

## I'm Uncle Sam, That's Who I Am, Been Hiding Out in a Rock and Roll Band-Happy 4th to All!

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### I'm Still Standing – Yeah, Yeah, Yeah: Wilmington Savings Fund Society v. Tamisi



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In *Wilmington Savings Fund Society v. Tamisi*, the U.S. District Court for the Eastern District of New York upheld a bankruptcy court's ruling that Wilmington lacked the necessary standing to enforce a mortgage lien, thereby rendering the lien unenforceable by Wilmington due to insufficient evidentiary support.

A \$480,000 mortgage loan was originally issued in 2006 by Argent Mortgage Company to Loyce Tamisi. Ownership of the loan was transferred multiple times, eventually being held by Wilmington Savings Fund Society, FSB, acting as trustee. Although DLJ Mortgage Capital, a prior holder, had secured a foreclosure judgment in state court against Tamisi, the situation grew more complex when Tamisi filed for Chapter 13 bankruptcy protection in 2020.

In the bankruptcy case, Wilmington submitted a proof of claim based on the mortgage; however, it failed to provide the original promissory note or a sufficiently detailed lost note affidavit. This evidentiary deficiency proved fatal. In 2022, the bankruptcy court disallowed Wilmington's claim, holding that it lacked standing to enforce the note and the mortgage lien. This decision was affirmed on appeal by the district court in 2023.

Following this decision, Tamisi sought a declaratory judgment that the lien was void. The bankruptcy court partially granted this relief, declaring the lien "void and unenforceable by [Wilmington] and its successors and assigns." The court's decision was carefully limited, preserving the possibility that another party with proper standing and documentation could enforce the lien in the future.

Wilmington appealed, contending that the bankruptcy court's ruling improperly invalidated the lien on substantive grounds, thus violating due process and undermining the earlier state court foreclosure judgment. Wilmington argued the ruling was substantive rather than procedural, deprived it of property rights without proper process, and effectively launched a forbidden collateral attack on the foreclosure judgment.

On May 13, 2025, the Court rejected Wilmington's appeal, affirming the bankruptcy court's ruling. The Court emphasized that the decision was procedural, grounded in Wilmington's failure to establish standing, which barred enforcement of the lien within the bankruptcy proceedings. It clarified that the lien itself was not extinguished generally, but that Wilmington and any assignees without proper documentation could not enforce it. The Court also found no due process violations, noting Wilmington had multiple opportunities to present its case. Furthermore, the ruling did not undermine the state foreclosure judgment; it merely found that Wilmington lacked standing at the relevant time in the bankruptcy proceeding.

The *Tamisi* ruling serves as a cautionary tale for mortgage lenders: securing a foreclosure judgment does not eliminate the requirement to demonstrate standing during bankruptcy proceedings. Absent original loan documents or a legally

sufficient explanation for their loss, a lienholder risks losing enforcement rights. Although the lien may theoretically remain valid, it becomes practically unenforceable if the party asserting it cannot prove their legal entitlement.

Ultimately, this case underscores how procedural deficiencies can have decisive consequences. For Wilmington, failure to establish standing meant that its lien, while technically still present, was effectively rendered unenforceable.