

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

THEO CHINO

Plaintiff-Petitioner,

-against-

THE NEW YORK STATE DEPARTMENT OF
FINANCIAL SERVICES and ANTHONY J.
ALBANESE, in his official capacity as
Superintendent of the Department of Financial
Services.

Defendants-Respondents.

Index No. 101880/2015
Hon. Lucy Billings

**NOTICE OF PLAINTIFF-PETITIONER'S MOTION FOR LIMITED DISCOVERY,
FOR HOLDING DEFENDANTS-RESPONDENTS' CROSS-MOTION TO DISMISS IN
ABEYANCE, AND IN THE ALTERNATIVE FOR LEAVE TO SERVE AND FILE A
SUR-REPLY**

PLEASE TAKE NOTICE that, upon the Affirmation of Pierre Ciric, Esq., the accompanying Memorandum of Law and Motion Exhibits, and upon all the pleadings and proceedings heretofore had herein, the undersigned will move this Court before the Civil Branch Clerk's Office of the New York State Supreme Court, County of New York, located in room 161 of the Courthouse located at 60 Centre Street, New York, NY, on the 15th day of March, 2017 at 9:30am, or as soon thereafter as counsel may be heard, for an Order:

- (a) pursuant to CPLR § 408, compelling Paul Krugman to testify before the Court as an expert witness for the purpose of creating an evidentiary record necessary in the instant action, on the grounds that his deposition is material to comply with full disclosure;
- (b) pursuant to CPLR § 408, compelling the Defendants-Respondents to produce all internal emails, emails with third-parties, and other written documentation supporting how they reached their regulatory conclusion as to the economic nature of Bitcoin falling into the definition of a "financial product or service," between January 01, 2013 to September 30, 2015, for the purpose of creating an

evidentiary record necessary in the instant action, on the grounds that this information is material to comply with full disclosure;

- (c) pursuant to CPLR § 408, compelling Benjamin Lawskey to attend a deposition for the purpose of creating an evidentiary record necessary in the instant action, on the grounds that his deposition is material to comply with full disclosure;
- (d) holding Defendants-Respondents' cross-motion to dismiss dated April 22, 2016 in abeyance until after Plaintiff-Petitioner's motion for limited discovery under CPLR § 408 has been decided and until after the completion of the limited discovery ordered by the Court, and
- (e) in the alternative, granting Plaintiff-Petitioner request for leave to serve and file a sur-reply in further opposition to Defendants-Respondents' cross-motion to dismiss.

This motion is based on this Notice, the accompanying Affirmation, Memorandum of Law, Motion Exhibits, and such further evidence and arguments that may be presented at the hearing.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR § 2214(b) and CPLR § 2103(b)(2), answering papers if any, are to be served within twelve (12) days prior to the return date of this motion.

Dated: February 17, 2017
New York, New York



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