

IN THE CIRCUIT COURT OF THE 17TH  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

COMERICA BANK,  
a Texas banking association,

CASE NO. 11-028447 (03)

Plaintiff,

vs.

OCEAN 4660, LLC a Florida limited  
liability company, OCEANSIDE  
LAUDERDALE, INC., a Florida  
corporation, KENNETH A. FRANK,  
individually, ANGELA DIPILATO,  
individually, TOWN OF LAUDERDALE-  
BY-THE-SEA, a political subdivision of the  
State of Florida, WASTE MANAGEMENT  
INC. OF FLORIDA d/b/a SOUTHERN  
SANITATION SERVICE, a Florida  
corporation, AFFINITY MECHANICAL  
INC., a Florida corporation, and  
BROWARD COUNTY, a political  
subdivision of the State of Florida,

Defendants.

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**PLAINTIFF'S MOTION TO COMPEL BETTER ANSWERS AND RESPONSES  
FROM DEFENDANT KENNETH A. FRANK**

Pursuant to Florida Rules of Civil Procedure 1.340, 1.350, and 1.380, Plaintiff Comerica Bank ("Plaintiff") hereby moves this Court for an order requiring Defendant Kenneth A. Frank ("Defendant") to provide better answers in response to Plaintiff's First Set of Interrogatories (the "Interrogatories") and to provide better responses to Plaintiff's First Request for Production (the "RFP") (collectively, the "Discovery Requests"). Put simply, this Court entered an Order on August 28, 2012 that required Defendant to respond to the Discovery Requests "**without objection.**" When Defendant responded, however, he objected to every request. In support of this Motion, Plaintiff states as follows:

1. On July 10, 2012, Plaintiff served the Discovery Requests upon Defendant.
2. Defendant's responses to the Discovery Requests were due on or before Tuesday, August 14, 2012, but Defendant never responded.
3. In accordance with the Local Rule No. 10A for the Seventeenth Judicial Circuit, Plaintiff filed its Ex Parte Motion to Compel against Defendant on August 16, 2012.
4. On August 28, 2012, this Court entered an Order granting Plaintiff's Ex Parte Motion to Compel and ordered Defendant to respond to the Discovery Requests within 10 days. Additionally, paragraph two of the Order required the Defendant to respond to the Discovery Requests **"without objection"**:

Defendant Kenneth A. Frank shall answer, **without objection**, Plaintiffs First Set of Interrogatories and shall produce, **without objection**, documents responsive to Plaintiffs First Request for Production, both dated July 10, 2012.

A true and correct copy of the August 28, 2012 Order is attached as **Exhibit "A."**

5. Defendant served his responses to the Discovery Requests on September 7, 2012 and, despite this Court ordering him not to do so, objected to every request. A true and correct copy of Defendant's Responses to the Interrogatories is attached as **Exhibit "B"** and a true and correct copy of Defendant's Responses to the RFP is attached as **Exhibit "C."**

6. Defendant's responses are improper because: (i) Defendant included objections to all Discovery Requests; and (ii) the responses Defendant provided are legally insufficient.

7. Plaintiff has attempted to resolve this issue in good faith, but has been unable to do so. Specifically, undersigned counsel spoke defendant Kenneth Frank on September 25, 2012. Defendant Kenneth Frank promised to supplement his production by Friday, September 28, 2012, but that never happened. To this date, defendant Kenneth Frank has yet to return undersigned counsel's efforts to resolve the discovery dispute.

**Defendant's Response to the Interrogatories**

8. Regarding Defendant's Responses to the Interrogatories,<sup>1</sup> Defendant listed **eleven** (11), "general objections" and incorporated all eleven general objections into each one of his answers to the Interrogatories. (See Dft.'s An. to Int. ¶¶ A - K.)

9. Worse, Defendant began every answer by reciting an "objection" that claimed, without explanation, that the interrogatories were somehow burdensome. Specifically, Defendant began each answer with the following statement:

Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a "fishing expedition."

(See Dft.'s An. to Int. ¶¶ 1 - 13.)

10. While Defendant claimed to provide an answer "without waiving this objection," none of Defendant's actual "answers" are responsive to any of the questions asked.

11. For example, when asked "why you (Defendant) recorded a Notice of Mechanics Lien on November 4, 2010 in Official Records Book 47501 at Page 1818 of the Public Records of Broward County, Florida," Defendant provided the following incoherent response that does not explain *why* the lien was filed and took the unbelievable step of including the phrase "among other things" as his factual basis:

Notwithstanding the foregoing, the general objection(s), and without waving this objection:

- a. Defendant recorded a Lien pursuant to Florida Statutes, including, but not limited to s. 713.02(3), 713.05, 713.10, and
- b. Under Fla. Stat. s. 713.10 mechanic's liens may be extended to the property interest of a lessor when the lessee made improvements to the property pursuant to an agreement with the lessor, and
- c. Pursuant to an assignment of property by the Owner, and
- d. Pursuant to an Agreement with the Owner, and

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<sup>1</sup> Plaintiff only asked 13 questions in the Interrogatories.

- e. Fraud by the Lessor-Owner subjected the property to liens, and
- f. among other things.

(See Dft. An. to Int. ¶ 1.)

12. Another example of Defendant's evasiveness is apparent in his answers to questions 4 and 6. When asked why Defendant recorded a Notice of Lis Pendens in Book 48272 at Page 1346 (question 4) and a Notice of Lis Pendens in Book 48300 at Page 259 (question 6), Defendant claims *he* did not do anything; it was his *attorney*: "Defendant did not file said Notice of Pendency. Said Notice of Pendency was filed by William Watson Trick, Esq." (See Dft.'s An. to Int. ¶¶ 4, 6.)

13. Because all of Defendant's answers are evasive, it is as if Defendant failed to answer the Interrogatories. See Fla. R. Civ. P. 1.380(a)(3) ("For purposes of this subdivision an evasive or incomplete answer shall be treated as a failure to answer.").

14. Moreover, because Defendant included objections in his answers to all of the Interrogatories, Defendant's answers are legally insufficient.

15. Due to Defendant's repeated flagrant conduct, Plaintiff is entitled to an order that: (i) strikes Defendant's "answers" to the Interrogatories; (ii) requires Defendant to serve a revised response, or be held in contempt of court; and (iii) requires Defendant to pay for all of Plaintiff's attorney's fees and costs incurred for bringing this motion. See Fla. R. Civ. P. 1.380(a)(4) (entitling party to fees and costs for having to bring motion to compel), and 1.380(b), (d) (providing for sanctions when party fails to comply with court order).

#### **Defendant's Response to the RFP**

16. Defendant's response to the RFP is equally insufficient.

17. The Court does not need to go any further than the heading to Defendant's response, which is titled: "Defendant Kenneth A. Frank's Responses **With Objections** to

Plaintiff's First Request for Production of Documents" (emphasis added). As indicated above, this Court ordered Defendant to respond *without* objections.

18. Similar to his response to the Interrogatories, Defendant listed eleven (11), "general objections" and incorporated all eleven general objections into each one of his responses to the RFP. (See Dft.'s Resp. to RFP ¶¶ A - K.)

19. Additionally, Defendant began his response to each of the eleven requests with the following blanket objection:

Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a "fishing expedition" which is what the terms "Any and all" and "each and every " indicate.

(See Dft.'s Resp. to RFP ¶¶ 1 - 11.)

20. All of these objections are improper under this Court's August 28, 2012 Order.

21. While Defendant purports to include a response "without waiving this objection," Defendant's responses to request numbers 1, 2, 3, 4, 5, 6, 7, 8, and 9, are all legally insufficient.

22. Under Rule 1.350, a party producing documents has two options: (i) produce the documents as they are kept in the usual course of business; or (ii) identify which documents relate to each request.

23. Here, Defendant did not produce documents as they are kept in the usual course of business, which means Defendant needed to specifically identify which documents relate to which request. See Fla. R. Civ. P. 1.350

24. Instead of doing that, Defendant responded to requests 1, 2, 3, 5, 7, 8, and 9 by saying: "Attached are Complaints, Affidavits, Agreements, Liens, False Lien Releases, and False Satisfaction of Liens." (See Resp. to RFP ¶¶ 1, 2, 3, 5, 7, 8, and 9.) This response is legally

insufficient because Defendant does not indicate which of the documents produced relate to each request.

25. If it is Defendant's contention that all of the documents produced are the *only* documents Defendant had and that he believes they are all responsive to every request, then Defendant needs to expressly state that these are all of the document he has and that there are no other documents.

26. Regarding requests 4 and 6, Defendant once again attempts to hide behind his attorney by claiming his attorney, not himself, recorded a notice of pendency. Defendant then uses this logic to conclude he is absolved from having to produce any documents relating to the notice of pendency: "Defendant did not record said Notice of Pendency. It was recorded by William Watson Trick, Esq." (*See* Resp. to RFP ¶¶ 4, 6.)

27. Because Defendant failed to comply with the basic requirements of Rule 1.350 and blatantly disobeyed this Court's Order, Plaintiff is entitled to an order that: (i) strikes Defendant's "responses" to the RFP; (ii) requires Defendant to serve a revised response, or be held in contempt of court; and (iii) requires Defendant to pay for all of Plaintiff's attorney's fees and costs incurred for bringing this motion. *See* Fla. R. Civ. P. 1.380(a)(4) (entitling party to fees and costs for having to bring motion to compel), and 1.380(b), (d) (providing for sanctions when party fails to comply with court order).

WHEREFORE, Plaintiff respectfully requests that this Court:

- (i) grant this Motion;
- (ii) strike Defendant's responses to the Discovery Requests;
- (iii) order Defendant's to file revised responses without objections in accordance with this Order, or be held in contempt; and

- (iv) order Defendant to pay for Plaintiff's attorney's fees and costs for having to file this Motion, which is now the *second* motion resulting from Defendant's discovery misconduct.

Dated: October 5, 2012.

Respectfully Submitted,

**HOLLAND & KNIGHT LLP**  
Counsel for Comerica Bank  
515 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, Florida 33301  
Telephone No: (954) 525-1000  
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**CERTIFICATE OF SERVICE**

I hereby certify that on **October 5, 2012**, a true and correct copy of the foregoing was served on all parties on the Service List below in the manner specified.



Joshua R. Levenson  
Fla. Bar No. 0056208

## SERVICE LIST

<p>Krystol L. Rappuhn, Esq.  55 E. Long Lake Road, Suite 204  Troy, Michigan 48085-4738  E-mail: <a href="mailto:krystol_rappuhn@yahoo.com">krystol_rappuhn@yahoo.com</a>  <i>Co-Counsel for Ocean 4660, LLC</i>  <b>[Via Email]</b></p>	<p>Michael Tobin, Esq.  Rothman &amp; Tobin, P.A.  11900 Biscayne Boulevard, Suite 740  Miami, Florida 33181  E-mail: <a href="mailto:mtobin@rothmanandtobin.com">mtobin@rothmanandtobin.com</a>  <i>Co- Counsel for Ocean 4660, LLC</i>  <b>[Via Email]</b></p>
<p>Eduardo M. Soto, Esq.  Weiss Serota Helfman Pastoriza Cole &amp;  Boniske, P.L.  2525 Ponce de Leon Blvd., Suite 700  Coral Gables, FL 33134  E-mail: <a href="mailto:esoto@wsh-law.com">esoto@wsh-law.com</a>  <i>Counsel for Town of Lauderdale-By-The-Sea</i>  <b>[Via Email]</b></p>	<p>Maya A. Moore, Esq.  Joni Armstrong Coffey, Esq.  County Attorney for Broward County  Office of the County Attorney  Governmental Center, Suite 423  115 South Andrews Avenue  Fort Lauderdale, FL 33301  E-mail: <a href="mailto:mmoore@broward.org">mmoore@broward.org</a>  <i>Counsel for Broward County</i>  <b>[Via Email]</b></p>
<p>Oceanside Lauderdale, Inc.  2310 East Atlantic Boulevard, Suite 206  Pompano Beach, FL 33062  <b>[Via U.S. Mail]</b></p>	<p>Kenneth A. Frank  2310 East Atlantic Boulevard, Suite 206  Pompano Beach, FL 33062  <b>[Via U.S. Mail]</b></p>
<p>Waste Management of Florida  d/b/a Southern Sanitation Service  c/o Registered Agent, CT Corporation System  1200 South Pine Island Road  Plantation, FL 33324  <b>[Via U.S. Mail]</b></p>	<p>Affinity Mechanical Inc.  c/o Edward J. Bender, Registered Agent  2805 E. Oakland Park Boulevard, #144  Fort Lauderdale, FL 33306  <b>[Via U.S. Mail]</b></p>
<p>Angela Dipilato  2310 East Atlantic Boulevard, Suite 206  Pompano Beach, FL 33062  <b>[Via U.S. Mail]</b></p>	<p>Angela Dipilato  1323 S.E. 3rd Avenue  Pompano Beach, FL 33060  <b>[Via U.S. Mail]</b></p>
<p>Motion Elevator, Inc.  c/o Registered Agent, Rose Portelli  5915 Park Drive  Margate, FL 33063  <b>[Via U.S. Mail]</b></p>	<p>Rose Portelli  5915 Park Drive  Margate, FL 33063  <b>[Via U.S. Mail]</b></p>
<p>Euro Fist Choice Enterprises, Inc.  c/o Registered Agent, Michal Holovka</p>	<p>Michal Holovka  1261 S.E. 7th Avenue</p>



1261 S.E. 7 <sup>th</sup> Avenue Pompano Beach, FL 33060 <i>[Via U.S. Mail]</i>	Pompano Beach, FL 33060 <i>[Via U.S. Mail]</i>
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IN THE CIRCUIT COURT OF THE 17TH  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

COMERICA BANK,  
a Texas banking association,

CASE NO. 11-028447 (03)

Plaintiff,

vs.

OCEAN 4660, LLC a Florida limited  
liability company, OCEANSIDE  
LAUDERDALE, INC., a Florida  
corporation, KENNETH A. FRANK,  
individually, ANGELA DIPILATO,  
individually, TOWN OF LAUDERDALE-  
BY-THE-SEA, a political subdivision of the  
State of Florida, WASTE MANAGEMENT  
INC. OF FLORIDA d/b/a SOUTHERN  
SANITATION SERVICE, a Florida  
corporation, AFFINITY MECHANICAL  
INC., a Florida corporation, and  
BROWARD COUNTY, a political  
subdivision of the State of Florida,

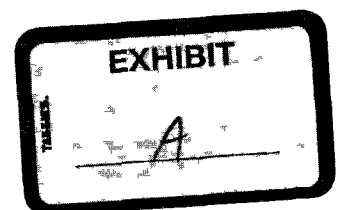
Defendants.

**ORDER ON PLAINTIFF'S EX PARTE MOTION TO COMPEL ANSWERS TO  
INTERROGATORIES AND PRODUCTION OF DOCUMENTS FROM DEFENDANT**

THIS MATTER came before the Court on Plaintiff Comerica Bank's ("Plaintiff") Ex Parte Motion to Compel Answers to Interrogatories and Production of Documents from Defendant Kenneth A. Frank, and the Court has read the moving papers, is well advised in the premises, and finds there is good and sufficient cause for Plaintiff's Ex-Parte Motion to Compel.

Accordingly, it is **ORDERED AND ADJUDGED** that.

1. Plaintiff's Ex-Parte Motion to Compel is **GRANTED**.



2. Defendant Kenneth A. Frank shall answer, **without objection**, Plaintiff's First Set of Interrogatories and shall produce, **without objection**, documents responsive to Plaintiff's First Request for Production, both dated July 10, 2012.

3. Defendant Kenneth A. Frank shall serve Plaintiff with such answers and documents within ten (10) days from the date of this Order.

DONE AND ORDERED in Chambers in Broward County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

CIRCUIT COURT JUDGE

MILY RODRIGUEZ-OWELL  
AUG 28 2012  
A True Copy

Copies to:

Krystol L. Rappuhn, Esq. 55 E. Long Lake Road, Suite 204 Troy, Michigan 48085-4738 <i>Co-Counsel for Ocean 4660, LLC</i> <b>By regular U.S. Mail</b>	Michael Tobin, Esq. Rothman & Tobin, P.A. 11900 Biscayne Boulevard, Suite 740 Miami, Florida 33181 <i>Co- Counsel for Ocean 4660, LLC</i> <b>By regular U.S. Mail</b>
Eduardo M. Soto, Esq. Weiss Serota Helfman Pastoriza Cole & Boniske, P.L. 2525 Ponce de Leon Blvd., Suite 700 Coral Gables, FL 33134 <i>Counsel for Town of Lauderdale-By-The-Sea</i> <b>By regular U.S. Mail</b>	Maya A. Moore, Esq. Joni Armstrong Coffey, Esq. County Attorney for Broward County Office of the County Attorney Governmental Center, Suite 423 115 South Andrews Avenue Fort Lauderdale, FL 33301 <i>Counsel for Broward County</i> <b>By regular U.S. Mail</b>
Charmaine J. Comprosky, Esq. LAW OFFICE OF CHARMAINE J. COMPROSKY, P.A. 2310 East Atlantic Boulevard, Suite 204 Pompano Beach, Florida 33062 <i>Counsel for Oceanside Lauderdale, Inc</i> <b>By regular U.S. Mail</b>	Kenneth A. Frank 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 <b>By regular U.S. Mail</b>
Waste Management of Florida d/b/a Southern Sanitation Service c/o Registered Agent, CT Corporation System 1200 South Pine Island Road Plantation, FL 33324 <b>By regular U.S. Mail</b>	Affinity Mechanical Inc. c/o Edward J. Bender, Registered Agent 2805 E. Oakland Park Boulevard, #144 Fort Lauderdale, FL 33306 <b>By regular U.S. Mail</b>

Angela Dipilato 2310 East Atlantic Boulevard, Suite 206 Pompano Beach, FL 33062 <b>By regular U.S. Mail</b>	Angela Dipilato 1323 S.E. 3rd Avenue Pompano Beach, FL 33060 <b>By regular U.S. Mail</b>
Motion Elevator, Inc. c/o Registered Agent, Rose Portelli 5915 Park Drive Margate, FL 33063 <b>By regular U.S. Mail</b>	Rose Portelli 5915 Park Drive Margate, FL 33063 <b>By regular U.S. Mail</b>
Euro Fist Choice Enterprises, Inc. c/o Registered Agent, Michal Holovka 1261 S.E. 7 <sup>th</sup> Avenue Pompano Beach, FL 33060 <b>By regular U.S. Mail</b>	Michal Holovka 1261 S.E. 7th Avenue Pompano Beach, FL 33060 <b>By regular U.S. Mail</b>
Brian K. Hole, Esq. Holland & Knight 515 East Las Olas Boulevard, Suite 1200 Fort Lauderdale, FL 33301 <b>By regular U.S. Mail</b>	

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

Case No.: 11-028447(03)

COMERICA BANK, a Texas banking,  
association,

*Plaintiff,*

v.

OCEAN 4660, LLC, Florida limited  
liability company, OCEANSIDE  
LAUDERDALE, INC., a Florida corporation,  
KENNETH A. FRANK, *et. al.*,

*Defendant.*

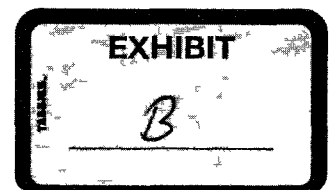
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**DEFENDANT FRANK'S RESPONSES TO PLAINTIFFS' FIRST SET OF  
INTERROGATORIES TO DEFENDANT**

COMES NOW, Defendant KENNETH A. FRANK, *Pro Se*, and pursuant to Fla. R. Civ. P.  
1.340, hereby files his response to Plaintiff Comerica Bank's First Set of Interrogatories and  
states as follows:

**PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

A. Defendant KENNETH A. FRANK generally objects to Plaintiff Comerica Bank's



Interrogatories which requires defendant to compile information from sources not readily available. Defendant KENNETH A. FRANK will respond to Interrogatories based solely upon information available to him at the present time. In preparing his responses, Defendant KENNETH A. FRANK has no obligation to public officials or professionals, agents, or other third parties over whom he has no control. Because discovery is ongoing, Defendant expressly reserves its rights and intends to continue to investigate and identify and discover all documents during the pendency of this case; at trial, Defendant KENENTH A. FRANK intends to use such documents, as well as documents within the possession, custody or control of persons or entities not presently associated with Defendant.

B. Without in any way obligating its self to do so, Defendant KENNETH A. FRANK reserves the right to: (a) Make subsequent revisions or amendments to this Response based upon any information, evidence, documents, facts and things which hereafter may be discovered, or the relevance of which may be hereafter discovered; and (b) Produce, introduce or rely on additional or subsequently acquired or discovered writings, evidence and information at trial or in any pretrial proceedings held herein.

C. Defendant KENNETH A. FRANK generally objects to Plaintiffs' requests that requires him to respond in any manner beyond or different from the obligations imposed or authorized by the Florida Rules of Civil Procedure.

D. Defendant KENNETH A. FRANK objects to Plaintiff's requests that are not reasonably calculated to lead to the discovery of admissible evidence or seek the production of documents and/or information that is not discoverable under the Florida Rules of Civil Procedure.

E. Defendant KENNETH A. FRANK objects to each request that is protected under any applicable privilege. Inadvertent disclosure of any such information shall not constitute a waiver of any privilege or any grounds for objecting to the discovery with respect to said information and with respect to the subject matter thereof, and shall not constitute a waiver of rights of the Defendant subject to the use of such information in any subsequent proceedings.

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F. Defendant KENNETH A. FRANK objects to the request which purports to any items or information containing confidential records, confidential business information or proprietary information or trade secrets.

G. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it calls for information related to or possessed by third parties under whom Defendant has no control or confidential and irrelevant information.

H. Defendant KENNETH A. FRANK objects to the Request as Overly broad, unduly vague, and ambiguous, burdensome and oppressive, privileged information, Attorney work product, not calculated to lead to the discovery of admissible evidence, and harassing.

I. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it requests information that is equally available, or available by lesser intrusive means.

J. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it calls for information from third parties whom defendant has no control.

K. Defendant KENNETH A. FRANK objects to any and all requests to the extent that they request Defendant KENNETH A. FRANK to prepare the Plaintiff's case, and to determine what

Plaintiff should deem relevant to, supportive of or pertinent to certain defenses; as such, this Interrogatory is not a proper method of discovery.

Defendant KENNETH A. FRANK incorporates these general objections into each Response herein as if fully set forth. Without waiving any of the foregoing objections, all of which are incorporated by reference in the following Responses, Defendant KENNETH A. FRANK specifically responds as follows:

### **RESPONSES TO INTERROGATORIES**

1. Please explain in detail why you recorded a Notice of Mechanics Lien on November 04, 2010 in Official Records Book 47501 at page 1818 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

- a. Defendant recorded a Lien pursuant to Florida Statutes, including, but not limited to s. 713.02(3), 713.05, 713.10, and
- b. Under Fla. Stat. s. 713.10 mechanic’s liens may be extended to the property interest of a lessor when the lessee made improvements to the property pursuant to an agreement with the lessor, and



- c. Pursuant to an assignment of property by the Owner, and
  - d. Pursuant to an Agreement with the Owner, and
  - e. Fraud by the Lessor-Owner subjected the property to liens, and
  - f. among other things.
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2. Please explain in detail why you recorded a Notice of Pendency on January 11, 2010 in Official Records Book 46790 at Page 604 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**Because a lawsuit was pending in Federal Court.**

3. Please explain in detail why you recorded a Notice of mechanics Lien on January 21, 2011 in Official Records Book 47664 at Page 42 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),**

and without waving this objection:

- a. See response to number one above, and
  - b. Because Remo Polselli and Hanna Karcho the member(s) or representatives of Ocean 4660, LLC ( owner) forged lien releases and/or recorded satisfaction(s) of liens.
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4. Please explain why you recorded a Notice of Lis Pendens in Book 48272 at Page 1346 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

Defendant did not file said Notice of Pendency. Said Notice of Pendency was filed by William Watson Trick, Esq.

5. Please explain in detail why you recorded a Notice of Mechanics Lien on July 08, 2011 in Official Records Book 48025 at page 223 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

- a. See response to number one above, and
- b. Because Remo Polselli and Hanna Karcho the member(s) or representatives of Ocean 4660, LLC ( owner) forged lien releases and/or recorded satisfaction(s) of liens.

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6. Please explain why you recorded a Notice of Lis Pendens in Book 48272 at Page 1346 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

Defendant did not file said Notice of Pendency. Said Notice of Pendency was filed by William Watson Trick, Esq.

7. Please explain in detail why you recorded a Notice of Mechanics Lien on July 08, 2011 in Official Records Book 48025 at page 217 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

a. See response to number one above, and

b. Because Remo Polselli and Hanna Karcho the member(s) or representatives of Ocean 4660, LLC ( owner) forged lien releases and/or recorded satisfaction(s) of liens.

8. Please explain in detail why you recorded a Notice of Mechanics Lien on July 08, 2011 in Official Records Book 48025 at page 223 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),**

**Answered in number 5 above.**

9. Please explain in detail why you recorded an Affidavit on January 26, 2012 in Official Records Book 48472 at Page 776 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),**

**a. The Affidavit states the purpose upon which it was recorded.**

10. Please state whether you have obtained any judgments against Ocean 4660, LLC and, if so, please describe in detail the nature of the case(s), the case number(s) and court(s) where the action(s) was (were) filed, and the amount(s) of the judgment(s).

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),**  
**No, case is still pending.**

11. Please state whether you have obtained any judgments relating to the Property and, if so, please describe in detail the nature of the case(s) and the amount(s) of the judgment(s) (if applicable), and the case number and court where the action was filed.

**RESPONSE: Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),**

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**See response to number 10 above.**

12. Please explain in detail the basis for your belief that you have an interest in the Property.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

See response to number 1 above.

13. Please answer whether you contend your interest in the Property is superior to that of Comerica Bank and, if so, explain in detail why your interest is superior to Comerica Bank.

**RESPONSE:** Defendant KENNETH FRANK objects to the extent that it is overly broad, unduly burdensome and oppressive, vague and ambiguous, privileged information, not calculated to lead to discoverable information, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “fishing expedition “. Notwithstanding the foregoing, the general objection(s),

- a. See response to number 1 above, and
- b. Defendants interest in the Property is Superior to that of Comerica bank, and
- c. This action is barred by a prior pending action and Lis Pendens ( discharge under appeal ) which involves the same property which is the subject of this foreclosure complaint. The other Action is for an Equitable Lien, Foreclosure of Equitable Lien,

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Imposition of a Constructive Trust upon the subject real property, *fraud* involving the mortgagor and the subject real property, and other claims relevant and involving the subject real property, timely filed by Defendant(s) Oceanside and Frank.

Defendant(s) Oceanside and Frank requests that the Court take judicial notice of the other action and affirm superior claim of Defendants upon the subject property.

d. One or more of the mortgages sought to be foreclosed are not purchase money mortgages,

e. Plaintiff Comerica Bank admits that it swapped the ' note '. Therefore, pursuant to the swap and swap agreement Plaintiff Comerica Bank may not have standing to bring and maintain the action and/or contest the superiority of alleged liens through foreclosure action,

f. Equitable Lien,

g. Plaintiff's unclean hands,

h. Plaintiff's inequitable conduct,

i. Plaintiff was not the owner, holder of the Note when the action was commenced, therefore, has no standing to maintain the lawsuit and/or contest the superiority of alleged liens through foreclosure action,

j. Plaintiff has waived its Rights, Privilege or Advantage to any claimed priority lien,

k. Plaintiff is no longer a Real Party In Interest, and

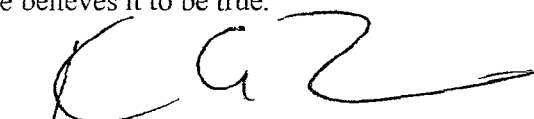
l. Plaintiffs alleged debt has been satisfied via Credit Default Swap Insurance

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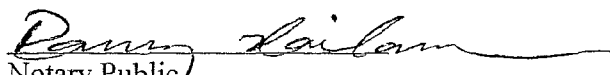
VERIFICATION

STATE OF FLORIDA                     )  
CITY OF Panama Beach            )ss.:  
COUNTY OF BROWARD                )

KENNETH FRANK, being duly sworn, states that he is one of the defendants in this action and that the foregoing Response to Defendants' Interrogatories is true to his own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters he believes it to be true.

  
\_\_\_\_\_  
Kenneth Frank, *Pro Se*  
- Defendant -

Sworn to before me this  
6th day of September, 2012.

  
\_\_\_\_\_  
Notary Public

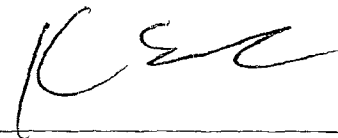
NOTARY PUBLIC-STATE OF FLORIDA  
Danny Hai Lam  
Commission # DD977846  
Expires: APR. 01, 2014  
BONDED THRU ATLANTIC BONDING CO., INC.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed via  
\_\_\_\_\_  
certified mail-return receipt requested to the following on this 7th day of September, 2012.



HOLLAND & KNIGHT  
c/o Brian Hole, Esq.  
Florida Bar No.:  
515 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, Florida 33301

By:   
Kenneth Frank, *Pro Se*

2310 East Atlantic Boulevard, Suite 206  
Pompano Beach, Florida 33062  
Tel: (914) 563-4510  
Fax: (954) 786-2785

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**IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

**Case No.: 11-028447**

COMERICA BANK, a Texas banking  
association,

Plaintiff,

- against -

OCEAN 4660. LLC, a Florida limited  
liability company, OCEANSIDE LAUDERDALE,  
INC., a Florida corporation, KENNETH A. FRANK,  
individually, *et al*

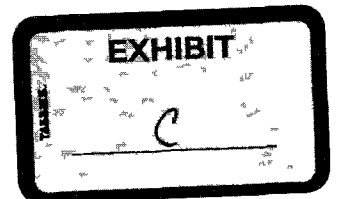
Defendant.

**DEFENDANT KENNETH A. FRANK'S RESPONSES WITH OBJECTIONS TO  
PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Florida R. Civ. P. 1.350, the following documents and objections are submitted in  
response to Plaintiff's First Request for Production of Documents:

**PRELIMINARY STATEMENT AND GENERAL OBJECTIONS**

A. Defendant KENNETH A. FRANK generally objects to Plaintiff Comerica Bank's Request  
For Production which requires defendant to compile information from sources not readily  
available Defendant KENNETH A FRANK will respond to the Request For Production based  
solely upon information available to him at the present time. In preparing his responses,



Defendant KENNETH A. FRANK has no obligation to consult official or public records, professionals, agents, or other third parties over whom he has no control. Because discovery is ongoing, Defendant expressly reserves its rights and intends to continue to investigate and identify and discover all documents during the pendency of this case; at trial, Defendant KENNETH A. FRANK intends to use such documents, as well as documents within the possession, custody or control of persons or entities not presently associated with Defendant.

B. Without in any way obligating its self to do so, Defendant KENNETH A. FRANK reserves the right to: (a) Make subsequent revisions or amendments to this Response based upon any information, evidence, documents, facts and things which hereafter may be discovered, or the relevance of which may be hereafter discovered; and (b) Produce, introduce or rely on additional or subsequently acquired or discovered writings, evidence and information at trial or in any pretrial proceedings held herein.

C. Defendant KENNETH A. FRANK generally objects to Plaintiffs' requests that requires him to respond in any manner beyond or different from the obligations imposed or authorized by the Florida Rules of Civil Procedure.

D. Defendant KENNETH A. FRANK objects to Plaintiff's requests that are not reasonably calculated to lead to the discovery of admissible evidence or seek the production of documents and/or information that is not discoverable under the Florida Rules of Civil Procedure.

E. Defendant KENNETH A. FRANK objects to each request that is protected under any applicable privilege. Inadvertent disclosure of any such information shall not constitute a waiver of any privilege or any grounds for objecting to the discovery with respect to said information

and with respect to the subject matter thereof, and shall not constitute a waiver of rights of the Defendant subject to the use of such information in any subsequent proceedings.

F. Defendant KENNETH A. FRANK objects to the request which purports to any items or information containing confidential records, confidential business information or proprietary information or trade secrets.

G. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it calls for information related to or possessed by third parties under whom Defendant has no control or confidential and irrelevant information.

H. Defendant KENNETH A. FRANK objects to the Request as Overly broad, unduly vague, and ambiguous, burdensome and oppressive, privileged information, Attorney work product, not calculated to lead to the discovery of admissible evidence, and harassing.

I. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it requests information that is equally available, or available by lesser intrusive means.

J. Defendant KENNETH A. FRANK objects to the Request as unduly burdensome and harassing to the extent that it calls for information from third parties whom defendant has no control.

K. Defendant KENNETH A. FRANK objects to any and all requests to the extent that they request Defendant KENNETH A. FRANK to prepare the Plaintiff's case, and to determine what Plaintiff should deem relevant to, supportive of or pertinent to certain defenses; as such, this Request For Production is not a proper method of discovery.

Defendant KENNETH A. FRANK incorporates these general objections into each Response herein as if fully set forth. Without waiving any of the foregoing objections, all of which are incorporated by reference in the following Responses, Defendant KENNETH A. FRANK specifically responds as follows:

### **DOCUMENTS REQUESTED**

1. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on November 04, 2010 in Official Records Book 47501 at Page 1818 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**a. Attached are Complaints, Affidavits, Agreements, Liens, False Lien Releases, and False Satisfaction of Liens.**

2. Any and all documents supporting the validity of the Notice of Pendency you recorded on January 11, 2010 in Official Records Book 46790 at Page 604 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The**

case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

a. See response to number 1 above.

3. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on January 21, 2011 in Official Records Book 47664 at Page 42 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

a. See response to number 1 above.

4. Any and all documents supporting the validity of the Notice of Pendency you recorded in Book 48272 at Page 1346 of the Public Records of Broward County, Florida.

**RESPONSE:** Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the

**foregoing, the general objection(s), and without waving this objection:**

**a. Defendant did not record said Notice of Pendency. It was recorded by William Watson Trick, Esq.**

5. Any and all documents supporting the validity of the Notice of Mechanics Lien you recorded on January 08, 2011 in Official Records Book 48025 at Page 223 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**a. See response to number 1 above.**

6. Any and all documents supporting the validity of the Notice of Pendency you recorded in Book 48300 at Page 259 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**a. See response to number 4 above.**

7. Any and all documents supporting the validity of the Lien you recorded on July 08, 2011 in Official Records Book 48025 at Page 217 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**a. See response to number 1 above.**

8. Any and all documents supporting the validity of the Lien you recorded on July 08, 2011 in Official Records Book 48025 at Page 223 of the Public Records of Broward County, Florida.

**RESPONSE: Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:**

**a. Answered in number 5 above.**

9. Any and all documents supporting the statements in the Affidavit you recorded on January 26, 2012 in official Records Book 48472 at Page 776 of the Public Records of broward County, Florida.



**RESPONSE:** Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

a. See response to number 1 above, and

b. Attached Motion for Relief from Order Discharging Mechanics Lien

10. True and correct copies of any and all judgments you have obtained against Defendant Ocean 4660, LLC.

**RESPONSE:** Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is what the terms “ Any and all “ and “ each and every “ indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

a. None, case is still pending.

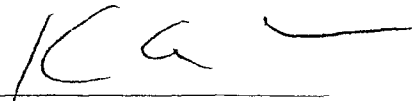
11. True and correct copies of any and all judgments you have obtained in connection with the Property.

**RESPONSE:** Defendant KENNETH A. FRANK objects to the extent that it is overly broad, unduly burdensome, and interposed for the purpose of harassment and delay. The case law is clear that a litigant is not entitled to pursue a “ fishing expedition “ which is

what the terms " Any and all " and " each and every " indicate. Notwithstanding the foregoing, the general objection(s), and without waving this objection:

a. None, case is still pending.

Dated: September 7<sup>th</sup>, 2012.  
Pompano Beach, Florida.

By:   
Kenneth A. Frank, *Pro Se*

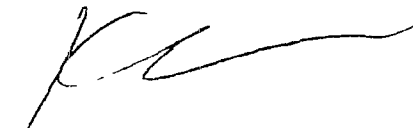
- Defendant -

2310 E. Atlantic Boulevard, Suite 206  
Pompano Beach, Florida 33062

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed via certified mail-return receipt requested to the following on this 7<sup>th</sup> day of September, 2012.

To: HOLLAND & KNIGHT  
c/o Brian Hole, Esq.  
Florida Bar No.:  
515 East Las Olas Boulevard, Suite 1200  
Fort Lauderdale, Florida 33301

By:   
Kenneth A. Frank, *Pro Se*

2310 E. Atlantic Blvd., Suite 206  
Pompano Beach, Florida 33062  
Tel: (914) 563-4510  
Fax: (954) 786-2785

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