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2025 SUMMER NEWSLETTER

Otis & Bedingfield, LLC Volunteering at Larimer Food Bank

Volunteering is at the heart of so many organizations in Northern Colorado. One such organization that relies heavily on volunteers is the Larimer Food Bank. On June 6th, Otis & Bedingfield, LLC staff sprang into action to offer their support toward the mission of community service and the belief that no one should go hungry. We are proud of our team's contribution in making a meaningful impact in the lives of our neighbors.

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Otis & Bedingfield LLC

Providing a range of legal services throughout Northern Colorado

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Otis & Bedingfield, LLC is a Better Business Bureau Accredited Business

The Challenges of Collecting a Judgment: Understanding the Process and Roadblocks

By: Lee J. Morehead, Esq.
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Prevailing in a lawsuit and obtaining a judgment in your favor is often seen as the end of a legal battle, but it's far from the end of the process. One of the most difficult aspects of the legal process comes after the judgment is awarded: Collection.

Collecting a judgment can be a prolonged and expensive process. Once a judgment is issued, the prevailing party must typically initiate further legal actions to enforce it, such as garnishing wages, placing liens on property, or levying bank accounts. These actions can take months or even years to complete. In some cases, the legal costs associated with these efforts can outweigh the amount of money the creditor is trying to collect, especially if the debtor is uncooperative or difficult to find. Furthermore, the process often involves repeated court filings, hearings, and sometimes the need to hire specialized professionals.

The debtor's financial situation can prove to be particularly challenging, as the person or entity that owes you money may not have sufficient assets or income to satisfy the judgment. In some cases, debtors may have no assets at all, or their assets may be shielded by legal exemptions. For example, some states protect a debtor's primary residence or retirement funds from being seized in the collection process, resulting in a court ruling that may be of less value than the actual judgment.

Even if a debtor has assets, they may be difficult to locate or identify. Frequently, debtors are known to move, change jobs, or transfer assets to third parties to avoid paying their debts. Tracking down the assets can be a lengthy process, often requiring the use of private investigators, asset searches, and complex legal procedures that may not always yield positive results. If assets are located, the legal fees and cost of services involved in locating and seizing them can exceed the judgment itself.

While winning a judgment in court is a significant victory, it does not guarantee that the creditor will receive the money or assets owed to them. Creditors should be prepared for what could be a potentially long and costly journey before the judgment is satisfied. In many cases, engaging an experienced attorney or professional debt collector may be essential to successfully navigating the judgment collection process.

Otis & Bedingfield, LLC is pleased to announce that effective July 1, 2025, Partner Stacey L. Shea, Esq. is now serving as an At-Large Director on the Weld County Bar Association's Board of Directors.

We are proud of Stacey's service to our Northern Colorado community's legal needs and her continuing commitment to upholding the highest ethical standards.

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What Is The Generation-Skipping Transfer Tax?

By: Corey W. Moore Esq.
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When planning for tax implication upon death, most client questions revolve around the Federal Estate and Gift Tax and the corresponding exemption ($13,990,000 for 2025).

However, there is potentially another tax that wealthier individuals need to take into consideration when planning their estates, the Generation-Skipping Transfer (GST) Tax. The GST tax applies to transfers of wealth to beneficiaries who are more than one generation below the transferor, such as grandchildren or great-grandchildren. It is designed to prevent wealthy individuals from bypassing estate taxes by passing assets directly to younger generations, thereby "skipping" the intermediate generation—typically their children.

Introduced as part of the Tax Reform Act of 1976, the GST tax ensures that transfers made to skip generations are taxed. The GST tax currently aligns with the Federal Estate and Gift Tax both in permitted exemptions ($13,990,000) and tax rate (40%). The tax applies to both direct transfers, such as gifts or bequests, and indirect transfers, like those made through trusts.

For high-net-worth individuals who desire to minimize the GST tax impact, it is important to use effective strategies like trusts to allocate the GST exemption effectively. The most common strategy is to create a "generation-skipping trust," which allows assets to pass from one generation to another without triggering taxes, while still benefiting the skipped generation. For example, an individual can create a trust for the benefit of his or her children which does not terminate at any point during the beneficiary's life and continues for the benefit of the grandchildren. If the GST exemption is allocated to the trust appropriately, the GST tax implications may be lowered or eliminated altogether, thus transferring a significant benefit to the client's grandchildren.

Overall, the GST tax is an essential consideration for high-net-worth individuals looking to transfer assets across generations. Careful planning can help minimize or avoid this tax, ensuring that wealth is passed down as intended.

Otis & Bedingfield, LLC

The attorneys at O&B are recognized leaders in real estate law and business law. We advocate for individuals, businesses, and families in the Northern Colorado region.

Our clients are landowners, business owners, business professionals, businesses of all sizes, and individual families in need of guidance or representation in court proceedings involving commercial real estate.

For more information about our lawyers or practice areas, please visit our website at www.nocoattorneys.com or contact us at (970) 330-6700 OR (970) 663-7300

Our offices will be closed on Labor Day, Monday, September 1st

Liability in the Digital Age: Why An Old-Fashioned Phone Call Still Matters

By: Lia Szasz Esq.
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In today's business world, email is a primary means of communication, especially for sending invoices and confirming payments. But this convenience has created a dangerous vulnerability: email-based wire fraud. In a world where hackers exploit even brief lapses in diligence, courts are signaling that email alone isn't enough. The Imposter Rule serves as a warning: the cost of not picking up the phone may be far higher than you think.

Increasingly, fraudsters are hacking into a company's email system, impersonating an employee, and sending fake wire instructions that reroute payments to foreign bank accounts. The real estate and construction industries, where payments are often frequent, large, and time-sensitive, are common targets.

When fraud occurs, and the money disappears overseas, both parties are victims. Yet the debt remains unpaid. Who bears the loss? The law provides a framework for answering this question—but not a simple one. A growing number of courts are turning to an old common law doctrine known as the Imposter Rule to determine liability in modern cyberfraud cases.

The Imposter Rule asks which party was in the best position to detect and prevent the fraud. If that party failed to exercise reasonable care, courts may hold them responsible for the lost funds — even if they, too, were duped.

In essence, it's a negligence-based standard focused on risk allocation and fault.

Applying the rule is a fact-intensive inquiry. Courts consider whether the wire instructions matched prior ones used in the relationship, whether the receiving account was in the name of a third party or located in a foreign country, and whether any red flags were missed. But one question now dominates the analysis: Did the payor confirm the new wire instructions by phone?

Courts across jurisdictions increasingly find that a failure to make a verification call constitutes negligence. Even if the fake email appears legitimate, courts are imposing liability on the party who wired funds without verbal confirmation. A single phone call, it seems, can make all the difference. When the Imposter Rule applies, the payor may find themselves paying twice: once to the fraudster, and again to the rightful recipient of the funds.

To avoid becoming the next headline, businesses should implement simple but critical safeguards. Never rely solely on email to confirm payment instructions, especially when wiring funds to a new account. Always verify changes using a phone number known to be correct, not one listed in the email. Train employees to recognize suspicious email behavior, such as unusual language, time-of-day sends, or new domains. Ensure cybersecurity protocols are strong, including two-factor authentication and phishing detection software.

Contractual risk-shifting can also help. Consider including provisions in your agreements that allocate liability for wire fraud or require specific verification procedures. These clauses can establish clarity and potentially shift the burden of loss, potentially overcoming the Imposter Rule's sometimes harsh result to payors.

"Without labor, nothing prospers."
- Sophocles