




**Jeremy Hogan**  
@attorneyjeremy1

...

I finished reading the SEC's Reply and ... I actually think it did a pretty GOOD job.

It distinguished the "Youngers" case with the "Younger" case (Not making that up LOL.) and actually made a lot of sense doing it.

Having praised the SEC, I will now get off Twitter forever. :)

 **James K. Filan** 🇺🇸 🇮🇪 @FilanLaw · 1d

#XRPCommunity #SECGov v. #Ripple #XRP BREAKING: The SEC has filed its Reply Memorandum in Further Support of its Motion to Certify Interlocutory Appeal.

[dropbox.com/scl/fi/zawhw8z...](https://dropbox.com/scl/fi/zawhw8z...)

10:44 AM · 9/8/23



**JasonCoombs.CEO** ❤️🧐💰  
@JasonCoombsCEO

Replying to @attorneyjeremy1

Q for you and @FilanLaw

Why do SEC's lawyers refer to Howey as "Law" when it isn't one?

They will be denied interlocutory appeal if not squarely about law, but calling Howey "Law" like this reads as if they failed to articulate valid reason for appeal on a true question of Law.

 **James K. Filan** 🇺🇸🇮🇪 @FilanLaw · 1d

#XRPCommunity #SECGov v. #Ripple #XRP BREAKING: The SEC has filed its Reply Memorandum in Further Support of its Motion to Certify Interlocutory Appeal.

[dropbox.com/scl/fi/zawhw8z...](https://dropbox.com/scl/fi/zawhw8z...)

5:53 AM · 9/9/23



**JasonCoombs.CEO** ❤️🧐💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and [@FilanLaw](#)

A “Test” for “principles-based regulation” enacted by Congress in legislation doesn’t carry force of Law itself, right?

As a matter of the facts of each case, a Test reveals principles, not Law.

There’s even a fact dispute in the case about what Howey Test language actually is.

6:00 AM · 9/9/23



**JasonCoombs.CEO** ❤️🧐💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and [@FilanLaw](#)

Central point in [@SECGov](#) v. [@Ripple](#) is a fact question

“What did the defendants know the Howey Test language to be?” or in other words “What did the SEC tell them the Test language was?”

The SEC has lied about the Howey Test since 1975 —  
WITHOUT explaining themselves to ANYONE.

9:47 AM · 9/9/23



**JasonCoombs.CEO** ❤️ 🤔 💰

@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

In litigation, depending on facts + circumstances, SEC alleges the Howey Test reaches into mind of buyer (whether material product or an intangible one) to examine subjective “reasonable expectation of substantial profit from effort of others” but Howey Test has no such language.

9:50 AM · 9/9/23



**JasonCoombs.CEO** ❤️ 🤔 💰

@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

Defendants have been clear THEIR understanding was as Howey Court itself said, reinforced by subsequent appellate & SCOTUS rulings:

“investment contract” is pooling of money in a common enterprise to produce income + distribute profit, with investors “led to expect” their share.

9:56 AM · 9/9/23



**JasonCoombs.CEO** ❤️ 🧐 💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

This question of fact in our “principles-based regulatory” regime created by Congress cannot form the basis of interlocutory appeal to overrule the lower courts or provide clarity about the facts.

The SEC is preposterous asserting Howey is a Law with ambiguous shifting language.

10:02 AM · 9/9/23



**JasonCoombs.CEO** ❤️ 🧐 💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

The fact is the SEC has intentionally refused to explain what the Howey Test language actually is, to ANYONE, since 1975. Instead of providing interpretive guidance, the SEC chose to leave this open as a fact question in each case where circumstances dictate litigation strategy.

10:04 AM · 9/9/23



**JasonCoombs.CEO** ❤️🧐💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

The SEC, in new Rulemaking, proposes to redefine “Exchange” to include any set of facts + circumstances in which a person or smart contract SEC staff lawyers decide to “charge” allegedly caused users’ minds to form a subjective expectation of profit in “violation” of Howey-as-Law

10:27 AM · 9/9/23



**JasonCoombs.CEO** ❤️🧐💰  
@JasonCoombsCEO

Replying to [@JasonCoombsCEO](#) [@attorneyjeremy1](#) and 3 others

The SEC should not be allowed to continue to exist.  
But also, it should not be allowed to get away with this intentional nefarious fraudulent scheme where they are planning to solidify their litigation strategy around Howey as a new “Law” written by SEC staff lawyers themselves.

10:29 AM · 9/9/23