



Signed, Sealed, Delivered: Note Possession and Greetings From Miami

January 29, 2026

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Possession With Intent To Foreclose

January 29, 2026



By **Steven M. Herman**
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In *Wells Fargo Bank, N.A. v. Mitselmakher et. al.*, the Supreme Court of New York, Richmond County held that Wells Fargo Bank (“Plaintiff”) had standing to foreclose and demonstrated through admissible business records that its counsel possessed the original note prior to commencement of the foreclosure proceeding.

The issue of pre-commencement possession of negotiable instruments is governed by Article III of the Uniform Commercial Code. The question before the Court was whether Plaintiff was entitled to commence a foreclosure action in July of 2014 when its authorized counsel came into possession of the original promissory note and accompanying allonge in June of 2014. The Court addressed whether 1) Plaintiff’s counsel possessed the *original* promissory note and, if so, whether 2) Plaintiff’s *counsel* holding the instruments prior to the foreclosure action satisfies the legal requirement that the plaintiff must hold the note at the time of commencement.

Plaintiff, bearing the burden of proving possession by a preponderance of the evidence, presented evidence that the original note and allonge were delivered by traceable carrier to the law firm, scanned into the firm’s Case Management System (CMS), dated and time stamped, and stored in a secure room on June 10, 2014. Plaintiff’s counsel also executed an affidavit of note possession that addressed pre-commencement possession. The foreclosure proceeding commenced a month later in July 2014. Defendant contended the firm’s business records were inadmissible, citing the absence of identifying metadata and concerns regarding the credibility of the filing system. Defendant also urged the court to reject the affidavit and claimed the note produced in the action was inauthentic, raising concerns about a foreclosure proceeding initiated in 2009. Additionally, the defendant argued that *counsel’s* possession should not satisfy the plaintiff possession requirement for foreclosure proceedings.

Under Article III of the UCC, the only parties entitled to enforce a negotiable instrument are (1) holder of the instrument, (2) non-holder in possession of the instrument who has the rights of a holder, and (3) certain limited persons not in possession but with statutory rights to enforce the negotiable instrument. However, the Court applied UCC §§ 3-203 and 3-204 to conclude that Plaintiff’s delivery of the note and allonge to counsel qualified as a transfer of the instrument under the UCC, vesting counsel with constructive possession and allowing counsel the right to enforce the negotiable instrument. Therefore, Plaintiff’s counsel was entitled to enforce the note under UCC § 3-301 as of June of 2014.

The Court relied on Plaintiff’s credible witness testimony, affidavit, and the admissible business records evidence in its conclusion that Plaintiff’s counsel possessed the note and accompanying allonge as of June 10, 2014. As for Defendant’s concerns regarding the authenticity of the negotiable instruments, the Court cited Article III’s emphasis on “present possession and enforceability at the time of commencement” and rejected Defendant’s concerns as speculative, highlighting the lack of evidence and absence of competing documentation offered to support their claim. The Supreme Court of New York, Richmond County denied Defendant’s objections to both standing and the admissibility of business records to establish possession of the note, and ultimately ruled that Wells Fargo Bank, N.A. has standing to foreclose.

Maximizing Your Mentoring Experiences: Real Estate Colleagues Share Insights During National Mentoring Month

January 29, 2026



In recognition of National Mentoring Month, Cadwalader hosted a panel on how to build more meaningful and productive mentoring relationships. The session explored how both mentors and mentees can strengthen their connections through openness, intentionality and shared engagement.

The program featured remarks from partner **Chris Dickson** and special counsel **Eunji Jo**, who reflected on their mentoring journey and how it began organically through working on deals together and evolved into a trusted, mutually beneficial relationship.

Chris emphasized the value of authenticity and approachability in mentorship: “It’s much easier to have honest conversations when there’s a foundation of trust and genuine connection. Finding common ground — whether it’s over work or college football — makes those discussions come naturally.”

Eunji echoed that sentiment, underscoring the importance of taking initiative as a mentee: “So much of mentoring happens through everyday interactions. Having a mentor who checks in and offers feedback made me feel supported, and it encouraged me to ask bigger questions about my career and goals.”

Key takeaways from the conversation included:

- Mentoring is a two-way street that thrives on communication, gratitude and participation.
- Informal connections often lead to the most impactful mentorships. Shared interests and genuine curiosity can lay the groundwork for trust.
- Mentees should feel empowered to reach out, set short-term goals and seek guidance proactively. Mentors welcome those conversations.
- The firm’s mentorship programs provide built-in opportunities to deepen relationships, whether through one-on-one meetings or small-group “mentor cluster” gatherings.

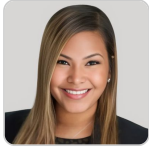
The conversation served as a timely reminder that strong mentoring relationships don’t just advance careers, they build community within practice groups and across the industry.

2026 CREFC Market Insights and Forecasts

January 29, 2026



By **Justin Hamrick**
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By **Katheryn Pereyra-Caldwell**
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By **Michael Capellupo**
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By **Jessica Zeichner**
Special Counsel | Capital Markets



By **Aaron Kennedy**
Special Counsel | Capital Markets

Cadwalader at CREFC Miami 2026



CADWALADER

As 2026 gets underway, Cadwalader attorneys joined industry leaders in Miami for the annual CREFC conference — a premier event for the commercial real estate finance community.

Our team returned with fresh look into key trends shaping the commercial real estate finance markets and the outlook for the year ahead. We're pleased to share those takeaways to support your planning and strategic decisions in 2026 and beyond. As always, we welcome the opportunity to discuss these developments further and provide tailored insights.

[Explore highlights](#) from CREFC Miami 2026, including what our team heard in panels and conversations throughout the conference.

Cadwalader Elects and Promotes Real Estate Lawyers

January 29, 2026



Cadwalader has elevated 24 lawyers to partner, special counsel and counsel, effective January 1, 2026.

Special congratulations to the real estate lawyers promoted in this class: **Matthew Peters** (Partner, London) and **Eunji Jo** (Special Counsel, Charlotte).

“We’re thrilled to share this news,” said Pat Quinn, Cadwalader’s Co-Managing Partner. “The past year has been one of the most successful in our firm’s storied 233-year history. Our strong performance is thanks to the extraordinary talent that Cadwalader has long been known for. Our new partners, special counsel and counsel will carry forward this legacy.”

Co-Managing Partner Wes Misson added, “Cadwalader remains the premier destination for elite lawyers to thrive and achieve winning results for clients who trust us to handle their most important and complex matters. These 24 new senior lawyers, coupled with the over 95 new attorneys who have joined our firm in 2025, underscores that we are a people business, and people are and will always be Cadwalader’s greatest asset.”

Our new partners include:

Matthew Peters, Real Estate (London) – Matt focuses on corporate real estate and real estate private equity, including corporate and investment property acquisitions and disposals, joint ventures, and corporate restructurings and reorganizations, particularly with regard to hospitality and leisure, residential, student accommodation, data centers and logistics sites, with a focus on developments. He has experience advising both UK and international clients operating across a variety of jurisdictions throughout EMEA.

Our new special counsel includes:

Eunji Jo, Special Counsel, Real Estate (Charlotte) – Eunji’s practice focuses on the origination of complex real estate loans of all balance sizes and exit strategies, including those intended to be held for investment and those intended to be syndicated or securitized. She advises financial institutions on a broad range of real estate finance matters, including the acquisition, financing and disposition of all types of properties, including office, retail, hotel, industrial, data centers, self-storage, multifamily and mixed-use properties.

Cadwalader Real Estate Partner Sulie Arias Featured by SJU

January 29, 2026



Cadwalader partner **Sulie Arias** was recently featured by the Mattone Family Institute for Real Estate law at St. John's University School of Law, reflecting on the academic experiences that led her to a career in real estate finance.

Sulie said her St. John's courses in Property Law, Contracts and Real Estate Transactions gave her a strong foundation in how legal principles intersect with business and finance. "Those classes showed me how law can be both analytical and creative," she noted, adding that real estate transactions appealed to her interest in solving complex problems and helping clients achieve their business goals.

She finds motivation in teamwork and tangible impact, collaborating closely with lender clients, borrowers and colleagues to structure inventive financing solutions for challenging deals. She also values mentoring junior attorneys and guiding them through the demands of real estate finance practice.

Offering advice to law students, Sulie emphasized the importance of curiosity, initiative and relationship-building. "The relationships you form early on can shape your career in ways you can't yet imagine," she shared.

Looking ahead, she expects repricing, restructuring and creative opportunity to define the 2026 real estate market as the industry continues adapting to higher interest rates and maturing loans.

Read the full feature [here](#).

Welcome (Back) to Cadwalader!

January 29, 2026

Please join us in welcoming **Justin Hamrick** and welcoming back **Jessy Dejoie** to Cadwalader.

Justin Hamrick joins as counsel in Real Estate Finance Group. His practice is focused on lender-side real estate finance, overseeing transactions involving both mortgage and mezzanine finance. He handles transactions from term sheet preparation through closing including loan document drafting, diligence review and negotiations.

Justin earned his J.D., *cum laude*, from St. Louis University School of Law, where he was Managing Editor, General Issue, *Saint Louis University Law Journal* and his B.S., *magna cum laude*, from Missouri State University.

Jessy Dejoie rejoins as a staff attorney in the Finance Group in the New York office, focusing on real estate finance transactions.

She represents investment banks and financial institutions in connection with the origination of commercial mortgage loans secured by office buildings, retail properties, hotels and multifamily properties. She also represents financial institutions and investment banks in connection with the sale or purchase of commercial mortgage and mezzanine loans.

Jessy received her J.D. from New York University School of Law, and B.A., *summa cum laude*, from New York University. She is admitted to practice in New York.

Recent Transactions

January 29, 2026

Recent transactional highlights include Cadwalader representing:

- Lenders in the origination of a \$480 million acquisition loan secured by Park Avenue Tower, a 36-story Class A trophy office tower with financial services tenants.
- The lender in a \$111 million loan origination secured by a portfolio of industrial sites located in Massachusetts, New Jersey and Maryland.
- The lender in connection with the \$105 million refinancing of 15 manufactured housing properties located in Florida.
- The lender in the \$89.1 million acquisition of 2 industrial properties.
- The lender in connection with a two-property multifamily financing with properties located in Texas and Tennessee.