

NO. 24090

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOSEPH SUGARMAN, Plaintiff/Counterclaim Defendant-Appellant

vs.

PAUL KAPU or JOSEPH FEDELE; HEIRS AND ASSIGNS OF BERNICE PAIHINUI, aka BERNICE PAIHINUI KEKONA; APRIL MONTALBO; and CHAD MONTALBO, Defendants/Cross-Claim Defendants-Appellees

SHIGERU RALPH GIMA; KIKUE KATHERINE GIMA; SADAO STANLEY INOUE, TSUYA THELMA INOUE, Defendants/Counterclaimants/Cross-Claim Defendants

ULUPALAKUA RANCH, INC., Defendant/Counterclaimant/Cross-Claimant/Cross-Claim Defendant

MELVANETTE M. GRAGAS; SANOE APOLO; RITA GRAGAS; FAITH KIHOI, FLORENCE KEALA LANI; JESSE KUHAULUA, Defendants/Counterclaimants/Cross-Claim Defendants

HEIRS AND ASSIGNS OF KANAO; HEIRS AND ASSIGNS OF PAELE; HEIRS AND ASSIGNS OF KUHAULUA, JR.; HEIRS AND ASSIGNS OF KAAUMOANA; HEIRS AND ASSIGNS OF J.A. KAIANUI, aka J.K. KAIANUI; HEIRS AND ASSIGNS OF KIKAHA; HEIRS AND ASSIGNS OF ED. Z. ALAPAI; HEIRS AND ASSIGNS OF LILIA K. KAMAKA'I, aka LILLIAM K. EKEKELA aka LILLIAN KUULEI EKEKELA; HEIRS AND ASSIGNS OF JAMES VON EKEKELA; HEIRS AND ASSIGNS OF J.M. KEKAI, SR., aka JOHN MANUIA KEKAI; HEIRS AND ASSIGNS OF JULIA KEKAI, aka JULIA NAMAUNU; HEIRS AND ASSIGNS OF JOHN MANUIA KEKAI, aka JOHN M. KEKAI, JR.; HEIRS AND ASSIGNS OF ALICE MANUIA KEKAI; JOSEPH KEKAI OR HIS HEIRS AND ASSIGNS; HATTIE KEKAI aka HATTIE KEKAI MORADA OR HER HEIRS AND ASSIGNS; HEIRS AND ASSIGNS OF ELIZABETH K.M. PAIHINUI; BERNICE PAIHINUI, aka BERNICE PAIHINUI KEKONA; ANASTASIA PAIHINUI aka ANASTASIA PAIHINUI DUQUE, aka ANNA PAIHINUI DUQUE OR HER HEIRS AND ASSIGNS; GLADYS PAIHINUI, aka GLADYS PAIHINUI VALDEZ, aka GLADYS M. PAIHINUI VALDEZ OR HER HEIRS AND ASSIGNS; CELESTINE PAIHINUI, aka CELESTINE PAIHINUI ACANG OR HER HEIRS AND ASSIGNS; GEORGE PAIHINUI OR HIS HEIRS AND ASSIGNS; GERALDINE PAIHINUI, aka GERALDIE PAIHINUI DEAL aka GERALDINE MEEHALA DEAL OR HER HEIRS AND ASSIGNS; HAZEL PAIHINUI, aka HAZEL PAIHINUI JUNG OR HER HEIRS AND ASSIGNS; HEIRS AND ASSIGNS OF JULIA K.M. KAPU; ELIZABETH KAPU, aka ELIZABETH KAPU APOLO OR HER HEIRS AND ASSIGNS; ALICE KAPU, aka ALICE KAPU NOBRIGA OR HER HEIRS AND

ASSIGNS; HATTIE KAPU OR HER HEIRS AND ASSIGNS; MILDRED KAPU, aka MILDRED KAPU CRUZ OR HER HEIRS AND ASSIGNS; DAVID KAPU OR HIS HEIRS AND ASSIGNS; ULUPALAKUA RANCH, LIMITED, a dissolved Hawai'i corporation; WILLIAM DE REGO OR HIS HEIRS AND ASSIGNS; HATTIE PIILANI DE REGO OR HER HEIRS AND ASSIGNS; MANUEL R. SOUZA OR HIS HEIRS AND ASSIGNS; ROBERT JAMES HUNTER OR HIS HEIRS AND ASSIGNS; MAE BYLSMA HUNTER OR HER HEIRS AND ASSIGNS; S. UTSUNOMIYA ENTERPRISES, INC., a Hawai'i corporation; MARGARET ANN HECHT; (U.S. GOV. COUNTY OF MAUI, STATE OF HAWAI'I; LINDA YAP; CARINA GOMES; BO KUPONO ACANG; JUANITA FLORA TOLENTINO CELESTE ACANG; IMELDA KUIIPO ACANG; STANFORD M.J. MANUIA; GERALDINE HUBBARD; HAZEL JUNG; ALICE KAPU NOBRIGA; LORRAINE MAKAAHA VALDEZ; ROSINA RHEINHARD; MILDRED CRUZ; ELIZABETH KANIKAU KAPU APOLO; VICTORIA Q. WHITE; JAMES WARREN APOLO; SABIO E. REINHARDT; MORRIS HAOLE JR.; KENNETH MOKUAU; HERBERT SILVA; BARBARA SILVA; MOSES K.N. HAIA, JR.; MARIE MALIA MONTALBO; ADJACENT LANDOWNERS; DOE ESTATES; DOE PARTNERSHIPS; DOE CORPORATIONS, The Spouse(s), Assign(s), Successor(s), Personal Representative(s), Executor(s), Administrator(s), Guardian(s) and/or Trustee(s) of the above named Defendants, all other persons unknown claiming any right, title, estate, lien, encumbrance or interest in the real property described in Plaintiff's Complaint, and to all whom it may concern, Defendants/Cross-Claim Defendants

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 93-0815)

ORDER

(By: Acoba, J., for the court¹)

Upon consideration of Plaintiff-Appellant's motion for reconsideration of this court's September 1, 2004 order approving fees and costs, the affidavit attached thereto, the record herein, and good cause appearing therefor,

IT IS HEREBY ORDERED that the motion for reconsideration is granted.

¹ Considered by Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

IT IS FURTHER ORDERED that Defendant-Appellee Joseph Fedele shall serve the April 20, 2004 request for fees and costs on Appellant at the following addresses within five days of the date of this order:

John B. Simpson
Martin & Raynor, P.C.
415 Fourth Street, N.E.
Charlottesville, Virginia 22902

and

John B. Simpson
Martin & Raynor, P.C.
1228 Cedars Court
Charlottesville, Virginia 22903-4801

Appellee shall file a certificate of service certifying that the request was served on Appellant at both addresses noted above. Appellant shall file objections within 10 days after service, with proof of service upon Appellee. Appellee shall file a reply within 7 days after service of the objections, with proof of service upon Appellant. See HRAP 39(d).

DATED: Honolulu, Hawai'i, September 17, 2004.

FOR THE COURT:

Associate Justice

John B. Simpson (Martin & Raynor, P.C.), on the motion for plaintiff-appellant.