



DEPOSITION

D.C. 'MIKE' KNEUBUHL

FIRST AM

**DEPOSITION**

Part I:

**Douglas C. “Mike” Kneubuhl**

May 15, 2014

Irvine , California

**MORNING SESSION**

1 IN THE HIGH COURT OF AMERICAN SAMOA

2 TRIAL DIVISION

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4 ROBIN KNEUBUHL, ROUSH, )

FRANCES K. OPELLE and )

5 BENJAMIN ("BEN") KNEUBUHL, )

JR., )

6 )

Plaintiffs, )

7 )

vs. )HCCA No.: 28-13

8 )

DOUGLAS CRANE "MIKE" )

9 KNEUBUHL, DOUGLAS KNEUBUHL, )

JR., CARRIE SUE KNEUBUHL )

10 LAVIGNE ECKERT, and KELLY )

KNEUBUHL NADINE FULTS, )

11 )

Defendants. )

12 \_\_\_\_\_)

13

14 DEPOSITION OF DOUGLASS C. "MIKE" KNEUBUHL

15 Irvine, California

16 Thursday, May 15, 2014

17 Volume I

18

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21 Reported by:

DENISE BARDSLEY

22 CSR No. 11241

23 Job No. 1833354

24

25 PAGES 1 - 97

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Defendants. )

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17 Deposition of DOUGLASS C. "MIKE" KNEUBUHL,  
18 Volume I, taken on behalf of Plaintiffs, at 20  
19 Corporate Park, Suite 350, Irvine, California,  
20 beginning at 9:31 a.m. and ending at 12:34 p.m. on  
21 Thursday, May 15, 2014, before DENISE BARDSLEY,  
22 Certified Shorthand Reporter No. 11241.

23

24

25

1 APPEARANCES:

2

3 For Plaintiffs:

4 ROSE JONESON VARGAS  
5 BY: DAVID P. VARGAS  
6 Attorney at Law  
7 P.O. Box 3501  
8 Pago Pago, American Samoa 96799  
9 (684) 699-2100  
10 [dvargas@rjvlaw.com](mailto:dvargas@rjvlaw.com)

11

12 For Plaintiff Frances K. Opelle:

13 FITI A. SUNIA  
14 BY: FITI A. SUNIA  
15 Attorney at Law  
16 P.O. Box 6778  
17 Pago Pago, American Samoa 96799  
18 (684) 699-7507  
19 [fasunialaw@yahoo.com](mailto:fasunialaw@yahoo.com)

20

21

22

23

24

25

1 APPEARANCES (continued):

2

3 For Defendants:

4 LAW OFFICES OF HALL & ASSOCIATES

5 BY: ROY J. D. HALL, JR.

6 Attorney at Law

7 P.O. BOX 2506

8 Pago Pago, American Samoa 96799

9 (684) 699-3131

10 roy@rhalljrlaw.com

11

12

13

14

15

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1 Irvine, California, Thursday, May 15, 2014

2 9:31 a.m.

3

4 DOUGLASS C. "MIKE" KNEUBUHL,

5 having been administered an oath, was examined and

6 testified as follows:

7

8 EXAMINATION

9 BY MR. SUNIA:

10 Q Good morning, Mr. Kneubuhl.

11 Have you had your deposition taken before

12 in any other matter?

13 A Yes.

14 Q So you're somewhat familiar with this

15 process?

16 A Somewhat.

17 Q All right. You've been sworn in;

18 obviously, that means the testimony you're going to

19 give today is given under oath and you're obligated

20 to tell the truth.

21 And I will start this morning's proceedings  
22 with my questions, and later Mr. Vargas will have  
23 his opportunity, and Mr. Hall.

24 Before I go further, you might want to make  
25 your appearances.

6

1 MR. HALL: Roy Hall, Jr., for the defendant  
2 in the entitled actions, and present here as counsel  
3 for Mike Kneubuhl.

4 MR. VARGAS: David Vargas on behalf of the  
5 plaintiffs.

6 MR. SUNIA: And I'm Fiti Sunia on behalf of  
7 Frances Opelle.

8 Q If you don't understand a question, let me  
9 know and I'll try to clarify it for you. If, during  
10 a question, you want to consult your attorney, who  
11 is present, let me know and I'll provide you that  
12 opportunity, except that I would like for you to  
13 answer the pending question before you consult with  
14 your attorney.

15 And if you want to take a break, let me  
16 know and I'll arrange for that, except, again, I'll  
17 ask you to answer whatever pending question before  
18 taking a break.

19 Your attorney may object to some of my  
20 questions. I hope he doesn't, but he may. And the  
21 objection is going to be recorded, but you're still  
22 going to be required to answer the question, unless  
23 your attorney advises you not to answer a certain  
24 question, and we'll leave that for the court to  
25 decide later.

7

1 MR. VARGAS: Mr. Kneubuhl, are you taking  
2 any medications that might affect your ability to  
3 recall events in the past?

4 THE WITNESS: I'm taking medications for  
5 cancer and also for an eye problem.

6 I don't believe that they will affect my  
7 testimony this morning.

8 MR. VARGAS: Fair enough.

9 MR. SUNIA: Roy, did you have anything?

10 MR. HALL: No.

11 BY MR. SUNIA:

12 Q Mr. Kneubuhl, in preparing for your  
13 testimony this morning, did you review any documents  
14 for that preparation?

15 A I reviewed quite a few, yes.

16 Q Your attorney has produced to us, to me and

17 Mr. Vargas, a batch of documents.

18 I assume that you've had an opportunity to  
19 review all of those documents?

20 A To the best of my knowledge, I have.

21 MR. HALL: Just for the record, he has not  
22 reviewed every single document that's prepared, as  
23 you know. It was all such last minute for all of  
24 us, including the documents that you guys produced  
25 to me, but we'll do the best we can.

8

1 MR. SUNIA: Okay.

2 Q So please state your name.

3 A Douglass C. "Mike" Kneubuhl.

4 Q And what's your birth date?

5 A December 31st, 1929.

6 Q And your birth place?

7 A My birth place is Fagatogo, American Samoa.

8 Q And the names of your parents, please?

9 A My mother was Adeline Kneubuhl -- excuse  
10 me -- Pritchard Kneubuhl.

11 Q And your father's name?

12 A Benjamin Franklin Kneubuhl.

13 Q Your father was -- where was he from?

14 A Burlington, Iowa, USA.

15 Q Did he have any Samoan heritage?

16 A No.

17 Q And your mother, was she of Samoan  
18 ancestry?

19 A Yes.

20 Q If you can, would you state what percentage  
21 of Samoan blood your mother had?

22 A I believe my mother was a little over  
23 50 percent, maybe 55 to 60 percent.

24 Q Now, you know -- can you explain how you  
25 come up with that percentage?

9

1 A I'll give you the best of how I came to  
2 this conclusion.

3 Q Sure.

4 A My mother's father was -- let's see, my  
5 mother's father was, I think, a quarter Samoan. And  
6 my mother's mother was full-blooded Samoan. So I  
7 don't know.

8 Q Okay. Okay.

9 A She may be a little more than 60 percent  
10 Samoan.

11 Q Close.

12 Do you know Frances Opelle?

13 A Yes, I do.

14 Q Who is Frances Opelle?

15 A She's my sister.

16 Q Let me back up.

17 Are you married?

18 A Am I married?

19 Q Are you married today?

20 A Yes.

21 Q Who are you married to?

22 A Suzanne Nelson Kneubuhl.

23 Q And where is your wife from?

24 A She's from -- she was born in Santa Monica,

25 California.

10

1 Q Does she have Samoan blood?

2 A No.

3 Q And you and your wife have children?

4 A Yes.

5 Q How many?

6 A We have two.

7 Q Okay. And who are they?

8 A The eldest is Carrie Lavigne Eckert. That

9 should cover it.

10 Q Carrie, is there a second -- you said two?

1 Q Does she have Samoan blood?

2 A No.

3 Q And you and your wife have children?

4 A Yes.

5 Q How many?

6 A We have two.

7 Q Okay. And who are they?

8 A The eldest is Carrie Lavigne Eckert. That  
9 should cover it.

10 Q Carrie, is there a second -- you said two?

11 A She was married three times prior to this  
12 last one.

13 Q You said Carrie, what is the other one?

14 A You want me to name all the ex-husbands?

15 Q No, no, the names of your children.

16 A Of my children?

17 Q Correct.

18 A Well, we named her Carrie Sue Kneubuhl.

19 Q That's one?

20 A Uh-huh.

21 Q You said you and your wife had two?

22 A Yes.

23 Q Who is the other one?

24 A Kelly Kneubuhl.

25 Q Do you have children other than your

1 children from your marriage?

2 A Yes, I do.

3 Q All right. Who are they?

4 A The eldest is Deborah, the next is Douglass

5 C, Jr., and then Mark. And then Stacy from a

6 previous marriage.

7 Q Do you know an Adrian Kneubuhl?

8 A Who?

9 Q Adrian Kneubuhl.

10 A Yes, I do.

11 Q Is he a son of yours?

12 A No.

13 Q How do you know Adrian Kneubuhl?

14 A A very good friend of mine, who I met in

15 Samoa, gave birth to Adrian. That's how I knew him.

16 Q Do you know why he carries the last name

17 Kneubuhl?

18 A No.

19 Q What is your current address?

20 A My current address?

21 Q Yes.

22 A It is 811 North Bay Front, Balboa Island,

23 California.

24 Q And how long have you lived there?

25 A Since 1994.



9 Q Adrian Kneubuhl.

10 A Yes, I do.

11 Q Is he a son of yours?

12 A No.

13 Q How do you know Adrian Kneubuhl?

14 A A very good friend of mine, who I met in  
15 Samoa, gave birth to Adrian. That's how I knew him.

16 Q Do you know why he carries the last name  
17 Kneubuhl?

18 A No.

19 Q What is your current address?

20 A My current address?

21 Q Yes.

22 A It is 811 North Bay Front, Balboa Island,  
23 California.

24 Q And how long have you lived there?

25 A Since 1994.

12

1 Q About 20 years ago?

2 A 20 years.

3 Q All right. And then prior to 1994, where  
4 were you living?

5 A I lived in Bay Shores in Newport Beach.

6 Q And how long did you live in that location?

7 A From 1980 to 1994.

8 Q Before 1980, where were you living?

9 A We lived in Corona Del Mar on Sand Dune

10 Lane. I don't remember the address.

11 Q And how long had you lived in that

12 location?

13 A We lived there from 1968 until --

14 Q 1980?

15 A No, prior to that.

16 We lived there for about five years,

17 roughly.

18 Q When did you last live in American Samoa?

19 A 1968.

20 Q Your current residence, do you own it?

21 A Yes.

22 Q Do you still have a mortgage on it?

23 A No.

24 Q When was the last time you had seen your

25 sister Frances?

13

1 A I'd say I believe it was four years ago.

2 We were celebrating -- all of my classmates and I

3 who graduated from Punahou High School in Honolulu

4 were celebrating our 80th birthdays.

5 Q Where was that celebration?

6 A On the windward side of Hawaii. What is  
7 the name where the surf is? Turtle Bay. Turtle Bay  
8 Resort.

9 Q Did you invite her to the celebration?

10 A No.

11 Q How did she end up being in the  
12 celebration? Were you in the same class?

13 A No. She was living about 7 miles away, 10  
14 miles away. So my wife and I called her and her  
15 husband, Bob Opelle, to see her and also to take  
16 them out to lunch at the Turtle Bay hotel.

17 Q And you met up for lunch is what you're  
18 saying?

19 A Yes.

20 Q All right. Punahou, you attended high  
21 school at Punahou?

22 A Yes, I did.

23 Q All four years?

24 A No, just the last two years.

25 Q Where were you in school prior to attending

14

1 Punahou?

2 A I was in the private school in Santa

3 Barbara called La Loma Feliz.

4 Q And what part of your education was in

5 Santa Barbara?

6 A I was there from 1942 to 1946. I missed

7 out on school for many, many years during World War

8 II in American Samoa, so that's why I went there. I

9 covered, I think, six grades, something like that,

10 seven grades, in the period of time I was there.

11 Q When you finished school, you returned home

12 to American Samoa?

13 A When I finished high school?

14 Q Yes.

15 A No.

16 Q Where did you go after high school?

17 A University of Arizona in Tucson.

18 Q And how long did you attend University of

19 Arizona?

20 A Four years.

21 Q And then after the four years in Tucson did

22 you continue with your education?

23 A No.

24 Q Did you return to American Samoa after

25 attending college?

1 A Just for vacation.

2 Q Now, what year did you finish your college  
3 at Arizona?

4 A 1952.

5 Q After 1952, did you return to American  
6 Samoa to live?

7 A Yes.

8 Q So you did return home to American Samoa  
9 after you completed college?

10 A Oh, yes.

11 Q Was there any part of your schooling done  
12 in American Samoa?

13 A Yes.

14 Q What part of your education was in American  
15 Samoa?

16 A From the first grade to when World War II  
17 broke out, so I think I was in sixth grade, I  
18 believe.

19 MR. VARGAS: I'm sorry. What was that?

20 THE WITNESS: Sixth grade when I stopped --  
21 when the school was closed.

22 I attended Marist Brothers.

23 BY MR. SUNIA:

24 Q How many siblings do you have?

25 A Siblings?

1 Q Yes.

2 A I have five.

3 Q Where are you in the order of your parents'

4 children?

5 A I'm the fifth eldest. And then Frances

6 would be the last child.

7 Q Frances was the youngest of your parents'

8 children?

9 A Yes.

10 Q How far apart were you and Frances in terms

11 of age?

12 A I think approximately four years, maybe.

13 Q When you attended Marist in American Samoa,

14 had Frances attended school?

15 A I don't believe so. I can't be sure, but I

16 don't think so.

17 Q The best you can recall, when you started

18 school in American Samoa, were your older siblings

19 living there?

20 A No.

21 Q Where had they gone to?

22 A Well, I believe my sister Marge, my elder

23 sister, was attending Punahou at the time.

24 And I believe my brother John, the third  
25 oldest boy, young man, was attending Punahou at the

17

1 time also.

2 I believe that Jim was out of school at the  
3 time. He's the eldest.

4 And I believe that Ben was also out of  
5 school at the time. They were adults working.

6 Q I'm sorry. Who was at Punahou when you  
7 were attending Marist in American Samoa?

8 A I believe my brother -- the war broke out  
9 in 1941. I believe that my brother -- my sister  
10 Marge was still at Punahou. And John had just  
11 graduated. He was, at that time, attending Yale.

12 Q Do you remember when Frances started  
13 attending school in American Samoa?

14 A Well, the schools closed in 1941.

15 I believe they were still closed when I  
16 left there in 1943.

17 Frances, I don't think, had started school,  
18 because she was pretty young when the war broke out.  
19 She would be -- in 1941 I would be 11 and she would  
20 be 6. I'm not sure.

21 Q When you were attending schooling in -- you

22 came from American Samoa to Santa Barbara first,

23 correct?

24 A Yes.

25 Q And Frances stayed back in American Samoa?

18

1 A Yes.

2 Q And then you went to Punahou to finish high

3 school?

4 A Yes.

5 Q Was Frances still in American Samoa?

6 A No. Frances, when I went to Punahou, was

7 living here.

8 Q Where?

9 A In Balboa Island.

10 Q Who was she living with?

11 A My mother.

12 Q Were you also living at Balboa at that time

13 with your mother and Frances?

14 A No. I was in school.

15 I think shortly after Frances and my mother

16 were living in Balboa, Frances then came up to the

17 school where I was.

18 Q So you and Frances, at some point, attended

19 school together in Santa Barbara somewhere?



20 A Yes.

21 Q What was the name of the school there?

22 A La Loma Feliz.

23 It is closed. It is no longer in

24 existence.

25 Q How long were you in the school in Santa

19

1 Barbara?

2 A I was there from 1943 to 1946.

3 I think Frances was there from 1944, '45

4 until '46.

5 Q And when you went to Punahou from that

6 school in Santa Barbara, did Frances continue to

7 stay in school in Santa Barbara?

8 A No. She also went to Punahou at that time.

9 Q So the two of you together went to Punahou

10 and attended Punahou at the same time?

11 A Right.

12 Q And you attended Punahou for how many

13 years?

14 A Two years, the last two years of high

15 school.

16 Q And what year was Frances in school at

17 Punahou?

18 A Well, I know she went the whole four years  
19 there, even after I left. And I believe she was  
20 there from 1946 to -- she was there from 1946 until,  
21 I think, 1951 or '52. I'm not sure.

22 Q So part of her school at Punahou must have  
23 been --

24 A Grade school.

25 Q -- grade school?

20

1 A Yes, elementary.

2 Q So when you finished at Punahou and went on  
3 to Arizona --

4 A Yes.

5 Q -- Frances continued her education at  
6 Punahou, right?

7 A Yes.

8 Q When Frances finished her education at  
9 Punahou, did she also go on to Arizona?

10 A No. She attended Mills College. I believe  
11 it is in the Oakland area.

12 Q Was there a point when the two of you  
13 attended school together again after Punahou?

14 A No.

15 Q How would you describe the relationship you

16 had with your sister Frances up at the Santa Barbara  
17 school?

18 A It was a brother/sister -- normal  
19 brother-sister relationship. I knew she was my  
20 younger sister. I always tried to do everything I  
21 could to help her when she needed my help at the  
22 time. We had a very good relationship.

23 Q And that relationship continued at Punahou;  
24 is that a fair statement?

25 A Yes.

21

1 Q You know, there -- I suppose this isn't  
2 unique to the Samoans, but there is a bit of a  
3 protective brother-sister relationship kind of  
4 prevalent in families.

5 A Yes.

6 Q Did you see yourself as, similarly, a  
7 protector of your sister?

8 MR. HALL: I'll object as lack of  
9 foundation. I don't know that this cultural input  
10 is related to -- if there is any relationship to the  
11 case.

12 BY MR. SUNIA:

13 Q Let me rephrase.

14 How is your Samoan, Mr. Kneubuhl?

15 A My Samoan language?

16 Q No, no, just knowledge.

17 A Well, you know, I love the Samoan culture,

18 I love my Samoan family. A lot of them are in

19 Hawaii and Western Samoa. Of course, I have a lot

20 of relatives and family, Samoan family in American

21 Samoa. I'm very close to most of them.

22 I love my Samoan heritage, I'm very proud

23 of it. I am a Samoan chief, high chief in the

24 village of Falelatai. My Samoan title is

25 Lilomaiava, and I received that title, oh, I think,

22

1 around 1985 or '86.

2 Q And you still maintain that title today?

3 A Yes.

4 Q Good for you.

5 As a Samoan chief, would you agree it would

6 be fair for me to say that the Samoans are fairly

7 protective of their sisters?

8 A I would hope so.

9 Q And did you see yourself as having a

10 similar relationship with your sister Frances at

11 school?

12 A Yes, I believe that I always tried to take  
13 care of her in every way I could possibly.

14 Q How far apart are you in age, in years,  
15 from your next eldest sibling?

16 A How can I relate? I believe Marge was five  
17 years older than me. So today she would be 89.

18 Q Were there any of your -- when you and  
19 Frances were in American Samoa at the young age, it  
20 was just the two of you?

21 A Yes.

22 Q And when you and Frances attended the Santa  
23 Barbara school, it was just the two of you too?

24 A Yes.

25 Q And the same thing when you went to

23

1 Punahou, it was just the two of you?

2 A Yes.

3 Q When your mother was living in Balboa, was  
4 it just the two of you, you and Frances around, or  
5 were other siblings there?

6 A Well, I believe my sister Marge -- the  
7 reasons my mother came up from Samoa was my sister  
8 Marge was married to a fighter -- fighter pilot,  
9 dive bomber pilot, and he died in 1946, I believe,

10 and so my mother came up -- no, wait a minute.

11 From 1944 -- my mother came up in 1944, I  
12 believe, with Frances. They rented a home on Balboa  
13 Island to live.

14 And then my sister Marge, when her husband  
15 was killed around 1945, she came out and lived with  
16 them. And 1946 my father bought his first home on  
17 Balboa Island for Marge to stay in with her  
18 daughter, Sandra, who was a little baby at the time.

19 I left in '46 to go to Punahou, and so did  
20 Frances.

21 Q After Arizona, at some point you return to  
22 Samoa?

23 A Yes.

24 Q Now, did Frances return to Samoa after  
25 you --

24

1 A Not to my knowledge. Not to my knowledge.

2 I don't know.

3 Q Was there ever a time when you and Frances  
4 lived in Samoa after you finished college?

5 A Yes.

6 Q When do you remember that?

7 A From 1961 to 1968. In that period we were

8 both there in American Samoa.

9 Q What did you do when you returned from  
10 Arizona, after you finished college and returned to  
11 Samoa? What were you doing? Work?

12 A I went to work -- my first job was with the  
13 Matson Navigation Company in San Francisco. I was a  
14 trainee in the freight department. What they call  
15 an executive trainee. Very good title, very little  
16 money.

17 Q And did you do any other work after that?

18 A Yes.

19 Q In the States?

20 A I was with Matson Lines for about three  
21 years. And then I left them and resigned from that  
22 company and went to work for a wholesaler in  
23 San Francisco in sales, marketing.

24 Q Was there any other job you did in the  
25 States before returning to Samoa at that time?

25

1 A Not that I know of.

2 Q So when you returned to Samoa, what work  
3 did you do?

4 A I went to work initially in the  
5 merchandising business.

6 Q Your family in Samoa had businesses; is  
7 that correct?

8 A Yes.

9 Q Did you work for your family's business  
10 when you returned?

11 A Yes, yes.

12 Q Who was running or operating your family's  
13 businesses at that time?

14 A Well, my dad, of course. And then my  
15 mother and Bob Opelle, my sister Frances' husband.

16 Q Okay. Your mother had returned home when  
17 you returned to Samoa?

18 A No, my mother -- after the war, when they  
19 bought that home on Balboa Island, my mother and  
20 father traveled back and forth. They would come up  
21 and spend six months here and six months in Samoa.

22 Q And did they continue to do that -- did  
23 they continue that practice even after you returned  
24 home?

25 A Here?

26

1 Q No, even after you returned home, back  
2 then?

3 A To Samoa?



4 Q Yes.

5 A Yes.

6 Q And the times that they were traveling, the  
7 six months away, who was looking after your family's  
8 businesses?

9 A Well, Bob Opelle was primarily in charge,  
10 and I was sort of second.

11 But I sort of -- when I started there, the  
12 position I had was sort of second of the store. I  
13 got it -- and I didn't intend to stay there. I took  
14 the job because of a challenge that my father and I  
15 had one day.

16 I was in a very active new concept in  
17 merchandising when I left Matson. So I was able to  
18 go into stores, grocery stores, and I was able to be  
19 able to tell, just by looking and observing and some  
20 facts, the amount of business that they were -- that  
21 they had, what kind of business it was.

22 And so when I went down there, we were  
23 having lunch one day and my father made the  
24 statement they had the best store in American Samoa,  
25 the biggest amount of business.

27

1 I made the mistake of saying, "I can't see

2 why."

3 And so sort of a challenge, and he said,

4 "Well, what would you do differently?"

5 And I said, "Quite a few things."

6 And Bob Opelle was there at the time.

7 And so I went on to Apia, to visit Apia,

8 before coming back here. And when I got back Bob

9 came to me and said, "Were you serious about what

10 you said about the business not being a very good

11 merchandising business?"

12 And I said, "Well, yeah. Anyone who is in

13 the business, like I've been, can tell you that many

14 things could be done better."

15 And so I stayed. And that's how we

16 started. I, shortly thereafter, converted the whole

17 store into a self-service operation; which was the

18 first in American Samoa at the time. Unheard of,

19 for people to, you know, trust people by going into

20 a store and picking things up.

21 The objection my father had is there is

22 going to be a lot of stealing.

23 Q Sure.

24 A It didn't happen that way. It became a

25 very big success.

1 And then I went -- they needed a lot of  
2 storage, and so I went and negotiated a contract in  
3 the purchase back in Kansas with Butler, steel frame  
4 warehouses. And I negotiated with the government in  
5 exchange of property at Satala, the power plant.  
6 They wanted higher ground, exchange that, on lower  
7 ground, the FEMA property the government had. And  
8 we were able to get that land and build Satala  
9 warehouse.

10 Then I started a wholesale warehouse there  
11 and also started a bottling corporation, Coca-Cola  
12 bottling. And then I started a business called  
13 Pacifica Foods.

14 And then Ben came down, about a year or so  
15 after I was there, working in accounting, he was  
16 working in accounting in Hawaii. My sister Marge  
17 came down.

18 So everything was going good. The company  
19 was making money. Pacifica Foods was a tremendous  
20 success, about ready to break loose on certain  
21 ideas, concepts I brought.

22 I got the government to bring in the first  
23 USDA inspector for American Samoa. The purpose of  
24 that was so that we could -- my purpose was so we

25 could import merchandise from New Zealand, process

29

1 it in American Samoa by doing very little, get that

2 USDA stamp on it, bring it up to the U.S.

3 That business was about ready to fly when

4 we had the disruption in our family.

5 Q What do you mean by "disruption"?

6 A We had disagreements.

7 My older brother, when my father passed

8 away in 1964, 1965, he was sort of in charge of

9 everything. Everything was going good. And then my

10 wife and I -- excuse me.

11 Some of the things I said before about

12 businesses that were established came later. After

13 I left Samoa in 1968, I started my own business out

14 here.

15 And my brother Jim asked me to come back to

16 American Samoa when he was transferred to England,

17 asked me to go back and sort of be his personal

18 representative and watch over that business and act

19 in his capacity.

20 He didn't know anything about it. He was

21 an engineer for Fluor Corporation and then he became

22 one for Kellogg later on stationed in England.

23 Q So back to the disruption, what do you mean  
24 by "disruption"?

25 A When I left American Samoa, because of my

30

1 own decision, my wife, Suzie, and I, you know lived  
2 there, I lived there for eight years working. And  
3 Suzie and I got married in 1964. In '68 we left, so  
4 she was there for four years.

5 We left in '68 and I came out here and  
6 started my own businesses.

7 And then sometime in the early -- sometime  
8 in the early '70s or mid-'70s, I forget, my brother  
9 asked me to go back and oversee the company, because  
10 they were beginning to -- they weren't doing so  
11 well.

12 Q Had your father -- your father had passed  
13 on at that time?

14 A He passed on in 1965.

15 Q Your mother was still alive?

16 A My mother was alive until 1980.

17 Q Was Frances still in Samoa when you  
18 returned in the mid-1970s?

19 A Yes.

20 Q And she was in Samoa when you left in 1968?

21 A Yes.

22 Q And when you returned in the '70s, did you  
23 then become -- or have a similar role of manager of  
24 your family's businesses? Is that what happened?

25 A My brother Jim gave me authority, his

31

1 authority, as the one that was holding all the  
2 authority over the businesses in Samoa. He wanted  
3 me to be his personal representative and take over  
4 the responsibility of managing those companies at  
5 that time.

6 During that period it was that I started  
7 Pacifica Foods after that.

8 Q And also at that time you had already  
9 established a home in California?

10 A Yes.

11 Q So were you also traveling back and forth  
12 to California to your home and back to the business?

13 A Yes. Approximately I was spending anywhere  
14 from a week to ten days in Samoa and the rest of the  
15 time commuting back and forth.

16 In the early days it stretched out to about  
17 six weeks I went back and forth.

18 Q And during that period from the '60s on to

19 the '70s, how would you describe your relationship

20 with Frances?

21 A Same.

22 Q The two of you sort of are separated from

23 the rest of your other siblings, I guess, by age.

24 Is that a fair statement?

25 A Yes.

32

1 Q You were sort of an older brother just by

2 virtue of the age differences from the other

3 siblings, right?

4 A I would think so, yes.

5 Q And you consider her to be your younger

6 sister because she was the youngest in your family

7 of the children, right?

8 A Yes.

9 Q The disruption that you alluded to, was --

10 about what time do you think that that happened?

11 A Well, it was shortly after my mother died.

12 My mother passed away in 1980. I don't know, maybe

13 a year later, something like that, 1982, I think,

14 because we have a settlement agreement in 1982, so

15 it had to be shortly before that.

16 MR. SUNIA: Off the record for a minute,

17 please.

18 (Discussion off the record.)

19 (Deposition Exhibit OPL-1 was marked

20 for identification by the court

21 reporter and is attached hereto.)

22 BY MR. SUNIA:

23 Q Mr. Kneubuhl, I'm showing you what has been

24 marked as Exhibit OPL-1, which reflects Bates

25 numbers OPL 0014 through 0035, I believe.

33

1 Now, do you recognize that document?

2 A Yes.

3 Q What is that document?

4 A This was a settlement agreement between all

5 of the siblings.

6 Q Now, is that the settlement agreement you

7 were referring to earlier that was a result of the

8 disruptions?

9 A Yes.

10 Q In that settlement agreement, if you will

11 turn to the signature pages, please.

12 A Yes.

13 Q Did Frances sign that agreement?

14 A This is James, me, Frances.



15 Yes.

16 Q If you could explain -- let me go back.

17 Did you have an attorney representing you  
18 at that time of that settlement agreement?

19 A At this time, yes.

20 Q Who was he or she?

21 A It was Larry Arnold.

22 Q Where is Larry Arnold from?

23 A From California.

24 Q Do you recall who represented the other  
25 parties in that agreement?

34

1 A Latham & Watkins.

2 Q All of the other siblings?

3 A I believe so, yes.

4 Q What about Frances, did she have an  
5 attorney, do you know?

6 A I'm not sure.

7 Q Were there any attorneys from American  
8 Samoa involved in the agreement, if you can recall?

9 A None from my side.

10 Q What about the other side?

11 A I don't know.

12 Q Why was that agreement reached?

13 A Well, we all decided to go our different  
14 ways. And I chose to go my way, and this agreement  
15 represents what we decided and what we considered to  
16 be a way to settle our differences.

17 Q That agreement also involves land; is that  
18 right?

19 A Yes.

20 Q Is it fair to say there were exchanges in  
21 land interests and shares of business shares,  
22 company shares in that agreement?

23 A Yes.

24 Q That agreement refers to land that was in  
25 your mother's trust; is that right?

35

1 A Yes.

2 MR. SUNIA: I want to ask if you will mark  
3 this as OPL-2. And the Bates numbers are 0001 to  
4 0002.

5 (Deposition Exhibit OPL-2 was marked  
6 for identification by the court  
7 reporter and is attached hereto.)

8 BY MR. SUNIA:

9 Q Mr. Kneubuhl, I'm handing you this document  
10 that's Exhibit OPL-2.

11 Q Have you seen that before?

12 A You have to excuse me because I can't read

13 that well, so I have to go through this thing a

14 little bit.

15 Q Take your time.

16 A I don't remember seeing this document

17 before.

18 Q May I see the document, please?

19 All right. I'll ask you to turn to the

20 second page of that Exhibit OPL-2. Do you recognize

21 the signature on that page?

22 A The signature of who?

23 Q On that page, do you recognize any of the

24 signatures on that page?

25 A I recognize my mother's.

36

1 Q Okay. Did your mother create a trust to

2 put land in?

3 A Yes.

4 Q Do you recognize -- is that a copy of that

5 trust, if you can recall?

6 A It may be. I don't know. All I know is I

7 don't believe I ever saw this document before.

8 Q Okay. That's all right.

9 Your mother did create a trust, right?

10 A Yes.

11 I don't know what date this is. Is there a  
12 date on here? August 24, 1960.

13 Q What year did your mother create her trust?

14 A The trust that I'm aware of was created in  
15 1961 or '62. I'm not sure.

16 Do you know the date, Roy?

17 This is before the first time I went to  
18 Samoa to go to work.

19 Q Back to the 1982 agreement, the OPL-2  
20 exhibit, the lands that were involved in the -- some  
21 of the lands that were involved in the 1982  
22 agreement were in your mother's trust, the trust  
23 that your mother created in 1960, '61, '62,  
24 according to your testimony, right?

25 A Yes.

37

1 Q With respect to the land in your mother's  
2 trust --

3 A Yes.

4 Q -- what did you agree to do with respect to  
5 those lands in the 1982 agreement?

6 A Could you rephrase the question, please?

7 Q In the 1982 agreement --

8 A Yes.

9 Q -- what did you agree to do with your --  
10 with your interest in your mother's land that was in  
11 her trust?

12 MR. HALL: I'm going to object at this  
13 time.

14 If you could refer to what parts of the  
15 trust.

16 MR. SUNIA: Would you stipulate --

17 MR. HALL: It is a settlement agreement.

18 MR. SUNIA: What about the trust? No? We  
19 can fight it in your --

20 MR. HALL: I just don't want to get  
21 involved with the stipulations right now. We should  
22 have done that before.

23 But you've got the witness.

24 MR. SUNIA: All right.

25 Just go by page and paragraph --

38

1 MR. SUNIA: Okay.

2 MR. HALL: -- so he can look at it and he  
3 can testify to it, rather than have him try and  
4 recall what he agreed to in that multipage document.

5 BY MR. SUNIA:

6 Q I want to ask you -- this is Exhibit

7 OPL-1 -- to look at paragraph 5 that starts on page

8 5 and it loops onto page 6.

9 A Okay.

10 Q Now, can you describe what you just read on

11 page 5 and onto 6 under paragraph 5?

12 A Well, it's an agreement.

13 Q Was that an agreement -- what was the

14 agreement?

15 A The agreement was that my siblings, Jim

16 Kneubuhl, Ben Kneubuhl, John Kneubuhl and Margaret,

17 transfer and assign to me all of their interests in

18 property, certain property, Fuamete, Taupau, Poata,

19 Fagaiofu, Talimatau -- Fagaiofu is spelled wrong

20 here, by the way.

21 And that's what I read here so far.

22 Q Okay. And isn't it true that in that

23 agreement, also, you agreed to assign to those

24 siblings your interest in Olo?

25 A Yes.

39

1 Q Now, Olo is what? What is Olo to you?

2 A Olo was a very fine piece of property. I

3 remember as a little boy when the war broke out,  
4 that was the first place where the Marines camped, a  
5 wild bunch. The first attack on the Japanese  
6 trained there, ate all of my Uncle Frank's cows that  
7 were there and pretty much ruined the property.

8       And then, of course, after the war, Olo was  
9 retained by the family, and we used it during the  
10 war, too, a beautiful piece of property.

11     Q   So Olo is property. Was that property part  
12 of your mother's trust?

13     A   Yes.

14     Q   In that 1982 agreement you agreed to assign  
15 your interest in Olo to the siblings that you just  
16 named, right?

17     A   Yes.

18     Q   And your understanding is you were  
19 assigning all of the interest in the Olo property to  
20 the siblings you just named, right?

21     A   Yes.

22     Q   Why did you agree to do that, to assign  
23 your interest in Olo to your other siblings?

24     A   Well, we believed we were in negotiations  
25 and they assigned certain things, certain properties

1 to me in exchange.

2 Q Did you find that the other properties that  
3 they were exchanging was preferable to Olo? Is that  
4 the reason you did it?

5 A No.

6 Q So what was your thinking at the time --

7 MR. HALL: I'm going to object; asked and  
8 answered.

9 BY MR. SUNIA:

10 Q What was your thinking at the time that you  
11 agreed to that exchange?

12 A We were trying to find a settlement.

13 Q Do you know if your other siblings  
14 expressed the preference that you divest yourself of  
15 your Olo interests?

16 A Could you rephrase your question?

17 Q Do you know if your siblings -- can you  
18 repeat my question, please.

19 (Record read as follows:

20 "Q Do you know if your other  
21 siblings expressed the preference that  
22 you divest yourself of your Olo  
23 interests?")

24 THE WITNESS: If they wanted me to divest?

25 BY MR. SUNIA:



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18 repeat my question, please.

19 (Record read as follows:

20 "Q Do you know if your other  
21 siblings expressed the preference that  
22 you divest yourself of your Olo  
23 interests?")

24 THE WITNESS: If they wanted me to divest?

25 BY MR. SUNIA:

~~SPR~~

P40

1 Q Yes.

2 A I believe that's correct.

3 Q Are you aware of any reason why they would  
4 want you to give up your Olo land interest?

5 A Why I wanted to?

6 Q Why they would want to.

7 A I have no idea what they were thinking.

8 Q Why did you want to give up your Olo  
9 interests?

10 A I didn't really want to give up anything.

11 It was a settlement.

12 Q What was at risk if you would have held  
13 onto your Olo land interests?

14 A What would have been the risk?

15 MR. HALL: I'm going to object;  
16 argumentative.

17 BY MR. SUNIA:

18 Q Go ahead. Answer the question.

19 A The risk? I don't know that there was any  
20 risk. My main concern at the time was to get this  
21 thing settled. I didn't want to be around my family  
22 at that particular time anymore. I had my own  
23 affairs here that I had to take care of, and all I

24 wanted was to be out of the family affairs.

25 And, if I recall, I believe -- and this is

42

1 just a belief on my part -- I think we were able to  
2 settle the way we did was because my brothers, Jim  
3 and Ben, who were really running the businesses down  
4 there, their belief was that I wanted, in the worst  
5 way, to get in the settlement Pacifica Foods, the  
6 company I started, created for them, in which I  
7 believe was on its way to making tremendous sums of  
8 money. They disagreed with my ideas. And I believe  
9 this is one of the main concerns we had, why they  
10 were scared of me.

11 And so when negotiations took place, they  
12 wanted -- they believed that was my main concern, to  
13 get that.

14 And when they got the feeling that was my  
15 main aim, my attorney went to them, I believe -- I'm  
16 trying to think back at the time -- my attorney went  
17 to them and suggested that they take Pacifica Foods,  
18 they can have Pacifica Foods and all the businesses  
19 and they could have my piece of property at Olo in  
20 exchange for all of my mother's properties in  
21 American Samoa and Western Samoa at the time, or

22 Samoa at the time.

23 Q At that time your family's business, how  
24 would you describe its health?

25 A How would I describe its health in 1982?

43

1 You have to know I had a pretty good idea  
2 of what was going to happen.

3 I had my own businesses. I knew what I  
4 could do with Pacifica Foods, and probably the only  
5 one in the family that knew.

6 Quite frankly, I think some of my ideas  
7 scared my oldest brother at the time, who really  
8 didn't know anything about Samoa, Samoa culture or  
9 anything.

10 I don't think Ben was able to do anything  
11 with the business. And Marge, of course not. They  
12 were the only ones involved at the time.

13 Q Were the businesses still operating?

14 A Yes.

15 Q And how long after the 1982 agreement did  
16 the -- are the businesses still operating today?

17 A No.

18 Q How long after the 1982 agreement did the  
19 businesses shut down?

20 A I have no idea. It must be in the record

21 someplace.

22 Q Did you know that the businesses would

23 eventually shut down?

24 A Well, I had a very good idea that Pacifica

25 Foods was going to shut down because no one knew

44

1 anything about it.

2 Q At that time was Pacifica the moneymaker of

3 the Kneubuhl businesses?

4 A I would say at the time when I was there,

5 the last year of our operation that particular

6 company netted out about a quarter of a million

7 dollars, Pacifica Foods. And Maritime -- Kneubuhl

8 Maritime was probably around that same figure, maybe

9 a little less, I don't know. The merchandising

10 business, I would say, there was very little or no

11 wholesale left, just the store operation.

12 Competition was very heavy, new types of stores were

13 coming in.

14 From what I could see going through there

15 from time to time and looking out of the interests I

16 had, these were my observations.

17 Q Now, you didn't make such a bad deal.

18 MR. HALL: Objection; argumentative.

19 BY MR. SUNIA:

20 Q The one thing I noticed in that paragraph  
21 that you read, Frances did not divest or assign  
22 you -- she wasn't required by the 1982 agreement to  
23 assign you any of her land interests.

24 Do you recall that?

25 A That's true.

45

1 Q Was that something that you wanted to be  
2 done by design in the settlement agreement?

3 A No.

4 Q Do you know why you didn't ask to have her  
5 interests divested to you or assigned to you?

6 A No.

7 Q Do you know why her name isn't in that  
8 particular paragraph?

9 A I don't know why.

10 Q Did you notice that at the time when you  
11 read it?

12 A Yes.

13 Q Did you have a -- did you object that she  
14 wasn't included in the --

15 A No.

16 Q -- siblings who were assigning you their  
17 interests?

18 A No.

19 Q Did it surprise you to see that she wasn't  
20 in it?

21 A No.

22 Q Were you happy that she wasn't in there?

23 A Not necessarily. It's her decision.

24 Q Now, when you agreed to assign your Olo  
25 interests, you agreed to assign your Olo interests

46

1 to all of your other siblings except Frances; is  
2 that right?

3 A Yes.

4 Q Now, that would have been something that  
5 your attorney or you would have asked for, right?

6 A I don't think so. I don't remember my  
7 attorney asking them for it. It was something Bob  
8 Opelle and Frances decided to do.

9 Q Did you tell your attorney you don't want  
10 to give Frances any of the Olo interests?

11 A No, I did not. I did not at all.

12 As a matter of fact, I remember very well  
13 at that particular time I was surprised Frances did

14 it. Because of our relationship, my love for her  
15 and her love for me, she didn't want to participate  
16 with the decision.

17 As it turned out, it was probably the best  
18 decision Frances made. Because, you realize that  
19 she had more land in Olo than anybody else at the  
20 time, approximately 10 acres, and she certainly  
21 didn't want my -- any part of my acres that was  
22 left.

23 On the other hand, she did retain a 6th  
24 interest in the lands I had, Fuamete, Taupau and  
25 Fagaiofu.

47

1 So it was a good decision they made, a  
2 business decision on their part. But I think the  
3 motive Frances had was her love for me and didn't  
4 want any part of what she considered an unfair  
5 situation.

6 Q Unfair for you?

7 A For me.

8 Q All right. So, essentially, you're saying  
9 that Frances was on your side of this -- the  
10 disruptions of 1982?

11 A Yeah, I think so.



12 Q Was that the result of the closeness of  
13 your relationship from school days on up to that  
14 point?

15 A Just a brother-sister relationship. I  
16 don't know what was going on in her mind at the time  
17 making these decisions, but that's a fair statement  
18 I just made.

19 Q Did you and Frances discuss things during  
20 this 1982, 1981 disruption period?

21 A No.

22 Q Before I get into a different area here, at  
23 the very beginning you testified that you had given  
24 your deposition in other matters?

25 A Yes.

48

1 Q What matters involving the Kneubuhl family  
2 did you give your deposition in?

3 A It was not a Kneubuhl family matter.

4 Q So you've never given your deposition in a  
5 Kneubuhl family matter?

6 A No.

7 The only deposition I'm referring to was a  
8 deposition involving a case that Bob Opelle and BFK,  
9 Inc. and I -- what you call the bottling --

10 Coca-Cola bottling, it was started by myself and a  
11 friend of mine named Dick Carpenter, Bob Opelle and  
12 my dad, himself, as an individual. We each had a  
13 fourth interest in this. Dick, Dick Carpenter,  
14 myself, my dad and Bob Opelle. We each put in the  
15 money to start it.

16 And so when we had this thing where Dick  
17 went over to Western Samoa behind our backs and  
18 decided to open up Coca-Cola there, we found out  
19 about it and I was -- Dick was a very, very dear  
20 friend of mine in high school, and now we're still  
21 good friends again after so many years, but he went  
22 behind our backs and negotiated with people over  
23 there to open a Coca-Cola bottling. We found out  
24 and sued him, and it was because of that case that I  
25 attended a deposition.

49

1 Q And that's the only deposition you've given  
2 before this one today?

3 A Yes, yes.

4 Q Had you been -- but were there other  
5 lawsuits involving Kneubuhl interests that you'd  
6 been involved with?

7 A Well, my mother and her Pritchard family,

8 there were cases there, but I wasn't personally  
9 involved, but I knew of them -- are you talking  
10 about depositions?

11 Q No, I'm talking about lawsuits.

12 A There is all the current cases that have  
13 been taking place since 2002 on Fuamete. There were  
14 no law cases as far as settlement of Talimatau, that  
15 was just a matter of lawyers working and getting  
16 family together, agreeing on certain things and  
17 doing certain things.

18 I believe I was very instrumental in  
19 bringing that estate to a closure, settling that,  
20 after spending some money of my own, because no one  
21 else did. I have all my cousins settle their pieces  
22 of land on this 42-acre plot known as Talimatau.

23 I started that, my cousin Ron worked with  
24 me, Ron Pritchard. We started around 19- -- let's  
25 see, 1999, 1998, and finally got that thing

50

1 concluded in around 2005, something like that.

2 Q What about in American Samoa, your mother's  
3 land interests in American Samoa?

4 A There is the situation as far as Fuamete,  
5 it is still going on. Frances has a 1/6 interest in

6 that. And, to date, I've been paying all of the  
7 legal fees on that matter.

8 Q Is there an ongoing case with Fuamete?

9 A Yes.

10 Q What case is that?

11 A Well, it is myself and Kison Pritchard, who  
12 started out and my family, Puletu, and his brother,  
13 Mane -- what's his last name?

14 MR. HALL: Moru Mane.

15 THE WITNESS: Moru Mane.

16 That case started in 2002 and we won most  
17 of the decisions. It's been in appeal by the other  
18 side. Since two years it's been sitting waiting for  
19 the appeal court to make their final decision.

20 BY MR. SUNIA:

21 Q How much of Fuamete is involved in that  
22 case?

23 A How much?

24 Q Of the property.

25 A There was 10 acres freehold land.

51

1 Q Is that 10 acres entirely your mother's  
2 property or is that shared with others?

3 A Shared with others. 5 --

4 Q How much of the 10 acres was your mother's  
5 property?

6 A 5.

7 Q 5.

8 Now, how much of that 5 is involved in this  
9 lawsuit?

10 A 5.

11 Q All 5?

12 A Yes.

13 Q So Fuamete, your mother's interest in  
14 Fuamete, are you saying that none of it has been  
15 sold today?

16 A No, none of that freehold property has been  
17 sold, no. 10 acres.

18 Q So your testimony is that Frances still has  
19 a 1/6 interest in that 5 acres?

20 A Yes.

21 Q Who is it representing you in that Fuamete  
22 litigation?

23 A A very, very distinguished lawyer by the  
24 name of Robert -- Roy Hall.

25 Q So Mr. Hall is representing the entire 5

1 acres, the interest in the entire 5 acres?

2 A Yes.

3 Q Which would include Frances' 1/6 interest,  
4 correct?

5 A Yes.

6 Q Is this the case that also involves  
7 Mr. Charles Ala'ilima?

8 A Yes.

9 Q How long has this matter been --

10 A Since 2002.

11 Q And Mr. Hall has represented you, the  
12 interests in Fuamete since 2002?

13 A No. Mr. Hall started in, I believe, 2004.

14 Q Are you the plaintiffs or the defendants in  
15 this case?

16 A Plaintiffs.

17 Q And what, essentially, are you suing for?

18 A Well, first of all, the Puletu family and  
19 the Mane families all encroached on the property.  
20 And I had a map, supposedly, of what my mother's  
21 share was of Fuamete. And I was going to sell a  
22 part of the land.

23 I went to attempt to sell it and found out  
24 that then Puletu and Mane checked it and they said  
25 it was their land and we had no right to it.

1 And so that was the beginning of a long,  
2 long, long battle.

3 Q And you mentioned Kison Pritchard, what is  
4 Kison Pritchard doing in that case?

5 A The Pritchard family have the other 5 acres  
6 of the interest freehold land, plus another 10 acres  
7 that Kison's father had registered as his own  
8 personal private Samoan land.

9 Part of that land is where Kison's house is  
10 today up on the hill. But the 10 acres I'm talking  
11 about is freehold land, and so Kison was -- she  
12 hired Alailima to represent her, and I hired Roy in  
13 due course, Roy Hall.

14 And so they combined their efforts on our  
15 behalf as plaintiffs, and that's the case that's  
16 still going on.

17 MR. SUNIA: How about we take a five-minute  
18 break.

19 (Recess.)

20 MR. SUNIA: We're back on the record.

21 Q I remind you, Mr. Kneubuhl, you're still  
22 under oath.

23 Did you receive any offers to buy any part  
24 of Fuamete land?

25 A We did, early, very early, back in 2001, I

54

1 believe.

2 Q And do you recall how much the offers were?

3 A Well, I think it was one offer was 75,000

4 for an acre.

5 Q And this was back in 2001?

6 A Uh-huh.

7 Q You didn't accept it?

8 A No. Well, we didn't. We were in

9 negotiations with somebody, I forget who, for a

10 little bit more money than that for some property,

11 but this is the -- this is how everything started.

12 We went to attempt to sell the property, and that

13 was when the Puletus came in and said we had no

14 right to sell it.

15 Q How much were you attempting to sell -- how

16 much of Fuamete were you trying to sell?

17 A I think at that time it was only an acre

18 that we had an offer for, that I remember.

19 Q And for how much?

20 A I think it was for that amount of money,

21 about 75-. I don't remember too well.

22 Q But that sale had occurred because of the



23 lawsuit, right?

24 A Yeah, it was caused -- that's how we got  
25 into it, we became plaintiffs and started the whole

55

1 process.

2 Q Did you notify Frances of the status of the  
3 lawsuit involving Fuamete?

4 A In just general conversation from time to  
5 time when I saw her. She never questioned what was  
6 going on or anything over the years. I would have  
7 been glad to give her all the information I had at  
8 the time.

9 I think the last time I spoke with her  
10 about it was like four years ago when we met for  
11 lunch, and I gave her a complete status of  
12 everything.

13 Q And was she aware that Mr. Hall was  
14 representing both of your interests in that lawsuit?

15 A I would think so.

16 Q As a result of the 1982 agreement, which is  
17 Exhibit OPL-1 in this deposition -- let me step  
18 back.

19 Mr. Hall, are you stipulating to Exhibit  
20 OPL-2?

21 MR. HALL: Yes. And, for the record, what  
22 has been identified as the Adeline Kneubuhl Trust,  
23 Exhibit Number 2.

24 BY MR. SUNIA:

25 Q As a result of the 1982 settlement, you and

56

1 your sister Frances ended up having interests in  
2 this land, Fuamete; is that right?

3 A Yes.

4 Q I think your testimony was you hold 5/6  
5 interest and she holds 1/6 interest in approximately  
6 5 acres?

7 A Yes.

8 Q Also as a result of the 1982 agreement, did  
9 you and Frances share interest in other property of  
10 your mother's?

11 A Yes.

12 Q What property or properties?

13 A There was Fagaiofu, there was Talimatau.

14 Q Let's talk about Talimatau.

15 A Yes.

16 Q Talimatau, what is Talimatau?

17 A Talimatau is a piece of property that is  
18 freehold land, freehold land that a good portion of

19 it overlooks -- looks over Apia. It is located at  
20 about an 800-foot elevation, I believe, or something  
21 like that, or 600.

22 The property Talimatau, when I first looked  
23 into it after the settlement, my grandfather, Alfred  
24 J. Kneubuhl, had not -- Alfred J. Pritchard had not  
25 completed his probate of the land.

57

1 So it had to be probated and surveyed and  
2 redistributed amongst the Pritchards, my Pritchard  
3 cousins, and my sister Frances and I.

4 Q Is Talimatau, is that property still held  
5 by you and Frances?

6 A No, because it was sold.

7 Q When was that property sold?

8 A I have all the records on it someplace, but  
9 I think it was 2005.

10 Q Do you recall how much it sold for?

11 A Approximately \$256,000 U.S.

12 Q Who handled the sale for --

13 A Of the property?

14 Q -- of the property?

15 A Patrick Fepule'ai, an attorney in Samoa.

16 Q I'm going to ask that you have a look at

17 your produced document with Bates number MK 040.

18 Roy, can you show that to your client?

19 MR. HALL: 040?

20 MR. SUNIA: 040.

21 MR. HALL: You know I don't really work for

22 you.

23 MR. SUNIA: I can work off of your binder,

24 if you want me to.

25 Q Have you seen that -- you must have seen

58

1 that document before. That's part of the documents

2 that you turned over.

3 A Yes.

4 Q Is that representative of the sale of your

5 property handled by Patrick Fepule'ai?

6 A Yes, it is.

7 Q So that document, MK 040, according to that

8 document, the property sold for \$454,524.11, U.S.

9 dollars; is that right?

10 A Yes.

11 Q That was after deductions of the listed

12 expenses.

13 A Yes.

14 Q If you'll direct your attention under

15 "Expenses" --

16 A Yes.

17 Q -- where it says "Outstanding legal

18 fees" --

19 A Yes.

20 Q -- whose fees were those?

21 A Where is that?

22 Q Parenthetical (e).

23 A "Outstanding legal fees," yes.

24 Q Whose fees were those?

25 A Those were for Patrick.

59

1 Q Patrick. Okay.

2 A As well as some of the fees necessary in

3 subdividing the property and getting the probate

4 concluded.

5 Q How big was this property?

6 A It represented -- our portion was -- let me

7 think a minute here. I think ours was about 5

8 acres, roughly. I don't remember exactly.

9 Q This sale was the sale of the entire

10 portion that you and Frances held?

11 A Held, uh-huh.

12 Q In Talimatau?

13 A Uh-huh.

14 MR. VARGAS: You have to say yes or no  
15 affirmatively.

16 THE WITNESS: I'm sorry.

17 MR. VARGAS: The answer to the last  
18 question was in the affirmative?

19 THE WITNESS: Read the question, please.

20 (Record read as follows:

21 "Q This sale was the sale of the  
22 entire portion that you and Frances  
23 held?

24 "A Held, uh-huh.

25 "Q In Talimatau?

60

1 "A Uh-huh.")

2 THE WITNESS: My answer, "Uh-huh," was yes.

3 MR. HALL: Sounds like a yes to me. It  
4 definitely wasn't an huh-uh.

5 THE WITNESS: Samoan comes back to me.

6 BY MR. SUNIA:

7 Q It is hard, I know, it is very hard.

8 Okay. I'm going to ask you now,

9 Mr. Kneubuhl, since you've got Mr. Hall's binder  
10 open, if you will turn to the next page --

11 A Next page?

12 Q -- which is Bates MK 041.

13 A Yes.

14 Q Do you recognize the handwriting on that  
15 document?

16 A Yes.

17 Q Is that your handwriting?

18 A Yes.

19 Q What were you trying to do there on that  
20 document?

21 A I was trying to put down the figures of the  
22 sale of the property and all the expenses involved  
23 and Frances' share, my sister Frances' share, and my  
24 share of the profits and what was paid out as a  
25 result of the shares.

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1 Q I want to be clear on this. Frances' share  
2 was 1/6?

3 A Yes.

4 Q And it appears from this accounting that  
5 you are deducting the entire expenses of \$109,509.14  
6 before you determined Frances' share; is that what  
7 you were doing?

8 A Yes.

9 Q Would that be appropriate, sir?

10 A I think so. Frances also -- her share,  
11 actually, in this transaction, her share of expenses  
12 was 1/6, my share of expenses was 5/6. Those two  
13 figures combined to make this figure of 109.

14 Q Okay. Was that done by Patrick Fepule'ai  
15 when he deducted his expenses and the expenses --

16 A No, no.

17 Q So the \$254,525, that's a -- that's what  
18 was left over after Fepule'ai, your lawyer, deducted  
19 all his expenses?

20 A All the expenses he had.

21 Q So, in essence, Frances ended up paying  
22 full expenses, all the expenses?

23 A 1/6 of the expenses.

24 Q You think she paid only 1/6?

25 A Yes.

62

1 Q Why wasn't the purchase price simply  
2 divided like that and then divide the expenses, and  
3 then you'll end up with a more accurate --

4 A Say that again.

5 Q Why wasn't the purchase price --

6 A Yes.



7 Q -- your attorney, why wasn't it simply

8 divided up 5/6, 1/6 and then just --

9 A You mean to indicate expenses?

10 Q Yes, from the very beginning.

11 A This was just a note I had sent to Roy

12 rather hastily. But you can see here on the second

13 page -- these are more details.

14 But in subsequent -- I think I could have

15 done a better job in this.

16 I'm now working on some paper that shows

17 the 1/6 expense and my 5/6 expense. It shows her

18 net gain, her net gain on the sale of the property,

19 was 26,918. My net gain was 7,000.

20 Is that what you're referring to?

21 Q Yeah, well --

22 A In other words, I paid all of the expenses,

23 even though Frances owed -- her portion of the

24 expenses was \$20,000, which I paid. So without

25 expending any money at all, Frances received

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1 \$26,000.

2 The benefit for me was I recovered all of

3 the money that I had spent to get this matter

4 resolved and then took out -- and then, on top of

5 that -- so that was my gain. My big gain was that.

6 But it comes out that my net gain was

7 around 6,500 or 7,000.

8 Q Well, was the money received from --

9 A Oh, yes.

10 Q If we were to do this accounting and it  
11 turns out that Frances was underpaid, are you  
12 prepared to pay her what was underpaid?

13 A Of course.

14 Q Go to the next page, Bates number MK 042.

15 A What page is that?

16 Q The next page, MK 042.

17 A Yes.

18 Q Now, these are the -- MK 042, that document  
19 reflects, I think you testified, the details of the  
20 accounting of the expenses --

21 A Yes.

22 Q -- that you deducted from the proceeds of  
23 the Talimatau sale, right?

24 A Yes.

25 Q Okay. I see the first one is Marshall

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1 Asley. He was paid a total of \$12,007.15.

2 A Yes.

3 Q Is this your handwriting?

4 A Yes.

5 Q You noted on there that Frances is to pay

6 100 percent for law case Suhle Alai?

7 A Suhle Alai, that's right.

8 Q And that was for the period of 2001 to

9 2004.

10 Why have you deducted from Frances' legal

11 fees for Alai, please?

12 A Because Frances approached me and said that

13 she needed more rent money from her lease of her

14 property to Alai -- I mean Suhle Alai.

15 This lease was negotiated by Bob Opelle

16 with Alai, when Suhle Alai was alive.

17 But when Frances came to me and said that

18 she wasn't receiving enough money for this, I forget

19 the amount of money, but it wasn't very much money

20 for all that land and what was involved, I said I

21 would try to help her by -- if she wanted to. And

22 she said she wanted to sue to get more money for her

23 lease.

24 I looked at her and I thought it was a good

25 deal for Frances, and so we went ahead and I got my

1 that way.

2 Q And so you charged her -- at that point was

3 Marshal Asley already paid \$7,420 before you

4 received the money from the Talimatau?

5 A Absolutely.

6 Q So this was a reimbursement?

7 A Yes.

8 Q You were reimbursing yourself for what had

9 been paid to Marshall Asley?

10 A Yes.

11 Q Did you have an agreement with Frances to

12 be reimbursed?

13 A Well, I think we had a verbal agreement. I

14 told her I would pay for it but expected to be

15 repaid.

16 Q The decision to hire Marshall Asley to try

17 and help Frances out with her rent interest was your

18 decision; is that correct?

19 A To hire Asley?

20 Q Yes.

21 A Yes, I told Frances that's the attorney I

22 knew at the time. And there was a young lawyer

23 there, Jeff Waller, who worked for them at the time.

24 I believe most of my contact was with him, too,  
25 during this time.

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1 Q Now, fee, you deducted 1/6 for the -- from  
2 Frances' share for "other matter Feamete." I  
3 suppose that's Fuamete?

4 A Fuamete spelled wrong, that's right.

5 Q What was that other matter?

6 A It was the beginning of the Fuamete  
7 controversy, the Puletus and Mane, and that was her  
8 share, 1/6 was the share of the expense.

9 Q That's the matter that continues on today,  
10 correct?

11 A Yes, yes.

12 Q Now, below Marshall's entry is an entry for  
13 Kruse Enari & Barlow?

14 A Yes.

15 Q Who are they?

16 A Kruse was the one who was handling the  
17 estate for the family when I got involved with Ron.  
18 I think he started -- I don't know, we started  
19 talking to him around 1998 or '99. And that's the  
20 amount of money I had to pay him to do what little  
21 work I asked him to do. And then it was transferred

22 over to Stevenson, Nelson & Mitchell.

23 Q What estate work was being done?

24 A Well, Talimatau was never settled as far as  
25 my grandfather, Alfred, Alfred J. Pritchard. It was

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1 never settled. It was held by the Public Trust  
2 Estates, I believe they call that. It had not been  
3 divided amongst these people.

4 There were the Pritchard family members, my  
5 cousin Ron's side of the family. He and his sister,  
6 Marylene and Adalene. There were my cousins -- my  
7 Uncle Jack's family, starting with Rudy, Cusade,  
8 Lemusu, Alexander, Alex, Pritchard. And they had  
9 one younger, Nina, I think, Pritchard. That was  
10 their side, Ron's side.

11 And then there was Frank and Jane Early,  
12 their side. And there was -- I forget, Uncle John,  
13 Uncle Jack, Uncle Frank, Uncle Ron. And then Ron's  
14 side and my side, my mother's side. There were  
15 four, five different families, our side, and the  
16 land had to be divided.

17 Q Was there actual litigation in Samoa over  
18 the property?

19 A There was no litigation that I know of, but

20 there was a lot of legal work that had to be done in  
21 getting this thing all settled.

22 And, of course, not all family members  
23 agreed with this thing. Had it not been settled,  
24 the land would probably be sitting here today and  
25 probably encroached upon. It was already being

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1 encroached upon. And so, I think, it was work that  
2 had to be done.

3 Now, true, the other family members, the  
4 other 10 or 15 family people, should have  
5 participated in these costs, but there was no way I  
6 could collect any money from them.

7 And the big cost in concluding this was to  
8 Stevenson, and a big portion of that was taken up by  
9 selling 2 of the acres.

10 Q You sold 2 of the --

11 A -- Talimatau acres that belonged to  
12 everybody. It was not divided. It was part of the  
13 land.

14 Q To pay the lawyers?

15 A To close it off. It was a big sum. These  
16 are small sums, but it was something like -- I  
17 forget what it was. I think -- I think they got

18 about 75,000 for 1 acre. 2 acres was 150, Samoan  
19 tala, by the way, which I forget the currency  
20 conversion.

21 Q When you say you sold 2 acres, you're  
22 talking about the family, the Pritchard people?

23 A The whole estate.

24 Q For the whole estate, so the five or six  
25 factions that you testified to, they agreed to sell

70

1 two acres to pay off the lawyers?

2 A Yes.

3 Q Now, did that not pay off Kruse Enari &  
4 Barlow and Stevenson, Nelson & Mitchell?

5 A Those were all separate bills.

6 Q The separate bills for Kruse Enari & Barlow  
7 and Stevenson, Nelson & Mitchell, why were they  
8 different from the bigger bill that was paid off?

9 A Well, these were just legal matters that  
10 had to be settled. This wasn't sold until 2005, the  
11 property wasn't sold. But these were legal bills  
12 that occurred before that time for work they did on  
13 Talimatau.

14 Q So these were reimbursements, again?

15 A Yes.



16 Q For you, your reimbursements? Had you  
17 already paid Kruse Enari & Barlow and paid  
18 Stevenson, Nelson & Mitchell before the Talimatau  
19 proceeds were received?

20 A Yes, all of these are expenses.

21 Q This reflects money that you're being  
22 reimbursed?

23 A Yes.

24 Q By Frances' share; is that correct?

25 A Yes, Frances' share was 1/6 of that.

71

1 Q Did Frances know you retained these lawyers  
2 in Apia?

3 A I don't know.

4 Q Did you and her discuss that you were going  
5 to reimburse yourself for the money that you paid  
6 these lawyers in Apia?

7 A She knew I was paying money out for all  
8 this stuff that was being done with Talimatau. I  
9 didn't discuss specifics, but, you know, I wasn't  
10 asking her for any money, either. I mean, I was  
11 going ahead and paying it.

12 Q If you will flip to the next page, which is  
13 MK 043, is that your handwriting?

14 A Yes.

15 Q And that's page 2 of the detailed expenses  
16 that you deducted from the Talimatau proceeds,  
17 right?

18 A Yes.

19 Q That's part of the 109,000 in expenses that  
20 you deducted, right?

21 A Yes.

22 Q This appears to be payments made to Roy  
23 Hall & Associates?

24 A Yes.

25 Q Beginning in 2004 to the present, right?

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1 A Yes.

2 Q What was that for?

3 A All for Fuamete, mostly. We had many, many  
4 law cases.

5 Q In 2004, when did you receive the proceeds  
6 from the Talimatau --

7 A 2005.

8 Q 2005?

9 You earlier testified that the other  
10 Fuamete matter that you paid money to Marshall  
11 Asley -- Marshall Asley's office for, was the

12 ongoing Fuamete litigation.

13 Do you remember that?

14 A That was the very beginning.

15 Q All right. And who was handling that for

16 you at Marshall's?

17 A It was mostly Jeff Waller, who later on

18 left Asley about a year after we started and went to

19 Roy Hall & Associates.

20 Q So it looks like Jeff Waller took along

21 with him the matter that he started over at Marshall

22 Asley's place?

23 A Yes.

24 And I spoke to Mr. Hall about it

25 beforehand, also, I believe.

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1 Q I'm sure he didn't mind.

2 MR. HALL: I'm sure you shouldn't make

3 comments like that.

4 BY MR. SUNIA:

5 Q I'm going to clarify this.

6 According to that page, MK 043 --

7 A Yes.

8 Q -- it says 2004 to the present, what

9 present are you referring to? What year was that?

10 A I'm referring -- I have as of 4/25/14, so I  
11 would say probably the end of January, February,  
12 March. The end of March would be more appropriate.  
13 This is total expenses to date, you know, as we have  
14 been able to calculate to date. It could be more,  
15 it could be less.

16 Q The bill continues today is what you're  
17 saying?

18 A Yes. I'm saying there is still outstanding  
19 approximately \$20,000 to be paid in full upon  
20 conclusion of the long-pending appeal.

21 Q This accounting that you've been testifying  
22 to of the Talimatau land sale, you put this together  
23 just last month; is that correct?

24 A No. I had to dig up all my records from my  
25 wonderful filing system. I've been trying to keep

74

1 up with all this stuff.

2 Q At the very end there you're saying as of  
3 April 25th, 2014 --

4 A Uh-huh.

5 Q -- the total expenses is \$109,509 that you  
6 paid, including Frances' share?

7 A Yes, I believe so.

8 Q So this past April 25th that you put this  
9 together?

10 A Yeah.

11 Q Right?

12 A Plus still outstanding, there is the  
13 20,000, plus future, whenever that is, to be  
14 deducted from the sale of Talimatau.

15 Q And there is still about -- as of April  
16 25th, there's still about \$20,000 left?

17 A Yes.

18 Q And then you're saying you're going to  
19 charge a full hundred percent against Frances for  
20 the defense of this case that we're here for today?

21 A No -- wait a minute.

22 Q That's what you say?

23 A This case, where Frances has sued me?

24 Q Yes.

25 A Yes.

75

1 Q So you're going to charge her against any  
2 money you get from the land that you -- that you  
3 shared with her, you're going to charge her  
4 100 percent for bringing this case?

5 A Depending upon the outcome of this case.

6 If we prevail, I'm not going to charge her  
7 100 percent, depending on what the court does.

8 If the court -- if the court says that  
9 Frances wins, then I'll charge her a hundred  
10 percent.

11 If the court finds that she's liable for  
12 the legal fees in the case that she's suing me for  
13 and my children, then I will charge Frances back  
14 because I've had to defend myself against her.

15 Q When did you start making these types of  
16 decisions with respect to Frances' money?

17 A Frances' money? Frances never put in any  
18 money.

19 Q Let me back up.

20 You decided to reimburse yourself out of  
21 the Talimatau proceeds for fees that you paid?

22 A Yes.

23 Q For fees that you believe you paid on  
24 Frances' behalf?

25 A Yes.

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1 Q And you started doing that in 2004, right?

2 A No. I did that after we got paid from  
3 Talimatau.

4 Q Which was 2005?

5 A I think it was 2005.

6 Q Had you made similar decisions with respect  
7 to Frances' money prior to 2005?

8 A No.

9 Q And did you feel you were authorized to --  
10 did you feel you were authorized to make the  
11 reimbursement unilaterally?

12 A I don't know that I felt authorized or  
13 anything else, or that I was doing myself any  
14 special favors. I felt it was only right that this  
15 is the way it should be.

16 It was all my money that I was spending  
17 and, as it has turned out, when we finally did get  
18 paid, Frances got a net gain of approximately  
19 27,000. I got the gain of getting my money back,  
20 plus \$7,000 net gain. I think that's a pretty good  
21 deal.

22 Q So your position is that you were managing  
23 both your interests with respect to the property and  
24 you were simply accounting for what each of you  
25 should be putting in?

77

1 MR. HALL: I'm going to object; leading.

2 BY MR. SUNIA:

3 Q Go ahead and answer.

4 A Well, I was doing what I thought was right.

5 I was doing something for not only my gain, but for

6 Frances' gain in the Talimatau matter.

7 There were other members of the family that

8 should have been contributing to these costs. They

9 never did. And that's how we got -- I could try all

10 my life to collect from these people, and I doubt

11 that any of them will pay.

12 One person that did try to pay and help was

13 Ron Pritchard. He, unfortunately, passed away.

14 My one cousin, Frank Pritchard, was a big

15 obstacle in all of these negotiations all the way

16 through.

17 One of Anamoa -- married to my one cousin,

18 in Leone, I forget his name, but he was involved,

19 also, on behalf of their family. None of these

20 people wanted to pay the money or do anything.

21 As I said, this would not be settled

22 today --

23 Q Your purpose was when you were doing all --

24 spending all of that money, were you simply trying

25 to protect the interests that you and Frances had --



1 A Yes.

2 Q -- in Talimatau, correct?

3 A Yes.

4 Q And the same thing that you're doing with  
5 the litigation with Fuamete, you're simply trying to  
6 protect the interest that you and Frances hold in  
7 that property?

8 A Yes.

9 Q And the reimbursements make sense in your  
10 thinking because you each should bear the  
11 responsibility of --

12 MR. HALL: I'm going to object; leading.

13 BY MR. SUNIA:

14 Q -- of expenses?

15 MR. HALL: Counsel is testifying.

16 BY MR. SUNIA:

17 Q Is your thinking in paying the -- in  
18 reimbursing yourself is to assess to each of you  
19 your fair share of the expenses?

20 MR. HALL: Same objection.

21 THE WITNESS: I was doing it. Quite  
22 frankly, I was not thinking at all of Frances. I  
23 knew I had spoken to Frances on occasion, I don't  
24 remember when or how long ago or during this period,

25 but I always told Frances, she was very much aware

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1 of the Talimatau matter, what was going on, the fact  
2 that I was spending money.

3 And so when we got paid, I felt it was only  
4 natural that I should be reimbursed for all the  
5 money I put out.

6 BY MR. SUNIA:

7 Q Would you liken this to sort of a  
8 partnership-type arrangement, in the business sense,  
9 wherein you share expenses?

10 MR. HALL: I'm going to object to the  
11 characterization of "partnership." That's a legal  
12 entity that I'm not sure it's been established.

13 BY MR. SUNIA:

14 Q You can answer, if you know.

15 A I wasn't thinking anything like that or  
16 anything.

17 Q You were just being a brother; is that  
18 correct?

19 A That, and the fact that Frances had no  
20 money.

21 Q Well, we'll talk about that later.

22 A . Yeah.

23 Q You were being a brother?

24 A I was just trying to take care of her

25 interests and my interests.

80

1 Q How important are Frances' interests to

2 you?

3 A They've always been important.

4 Q Did you feel that part of your role as her

5 older brother is to look after her interests?

6 A In what respect?

7 Q In a brotherly respect.

8 A I was always concerned about Francie and

9 how I could help her, and I did help her when she

10 asked me. I was very close to Frances.

11 Q Did her interests factor into the price of

12 Talimatau that you eventually accepted?

13 A Her best interests?

14 Q Yes.

15 A I thought so.

16 Q At the end of the -- at the conclusion of

17 the Fuamete litigation, if you and Frances are

18 successful, is the plan to sell the property?

19 A Yes.

20 Q How much are you thinking of selling it

21 for?

22 A Well, obviously, we'd like to sell it for  
23 as much money as we can get. And I'm still  
24 exploring all the possibilities, discussing it with  
25 my attorney, Mr. Hall, what is the best way to do

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1 it, you know, what is the potential, and the kind of  
2 funds that we could expect to receive on the  
3 property.

4 Q Since you have Mr. Hall's binder open  
5 there, let me ask you to turn to -- if you will go  
6 to the front of it -- the document marked MK 013.

7 A Yes.

8 Q Do you recognize that document?

9 A You have to excuse me. I'm having a hard  
10 time reading that print.

11 MR. SUNIA: It's your document. Do you  
12 want to move it along?

13 MR. HALL: I'll stipulate that it's a  
14 document. Let's see if he can recall it.

15 MR. SUNIA: Okay.

16 THE WITNESS: Yes, I do remember it.

17 BY MR. SUNIA:

18 Q Okay. Now, the date of that document is

19 October 27, 2000, right?

20 A 2000, yes.

21 Q And can you describe that document, please.

22 A Well, it's a document that I sent to my son

23 Mark. And at the time he was sort of living on --

24 in Fuamete on some property. Also at that time we

25 really weren't definite as to what property we had

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1 or didn't have.

2 I was trying to get it resurveyed at the

3 time. So since then we've learned an awful lot

4 about the property.

5 Q This was before the -- this document you

6 sent to your son Mark, was this before the

7 litigation started in Fuamete?

8 A Yes, I believe so, or shortly thereafter.

9 Q In that document what were you trying to

10 convey to your son?

11 A Well, I was trying to read it here. Yeah,

12 I was trying to remind him about Frances would get

13 whatever she was supposed to get, her 1/6 share.

14 Q And then there is a reference to a

15 commission to be paid. Is that, what, a finder's

16 fee or something like that?

17 A I guess so. I don't remember exactly.

18 Q And I assume the Roy that you mention in  
19 there is Mr. Hall?

20 A Yes, I believe so, yes.

21 Q So if Fuamete had been sold, according to  
22 this document, Mr. Hall would have earned  
23 10 percent?

24 A Yes. I don't know, you know, the  
25 particulars. I can't remember.

83

1 Q Now, in there, in that document, you talk  
2 about setting up a trusteeship for Frances.

3 Do you see that?

4 A Yes.

5 Q What made you consider doing that?

6 A I don't know. I don't remember.

7 Q Was that trusteeship ever set up, do you  
8 know?

9 A No. The only thing we did establish at one  
10 time as protection for the land is we established an  
11 M&K -- or M&F -- I forget the name of it -- trust  
12 with Hans Langkilde as the trustee.

13 Q Was that trust set up, the M&F?

14 A I think so, but nothing was ever done with

15 it.

16 Q Do you know if it was ever put in writing?

17 A I don't know. I don't remember. I

18 remember that we got Hans to agree to it, and I

19 think it was done. But nothing was ever

20 established, and we went on and went to court and

21 the whole thing. It was just a way of protecting

22 ourselves from other people coming in and claiming

23 that land.

24 Q On that document, the MK 013, and I'll read

25 this, you state that this trusteeship for Frances,

84

1 and I quote, "This is the only way we can ensure

2 that she will be protected and not become

3 destitute."

4 What were you helping to protect her from?

5 What were you planning to protect her from.

6 A What was I planning to protect her from?

7 Let me see, let me read this.

8 My intention was to make sure that she got

9 the money, and it was going to be for her benefit

10 only and not fall in the hands of her son.

11 Q And what made you concerned about her

12 becoming destitute?

13 A Well, because of how I observed how income  
14 was going for her. I observed, also, that times  
15 that I had lent her money, I also observed how,  
16 unfortunately, her husband was handling what money  
17 he did have, and I didn't think much of her son and  
18 what he was doing.

19 Q What, exactly, was the son doing that  
20 caused you concern?

21 A Well, quite a bit. One of them is the fact  
22 that he advertised himself as being a lawyer when he  
23 was not, the fact that he was not doing very much  
24 and living off the government, and that I just  
25 didn't care for him as a person and his girlfriend.

85

1 One time they appeared in our home in  
2 Balboa Island -- Bay Front, very disrespectful and  
3 very rude to me, and I kicked them out of the house.  
4 And then they went outside of my home and started  
5 yelling at me and my wife and my one daughter. And  
6 I haven't talked to him since.

7 Q But didn't that incident occur after 2000?

8 A Yeah, it occurred around -- it occurred --  
9 no, wait a minute. This incident -- this incident  
10 occurred around that same period, I believe.



11       What date is this? October 2000? I don't  
12 remember exactly the exact date of that particular  
13 incident, but I didn't care much for him before even  
14 that incident.

15    Q   When you say he advertised himself as an  
16 attorney, was it published advertisement?

17    A   Yes.

18    Q   In the newspaper?

19    A   I don't know newspaper or what, but you can  
20 find it.

21    Q   In that same document, MK 013, you state,  
22 "I am thinking of something their (sic) also," a  
23 reference to Olo.

24       What were you thinking at the time about  
25 Olo?

86

1    A   I can't remember. "I am thinking of  
2 something their (sic) also"?

3    Q   Well, I'll read it for you. It is the  
4 second-to-the-last paragraph. "I'm glad to hear you  
5 are thinking of building a new home in Olo. I am  
6 thinking of something their (sic) also, small,  
7 simple and nice."

8       What were you thinking?

9 A From the tone of it, I guess I was thinking  
10 of building something for myself there also.

11 Q Your son Mark was then living on Fuamete;  
12 is that right?

13 A Yes.

14 Q Is he still living on Fuamete?

15 A No.

16 Q He's living on Olo land now, correct?

17 A Yes.

18 Q You were thinking of doing something on  
19 Olo, according to this e-mail you sent to your son  
20 in October of 2000?

21 A I was thinking of what?

22 Q Of building something on Olo in 2000?

23 A No.

24 Q So what did you mean when you said to your  
25 son that you were thinking of something small,

87

1 simple and nice?

2 A I guess I was thinking of Fuamete. That's  
3 how I read it.

4 Q Would you read the second-to-the-last  
5 paragraph just to refresh your recollection.

6 A I don't know. I don't think I ever thought

7 of building anything on Olo.

8 Q Okay.

9 A I didn't want any part of Olo.

10 MR. SUNIA: I'm going to ask to have this  
11 marked, please.

12 (Deposition Exhibit OPL-3 was marked  
13 for identification by the court  
14 reporter and is attached hereto.)

15 BY MR. SUNIA:

16 Q It is Bates number OPL 0055 to OPL 0057.

17 Mr. Kneubuhl, I'm handing you what has been  
18 marked as OPL-3 in this deposition.

19 And your attorney has stipulated to that  
20 document.

21 That's a copy of a deed from Frances to you  
22 dated July 2000, right?

23 A Yes.

24 Q And it is conveying to you 2 acres of land,  
25 Olo, correct?

88

1 A Yes.

2 Q And it states the price of 6,000 for 2  
3 acres, right?

4 A Yes.

5 Q Now, you just testified that you didn't  
6 want to have anything to do with Olo when I asked  
7 you about your e-mail to your son in October of  
8 2000.

9 A Uh-huh.

10 Q But the fact is by October of 2000 you were  
11 holding 2 acres of Olo land, correct?

12 A Uh-huh.

13 MR. VARGAS: We're going to have to get a  
14 yes.

15 BY MR. SUNIA:

16 Q You have to say yes.

17 A Yes, yes, yes. Fine.

18 Q So how is it you didn't want to have  
19 anything to do with Olo, as you just testified --

20 A Yes.

21 Q -- and there is this apparent conveyance?

22 MR. HALL: Objection; argumentative.

23 THE WITNESS: I don't know. I really don't  
24 know.

25 BY MR. SUNIA:

1 Q You don't know how you ended up with Olo  
2 land?

3 A Oh, I do. That, I know.

4 Q So what is it that you don't know?

5 A What I don't know is what that statement of  
6 mine meant, I'd like to build something there also.

7 I have no idea. I really did not want to  
8 have anything to do with building on Olo or owning  
9 property on Olo.

10 Q So why did you pay \$6,000 for 2 acres of  
11 Olo?

12 A Because my sister was kind of desperate,  
13 she needed money and she called me. I refused to  
14 give her any more money at the particular time -- I  
15 think it was around this time.

16 I had also been getting a lot of heat from  
17 my wife for the money I had been giving her as loans  
18 and never paid back.

19 And so when she called and asked for me to  
20 lend some more money, to borrow some more money from  
21 me, I refused. I said, "No, I'm not interested."

22 And then she called me back and said,  
23 "Would you be interested in buying some property in  
24 Olo?"

25 She said she needs the money desperately.

1 That was my rough recollection of the conversation.

2 This was like in the morning that same day,  
3 and she said she needed -- I said, "Well, how much  
4 do you want to sell it for?"

5 She said "\$3,000." She said, "I need it by  
6 2:30 this afternoon." She said "Cash."

7 I said "What?"

8 She said "Cash."

9 So that's when I arranged to have Carmen  
10 Picon, who is a cousin of mine and working for me  
11 also, we arranged to get the cash out of the bank  
12 and have her run down to San Juan Capistrano before  
13 2:30 to meet Frances with \$3,000.

14 Q Do you know why she was desperate?

15 A I think it has something -- I don't  
16 remember exactly, except that she had to make a  
17 payment to the bank or to the association, I don't  
18 remember which, otherwise they were going to  
19 foreclose on the house.

20 Q You say that you loaned her money before?

21 A Yes.

22 Q Can you say what you loaned her money for?

23 How much, when?

24 A I can probably find that information very  
25 easily. Over the years prior to this, I know one

1 legal case that I guaranteed for Bob and her and  
2 Latham & Watkins, the amount was 7,000-some-odd  
3 dollars. That's one time. Another time was about  
4 \$6,000. That's two.

5 I don't remember all the monies, but I do  
6 remember those two. Maybe there is a third.

7 Q Money to Latham & Watkins, you said you  
8 guaranteed something?

9 A I guaranteed payment of the law case to  
10 Latham & Watkins. It involved Bob Opelle and  
11 Frances. I don't know what the matter was about.

12 Q Did they not pay?

13 A No.

14 Q So you ended up paying?

15 A Yes.

16 How I remember that so well is we were  
17 living in Bay Shores, and this was in 1980 or '81,  
18 something like that -- '80, I think, or '81.

19 Interest rates were very, very high. We  
20 bought the home there in 1980 -- didn't buy it, were  
21 trying to buy it. And the interest we had to pay on  
22 the loan was 17 1/2 percent. It was pretty high.

23 And we -- then it went down, interest rates

24 went down to 13 1/2 that we could get, so we wanted  
25 to refinance.

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1 We go to refinance our home, and there is a  
2 lien on it for about 7,000-some-odd dollars that  
3 involved that legal case.

4 Bob Opelle said he would take care of it.  
5 He never did, so they put a lien on it.

6 Q You didn't think of deducting it from the  
7 Talimatau proceeds?

8 A No. I don't think there was any Talimatau  
9 sale at that time.

10 Q But you could have, if you had wanted to,  
11 right?

12 A No. It had nothing to do -- I wasn't  
13 thinking that way then. What is this year? I'm  
14 talking about 1980 or '81, or something like that,  
15 when we were trying to refinance our home. And  
16 Talimatau, the agreement with the family didn't  
17 exist. It was 1982 when that agreement -- one year  
18 later.

19 Q Does the name Dick Higby ring a bell with  
20 you?

21 A Yes.



22 Q Who is Dick Higby?

23 A Dick Higby was a lawyer for Frances and Bob

24 Opelle.

25 Q Where was he practicing?

93

1 A In Newport Beach. And I know Dick very  
2 well.

3 Q Is he still alive?

4 A Yes.

5 Q Is he still practicing?

6 A No.

7 Q Is he still living in Newport?

8 A Yes.

9 Q Do you know what he represented Frances and  
10 her husband for?

11 A I don't know what matter, but they left  
12 leaving Dick with some money also that they owed.

13 Q How much, do you know?

14 A I have no idea. I think something like 6-  
15 or 7,000, 5,000. I had to settle.

16 Q Did you pay Dick --

17 A I had to settle with Dick.

18 Q You paid him out of your own pocket?

19 A Yes.

1 A In Newport Beach. And I know Dick very  
2 well.

3 Q Is he still alive?

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15 or 7,000, 5,000. I had to settle.

16 Q Did you pay Dick --

17 A I had to settle with Dick.

18 Q You paid him out of your own pocket?

19 A Yes.

20 Q Not from proceeds of a sale of anything?

21 A No.

22 And I think there were other loans that I  
23 gave Frances. A lot of times I also gave her money  
24 under the table, sort of, because my wife was  
25 beginning to object to all this stuff.

1       And I had to admit to her very recently

2 that I did that, and she didn't like that.

3     Q   You were just being a brother?

4     A   Yeah, I was just trying to be nice to her.

5 Unfortunately, her husband, Bob, is a nice man, I

6 like Bob, very poor businessman. And he went

7 through a tremendous amount of money, not only

8 Frances' funds, but also from her mother -- from his

9 mother. And they were pretty well-to-do people.

10       But she could never say no to Bob.

11       MR. SUNIA: This is a good time to break.

12       (Whereupon the morning session

13       concluded.)

14       (TIME NOTED: 12:34 p.m.)

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23 gave Frances. A lot of times I also gave her money  
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10 But she could never say no to Bob.

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12 (Whereupon the morning session  
13 concluded.)

14 (TIME NOTED: 12:34 p.m.)

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4 I, DOUGLASS C. "MIKE" KNEUBUHL, do hereby  
5 declare under penalty of perjury that I have read  
6 the foregoing transcript; that I have made any  
7 corrections as appear noted, in ink, initialed by  
8 me, or attached hereto; that my testimony as  
9 contained herein, as corrected, is true and correct.

10  
11

12 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
13 2013, at \_\_\_\_\_,  
(City) (State)

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DOUGLASS C. "MIKE" KNEUBUHL

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Volume I

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4 I, the undersigned, a Certified Shorthand

5 Reporter of the State of California, do hereby

6 certify:

7 That the foregoing proceedings were taken

8 before me at the time and place herein set forth;

9 that any witnesses in the foregoing proceedings,

10 prior to testifying, were placed under oath; that a

11 true and correct record of the proceedings was made

12 by me using machine shorthand which was thereafter

13 transcribed under my direction; further, that the

14 foregoing is an accurate transcription thereof.

15 I further certify that I am neither

16 financially interested in the action nor a relative

17 or employee of any attorney of any of the parties.

18 IN WITNESS WHEREOF, I have this date

19 subscribed my name.

20 Dated: May 15, 2014

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DENISE BARDSLEY

CSR No. 11241

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