



## Joseph J. Cherico

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Bankruptcy, Restructuring & Litigation | Creditors' Rights | Consumer Financial Services Litigation | Business Litigation | Financial Institutions | Construction & Real Estate Litigation | Alternative Dispute Resolution & Mediation

Joe is an experienced litigator and business counselor, trusted by clients to provide sound legal advice that anticipates and minimizes the risk of potentially costly and disruptive litigation, while aggressively and effectively advancing their interests in the courtroom when litigation is required.

Joseph Cherico represents clients in a broad range of complex commercial litigation, with a focus on mortgage underwriting, lending and other creditors' rights litigation, real estate disputes, insurance coverage and other contractual disputes, and a variety of financial services and other business-related litigation.

Joe has significant courtroom and arbitration experience, regularly representing clients in the state and federal courts of Connecticut and New York, as well as in a variety of arbitration forums.

In his role as a business advisor, Joe negotiates and drafts contracts with an eye towards avoiding future disputes, analyzes legal issues to provide clients with an honest assessment of any risks associated with their business decisions and, when disputes arise, provides practical advice in an effort to resolve those disputes while at the same time vigorously representing his clients' interests.

A major component of Joe's litigation practice is representing lenders, special servicers/trustees for securitized mortgage pools and investors in lawsuits to enforce commercial loan agreements, including foreclosure actions, equipment replevin actions and all ancillary proceedings, such as appearing in bankruptcy proceedings to pursue proofs of claim, defend against preference actions and move for stay relief to enforce rights with respect to collateral on behalf of secured creditors, defending against claims of lender bad faith and other alleged improper conduct, seeking appointment of receivers to manage distressed properties, handling mortgage insurance and tax lien disputes, pursuing prejudgment remedy proceedings to secure collateral, and domesticating and enforcing money judgments. Joe also advises on landlord/tenant, environmental, insurance and other property management issues after taking title to foreclosed property, and loan workout negotiations.

In his real estate focused work, Joe provides advice with respect to commercial leases and regularly handles real estate litigation, including disputes over enforcement of early termination provisions, rent and security deposits, responsibility for tenant improvements, and interference with easement rights, as well as title insurance matters.

Joe's range of litigation experience also extends to corporate acquisition and break-up disputes, intellectual property matters, alleged violations of securities laws, and other claims of financial fraud, negligence and breach of fiduciary duty, including defending against class action lawsuits.

Joe served as the Office Managing Partner in the firm's Stamford office from March 2016 through September 2022. Joe has also served on the Firm's Strategic Growth Committee, which includes responsibility for developing and implementing the firm's strategy for growth within its existing offices and beyond. Joe is a recipient of the firm's "Changing Lives Award" in recognition of his pro bono work with the Connecticut Veterans Legal Center (CVLC). The CVLC has likewise recognized Joe as a "Pro Bono All-Star." Since 2020, Joe has served on the Board of the CVLC.

Joe is a member of the American Arbitration Association's national roster of neutral arbitrators. Joe has repeatedly been appointed to serve in the Connecticut Superior Court as a Magistrate, Special Master, Arbitrator, Fact Finder, and Attorney Trial Referee. From 2012 through 2021, Joe served on the Board of the Fairfield County Bar Association, including on the Executive Board as Treasurer (2016-2017), Secretary (2017-2018), Vice President (2018-2019), President (2019-2020), and Immediate Past President (2020-2021).

## **Representative Matters**

### **Property owners—Bench trial win**

Obtained a victory in a three-day bench trial for the new owners of a historic property in Weston, CT, from a Connecticut trial court on the Complex Litigation Docket that granted them immediate possession of the property, which they had obtained through a sale secured with the executor of the former owner's estate and affirmed by a probate court, and ordering the eviction of the current occupants, the former owner's widow and her business partner, who made various efforts to overturn the sale and block access to the property. The court also awarded costs to the new owners, and further granted the owners' motion to remove any stays on executing the judgment pending any attempted appeals filed by the defendants.

### **Loan servicer—Summary judgment win**

Obtained a summary judgment ruling from a Connecticut Superior Court in favor of our client loan servicer in a quiet title action. On a novel point of law, the court ruled that a prior strict foreclosure judgment collaterally estopped the foreclosed owner from asserting claims to title to the mortgaged property even though, in the appeal of the prior foreclosure suit, the Connecticut Appellate Court affirmed the strict foreclosure judgment after the law days passed and did not dismiss the appeal as moot.

### **Special servicer/lender—Guarantor liability**

Retained by special servicer to represent lender in a complex, multifaceted effort to collect on an \$11.5 million loan secured by a mortgage on an office building in Stamford, Connecticut. This litigation, which involved appearances in Delaware bankruptcy court, a Connecticut foreclosure action and litigation in Connecticut against the guarantors of the loan, was complicated by the discovery that one of the borrower's principals had engaged in a criminal scheme to defraud numerous lenders and investors, and by the guarantors' allegations that their signatures were forged and their attorneys in the loan transaction committed negligence. Our client ultimately obtained title to the building and received a significant payment to resolve the outstanding litigation.

### **Mortgage lender—Disputed tax lien sale**

Commenced lawsuit to void a tax lien sale and reinstate lender's mortgage lien on commercial property in New York where lender was deprived of constitutional due process rights because the notice of tax lien sale was deficient. Lawsuit resulted in full payment of lender's mortgage loan.

#### Aircraft leasing company—Landlord/tenant dispute

Represented aircraft leasing company in litigation with its landlord over the company's attempt to exercise the early termination provision in its high-value lease for over 19,000 square feet of commercial space located in a Stamford, Connecticut, office complex. The litigation was settled on favorable terms that allowed the company to promptly terminate the lease and move to a larger, more strategically located office space.

#### Title insurer—Litigation of easement rights

Retained by title insurer to represent insureds at trial seeking to establish unreasonable interference with their easement rights over a private road in Greenwich, Connecticut, that was narrowed from 25 feet to 14 feet. Our successful site inspection and motions in limine to exclude evidence proffered by the infringing party resulted in a favorable settlement at trial that included returning the road to its original width of 25 feet.

#### Moving, storage & logistics company—Corporate acquisition dispute

Represented moving, storage & logistics company, as the seller of a business, in multiple related lawsuits with buyer alleging breach of asset purchase agreement and corresponding license and royalty agreements.

#### Investor—Securities litigation

Represented investor in a federal lawsuit alleging fraud and violations of Rule 10b-5, and defended the investor in state court litigation alleging diversion of corporate opportunities.

#### Underwriters—Class action litigation

Defended financial institutions serving as underwriters of an IPO in a putative federal class action alleging violations of Sections 11 and 12 of the Securities Act of 1933. Successfully moved to dismiss the lawsuit before the class was certified.

#### State of Connecticut—Jury verdict

Represented the Office of the Treasurer of the State of Connecticut in an action for breach of contract and breach of fiduciary duty to recover mismanaged pension funds. The case was tried to a jury verdict and then settled pending appeal.

#### Special servicer/lender—Recovery on \$75.5 million loan

Retained by special servicer to represent lender in its efforts to collect on a \$75.5 million loan, secured by a mortgage on a large shopping center in Milford, Connecticut, when the borrower failed to pay the loan upon maturity. We commenced a foreclosure action and obtained title to the property through a judgment of strict foreclosure. The property, in turn, was sold to satisfy the debt owed to the lender.

#### Banks and other note holders—Creditors' rights

Represent banks and other note holders in actions to enforce creditors' rights in mortgaged real property, equipment and other collateral securing defaulted loans, including commercial foreclosure actions throughout Connecticut and New York, as well as replevin actions and with respect to disposition of collateral pursuant to Article 9 of the Uniform Commercial Code.

#### Financial services company—Federal lawsuit

Defended financial services company in a federal lawsuit alleging fraud, negligence and breach of fiduciary duty in connection with its underwriting of multiple loan transactions.

#### Food producer—Class action litigation

Defended UK's largest food producer in putative state class action alleging failure to warn consumers of potential allergic reactions and other health risks. Successfully moved to dismiss the lawsuit before the class was certified.

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### Education

Fordham University School of Law, JD, *cum laude*, 1995

*Fordham Law Review*

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Fordham University, BA, *cum laude*, 1992

### Bar Admissions

Connecticut

New York

### Court Admissions

U.S. Court of Appeals, Second Circuit

U.S. District Court, District of Connecticut

U.S. District Court, Eastern and Southern Districts of New York

### Memberships and Certifications

Connecticut Superior Court

Arbitrator/Fact Finder/ Attorney Trial Referee

Connecticut Superior Court

Magistrate

Connecticut Superior Court

Special Master

Connecticut Bar Association

Connecticut Veterans Legal Center

Board Member, 2020–Present

Fairfield County Bar Association

Board Member, 2012–2021

Fairfield County Bar Foundation

Board Member, 2010–2018

New York City Bar Association

### Recognitions\*

*The Best Lawyers in America*, Commercial Litigation, Litigation–Bankruptcy, Connecticut, 2023 and 2024

Pro Bono All-Star, Connecticut Veterans Legal Center (CVLC)

Changing Lives Award, McCarter & English, LLP

\* No aspect of this or any advertisement has been approved by the Supreme Court of New Jersey. For ranking methodologies, please see [here](#).

### **Alerts**

US Supreme Court Holds Law Firms Are Not “Debt Collectors” Under the FDCPA in Nonjudicial Foreclosures, Bankruptcy & Commercial Litigation Alert, 3.21.2019

### **Articles**

Mortgage and Foreclosure Law: Decision on Standing Has Widespread Implications, Connecticut Law Tribune, 9.14.2015

CT Supreme Court Year in Review: Loan Servicer Has Standing to Foreclose, Connecticut Law Tribune, 9.27.2013

### **Quoted**

Helping a Veteran Lawyer up Is a Great Way to Say Thanks, Connecticut Law Tribune, 11.12.2021

The State of Small Business: Connecticut, Business News Daily, 5.19.2016