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THE OFFICIAL NEWSLETTER OF THE LAW FIRM OF DAVISON EASTMAN MUNOZ PAONE, P.A.

IN THE NEWS

- 2023 Marks Firm's 35th Anniversary
- Firm selected "Best Business Lawyers in Edison, NJ"*
- Business & Litigation Group help executive with unpaid wages, secure share in company
- *Avoiding Avoidance* – a business bankruptcy article by Michael Connolly, Esq.
- *Secured Interests* – a cryptocurrency article by Matt Blaine, Esq.
- Tim Moriarty, Esq. among "The Top 100 National Trial Lawyers"*
- Brian Chabarek, Esq. joins Monmouth Bar Employment & Labor Committee

AROUND THE FIRM

- Elder Law Attorney Christopher Olszak Talks "Wills, Trusts and Estates"
- Alan Poliner, Esq. Appears Before Supreme Court of NJ
- Attorney Blake Laurence Joins "Caregiver Relief" Panel
- UNITED WAY: DEMP Donates Winter Coats to Area Children
- Christina Hardman-O'Neal, Esq. Talks "Special Needs Law" in Newark, NJ
- Attorney Dennis Galvin Joins Expert Panel during annual League of Municipalities event

DAVISON EASTMAN MUNOZ PAONE, P.A. CELEBRATES 35 YEARS IN 2023



The firm was first headquartered in downtown Freehold. As we grew and prospered, in 1997, the firm relocated to its current offices in the Monmouth Executive Center on Willow Brook Road, Freehold, and opened its Hooper Avenue, Toms River office in 2017.

Throughout its 35 years, the firm has not deviated from its mission to provide creative, coordinated, comprehensive and complete services.

We stand for, "People. Property. Progress." Without our people (and our clients), we would not have earned the stellar reputation we have in the legal community. We believe it is our commitment to combining wisdom and energy to create a diverse team with in-depth knowledge that sets us apart.

Many things have changed since 1988, however, one will always remain constant: Davison Eastman Muñoz Paone, P.A. is a full-service law firm dedicated to preventing problems, creating resolutions and achieving goals.

Thank you, clients, partners, employees, mentors, families and friends, for the privilege of serving you for 35 years (*and counting!*).

FIRM RECOGNIZED AS "BEST BUSINESS LAWYERS IN EDISON, NEW JERSEY 2023*" BY EXPERTISE.COM



Davison Eastman Muñoz Paone P.A. was recently selected by Expertise.com as the "Best Business Lawyers in Edison (NJ) 2023*," a NJ business and commercial hub of New York City.

Expertise.com "finds and reviews the top service professionals in over 200 industries across the U.S. Each month, [they] research more than 60,000 businesses to help customers find the best-qualified professional for their needs."

** For more information, visit [expertise.com/our-selection-process](https://www.expertise.com/our-selection-process)

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FIRM ATTORNEY TIMOTHY MORIARTY RANKED AMONG “TOP 100 TRIAL LAWYERS”



Timothy C. Moriarty, Esq.



Timothy J. Moriarty, Esq. has been included in The National Trial Lawyers Top 100*.

The group is “an invitation-only organization composed of the premier trial lawyers from each state or region who meet stringent qualifications as trial lawyers.”

Mr. Moriarty stated, “We do our best for our clients and they are happy with the results we achieve together. I sincerely appreciate this individual recognition.”

**FIRM PARTNER BRIAN CHABAREK, ESQ. JOINS MONMOUTH BAR ASSOCIATION
“LABOR AND EMPLOYMENT LAW” COMMITTEE**

Founded in 1908, the Monmouth Bar Association (MBA) is comprised of over 1,300 members and exists to “promote the administration of justice and uniformity of legislation and judicial decision throughout the County of Monmouth and the State of New Jersey.”

Firm partner Brian Chabarek, Esq. joined the MBA Labor and Employment Law Committee to address matters of interest in the field of labor and employment law with other members of the MBA and to stay abreast of recent developments and the law with colleagues who practice in this area.



Brian J. Chabarek, Esq.

FIRM SECURES UNPAID WAGES AND INTEREST IN COMPANY FOR MONMOUTH AREA EXECUTIVE

The business law group of Davison Eastman Muñoz Paone, P.A. recently represented an area executive who separated from a financial services company. More specifically, our client was an employee seeking unpaid wages and, after a period of employment time, was granted a share of business ownership never issued.

His employment agreement included a non-compete agreement yet did not include an arbitration clause. The operating agreement granting him interest in the company.

The firm advised our client not to pursue arbitration. Litigation ensued wherein the employer sought to compel arbitration under the agreements. Leveraging New Jersey common law, the New Jersey Wage Payment Act, and the New Jersey Arbitration Act, the firm defeated the employer’s motion to pursue the lawsuit under the arbitration clause. In her comments and motion to dismiss, Monmouth County Superior Court Judge Linda Grasso Jones, J.S.C. wrote, “It would cause delay, waste and unnecessary resources to have two separate proceedings.”



*James A.
Paone, II, Esq.*



*James M.
McGovern, Esq.*



*Matthew K.
Blaine, Esq.*



*Brian J.
Chabarek, Esq.*



*Michael J.
Connolly, Esq.*



*Timothy C.
Moriarty, Esq.*



*Zachary J.
Styczynski, Esq.*

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SECURED INTERESTS – CAN BLOCKCHAIN & CRYPTO ACTUALLY FIX THIS?

An article by Matthew K. Blaine, Esq.

Acknowledgement to Carla L. Reyes, “Creating Cryptolaw for the Uniform Commercial Code”, 78 WASH & LEE. L. REV. 1521 (2022), available at <https://scholarlycommons.law.wlu.edu/wlulr/vol78/iss4/7>.

Although the term “crypto” is often loaded and, for many, brings to mind scams and insolvencies like FTX and Alameda, 3AC, Celsius, Voyager, and BlockFi, the technologies are poised to revolutionize how modern society organizes and functions, including our traditional legal and business systems for how we interact with one another, from how we organize assets and capital to the settlement of transactions to the automated management of escrow services.

Crypto done right actually fixes this. It can help to avoid problems like insider perks and rehypothecation that primarily caused the demise of the centralized ‘bad actors’ referenced above.

Blockchain networks are distributed databases known as distributed-ledger technology (DLT). They are open, transparent, and allow anyone with the know-how and proper digital tools and assets to record transactions as well as search, review and confirm the ledger of transactions that already happened. The transactions are recorded by consensus mechanisms on the digital ledger through smart contracts, which are software on a blockchain network coded to ensure “if X event happens, then Y consequence is the result.”

The Uniform Commercial Code (UCC) is a joint project of the Uniform Law Commission and the American Law Institute. It is a comprehensive set of laws governing all commercial transactions in the United States that was approved in 1951 and enacted by each state over the following years.



Matthew K. Blaine, Esq.

Article 9 of the UCC involves secured interests in personal property. Secured interests are granted by security agreements (contracts) between lenders and borrowers that create a pledged interest in specific personal property of the borrower to serve as collateral for the lender, similar to how mortgages create a pledged collateral interest in real estate. Notice of a secured interest is given to interested parties usually by filing a UCC-1 financing statement in private databases at the state and/or county level, many of which are already maintained electronically but don’t communicate with one another. When used properly, security agreements and financing statements that are properly recorded and maintained in these databases give lenders the means to recoup some or all of their losses when a borrower defaults on a loan by allowing the lender to seize and liquidate the borrower’s personal property.



Unfortunately, our current UCC-1 filing and maintenance systems aren’t very user friendly. They’re confusing, siloed, and don’t do a great job of providing interested parties with actual notice of secured interests. They also pose significant risk of loss if (and when) mistakes are made.

The case of *In re Motors Liquidation Co.*, 777 F.3d 100 (2d Cir. 2015), serves as a cautionary tale. There, JPMorgan Chase, together with a syndicate of other lenders, lent \$300 million to General Motors. To ensure repayment, the lenders entered into a security agreement with GM and filed UCC-1 financing statements that gave the lenders a secured interest in GM’s personal property to serve as collateral for the loan.

Seven years later, when GM was ready to repay the loan, a group of the lawyers for JPMorgan, the lenders, and GM prepared, cross-checked, and filed UCC-3 terminations that extinguished the UCC-1s. Unfortunately, they prepared one UCC-3 too many and accidentally extinguished a UCC-1 that secured a separate \$1.5 billion loan to GM. When GM filed bankruptcy a year after the incorrect UCC-3 termination was filed, the lenders lost access to...

(CONTINUED ON PAGE 4)

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(CONTINUED FROM PAGE 3) ... GM's personal property that was supposed to serve as secured collateral for the \$1.5 billion loan. This avoidable mishap caused the lenders to lose about \$1 billion in GM's bankruptcy.



Many similar mistakes in maintaining the information in our difficult-to-manage and multi-layered private electronic database recording systems have generated substantial losses.

As explained by Professor Reyes in her above-cited article, blending a smart-contract based UCC-1 financing statement with applicable law, blockchain, and digital assets can make the recording system much more transparent, efficient, and easy to use.

By properly combining DLTs with smart contracts for escrow and UCC-1 financing statements, lenders become capable of using our already-existing legal systems to ensure that a digital asset is properly escrowed as collateral. The verifiable transaction of the UCC-1 recorded on a blockchain serves as notice to interested parties of the secured interest of the lender in the digital asset.

This innovative approach requires two things: (1) the use of proper DLT and smart contract tools, and (2) the adoption of new laws. The good news is these technological tools are available and literally at our fingertips. In addition, the UCC's new Article 12 was approved last year and has already been adopted by 4 states: Iowa, Indiana, Nebraska, and New Hampshire. It provides updated rules for commercial transactions involving digital assets, DLTs, artificial intelligence, and other technological developments while introducing a new term of art called "Controllable Electronic Records" (CERs).

Some have observed the volatile nature of crypto over the last 14 years and have written off its benefits. However, as with any new tool, the good must be separated from the bad. There are numerous benefits for "crypto done right" hiding in plain sight. This is but one example among many.

AVOIDING AVOIDANCE: What to Do When A Bankrupt Company Demands Return of Monies Previously Paid To You

An Article by Michael J. Connolly, Esq.

Business owners may receive a letter from a law firm claiming to represent their bankrupt client, or the client's "bankruptcy trustee" or "liquidation agent." The letter will claim that certain payments the business owner received from the client long ago constitute "preferential payments."

The letter may go on to demand the business owner must return the money to the law firm sending the letter or the business owner will be sued. Ironically, the client may still owe substantial monies to the business owner. The business owner may already be aware that because of the client's bankruptcy, he or she can no longer sue the client itself for monies due.



Michael J. Connolly, Esq.

The business owner expects to receive little more than pennies on the dollar through the bankruptcy process. Nevertheless, the owner now faces a lawsuit. How can this be?



One of the goals of the United States Bankruptcy Code is to prevent a debtor from "preferring" some creditors over others right before filing for bankruptcy. Thus, the Bankruptcy Code empowers a Bankruptcy Court to order the return of certain payments made by a debtor to creditors shortly before the debtor's bankruptcy. Such payments are called "preferential transfers." The person making the demand must prove several things to show that the payment is a preference.

First, the debtor needs to make the payment within a certain time. Typically, the "preference period" is the ninety (90) days before the bankruptcy filing date.

TO FINISH MICHAEL CONNOLLY'S "AVOIDING AVOIDANCE" ARTICLE, PLEASE VISIT [RESPONDLAW.COM/BLOG](https://www.respondlaw.com/blog)

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CERTIFIED ELDER LAW ATTORNEY CHRISTOPHER OLSZAK PRESENTS TO AUDIENCE OF 100+ AT RENAISSANCE @ MANCHESTER, NJ "AGE 55+ COMMUNITY"

This past November, Christopher D. Olszak, Esq., delivered a 60-min interactive "Wills, Trusts and Estate Planning" presentation to over 100 residents of Renaissance @ Manchester.

Being one of the select Elder Law Attorneys in New Jersey and certified by the ABA Approved National Elder Law Foundation, Chris Olszak advised, "Often times the best thing to do is for us to take a few minutes and discuss your goals and create an estate plan to protect you, your assets and your family and loved ones."



Christopher D. Olszak, Esq.

If you, a friend, or a loved one need assistance protecting your assets or updating personal before and after death plans, contact us today.

PARTNER DENNIS GALVIN, ESQ. JOINS EXPERT PANEL AT LEAGUE OF MUNICIPALITIES 2022



(3rd from Left): Dennis M. Galvin, Esq., joins the Cox Symposium expert panel

The annual 2022 New Jersey State League of Municipalities in Atlantic City, NJ included a Thursday morning Land Use ~ Cox Symposium expert panel moderated by the Honorable Judge Lynch-Ford.

Joining the panel was municipal law, real estate, land use and zoning firm partner Dennis Galvin, Esq.



Dennis M. Galvin, Esq.

Mr. Galvin said, "Joining a panel of this caliber of land use experts was an honor and my privilege. Helping ensure preservation of our lands and proper use thereof has been a passion of mine for decades. I thank the League of Municipalities for the opportunity."

FIRM ATTORNEY BLAKE LAURENCE JOINS 7th ANNUAL 'CAREGIVER RELIEF SESSION' EXPERT PANEL PRESENTED BY MIDDLESEX COUNTY, NJ DEPARTMENT OF COMMUNITY SERVICES



2nd from left, Attorney Blake Laurence joins annual Middlesex County, NJ "Caregiver Relief" Expert Panel

By way of Middlesex County, NJ, firm attorney Blake Laurence, Esq. joined a distinguished panel to include Rutgers NJ Medical School geriatrician, Dr. Katherine Fung, MD, and certified nurse counselor, Kathleen Ostertag, MA, LPC.

The audience of nurses and caregivers from throughout central New Jersey gathered at Pines Manor, Edison, NJ as Blake and his panel peers fielded questions including:

- "What's Power of Attorney?"
- "My patient is having trouble making their own decisions... what should I do?"
- "What is a Trust? Do my patients need one?"

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ATTORNEY ALAN POLINER APPEARS BEFORE THE SUPREME COURT OF NEW JERSEY

In September 2022, attorney Alan Poliner appeared before the Supreme Court New Jersey to argue as Amicus Curiae (friend of the Court). Mr. Poliner argued on behalf of the New Jersey Land Title Association (NJLTA).

The case involved the Tax Sale Foreclosure Law and a disagreement between Tax Sale Certificate Investors and Tax Sale Redemption Investors.

The Supreme Court issued its favorable decision in November 2022, consistent with the position firm attorney Mr. Poliner presented on behalf of NJLTA.



Alan L. Poliner, Esq. (center) appears before the Supreme Court of New Jersey, Trenton, NJ

ATTORNEY CHRISTINA HARDMAN-O'NEAL LEADS INFORMATIONAL "SPECIAL NEEDS MEET & GREET" IN NEWARK, NJ



Attorney Christina Hardman-O'Neal visits with parents, guardians and leaders of Newark, NJ Office of Special Education

By way of the Newark, NJ Office of Special Education, the firm's Christina Hardman-O'Neal, Esq. visited with parents and friends of special needs students enrolled in Newark NJ Public Schools.

Christina and the firm are well-versed in special needs public and private law and services including:

- Guardianships
- Special Needs Planning
- Wills, Trusts and Estates

If you know someone that has a person with special needs in their life, we encourage you to have them contact us. We help ensure loved ones are safe, protected, and secure.

FIRM PARTICIPATES IN ANNUAL "WARMEST WISHES COAT DRIVE (FOR KIDS) 2022"



United Way of Monmouth and Ocean Counties

This holiday season, the firm rallied and collected over \$350 and more than a dozen brand new winter jackets for United Way of Monmouth and Ocean Counties to distribute to area children that could use some warmth this year.

To get involved in future programs, visit UWMOC.org.



MEMBERS OF THE FIRM: Back Row, L to R: Dennis Galvin, Esq.; James A. Paone, II, Esq.; Duane O. Davison, Esq.; Edward C. Eastman, Esq.; Front Row, L to R: Karen Surgent, Louise Haas, Sherry Stasio, Karen Lowe.

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