



Securities and Exchange Commission Chair Gary Gensler listens during a Senate Banking Committee Hybrid hearing on 'Oversight of the U.S. Securities and Exchange Commission," Tuesday, Sept. 12, 2023, on Capitol Hill in Washington. Photo: Mariam Zuhaib/AP

## Crypto Industry Joins Forces to Thwart SEC's Airdrop Crackdown

"The crypto industry, through legal scholars, industry groups and organizations, is presenting a united front in high-profile legal battles and fighting back against overreaching regulatory agencies, primarily the SEC," said Tyler Harttraft, a partner at Bull Blockchain Law who is not involved in the case.

October 29, 2024 at 03:26 PM

🕒 4 minute read

Cryptocurrency



By Michael A. Mora

### What You Need to Know

- The underlying case involves a lawsuit against the U.S. Securities and Exchange

### TRENDING STORIES

Mass. Judge Declares Mistrial in Talc

Commission for declaratory and injunctive relief.

- Industry players filed amicus briefs calling for a federal district court to declare certain tokens are not investment contracts and can be airdropped in people's wallets.
- One litigator not involved in the case said the crypto industry is presenting a united front against the SEC.

Multiple heavy hitters in the cryptocurrency industry submitted amicus briefs in a federal district court in western Texas supporting an apparel company and a decentralized finance advocacy organization in their preemptive lawsuit against the U.S. Securities and Exchange Commission.

"The crypto industry, through legal scholars, industry groups and organizations, is presenting a united front in high-profile legal battles and fighting back against overreaching regulatory agencies, primarily the SEC," said Tyler Harttraft, a partner at [Bull Blockchain Law](#) in Philadelphia, Pennsylvania, who specializes in crypto litigation and is not involved in the case.

In the underlying case, the plaintiffs, Beba LLC and DeFi Education Fund, filed a complaint against the SEC for declaratory and injunctive relief, asking U.S. District Judge Alan D. Albright of the Western District of Texas to rule that the "Beba tokens" are not investment contracts and the apparel company is free to "airdrop" them in people's wallets for marketing

## **Trial: 'Court Can't Accommodate This Case'**

LAW.COM

---

## **The Law Firm Disrupted: Quality Partner Training—The Exception or the Rule?**

LAW.COM

---

## **Conflict or Earned? Judge in Trump Cases Floated as Potential AG Pick**

LAW.COM

---

## **It's Time Law Firms Were Upfront About Who Their Salaried Partners Are**

LAW.COM

---

## **Preparing Your Law Firm for 2025: Smart Ways to Embrace AI &**

MICHAEL DIAZ JR.


**Latest** Trending

**New Suit  
Patent**

US LED wa  
hit with a  
patent  
infringeme.

[Read More](#)

**New Suit  
Patent**

Open My  
Radar 

**LAW.COM** PRO

purposes.

In the complaint, the plaintiffs argued that the SEC would likely take the position that Beba tokens are investment contracts and the airdrop is a securities transaction subject to registration under the Securities Act of 1933. However, the plaintiffs argued that the SEC has engaged in no formal rulemaking addressing which digital asset transactions involve the offering of a security.

Paradigm and Andreessen Horowitz, venture capital firms based in California; Multicoïn Capital, a crypto-focused investment firm based in Texas; and Union Square Ventures and Variant, venture capital firms in New York, wrote in their [amicus brief](#) that only one company that has been charged by the SEC in connection with airdrops of digital assets has pushed back.

"This, of course, is unsurprising, as the SEC has the full power of the United States government and vastly more resources for litigation than the innovative companies utilizing blockchain technology, and the cost of fighting the SEC would risk bankrupting any such company," the five companies alleged. "As a result, no court has ruled—as this Court is being asked to do—whether airdrops of digital assets are in fact investment contracts."

Similarly, Paul Grewal, chief legal officer for Coinbase Inc., [said on X](#) the digital asset company filed its [amicus brief](#) to stop the "destructive regulation-by-enforcement campaign waged by the SEC against law-abiding American companies." Coinbase has

been in litigation with the SEC for several years and has faced at least one unrelated lawsuit over the airdrop of cryptocurrencies.

"The SEC sues digital-asset developers and exchanges seeking punitive, retroactive penalties for their purported failure to 'come in and register,'" Coinbase alleged in its brief. "But the agency simultaneously refuses to explain on the record, through a rulemaking, how the compliance it demands is even possible."

"This creates a chilling effect on innovation and market development, effectively forcing companies to either accept SEC settlements or abandon U.S. markets entirely," said Nicolle Lafosse, of counsel at the international law firm of Diaz Reus, who is not involved in the case but whose specialty includes crypto litigation.

As a result, the advocacy organizations Crypto Council for Innovation and the Blockchain Association argued on social media and in their amicus brief in support of the plaintiffs that the SEC's regulatory stance puts "the U.S. at risk of missing the digital asset boom."

"While the US lags behind, the UK, Switzerland, France, Dubai, Hong Kong, Singapore, Japan, South Korea, Australia, the Caymans, and BVI are all rolling out clear crypto regulations and attracting business," they said in their brief. "We are standing up and urging the court to reject the SEC's flawed arguments—because America's digital asset future is on the line."

---

## NOT FOR REPRINT

© 2024 ALM Global, LLC, All Rights Reserved. Request academic re-use from [www.copyright.com](http://www.copyright.com). All other uses, submit a request to [asset-and-logo-licensing@alm.com](mailto:asset-and-logo-licensing@alm.com). For more information visit [Asset & Logo Licensing](#).

---

## You Might Like



October 08,  
2024

**Crypto.co  
m  
Becomes  
Latest  
Industry  
Player to  
Sue the  
SEC**

By Michael A.  
Mora

🕒 4 minute  
read



September 24,  
2024

**Former  
FTX  
Executive  
Caroline  
Ellison  
Sentence  
d to Two  
Years in  
Prison,  
\$11 Billion  
Forfeiture  
for Fraud**

By Emily Saul

🕒 4 minute  
read



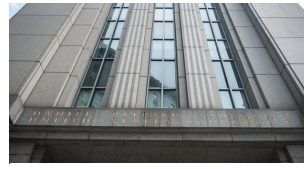


September 12,  
2024

## **Web 3.0: How Will Blockchain Impact Your Practice?**

By Lilya  
Tessler, Scott  
Parel and  
Angela  
Zambrano

🕒 8 minute  
read



September 05,  
2024

## **Internatio nal Crypto Bank Faces New York Securities Fraud Class Action Lawsuit**

By Michael A.  
Mora

🕒 3 minute  
read

# More from ALM



Legal Speak is a weekly podcast that makes sense of what's happening in the legal industry.

[Browse all Products](#)



## Attorneys Detail Pathway to Success Within Cybersecurity and Data Privacy Practice

🕒 1 minute read

## Holwell Shuster & Goldberg Partners Leverage 'Hostile' Witnesses to Secure \$101 Million Verdict Against Walmart

🕒 1 minute read

## Legal Speak at General Counsel Conference Midwest 2024: Mike Andolina, Partner, White & Case

# Sign Up Today and Never Miss Another Story

As part of your digital membership, you can sign up for an unlimited number of complimentary newsletters from Law.com by visiting your My Account page and selecting Newsletters to make your selections. Get the timely legal news and analysis you can't afford to miss, curated just for you, in your inbox, every day.

[Subscribe to Law.com Newsletters](#)



## LAW.COM

The industry-leading media platform offering competitive intelligence to prepare for today and anticipate opportunities for future success.