

3-14

Robin A. Kneubuhl, *pro se*
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Plaintiff, *pro se*

HIGH COURT OF AMERICAN SAMOA
LAND AND TITLES DIVISION

Robin Kneubuhl, et al)	C.A. No. 28-2013
)	L.T. No. 20-2013
Plaintiffs,)	
v.)	Plaintiffs Kneubuhl and Takei's
Douglas C. "Mike" Kneubuhl, Douglas)	Position Paper for Status Hearing
Kneubuhl, Jr., Carrie Sue Kneubuhl)	on February 15, 2018
Levigne Eckert, Kelly Kneubuhl)	
Nadine Fults,)	
Defendants)	
)	
Frances Opelle, Plaintiff,)	
v.)	
Douglas C. "Mike" Kneubuhl, Carrie)	
Sue Eckert (also known as Carrie Sue)	
Lavigne), Mark Kneubuhl, and Douglas)	
C. Kneubuhl, Jr.)	
Defendants)	
)	

This may serve as the position paper for the Status Hearing to be held at the High court of American Samoa, February 15, 2018, anticipating that orders regarding future proceedings for disposition may be issued on this date or in the immediate or very near future, to state our immediate concerns and preferences, and offered with the goal to be of assistance to the court to reach adjudication as promptly as possible.

This has been prepared *without* reference to the precise claims at issue, since we recognize this is a status hearing only, and with respect and support for the prohibitions against further advocacy or argument without notice, and for the prohibition against *ex parte* communications. This addresses procedure only. Our concerns are:

Assignment of New Judge

1. We have recently been advised that the Honorable Judge Lyle Richmond has retired, and a new judge may or will be assigned to our case;
2. Naturally, former counsel prepared their cases with the supposition that the extensive historical knowledge of Judge Richmond would be applied, and fashioned their presentations accordingly. The law of the case will not be changed by his replacement, but the memos and arguments which were made before him may not fulfill the evidentiary requirements, questions, perspective and insights of the new judge.

Vacate the Order of Consolidation

3. The Opelle and Kneubuhl cases were consolidated for trial, which is now completed. We have no objection if the court, *sua sponte*, vacates that order of consolidation, believing this will permit the court to address the claims separately, where appropriate, permitting prompt adjudication of certain claims, and perhaps one threshold issue. The consolidated claims have a hierarchy, but are not interdependent. It is not necessary to resolve all claims at the same time. Further, where the evidence is dispositive, at least one claim may be resolved on the papers alone. Accordingly, we ask to be permitted to re-brief and submit expanded Memoranda of Points and Authorities, and offer proposed findings, if the court would find these useful and if the court so requests. This is also appropriate since the newly appointed judge did not have the opportunity to observe demeanor and assess credibility of the witnesses, and given the long passage of time post-trial.

No Objection to Motion to Stay Proceedings

4. We are aware that a Motion to Stay Proceedings pending receipt of plaintiff's Frances Opelle's file (within a reasonable time) has been filed, and have no objection to that motion. We understand the file has still not been received. The non-objection to the stay applies to proceedings over claims made by Frances Opelle, and we reaffirm that a stay is not necessary for the other claims which can be adjudicated on the papers, as outlined in #2 above.

Motions for Pro Se status and for Substitution

5. We ask the court to grant certain routine motions which have been filed. These are (1) the motion to replace decedent plaintiff Ben Kneubuhl by his daughter Karen Kneubuhl Takei, who is also his estate administrator; and (2) a Motion for *pro se* representation by Robin Kneubuhl. We will not be retaining counsel at the present time, believing it not presently necessary, according to paragraph 2 above. We also advise that the expense of bringing new counsel "up to speed" results in an extreme injustice, and is further understood to be fraught by historical issues of legal conflict.

Objection to New Trial or Retrial

6. We object to any retrial or trial de novo, given the extraordinary cost, loss of resources, the lengthy delay of resolution, and advanced age of participants, and resulting loss of certain rights in our respective properties under the pertinent Trust, but especially because the facts, documents and testimony already in evidence or elsewhere in the record are sufficient to dispose of all claims. Where the court finds additional evidence necessary beyond the transcripts and depositions in evidence, we ask the court to accept memoranda with references to transcripts of sworn testimony in the remaining depositions, and of facts for which the court may take judicial notice.

Respectfully Submitted,



Robin Kneubuhl, Plaintiff, February 14, 2018

(signed and sent separately)

Karen Kneubuhl Takei, February 14, 2018

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Certification of Service on February 14, 2018 to the following--- BY EMAIL ONLY

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Karen Kneubuhl Takei, Plaintiff

Robin A. Kneubuhl, Plaintiff