

# OTIS & BEDINGFIELD, LLC

ATTORNEYS AT LAW

2019 FALL NEWSLETTER



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## Quiet Title Actions—What Are They? When To Use Them?



By: James Godbold, Esq.

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Quieting title is a legal procedure to establish someone's right to ownership of real property against one or more adverse parties. An adverse party is one who claims an ownership interest in, or interferes with enjoyment of the property, decreases the value of the property, or renders the title uninsurable. Each time real property moves from one owner to another, a new link is created in the "chain

of title." If there is a broken link in the chain, or a link with problems, a quiet title suit may be necessary to resolve this break. In effect, a quiet title action is a form of declaratory judgment in which the Court is declaring the rights of the parties to the property in question. The dispute can be over full ownership of the property, or a claim of partial ownership (such as a claim for ownership of minerals on the property, an easement over the property, or a lien in an amount that does not exceed the value of the property).

Quiet title actions are frequently used in several situations. They can be used to resolve boundary disputes, where adjoining property owners disagree about the proper location of the boundary for their properties. They can be used to resolve conflicting

surveys between adjacent properties. They can also be used to resolve questions over whether there is an easement or right-of-way over a piece of property. In Northern Colorado, quiet title actions are also commonly used to resolve disputes over ownership of minerals and oil & gas rights. Where there is a dispute, lack of certainty, or conflict over ownership of oil & gas, quiet title actions are frequently necessary to resolve this issue.

If you need assistance in handling a title dispute, boundary dispute, or issues over ownership of oil & gas, an attorney with experience in quiet title actions can provide legal guidance to protect your best interests and preserve your ownership in property.

*Providing a range of legal services throughout Northern Colorado*

## It Might Be Time to Amend Your Operating Agreement



**By: Stacey Shea, Esq.**

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While you are not required to have an LLC or Partnership Operating Agreement, your attorney will recommend that you do. The Operating Agreement (“OA”) is the controlling document for the operations of your company. But it is not enough just to have one. Ensuring your OA is up to date and

accurately reflects your company structure is vital.

There are several reasons to review and consider updating your OA. If there have been any changes in membership structure, distribution of profits and losses, or management processes, it is time to ensure that your OA accurately reflects how your company is operating.

Additionally, if the company is taxed as a partnership you will need to update your OA in response to changes in tax law. Prior tax code called for the designation of a Tax Matters Partner to be the primary point of contact with the IRS for audit related correspondence. The Tax Matters Partner designation has been replaced with the Partnership Representative under IRC §6223(a) for the convenience of the IRS, not the taxpayers.

The new Partnership Representative (“PR”) is granted

broad authority to bind the company and its members on dealings with the IRS. The new PR also no longer has the duty of notice to members that the Tax Matters Partner did. Additionally, the IRS has the authority to assign a PR on the Company’s behalf if it fails to do so. While everyone hopes to never be subject to audit, waiting until you receive IRS notice of just that is not the time to think about your PR. It is best to update your OA now to identify your PR, detail their duties and obligations to the company, and make it clear what authority they have to act on behalf of the company.

An annual Review of your OA to ensure your company is complying with its own rules and procedures, as well as current law, is just good practice. However, with ever changing law and policy, it is more important now than ever.



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Building on the over 100 years of combined experience of partners Fred Otis, Jeff Bedingfield, John Kolanz, Tim Brynteson and Lia Szasz, along with attorneys Corey Moore, James Godbold, Stacey Shea, Don Hoff and Mike Stewart and our long-time staff, the firm is committed to serve the real estate, environmental, estate and business law needs of Greeley, Loveland, Fort Collins and the growing Northern Colorado region. Otis & Bedingfield, LLC provides real estate law, estate and succession planning, business law, environmental compliance and related services throughout Northern Colorado.



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## Otis and Bedingfield's Newest Members



**Stacey Shea** - Transaction Attorney

A Texas native, Stacey joined the Army Reserves in 2000. While in the Reserves, she attended Texas Tech University where she graduated Magna Cum Laude with a BA in Public Relations and minor in business. After serving two tours with the US Army in Afghanistan and Iraq (2003-2004 and 2006-2008), Stacey attended law school and she received her law degree from the University of Colorado, Boulder in 2011.

Stacey's practice at Otis & Bedingfield, LLC focuses on business and real estate transactions.



**Lia Szasz** - Equity Member

Lia has returned to the firm as an equity member. She obtained her undergraduate degree from Washington State University. After graduation, she continued her education and received her J.D. from the University of Colorado School of Law in 2015. While in law school, Lia was already honing her talents as a litigator and was awarded best overall combined brief and oral argument in the Colorado Appellate Advocacy Competition.

Lia's practice focuses on business and real estate litigation, trust and probate litigation, and agricultural law.



**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 or business issues.

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

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