

**RECEIVED**

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

OCT 10 2024

SC Court of Appeals

U.S. Bank Trust Company, National Association, as Trustee for Velocity Commercial Capital Loan Trust 2022-5,

CASE NO.: 2023-CP-32-00792

Plaintiff,

**ORDER DENYING DEFENDANTS ANIA REAL ESTATE AND PROPERTY MANAGEMENT, LLC AND ANNA PALASZ'S MOTION TO AMEND/VACATE DEFAULT JUDGMENT OF FORECLOSURE**

v.

Ania Real Estate and Property Management LLC; Anna Palasz, and Regions Bank,

Defendants.

This disputed foreclosure case hearing was before court on July 19, 2024, pursuant to the Motion to Amend/Vacate Default Judgment of Foreclosure ("Motion") filed by Defendant Anna Palasz ("Guarantor") and Ania Real Estate and Property Management LLC ("Borrower") or ("Ania") and collectively as ("Defendants) on April 29, 2024. In response, U.S. Bank Trust Company, National Association, as Trustee for Velocity Commercial Capital Loan Trust 2022-5 ("Plaintiff") filed an Objection to the Motion on July 8, 2024. After full and proper notice to all Parties, a hearing was held before me on July 19, 2024. Present at the hearing were Anna Palasz, the Guarantor, John S. Kay, attorney for Plaintiff and the Court Report at the hearing was Susanna Amstutz. Based on a review of the various respective proposed Orders, the case file, South Carolina statutory and case law, and arguments of Anna Palasz and counsel for the Plaintiff, the motion filed by Defendant Anna Palasz to Amend or Vacate the Judgment of Foreclosure issued by this court on April 19, 2024 is denied based upon the following:

**Procedural History**

1. The Lis Pendens and the Summons and Complaint were filed on March 1, 2023.
2. Defendant disputes service dates and times. An examination of the filed sworn affidavits lead the court to conclude that either personal service or service was made upon the

Defendant, Anna Palasz, on March 27, 2023 as shown by the affidavit of David Hellman of the Lexington County Sheriff's Department filed in the Office of the Clerk of Court for Lexington County on April 10, 2023. Service was made upon Ania Real Estate and Property Management LLC on April 5, 2023 as shown by the affidavit filed by David Hellman of the Lexington County Sheriff's Department on April 10, 2023. The Defendant, Regions Bank was served on March 3, 2023. Rule 4(d) (1) SCRCP notes that service is accomplished either by delivering a copy of summons and complaint to the defendant personally or leaving copies at the dwelling place or usual place of abode with a person of suitable age and discretion then residing therein.

3. The Defendant(s) Ania Real Estate and Property Management LLC; Anna Palasz; and Regions Bank did not respond to the summons and complaint, an Affidavit of Default as to all Defendants was filed by the Plaintiff on April 28, 2023. An entry of default was entered by the Clerk of Court for Lexington County as to the Defendants on May 8, 2023.

4. On May 11, 2023, an Order of Reference was entered in this case, referring this matter to the Master in Equity for Lexington County.

5. On May 16, 2023, Anna Palasz filed a document entitled Reply and Motion to Compel on behalf of the Borrower, Ania Real Estate and Property Management LLC by Anna Palasz ("Guarantor").

6. The Defendants Ania Real Estate and Property Management LLC and Anna Palasz; moved for continuance in the Clerk of Court's Office on June 23, 2023 seeking to continue a hearing "...until after the hearing scheduled for August 29..." assuming the hearing date mentioned was for August 19, 2023, there was no hearing held on August 29, 2023, so the June 23, 2023 was no longer necessary. The next hearing held by the Court was an "in person" status conference on November 21, 2023, where the Defendants did not appear. So, there was no hearing held during the time period that the Defendants had asked for a continuance.

7. Plaintiff moved for summary judgment on November 2, 2023. On November 17, 2023, the Defendant, Anna Palasz filed a Reply to Plaintiff's Motion for summary Judgment

8. On December 13, 2023 the Court issued a Trial Scheduling Order which required all motions to be filed by January 12, 2024.

9. On January 19, 2024, the Defendants filed a document designated as a "Motion for Fraud". This Court issued an Order on April 19, 2024 denying the Motion for Fraud. A copy of this Order was served on the Defendants, Ania Real Estate and Property Management, LLC and Anna Palasz by U.S. Mail on April 24, 2024 as shown by Certificate of Service by mail filed on April 24, 2024.

10. On February 12, 2024 a hearing was held on all motions pending pursuant to the terms of the Trial Scheduling Order. At that hearing, the Court granted the Plaintiff's motion for summary judgment on its causes of action for foreclosure of the Property and on the suit against the Guarantor and directed Plaintiff's counsel to prepare the Master's Order and Judgment of Foreclosure and Sale, including judgment on the Guaranty Agreement.

11. On February 23, 2024, eleven days after the hearing held on February 12, 2024, Defendant, Anna Palasz, moved for a continuance "...beyond the hearing date of February 12, 2024." This motion for a continuance of the February 12, 2024 hearing was not filed timely and; therefore, was not granted by the Court.

12. This court acknowledges the respective parties' various continuance requests, at various times, for various reasons. When deciding to grant or deny the request(s) the Court was guided by those matters discussed in Chapter 3 Continuances in Trial Handbook for South Carolina Lawyers 4<sup>th</sup> Ed 2006 by Alex Sanders and John S. Nichols, as raised by both Plaintiff and Defendant, including but not limited to (1) when and how the matter was raised (2) the substance of the matter (3) proof, if any, to substantiate the claim for continuance (4) matters

contained in the Trial Schedule Order established after the initial status conference attended by both Plaintiff and Defendant (5) any consent or lack of consent voiced by Plaintiff or Defendant to determine if it was proper to grant a continuance for a specific hearing.

13. The Court also notes that while Defendant may have authority to take certain legal actions under corporate authorization, no corporation permission can transform a corporate officer into a South Carolina lawyer. Corporate authority to take certain legal actions does not include nor is it the same thing as being a lawyer representing a client in court.

14. The Master's Order and Judgment of Foreclosure was entered on April 19, 2024.

15. On April 19, 2024, the Defendant, Anna Palasz filed a motion to Amend or Vacate the Judgment of Foreclosure. This motion was filed by Anna Palasz for herself and on behalf of Ania Real Estate and Property Management LLC.

16. On July 11, 2024, Anna Palasz filed a new civil action under case number 2024-CP-32-02936. In the 2024 case, Anna Palasz also moved to consolidate the within case with the 2024 matter. This Court takes no action or ruling on that motion to consolidate cases as it was filed in the 2024 case and this Court does not have jurisdiction to rule on this motion filed in another case.

#### **Findings of Fact and Conclusions of Law**

Defendant Ania Real Estate and Property Management, LLC ("Borrower") and Anna Palasz ("Guarantor") (collectively, the "Defendants") are in default. The Court treats the Defendants' motion to Amend or Vacate the Judgment of Foreclosure as a motion filed under Rule 59(e) of the South Carolina Rules of Civil Procedure ("SCRCP").

The Borrower is a limited liability company entity that is not represented by counsel; therefore, the Borrower cannot appear nor file motions in this Court without legal representation.

*Renaissance Enterprises, Inc. v. Summit Teleservices, Inc.*, 334 S.C. 649, 515 S.E.2d 257 (1999); *Doe v. McMaster*, 355 S.C. 306, 313, 585 S.E.2d 773, 777 (2003). The Court treats the Rule 59(e) motion as proper only as to the Guarantor, Anna Palasz, and only as to the cause of action in the Plaintiff's case as to the suit on the Guaranty Agreement between Anna Palasz and the Plaintiff. After the hearing on July 19, 2024, The Defendant, Anna Palasz has raised an issue claiming that the Certificate of Authority issued by Ania Real Estate and Property Management, LLC gives Anna Palasz the power to act as borrower and guarantor. This issue was not properly raised before the Court at the hearing and cannot be considered as part of the record. In addition, the cases cited above to not grant any exception to the rule that a corporate or company entity cannot be represented in a legal matter by a non-lawyer.

The Guarantor, Anna Palasz, alone signed the motion at hand; however, the motion contains no argument related to Plaintiff's Guaranty cause of action. The motion consists entirely of arguments that belong solely to the Borrower. The Borrower is not represented by legal counsel and, as the Borrower is a corporation, Ms. Palasz cannot file motions or argue on its behalf.

Under the Trial Scheduling Order issued by the Court in this matter on December 13, 2023, a hearing was scheduled for February 12, 2024 for the Court to hear all outstanding motions, which included Plaintiff's Motion for Summary Judgment. The Defendants did not appear at this hearing, and the Court granted the Plaintiff's motion and asked for Plaintiff's counsel to submit a proposed Master's Order and Judgment of Foreclosure and Sale. The Defendants were given time to respond to the proposed pleadings and after no response was submitted by the Defendants, the Court issued the proposed Order on April 19, 2024.

Rule 56, SCRCP does not require that the Plaintiff put forth evidence; rather, Rule 56(a) provides that a party seeking to recover on a claim may file and serve a motion for summary judgment and can move with, or without supporting affidavits. As this was a default case, the

allegations in the Plaintiff's complaint are deemed admitted, particularly the existence of the Note, Mortgage and Guaranty and the breach, or default, by the Defendants under the terms and conditions of the Note, Mortgage and Guaranty. The only element left to be proven by the Plaintiff is the amount of the damages resulting from the breach of the loan documents. The Plaintiff filed an affidavit in support of its claims on both the causes of action for foreclosure and on the guaranty agreement. The Plaintiff's affidavit fully listed the amounts due and owing to it on the Note and Mortgage, which is the final element of the Plaintiff's case. The Defendants filed no affidavit in response to the Plaintiff's motion for summary judgment. Under Rule 56(e), SCRPC, if the moving party files an affidavit supporting its motion, the party opposing the relief cannot simply rely on the previous pleadings it has filed in the case. The opposing party must set forth specific facts that would show there is a genuine issue for trial. A motion for summary judgment must be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Standard Fire v. Marine Contracting*, 301 S.C. 418, 421, 392 S.E.2d 460, 462; Rule 56(c) SCRPC. At the hearing on February 12, 2024, the Court found that the Defendants did not meet their burden of establishing facts sufficient to show there was a genuine issue for trial and the Plaintiff was entitled to prevail on its motion for summary judgment.

The party filing a motion under Rule 59(e), should only be granted relief if the Court finds there has been an intervening change of controlling law, that new evidence has become available, or that there is a need to correct a clear error to prevent manifest injustice. The Defendants' motion under Rule 59, SCRPC, is not proper as to the Borrower, Ania Real Estate and Property Management, LLC. Therefore, the motion is treated as only being applicable to the cause of action for the suit on the Guaranty against Anna Palasz, individually. The Guarantor, Ms. Palasz, failed

to attend the hearing on the Plaintiff's summary judgment motion on February 12, 2024. On February 23, 2024, Palasz moved for continuance of the summary judgment motion hearing, but this motion was filed eleven (11) days after the hearing had taken place and was filed after the deadline for filing motions as provided for in the Trial Scheduling Order. "A party cannot use Rule 59(e), SCRCF, to present to the trial court an issue the party could have raised prior to judgment but did not." *Crary v. Djebelli*, 321 S.C. 38, 467 S.E.2d 128, 131-132 (Ct. App. 1995) *reversed on other grounds*, 329 S.C. 385 496 S.E.2d 21 (1998)

The Plaintiff and the Defendants agreed in their pleadings, and at the hearing on July 19, 2024 that there has been no intervening change of controlling law, and that no new evidence has become available since the February 12, 2024 hearing. Therefore, the only basis for granting the Guarantor's Rule 59 motion is if there is a need to correct a clear error to prevent manifest injustice. The requirements of Rule 56, SCRCF were met by the Plaintiff at the summary judgment motion hearing on February 12, 2024 and the Guarantor did not appear to pursue any objections or file any pleadings at that hearing. Therefore, there is no basis for granting relief under Rule 59(e) and the Motion to Amend/Vacate the Judgment of foreclosure filed by Anna Palasz is denied.

Based on the foregoing, it is ORDERED, ADJUDGED, AND DECREED that the Defendants' Motion to Amend/Vacate Default Judgment of Foreclosure is DENIED. The Plaintiff may submit a new Notice of Sale.

JUDGE'S SIGNATURE PAGE TO FOLLOW



Lexington Common Pleas

**Case Caption:** Us Bank Trust Company National Association As Trustee For ,  
plaintiff, et al VS Ania Real Estate And Property Management Llc ,  
defendant, et al

**Case Number:** 2023CP3200792

**Type:** Master/Order/Other

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

**Notice of Sale**

C/A No: **2023-CP-32-00792**

BY VIRTUE OF A DECREE of the Court of Common Pleas for Lexington County, South Carolina, heretofore issued in the case of U.S. Bank Trust Company, National Association, as Trustee for Velocity Commercial Capital Loan Trust 2022-5 vs. Ania Real Estate and Property Management LLC; Anna Palasz; Regions Bank; I the undersigned as Master-in-Equity for Lexington County, will sell on November 4, 2024 at 11:00 AM, or on another date, thereafter as approved by the Court, at Lexington County Judicial Center in courtroom 3-A 205 East Main St., Lexington, South Carolina to the highest bidder:

**Legal Description and Property Address:**

**ALL THAT CERTAIN piece, parcel, tract or lot of land, with the improvements thereon, situate, lying and being approximately One (1) Mile West of the Town of Lexington, in Lexington County School District Number One, Lexington County, South Carolina, in Lexington County, South Carolina, shown and delineated as containing 0.26 of an Acre, on a Plat prepared for Elizabeth T. Gable by Arthur J. Weed, Registered Land Surveyor; dated March 25, 1987, and recorded January 15, 1987, in Plat Book 218-G, at Page 449, in the Office of the Register of Deeds for Lexington County.**

**This property has the following boundaries and measurements: On the North by property of Billy Ray Shumpert for a distance of 75.54 feet; on the East by property of Adelaide Bodie for distance of 151.20 feet; on the South by United States Highway Number One, along which it fronts for a distance of 74.99 feet, and on the West by property of Woodrow S. Worthy for a distance of 151.96 feet.**

**THIS BEING the same property conveyed unto Ania Real Estate and Property Management, LLC by virtue of a Deed from Daniel A. Able and Cecelia S. Able dated July 15, 2022 and recorded August 1, 2022 in Book 21019 at Page 5886 in the Office of the Register of Deeds for Lexington County, South Carolina.**

1608 West Main Street  
Lexington, SC 29072  
TMS# 0042-19-01-002

TERMS OF SALE: Interest at the current rate of 14.740% to be paid on balance of bid from date of sale to date of compliance. The purchaser to pay for papers and stamps, and that the successful bidder or bidders, other than the Plaintiff therein, will, upon the acceptance of his or her bid, deposit with the Master in Equity for Lexington County a certified check in the amount equal

to five percent (5%) of the amount of bid on said premises at the sale as evidence of good faith in bidding, and subject to any resale of said premises under Order of this Court; and in the event the said purchaser or purchasers fail to comply with the terms of sale within Thirty (30) days, the Master in Equity shall forthwith resell the said property, after the due notice and advertisement, and shall continue to sell the same each subsequent sales day until a purchaser, who shall comply with the terms of sale, shall be obtained, such sales to be made at the risk of the former purchaser. As a personal or deficiency judgment is demanded, the bidding will remain open for a period of thirty (30) days pursuant to the S.C. Code Ann. Section 15-39-720 (1976). If the Plaintiff or the Plaintiff's representative does not appear at the above-described sale, then the sale of the property will be null, void, and of no force and effect. In such event, the sale will be rescheduled for the next available sales day. Plaintiff may waive any of its rights, including its right to a deficiency judgment, prior to sale. Sold subject to taxes and assessments, existing easements and restrictions of record.

Pursuant to South Carolina Supreme Court Administrative Order 2022-02-17-02, protective masks are no longer required in county courthouses; however, any person who is at risk or concerned about the dangers of COVID-19 may continue to wear a mask inside any courthouse, subject to a request from judges, courthouse staff, or law enforcement to briefly remove that mask during the presentation of a case or when necessary for security or identification purposes.

JUDGE'S SIGNATURE PAGE TO FOLLOW

Hutchens Law Firm LLP  
P.O. Box 8237  
Columbia, SC 29202  
803-726-2700



Lexington Common Pleas

**Case Caption:** Us Bank Trust Company National Association As Trustee For ,  
plaintiff, et al VS Ania Real Estate And Property Management Llc ,  
defendant, et al

**Case Number:** 2023CP3200792

**Type:** Master/Order/Notice of Foreclosure Sale

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

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**I.S. Bank v Ania Real Estate 2023-CP-32-00792**

13 messages

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John S. Kay <John.Kay@hutchenslawfirm.com>  
To: Ania Real Estate <aniarealestateusa@gmail.com>  
Cc: Tiffanie Watson <Tiffanie.Watson@hutchenslawfirm.com>

Tue, Sep 10, 2024 at 9:27 AM

Ms. Palasz, please find attached to this email, a recorded copy of the Order denying your motion to vacate the foreclosure judgment in the above referenced matter.

John S. Kay | Managing Partner, SC  
Foreclosure/Real Estate  
John.Kay@hutchenslawfirm.com  
Hutchens Law Firm LLP  
240 Stoneridge Drive, Suite 400 | Columbia, SC 29210  
P.O. Box 8237 | Columbia, SC 29202  
T: 803-726-2700 | F: 803-726-2841  
HutchensLawFirm.com



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**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE, except as stated below in the instance of bankruptcy protection. If others have access to this email address, then it is possible they may see the emails. If you would like to opt out of communications by Hutchens Law Firm to this email address, please reply to the sender with "OPT OUT" in the subject line.**

**IF YOU ARE UNDER THE PROTECTION OF THE BANKRUPTCY COURT OR HAVE BEEN DISCHARGED AS A RESULT OF A BANKRUPTCY PROCEEDING, THIS NOTICE IS GIVEN TO YOU PURSUANT TO STATUTORY REQUIREMENT AND FOR INFORMATIONAL PURPOSES AND IS NOT INTENDED AS AN ATTEMPT TO COLLECT A DEBT OR AS AN ACT TO COLLECT, ASSESS, OR RECOVER ALL OR ANY PORTION OF THE DEBT FROM YOU PERSONALLY.**

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Ania Real Estate <aniarealestateusa@gmail.com>  
To: "John S. Kay" <John.Kay@hutchenslawfirm.com>  
Cc: Tiffanie Watson <Tiffanie.Watson@hutchenslawfirm.com>  
Bcc: "JSPENCE@lex-co.com" <JSPENCE@lex-co.com>

Thu, Sep 19, 2024 at 9:13 AM

Good morning,

This email was found in my spam folder while looking for an email from another company. I only get court emails when Judge Spence is copied on them and obviously was not copied on this one as was no one else from the court. If this was e-filed and recorded on September 9th, why was this email dated and sent on Sept 10th?

I never received copies of this at my residence either.

This has been an ongoing trick to then deny and/or dismiss my filings for being "late". Either sending documents that weren't officially recorded or sending them with a delay, considering it "legal service" yet at this point a 10-day reply would be due today since the court upholds the date of efile, not the date of service.

This will be all brought up in my appeal including the fact that I was denied to vacate default judgement and trial for illness, an acceptable defense - especially cancer should not be taken lightly. And fraud is another that got dismissed.

On another note, a previous email from Judge Spence states that no sale will be scheduled until after the appeal has passed, yet it's already on the calendar. I'm assuming I'm predetermined to lose this case even though it was actually me who got defrauded from the get-go by ultimate fault of my closing attorney and the others contributing for 4 months.. perfect. I don't owe any money. Institutions who defraud innocent people do not get paid. This institution did not even correct their fraud, it's claiming double now! wow. All they had to do is re-appraise the property per my request and re-write the loan... Obviously it was on their agenda to steal another property from an innocent individual using their skillful negligence tactics.

Have a great day.

[Quoted text hidden]

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## Anna (Ania) Palasz

Realtor- Licensed in NY/NJ/PA/SC

Broker - NY, SC

Cell: 917.963.1746

Email: AniaRealEstateUSA@gmail.com

Web: AniaRealEstateUSA.com

"Your Referrals are my Best Compliment"

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\*\*The contents and material in this communication are not intended to cause or induce breach of an existing Listing Brokerage agreement.

\*\*\*In my endeavours to provide information to past and current clients, I regularly send real estate information such as this. However, should you not wish to receive future mailings, please hit the reply button, write "opt-out" in the subject line

STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

**CERTIFICATE OF SERVICE**

C/A NO: 2023-CP-32-00792

U.S. Bank Trust Company, National  
Association, as Trustee for Velocity  
Commercial Capital Loan Trust 2022-5,

PLAINTIFF,

vs.

Ania Real Estate and Property Management  
LLC; Anna Palasz; Regions Bank;

DEFENDANTS.

I certify that I, Tiffanie Watson, have deposited on this date in the **US Mail** with proper first-class postage attached, a copy of *PLAINTIFF'S ORDER DENYING DEFENDANTS ANIA REAL ESTATE AND PROPERTY MANAGEMENT, LLC AND ANNA PALAZ'S MOTION TO AMEND/VACATE DEFAULT JUDGMENT OF FORECLOSURE* to each of the defendants above at the following addresses:

Anna Palasz  
1608 W. Main Street  
Lexington, SC 29072


Ania Real Estate and Property Management LLC  
c/o Ana Palasz, Registered Agent  
1608 W Main Street  
Lexington, SC 29072

Ania Real Estate and Property Management LLC  
c/o Anna Palasz as Registered Agent  
912 Old Lexington Highway  
Chapin, SC 29036

Anna Palasz  
912 Old Lexington Highway  
Chapin, SC 29036

Regions Bank  
508 Meeting Street  
West Columbia, SC 29169

This the 9 date of September, 2024.

BY:   
Tiffanie Watson  
Legal Assistant | Litigation  
Hutchens Law Firm LLP

**IF YOU ARE UNDER THE PROTECTION OF THE BANKRUPTCY COURT OR HAVE BEEN DISCHARGED AS A RESULT OF A BANKRUPTCY PROCEEDING, THIS NOTICE IS GIVEN TO YOU PURSUANT TO STATUTORY REQUIREMENT AND FOR INFORMATIONAL PURPOSES AND IS NOT INTENDED AS AN ATTEMPT TO COLLECT A DEBT OR AS AN ACT TO COLLECT, ASSESS, OR RECOVER ALL OR ANY PORTION OF THE DEBT FROM YOU PERSONALLY.**

## Certificate of Electronic Notification

### Recipients

**John Kay** - Notification transmitted on 09-10-2024 11:21:16 AM.

**Louise Johnson** - Notification transmitted on 09-10-2024 11:21:15 AM.

**Sarah Leonard** - Notification transmitted on 09-10-2024 11:21:15 AM.

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2023CP3200792

Official File Stamp: 09-10-2024 11:21:10 AM

Court: CIRCUIT COURT  
Common Pleas  
Lexington

Case Caption: Us Bank Trust Company National Association As  
Trustee For , plaintiff, et al VS Ania Real Estate  
And Property Management Llc , defendant, et al

Document(s) Submitted: Master/Order/Notice of Foreclosure Sale  
Master/Order/Notice of Foreclosure Sale

Filed by or on behalf of: James O. Spence

This notice was automatically generated by the Court's auto-notification system.

**The following people were served electronically:**

John Sanford Kay for Us Bank Trust Company  
National Association As Trustee For  
Sarah Oliver Leonard for Us Bank Trust Company  
National Association As Trustee For  
Louise Myers Johnson for Us Bank Trust  
Company National Association As Trustee For

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Velocity Commercial Capital Loan Trust 2022-5  
Anna Palasz  
Regions Bank  
Ania Real Estate And Property Management Llc