



Insights

Benjamin Sauter, Evelyn Sheehan and Amanda Tuminelli in Brave New Coin: Fighting the U.S. Government in Crypto Cases

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The U.S. government relies on an aggressive playbook to police digital asset markets. With the IRS recently serving subpoenas on two major cryptocurrency exchanges to identify users, individuals with substantial digital-asset wealth should understand the playbook from front to back to protect their liberty and wealth. Kobre & Kim's Benjamin Sauter, Evelyn Sheehan and Amanda Tuminelli outline how they can defend themselves in an article for *Brave New Coin*.

The cornerstone of the playbook is to flip the evidentiary burdens of proof against individuals and to restrain their liberty and assets before a trial even takes place. This is enacted through three key components: the dawn raid, pretrial detention and pretrial asset seizure, and asset forfeiture, tactics that exert pressure in uniquely challenging ways when digital assets are involved.

A multi-pronged and proactive defense strategy is required to counter the playbook. This includes undertaking a "clean funds" analysis; developing a record to counter flight risk accusations; and opportunistically turning the tables on the government during forfeiture proceedings. Fighting on multiple fronts requires counsel skilled not just in criminal defense, but also on technical issues related to digital asset holdings and asset forfeiture procedures.

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