



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

June 30, 2025

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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.

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Cadwalader's Eunji Jo Named to CREFC's 2025 '20 Under 40' List



CONGRATULATIONS

Eunji Jo

Named to
CREFC's 2025
20 Under 40 List

CADWALADER

Cadwalader Finance Group associate **Eunji Jo** has been recognized as a member of CREFC's 2025 "20 Under 40" list, honoring professionals who have made significant contributions to their organizations and to the commercial real estate finance industry.

Eunji's practice focuses on real estate finance, with a particular emphasis on the origination of mortgage loans secured by office, retail, multifamily, industrial and hotel properties. She also represents financial institutions in connection with mezzanine and leverage financing transactions, and regularly advises clients on loan servicing, workouts, and the sale of mortgage loans, mezzanine loans and participation interests.

At Cadwalader, Eunji plays an active role in mentoring and professional development. She is a member of the Women's Leadership Initiative, serves as an associate mentor and is involved in the firm's attorney recruiting efforts.

To see the full list of 2025 honorees, please visit [here](#).

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Cadwalader Real Estate Practice and Lawyers Secure Lead Rankings in 2025 Chambers USA



C A D W A L A D E R

Cadwalader earned real estate practice rankings in the following categories:

Nationwide

- Real Estate

New York

- Real Estate: Mainly Corporate and Finance

North Carolina

- Real Estate: Finance

Individually, these Cadwalader lawyers are featured as leaders in the real estate industry:

- **Holly Chamberlain**– Real Estate: Finance (North Carolina)
- **Chris Dickson**– Real Estate: Finance (North Carolina)

View the firm's [full results](#) on the Chambers website.

Chambers' ranking methodology is based on independent, proprietary research collected from thousands of interviews with clients and law firms.

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Recent Transactions

Recent transactional highlights include Cadwalader representing:

- Lenders in the \$1.15 billion refinancing of The Wharf, a premier mixed-use waterfront development in Washington, D.C., consolidating Phase 1 and Phase 2 debt into what is potentially the largest single-asset securitization ever executed in the D.C. market.
- Lenders in the \$340 million refinancing of the Waikiki Beach Marriott Resort & Spa in Honolulu, the third-largest hotel in Hawaii, with financing provided by Wells Fargo and Goldman Sachs.
- Wells Fargo in the \$235 million refinancing of a seven-property hotel portfolio in Manhattan, including Holiday Inn, Hampton Inn, and Candlewood Suites-branded assets, following the portfolio's transition out of special servicing.
- Wells Fargo in the \$735 million financing of three data centers in Goodyear, Arizona, as part of a 50-acre campus expected to include over one million square feet and 176 MW of IT load upon completion in 2027.