IN THE IOWA SUPREME COURT

SUPREME COURT NO. 24-0882

LINN COUNTY NO. SPCR153494

IN THE MATTER OF $14,100.00 SEIZED FROM BITCOIN DEPOT OPERATING, LLC

APPEAL FROM THE DISTRICT COURT OF LINN COUNTY

THE HONORABLE CHRISTOPHER BRUNS, JUDGE

AMENDED BRIEF OF APPELLANT BITCOIN DEPOT OPERATING, LLC

Matthew A. McGuire, AT0011932
Kevin Collins, AT0001671
Roy Leaf, AT0014486
NYEMASTER GOODE, P.C.
700 Walnut Street, Suite 1300
Des Moines, Iowa 50309
Telephone: (515) 283-3100
Fax: (515) 283-8045
Email: mmcguire@nyemaster.com
KHCollins@nyemaster.com
rleaf@nyemaster.com
ATTORNEYS FOR APPELLANT

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

Other Authorities

STATEMENT OF ISSUES PRESENTED FOR REVIEW

I. **Whether The District Court Erred In Finding That The Agreement Between Carlson And Bitcoin Depot Was Voidable Due To Duress.**

II. **Whether The District Court Erred In Failing To Order The Return Of Bitcoin Depot's Property To Bitcoin Depot.**

ROUTING STATEMENT

The Iowa Supreme Court should retain this appeal. *See* Iowa R. App. P. 6.1101(2)(d). This case presents urgent issues of broad public importance regarding whether transfers of digital currency in Iowa are voidable upon an allegation of third-party duress without requiring proof that the contract counterparty had reason to know of the duress, in contrast with the requirements of the Restatement (Second) of Contracts.

NATURE OF THE CASE

On February 21, 2024, Bitcoin Depot Operating, LLC ("Bitcoin Depot") filed an Application for Return of Seized Property pursuant to Iowa Code Chapter 809 in the Iowa District Court for Linn County. D0001, Bitcoin Depot App. for Ret. at 1 (02/21/2024). Bitcoin Depot's Application for Return of Seized Property requested an order directing the Linn County Sheriff's Office (the "Sheriff's Office") to return $14,100.00 in cash that had been seized from an ATM kiosk, which was owned by Bitcoin Depot, on February 12, 2024, among any other equitable relief. D0001 at 4 & 8.

On March 18, 2024, an individual named Carrie Carlson filed a Motion to Intervene in the action on the grounds that Carlson claimed a right to the seized funds. D0009, Carlson Mot. to Intervene at 1 (03/18/2024). The Court granted this motion. D0013, Order Granting Carlson Mot. to Intervene at 1 (03/19/2024). Carlson filed her own Application for Return of Seized Property on March 18, 2024. D0011, Carlson App. for Ret. at 1 (03/18/2024). The district court held a hearing on both Applications for Return of Seized Property on March 21, 2024. *See* D0006, Ord. Cont. Hear. at 1 (03/07/2024). On April 30, 2024, the district court ordered the Sheriff's Office to return the $14,100.00 in seized funds to Carlson. D0022, Ruling at 7 (04/30/2024). This appeal followed. D0026, Not. of App. at 1 (05/23/24).

STATEMENT OF THE FACTS

Bitcoin Depot operates the world's leading digital currency ATM network. D0001 at 2, ¶ 4. Bitcoin Depot's kiosks offer customers the ability to purchase and sell digital currency. *See* Attachment to D0001, Ex. A, Rimby Aff. at 1, ¶ 6; Attachment to D0001, Ex. A, Rimby Aff., Ex. 1, Terms and Cond. at 9–10. Customers can purchase bitcoin with cash at Bitcoin Depot's kiosks. *See* Attachment to D0001, Ex. A, Rimby Aff. at 1, ¶ 6; Attachment to D0001, Ex. A, Rimby Aff., Ex. 1, Terms and Cond. at 9–10. When a customer purchases bitcoin with cash at a Bitcoin Depot kiosk, the customer inserts cash into the machine, and Bitcoin Depot transfers bitcoin that it owns to the customer's digital bitcoin wallet. Attachment to D0001, Ex. A, Rimby Aff. at 2–3, ¶ 12.

Bitcoin Depot's business is highly regulated. Attachment to D0001, Ex. A, Rimby Aff. at 1, ¶ 7. Bitcoin Depot is registered with the United States Department of Treasury's Financial Crimes Enforcement Network as a "Money Services Business" as that term is defined by 31 C.F.R. 1010.1 OO(ff). Attachment to D0001, Ex. A, Rimby Aff. at 1, ¶ 7. As a Money Services Business, Bitcoin Depot, like a bank, must comply with various reporting requirements under the Bank Secrecy Act, including the filing of Suspicious Activity Reports. Attachment to D0001, Ex. A, Rimby Aff. at 1–2, ¶ 7. Bitcoin Depot has also implemented Anti-Money Laundering

programs to comply with Bank Secrecy Act requirements. Attachment to D0001, Ex. A, Rimby Aff. at 1–2, ¶ 7.

Bitcoin Depot will only satisfy purchase orders for digital currencies sent to a digital wallet that the customer certifies is under their control. Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 10. Bitcoin Depot's Terms and Conditions read: "**ATTENTION:** SENDING TO A WALLET THAT YOU DO NOT CONTROL IS AN EXPRESS VIOLATION OF OUR TERMS AND WILL RESULT IN YOU BEING BANNED FROM OUR PLATFORM." Attachment to D0001, Ex. A, Rimby Aff., Ex. 1, Terms and Cond. at 2. Bitcoin Depot's customers are required to review and approve Bitcoin Depot's Terms and Conditions before a Bitcoin Depot kiosk will allow the customer to insert funds. Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 8. Customers are also required to affirmatively certify that the digital currency they are purchasing is going to a digital wallet they personally own or control. Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 10. Customers are presented with a prompt that asks whether the digital currency is going to their own digital wallet or to someone else's. Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 10. If the latter option is selected, Bitcoin Depot does not allow the customer to complete the transaction. Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 10. The below image is an excerpt of a warning regarding the terms and conditions displayed to customers of Bitcoin Depot's kiosks:

Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 9.

On February 8, 2024, Carrie Carlson was contacted by an individual purporting to be from "Geek Squad." D0011 at 1, ¶ 2. Carlson reached out to this individual and "was informed there had been an error with her account and if she did not listen to him all her accounts would be impacted." D0011 at 1, ¶ 4. Carlson was instructed to "withdraw funds from her personal account[s] and deposit them into various Bitcoin ATMs . . . ." D0011 at 1, ¶ 5. Among other transactions apparently made around this time, on February 9, 2024, Carlson withdrew $14,100.00 in cash from her personal bank accounts and inserted this cash in the Bitcoin Depot kiosk located at 380 Blairs Ferry Road NE in Cedar Rapids, Iowa. D0020, Carlson Br. at 3 (04/8/2024). In exchange, Bitcoin Depot sent a corresponding amount of bitcoin (0.22960970 BTC) to the digital wallet provided by Carlson. Attachment to D0001,

Ex. A, Rimby Aff. at 3, ¶ 14; D0008, Ex. AA, Photo of Deposit Slip at 1. Carlson agreed to Bitcoin Depot's terms and conditions, meaning that she represented to Bitcoin Depot that 1) she was directing Bitcoin Depot to send its bitcoin to a wallet within Carlson's control, and 2) she understood that all cash she inserted into Bitcoin Depot's kiosk became property of Bitcoin Depot upon receipt. *See* Attachment to D0001, Ex. A, Rimby Aff. at 2–3, ¶¶ 10–11 & 14.

Carlson would later report to law enforcement that she was a victim of a scam and that she inserted and turned over funds at the Bitcoin Depot kiosk at the direction of the unknown scammer. Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 15; D0011 at 2, ¶ 7. Based on this report, the Sheriff's Office executed a search warrant at the Bitcoin Depot kiosk and seized the $14,100.00 in cash that Carlson had inserted and provided to Bitcoin Depot. Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 15. Bitcoin Depot complied with all requests from law enforcement but was unable to recover the bitcoin that it originally transferred at Carlson's request to a digital wallet Carlson claimed that she controlled. Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 17.

Bitcoin Depot filed an Application for Return of Seized Property on February 21, 2024, requesting a court order requiring the return of the $14,100.00 in cash seized from its kiosk. *See* D0001 at 8. Bitcoin Depot argued that Bitcoin Depot became the rightful owner of the funds when Carlson inserted the funds into the

kiosk in exchange for bitcoin and that law enforcement no longer required physical possession of the property under Iowa Code Section 809.5. D0001 at 6–7. Bitcoin Depot presented evidence in support of its application in the form of an affidavit from Joel Rimby, Assistant General Counsel of Bitcoin Depot. Attachment to D0001, Ex. A, Rimby Aff. at 1.

By April 2024, the Sheriff's Office's investigation remained open but had hit a dead end. D0019, Linn Cty.'s Br. at 1–2. The State, appearing on behalf of the Sheriff's Office, acknowledged that the property seized "is not being used to further any forensic investigation of [a] crime." D0019 at 2. The State did not seek forfeiture and acknowledged that it did not allege a property interest in the seized items. D0019 at 1 & 3.

Accordingly, the only issue for the district court to determine was where to direct the Sheriff's Office to return the seized property. *See* D0019 at 1 & 3. Carlson filed her own Application for Return of Seized Property on March 18, 2024. *See* D0011 at 1–3. Carlson did not submit any evidence in connection with her Application. *See* D0020 at 1–8; *see also* D0021 at 2 (noting that Carlson did not submit "any admissible evidence"). The district court held a hearing on both Applications for Return of Seized Property on March 21, 2024. *See* D0017, Mem. and Cert. at 1 (03/21/24). During the hearing, the district court acknowledged that the record was not clear as to how duress was allegedly exerted upon Carlson.

D0032, Tr. Hearing on Apps. for Ret. at 18:16–25 (03/21/24). The district court stated to Carlson's counsel, "[I]f you want to file an affidavit so we have a clear factual record, that will probably be best." D0032 at 18:16–25.

Following the hearing, the State, Carlson, and Bitcoin Depot each submitted additional briefing regarding Carlson's invocation of the duress defense to contract enforcement. *See* D0018 at 1 (Bitcoin Depot's brief); D0019 at 1 (State's brief); D0020 at 1 (Carlson's brief); D0021 at 1 (Bitcoin Depot's reply brief). Carlson submitted a brief but did not submit an affidavit or any additional evidence.[1] *See* D0020 at 1–8. Carlson argued that her transaction with Bitcoin Depot was the product of duress and voidable pursuant to Section 175(2) of the Restatement (Second) of Contracts. D0020 at 3. Carlson also argued that the return of Bitcoin Depot's funds to Bitcoin Depot would be "prohibited by law" under Iowa Code Section 809.5(2)(a). D0020 at 5. The State acknowledged that it was legally prohibited from making arguments or submitting evidence in favor of any particular claimant to the seized property. *See* D0019 at 3–4 (citing *In re 1972 Euclid Ave*, No. 07–0552, 2008 WL 2039310, at *3 (Iowa Ct. App. May 14, 2008)). The State nevertheless asserted that Bitcoin Depot's right to the property was "taint[ed]" by

[1] During the hearing, Carlson's counsel seemed to acknowledge that Carlson would need to submit an affidavit to make a record on issues of fact. *See* D0032 at 17:13–17 ("I'm fine just doing an affidavit . . . just so we don't have to present evidence.").

the fraud committed against Carlson. D0019 at 3. Bitcoin Depot's reply brief responded to Carlson's arguments. *See* D0021 at 1–5.

On April 30, 2024, the district court ordered the Sheriff's Office to return the $14,100.00 in seized funds to Carlson. *See* D0022 at 7. In its written order, the district court focused on an issue that was not raised or discussed by any of the parties. *See* D0022 at 4. Citing three journal articles, the district court concluded that "[a] Bitcoin transaction is a type of contract that is commonly referred to as a 'smart contract.'" D0022 at 4. The district court found, with no citations to evidence in the record[2] or to any legal authority, that "smart contract platforms turn a blind eye to the use of their ATMs in connection with fraudulent or coercive schemes and other criminal activity." D0022 at 6. The district court then purported to apply the test for the affirmative defense of duress under Section 175(2) of the Restatement (Second) of Contracts. D0022 at 5–6. The district court acknowledged that a contract procured by duress by a third party is not voidable where the other party to the transaction in good faith and without reason to know of the duress either gives value or relies

[2] In fact, the district court's order acknowledges the lack of a record supporting its conclusions. For example, although the district court concluded Carlson was entitled to the seized funds on the grounds that her agreement with Bitcoin Depot was voidable due to duress, the district court also stated that the record was not clear as to whether Carlson directly "placed [the bitcoin] in the scammer's wallet," or whether Carlson first placed the bitcoin in her *own* wallet and subsequently transferred it to the scammer's wallet without any involvement from Bitcoin Depot. D0021 at 3 n.1.

materially on the transaction. D0022 at 5–6. However, the district court found the digital currency transaction between Carlson and Bitcoin Depot to be voidable without requiring Carlson to prove that Bitcoin Depot had reason to know of the duress against Carlson, did not give value or rely materially on the transaction, or acted in bad faith. D0022 at 6. Instead, the district court compared Bitcoin Depot to a pawnbroker in possession of stolen property and found that "[t]he nature of smart contracting itself gives Bitcoin Depot reason to know of transactions being made under duress from a third party" generally. D0022 at 6. In essence, the district court found as a matter of law that purchases of digital currency such as bitcoin in Iowa are automatically voidable upon an allegation of third-party duress by the purchaser—regardless of the seller's lack of knowledge of any purported duress with respect to the transaction in question. *See* D0022 at 6. The district court did not reach Carlson's argument that Bitcoin Depot's possession of the funds originally provided to Bitcoin Depot by Carlson in exchange for bitcoin was "prohibited by law" pursuant to Iowa Code Section 809.5(2)(a).[3] *See* D0020 at 5. The district court ordered the Sheriff's Office to return the $14,100.00 in seized funds to Carlson, and Bitcoin Depot appealed. D0022 at 7; *see* D0027 at 1.

[3] This provision refers to the return of contraband materials whose possession is illegal. *See In re Prop. Seized for Forfeiture from Clark*, No. 13–0062, 2014 WL 2601503, at *1 (Iowa Ct. App. June 11, 2014).

ARGUMENT

I. The District Court Erred In Finding That The Agreement Between Carlson And Bitcoin Depot Was Voidable Due To Duress.

A. Error Preservation.

The district court erred when it found that Carlson was entitled to the $14,100.00 in seized cash, which Carlson conveyed to Bitcoin Depot in exchange for bitcoin, on the grounds that the transaction was the product of duress. D0022 at 5–7. Bitcoin Depot preserved error by arguing that Bitcoin Depot was entitled to the property seized from the kiosk that Bitcoin Depot owns and that Carlson could not establish the affirmative defense of duress to void an otherwise-valid agreement. *See, e.g.,* D0001 at 8; D0018 at 6–7; D0021 at 2–4.

B. Standard of Review.

The standard of review applied to this appeal turns on whether the underlying proceeding was one at law or in equity. *See Tschiggfrie Excavating Co. v. Midwest Rail & Dismantling, Inc.*, No. 01–0392, 2002 WL 1072051, at *2 (Iowa Ct. App. May 31, 2002) (considering whether the underlying matter was tried at law, and subject to review for errors of law, or tried in equity, and subject to *de novo* review). This action arises out of two separate requests for specific performance—namely, Carlson's Application for Return of Seized Property and Bitcoin Depot's Application for Return of Seized Property. D0011 at 3; D0001 at 8. In determining whether a case is one in equity or at law, the Iowa Supreme Court looks to the

pleadings, relief sought, and essential nature of the cause of action. *Homeland Energy Sols., LLC v. Retterath*, 938 N.W.2d 664, 684–85 (Iowa 2020). In *Retterath*, the Iowa Supreme Court held that a contract action seeking only specific performance was an equitable action not offering a right of trial by jury. *Id.* Where there is uncertainty, a "litmus test" the Court has applied "is whether evidentiary objections were ruled on by [the] trial court." *Citizens Sav. Bank v. Sac City State Bank*, 315 N.W.2d 20, 24 (Iowa 1982). Rulings on evidentiary objections indicate that an action was tried at law, while an absence of such rulings indicate an action was tried in equity. *Id*.; *see also Tschiggfrie*, 2002 WL 1072051, at *2 (stating that rulings on evidentiary objections are the "hallmark" of a trial at law).

The district court's resolution of the dueling applications for return of seized property is best understood as an equitable proceeding. Neither party sought damages or remedies at law. D0011 at 3; D0001 at 8. Neither party asserted breach of contract as a cause of action. D0011 at 3; D0001 at 8. Bitcoin Depot requested any other "relief that is equitable and just." D0001 at 8; *cf. Hedlund v. State*, 930 N.W.2d 707, 718 (Iowa 2019) (noting that reference to "any *other* equitable relief" in statute suggested that relief authorized by statute was equitable in nature (emphasis added)). The applications were tried to the bench based on the submission of evidence in connection with the parties' applications. *See* D0022 at 1; *cf. also* Iowa Code § 809.3(2) ("[C]laimant shall be limited at the judicial hearing to proof

of the grounds set out in the application for immediate return."). The district court did not rule on evidentiary objections. *See Citizens Sav. Bank*, 315 N.W.2d at 24.

Because the underlying proceeding was equitable in nature, the standard of review is *de novo*. *Retterath*, 938 N.W.2d at 684.

C. The District Court Failed To Require Carlson To Meet Her Burden Of Proof To Establish Her Transaction With Bitcoin Depot Was Voidable Due To Duress

Carlson and Bitcoin Depot entered into a contract whereby Carlson agreed to insert funds into a Bitcoin Depot kiosk and Bitcoin Depot agreed, subject to its terms and conditions of service, to provide Carlson with digital currency. No parties disputed that Carlson agreed to Bitcoin Depot's terms and conditions. Both parties performed under the contract. Carlson inserted $14,100.00 into the kiosk, and Bitcoin Depot delivered 0.22960970 bitcoin from its own holdings to the digital wallet provided by Carlson. Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 14; D0008 at 1. Accordingly, under basic contract principles, Bitcoin Depot was the lawful owner of the $14,100.00 in cash that it received in consideration for the delivery of 0.22960970 bitcoin made at Carlson's direction. *See In re: $12,700.00 in United States Currency Seized from a Crypto-Currency ATM Kiosk Owned by Bitcoin Depot Operating, LLC on Nov. 2, 2023*, 24-SW-000330-910, 2024 WL 3583898, at *4 (N.C. Super. Ct. Wake Cty. July 19, 2024) (finding Bitcoin Depot to

be the owner of funds inserted into its kiosk at the time of the transaction). The district court in this case did not find otherwise.

The district court found that the contract between Carlson and Bitcoin Depot was voidable due to duress from a third-party pursuant to Section 175(2) of the Restatement (Second) of Contracts. This section provides:

> If a party's manifestation of assent is induced by one who is not a party to the transaction, the contract is voidable by the victim unless the other party to the transaction in good faith and without reason to know of the duress either gives value or relies materially on the transaction.

Restatement (Second) of Contracts § 175(2) (Am. Law Inst. 1981).

In Iowa, a party seeking to set aside a contract by reason of duress bears the burden to prove duress by clear and convincing evidence "in every particular." *Scott v. Seabury*, 262 N.W. 804, 807 (Iowa 1935) ("[T]he burden of proving that the contract was induced by fraud, actual or constructive, duress or undue influence, rests upon the party attacking it, who must establish the same by clear, convincing, and satisfactory evidence in every particular . . . ."); *Mohler v. Andrew*, 218 N.W. 71 (Iowa 1928) (holding that the burden to prove duress rests with party asserting duress); *see also Wellman Sav. Bank v. Adams*, 454 N.W.2d 852, 855 (Iowa 1990) ("The bank has the burden of proving by clear, satisfactory, and convincing evidence that the contract does not reflect the true intent of the parties . . . because of . . . duress . . . ."); *Hughes v. Silvers*, 151 N.W. 514, 516 (Iowa 1915) ("[H]e or she who alleges . . . duress . . . is charged with the burden of proving it."); *Hosier v. Hosier ex rel.*

Est. of Hosier, No. 00-1225, 2001 WL 1451137, at *4–5 (Iowa Ct. App. Nov. 16, 2001) ("Obviously, the burden of proving economic duress is upon the party alleging it."). Iowa law is not an outlier. *See Lucarell v. Nationwide Mut. Ins. Co.,* 97 N.E.3d 458, 463 (Ohio 2018) ("[T]he prevailing rule in other jurisdictions is that the party asserting duress has the burden of proving it by clear and convincing evidence."); *see, e.g., Helstrom v. North Slope Borough*, 797 P.2d 1192, 1197 (Alaska 1990) ("The burden is on the party seeking to void the contract to show the[] elements [of duress] by clear and convincing evidence."); *Regenold v. Baby Fold, Inc.*, 369 N.E.2d 858, 864 (Ill. 1977) (holding that duress sufficient to invalidate consent or surrender executed in accordance with Illinois Adoption Act must be proven with clear and convincing evidence); *Cooper v. Oakes*, 629 A.2d 944, 948 (Pa. Super. Ct. 1993) ("The proponent of avoiding the agreement then bears the burden of proving . . . duress by clear and convincing evidence."); *Nelson v. Nelson*, No. 0603-05-2, 2005 WL 1943248, at *2 (Va. Ct. App. Aug. 16, 2005) (holding clear and convincing evidence required to prove duress under Virginia law); *Warner v. Warner*, 294 S.E.2d 74, 78 (W. Va. 1990) ("[D]uress may exist sufficient to set aside an agreement which was executed under the influence of such threat. The individual claiming duress has the burden of demonstrating such allegations of duress by clear and convincing evidence."); 28 Williston on Contracts § 71:10, Westlaw (4th ed. database updated May 2024) (citing similar authorities from other states).

Where the claimed duress was exerted by someone *other* than the counterparty to the contract at issue, additional requirements apply. "Duress by a third person will not avoid a contract made with a party who was not cognizant of [the duress]." 17A C.J.S. Contracts § 244, Westlaw (database updated May 2024). Accordingly, courts across the country have found, consistent with Section 175(2) of the Restatement (Second) of Contracts, that parties cannot establish a contract is voidable due to third-party duress where they cannot meet their burden to show the requirements of Section 175(2). The party asserting duress must show that the opposing party had knowledge, or reason to know, that duress was asserted *against the specific party* claiming duress. *See, e.g.*, *Zurich Am. Ins. Co. v. Ascent Constr., Inc.*, No. 1:20-CV-00089-DBB-CMR, 2023 WL 6318106, at *16 (D. Utah Sept. 28, 2023) (rejecting duress defense where the party claiming duress offered "no evidence that [the counterparty] had reason to know of the duress"); *Abate v. Wal-Mart Stores E., L.P.*, 503 F. Supp. 3d 257, 269 (W.D. Pa. 2020) (rejecting duress defense where the party claiming duress identified "no evidence that would establish [the counterparty's] notice of the actions [the third-party] allegedly took to place Plaintiff under 'duress'"); *Rotante v. Franklin Lakes Bd. of Educ.*, No. 13-3380 (JLL)(JAD), 2014 WL 6609034 (D.N.J. Nov. 20, 2014) ("[W]ithout alleging facts that indicate Romano or the Board knew of the misrepresentation, nor facts that indicate Romano did not materially rely on the Agreement, the Court does not find that the contract is

voidable by Plaintiff."); *Brown v. Est. of McLain*, No. 1802, Sept. Term., 2014, 2016 WL 1385622, at *5 (Md. Ct. Spec. App. Apr. 7, 2016) ("[T]he Browns would still need to assert, ***and then be able to demonstrate***, Mrs. McLain's knowledge of the alleged wrongdoing and having taken advantage of it." (emphasis added)); *Chan v. Lund*, 116 Cal. Rptr. 3d 122, 134 (Cal. Dist. Ct. App. 2010) (rejecting duress defense where the party asserting duress offered "no evidence that [the contract counterparties] were even aware of the alleged threat at the time of [the] execution of the Settlement Memorandum"); *Nathan v. Calco Duct & Vent Cleaning*, No. X09CV065005942, 2009 WL 3416440, at *3 (Conn. Super. Ct. Sept. 29, 2009) (rejecting duress defense where "the defendant did not know of the plaintiff's alleged duress until . . . weeks after the plaintiff had agreed to the settlement"); *Dalo v. Thalmann*, 878 A.2d 194, 198 n.4 (R.I. 2005) (rejecting duress defense where party asserting duress "failed to allege or present any evidence that plaintiff knew about the alleged duress or consented to [third-party] applying coercion upon defendant to sign the note"). Although Iowa courts have not addressed this precise issue, the existing Iowa authorities applying Section 175(2) support this conclusion. *See Dorale v. Dorale*, No. 08-0560, 2009 WL 1211969, at *3–4 (Iowa Ct. App. May 6, 2009) (applying Section 175(2) to invalidate contract procured by duress when the party seeking to enforce the contract "was well aware of the pressure exerted" on the party seeking to invalidate the contract by that party's father, when all three parties

were present in the same location "over a period of some three to four hours" when the contract was signed); *cf. In re Marriage of Hitchcock*, 265 N.W.2d 599, 606 (Iowa 1978) (applying draft version of Section 175(2) to invalidate contract where third-party, a judge, placed party under duress while contract counterparty was also physically present); *Luman v. Kerr's Adm'r*, 4 Greene 159, 159–60 (Iowa 1853) (observing that a plaintiff cannot assert superior title against a defendant who purchases property from a third-party in good faith and without notice of the third-party's prior fraud against the plaintiff).

In this case, the district court's analysis correctly proceeded from the premise that a contract was formed between Carlson and Bitcoin Depot when Carlson agreed to insert $14,100.00 in funds and Bitcoin Depot agreed to transmit a corresponding amount of bitcoin to the wallet identified by Carlson. *See* D0022 at 6. However, in purporting to apply Section 175(2) of the Restatement (Second) of Contracts, the district court erred. The district court did not require Carlson to prove that Bitcoin Depot knew of or had reason to know of the duress against Carlson, did not give value or rely materially on the transaction, or acted in bad faith.[4]

The district court found that the contract between Carlson and Bitcoin Depot was voidable by Carlson because, according to the district court, "Bitcoin Depot has

[4] The district court also did not find that Carlson in fact proved that 1) Bitcoin Depot knew of or had reason to know of the duress against Carlson, 2) did not give value or rely materially on the transaction, or 3) acted in bad faith. *See* D0022 at 4–7.

reason to know that *a portion* of the people purchasing Bitcoin via cash deposits into its machines are being scammed." D0022 at 6–7. (emphasis added). In reaching this conclusion, which itself lacked any record support,[5] the district court relieved Carlson of her burden to prove that Bitcoin Depot knew or had reason to know about the specific duress allegedly exerted *against her*.

This was error. The district court lacked legal support for obviating Carlson's burden of proof in this manner and cited none. *Contra, e.g.*, *Proch v. King*, No. 2:22-CV-12141, 2023 WL 4940527, at *4 (E.D. Mich. May 5, 2023) *report and recommendation rejected in part* by *Proch v. King*, 2023 WL 4936695, 2023 WL 4936695 (E.D. Mich. Aug. 2, 2023) (rejecting attempt to void arbitration agreement where party asserting duress did not cite any evidence that the agreement counterparty knew of the alleged duress, and where the party asserting duress had already accepted the benefits of the contract); *Zurich Am. Ins. Co.*, 2023 WL 6318106, at *16 (requiring the party claiming duress to prove that the contract counterparty had reason to know of the duress); *Chan*, 116 Cal. Rptr. 3d at 134 (similar); *Dalo*, 878 A.2d at 198 n.4 (similar); *Emp'rs Ins. of Wausau v. Bond*, No. HAR-90-1139, 1991 WL 8431, at *2 (D. Md. Jan. 25 1991) ("[W]here the assent

[5] Neither party offered evidence regarding any other persons having been "scammed." Rather, the district court's conclusion appears to have rested entirely on the fact that Bitcoin Depot displays a warning that reminds customers that Bitcoin Depot will only agree to transfer its bitcoin to digital wallets that the customer themself owns or controls. D0022 at 7.

was induced by a third-party unrelated to the transaction and the opposing party to the transaction, without knowledge of the victim's duress, materially relied upon the victim's assent, the contract is not voidable." (citing Restatement (Second) of Contracts § 175)).

The district court justified its determination not to require Carlson to show, with clear and convincing evidence, that Bitcoin Depot knew or had reason to know about the specific duress allegedly exerted against her by reference to the district court's *sua sponte* observations regarding whether the contract between Carlson and Bitcoin Depot was a "smart contract." D0022 at 4–6. Neither Carlson nor Bitcoin Depot argued in their briefing or oral argument that this case presented a situation involving a "smart contract" or that different rules apply to "smart contracts" alleged to be the product of duress.[6] The district court's discussion of "smart contracts" cited three legal journal articles but no statutes, regulations, or case law. D0022 at 4–6. Nor did the district court cite any factual evidence in the record to substantiate its assertion that this case involved a "smart contract." The district court found that the contract between Carlson and Bitcoin Depot was a "smart contract" because the contract involved the purchase of bitcoin. D0022 at 4. The district court then

[6] To the contrary, Carlson's counsel argued: "[I]f anybody can ever explain what a bitcoin actually is, I think that's part of the issue in our [case] . . . ." D0032 at 14:8–9.

concluded, "[T]he nature of smart contracting itself gives Bitcoin Depot reason to know of transactions being made under duress from a third party." D0022 at 6.

The district court's *sua sponte* treatment of "smart contracts" illustrates the wisdom of then-Judge McDonald's observation that "[i]n raising issues *sua sponte*, 'the court risks making unsound decisions based on its own inadequately informed understanding of the questions involved.'" *Int. of J.C.*, No. 18-1514, 2018 WL 6719418, at *5 (Iowa Ct. App. Dec. 19, 2018) (McDonald, J., concurring) (cleaned up) (quoting *State v. Childs*, 898 N.W.2d 177, 194 (Iowa 2017) (Hecht, J., dissenting)). "[W]hen courts proceed *sua sponte*, any action taken must be done with restraint." *$99 Down Payment, Inc. v. Garard*, 592 N.W.2d 691, 695 (Iowa 1999) (emphasis added). The district court's *sua sponte* findings regarding "smart contracts" were erroneous, unnecessary, and done *without* restraint.

The district court's conclusions regarding "smart contracts" were erroneous because the district court misinterpreted the legal journal articles that it cited *and* because the district court's conclusions regarding whether a "smart contract" existed lacked any record support. The district court seems to have simply assumed that this case involved a "smart contract" because the subject matter of the contract between Carlson and Bitcoin Depot related to bitcoin, a popular digital currency. *See* D0022 at 4 ("A Bitcoin transaction is a type of contract that is commonly referred to as a 'smart contract.'"). But the authorities cited by the district court are not so reductive.

The Werbach & Cornell article, for example, *contrasts* a "smart contract" with a "simple transfer[] of Bitcoin between accounts"—the latter fact pattern being the one presented in this case.[7] *See* Kevin Werbach & Nicolas Cornell, *Contracts Ex Machina*, 67 Duke L.J. 313, 330 & 333 (2017). The Gerhardt & Thaw article describes smart contracts as "self-settling" software programs pursuant to which performance happens automatically in the presence of a contingency. Deborah R. Gerhardt & David Thaw, *Bot Contracts*, 62 Ariz. L. Rev. 877, 891 (2020); *see also* Mark Verstraete, *The Stakes of Smart Contracts*, 50 Loy. U. Chi. L.J. 743, 745 (2019) (defining "smart contracts" as "a new digital innovation that leverages the blockchain . . . to encode obligations so they execute automatically when certain triggering conditions are met."). These definitions and examples contrast markedly with the simple digital currency purchase transaction at issue here.

The transaction between Carlson and Bitcoin Depot was not a "smart contract" any more than the preceding transaction between Carlson and her bank to withdraw cash—which Carlson never sought to void. Had the issue of whether the transaction was a "smart contract" been raised prior to the district court's *sua sponte*

[7] That article includes as an example of a smart contract a hypothetical agreement whereby two individuals would jointly develop software code that automatically makes payment from one party's account based on verified public data in a self-executing manner. *See* Kevin Werbach & Nicolas Cornell, *Contracts Ex Machina*, 67 Duke L.J. 313, 331 (2017). That is decidedly *not* the scenario proposed by the currency purchase at issue in this case, and there is no record evidence that would support a contrary conclusion.

ruling, Bitcoin Depot would have submitted evidence from qualified expert witnesses explaining the distinction between "smart contracts" and ordinary and commonplace transactions involving currency, such as ATM withdrawals, bank withdrawals, wire transfers or money orders, or currency conversions including but not limited to purchases of digital currency with dollars. Instead, the district court erroneously assumed, without evidence and contrary to its own cited sources, that any transaction involving Bitcoin is a "smart contract." *See* D0022 at 4.

In fact, the evidence showed that the cash was converted to Bitcoin through two steps undertaken by the parties: (1) Bitcoin Depot received cash from Carlson; and (2) Bitcoin Depot transferred bitcoin to the wallet selected by Carlson. This is not a "self-settling" agreement. *See* Attachment to D0001, Ex. A, Rimby Aff. at 2–3, ¶ 12. Bitcoin Depot never argued that its contract with Carlson was a "smart contract" because it was simply an ordinary ATM transaction or currency exchange, enforceable in court like any other contract.

Perhaps more importantly, the district court's analysis of "smart contracts" was wholly unnecessary. Section 175(2) of the Restatement (Second) of Contracts provides a comprehensive framework for evaluating Carlson's assertion that her contract with Bitcoin Depot was voidable due to duress imposed by an unknown third party. As discussed above, Carlson simply had to prove that Bitcoin Depot knew or should have known of the duress against Carlson and did not give value for

the property received or did not take action in reliance upon the transaction. Had the district court found that Carlson met her burden of proof to establish duress with clear and convincing evidence based on "the grounds set out in [Carlson's] application," *see* Iowa Code § 809.3(2), there would have been no need to discuss the significance of "[t]he nature of smart contracting itself," *see* D0022 at 6.

The erroneous and quasi-legislative nature of the district court's findings is only further underscored by the district court's comparison between Bitcoin Depot transferring bitcoin from its own holdings *at Carlson's direction* to "an owner's recovery of stolen property from a pawnbroker." D0022 at 6. Iowa Code Section 714.28(3)(b) provides that a "pawnbroker" who purchases stolen goods must return the goods to its original owner and may only recover its loss from the conveying customer "[i]f the conveying customer was convicted in a separate criminal proceeding of theft . . . ." This comparison is wholly inapt. Bitcoin Depot is not a "pawnbroker" as the term is used in Section 714.28 and neither the district court nor any party has ever contended otherwise. The funds that Bitcoin Depot received in consideration for the bitcoin that Bitcoin Depot transferred from its own inventory were Carlson's own property, not stolen property. D0020 at 2 (describing the property as "funds from [Carlson's] personal account"). To the extent Carlson directed Bitcoin Depot to deliver its bitcoin to a wallet that was not Carlson's own, which is not clear from the record, it would have been *Carlson* who made a

materially false representation *to Bitcoin Depot*. *See* Attachment to D0001, Ex. A, Rimby Aff. at 2, ¶ 10; *see also In re: $12,700.00 in United States Currency*, 2024 WL 3583898, at *2 ("In order to complete the transactions of the purchasing and transfer of Bitcoin to a digital wallet not owned by the customer, the customer must make material misrepresentations to Bitcoin Depot . . .")

And critically, the Iowa Legislature made a specific determination to place the risk of loss upon pawnbrokers under particular circumstances. The statutory command embodied in Section 714.28 is an express deviation from contract enforcement rules that would otherwise apply to pawnbrokers. No statutory exception renders the transaction between Carlson and Bitcoin Depot voidable or shifts the risk of loss upon Bitcoin Depot. Like the extensive and unnecessary discussion of "smart contracts," this inapt pawnbroker analogy further suggests that the district court understood that it was deviating from ordinary contract principles, as embodied in the Restatement (Second) of Contracts, and improperly applied a lesser burden upon Carlson to invalidate her agreement with Bitcoin Depot than would otherwise apply under Iowa contract law.

The district court's conclusion that Carlson needed not show, pursuant to the Restatement (Second) of Contracts, that Bitcoin Depot knew or had reason to know of the duress imposed against her is tantamount to a legislative judgment that digital currency purchases are *per se* unenforceable. No such rule applies to other ATM

transactions, to wire transfers or money orders, or to online or digital transactions that settle with electronic transfers of assets. And no party submitted evidence to support any argument that the requirements to prove duress under the Restatement should be relaxed in the context of digital currency or bitcoin purchases as compared to any other type of financial transaction. Whether agreements to purchase digital currency such as bitcoin should be enforced differently from other contracts is a question for the Legislature, not the courts; the district court should have applied ordinary contract principles that would place the burden on Carlson to prove each element of the duress defense. *See Chavez v. MS Tech. LLC*, 972 N.W.2d 662, 670 (Iowa 2022) (declining to consider arguments regarding "policy considerations that are best left for the legislature to consider").

In exchange for funds that she provided to Bitcoin Depot, Carlson received the benefit of 0.22960970 BTC transferred by Bitcoin Depot to a digital wallet that she selected. Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 14; D0008 at 1. When Carlson sought to claw back the funds she provided to Bitcoin Depot as part of her contract with Bitcoin Depot, the district court relieved Carlson of her burden to show that Bitcoin Depot knew or should have known of the duress against her and did not give value or rely materially on the transaction. Instead, based on *sua sponte*—and incorrect—findings that the contract at issue was a "smart contract," the district court did not require Carlson to make any particular showing. This was error, and the

district court's ruling granting Carlson's Application for Return of Property should be vacated.

D. Duress From An Unknown Third-Party Did Not Render Carlson's Transaction With Bitcoin Depot Voidable.

In order to invalidate her contract with Bitcoin Depot, whereby Carlson provided Bitcoin Depot $14,100.00 in funds and Bitcoin Depot transferred 0.22960970 BTC to the digital wallet designated by Carlson, Carlson had to prove that the requirements of Restatement (Second) of Contracts section 175(2) had been met. Because the alleged duress was imposed not by Bitcoin Depot but by an unknown third-party, Carlson had to prove not only that her transaction with Bitcoin Depot was the product of duress, but also that Bitcoin Depot did not act in good faith and without reason to know of the duress, or did not give value or rely materially on the transaction. *See* Restatement (Second) of Contracts § 175(2). Carlson failed to meet her burden to establish that Bitcoin Depot did not act in good faith and without reason to know of the duress, or did not give value or rely materially on the transaction.

Carlson did not dispute that Bitcoin Depot gave value and relied materially on the transaction. Carlson did not dispute that the bitcoin transferred by Bitcoin Depot from its own account was a corresponding value to the funds that Carlson conveyed to Bitcoin Depot. *See* Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 14. Carlson did not dispute that Bitcoin Depot transferred this bitcoin at Carlson's direction and

that such bitcoin was not recovered. *See* Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶ 14; D0032 at 8:18–22.

Carlson's assertion of the duress defense to contract enforcement, therefore, hinged entirely upon her assertion that Bitcoin Depot entered into a contract with Carlson in bad faith and with reason to know of the duress. *See* D0020 at 4. However, Carlson submitted ***no*** evidence in support of this proposition. *See* D0020 at 1–8. Carlson submitted no evidence that would have allowed a fact-finder to conclude that Bitcoin Depot was aware of any duress being exerted against Carlson. Instead, Carlson's counsel asserted in briefing, without any evidentiary support, that "[c]rypto currency machines . . . have been used across the country to take advantage of unexpecting citizens through illegal means." D0020 at 4.

This unsupported assertion does not satisfy Carlson's burden. It certainly does not prove that Bitcoin Depot had reason to know of duress having been exerted against Carlson as opposed to any of the other customers who use any of Bitcoin's 6,400 kiosks for valid, economically beneficial transactions every day. *See* Attachment to D0001, Ex. A, Rimby Aff. at 1, ¶ 6. Carlson made no attempt to prove that Bitcoin Depot knew or had reason to know of any duress exerted against her. *See, e.g.*, *Zurich Am. Ins. Co.* 2023 WL 6318106, at *16; *Abate*, 503 F. Supp. 3d 257, 269; *Chan*, 116 Cal. Rptr. 3d at 134; *Nathan*, 2009 WL 3416440, at *3; *Dalo*,

878 A.2d at 198 n.4. For this reason, Carlson could not establish the affirmative defense of duress under Section 175(2) of the Restatement (Second) of Contracts.

Rather than argue that Bitcoin Depot knew or had reason to know of Carlson's alleged duress, Carlson instead argued that Bitcoin Depot had reason to know of the *possibility* of duress being exerted against customers generally—a broad and undefined category of persons. D0020 at 4–5. Following Carlson's suggestion, the district court concluded that Bitcoin Depot was aware of the possibility that "a portion" of its customers could be targeted by scams. D0022 at 7. This conclusion was based entirely upon the fact that Bitcoin Depot shows customers a screen requiring customers to agree that they will only send bitcoin to digital wallets they own or control and warning about the possibility of scams. D0022 at 7. The district court made no findings regarding the frequency of scam transactions involving Bitcoin Depot's transaction platform, and Carlson submitted no evidence that would have supported any such findings. The district court made no findings regarding the prevalence of transactions made under duress on Bitcoin Depot's platform as compared to any other transaction platform, such as cash ATMs, money orders or wire transfers, or online transaction platforms. And Carlson submitted no evidence

that would support any suggestion that transactions involving duress are any more prevalent on Bitcoin Depot's transaction platform than on any other platform.[8]

In sum, the record contains no evidence that would support a determination that Bitcoin Depot knew or should have known that duress was exerted upon Carlson at the time she entered into her transaction with Bitcoin Depot. According to the record before the district court, the only information that Bitcoin Depot possessed regarding Carlson's transaction was that Carlson affirmatively represented to Bitcoin Depot that she was directing Bitcoin Depot to transfer the bitcoin that she had purchased from Bitcoin Depot's own inventory to a digital wallet that she controlled. *See* Attachment to D0001, Ex. A, Rimby Aff. at 3, ¶¶ 12, 14. The district court was required to resolve the parties' applications for return of seized property based on the "proof . . . set out in the application for immediate return." Iowa Code § 809.3(2). Carlson failed to identify evidence sufficient to establish all elements of the duress defense to contract enforcement under Section 175(2) of the Restatement (Second) of Contracts, and the district court therefore erred in concluding that the requirements of Section 175(2) were met.

[8] In fact, Carlson's own pleadings indicate that any duress underlying her transaction with Bitcoin Depot would also have caused the preceding transaction with her bank in which she withdrew $14,100.00 in cash. D0011 at 1–2, ¶ 6; D0020 at 2. But Carlson did not seek to restore her bank account balance for the cash withdrawn or argue that her bank had reason to know that she could have been scammed.

Additionally, the district court made further observations regarding the limited record in this case that would separately suffice to establish that Carlson did not meet her burden to establish that the agreement between her and Bitcoin Depot was invalid on grounds of duress. The district court stated that the record was silent as to how Carlson "had Bitcoin placed in the wallet of the scammer." D0022 at 3. The district court observed:

> There are at least two ways that appear obvious. Either Ms. Carlson was able to purchase [b]itcoin and direct that it be placed in the scammer's wallet despite the warning, or she created her own wallet, initially placed the bitcoin in her wallet, and then transferred it to the scammer's wallet.

D0022 at 3 n.1. In other words, the district court concluded that it was entirely unclear based on the record before it whether Bitcoin Depot was involved whatsoever in transferring bitcoin to the third-party. If Carlson "placed the bitcoin in her wallet, and then transferred it to the scammer's wallet," then Bitcoin Depot's only involvement in this sequence of events was to accept funds from Carlson and to provide Carlson herself with an equivalent value of digital currency that Carlson would later dispose of. D0022 at 3. Neither Carlson nor the district court identified any authority remotely suggesting that a transaction may be invalidated on grounds of duress simply because the proceeds of that transaction were subsequently turned-over by the claimant in *a separate, unrelated transaction* in response to the duress. Carlson could have easily submitted evidence in connection with her application for

return of seized property that may have resolved this ambiguity. She did not. *Cf.* Iowa Code § 809.3(2) ("The written application shall be specific and the claimant shall be limited at the judicial hearing to proof of the grounds set out in the application for immediate return.").

It was Carlson's burden to prove that her transaction was the product of duress, and the district court openly acknowledged that she failed to do so. *See Mohler*, 218 N.W. at 73 (holding the burden to establish that a transaction was void on grounds of duress rests with the party asserting duress). Because Carlson could not meet her burden to establish duress on the record, the district court was required to deny Carlson's application for return to the funds seized from Bitcoin Depot. The district court's decision should be reversed.

II. The District Court Erred In Failing To Order The Return Of Bitcoin Depot's Property To Bitcoin Depot.

A. Error Preservation

The district court erred when it found that Bitcoin Depot was not entitled to the return of $14,100.00 in cash that Carlson conveyed to Bitcoin Depot in exchange for bitcoin. D0022 at 7. Bitcoin Depot preserved error by arguing that Bitcoin Depot was entitled to the property seized from the kiosk that it owns. *See, e.g.,* D0001 at 8; D0018 at 7; D0021 at 4.

B. Standard of Review

The district court's resolution of Bitcoin Depot's Application for Return of Seized Property was an equitable determination to be reviewed *de novo*. *See Retterath*, 938 N.W.2d at 684. The district court's resolution of Bitcoin Depot's application is best understood as an equitable proceeding because Bitcoin Depot sought specific performance only in the form of return of funds, did not seek damages or remedies at law, and did not assert breach of contract but *did* request any other relief that was equitable and just; because the action was tried to the bench; and because the district court did not rule on evidentiary objections. *See id.; Citizens Sav. Bank*, 315 N.W.2d at 24.

C. Bitcoin Depot Is Entitled To Return Of The Seized Funds.

Iowa Code Section 809.5(1) provides:

> Seized property *shall* be returned to the owner if the property is no longer required as evidence or the property has been photographed and the photograph will be used as evidence in lieu of the property, if the property is no longer required for use in an investigation, if the owner's possession is not prohibited by law, and if a forfeiture claim has not been filed on behalf of the state.

Id. (emphasis added). The statute further provides that upon the filing of a claim and a hearing, "property which has been seized *shall* be returned to the person who demonstrates a right to possession" unless the possession of the property by the claimant is prohibited by law, the state has requested forfeiture, or the state has

demonstrated that the evidence is needed for a criminal investigation or prosecution. *Id.* § 809.5(2) (emphasis added).

Here, the district court did not find that any of the exceptions in Section 809.5(2) were met. The State conceded that physical possession of the funds seized from Bitcoin Depot was no longer necessary to the investigation or any potential prosecution. D0019 at 1–2. The State did not seek forfeiture of the funds. D0019 at 1. Bitcoin Depot's possession of cash is not prohibited by law.[9] The district court instead determined that Carlson "has a superior right" to the funds seized from Bitcoin Depot on the basis of Carlson's assertion of the duress defense to contract enforcement. D0022 at 7.

The district court did not therefore disagree with Bitcoin Depot that when Carlson accepted Bitcoin Depot's terms of service and purchased bitcoin from

[9] Carlson argued in her post-hearing briefing that Bitcoin Depot's possession of the funds provided by Carlson was prohibited by law because a third-party—not Bitcoin Depot—committed theft against Carlson. D0020 at 5–6. This argument, which the district court did not reach, reveals a misunderstanding of Iowa Code Section 809.5(2)(a)'s reference to possession of property being "prohibited by law." This section relates to a claimant's possession of *contraband*—contraband being the sort of property that law enforcement is likely to seize as evidence of a crime. *See In re Prop. Seized for Forfeiture from Clark*, 2014 WL 2601503, at *1 ("[Section 809.5(2)(a)] is partially premised on the theory an individual can have no legal right to contraband."). The funds tendered by Carlson to Bitcoin Depot were not contraband, and Bitcoin Depot's possession of those funds was never illegal. *See In re: $12,700.00 in United States Currency*, 2024 WL 3583898, at *4 ("While the currency could be seized pursuant to [North Carolina law] because it was evidence of a crime, the Currency was neither stolen, embezzled, unlawfully possessed by Bitcoin Depot nor was it contraband.").

Bitcoin Depot's kiosk, Carlson and Bitcoin Depot entered into an agreement whereby Carlson would exchange funds for Bitcoin provided by Bitcoin Depot. *See* D0022 at 5–6. The district court instead found that this contract was voidable by Carlson on grounds of duress pursuant to Restatement (Second) of Contracts Section 175(2). D0022 at 6–7.

As explained above, however, the district court erred in finding that the requirements of the affirmative defense had been met. In the absence of application of this affirmative defense to contract enforcement, Bitcoin Depot is entitled to the cash that Carlson inserted into its kiosk in exchange for 0.22960970 bitcoin, just as Carlson's bank was entitled to debit Carlson's account in exchange for the $14,100.00 in cash that Carlson withdrew from her account. *See In re: $12,700.00 in United States Currency*, 2024 WL 3583898, at *4 ("At the time the Victim purchased the Cryptocurrency, the Victim ceased to be the owner of the Currency and gained ownership of the Cryptocurrency."); *see also United States v. Chavez*, 29 F.4th 1223, 1230 (10th Cir. 2022) ("[W]e agree with the Seventh Circuit that money in an ATM is 'obviously' bank money."); *Schertzer v. Bank of Am., N.A.*, 445 F. Supp. 3d 1058, 1093 (S.D. Cal. 2020) (holding ATM operators were not liable for conversion where "[a]ny money became the literal property of [the ATM operator] upon deposit"); *United States v. Smith*, 670 F. Supp. 2d 1316, 1321 (M.D. Fla. 2009) ("[M]oney placed in the ATMs was the banks' property until lawfully withdrawn.").

Accordingly, the district court's ruling should be reversed and the district court should be directed to order the return of Bitcoin Depot's funds to it.

CONCLUSION

For the foregoing reasons, Claimant-Appellant respectfully requests that the Court reverse the decision of the district court and order the district court to issue a ruling granting Claimant-Appellant Bitcoin Depot Operating, LLC's Application for Return of Seized Property and denying Appellee's Application for Return of Seized Property.

REQUEST FOR ORAL ARGUMENT

Bitcoin Depot requests oral argument in connection with this appeal.

/s/ *Matthew A. McGuire*
Matthew A. McGuire, AT0011932
Kevin Collins, AT0001671
Roy Leaf, AT0014486
NYEMASTER GOODE, P.C.
700 Walnut Street, Suite 1300
Des Moines, Iowa 50309
Telephone: (515) 283-3100
Fax: (515) 283-8045
Email: mmcguire@nyemaster.com
KHCollins@nyemaster.com
rleaf@nyemaster.com

ATTORNEYS FOR APPELLANT

CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) because:

[X] this brief has been prepared in a proportionally spaced typeface Times New Roman font 14 point and contains 9,052 words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(i)(1).

/s/ *Matthew A. McGuire*

CERTIFICATE OF FILING AND SERVICE

On the fourteenth day of August 2024, the undersigned served the within Amended Appellant's Brief on all parties to this appeal by e-filing it on the State of Iowa's Electronic Data Management System. I further certify that on the fourteenth day of August 2024, I filed this document with the Clerk of the Supreme Court, Iowa Judicial Branch Building, 1111 E. Court Avenue, Des Moines, Iowa 50319, by e-filing it in the State of Iowa's Electronic Data Management System.

/s/ Matthew A. McGuire