



# CRYPTOCURRENCY AND INSURANCE

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# PIRACY AND RANSOM - THEN



# PIRACY AND RANSOM - NOW





# RANSOMWARE ATTACK

**Your personal files are encrypted**

**You have 5 days to submit the payment!!!**

**To retrieve the Private key you need to pay**

# RANSOMWARE

# MAINSTREAM USE





# MAINSTREAM USE





**Vanguard®**



# INSURING MONEY AND SECURITIES





# CRYPTOCURRENCY



# HOMEOWNERS' (OR RENTERS') POLICY



Security - SEC



Property – IRS  
Notice 2014-21



Money



Something else?



Does it have to be  
treated the same in  
all contexts?

Dwelling

```
graph TD; A[Dwelling] --> B[Other Structures]; B --> C[Personal Property  
Is it some kind of property?];
```

Other Structures

Personal Property  
Is it some kind of  
property?

# HOMEOWNERS' POLICY

## WHY DOES THE TYPE OF PROPERTY MATTER?

Personal Property - \$200 sublimit for “money, bank notes, bullion, gold and [other precious metals], coins, medals, scrip, stored value cards and smart cards.”

\$1,500 sublimit for “securities, accounts, deeds, letters, of credit, notes other than bank notes, . . . tickets and stamps.”

Personal property is insured for “direct physical loss to the property described” such loss from vandalism or theft. A policyholder would have a difficult time explaining how the plain meaning of “direct physical loss” is met.



# DOES THE TYPE OF CRYPTO MATTER?

Bitcoin – analogy to money may be most appropriate.

Designed to be an alternative to traditional  
currency

Ethereum - created for a different purpose  
from Bitcoin.

Original purpose was to provide a platform  
where one can build out new applications

For an explanation of the different types of  
cryptocurrencies, see  
<https://www.bitdegree.org/tutorials/types-of-cryptocurrency/>

# ONE JUDGE HAS CONSIDERED

*Kimmelman v. Wayne Insurance Group* - Ohio trial court

Cryptocurrency was generic property, not money

Policy's \$200 sublimit did not apply

No fulsome analysis of the issues, which limits its usefulness

For example, should sublimits for electronic funds or securities apply?

1999 policy language, i.e. years before cryptocurrencies were invented

Court relied heavily on the IRS guidance, which states that cryptocurrencies are treated a property "for income tax purposes." Should that influence contract interpretation?

The court was also persuaded that Bitcoin was general property, not money, because it could be exchanged for money, *i.e.* it is a convertible virtual currency.

Doesn't explain that various forms of currency are converted to other kinds of currency all the time, *e.g.* Euros are converted into dollars.

Indeed, Bitcoin was originally conceived as a currency "akin to cash" by Satoshi Nakamoto in his whitepaper

Wall Street Journal reports Bitcoin value under "Currencies" with the Euro, U.S. Dollar, the Japanese Yen, etc., not under Stocks, Bonds or Commodities.

No one would argue that the Yen is not money but is property that can be converted into U.S. Dollars.



# ONE ANSWER

Individuals should not rely on their homeowners' policy



Commercial entities, in contrast, can buy crime policies or cyber insurance policies, which are largely unavailable to private individuals



Owners might consider, therefore, having a commercial third party hold the virtual token or coin in its digital wallet for the individual

# DO WE WANT COURTS DECIDING THIS?

Fact dependent

Type of currency dependent

Time-consuming, costly

Policies should address – define, exclude, sublimit

Regulators or Legislators should define for insurance and other purposes

Consider moral hazard



# THANK YOU

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