



COHEN GARELICK &amp; GLAZIER

8888 Keystone Crossing Boulevard  
Suite 800  
Indianapolis, Indiana 46240  
Phone (317) 573-8888  
Fax (317) 574-3855

Return Service Requested

Visit the Cohen Garelick & Glazier website at [www.cgglawfirm.com](http://www.cgglawfirm.com) for a variety of articles and the latest law news wire!



Visit the Cohen Garelick & Glazier website at [www.cgglawfirm.com](http://www.cgglawfirm.com) for a variety of articles, the latest news wire and attorney updates. View the following articles featured only on our website:

**“Get It in Writing”** – a reminder how a binding contract may come in many forms, but most importantly it must be written!

**“Employers: Don’t Let Tips Trip You”** – essential information for business leaders in the service industry and how laws regarding tips vary from state to state.

**“Landowner Gets Settlement for ‘Taking’”** – a case study on eminent domain and optimizing land values.



## CGG Welcomes New Associate

Cohen Garelick & Glazier is proud to welcome M. Edward Krause III to the firm as an associate. He concentrates his practice in the areas of civil litigation, business litigation and personal injury.



COHEN GARELICK &amp; GLAZIER

Strong Experience. Sound Legal Advice.

## Vital Estate Tax Information for 2009

Congress approved a plan in 2001 to phase out the Federal estate tax over a ten year period. The Federal estate tax exemption for each person was increased to \$2 million for 2008, and has increased to \$3.5 million for 2009. The tax rate on assets (including life insurance) which exceed the exemption is a whopping 45%!

In 2010, the Federal estate tax is scheduled to be totally repealed. However, the estate tax repeal is scheduled to “sunset” or lapse, as if never enacted, on January 1, 2011. If Congress fails to act before the end of 2010, the exemption amount will drop to \$1 million, with graduated tax rates reaching 55%.

Most people expect Congress to do something before the end of 2010, so that the law does not go back to its pre-2001 state. Given the unsettled economic climate, it is unlikely that any new law which is enacted will make permanent the repeal of the Federal estate tax. Now that 2009 is upon us, it is important to stay current on what Congress is doing in this area - stay tuned to [www.cgglawfirm.com](http://www.cgglawfirm.com) for updated information as it becomes available.

Our educated guess is that the repeal of the estate tax will not become permanent, but that the tax will stay in effect with the exemption amount at \$1 million or higher. If you are married and have significant assets and life insurance, it is important to have estate planning documents which allow you to take advantage of the exemptions of both yourself and your spouse. With proper estate planning documents in place, under current law, a married couple could shelter up to \$7 million from the 45% Federal estate tax in 2009. If the exemption is set at a lower level, such as \$1 million, then a married couple will be able to shelter up to \$2 million from tax, but only if they have established an appropriate estate plan.

In light of the changing Federal estate tax laws, we recommend you meet with one of our estate planning attorneys for a review of your estate plan if:

- your estate planning documents are more than five years old
- your net worth and life insurance has changed significantly or
- your documents do not contain estate tax minimization provisions.

## Our Attorneys Named Best Lawyers

Congratulations to Michael P. Bishop and Jill E. Goldenberg on being named Best Lawyers in America® 2009. Selection to Best Lawyers is based on an exhaustive and rigorous peer-review survey comprising more than two million confidential evaluations by top attorneys in the nation. With the selection process in mind, achieving the status of Best Lawyer is considered a great honor for the few elite attorneys who receive the distinction.



## Leading and Guiding Indiana Businesses

Indiana's businesses and professional organizations often turn to Cohen Garelick & Glazier for business leadership and guidance. Most recently, the Indiana Veterinary Medical Association (IVMA) sought-out CGG attorneys Jeff Adams and Michael Bishop to lead education sessions on best business practices for the "IVMA Recent Grad Forum."

Jeff offered his celebrated "Estate Planning and Business Formation" presentation and tailored it to the needs of IVMA members. At the same time, Michael encouraged IVMA's members to be proactive when managing their practices through his "Risk Management and Employment Contracts" session.

"Veterinary medicine is an intense specialty," explains Michael. "Demand on the veterinarians' time as well as their personal

dedication to their patients often mean they need help with the day-to-day operations of a business."

Jeff echoes Michael and further explains their commitment to providing leadership to IVMA members and all Indiana companies, "Our goals for IVMA's members and for all our business clients are firm. We provide tools for their businesses right now. At the same time, we help them think long-term about their business, personal liability protection and financial planning."



Jeff Adams

## Steven Glazier Featured for Real Estate Insight

The real estate market always takes a lead in local and national media. Whether the news is good or bad, the housing and commercial real estate markets serve as barometers for the overall economy.

Co-managing partner Steven Glazier continues to be one of Indianapolis' leading resources for clients and news media on real estate matters. In addition to practicing law for over 28 years and concentrating his practice 100% on real estate, Steve is a licensed real estate broker.

Recently featured in an *Indiana Lawyer* article on the aftermath of Indiana's high foreclosure rate, Steve brought perspective for both home owners and lenders in an effort to avoid

foreclosures and/or maximize a home's worth. Citing examples from his practice, he emphasized that the current market means mortgage companies must commit to moving quickly in order to optimize real estate values.

"Home owners attempting to work with their lender to avoid foreclosure and sellers who receive offers on their homes cannot wait a month or six months for approval from their lender," emphasizes Steve. "Whether mortgage companies need to make internal policy changes or simply move faster, decisions need to be made in real world time."

As we move into 2009, Steve's stewardship in the central Indiana real estate community means reporters will continue to call for comments and insight. However, Steve's first priority continues to be guiding his clients, lenders and property owners alike through the current real estate market.



Steve Glazier

## Post-Nuptial Reconciliation Agreement on the Rise

What do you do when you are dedicated to saving your marriage? How can you protect yourself against a future divorce? One answer is a **post-nuptial** reconciliation agreement.

For years **pre-nuptial** agreements have provided a marrying couple a blueprint of how their property would be divided in the event of divorce. The "consideration" for the contract (a requirement of any agreement) was the promise to marry each other. Courts are required to enforce these agreements as written except in the case of fraud, duress or if they were unconscionable.

**Post-nuptial** agreements, however, were thought to be unenforceable because they lacked consideration, a necessary element of any agreement. However, with the passage of the Dissolution of Marriage Act, a post-nuptial agreement under certain limited circumstances became possible. The law allowed married persons to agree in writing for the disposition of their property, as well as other things, but only if the agreement was "attendant upon the dissolution of their marriage." There were two problems with this provision. First, in order to have a valid agreement there had to be a divorce case pending. Second, the agreement was subject to approval by the court. It was not unusual to craft an agreement that met a couple's needs only to have it amended or rejected by a judge.

In 1991 the Indiana Court of Appeals decided a case involving a couple who had filed for divorce and then in an attempt at reconciliation had agreed to and signed a post-nuptial agreement. The reconciliation was not successful and a divorce followed. The trial judge enforced the agreement as written and the wife appealed. The Court of Appeals did not apply the law under the Dissolution of Marriage Act, but instead approved a new type of agreement, a **reconciliation agreement**, and ruled that the law dealing with pre-nuptial agreements should apply. This went a long way in

assuring couples that their agreements would not be subject to judicial interpretations.

In 1998 the Indiana Supreme Court weighed in on the issue in the case of Pond v. Pond. Ultimately, the Court's decision in the Pond case generated confusion and ambiguity. Their decision straddled the fence between post-nuptial agreement rulings under the Dissolution of Marriage Act and post-nuptial agreements as binding contracts.

Finally, a 2006 decision of the Indiana Court of Appeals solidified the binding legality of the post-nuptial agreement. In the case of Beaman v. Beaman, the court held that such an agreement is binding and may be deemed void only if it was the result of fraud, duress or if it was manifestly inequitable.

The family law attorneys of Cohen Garelick & Glazier can work with you on the appropriateness of a post-nuptial agreement for your family. The agreement can deal with all aspects of a marriage and all issues essential to preserving your marriage.

It is heartening to know that for most families their agreements never go before the courts to be enforced. The post-nuptial reconciliation agreement is designed specifically to help to preserve a marriage; however, if a marriage does fail, a post-nuptial agreement can help you protect your assets in the divorce.

It is your peace of mind that makes these agreements priceless.

To read the unabridged version of this article go to [www.cgglawfirm.com](http://www.cgglawfirm.com)



COHEN GARELICK & GLAZIER