Called as a witness by the plaintiffs, was sworn and testified
5 as follows:

6

7

THE WITNESS: I do.

8

9

DIRECT EXAMINATION

10

11

BY MR. SUNIA:

12

Q Good morning.

13

A Good morning.

14

Q Please state your name?

15

A Sam White.

16

Q Mr. White, you were -- you're appearing today on a

17

subpoena that was issued in this matter; is that correct?

18

A That's correct.

19

Q And the subpoena had instructed or directed you to

20

bring with you certain documents; is that right?

21

A That's correct.

22

Q Before we do that, what is it that you do? What's

23

your work?

24

A I'm the Territorial Registrar.

25

Q How long have you been the Territorial Registrar?

1 A About 17, 18 years now.

2 Q You have with you the documents that you were asked to
3 bring?

4 A That's correct.

5 Q All right.

6 You were asked -- Roy, you mind if I read from this?

7 MR. HALL: Okay.

8 Q BY MR. SUNIA: You were asked to bring with you
9 instruments of land conveying or alienating portion of land
10 known as Olo or Asotoelau in the village of Taputimu during the
11 years of 1991.

12 Did you bring any such documents?

13 A That's correct.

14 MR. SUNIA: May I see those, please?

15 Your Honor, I ask to have these marked as
16 Exhibits 1 and 2.

17 **(Documents marked by the Clerk as exhibits.)**

18 THE COURT: You better show it to Mark too.

19 MR. SUNIA: Sorry.

20 I ask to have these marked as Exhibits 1 and 2,
21 please.

22 Q Mr. White, I'm handing you what's been marked as
23 Exhibits 1 and 2 of the -- of this trial.

24 Exhibit 1, can you briefly state what that is?

25 A Exhibit 1 is a quitclaim deed naming Mark Kneubuhl as

1 grantor and Douglas Crane Kneubuhl, Jr., as grantee.

2 Q All right.

3 And Exhibit 2?

4 A Exhibit 2 is a quitclaim deed from Frances Opelle to
5 Mark Kneubuhl of land Olo.

6 Q Both of those are for land Olo?

7 A That's correct.

8 Q And where is that Olo situated in according to those
9 deeds?

10 A It says in the County of Fofo.

11 Q All right.

12 Are those two copies certified by your office?

13 A That's correct.

14 Q And they've been kept in the normal course of business
15 in your office?

16 A That's correct.

17 MR. SUNIA: I'll ask to have these two admitted.

18 THE COURT: Any objection?

19 MR. HALL: No objections, Your Honor.

20 THE COURT: All right.

21 They'll both be admitted.

22 MR. SUNIA: All right.

23 Q The second set of documents you were asked to bring
24 with you were instruments reflecting sales or purchases of
25 individually own land or court grant land during the years 1999

1 and 2001 reflecting transaction and sale or purchase price.

2 Did you bring any of those with you?

3 A That's correct.

4 MR. SUNIA: All right.

5 May I see those, please?

6 Your Honor, I'll ask -- I'll ask to have -- Your
7 Honor, ask to have these marked in the -- next in order.

8 **(Exhibits marked.)**

9 Q Mr. White, I'm handing you what's been marked as
10 Exhibits 3 to 9 of this trial.

11 Will you state -- what are those documents, each of
12 those exhibits?

13 A Exhibit 3 is a quitclaim deed dated September 1999
14 between Fuataua Ali'ipule as grantor and Maria Ve'a, grantee, a
15 portion of land known as Toalafou.

16 Q What's the size of the land?

17 A It's a quarter of an acre.

18 Q All right.

19 And what's the price of this sale?

20 A Twenty-five thousand dollars.

21 Q All right.

22 Now, Exhibit 4?

23 A It's a warranty deed dated January 1999 between
24 A.P. Lutali and Susana Lutali, grantors, to Max Haleck, Jr.,
25 grantee, and Taulima Haleck. It's land Ogevai in Tafuna.

1 Q And the size much that land?

2 A It's a quarter of an acre.

3 Q And the price?

4 A It's twenty thousand dollars.

5 MR. HALL: How large is that piece? One half or one
6 quarter?

7 THE WITNESS: A quarter.

8 MR. HALL: One quarter.

9 Q BY MR. SUNIA: Exhibit 5?

10 A Exhibit 5 is a warranty deed between Maria Suapilimai,
11 grantor, and Sanele and Atalia Etuale, grantees, of land known
12 as Niutagamoli in Ili'ili.

13 Q What's the size of the land involved in that deed?

14 A It's a little bit over a quarter acre. It's 0.264.

15 Q And what's the price?

16 A Thirty thousand dollars.

17 Q All right.

18 Exhibit 6?

19 A Exhibit 6 a warranty deed between Tuia Suamalie,
20 grantor, and Eti Lefeiloa'i, grantee, of land Ogevai in
21 Tafuna.

22 Q What's the size of the lot involved in that deed?

23 A A quarter of an acre.

24 Q And the price?

25 A Thirty thousand dollars.

1 Q And the Exhibit 7?

2 A Exhibit 7 is a warranty deed between Setu Tuese,
3 grantor, and Talia Toa as grantee.

4 Q And the size of the lot involved in that deed?

5 A Quarter of an acre.

6 Q And the price?

7 A Twenty-five thousand dollars.

8 Q And Exhibit 8?

9 A Exhibit 8 is a warranty deed to a Victor S. Liu,
10 grantor, and Pat Lusi, grantee, land Tuvao in Vaitogi.

11 Q And the size of the lot?

12 A It's a quarter of an acre.

13 Q And the price?

14 A Thirty thousand dollars.

15 Q All right.

16 Exhibit 9?

17 A Exhibit 9 is a warranty deed by Neil Annandale and
18 Losana Annandale, grantors, Silivelio and Juliana Iosefo,
19 grantees, of land Naumati in Tafuna.

20 Q And the size of the lot?

21 A 0.26 acres.

22 Q And the price?

23 A Thirty-one thousand dollars.

24 Q Now, these Exhibits 3 to 9, what is the time period of
25 these deeds?

1 A It's between 1999 and 2001.

2 MR. SUNIA: Your Honor, I have nothing further of this
3 witness.

4 THE COURT: All right.

5 Cross examine?

6

7

CROSS EXAMINATION

8

9 **BY MR. HALL:**

10 Q Mr. White, as the Territorial Registrar for American
11 Samoa, it's your duty to record such documents, deeds, various
12 transactions involving land; is that correct?

13 A That's correct.

14 Q And have you seen deeds that are recorded by yourself
15 where the price of the land is one dollar?

16 A That's correct.

17 Q And have you seen deeds where it says it's a gift?

18 A That's correct.

19 Q And have you seen deeds that say love and affection?

20 A That's correct.

21 Q And these deeds that you've seen, if you can recall, do
22 these -- are they quarter acres, half acres, one acres or does
23 it matter?

24 A It doesn't matter.

25 Q It doesn't matter?

1 A (Witness nods head.)

2 MR. HALL: Okay.

3 Thank you.

4 Nothing further.

5 THE COURT: Mr. Kneubuhl, do you have any questions, Mark?

6 MR. MARK KNEUBUHL: No, Your Honor.

7 THE COURT: Any redirect?

8 MR. SUNIA: Just very quick.

9

10 **REDIRECT EXAMINATION**

11

12 **BY MR. SUNIA:**

13 Q Did you find in this time period of 1991 and 2001 any
14 deeds for one dollar, love and affection, or anything other than
15 twenty-five -- between twenty-five and thirty thousand?

16 A That's correct.

17 Q Did you find any?

18 A I saw them.

19 Q You saw them.

20 You didn't bring them?

21 A No.

22 MR. SUNIA: Thank you, Your Honor.

23 THE COURT: All right.

24 You may step down.

25 THE WITNESS: Thank you.

1 THE COURT: And can Mr. White be on his way?

2 MR. SUNIA: Yes, Your Honor.

3 MR. HALL: Maybe.

4 THE COURT: Subject --

5 MR. HALL: Yes. Yes he can.

6 THE COURT: What's next?

7 MR. SUNIA: Your Honor, we call Frances Opelle.

8 MR. HALL: Your Honor, can we ask to have a chair be
9 brought in for Mr. Kneubuhl?

10 THE COURT: Yes. He's entitled to be up here.

11

12 **FRANCES KNEUBUHL OPELLE,**

13

14 **Called as a witness by the plaintiffs, was sworn and testified**
15 **as follows:**

16

17 THE WITNESS: Yes, I do.

18

19 **DIRECT EXAMINATION**

20

21 **BY MR. SUNIA:**

22 Q Please state your name?

23 A Frances Kneubuhl Opelle.

24 Q And where do you live?

25 A In the Hawaiian Islands.

1 Q And what is your age?

2 A 82.

3 Q And where were you born?

4 A Here in American Samoa.

5 Q And who were your parents?

6 A My mother was Lena Pritchard Kneubuhl, and my father
7 was Benjamin Franklin Kneubuhl.

8 Q How long have you been living in your -- in the
9 Hawaiian Islands?

10 A Oh, about five years.

11 Q And prior to living there, where were you living?

12 A I was living in California in San Juan, Capistrano.

13 Q And how long did you live there?

14 A Oh, approximately what? 15, 20 years.

15 Q Did you ever -- you were born in American Samoa; is
16 that correct?

17 A Yes, sir.

18 Q And did -- how long did you live in American Samoa
19 after birth?

20 A Oh, approximately 15 years.

21 Q Now, did you have siblings?

22 A Yes.

23 Q And what are the names of your siblings?

24 A There's James Kneubuhl, Ben Kneubuhl, John Kneubuhl,
25 Margaret Landrigan and Mike Kneubuhl D C K.

1 Q Your sibling you refer to as Mike Kneubuhl D C K, is
2 that Douglas Crane Kneubuhl?

3 A Yes, sir.

4 Q And that sibling of yours is present here today as a
5 party in this litigation; correct?

6 A Yes.

7 Q Now, in terms of the order of your siblings, where are
8 you in the order?

9 A I'm the youngest.

10 Q And what about your brother Douglas Crane Kneubuhl?

11 A He was next to me, next youngest.

12 Q He was older than you?

13 A Yes.

14 Q And how much older was he than you?

15 A By four years, I believe.

16 Q I'm wondering if Mr. Hall would mind, may I refer to
17 your client as Mike Kneubuhl --

18 MR. HALL: Yes, that's fine.

19 MR. SUNIA: Thank you.

20 Q Your brother Mike Kneubuhl, can you describe what your
21 relationship was like with him?

22 A Well, when we were growing up, all older siblings
23 already left, so our relationship was a very close one because
24 there were just the two of us, and that continued for a long
25 time.

1 Q Did that continue into your adult lives?

2 A Yes, sir.

3 Q Did -- your brother Mike Kneubuhl was -- strike
4 that.

5 Your family, the Kneubuhl family, owned a business; is
6 that correct?

7 A Yes, sir.

8 Q Did you work in the business?

9 A No, not really. I was on the board simply because I
10 had the name Kneubuhl, but I never really worked in the
11 business.

12 Q You were on the board of the company; is that --

13 A The trust.

14 Q The trust?

15 A Yes.

16 Q Now, was your brother Mike Kneubuhl involved in the
17 family business?

18 A Yes, he was.

19 Q All right.

20 Do you remember what kinds of things he did for the
21 family business?

22 A Well, he helped my husband who was working with my dad.
23 The three of them ran B F K business, and then Mike in his own
24 right had Pacifica Foods. That was his own company.

25 Q Now, did your brother Mike Kneubuhl remain in the

1 business throughout the life of that business?

2 A No.

3 Q The Kneubuhl businesses?

4 A No. He was voted off the board.

5 Q Now, were you on the board when your brother was voted
6 off the board?

7 A No.

8 Q All right.

9 Did you -- were you ever on the board of the directors
10 of that company?

11 A No.

12 Q Over the -- and during your course of your life, not
13 including this lawsuit that we're involved in, did your brother
14 Mike Kneubuhl ever do anything that caused you to be
15 disappointed with him in how -- in your relation with him?

16 A No, he was always there to help me, you know, when I
17 was living in California alone with my two children. So never
18 did he harm me in that sense.

19 Q All right.

20 Frances, I'm going to be showing you some documents.

21 Your Honor, I'm going to have these marked as next in
22 order.

23 **(Exhibits marked by the Clerk.)**

24 Frances, I'm handing you documents that's been marked
25 as Exhibits 10, 11 and 12 of this trial, and I'll put them

1 before you.

2 You've seen those documents before?

3 A Yes.

4 Q Now, these are the Exhibit Number 10, that's the your
5 other's trust, the 1960 trust; correct?

6 A Yes.

7 Q And Exhibit 11 is the 1969 modification of your
8 mother's trust; correct?

9 A Yes.

10 Q And Exhibit 12 is the 1982 settlement agreement?

11 A Yes.

12 Q All right.

13 Did you sign the 1969 agreement, Exhibit number 11?

14 A No.

15 Q And the Exhibit number 12, 1982, did you sign that?

16 A Yes.

17 Q Okay.

18 Where did you sign the 1982 agreement?

19 A In Mike's office in his attorney's office in
20 California.

21 Q And how did you before we talk about the 1982
22 settlement, do you understand the modification of your mother's
23 trust that was done in 1969?

24 A I don't quite understand your question.

25 Could you --

1 Q In 1969, your mother's trust was modified?

2 A Yes.

3 Q When it was modified, what did -- what did you receive
4 from that modification of your mother's lands? Do you
5 remember?

6 A No, I don't.

7 Q Now, in 1982, you say that you signed that document in
8 your brother Mike Kneubuhl's lawyer's office.

9 How did you -- how did you get to the office? How did
10 you know to go to the lawyer's office?

11 A Well, Mike called, called us a week before requesting
12 that we come to his office to talk about the settlement
13 agreement.

14 Q And when you say us, who are you referring to?

15 A My husband and I.

16 Q Now, prior to going to the lawyer's office to sign this
17 '82 agreement, did you meet your brother Mike Kneubuhl along
18 with your husband?

19 A Yes, a week before that.

20 Q All right.

21 Where did you meet?

22 A In the lawyer's office again, I believe. I don't
23 remember exactly. But I'm assuming it was in the lawyer's
24 office.

25 Q And in 19 -- the 1982, did you know anything about this

1 settlement agreement before --

2 A No.

3 Q -- your brother called you?

4 A No. Prior to meeting with Mike, nothing was mentioned
5 about it.

6 Q All right.

7 Now, did -- did you know why this 1982 agreement
8 was -- was made?

9 A At the time, Mike expressed his desire to be completely
10 out of Olo and to give most of his Olo land, all of his Olo
11 land, to his siblings except me. He was to retain five-sixth of
12 his lands, and I was to retain one-sixth.

13 Q Now, when you -- when you say you were to retain
14 one-sixth of your land and your brother Mike retained
15 five-sixth, was that land in Olo or outside of Olo?

16 A Outside of Olo.

17 Q Now, do you know -- what was going on, if you know,
18 with your -- that -- that led to this 1982 agreement? What was
19 happening at the time?

20 A Well, at the time Mike was having difficulty getting
21 along with his older siblings because of business affairs. So
22 he wanted to be completely out of Olo.

23 Q Did anyone represent you during this time that and
24 leading up to the 1982 agreement?

25 A No.

1 Q Did you have a lawyer representing you?

2 A Not at that time. No.

3 Q All right.

4 Were there -- according to the 1982 agreement, there
5 were lawsuits that were being settled under this agreement.

6 Do you -- were you involved in any of those lawsuits?

7 A No.

8 Q All right.

9 And you didn't hire a lawyer to represent you in this
10 agreement?

11 A No.

12 Q Now, did anyone explain to you the 1982 agreement
13 before you signed it?

14 A Well, Mike did.

15 Q And was that explained to you that meeting before -- a
16 week before you signed it?

17 A Yes.

18 Q And what did Mike, if you remember, what did your
19 brother Mike Kneubuhl say to you about the agreement?

20 A Basically that he would be completely out of Olo, and
21 that it was for our own -- that we would benefit by this
22 division of land, new division of lands.

23 Q Who would benefit?

24 A Mike and me.

25 Q Now, under this agreement, your brother Mike Kneubuhl

1 gave up all of his interests in Olo?

2 A Yes.

3 Q And gave it to his siblings other than you; correct?

4 A Yes.

5 Q You retained -- under this agreement, you retained your
6 Olo lands?

7 A Yes.

8 Q Do you remember what the size of your Olo lands was?

9 A A little over ten acres.

10 Q Okay.

11 And under this agreement, your siblings except you
12 gave your brother Mike Kneubuhl all of their interest in other
13 land; right?

14 A Yes.

15 Q Now, do you remember the lands -- do you remember the
16 names of the lands that -- that your siblings conveyed to your
17 brother Mike Kneubuhl?

18 A Well, just the land in Olo.

19 Q All right.

20 The land in Olo, your brother Mike Kneubuhl
21 conveyed -- gave to your siblings?

22 A Yes.

23 Q The lands outside of Olo like Fagaiofu, Talimatau,
24 Fuamete, those are all your mother's property?

25 A Yes.

1 Q Right?

2 You retained one-sixth interest in those lands after
3 the 1982 agreement?

4 A Yes.

5 Q And your brother Mike Kneubuhl retained five-sixth
6 interest in those lands; correct?

7 A Yes.

8 Q Now, following the 1982 agreement, you kept all of your
9 Olo lands?

10 A Yes.

11 Q Right?

12 And you also kept your one-sixth interest in these
13 other properties outside of Olo?

14 A Yes.

15 Q Now, the land Fagaiofu, where is that land?

16 A In Western Samoa.

17 Q Do you know how large that property is?

18 A It was very large. I don't know the exact mileage,
19 acreage rather.

20 Q Since the 1982 agreement, did you convey any of your
21 interest in that land Fagaiofu to anyone?

22 A No.

23 MR. SUNIA: Your Honor, I'm going to ask to have these two
24 marked next in order.

25 **(A document was marked by the Clerk as**

1 **Exhibit No. 13.)**

2 Q Frances, I am handing you what's been marked as
3 Exhibit number 13.

4 Have you seen that document before?

5 A Yes.

6 Q All right.

7 Now -- and what is that document?

8 A It's a so called deed of love document.

9 Q Deed of love document?

10 A Yes.

11 Q Why do you call it a deed of love document?

12 A Because it states in there.

13 Q All right.

14 And this document is -- what is this document supposed
15 to be doing?

16 A Well, it's supposedly I'm giving all of my one-sixth
17 lands in Fagaiofu to Mike Kneubuhl.

18 Q All right.

19 And what's the date on that?

20 A July 11, '84.

21 Q All right.

22 Now, did you sign that document?

23 A No.

24 Q Have a look at that document, if you will.

25 Is your name on that document?

1 A It's my name, but it's not my signature.

2 Q Now, what makes you so sure that that's not your
3 signature?

4 A Because the first time I saw this document was last
5 year.

6 Q All right.

7 And when you saw that document last year and you saw
8 the signature, what did you -- what did you think of the
9 signature?

10 A Obviously, it's not my signature because they didn't
11 even spell Kneubuhl right.

12 Q All right.

13 Let me show you what's been marked as
14 Exhibit Number 14.

15 Have you seen that document before?

16 A Yes.

17 Q All right.

18 And what is that document?

19 A Well, supposedly it's supposed to be a copy of that
20 one.

21 Q Which one?

22 A The one I just handed you.

23 Q Exhibit Number 13?

24 A Yes.

25 Q All right.

1 So it's supposed to be a copy of the deed of love?

2 A Yes.

3 Q Now, if -- and the date on that document?

4 A July 11, 1984.

5 Q Now, you testified that -- now, is your name on that
6 document?

7 A Yes.

8 Q Is your signature on that document?

9 A No.

10 Q There's a signature on that document that looks to be
11 Frances Kneubuhl Opelle.

12 Is that your signature?

13 A No, it isn't.

14 Q What makes you so sure that that's not your signature?

15 A Well, to begin with they misspelled Kneubuhl, and I
16 don't write Kneubuhl in that fashion.

17 Q All right.

18 A And Opelle, I don't write Opelle in that fashion
19 either.

20 Q Now, you've testified that this is supposed to be a
21 copy of Exhibit 13, the first copy of the deed of love.

22 Is it -- does it look like a copy to you?

23 A No, because it's completely different from that other
24 document.

25 Q Now, on the border of this Exhibit number 14, the left

1 hand margin?

2 A Yes.

3 Q There are stamps.

4 Do you see those?

5 A Yes.

6 Q Were there stamps on Exhibit 13?

7 A No.

8 Q So these two documents Exhibit 13 and 14, according to
9 your testimony, you saw for the first time during the course of
10 this litigation; is that correct?

11 A Yes.

12 Q Are you -- are you aware that the land Fagaiofu has
13 been sold?

14 A I just recently became aware of that last year.

15 Q And when you became aware of it, did you learn who sold
16 it?

17 A Yes.

18 Q Who?

19 A My brother Mike.

20 Q Were you informed at all by your brother Mike Kneubuhl
21 that he was selling this Fagaiofu land?

22 A No, not a word.

23 Q Do you know how much he sold it for?

24 A No. I don't know the exact amount. I presume it was
25 quite a bit of money.

1 Q And did you receive anything, any money, from your
2 brother Mike Kneubuhl for the sale of this Fagaiofu property?

3 A No.

4 Q Now, you also alluded to or mentioned land known as
5 Talimatau.

6 Now, is that land in American Samoa or in Western
7 Samoa?

8 A Western Samoa.

9 Q Now, that property Talimatau, you retained a one-sixth
10 interest in that property after the 1982 agreement; is that
11 correct?

12 A Yes.

13 MR. HALL: I didn't hear an answer.

14 MR. SUNIA: She said --

15 THE COURT: Yes.

16 MR. SUNIA: I think she said yes.

17 Q BY MR. SUNIA: Now, is that land Talimatau, is it
18 still owned by you and your brother Mike Kneubuhl?

19 A No, it was sold.

20 Q All right.

21 Do you remember when it was sold?

22 A No. I'm not quite sure.

23 Q And who sold the property?

24 A My brother Mike.

25 Q Now, prior to selling that property Talimatau, did your

1 brother Mike Kneubuhl inform you that he was selling this
2 property?

3 A No.

4 Q All right.

5 How did you learn that it was sold?

6 A Through the family.

7 Q Did you talk with your brother Mike Kneubuhl about this
8 sale?

9 A No. No, not with Mike, the rest of the family.

10 Q Did your brother Mike Kneubuhl eventually or at some
11 point tell you that he has sold the property Talimatau?

12 A No, not directly.

13 Q All right.

14 And do you know how much the property Talimatau was
15 sold for?

16 A I understand it was two hundred fifty thousand.

17 Q All right.

18 Let me show you -- may I have this marked first?

19 **(A document was marked by the Clerk as**

20 **Exhibit No. 15.)**

21 All right.

22 Frances, I'm handing you what's been marked as
23 Exhibit Number 15 of this trial.

24 Have you seen that document before?

25 A Yes, I've seen this.

1 Q All right.

2 And what is -- what's the date on that document?

3 A May 5th, 2005.

4 Q And what is that document?

5 A Well, Mike is explaining about the lands, different
6 lands Talimatau, Fuamete and how he's spending the money.

7 Q Now, in -- who is -- who is that document addressed to?

8 A To me.

9 Q All right.

10 If you'll turn to the second page of that document.

11 Is it signed?

12 A Yes.

13 Q And who -- who's signature is on it?

14 A Mike.

15 Q All right.

16 Now, I direct your attention to the -- to page two?

17 A Yes.

18 Q The middle paragraph.

19 Are you there?

20 A The last paragraph?

21 Q No.

22 A I have put all --

23 Q Right. That paragraph.

24 A Okay.

25 Q Now, that paragraph has in quotes the phrase the

1 | goodness of my heart.

2 | A Yeah.

3 | Q Can you tell the court what -- what this letter is
4 | talking about when it says the goodness of my heart?

5 | A Well, he's defending himself, thinking that I'm
6 | accusing him of being dishonest in his use of the money.

7 | Q And the money that you're referring to is what?
8 | Where's the money --

9 | A The money that he's gotten from the land sales.

10 | Q Which land is that?

11 | A Talimatau.

12 | Q All right.

13 | Do you -- do you remember the remark that's in quotes
14 | goodness of my heart?

15 | A No.

16 | Q You don't remember.

17 | Now, is this -- in this time period in May of 2005,
18 | was this -- is this when you learned of the Talimatau land
19 | sale?

20 | A I'm not quite sure, probably.

21 | Q All right.

22 | Now, does that letter indicate how much the property
23 | was sold for?

24 | A No.

25 | Q If you'll look on the page one of that letter and to

1 the very last paragraph?

2 A Well, he says it's sold for two hundred fifty thousand.

3 Q All right.

4 And of that amount, how much were -- was your share?

5 A Forty-one thousand six hundred sixty-six.

6 Q All right.

7 Now, it refers to expenses.

8 And how much of those expenses is being attributed to
9 you?

10 A Thirty-one thousand six sixty-seven.

11 Q All right.

12 That's the amount that you should have been paid;
13 right?

14 A Yes.

15 Q All right.

16 And the expenses that were being deducted from your
17 share is ten thousand?

18 A Uh-hum.

19 Q Did you receive thirty-one thousand six hundred
20 sixty-seven dollars from your brother Mike Kneubuhl?

21 A No.

22 Q All right.

23 Now, this letter refers to an advance of twenty
24 thousand?

25 Were you given twenty thousand?

1 A I was supposed to get twenty thousand, but it ended up
2 going to my sister.

3 Q And who's your sister?

4 A Margaret Landrigan?

5 Q How did your money end up going to your sister
6 Margaret Landrigan?

7 A Well, because I owed her the balance of what I owed
8 B F K for the Satala sale, and instead of sending me the full
9 twenty thousand, he sent it to my sister.

10 Q Do you remember -- do you recall why you got a letter
11 dated May 5th, 2005 from your brother Mike Kneubuhl?

12 A Why I -- you refer to this letter --

13 Q Yes, to exhibit number -- that's 15?

14 A Well, I had been complaining about the lack of
15 accounting reports. So I think in this letter this is what he's
16 trying to cover.

17 THE COURT: Let's take a brief recess. Ten or 15 minutes.

18 **(A recess was taken.)**

19 THE COURT: All right.

20 Let's proceed.

21 MR. SUNIA: Thank you, Your Honor.

22 Q Now, Frances, I'm going to hand you again what's been
23 marked as Exhibit Number 15, and I'll ask you to look at the
24 first paragraph of that letter.

25 A Okay.

1 Q All right.

2 Now, in the first paragraph of page one of Exhibit 15,
3 there's a reference to trustee.

4 In fact, what is -- do you recall what it is that your
5 brother Mike Kneubuhl was talking about in referring to
6 trustee?

7 A Well, he was talking about being trustee of the land in
8 Olo.

9 Q And in that letter, he's denying being a trustee?

10 A Yes.

11 Q Correct?

12 Was that a -- was that a -- why was that issue even
13 discussed in that letter to you --

14 A Well, because --

15 Q -- if you know?

16 A -- in our relationship, he acted as my trustee all
17 along and never denied that he was not my trustee until later
18 on.

19 Q All right.

20 Now, the denial in that letter, Exhibit Number 15, was
21 that the first time that you know that your brother has denied
22 being your trustee?

23 A Yes, yes.

24 Q And when you say your brother, you considered your
25 brother trustee, what do you mean by that?

1 A Well, that he would take care of all my lands and
2 whatever concerned me, you know, that he would take care of me.

3 Q Now, in the 1982 settlement agreement that you
4 testified about earlier, who was it -- your brother
5 Mike Kneubuhl explained that agreement to you; correct?

6 A Yes.

7 Q And you did not have a representative of your own --

8 A No.

9 Q -- representing you in that agreement; correct?

10 A No -- yes.

11 Q In that paragraph, that first paragraph of
12 Exhibit Number 15, if you'll look at the very last couple of
13 lines of that paragraph?

14 A Yes.

15 Q All right.

16 Can you read what it is your brother is telling you in
17 those last couple of lines?

18 A He's saying that he's not a member of the Kneubuhl
19 trust.

20 Q All right.

21 Okay.

22 Thank you.

23 I ask to have this marked in the next order.

24 **(A document was marked by the Clerk as**

25 **Exhibit No. 16.)**

1 Frances, I'm handing you what's been marked as
2 Exhibit Number 16.

3 Have you seen that document before?

4 A Yes.

5 Q All right.

6 And what is that document?

7 A It's a warranty deed.

8 Q All right.

9 And who is a warranty deed by? Who's -- who are the
10 parties to this warranty deed?

11 Let me ask you this.

12 Can you turn to the last page of that exhibit?

13 A Yes.

14 Q Is your signature on that page?

15 A Yes.

16 Q All right.

17 Now, this Exhibit 16 is a warranty deed by you to --
18 as grantor or seller to your brother Mike Kneubuhl as buyer; is
19 that right?

20 A Yes.

21 Q All right.

22 What's the date on that document?

23 A 26th of July, 2000.

24 Q All right.

25 And the property that's being conveyed in this

1 document, do you remember the land?

2 A It's land in Olo.

3 Q Olo?

4 All right.

5 And how large a parcel is being conveyed?

6 A I believe it is two acres.

7 Q Two acres?

8 And how much was paid for the two acres?

9 A Six thousand.

10 Q Six thousand.

11 Now, let's talk about this for a bit.

12 How did you end up selling or conveying two acres of
13 your land to your brother Mike Kneubuhl for six thousand
14 dollars?

15 A Well, originally, my husband and I were in arrears
16 financially, and I needed money quickly, and so I called him
17 for a loan, financial loan, that we would repay, and he
18 refused. But in a few days time, he called back and offered to
19 buy land from me instead. So this is the two acres that was
20 sold.

21 Q All right.

22 The financial situation that you were experiencing,
23 was it around this time, the year 2000?

24 A Yes.

25 Q All right.

1 What exactly was going on with your finances?

2 A Well, originally my husband's mother was footing most
3 of our major bills, supporting us, and upon her death, we didn't
4 have that anymore, and so very quickly our financial situation
5 did a nose dive, and this is why I was asking Mike for a loan.

6 Q And when -- what was the loan for?

7 A To pay bills, our mortgage and utilities and all.

8 Q And what was your -- what was your brother Mike's
9 response to your request for a loan?

10 A He didn't want to pay me money. But in a few days
11 later, he called and offered to buy land.

12 Q Mark this next in order.

13 **(A document was marked by the Clerk as**
14 **Exhibit No. 17.)**

15 Frances, I'm handing you what's been marked as
16 Exhibit Number 17.

17 All right.

18 If you'll just have a quick look at that document, and
19 tell us if you've seen that before?

20 A Yes.

21 Q All right.

22 And what is the date on that document?

23 A September 25, 1999.

24 Q And what is that document?

25 A Well, it's an explanation to Mike. Evidently, he had

1 suggested that we sell the middle house that we were living
2 in.

3 Q All right.

4 Now, is this document -- who's it addressed to?

5 A To Mike.

6 Q And did you write this document?

7 A No, I didn't. My husband did.

8 Q All right.

9 Now, if you'll look to the very last sentence of that
10 document, the last sentence of the last paragraph, it asks --
11 what is it asking for?

12 A It's asking for either five thousand or three
13 thousand --

14 Q All right.

15 A -- as a loan.

16 Q And does it say when you need it by?

17 A Immediately.

18 Q All right.

19 At -- on the very last sentence of that paragraph, is
20 there a date of when you needed the money by?

21 A By the September 28th.

22 Q All right.

23 And that letter Exhibit 17 is dated 25th; right?

24 A Yes.

25 Q Okay.

1 Now, I'm going to ask to mark this next in order.

2 **(A document was marked by the Clerk as**
3 **Exhibit Number 18.)**

4 Frances, I'm handing you what's been marked as
5 Exhibit Number 18.

6 Have a quick look at that document and tell us if
7 you've seen it before.

8 A Yes.

9 Q All right.

10 And what's the date of that document?

11 A September 27, 1999.

12 Q All right.

13 And what is that document?

14 A He's asking me to quote him a fair price for the land
15 that I was to sell him.

16 Q Who is he?

17 A Mike.

18 Q All right.

19 So that document, is it signed by Mike Kneubuhl?

20 A Yes.

21 Q And -- so you earlier testified that your brother
22 Mike Kneubuhl did not want to loan you any money?

23 A No.

24 Q In that Exhibit Number 18, what's he asking -- what's
25 he telling you?

1 A Well, that he was willing to buy an acre of land.

2 Q And does it say that he's unwilling to loan you
3 money?

4 A Yes.

5 Q Yes?

6 A (Witness nods head.)

7 Q All right.

8 And the date on that document?

9 A September 27, 1999.

10 Q All right.

11 So two days after the communication on
12 Exhibit Number 17, you indicated you needed money by the 28th,
13 you received this from your brother Mike Kneubuhl; correct?

14 A Yes, yes.

15 Q Now, what did you -- what was your response to the
16 request for a fair price?

17 A Well, I told him that I had no idea of what the land
18 values were in Samoa.

19 Q All right.

20 A So I asked him to provide me with a fair price.

21 Q Now, may I have this marked next in order?

22 **(A document was marked by the Clerk as**
23 **Exhibit Number 19.)**

24 Frances, I'm handing you what's been marked as
25 Exhibit Number 19.

1 If you'll have a look at that and tell us if you've
2 seen that document before?

3 A Yes.

4 Q All right.

5 And what's the date on that document?

6 A September 27, 1999.

7 Q And what is that document?

8 A It's a confirmation that I will sell him one acre for
9 three thousand.

10 Q And when you say him, who are you referring to?

11 A Mike.

12 Q All right.

13 So that's your confirmation of the sale price;
14 correct?

15 A Yes.

16 Q Now, the sale price you testified you did not know how
17 much it cost, the price?

18 A That's right, yes.

19 Q And who -- who suggested the three thousand dollar
20 price?

21 A Mike.

22 Q Did you receive that three thousand dollars?

23 A Yes.

24 Q All right.

25 Did you receive it by the 28th as you had requested?

1 A Yes.

2 Q All right.

3 Now, the -- that sale in 1999 that you just testified
4 about, that was for one acre; correct?

5 A Yes.

6 Q But you sold to your brother Mike Kneubuhl two acres;
7 right?

8 A Uh-hum.

9 Q The second acre, was it for the same price of three
10 thousand?

11 A Yes.

12 Q Mark this next in order, please?

13 **(A document was marked by the Clerk as**
14 **Exhibit Number 20.)**

15 Frances, I'm handing you what's been marked as
16 Exhibit Number 20 in this trial and ask you to have a quick look
17 and say if you've seen that before?

18 A Yes.

19 Q All right.

20 And what is that document?

21 A It's a confirmation of the sale of two acres to Mike.

22 Q What's the date on that document?

23 A February 11, 2000.

24 Q Now, this Exhibit Number 20 is a confirmation -- is
25 that the second acre that you sold for three thousand?

1 A Yes.

2 Q All right.

3 And did you receive that money?

4 A Yes.

5 Q So the deed that you identified earlier between you and
6 your brother Mike Kneubuhl has to do with these two acres that
7 you've been testifying about over in 1999 and 2000; correct?

8 A Yes.

9 Q Do you know if your brother Mike Kneubuhl still has
10 these two acres that you sold to him?

11 A No. He quitclaimed them to his two daughters.

12 Q All right.

13 Now, during the time of your discussions of the sale
14 of these two acres, did your brother Mike Kneubuhl advise you or
15 inform you that he plans to transfer these two acres to his two
16 daughters?

17 A No.

18 Q I'm going to show you what's been marked as
19 Exhibit 2, Exhibit 2 of this trial, which the -- it's a
20 quitclaim deed between you and Mark Kneubuhl dated 2001.

21 All right.

22 Now, did you deed or convey any of your Olo land to
23 Mark Kneubuhl?

24 A I sold him some land.

25 Q Okay.

1 And who is Mark Kneubuhl to you?

2 A He's my nephew.

3 Q All right.

4 And what's the relationship between Mark Kneubuhl and
5 your brother Mike Kneubuhl?

6 A Well, father son relationship.

7 Q All right.

8 How much did you -- how much land did you say you sold
9 to Mark Kneubuhl?

10 A Three acres.

11 Q All right.

12 And how much did you sell them for?

13 A Five thousand an acre.

14 Q Now, let's talk about that a bit.

15 How did you -- what made you sell, if anything, made
16 you sell three acres of your land to your nephew
17 Mark Kneubuhl?

18 A Well, we were still in financial problems and obviously
19 needed the money.

20 Q Okay.

21 And I'm going to ask to have this marked.

22 **(A document was marked by the Clerk as**
23 **Exhibit Number 21.)**

24 Frances, I'm showing you what's been marked as
25 Exhibit Number 21, and if you'll have a look at that, and say

1 whether you've seen that document before?

2 A Yes.

3 Q All right.

4 And what is -- what is that document?

5 A It's a fax to Mark explaining that I didn't want to
6 sell anymore land. He had requested to buy some more land from
7 me.

8 Q Okay.

9 And what's the date on that fax?

10 A March 20, 2000.

11 Q Okay.

12 And now earlier you testified that in February of
13 2000, you had sold an acre to your brother Mike Kneubuhl for
14 three thousand; correct?

15 A (Witness nods head.)

16 Q Now, eventually you sold the land?

17 A Uh-hum.

18 Q Three acres to your nephew Mark?

19 A (Witness nods head.)

20 Q Why the change?

21 A What do you mean change?

22 Q Why --

23 A What change?

24 Q What changed from the note that you have before you,
25 Exhibit Number 21, and the ultimate decision to sell to Mark?

1 What happened?

2 A I still don't understand your question.

3 Q Your note, Exhibit Number 21, you told your nephew Mark
4 you don't want to sell anymore land?

5 A Yes.

6 Q But you eventually did; correct?

7 A Well, I sold him the three acres but didn't want to
8 sell him anymore after that.

9 Q Oh, so the note was after you sold the three acres?

10 A This.

11 Q The note, Exhibit Number 21?

12 A Yes.

13 Q Okay.

14 Now, did you receive the money from your nephew Mark?

15 A Yes.

16 Q The 15 thousand; correct?

17 A Yes.

18 Q Now, do you know if your nephew Mark still has all of
19 the three acres?

20 A I believe so.

21 Q All right.

22 Now, I'm going to show you, Frances, what's been
23 marked as Exhibit Number 1 in this trial, and it is the -- a
24 deed conveying an acre of land from Mark Kneubuhl to
25 Douglas Kneubuhl, Jr.?

1 A Yes.

2 Q Who's Douglas Kneubuhl, Jr., if you know?

3 A Mark's brother.

4 Q All right.

5 And so Douglas Kneubuhl, Jr., would be a son of your
6 brother Mike Kneubuhl?

7 A Yes.

8 Q All right.

9 Now, the -- do you know anything about that deed,
10 Exhibit Number 1?

11 A No.

12 Q No?

13 All right.

14 Now, the land that you sold to your brother
15 Mike Kneubuhl, two acres of your Olo property, did you survey
16 it?

17 A No.

18 Q All right.

19 What about the land that you sold to your nephew
20 Mark Kneubuhl, the three acres, did you survey it?

21 A No.

22 Q All right.

23 Where were you when these transactions took place, the
24 land sales?

25 A In California.

1 Q Did you have anyone in American Samoa to show
2 boundaries of your land to be surveyed and -- be surveyed
3 for the deeds to your brother Mike Kneubuhl and the deed to your
4 nephew Mark Kneubuhl?

5 A No.

6 Q Now, the deeds that you were shown here, one to your
7 brother Mike Kneubuhl and one to your nephew Mark Kneubuhl,
8 contains legal descriptions of land.

9 A Uh-hum.

10 Q Do you know who surveyed your land?

11 A No, I don't.

12 Q Did you tell Mike Kneubuhl, your brother, or
13 Mark Kneubuhl, your nephew, which portions of your land to
14 survey?

15 A No.

16 Q And the sales that you made to your brother
17 Mike Kneubuhl and your nephew Mark Kneubuhl, did you ask your
18 Kneubuhl family for approval of your sales?

19 A No.

20 Q Did you offer your Kneubuhl family these -- the same
21 property for sale?

22 A No.

23 Q Now, the 1982 agreement also left you with one-sixth
24 interest in land known as Fuamete. I believe you testified to
25 that earlier; correct?

1 A Yes?

2 Q Where is land Fuamete?

3 A It's right there near Leone.

4 Q And do you know what size of that land -- who owns the
5 other part, the other five-sixth interest in Fuamete?

6 A The five-sixth interest is Mike.

7 Q Okay.

8 And do you know how much land you and your brother
9 Mike own at Fuamete?

10 A No.

11 Q Now, you've sold a portion of your Fuamete land;
12 correct?

13 A Yes.

14 Q How much was sold of Fuamete?

15 A I believe it was one acre.

16 Q Okay.

17 And did you receive money for the sale of that one
18 acre?

19 A No.

20 Q Do you know who arranged the sale of your land, the one
21 acre of Fuamete?

22 A I'm not sure.

23 Q If you saw proof of money you may have received from
24 the sale of Fuamete, would you -- would your testimony change?

25 A Yes.

1 Q Before this sale of that one acre of Fuamete, were you
2 advised that it was being sold?

3 A No.

4 Q And if you saw proof that you were advised that it was
5 being sold, then you would stand corrected?

6 A Yes.

7 Q The -- at your land Olo, did you have -- did you lease
8 any portion of your land to anyone?

9 A Well, I leased -- I leased I think it was one acre to
10 the Jennings. They were renting the coke house.

11 Q Okay.

12 Does the name Alai ring a bell with you?

13 A Yes.

14 Q All right.

15 How do you know this name Alai?

16 A Well, that's the name of the owners probably of Pacific
17 Products that were here in Samoa, and my mother had a lease with
18 the Morans, and when they passed, the Morans -- the Alais took
19 over the lease.

20 Q Okay.

21 Now, you and Alai were defendants in a lawsuit in this
22 court before; correct?

23 A Yes.

24 Q What do you know about that lawsuit? Why did that
25 lawsuit take place?

1 A Well, they were paying me a very, very low sum for the
2 lease that they had with me, and Mike and the rest of the family
3 decided they wanted to get me -- try to get me more money
4 for the lease. So that's how it came about.

5 Q All right.

6 So who's idea was it to initiate that lawsuit?

7 A Mike.

8 Q And the purpose of the lawsuit as you testified was to
9 try and get you more money on your lease; correct?

10 A Yes.

11 Q The lawyer that brought the lawsuit, do you know who
12 that lawyer was, that sued you and Alai?

13 A No, I don't.

14 Q All right.

15 The -- the land sales to your brother Mike Kneubuhl
16 and his son Mark Kneubuhl, they occurred over ten years ago;
17 right?

18 A Uh-hum.

19 Q And why have you waited until now to bring this matter
20 to court?

21 A Well, we were busy preparing for the lawsuit in 2006,
22 and as soon as we arrived in Samoa, my son and I made it a point
23 to drive out to Olo with the intention of meeting with Mark and
24 discussing how we could resolve the problem of the acreage that
25 I had sold him. And as soon as Mark saw us drive up, he dashed

1 out his back door, and we never saw him again. And we waited
2 with the Jennings for a good six hours hoping Mark would return,
3 and he never did. So we made every effort, you know, to try and
4 resolve that with him.

5 Q Okay.

6 Were you aware that any of your land at Olo that was
7 conveyed to your brother Mike Kneubuhl and his son Mark Kneubuhl
8 was being offered for sale?

9 A Well, the two girls, his two daughters, tried to sell
10 their land.

11 Q And do you know how much they tried to sell their land
12 for?

13 A Many, many more times than three thousand an acre. I'm
14 not sure of the exact amount.

15 Q All right.

16 And -- and when did you find out about --

17 A About the sale?

18 Q The offer to sell the land that your brother Mike's
19 daughters had?

20 A Just a few years ago.

21 Q Now, was that before this lawsuit started; correct?

22 A Yes.

23 Q What is it that -- that you hope that you're asking
24 this court to do for you?

25 A Well, some of the land would never be given back to me

1 because other people own it now, but somehow I want financial
2 reimbursement of what is owed me.

3 Q Now, is that in reference to -- what property?
4 Fagaiofu?

5 A Fagaiofu, Talimatau and Olo.

6 MR. SUNIA: All right.

7 Your Honor, I have no further questions of the
8 witness at this time. I pass the witness.

9 Thank you.

10 THE COURT: You want to start now?

11 MR. HALL: Well I -- are we going to -- when are we going
12 to be taking our lunch break?

13 THE COURT: Oh, 15, 20 minutes from now. It would be the
14 normal time.

15 MR. HALL: I'll go ahead and start.

16 THE COURT: Okay.

17 MR. HALL: I'm going to have some documents marked for the
18 case here. The first one -- I've shown this to counsel. This
19 is the original deed of the Talimatau property.

20 **(A document marked by the Clerk as an exhibit.)**

21 MR. SUNIA: Fagaiofu or Talimatau?

22 MR. HALL: Excuse me, Fagaiofu.

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CROSS EXAMINATION

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BY MR. HALL:

Q Frances, I'd like to show you a document marked as my Exhibit Number 1, and I've described it as the original deed of the Fagaiofu property which is from yourself to Douglas Crane Kneubuhl.

Can you please take a look at that?

A Uh-hum.

Okay.

Q Do you agree with me that it's an original?

A No. I don't agree at all because it's very different from another document that I've seen.

Q Okay.

And do you find your signature on that document?

A No.

Q Is there a section there towards the bottom that says signed by the said Frances Kneubuhl and a signature there?

A That's not my signature. It's my name --

Q It's the original -- excuse me.

A It's my name but not my signature.

Q And this is the same that you've testified earlier with your counsel?

A Yes.

Q And there's a name under that Debbie Sutton.

1 A Uh-hum.

2 Q Do you recall that who that person is?

3 A I've never met Debbie Sutton.

4 Q And under Debbie Sutton's name, is there a notary seal?

5 A Yes.

6 Q And that is Debbie Sutton's?

7 A I wouldn't know. It says Debbie Sutton, but I don't
8 know whether she put it there or whether someone else did.

9 Q Okay.

10 Now, I'd also like to have this next document
11 marked.

12 **(A document was marked by the Clerk as**
13 **an exhibit.)**

14 I wish to show you what's already been shown to you.
15 It's the 1969 agreement.

16 What I'd like to do is show you a signature to see if
17 that is your signature.

18 Do you find your signature on page six?

19 A Yes.

20 Q And do you recognize the signature there for
21 William Robert Opelle?

22 A Yes.

23 Q Okay.

24 And so both of you signed --

25 A Yes.

1 THE COURT: What's the number of the last two exhibits?

2 MR. HALL: Excuse me?

3 THE COURT: What's the number of this?

4 MR. HALL: I marked this as number two for my -- but I
5 notice that they've -- Exhibit 23.

6 THE COURT: Yeah, we just keep them in order.

7 MR. HALL: Oh, okay. Excuse me.

8 Then that is 22, and this is 23.

9 Okay.

10 Q So that is your signature?

11 A Yes.

12 Q Again, I'd like to mark this document.

13 **(A document was marked by the Clerk as**
14 **Exhibit Number 24.)**

15 And this document is number 24.

16 This is a document we have been talking about which is
17 the 1982 settlement agreement.

18 A Uh-hum.

19 Q Now, I'd like to refer you to the signature page with
20 your name on it on page 16.

21 Do you see your name?

22 A Yes.

23 Q And that is your signature?

24 A Yes.

25 Q And below that there's a W Robert Opelle.

1 Do you recognize that as --

2 A My husband.

3 Q Yes.

4 A Yes.

5 Q And what is the date that you and your husband signed?

6 A June 18, 1982.

7 Q Now, were you not in fact living in American Samoa in
8 1982?

9 A No.

10 Q Where were you living?

11 A California.

12 MR. HALL: I'd like to mark this next document.

13 **(A document was marked by the Clerk as**

14 **Exhibit Number 25.)**

15 THE CLERK: 25.

16 Q BY MR. HALL: I wish to show you this document that's
17 dated September 25, 1999.

18 MR. SUNIA: What number is that?

19 MR. HALL: This is exhibit number -- excuse me, number 25.

20 MR. SUNIA: May I see it?

21 Q BY MR. HALL: Can you take a look at that?

22 I notice it's not signed, but can you tell me it is a
23 letter from you?

24 A Yes.

25 Q And who is it to?

1 A To Mike.

2 Q And it's dated September 25, 1999?

3 A Yes.

4 Q Is this a letter that you had testified to that was
5 prepared by your husband?

6 A Yes.

7 Q And what is the purpose that you had decided to send
8 this letter to Mike?

9 A Well, we were in financial difficulties, and I had many
10 conversations with Mike about possible solutions, and he
11 suggested we sell the middle house that we were living in.

12 Q Have you ever received loans from Mike in the past?

13 A No.

14 Q Have you ever received any monies from Mike in the
15 past --

16 A Only for the sale of land.

17 Q No other gifts?

18 A (Witness shakes head.)

19 Q And Mike has never paid any bills on your behalf?

20 A No.

21 Q I wish to have this document marked.

22 **(A document was marked by the Clerk as**
23 **Exhibit Number 26.)**

24 My next document is number 26. This is a document
25 that's already been shown to you, but I'd like to ask you a

1 different question.

2 Can you tell me what that is? It's a letter from
3 you -- excuse me. It's a letter to you from Mike?

4 A Yes.

5 Q And what's the date on it?

6 A September 27, 1999.

7 Q And this is the letter where he's asking for a fair
8 price; is that correct?

9 A Yes.

10 Q Okay.

11 Now, I wish to show you what's been marked as number
12 27. It's dated the same day, September 27, and is that your
13 signature on this letter?

14 A Yes.

15 Q And this is where you're confirming to sell that acre
16 of land to Mike for three thousand dollars?

17 A Yes.

18 Q Now, I want to ask you, isn't it true that you were the
19 one that suggested three thousand dollars?

20 A No.

21 Q Isn't it correct that that's the amount of money that
22 you initially wanted to loan from Mike; isn't that correct?

23 A I originally asked either for three thousand or five
24 thousand.

25 Q So do you think that's where the three thousand dollars

1 figure came from?

2 A What?

3 Q Do you think that that is where the three thousand
4 dollars for the purchase of this land came from?

5 A Well, the first reaction came from Mike. I had no idea
6 of the land values.

7 Q So did you at any time ask Mike that you wanted more
8 money, ten thousand dollars?

9 A No.

10 Q And you received the -- you sold Mike two parcels of
11 land?

12 A Two acres.

13 Q That was for a total of six thousand?

14 A Yes.

15 Q Three thousand dollars an acre?

16 A Yes.

17 Q And when you sold the second acre, did you ask Mike for
18 more money for that acre?

19 A No.

20 Q Mark this.

21 **(A document was marked by the Clerk as**
22 **Exhibit Number 28.)**

23 I'm going to show you what I've marked as number 28.
24 You've already seen this document. I just have other
25 questions -- this is the warranty deed for the two acres, and

1 it's dated July 26, year 2000; is that correct?

2 A Yes.

3 Q And it's for two acres?

4 A Yes.

5 Q Okay.

6 Now, can you tell by looking at that document was this
7 recorded at the Territorial Registrar?

8 I'm going to point somewhere to the top. Do you see
9 any writing up there?

10 A No.

11 Q Okay.

12 That's the Territorial Registrar's recordation data;
13 is that correct?

14 A Yes.

15 Q And that's blank?

16 A Uh-hum.

17 Q I'm going to turn to page three.

18 Can you tell me is that your signature on there?

19 A Yes.

20 Q That is your signature, and it's signed
21 Frances Kneubuhl Opelle?

22 A Yes.

23 Q I want to show you what's been marked as
24 Exhibit Number 29.

25 Can you tell me what this is?

1 A This is a quick claim deed.

2 Q Quick claim, Q-U-I-C-K claim. Excuse me. I did not
3 prepare this document.

4 Can you tell me what you know of that document?

5 A This is a document written by Mike confirming the
6 sale -- well, he's giving the land that I sold him to his two
7 daughters.

8 Q And what's the date of this quick claim deed?

9 A March 20, 2002.

10 Q And is your signature on this document?

11 A No. Oh, yes, it is.

12 Q Okay.

13 And do you recognize any of the other signatures on
14 there?

15 A Yes. There's Mike's signature and his two daughters.

16 Q And you and Mike's signatures, is that under the
17 section entitled grantors?

18 A Yes.

19 Q And who are the two daughters?

20 A Carrie Sue Lavine and Kelly Nadine Fults.

21 Q And they are the grantees; is that correct?

22 A Yes.

23 Q And those are Mike's daughters?

24 A Uh-hum. Yes.

25 Q I wish to turn to page -- there's a notary page on the

1 second page of this exhibit.

2 Is that a notary acknowledgment of your signature?

3 A No. That's not a signature. It's printed.

4 Q Yes, but it's a notary's acknowledgment of your
5 signature?

6 A Oh, yes, yes.

7 Q And there's also a notary seal on that?

8 A Yes.

9 Q Mark these.

10 **(Documents were marked by the Clerk as exhibits.)**

11 I wish to show you what's been marked as
12 Exhibit Number 30.

13 This is a letter that you sent to your nephew
14 Mark Kneubuhl; is that correct?

15 A Yes.

16 Q And you testified -- what's the date of that?

17 A March 20, 2000.

18 Q And you said that this is a letter that you sent to
19 Mark saying that you didn't want to sell him anymore land; is
20 that correct?

21 A Yes.

22 Q But let me take a look at this document on the deed.

23 That date is?

24 A March 20, 2000.

25 Q Okay.

1 And the deed where you sold Mark three acres, what is
2 the date of that? I'll just point to the top.

3 A August -- August 1st, 2000.

4 Q So this -- the land that was sold to Mark, three acres
5 was after your letter; is that correct?

6 A March 20th and -- yes.

7 Q Okay.

8 So you did in fact sell him the three acres after you
9 sent him the letter saying that you were not interested in
10 selling him anymore land?

11 A Yes.

12 Q Okay.

13 I just wanted to correct --

14 THE COURT: Why don't we stop here and you get these
15 others marked?

16 MR. HALL: These are my last three for this part --

17 THE COURT: Oh, okay.

18 MR. HALL: I'll get these out of the way.

19 MR. SUNIA: What number --

20 Q BY MR. HALL: I wish to show you a document which --

21 MR. SUNIA: Okay.

22 Q BY MR. HALL: The document which has been marked as
23 number 35?

24 A Okay.

25 Q This is a document which is dated June 8, 2001.

1 A Yes.

2 Q And I believe you testified to this before.

3 This is a deed from Mark Kneubuhl to Douglas Kneubuhl;
4 is that correct?

5 A Yes.

6 Q And I'm not -- I -- I recall you said that you did not
7 know about this transfer; is that correct?

8 A No, I knew about this.

9 Q You did know?

10 A Yes.

11 Q Okay.

12 I'd like to show you what I've marked as
13 Exhibit Number 34.

14 Can you tell me what that is?

15 A These are the payments to me for three acres in Olo.

16 Q Is it three acres or Doug Kneubuhl, Jr.'s one acre?

17 A No, no. It's for three acres.

18 Q Okay.

19 And -- but these are checks from -- from who?

20 A Mike. Oh, let me take a look. No. These must be from
21 Doug.

22 Q From Doug, Jr.?

23 A Yes.

24 Q Okay.

25 I wish to turn over the page here which has the

1 signatures on the back of these checks?

2 A Okay.

3 Q And there are three checks there.

4 A Uh-hum.

5 Q Are those your signatures on the check?

6 A Yes.

7 Q So you did receive this money?

8 A Yes.

9 Q Okay.

10 I wish to show you the next document which I've marked
11 as number 36?

12 Do you recognize that document? It's entitled Warranty
13 Deed.

14 A Yes.

15 Q And who are the grantors?

16 A Mike and myself.

17 Q Okay.

18 And who's the grantee?

19 A The Lancasters.

20 Q All right.

21 And how much -- and what land is this?

22 A This is in Fuamete.

23 Q And how much of -- how large is this piece of land
24 that's being sold?

25 A I believe it's one acre.

1 Q Let me just go back to the first page, and I'll point
2 down here by the bottom?

3 A Slightly less than an acre.

4 Q Okay.

5 Now, turning to the second page, is your signature on
6 that document?

7 A Yes.

8 Q As a grantor?

9 A Yes.

10 Q And what's the date that you signed?

11 A 12th of July, 2002.

12 Q And this is signed before a notary?

13 A Yes.

14 Q And was this signed in Honolulu, Hawaii?

15 A Yes.

16 Q So in 2002 you were living in Hawaii; is that correct?

17 A No.

18 Q Because I believe your testimony earlier was that you
19 moved to Hawaii in 2005, does this refresh your recollection
20 that maybe you were living in Hawaii 2002?

21 A My husband and I moved here five years ago. So that
22 would make it later.

23 Q Okay.

24 Let me ask you this.

25 Did you receive any money from this sale of almost an

1 acre of land from the Lancasters?

2 A No?

3 Q Who handled this transaction for you? Was it

4 Mark Kneubuhl?

5 A Probably, yes.

6 Q And he never sent you any money?

7 A No.

8 Q He didn't send you ten thousand or eleven thousand or
9 thirteen thousand dollars?

10 A No.

11 Q Do you know if your daughter ever written a thank you
12 note to Mark saying that you have received the money?

13 A That I don't know anything about.

14 MR. HALL: Okay.

15 This is a good time to take a break, Your Honor?

16 THE COURT: Okay.

17 We'll do that until 1:30.

18 **(A recess was taken until 1:30 p.m.**

19 **of the same day.)**

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