

Wiley Urges Digital Asset Rulemaking in Amicus Brief for Two Trade Associations

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Washington, DC – On behalf of two leading digital asset and blockchain trade associations, Wiley Rein LLP authored an *amicus* brief urging the U.S. Court of Appeals for the Third Circuit to require the U.S. Securities and Exchange Commission (SEC) to begin a rulemaking process that balances the viewpoints of cryptocurrency stakeholders.

Wiley is representing the Satoshi Action Fund and the Texas Blockchain Council as *amici* in the high-stakes case, which will help determine the future of regulation for the rapidly evolving blockchain and digital asset industries in the United States. The two organizations wish to foster a legal and regulatory environment in which U.S. citizens can create and apply blockchain technologies for the benefit of the U.S. economy.

The *amicus* brief, filed in support of the petitioner in *Coinbase, Inc. v. SEC*, urges the court to vacate the SEC's denial of a Coinbase petition for rulemaking. The brief argues that the SEC's regulation through *ad hoc* enforcement actions, without rulemaking, has caused a "cloud of uncertainty" and has impeded growth in the digital asset industry.

"The SEC's regulation of the digital assets industry via enforcement-without-rulemaking flouts bedrock principles of constitutional law," Wiley said in the brief, noting that "the stakes of this case are immense for everyday Americans" – an estimated 40% of whom own digital assets.

In the absence of Congressional action, many states have enacted laws and regulations regarding the digital asset industry. Yet the SEC "undermines those advances nationwide through its regulation-by-

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enforcement actions against participants in the digital asset industry—without required Congressional action or agency rulemaking,” according to the *amicus* brief.

The SEC’s “unauthorized *ad hoc* enforcement” jeopardizes the tangible benefits that the digital asset industry brings to communities around the United States, Wiley asserted, stating that “in the absence of federal legislation from Congress, the notice-and-comment rulemaking sought by Petitioner is a prerequisite to adjudication and will allow an orderly process that balances the viewpoints of all stakeholders, including miners and state regulators.”

The *amicus* brief on behalf of the Satoshi Action Fund and the Texas Blockchain Council was authored by Wiley partner Joshua B. Simmons and special counsel Frank Scaduto and Michael J. Showalter.