

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PLANTE & MORAN CRESA, L.L.C.,
a Michigan limited liability company,

Plaintiff,

vs.

KAPPA ENTERPRISES, L.L.C., a Michigan
limited liability company, FLAGSTAR BANK,
a Michigan corporation, and the United States
OF AMERICA,

Defendants.

Case No. 05-60112

The Hon. John Corbett O'Meara

Magistrate Judge Pepe

(removed from Oakland County Circuit Court
and formerly Case No. 05-065763-CK)

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FINAL JUDGMENT AND DISMISSAL

At a session of Court held in the United States District Court in the City of Ann Arbor, Washtenaw
County, Michigan on July 28, 2006

PRESENT: HONORABLE JOHN CORBETT O'MEARA
U. S. DISTRICT JUDGE

Plaintiff Plante & Moran Cresa, L.L.C. ("PMC"), and Defendants Kappa Enterprises, L.L.C. ("Kappa"),
Flagstar Bank, FSB, and the United States of America, through their respective undersigned counsel, hereby
stipulate to the entry of this order dismissing PMC's Complaint with prejudice, and finalizing the Court's June
9, 2006 Opinion and Order Granting Defendants' Motions for Summary Judgment (the "June Order"), which
granted motions for summary judgment and partial summary judgment filed by defendants Flagstar Bank, FSB

and Kappa Enterprises, L.L.C by dismissing PMC's unjust enrichment claim in its entirety, and also dismissing PMC's breach of contract claim and claim to foreclose its construction lien to the extent that each claim exceeded \$5,000 (the alleged remaining balance due pursuant to the amount set forth in the written contract between Kappa and PMC).

Absent the parties' stipulation to dismiss Plaintiff's Complaint, trial would have been necessary on PMC's remaining claim for the allegedly owed \$5,000 contract balance and related lien claim in the same amount. The remaining claims in the case have been settled.

In connection with the following order, the legal description of the real property involved in this action is as follows:

Situated in the City of Southfield, County of Oakland, State of Michigan, is described as follows: A parcel of land being part of the S.E. $\frac{1}{4}$ of Section 22, T.1N., R.10E., City of Southfield, Oakland County, Michigan, being more particularly described as commencing at the S.E. corner of Section 22, T.1N., R.10E., thence N. 00° 38' E., along the East line of said Section 22, being also the centerline of Evergreen Road (so called), 270.68 feet to a point; thence N. 89° 21' W., 60.00 feet to a point on the Westerly right-of-way line of Evergreen Road (66.00 feet wide), said point being the point of beginning of the parcel herein described; thence continuing along a line, N.89° 21' W., 264.53 feet to a point; thence S. 46° 55' W., 124.32 feet to a point on the Northeasterly right-of-way line of Northwestern Highway (so called) (318.00 feet wide); thence N. 43° 05' W., along said Northeasterly right-of-way line on a course lying at right angles to the last described course, 297.91 feet to a point; thence N. 46° 55' E., along a line at right angles to said Northeasterly right-of-way line, 181.14 feet to a point; thence S. 89° 21' E., 429.34 feet to a point on the Westerly right-of-way line of said Evergreen Road (66.00 feet wide); thence S. 00° 38' 00" W., along said Westerly right-of-way line, 254.54 feet to the point of beginning. Containing 133,809 square feet of 3.072 acres. Better know as 25100 Northwestern Highway, Southfield, Michigan 48075

Tax Item No.: 24-22-426-004

In connection with the following order, the PMC claim of lien which is being discharged was recorded on April 20, 2004 in Liber 32866, Page 14, Oakland County Records; and a return copy of this recorded order should be sent to Allen W. Venable at Bodman LLP, 201 W. Big Beaver Road, Suite 500, Troy, Michigan 48084; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED THAT:

PMC's claims and Complaint are dismissed with prejudice, and without costs or attorney fees to any party. However, entry of this order is without prejudice to PMC's right to appeal the June Order. This order hereby discharges PMC's claim of lien in this case, however, in the event that the June Order is reversed on appeal or on remand, PMC's claim of lien shall be retroactively reinstated to the date of its original filing and reduced by the amount of \$5,000 to reflect the settlement of the claims as they relate to the alleged remaining balance of \$5,000 due pursuant to the amount set forth in the written contract between Kappa and PMC. Further, in the event of a reversal of the June Order on appeal or on remand, it is understood by the parties that PMC shall have no right to pursue costs, interest and/or attorney fees related to the alleged remaining balance of \$5,000 due pursuant to the amount set forth in the written contract between Kappa and PMC, as those claims have been resolved. A certified copy of this order shall be recorded with the Oakland County Register of Deeds to show the discharge of the PMC claim of lien as set forth herein. **The June Order is a final order, and it is appealable.**

Date: July 28, 2006

s/John Corbett O'Meara
United States District Judge

APPROVED FOR ENTRY:

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