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Frances K. Opelle
25546 Spinnaker Dr.
San Juan Capistrano, CA 92675
949-232-6629

Frances K. Opelle Pro Se

**IN THE HIGH COURT OF AMERICAN SAMOA
TRIAL DIVISION**

LT No. 18-18

ROBIN KNEUBUHL ROUSH, BENJAMIN F.
KNEUBUHL, FRANCES K. OPELLE

PLAINTIFFS

V.

DOUGLAS CRANE "MIKE" KNEUBUHL,
DOUGLAS KNEUBUHL, JR., CARRIE SUE
KNEUBUHL LAVIGNE ECKERT AND
KELLY KNEUBUHL NADINE FULTS, and

DEFENDANTS

**PLAINTIFF FRANCES K.
OPELLE'S S MOTION FOR
RECONSIDERATION/
CLARIFICATION**

Comes now, Plaintiff Frances K. Opelle ("Plaintiff") respectfully submits this Motion
for Reconsideration / Clarification /Amendment / New Trial:

INTRODUCTION

Plaintiff's motion for reconsideration/clarification/amendment is filed in the matter of
High Court of American Samoa Land and Titles 18-18 (formerly CA 28-13), and pursuant to
A.S.C.A. 43.0802, Motion for New Trial/Reconsideration, TCR 7(b)(1), and the High Court's
July 9, 2018 Order directing motion for new trial/reconsideration, be made within 10 days of the

1 date, which Declaratory Judgment confers subject matter jurisdiction (Taulaga v Patea, 17
2 A.S.R. 2d 34 app. Div., Nov., 1990).

3 This Motion is based on the following grounds: Plaintiff Frances K. Opelle, (Plaintiff
4 Opelle), movant, respectfully requests reconsideration/clarification/new trial on 1) a) The
5 Beneficiaries of the 1960 Kneubuhl Land Trust that are not consistent with prior decisions b) If
6 Grandchildren of Settlor are by reconsideration of the Court confirmed to be "Second
7 Generation Beneficiaries" (SGB's) or Heirs as applied or suggested in a prior reviews of this
8 Court in Probate c) If SGB's are to be considered beneficiaries, a clarification on the Powers of
9 the SGB's, the grandchildren, over the children of the Settlor. Plaintiff Opelle and Plaintiff
10 Robin Kneubuhl (RK) were represented by same counsel. Plaintiff Opelle were not united on
11 same all issues and Plaintiff wishes to have issue reviewed that may not have fully been heard as
12 it would conflict with Plaintiff RK. 2) A reconsideration/clarification on "Equitable title" as
13 being a title beneficiaries as stated in prior decision of Court Decision being ambiguous.
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18 Respectfully submitted,

19
20 Dated: July 19, 2018

By: _____
FRANCES K. OPELLE
Plaintiff in Pro Se

1 Frances K. Opelle
2 25546 Spinnaker Dr.
3 San Juan Capistrano, CA 92675
4 949-232-6629

5 Frances K. Opelle Pro Se

6
7 **IN THE HIGH COURT OF AMERICAN SAMOA**
8 **TRIAL DIVISION**
9

10 LT No. 18-18

11 ROBIN KNEUBUHL ROUSH, BENJAMIN F.
12 KNEUBUHL, FRANCES K. OPELLE

13 PLAINTIFFS

14 v.

15 DOUGLAS CRANE "MIKE" KNEUBUHL,
16 DOUGLAS KNEUBUHL, JR., CARRIE SUE
17 KNEUBUHL LAVIGNE ECKERT AND
18 KELLY KNEUBUHL NADINE FULTS

19 DEFENDANTS

**PLAINTIFF FRANCES K.
OPELLE'S MOTION
RECONSIDERATION/
CLARIFICATION/NEW TRIAL**

**Submitted concurrently with
reference to Trial Record Exhibit**

20
21 **PLAINTIFF FRANCES K. OPELLE'S MOTION FOR**
22 **RECONSIDERATION/CLARIFICATION/NEW TRIAL**
23

24 Plaintiff Frances K. Opelle, (Plaintiff Opelle), movant, respectfully requests
25 reconsideration/clarification/new trial on 1) a) The Beneficiaries of the 1960 Kneubuhl Land
26 Trust that are not consistent with prior decisions b) If Grandchildren of Settlor are by
27 reconsideration of the Court confirmed to be "Second Generation Beneficiaries" (SGB's) or
28 Heirs as applied or suggested in a prior reviews of this Court in Probate c) If SGB's are to be
considered beneficiaries, a clarification on the Powers of the SGB's, the grandchildren, over the

1 children of the Settlor 2) A reconsideration/clarification on “Equitable title” as being a title
2 beneficiaries retained by prior Court decision.

3 1. a. Plaintiff respectfully request the court for reconsideration/clarification/ new trial on
4 the grandchildren being “second generation beneficiaries.” Prior decisions of the Court have
5 made references only to the Settlor’s children as “beneficiaries” in their findings.

6 In *Kneubuhl v. Kneubuhl*, LT No. 12-80, 1982, slip op. at 6-7, (Land & Titles Div. Mar. 23,
7 1982) would be dispositive of whom the beneficiaries of the Settlor were as the Court stated:
8 “An irrevocable trust can be modified if the settlor and all the beneficiaries agree. *Hatch v. Riggs*
9 *National Bank*, 284 F. Supp. 396 (D.C.D.C. 1968); *Crowslow v. Crowslow*, 38 III. App. 3d. 373,
10 347 N.E. 2d 800 (1976); *Grand Lodge of Ind. Order of Odd Fellows v. Gunnoe*.” The 1969
11 modification would be dispositive of whom the beneficiaries were of the APK Trust. The
12 agreement of all beneficiaries including a vested beneficiary would have been necessary to sign
13 the 1969 modification agreement. *Musik v. Reynolds*, 798 S.W.2d 626 (Tex. App.—Eastland
14 1990, no writ). *Kneubuhl v. Kneubuhl*, LT No. 12-80, slip op. at 6-7 states: “Since all the parties
15 agreed to this modification of the 1960 trust, it is valid. An irrevocable trust can be modified if
16 the settlor and all the beneficiaries agree The accepted 1969 modification agreement was
17 declared valid by the Court in 1982 in *Kneubuhl v. Kneubuhl*, LT No. 12-80, and reaffirmed in
18 *Douglas Crane “Mike” Kneubuhl v Alai* HCCA No 11-1 2002 and *Opelle v Kneubuhl*, 2006
19 *Opinion and Order*.

20 All decisions of the Court to date from 1982 to 2007 have defined the
21 beneficiaries only as being the “children” of the settlor, not the grandchildren as being
22 beneficiaries.

23 A. *Opelle v. Kneubuhl*, CA No. 50-04, slip op. at 9 (Trial Div. Sept. 13, 2006)
24 (op. & order). “Next, we examine the purpose(s) for which the trust was
25 created. Clearly the Settlor established the trust under A.S.C.A Section
26 37.0205 as a necessary alternative to giving her children full legal title to her
27 individually owned lands.”

28 B. *Opelle v. Kneubuhl*, CA No. 50-04, slip op. at 11 “In attempting to carve out
“full and exclusive use and quiet enjoyment of the property by the beneficiary

1 and his heirs, devisees, and assigns, we believe Settlor did not wish to restrict
2 her children's control over the land."

- 3 C. Opelle v. Kneubuhl, CA No. 50-04, slip op. at 12 "As mentioned earlier, the
4 right of first refusal was incorporated in the Settlor's 1969 deed of Olo to her
5 children, where each beneficiary covenanted to give a right of first refusal to
6 Settlor's descendants."
- 7 D. Opelle v. Kneubuhl, CA No. 50-04, slip op. at 12 "It clearly expresses
8 Settlor's intent that her children have the opportunity to keep the lands, if they
9 so choose, within the family."
- 10 E. "Here, it is undisputed that all of Settlor's children (the trust beneficiaries)
11 have less than 50% Samoan blood, and consequently are prohibited from
12 inheriting and holding title to the Olo land. Indeed, this is why the Settlor
13 established a land trust under A.S.C.A section 37.0205" Opelle v. Kneubuhl,
14 CA No. 50-04, slip op. at 13
- 15 F. All of the Settlor's children—the beneficiaries to the trust—are less than 50%
16 Samoan blood." Opelle v. Kneubuhl, CA No. 50-04, slip op. at 2
- 17 G. "Accordingly, because Plaintiff has not received majority consent to sell her
18 interest—less than three of her siblings approve, Defendants contend" Opelle
19 v. Kneubuhl, CA No. 50-04, slip op. at 8
- 20 H. Kneubuhl v. Kneubuhl, LT No. 12-80, 1982 p. 2 "In 1960, the parties mother,
21 APK, placed various pieces of property in trust for her six children."
- 22 I. "On August 15, 1960, APK transferred several parcels of her individually
23 owned land in American Samoa in Trust (Kneubuhl Trust) to William Robert
24 Opelle (William), as trustee, with her children Frances K Opelle (Frances),
25as equal beneficiaries. *Douglas Crane "Mike" Kneubuhl v Alai HCCA*
26 No. 11-1-2002, slip. Op at 2
- 27 J. "She named William Robert Opelle, her son-in-law, as trustee, and her six
28 children, Frances, Margaret K. Landrigan, Benjamin F. Kneubuhl, Douglas C
Kneubuhl, Alfred J.P. Kneubuhl, and John Alexander Kneubuhl (now

1 deceased), as equal beneficiaries of the trust. *Opelle v Kneubuhl, 2007 CA No.*
2 *50-04 Order Correcting slip. Op. at 2*

3 K. “This dispute arises from Adeline Pritchard Kneubuhl’s (Adeline) creation of
4 the Plaintiff Adeline Pritchard Kneubuhl Land Trust (“Kneubuhl Trust”) for
5 her children. *Opelle v Kneubuhl, 2007 CA No. 50-04 Order Correcting slip.*
6 *Op. at 1- 2*

7 The prior decisions of the court state the intent of the Settlor was for the benefit of
8 her children. 1) CA No. 50-04, slip op. at 9 “Next, we examine the purpose(s) for which
9 the trust was created. Clearly the Settlor established the trust under A.S.C.A Section
10 37.0205 as a necessary alternative to giving her children full legal title to her individually
11 owned lands.”

12 b. In *Douglas Crane “Mike” Kneubuhl v Alai* HCCA No 11-1 2002, *Opelle v*
13 *Kneubuhl, 2006, and Opelle v Kneubuhl, 2007 CA No. 50-04 Order Correcting* the Court
14 did not acknowledge Plaintiff RK, intervenor in 2002 and Defendant in 2006 with the
15 term “beneficiary”; only the children of the Settlor were identified as “beneficiaries” of
16 the Trust. Plaintiff Opelle’s brother and father of Plaintiff RK, the child of settlor was
17 deceased in 1992. The Court not acknowledging Plaintiff RK as a beneficiary in 2002
18 and 2006 and 2007 is consistent with their prior findings in the probate of Plaintiff RK’s
19 father before the same Presiding Judge in all four actions. In the probate of Plaintiff RK’s
20 father, Plaintiff RK was not identified as a beneficiary of Kneubuhl Land Trust in PR No.
21 45-92 for Judgment Settling First and Final Account and Report of Administrator of Final
22 Distribution of Estate. By item 11 Page 4, the Court determined: “The family residence of
23 the land Olo in the Village of Taputimu shall be distributed to the spouse, in
24 consideration of her waiver of dower rights in said property, for life, with the remainder
25 passing upon her death to whomever is determined to own the residence and the
26 underlying land.”

26 Petitioner, in PR No. 45-92 was represented by counsel, Mr. Charles Alai’ilima
27 and Plaintiff, daughter of the Petitioner, benefitted from representation of her mother.
28 Plaintiff RK had full opportunity to voice her concerns and issues with the Court, and

1 indeed did so with a filed response to the Court to Honorable Associate Justice Lyle
2 Richmond and an objection to Honorable Presiding Chief Justice Kruse. Plaintiff was not
3 acknowledged as a beneficiary of the APK Trust despite being fully heard in the probate
4 of her father's estate, Plaintiff was acknowledged as being an heir of Olo PR No. 45-92
5 consistent with the terms used in 2006 and 2007 with the same Presiding Judge.

6 Plaintiff does not disagree there may be some right of the grandchildren of the
7 Settlor to respective interests of the grandchildren's parent. In Probate 45-92 Plaintiff RK
8 was not considered to be a beneficiary of Olo, it appears being a "beneficiary" was not
9 granted to Plaintiff RK, but heir apparently was the right of Plaintiff RK regarding the
10 APK Trust.

11 c. In *Opelle v Kneubuhl, 2006* and *Opelle v Kneubuhl, 2007 CA No. 50-04 Order*
12 *Correcting*, in the specific language of the Court, only the children of the Settlor were the
13 beneficiaries of the Settlor. From the Order of the Court in this case July 9, 2018, page
14 12, F. "The trustee may not sell or otherwise encumber any of the Trust Land without the
15 majority consent and approval of the beneficiaries of the trust." In *Opelle v Kneubuhl,*
16 *2006* decision of the Court, the "majority consent and approval" appears premised on the
17 Court defining the beneficiaries as the "children of the Settlor."

18 A material change and unintended consequence of the 2006 decision may result if
19 the grandchildren are to be considered the Beneficiaries (SGB's) from the July 9, 2018
20 Order. Consistent with the language used to describe the beneficiaries as the children of
21 the Settlor, the Courts findings on consideration of the beneficiaries for a majority
22 consent approval specifically addresses "siblings" on a majority consent approval.
23 "Accordingly, because Plaintiff has not received majority consent to sell her interest - -
24 less than three of her siblings approve, Defendants contend she is prohibited under the
25 trust from doing so." *Opelle v Kneubuhl, CA No. 50-04 2006 slip op. 8.* No other class,
26 other than children of Settlor or siblings is included as being beneficiary of the APK Trust
27 or having to approve or disapprove to any majority consent in the 2006 decision and 2007
28 order correcting, or in any decision of the Court.

1 d. Settlor did not intend for any of her descendants or heirs excluding her
2 children, to exert control over the intended beneficiaries, her children. This is evidenced
3 throughout the trust documents and the actions of the settlor, the appointed Trustee, and
4 the children of the Settlor. The law of the case is consistent with only the children of the
5 Settlor, the intended beneficiaries as being able to appoint a Trustee or effect a majority
6 approval on the Trustee. Settlor only identified her children, in the 1960 Trust by name
7 and as the intended beneficiaries of the trust. No other descendant or heir, of the Settlor is
8 identified by name being a beneficiary in the APK Trust and decisions of the Court from
9 1982 to 2007. Settlor provided a provision for her children to dispose of the Trust Corpus
10 in the APK Trust, had this provision been executed, and it could, it would have divested
11 all legal and equitable titles, at any time since the creation of the trust, there would have
12 been no interest left and the Trust would have terminated as its purpose had been
13 fulfilled.

14 Settlor did not intend to allow her grandchildren the right to control the
15 beneficiaries (the children of the Settlor), nothing in the Trust documents confer this
16 intention. The APK Trust of 1960 has been decades removed since its inception and it has
17 and would likely continue to frustrate the intent of the Settlor, which has determined to be
18 to create a trust for the beneficiaries of her children in prior Court decisions by allowing
19 the grandchildren of the Settlor to control the interest of the Settlor's children, including
20 Aunts and Uncles, not just their parent's individual interest.

21 This is not speculative a few grandchildren of the Settlor have had a harmful
22 impact to a child of the Settlor, the intended beneficiary of the Settlor thereby frustrating
23 the intent of the Settlor. Settlor never contemplated the spirit of the Trust and her express
24 wishes would devolve decades later with the a few grandchildren causing significant
25 issues to their child of the Settlor. In an email sent November 2006, one grandchild,
26 corresponded with three other grandchildren attempting to reorganize the intent of the
27 Settlor to Plaintiff Opelle's detriment by flagrantly promoting knowingly invalid transfers
28 against Plaintiff Opelle's interest. Counsel at the time for Plaintiff, Charles Alai'ilma is
denigrated openly in a chain email referenced as to being a "slimeball" as stated: "Robert

1 John and his slimeball friend Ala'ilima....” The email concedes Plaintiff’s RK
2 knowledge of alleged sales at Olo land sales were “invalid transferring.” Plaintiff RK
3 advises the other grandchildren the alleged purchase of Plaintiff Opelle’s and attempted
4 resale by another grandchild “was actually a fraudulent scheme to obtain, sell, and
5 convert trust land to personal ownership for a serious bailout profit.” Rather than urge
6 some of the cousins to come together to right this wrong, act with some type of fairness
7 or respect to their Aunt Plaintiff Opelle or in loyalty to their grandmother, the Settlor,
8 Plaintiff RK urges the other grandchildren in the email to consider a plan to make the
9 admitted “invalid transfers” somehow legal by stating: “...we can make the case that
10 Frances assigned her acres to the Balboans at family rates....”

11 Plaintiff RK encourages the grandchildren of the Settlor to stand by the alleged
12 acquisition of Plaintiff Opelle’s interest, despite admitting the transfers were “invalid
13 transferring” to Mark Kneubuhl in stating to the other grandchildren: “Whatever we
14 think, we must all stand behind Mark’s permanent use and quiet enjoyment...” One
15 malicious rumor is freely disseminated from Plaintiff RK to other grandchildren stating:
16 “Frances has apparently signed over the Coke House to Robert John. Again, I suggest
17 reinstating some Tongans in the Coke house for a few brief months to impose some
18 reality on that jackass.” Any search of the Territorial Registrar would not provide any
19 such deed to Plaintiff’s son. More rumors abound against the Plaintiff and her son, stating
20 “Robert John is a scam artist.” Plaintiff RK provides some of the Settlor’s grandchildren
21 bullet points on how to make the case Plaintiff’s son including the suggestion of a
22 “timeline” on accomplishing this bizarre objective. Plaintiff RK completes the email with
23 attempting to rally the other grandchildren in the email against Plaintiff Opelle with the
24 “Opelle’s...should be met with extreme personal contempt and clear, unequivocal
25 opposition, and reminders about possible criminal penalties for more fraudulent
26 conveyances.” It was actually suggested by the grandchild of the settlor, to other
27 grandchildren of the Settlor, that their Aunt Plaintiff Opelle be treated with contempt and
28 to be threatened with “criminal penalties” while oddly admitting the alleged land transfers
were “invalid”, yet the conclusion is Plaintiff Opelle should be met with “criminal

1 penalties” is irreconcilable. One of the g¹grandchildren, several days later in December of
2 2006 forwards the email to what is believed to be the son in law of Defendant Mike
3 Kneubuhl, married to Defendant Kelly Kneubuhl at the time, Geoff Fults and Kelly’s
4 mom, Suzie Kneubuhl.

5 The subject of the email, making a mockery of Plaintiff, her family, and Plaintiff’s
6 then counsel, as written by Plaintiff RK and disseminated to other grandchildren of the
7 Settlor is titled: “Flash Bulletin on Latest Olo Balboan PR Front.” Plaintiff and her son
8 are sneered at in the email with Plaintiff RK mocking the finances of Plaintiff’s family
9 and the son who has financially assisted in providing for his parents with a jab ending in a
10 smiley face by typed characters: “We can go to court and get a declaratory judgment (a
11 poor idea if it involves more paying lawyers – let Robert John do it)-“. Taking care of
12 one’s parents, whether they fall financially or otherwise is simply a natural expectation
13 any child should do for their parent. It is not likely or known any of the grandchildren in
14 this email ever financially assisted their parents at the age of their late twenties to early
15 thirties.

16 Letter or email addressed to Plaintiff with a Cc. to “The heirs...” from Plaintiff
17 RK about late 2006 to 2007, after stating in the email Plaintiff RK is aware the son of
18 Plaintiff paid for his mother legal fees, Plaintiff RK again mocks Plaintiff Opelle’s
19 finances stating if she “is so indigent, I don’t know who is paying for your legal fees” and
20 then threatens Plaintiff Opelle with a reminder of “the forfeiture clause in the 1982
21 agreement.”

22 Approximately nine years later, in 2015, in this instant litigation, Plaintiff
23 became aware of the emails by Plaintiff RK and some of the grandchildren of Settlor.

24 **Plaintiff respectfully requests the Court to reconsider and/or clarify the following:**

- 25 a) The Beneficiaries of the APK Trust that are not consistent prior decisions,
26 Grandchildren are not included

27
28 ¹ Plaintiff notes Mark Kneubuhl is not listed as Defendant in this case LT No. 18-18 [CA No. 28-13]. Plaintiff acknowledges he should have been listed as a Defendant. Initial Counsel for the filing of this case was not retained by Plaintiff Opelle and Plaintiff had no to nominal input in the drafting of this complaint.

- 1 b) If Grandchildren are by reconsideration of the Court confirmed to be “Second
2 Generation Beneficiaries” (SGB’s) or Heirs as applied or suggested in a prior reviews
3 of this Court and if any of the intended beneficiaries, the children of the Settlor
4 remain as a current beneficiary (ies), only those beneficiaries, the child or children of
5 Settlor have the power to appoint or remove a Trustee.
- 6 c) If SGB’s are to be considered beneficiaries, a reconsideration/ clarification/ trial on
7 the Majority Consent Approval as stated in “F” of the July 9, 2018 Order as the 2006
8 decision appears to have made the majority approval based on the beneficiaries being
9 the six children, of the Settlor, not the grandchildren
- 10 d) Powers of the grandchildren of Settlor, if included as an SGB, over the children of the
11 Settlor do not include any right to approve or disapprove of any child of Settlor for a
12 majority consent approval with the Trustee over that child’s individual interest, only
13 living children of Settlor may have that approval
- 14 e) Reconsideration if the interest of a beneficiary include “Equitable title.” From *Opelle*
15 *v Kneubuhl, 2007 CA No. 50-04 Order Correcting p. 5* “However, under American
16 Samoa law the beneficiaries cannot own legal title to the land, but only equitable title
17 through the Kneubuhl Trust. Consequently the beneficiaries’ equitable interest does
18 not include legal title.”
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Respectfully submitted,

Dated: July 19, 2018

By: _____
FRANCES K. OPELLE
Plaintiff in Pro Se

*Part of Trial Record referenced in Motion:
Exhibit 63 – Email from Robin Kneubuhl to Jim, Leslie, Sandra, Margaret and
Keith forwarded to Mike and Susan
Exhibit 58 Letter to Frances Opelle from Robin Kneubuhl re: objection to her sale
of coke house
Exhibit #51 – ***Appears to be Exhibit 51? PR No. 45-92 Judgment Settling
First and Final Account and Report of Administrator and of Final Distribution of
Estate**** dated 7/10/1996
Exhibit #52 4/9/1996 Letter to Honorable Associate Justice Lyle Richmond and
Honorable Chief Justice Kruse
Exhibit 52 4/22/1996 Objection from Robin Kneubuhl to Petition RE Estate of
John Kneubuhl to Judge Richmond*