

Exhibit A

Proposed Amicus Curiae Brief

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

ABC COMPANY, XYZ COMPANY,
and NOAH DOE,
Plaintiffs,
v.
JOHN DOES 1 – 39,069,
Defendants.

Index No. 153119/2026

Assigned to Hon. Kathy J. King

**PROPOSED AMICUS CURIAE BRIEF OF
IAN R. COHEN, ESQ. IN OPPOSITION TO
PLAINTIFFS' CLAIM FOR
DECLARATORY RELIEF**

PROPOSED AMICUS CURIAE BRIEF OF IAN R. COHEN, ESQ.

IN OPPOSITION TO PLAINTIFFS' CLAIM FOR DECLARATORY RELIEF

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INTEREST OF AMICUS CURIAE

Ian R. Cohen is a New York attorney and founder of IRC Legal, with extensive experience in commercial transactions and nearly a decade of experience in Bitcoin and digital assets. He is a Bitcoin holder and an advocate for the principled development of digital asset law. He appears as amicus curiae because this action presents a legal theory that, if accepted, would threaten the property rights of millions of self-custody Bitcoin holders in New York and worldwide. No party is likely to appear to contest Plaintiffs' theory. Amicus offers this brief to ensure the Court has the benefit of a full adversarial analysis of the legal questions presented.

PRELIMINARY STATEMENT

This action asks this Court to do something that no New York court has ever done: declare a private party the legal owner of tens of thousands of cryptocurrency wallet addresses — including addresses widely analyzed in the cryptographic community as likely associated with Bitcoin's earliest mining era and its pseudonymous creator, Satoshi Nakamoto, and at least one address linked to the 2011 theft from the Mt. Gox exchange, one of the largest cryptocurrency heists in history, which remains the subject of court-supervised rehabilitation proceedings in Japan and potential federal forfeiture interest in the United States — based on the theory that scanning a public blockchain for dormant wallets constitutes "finding" lost property under a 19th-century New York statute.

Plaintiffs' theory is wrong on every level: textual, structural, constitutional, and practical. Article 7-B of the New York Personal Property Law was designed for physical objects physically found by human beings. It has no application to a computational scan of a public ledger. Dormancy on a public blockchain is not abandonment. It is, in many cases, the deliberate choice of a Bitcoin holder who stores private keys securely and transacts rarely. And even if Plaintiffs' theory were

legally sound, the declaratory judgment they seek would be a legal nullity: With respect to the Court, the decentralized architecture of the Bitcoin network renders it structurally indifferent to judicial decrees. Bitcoin associated with a wallet address can only be transferred when a valid private key signs a transaction. Plaintiffs have no private keys. The importance of a Bitcoin private key is acknowledged by Plaintiffs in their First Amended Complaint for Declaratory Relief. (Am. Compl. ¶ 23.)

If the assets held in these 39,069 wallets are truly abandoned by their owners, the New York Abandoned Property Law — not Article 7-B — provides the proper legal framework. Under that statute, dormant financial assets escheat to the State of New York for the benefit of its citizens. They do not vest in a private finder and get transferred to Wyoming LLCs.

This Court should decline to issue the requested declaration and should dismiss this action for failure to state a claim, or in the alternative refer the matter to the New York Attorney General for action under the Abandoned Property Law.

STATEMENT OF RELEVANT FACTS

The facts are drawn from the First Amended Complaint filed in this action on May 1, 2026 (NYSCEF Doc. No. 21).

Plaintiff Noah Doe is a New York resident who, in October 2024, identified what the complaint describes as "a security issue with digital wallets resulting in owners losing their ability to withdraw the contents." (Id. ¶ 27.) In response, he developed "the Algorithm" — criteria and methods for identifying dormant wallets on the Bitcoin blockchain. (Id. ¶ 28.)

Between December 2024 and April 2025, Noah Doe ran his Algorithm on his personal computer and identified three batches of wallet addresses totaling more than 42,000 addresses. (Id.

¶¶ 2, 5, 8.) Each time, he placed a list of the public wallet addresses, public keys visible to anyone with an internet connection, on a USB drive and delivered the drive to the NYPD's 17th Precinct. (Id. ¶¶ 3, 6, 9.) The NYPD took custody of the USB drives, issued receipts, and returned them to Noah Doe months later. (Id.)

In June and July 2025, Noah Doe directed a cyber expert to insert OP_RETURN tokens into each wallet, a technique that appends a small data message to a wallet's transaction record, directing wallet holders to a webpage hosted by a consultant, Salomon Brothers Strategic Advisors Inc. (Id. ¶¶ 37-38.) The webpage offered holders ninety days, through October 10, 2025, to demonstrate that their wallets were not abandoned. (Id. ¶ 38.)

On August 7, 2025, Plaintiffs issued a global press release reaching an estimated 820 media outlets across 37 countries. (Id. ¶ 39.)

Out of 42,001 wallets initially identified, 2,932 were subsequently removed, including 424 that took on-chain action to demonstrate non-abandonment. (Id. ¶ 41.) The remaining 39,069 wallets — whose owners took no action during the notice period — are the subject of this suit. (Id. ¶ 42.) Exhibit 1 to the complaint lists their wallet addresses.

On December 1, 2025, Noah Doe assigned ownership rights in all but 18 wallets to Plaintiff ABC Company, a Wyoming LLC. ABC Company subsequently transferred 17.7% of the wallets to Plaintiff XYZ Company, also a Wyoming LLC. (Id. ¶¶ 13, 43.) Plaintiffs seek a declaratory judgment that they are the legal owners of all 39,069 wallets. (Id. ¶ 14.)¹

¹ Plaintiff's ownership chain is itself revealing. Within approximately thirty days of asserting that title "vested" in Noah Doe, he transferred his interest to ABC Company, a Wyoming LLC he wholly owned at the time. He then transferred 98% of his membership interest in ABC Company to an irrevocable trust, with ABC Company subsequently transferring a portion of the wallets to XYZ Company, a second Wyoming LLC. (Am. Compl. ¶¶ 13, 43.) A claimant confident in the

The Prior Judicial Recusal in This Action

This Court may take judicial notice of the public record in this proceeding, specifically the March 23, 2026 Recusal Order issued by Acting Justice Emily Morales-Minerva (NYSCEF Doc. No. 14). In executing her mandatory statutory recusal under Judiciary Law § 9, Justice Morales-Minerva explicitly set forth her reason on the record. She stated that she was recusing herself because *"being directed to grant/deny in part, an order that another Justice of my same jurisdiction already granted, in part, is inconsistent with my understanding of the law and ethical obligations as a jurist."*

Amicus respectfully submits that the fact that a sitting Justice of this Court has already formally recused herself on ethical grounds in this very proceeding underscores the need for independent adversarial input before any judgment of this unprecedented magnitude may issue.

ARGUMENT

POINT I

ARTICLE 7-B OF THE NEW YORK PERSONAL PROPERTY LAW DOES NOT APPLY TO SELF-CUSTODIED CRYPTOCURRENCY WALLET ADDRESSES

A. The Statute's Plain Text Requires Physical Discovery of Tangible Lost Property

Statutory interpretation begins with the text. Article 7-B of the New York Personal Property Law governs the "finder of lost property." N.Y. Pers. Prop. Law § 252(1). The word "finder" in its plain and ordinary meaning denotes a person who physically discovers a physical

underlying legal theory has no need to layer asset-protection vehicles around assets before any court has adjudicated the right to them.

object that has been physically misplaced. This is the meaning the word has carried since *Armory v. Delamirie*, 93 Eng. Rep. 664 (K.B. 1722), in which a chimney sweep physically found a jewel and brought it to a goldsmith. It is the meaning embedded throughout Article 7-B's text. To be certain, Section 251(1) defines "property" as "money, instruments payable, drawn or issued to bearer or to cash, goods, chattels and tangible personal property" and Section 251(5) defines "finder" as "a person who first takes possession of lost property." Plaintiffs fail to meet both definitions in this matter.

Section 252(1) mandates that any person who finds or comes into possession of lost property worth twenty dollars or more "shall, within ten days after the finding or acquisition of possession thereof, either return it to the owner or report such **finding or acquisition of possession and deposit such property**" with the police. N.Y. Pers. Prop. Law § 252(1). This rigid command inherently presupposes an act of physical custody—the finder must physically reduce a tangible object to possession and physically transport it to a law enforcement precinct.

Noah Doe could not acquire possession of, let alone "deposit" in a physical police station, 39,069 Bitcoin wallet addresses or any Bitcoin associated with those addresses. Those addresses are abstract entries on a globally distributed public ledger maintained simultaneously by thousands of computers worldwide. They cannot be held, locked in an evidence locker, or physically secured by local police. As a matter of basic computer science, the only way to acquire possession or exercise dominion over Bitcoin is to hold the private cryptographic key that uniquely authorizes transactions from the associated wallet address. Because Plaintiffs explicitly admit they have no private keys, they never "acquired possession" of the underlying property to begin with, rendering compliance with the strict deposit mandates of Section 252(1) a physical and legal impossibility.

Plaintiffs delivered USB drives containing lists of public wallet addresses to the NYPD. A list of publicly visible blockchain addresses is not "the property" — it is a list of publicly available identifiers that any person can retrieve with an internet connection by querying the Bitcoin blockchain. The Bitcoin, the actual property, was never in Noah Doe's possession and was never delivered to police.

Consequently, this failure to deposit the actual asset completely forecloses the statutory remedy provided by Section 257. That section provides that title in "the property" vests in the finder upon police delivery. There was no delivery of any property. There was delivery of a USB drive containing public-key data. Title cannot vest in something that was never validly "found" or "delivered" within the meaning of the statute. Furthermore, because the NYPD failed to retain continuous custody of the data devices and instead "returned" them to Noah Doe months later (Am. Compl. ¶ 9), the mandatory statutory chain of custody (the police "shall accept and retain custody of the property or instrument") required by Section 253 was broken, completely foreclosing any subsequent vesting of title under Section 257.

B. Noah Doe's Algorithm Is Surveillance, Not Finding

The common law of found property requires inadvertent physical discovery. The chimney sweep in *Armory* stumbled upon a jewel. In *Pierson v. Post*, 3 Cai. R. 175 (N.Y. Sup. Ct. 1805), they pursued a fox. Physical encounter with physical property is the predicate act for found property rights.

Noah Doe did not encounter anything. He ran a computer algorithm that systematically scanned a publicly accessible database — the Bitcoin blockchain — and identified wallet addresses that met certain computational criteria. This is not "finding." It is data mining. The wallet addresses

Noah Doe identified were visible to anyone with an internet connection and basic blockchain analysis tools. The “wallets” at issue were never hidden, misplaced, or unknown. They remained continuously visible to the entire world. Plaintiffs did not discover lost property; they analyzed publicly available data.

No act of "finding" occurred.

If Plaintiffs' theory were correct, any person who downloads a blockchain analysis tool, identifies dormant wallets, and emails the addresses to the police would become a "finder" entitled to claim title. That cannot be what the Legislature intended when it enacted Article 7-B.

The scale of Plaintiffs' claim independently confirms the textual mismatch. The common law of found property — and Article 7-B with it — contemplates a singular act of physical discovery: a chimney sweep finds a jewel; a traveler finds a wallet on the road. The entire statutory framework presupposes an individual finder, an individual object, and an individual act of honest discovery followed by a good-faith deposit with police. Plaintiffs claim to have "found" 39,069 discrete wallet addresses in a single algorithmic sweep. That is not finding. It is industrial-scale asset identification. No common-law authority and no provision of Article 7-B contemplates a single "finder" simultaneously claiming title to tens of thousands of separate property interests. The absurdity of the result is itself evidence that the statute was never intended to reach this conduct.

C. Article 7-B Was Enacted for Physical Property; Courts Should Not Extend It to Novel Digital Assets Without Legislative Guidance

Article 7-B was enacted in an era when "property" meant tangible objects. Its provisions — physical delivery to police, physical custody by police, physical return to finder — presuppose

a physical object that can change hands. The statute has no textual mechanism for addressing cryptographic assets on a decentralized blockchain. Courts should not stretch a statute designed for physical lost-and-found to cover novel digital assets that the Legislature has never addressed. The appropriate venue for such an extension is the Legislature, not the courts. See *Majewski v. Broadalbin-Perth Cent. Sch. Dist.*, 91 N.Y.2d 577, 583 (1998) ("the clearest indicator of legislative intent is the statutory text, the starting point in any case of interpretation must always be the language itself, giving effect to the plain meaning thereof.")

D. Plaintiffs Lack Standing as “Finders” Because They Never Took Possession of Any Bitcoin or Any Private Key

Even setting aside the textual mismatch, Plaintiffs’ claim fails as a matter of finder doctrine. The common law of found property (the doctrinal source from which Article 7-B is drawn) locates the finder’s right in actual possession of the thing found. See *Armory*, 93 Eng. Rep. 664; 1 N.Y. Jur. 2d *Abandoned, Lost & Unclaimed Property* § 16. The finder’s title is good against the world except the true owner because the finder, having reduced the thing to possession, has exercised dominion over it.

Plaintiffs have done no such thing. They never reduced any of the 39,069 wallets, the Bitcoin held in them, or any associated private key to actual possession. What they possess are lists of public-facing wallet addresses that any internet user can read off the public ledger using a block explorer. That is not possession of property: it is observation of data describing property held, on the blockchain’s own terms, by whoever controls the corresponding private keys. A would-be finder who never possessed the thing he seeks to claim cannot invoke finder’s rights to acquire it. Plaintiffs accordingly lack standing as finders, independent of every other defect in their theory.

POINT II

DORMANCY DOES NOT CONSTITUTE LEGAL ABANDONMENT OF BITCOIN; PRIVATE KEY POSSESSION IS THE DEFINITIVE INDICATOR OF OWNERSHIP

A. Abandonment Requires Intentional Relinquishment, Not Mere Inactivity

Under New York law, abandonment of property requires both an intent to relinquish ownership and an external act manifesting that intent. See 1 N.Y. Jur. 2d Abandoned Property § 5; *Foulke v. N. Y. Consol. R. R. Co.*, 228 N.Y. 269, 273, 127 N.E. 237, 238, 9 A.L.R. 1384 (1920). Mere inactivity, no matter how prolonged, is not abandonment. Courts will not presume abandonment from non-use alone.

"The abandonment of property is the relinquishing of all title, possession, or claim to or of it — a virtual intentional throwing away of it. It is not presumed. Proof supporting it must be direct or affirmative or reasonably beget the exclusive inference of the throwing away." (Id.)

There are many legitimate reasons a Bitcoin wallet may show no on-chain activity for five or more years. A holder may be pursuing a long-term cold storage strategy, deliberately refraining from transactions to reduce on-chain traceability, incapacitated, deceased (in which case an estate may hold the private key), located in a jurisdiction where cryptocurrency transactions are legally restricted, or simply holding the private key on a paper wallet or hardware device without having any need to transact. None of these constitute abandonment. All of them are consistent with continued private key possession and continued ownership.

Plaintiffs' inference that dormancy during periods of price appreciation proves abandonment misunderstands Bitcoin's investment thesis. Many Bitcoin holders deliberately refrain from transacting regardless of price movements. Their investment strategy is precisely one

of long-term non-transaction. Dormancy during a bull market is not evidence of abandonment; it is evidence of a conviction that the asset will be worth more in the future. Plaintiffs have also failed to assert any intent or evidence of a manifestation of such intent. Of course, that would be impossible because they don't know the identities of any of the owners.

Furthermore, Plaintiffs' abandonment theory hinges on a legally offensive premise: that a rightful property owner carries an affirmative, continuous obligation to monitor the global media ecosystem and blockchain metadata to actively rebuff the extrajudicial claims of private third parties. Under New York law, a property owner is under no legal duty to interact with a self-appointed "finder," nor are they obligated to respond to an arbitrary, private ninety-day window to maintain title to their assets. Silence is a valid exercise of absolute ownership, not a waiver of rights. A waiver is the "intentional relinquishment of a known right and should not be lightly presumed" from mere inaction or failure to capture attention. *Gilbert Frank Corp. v. Federal Ins. Co.*, 70 N.Y.2d 966, 968 (1988). Similarly, a finding of abandonment cannot rest on passive non-use or a lack of communication; it requires "clear, affirmative conduct" demonstrating a positive intent to completely sever ownership links. *EMF Gen. Contr. Corp. v. Bisbee*, 6 A.D.3d 45, 50 (1st Dept 2004). Nor can a private actor's unilateral notice manufacture a duty to speak where no legal relationship or obligation exists to command a response. By treating non-response to a procedurally unregulated webpage as an affirmative manifestation of an intent to abandon, Plaintiffs attempt to completely invert the bedrock mechanics of property law — effectively shifting the burden of proof onto absent defendants to defend what is already mathematically and legally theirs.

B. Plaintiffs' Own Complaint Forecloses the Abandonment Theory

Paragraph 27 of the First Amended Complaint states that Noah Doe "identified a security issue with digital wallets resulting in owners losing their ability to withdraw the contents and then abandoning their digital wallets." This allegation is fatal to Plaintiffs' case. If owners lost their ability to withdraw the contents of their wallets due to a security vulnerability, then their inability to transact is not voluntary abandonment — it is involuntary deprivation of access caused by an external flaw.

A property owner who is locked out of their property by a security defect has not abandoned it. A homeowner whose lock is broken does not thereby abandon their home. A bank account holder who loses their access credentials has not abandoned their account. Wallet holders who lost withdrawal capability due to the security issue Noah Doe identified, the very issue that motivated his Algorithm, have not abandoned their wallets. Plaintiffs cannot simultaneously rely on a security vulnerability to identify their targets and then claim those targets abandoned their property because they could not access it.

C. Bitcoin's Technical Architecture Makes Private Key Possession the Legal Touchstone of Ownership

Bitcoin's foundational design is simple: the holder of the private key is the one who controls the Bitcoin associated with a wallet address. The blockchain records the association between a public address and a balance. The private key authorizes spending. Without the private key, no transaction can be made from the wallet — not by the original holder, not by Noah Doe, and not by any court order. This is not a limitation; it is a feature. It is the mechanism by which Bitcoin allocates control over assets on the network.

A wallet that has been dormant for ten years, whose private key is stored on a steel plate in a bank vault, is not abandoned property. It is securely held property. The holder has not lost the private key, has not relinquished ownership, and has not manifested any intent to abandon. The mere fact that no on-chain transaction has occurred tells us nothing about private key possession — and private key possession is what matters.

POINT III

THE NEW YORK ABANDONED PROPERTY LAW PROVIDES THE EXCLUSIVE STATUTORY FRAMEWORK FOR DORMANT CRYPTOCURRENCY AND MANDATES ESCHEAT TO THE STATE — NOT TRANSFER TO A PRIVATE

FINDER

New York's Abandoned Property Law (APL) establishes a comprehensive statutory regime for abandoned financial property. N.Y. Abandoned Prop. Law §§ 100 et seq. Under the APL, intangible financial assets that are dormant for the requisite period are escheated to the State Comptroller — not transferred to private finders. N.Y. Abandoned Prop. Law §§ 1310-1312. The Comptroller holds escheated assets for the benefit of their true owners and makes them available for reclaim.

This legislative scheme reflects a deliberate policy choice: truly abandoned financial assets should benefit the public, remain reclaim-able by returning owners, and not be appropriated by private parties who happen to identify them. Plaintiffs' use of Article 7-B upends this balance entirely — routing the property to a Wyoming LLC rather than the State fund where owners retain the right to reclaim.

Most importantly: the Legislature has already answered the question this case presents. In November 2022, the Legislature enacted N.Y. Abandoned Property Law § 1319 (Ch. 640, Laws of 2022), a statute specifically governing unclaimed virtual currency. Under § 1319, virtual currency held by entities engaged in virtual currency business activity that remains unclaimed for five years is deemed abandoned property; it is reported to the Comptroller, sold on an established exchange, and the proceeds are deposited in the Abandoned Property Fund — with claimants entitled only to the proceeds of that sale. The Legislature thus looked directly at the question of dormant cryptocurrency and answered it: dormant crypto escheats to the State, under the APL framework, with proceeds returned to claimants. Plaintiffs are asking this Court to reach the opposite result — private enrichment through a 19th-century lost-and-found statute — in direct conflict with the Legislature's deliberate 2022 policy choice.

Plaintiffs may argue that § 1319 applies only to institutional holders (banking organizations and virtual currency businesses), not self-custodied wallets. That distinction cuts against them, not for them. It shows the Legislature was aware of the cryptocurrency abandonment issue and chose to address it through a targeted APL amendment — not through extending Article 7-B to private finders. The Legislature's silence as to self-custodied wallets in § 1319 is not an invitation for courts to fill the gap with Article 7-B. It is a gap that only the Legislature may fill. See *Majewski v. Broadalbin-Perth Cent. Sch. Dist.*, 91 N.Y.2d 577, 583 (1998). Until the Legislature acts, self-custodied dormant Bitcoin does not become the property of whoever scans the blockchain and files a USB drive with police.

If any of the 39,069 wallets are genuinely abandoned, the appropriate remedy is referral to the New York Attorney General for action under the APL. The AG is the proper party to pursue

such a claim. A declaratory judgment transferring abandoned financial assets to a Wyoming LLC is not an available remedy under New York law.

Plaintiffs' nominal valuation of these wallets at "\$10" for pleading purposes compounds the statutory problem. This Court can take judicial notice that the Bitcoin network carries a market capitalization measured in the trillions of dollars, and that press coverage of this very action has estimated the assets in the 39,069 wallets at approximately \$280 billion at current market prices. Characterizing a quarter-trillion-dollar asset portfolio as having a value of "\$10" does not reflect economic reality and operates whether by design or otherwise to avoid the procedural and substantive scrutiny that a claim of this magnitude demands. The \$10 valuation is also flatly inconsistent with Plaintiffs' own conduct: they retained cyber experts, engaged strategic advisors, issued press releases to over 820 media outlets across 37 countries, retained counsel, and prosecuted this Supreme Court action — investments no rational party would make to recover ten dollars. Under the Abandoned Property Law, the treatment, valuation, and reporting of assets to the State Comptroller turns directly on their actual market value. N.Y. Abandoned Prop. Law §§ 1310-1312. A nominal valuation cannot be deployed to evade APL requirements and escape the scrutiny that applies to a claim of unprecedented scale and economic magnitude. This Court should reject the \$10 characterization as inconsistent with the actual market value of the property at issue.

POINT IV

PLAINTIFFS' NOTICE WAS CONSTITUTIONALLY DEFICIENT AND DOES NOT SATISFY DUE PROCESS

The Fourteenth Amendment's Due Process Clause requires notice "reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them

an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Notice by publication or posting alone is constitutionally insufficient when the identity and location of interested parties is reasonably ascertainable. *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 798-800 (1983) ("notice by mail or other means as certain to ensure actual notice is a constitutional prerequisite to a proceeding which will adversely affect the liberty or property interests of any party"). Critically, where initial notice attempts prove ineffective, the government must take additional reasonable steps before proceeding. *Jones v. Flowers*, 547 U.S. 220, 234-35 (2006) (due process requires further steps when it becomes apparent that initial notice was insufficient to inform the property owner). Plaintiffs' notice methods fail these standards for multiple independent reasons.

First, not all Bitcoin wallet addresses can receive OP_RETURN messages. Bitcoin's earliest address format — Pay-to-PubKey (P2PK) — predates the more common Pay-to-PubKey-Hash (P2PKH) format. Technical limitations on certain address types may prevent receipt or proper interpretation of OP_RETURN tokens. Wallet addresses from Bitcoin's genesis era, including addresses historically associated with Bitcoin's creator that appear in Exhibit 1, may fall into this category. Where an OP_RETURN message cannot be delivered to a wallet, Plaintiffs had actual knowledge of that failure — just as the government in *Jones v. Flowers* had knowledge that certified mail was returned unclaimed — and were obligated to take further steps. They did not.

Second, the global press release was published primarily in English-language cryptocurrency industry outlets. Millions of Bitcoin holders worldwide do not read English, do not follow cryptocurrency industry news, and would have no reason to monitor media outlets for announcements affecting their digital assets. Under *Mennonite Board*, notice by publication is insufficient for parties with identifiable property interests. The publication of a press release in

industry media does not satisfy the constitutional requirement for notice to known or reasonably identifiable interested parties.

Third, deceased holders' estates received no notice. For wallets held by persons who have died, no OP_RETURN token and no press release will reach the estate's legal representatives. Probate courts, estate attorneys, and heirs — the parties with legitimate legal interests in the wallets — were not notified through any mechanism capable of reaching them.

Fourth, the ninety-day response window was arbitrary and insufficient for a legal action seeking to permanently extinguish property rights over potentially billions of dollars in digital assets. Property owners are entitled to meaningful notice and a meaningful opportunity to be heard before their rights are extinguished.

The constitutionally deficient notice independently warrants dismissal. A declaratory judgment cannot be entered against parties who did not receive constitutionally adequate notice of the proceedings against them.

POINT V

THIS COURT LACKS THE PRACTICAL CAPACITY TO EFFECTUATE THE RELIEF REQUESTED, AND A DECLARATORY JUDGMENT WITHOUT PRACTICAL EFFECT SHOULD NOT ISSUE

Courts of equity do not issue futile orders. A declaratory judgment that has no operative effect on the subject matter of the dispute serves no purpose and should not be granted. See CPLR § 3001 (authorizing declaratory judgments only where there is a “justiciable controversy” giving rise to the proceeding); *New York Pub. Interest Research Group, Inc. v. Carey*, 42 N.Y.2d 527,

399 N.Y.S.2d 621, 621, 369 N.E.2d 1155 (1977) (“a request for a declaratory judgment is premature if the future event is beyond the control of the parties and may never occur.”) The Plaintiffs do not possess the Bitcoin in question and the declaratory judgment Plaintiffs seek would be legally meaningless on the Bitcoin network and would only serve to weaken the Court’s power and authority.

A declaratory judgment is a discretionary remedy. CPLR 3001 provides that the Court “*may* render a declaratory judgment” — it does not compel one. When a court declines to do so, it need only state its grounds. The Court of Appeals has long held that declaratory relief “is usually unnecessary where a full and adequate remedy is already provided by another well-known form of action.” *James v. Alderton Dock Yards*, 256 N.Y. 298, 305 (1931). Here, the Legislature has provided exactly such a remedy: the Abandoned Property Law, which establishes a comprehensive statutory framework for dormant financial assets — including, since 2022, virtual currency — and mandates escheat to the State Comptroller, not transfer to a private finder. N.Y. Abandoned Prop. Law § 1319. Plaintiffs bypass that framework entirely, seeking through Article 7-B a result the Legislature has expressly foreclosed. Where a legislatively enacted statutory scheme already governs the disposition of the property at issue, this Court should exercise its discretion to decline declaratory relief under a statute that does not.

Bitcoin is a decentralized, peer-to-peer network operating through cryptographic consensus. The network recognizes only one form of authorization: a valid digital signature produced by the private key associated with a wallet address. No court order, no judicial declaration of ownership, and no legal instrument of any kind can move Bitcoin from a wallet without the private key signature. Nodes and miners across the network validate only cryptographic proof. They do not consult court records.

Plaintiffs nowhere allege possession of any private key to any of the 39,069 wallets, and their own expert valuation of the property at less than \$10, predicated on “the challenge of recovering value and the uncertainty that value would be present upon any recovery” (Am. Compl. ¶ 34), implicitly concedes that Plaintiffs cannot spend, transfer, or otherwise exercise dominion over the Bitcoin in the wallets. A declaration that Plaintiffs “own” wallets whose private keys they do not possess does not give Plaintiffs the ability to transact with, spend, or transfer the Bitcoin in those wallets. It would be a judicial statement with no operative effect on the actual property.

More dangerously, such a declaration could be used to mislead third parties — exchanges, custodians, institutional counterparties — into believing that Plaintiffs hold enforceable title to assets they cannot actually access. This creates risk of fraud and confusion in the marketplace. Courts should not issue declarations that, by design, misrepresent the nature and enforceability of the claimed rights.

As the longstanding maxim within the Bitcoin ecosystem recognizes: “not your keys, not your coins.” This applies to the Plaintiffs appearing before the Court without any of the property they claim to have.

POINT VI

THIS COURT LACKS IN REM JURISDICTION OVER THE VAST MAJORITY OF THE WALLETS AND THEIR HOLDERS — BITCOIN IS A BORDERLESS ASSET WITH NO LEGAL SITUS IN NEW YORK

In rem and quasi-in-rem jurisdiction require that the subject property be legally situated within the forum state. For tangible property, situs is physical location. For intangible property,

situs is typically the domicile of the owner or the location of the record evidencing the property interest. Neither basis is established here for the vast majority of the 39,069 wallets.

Bitcoin is a borderless, stateless digital asset. It exists as entries on a globally distributed ledger maintained simultaneously by tens of thousands of nodes in dozens of countries. Bitcoin has no corporate headquarters, no central bank, no clearing house, and no jurisdiction of formation. Unlike a bank account, which carries a cognizable situs at the bank's principal place of business, Bitcoin exists everywhere and nowhere at once. The blockchain is not located in New York. The nodes validating Bitcoin transactions are distributed worldwide. There is no New York "presence" of the Bitcoin held in the 39,069 wallets that would support this Court's in rem jurisdiction over those assets.

More fundamentally, the wallet holders themselves, the John Doe defendants against whom a declaration of abandoned ownership is sought, are unknown to Plaintiffs and, by statistical probability, are overwhelmingly not New York residents. The complaint identifies no New York nexus for any particular wallet holder. Plaintiffs' Algorithm scanned the global Bitcoin blockchain without regard to the nationality, domicile, or jurisdiction of any holder. Of 39,069 unidentified defendants, the fraction whose wallets have any demonstrable connection to New York is entirely speculative. Due process requires a meaningful showing of jurisdiction — over each defendant or over property genuinely situated in the state — before property rights can be extinguished by judicial decree. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313-14 (1950); *Shaffer v. Heitner*, 433 U.S. 186, 207-12 (1977) (in rem jurisdiction requires application of minimum-contacts analysis; the presence of property alone is constitutionally insufficient to subject a defendant to a court's judgment). Plaintiffs have made no such showing as to any wallet or any holder.

The practical consequence is severe: even if this Court granted the requested declaratory judgment, that judgment could not be recognized or enforced in any foreign jurisdiction against foreign-domiciled wallet holders who were never properly before this Court. Any decree purporting to extinguish the property rights of German, Japanese, Brazilian, or South Korean Bitcoin holders — based on a New York Supreme Court action to which they had no nexus and received no constitutionally adequate notice — would be void as a matter of international law and comity. This Court should not issue a declaration it lacks jurisdictional authority to make effective against the majority of the defendants it purports to bind.

POINT VII

THE SYSTEMIC THREAT: ACCEPTING PLAINTIFFS' THEORY WOULD DESTROY BITCOIN SELF-CUSTODY PROPERTY RIGHTS IN NEW YORK

The implications of accepting Plaintiffs' legal theory extend far beyond this proceeding. If a private party can obtain a declaratory judgment of ownership over dormant Bitcoin wallets by running a blockchain analysis algorithm, filing a USB drive with police, and issuing a press release, then every self-custody Bitcoin holder in New York faces an existential property rights threat.

Bitcoin holders who adopt long-term cold storage strategies, deliberately transacting rarely or never, would become targets. Estates of deceased Bitcoin holders, who cannot easily demonstrate on-chain activity, would become targets. Holders in jurisdictions where cryptocurrency is restricted, who cannot legally transact, would become targets. Holders who have lost their access device but retain their private key in another form would become targets.

The wallet list in Exhibit 1 to the complaint includes addresses of extraordinary historical significance. Among them is the wallet beginning with "1Feex" (John Doe number 1, the first

wallet address listed in Exhibit 1) — an address widely associated in public reporting and blockchain analysis with the 2011 Mt. Gox hack, containing approximately 80,000 Bitcoin.² Other addresses appear within the range of coinbase outputs widely analyzed in the cryptographic community as likely associated with Bitcoin’s genesis-era mining and its pseudonymous creator, Satoshi Nakamoto. The notion that a private party could obtain a New York declaratory judgment of ownership over coins from the network’s genesis era — based on the theory that inactivity implies abandonment — is not a logical extension of lost property law. It is an unprecedented legal proposition that this Court should reject.

Bitcoin's entire value proposition rests on the principle that private key possession equals ownership: that no government, bank, or court can override the cryptographic rights of a holder who controls their private key. This principle is not merely a technical feature; it is the legal and economic foundation on which the entire asset class is built. New York courts should not be the first to attempt to override this principle through a strained reading of a 19th-century lost-and-found statute.

The appropriate response to dormant Bitcoin in New York, to whatever extent the law has anything to say about it, is through the democratic process: the Legislature enacting clear statutory guidance for digital asset abandonment that balances the interests of holders, estates, the public, and the State. It is not through a default declaratory judgment in favor of a private "finder" who

² The inclusion of the “1Feex” address in Plaintiffs’ Exhibit 1, John Doe number 1, raises additional concerns of federal preemption and concurrent jurisdiction. The Bitcoin held at that address is widely reported to be the proceeds of the 2011 Mt. Gox theft, the subject of ongoing civil rehabilitation proceedings administered by a court-appointed trustee in Japan, and remains a potential subject of United States Department of Justice criminal forfeiture interest. A New York state-court declaration of private ownership over assets implicated in foreign insolvency administration and potential federal forfeiture would risk conflict with parallel proceedings and could be subject to challenge under principles of preemption and international comity.

exploited a security vulnerability to identify targets and seeks to profit from the wallets' inaccessibility.

CONCLUSION

For the foregoing reasons, amicus curiae Ian R. Cohen, Esq. respectfully urges this Court to:

(1) Decline to issue the requested declaratory judgment and dismiss this action for failure to state a claim upon which relief can be granted, on the grounds that Article 7-B of the New York Personal Property Law does not apply to self-custodied cryptocurrency wallet addresses, and that dormancy does not constitute legal abandonment of Bitcoin;

(2) In the alternative, dismiss this action for lack of in rem jurisdiction, on the grounds that Bitcoin is a borderless digital asset with no cognizable legal situs in New York, that Plaintiffs have established no New York nexus for the vast majority of the 39,069 wallets or their holders, and that the Court therefore lacks authority to extinguish the property rights of worldwide wallet holders under *Shaffer v. Heitner* and *Mullane v. Central Hanover Bank & Trust Co.*;

(3) In the further alternative, dismiss this action on the grounds that Plaintiffs' notice methods were constitutionally deficient and that the Court therefore lacks jurisdiction to enter a binding declaratory judgment against the absent wallet holders;

(4) In the further alternative, direct that if any of the wallets are determined to qualify as abandoned financial property under New York law, the matter be referred to the New York Attorney General for action under the New York Abandoned Property Law, which provides the exclusive statutory framework for dormant financial assets in New York and mandates escheat to the State — not transfer to a private finder; and

(5) Grant such other and further relief as this Court deems just and proper to protect the property rights of Bitcoin holders in New York and to ensure the sound development of digital asset law in this State.

Dated: New York, New York

_____, 2026

Respectfully submitted,

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