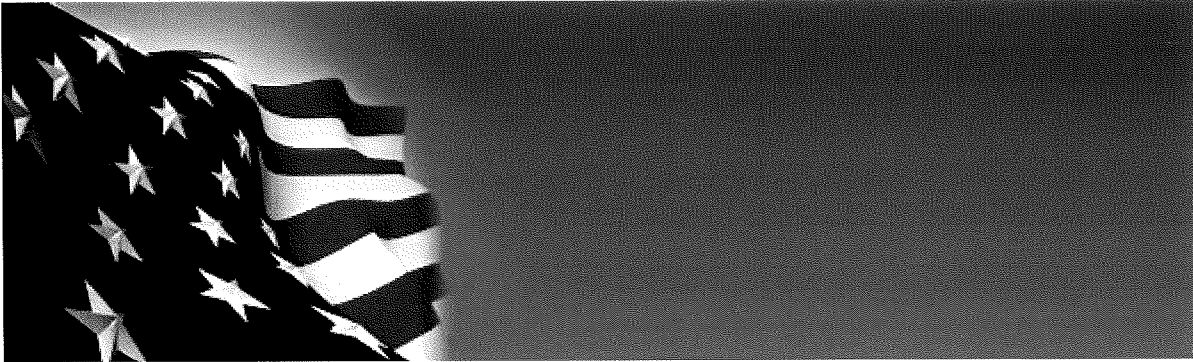


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# CYPEN & CYPEN NEWSLETTER for JANUARY 29, 2015

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

**1. ERISA GOVERNS PENSION AND WELFARE BENEFIT PLANS, INCLUDING THOSE ESTABLISHED BY COLLECTIVE BARGAINING AGREEMENTS:** When M&G Polymers USA, LLC purchased Point Pleasant Polyester Plant in 2000, it entered into a collective bargaining agreement and related pension, insurance, and service award agreement with the union. The agreements provided that certain retirees who receive a full company contribution toward cost of health care benefits; that such benefits would be provided for the duration of the agreement and that the agreements would be subject to renegotiation in three years. After the agreements expired, M&G announced that it would require retirees to contribute to the cost of their health care benefits. Retirees, in a class action, sued M&G, alleging that the agreements created a vested right to lifetime-contribution-free health care benefits. The District Court dismissed the complaint for failure to state a claim, but the Sixth Circuit reversed on the reasoning of its earlier decision in *Yard-Man, Inc.* On remand, the

District Court ruled in favor of the retirees, and the Sixth Circuit affirmed. On writ of certiorari, the United States Supreme Court vacated and remanded: the Sixth Circuit's decision rested on principles that are incompatible with ordinary principles of contract law. The Employee Retirement Income Security Act of 1974 governs pension and welfare benefits plans, including those established by collective bargaining agreements. ERISA establishes minimum funding and vesting standards for pension plans, but exempts welfare benefits plans -- which provide the types of benefits at issue in this case -- from those rules. Employers have large leeway to design welfare plans as they see fit. The Court interprets collective bargaining agreements, including those establishing ERISA plans, according to ordinary principles of contract law, at least when those principles are not inconsistent with federal labor policy. When a collective bargaining agreement is unambiguous, its meaning must be ascertained in accordance with its plainly expressed intent. In *Yard-Man*, the Sixth Circuit found a provision governing retiree insurance benefits ambiguous as to duration of those benefits; and, looking to other provisions of the agreement, purported to apply ordinary contract law to resolve the ambiguity. First, the court inferred from the existence of termination provisions for other benefits that the absence of a termination provision specifically addressing retiree benefits expressed an intent to vest those benefits for life. The court then purported to apply the rule that contracts should be interpreted to avoid illusory promises, reasoning that, absent vesting, the promise would be illusory for the subset of retirees who would not become eligible for those benefits before the contract expired. Finally, the court relied on the context of labor negotiations to resolve the ambiguity, inferring that the parties would have intended such benefits to vest for life because they are not mandatory subjects of collective bargaining, the instances applied in *Yard-Man* do not represent ordinary principles of contract law. *Yard-Man* distorts the attempt to ascertain intention of the parties by placing a thumb on the scale in favor of vested retiree benefits in all collective bargaining agreements. Rather than relying on known customs and usages in a particular industry as proven by the parties, the *Yard-Man* court relied on its own suppositions about the intentions of parties negotiating retiree benefits. It then compounded the error by applying those suppositions indiscriminately across industries. Further, the Sixth Circuit's refusal to apply general durational clauses to provisions governing retiree benefits distorts an agreement's text and

conflicts with the principle that a written agreement is presumed to encompass the whole agreement of the parties. The Sixth Circuit also misapplied the illusory promises doctrine. It construed provisions that admittedly benefited some class of retirees as illusory merely because they did not benefit all retirees. That interpretation is a contradiction in terms -- a promise that is partly illusory is by definition not illusory. And its use of this doctrine is particularly inappropriate in the context of collective bargaining agreements, which often include provisions inapplicable to some category of employees. The Sixth Circuit also failed even to consider other traditional contract principles, including the rule that courts should not construe ambiguous writings to create lifetime promises and the rule that contractual obligations will cease, in the ordinary course, upon termination of the bargaining agreement. There is no doubt that *Yard-Man* affected the outcome here. However, the Sixth Circuit should be the first to review the agreements under ordinary principles of contract law. *M&G Polymers USA, LLC, v. Hobert Freel Tackett*, 25 Fla. L. Weekly Fed. S68 (U.S. January 26, 2015).

**2. THE RETIREMENT CRISIS IS REALLY REAL:** The Center for American Progress says that when reviewing data on how American workers are saving for retirement, two facts become abundantly clear:

- Millions of Americans are in danger of not having enough money to maintain their standard of living in retirement.
- The problem is getting worse over time.

The consequences of these growing savings shortfalls could be severe for both American families and the national economy, as a large share of households may be forced significantly to reduce consumption in retirement, and will have to rely heavily on their families, charities, and the government for help to make ends meet. Rather than staying in control of their economic lives, millions of Americans may be forced to muddle through their final years, partially dependent on others for financial support and to accept a standard of living significantly below that which they had envisioned. The reality of this crisis can be seen from what data have to say about how much money Americans are putting away for retirement. The issue brief evaluates the results of studies that use complex modeling to estimate what percentage of population is at risk of falling short of achieving a financially stable retirement. What is made clear is that no matter how

households' needs in retirement are projected or how their incomes, assets and debts are measured, an unacceptably large share of Americans appears at risk of being forced into a lower standard of living in retirement. The most convincing estimates of the share of households who will have insufficient assets stand at slightly more than 50%! But even more sobering is the fact that the most optimistic studies still find that nearly one-quarter of retirees are falling short. The data available on how American households build up financial assets and how they have done so over time show an American public that is struggling to prepare itself for retirement and that is becoming less well prepared over time. Three clear trends in particular illustrate to what extent Americans are under prepared for retirement.

- **A large percentage of Americans is saving nothing for retirement.** According to a recently released household study conducted by the Board of Governors of the Federal Reserve System, approximately 31% of Americans reported having zero retirement savings and lacking a defined-benefit pension. Among respondents ages 55 to 64 -- those nearest to retirement who already should have built up significant savings -- the share who reported having no savings or pension was still 19%, or one out of every five near retirement households.
- **Families that are saving often have insufficient assets.** As traditional DB pensions become increasingly rare, it is more important for workers to build up savings in defined contribution plans, such as 401(k)s or in nonemployer-based individual retirement accounts, or IRAs. Unfortunately, most households have failed to build up anywhere near enough in these accounts. The median retirement account balance among all households ages 55 to 64 was only \$14,500.
- **Households today should increase their savings relative to prior generations but they are not doing so.** One simple way to measure how capable households will be of maintaining their standard of living in retirement is to look at the ratio of their total wealth to their income. This ratio provides an idea of how much in total assets a family has built up relative to approximately how much they consume in a given year. As data from Survey of Consumer Finances make clear, while these ratios did improve

for older households during the 1990s and early 2000s -- when the housing bubble was growing and stock markets were booming -- they subsequently collapsed following the Great Recession and have shown no signs of recovering. All told, households near retirement age were worse off in 2013 than they were in 1989.

So, how do all of these facts fit together? All of these facts indicate that millions of American families are facing the very real prospect of not being able to maintain their standard of living in retirement, and that the problem is growing worse over time. However, researchers and policymakers often want to provide a single number that quantifies exactly what share of Americans are at risk of having insufficient savings. No matter how one approaches assessing the retirement preparedness of the American public, the facts remain the same: a large percentage of Americans is not building up sufficient assets needed to maintain their standard of living in retirement, and the problem is only getting worse for younger generations. Most middle-of-the-road estimates available place the share of current American workers at risk at more than 50%. As America's population ages, the economic well-being of retirees and their families will be increasingly important to the overall health of the national economy. To secure economic independence and dignity in retirement for all American families, it is imperative to address all of elements of the middle-class squeeze that is making it more difficult for working families to find the money to save for retirement. It is also necessary to address the failings of the nation's current retirement system. To shore up the retirement system, the Center for American Progress has proposed a number of reforms in its report "The Middle-Class Squeeze." These reforms include:

- Encourage adoption of hybrid retirement plans -- such as CAP's Safe, Accessible, Flexible, and Efficient, or SAFE, Retirement Plan -- at both the state and national levels.
- Increasing access to existing alternative savings options, such as the low-cost Thrift Savings Plan Requiring 401(k) and individual retirement accounts to be more transparent about fees and investment practices.
- Making tax incentives for saving simpler and fairer by replacing

existing tax deductions with a Universal Savings Credit and introducing a progressive match for low income savers' contributions.

Only by making such significant changes to America's existing retirement system can we ensure that all retirees are able to avoid economic dependency and truly enjoy the retirement they have been looking forward to and deserve. We really hope so.

**3. MOST STRESSFUL JOBS OF 2015:** According to a new CareerCast report of the most stressful jobs of 2015, here are some that might speed up the aging process. These jobs can be expected to evoke stress, through physical harm, both potential and competitiveness:

<u>Job</u> <u>Salary</u>	<u>Stress Score</u>	<u>Median Annual</u>
Firefighter	71.59	\$45,600
Enlisted Military Personnel	70.78	\$28,840
Military General	63.11	\$196,300
Airline Pilot	60.46	\$98,410
Police Officer	50.82	\$56,980
Actor	50.33	\$46,070
Broadcaster	50.30	\$60,070
Event Coordinator	49.93	\$45,810
Photojournalist	49.22	\$42,530
Newspaper Reporter	48.76	\$37,090

**4. LEAST STRESSFUL JOBS OF 2015:** The following are the least stressful jobs in 2015, according to CareerCast.com:

<u>Job</u> <u>Salary</u>	<u>Stress Score</u>	<u>Median Annual</u>
Hair Stylist	5.47	\$22,770
Audiologist	6.30	\$69,720
University Professor (Tenured)	6.94	\$68,970

Medical Records Technician	7.55	\$34,160
Jeweler	8.10	\$35,350
Medical Laboratory Technician	8.98	\$47,820
Seamstress/Tailor	9.56	\$25,590
Dietitian	10.23	\$55,240
Librarian	10.58	\$55,370
Forklift Operator	11.43	\$31,150

**5. COST OF RETIREMENT INCOME JUMPS:** A sharp rise in lifetime income costs means many workers in their 50s and early 60s are less financially prepared for retirement than they were 12 months ago, despite 11% gains in equity markets over the same time period. An analysis from BlackRock, reviewed by plansponsor.com, found that even a strong 14% return for the average 55-year-old retirement investor could not keep pace with the relative increase in lifetime income costs. Markets in 2014 were mostly friendly to investors at the retirement horizon, despite some volatility. Portfolios held by 64-year-olds grew an average of 19% in 2014 and outpaced the cost of future lifetime income, which rose a more modest 11%. With just over \$282,000 in median lump sum savings, this group of late-career workers has the equivalent of slightly more than \$12,000 in estimated annual retirement income.

**6. HOW MAYORS CAN MEND RELATIONS WITH POLICE:** The U.S. Conference of Mayors working group of mayors and police chiefs has released a report entitled "Strengthening Police-Community Relations in America's Cities." The events which began in Ferguson, Missouri on August 9, 2014 with the shooting of Michael Brown, an unarmed black teenager, by a white police officer have brought to the forefront serious social issues that must be addressed -- issues of race, class, prejudice, poverty and inequality that are often difficult for people to talk about. These issues also underscore the complex nature of policing in communities across the country. The decision of a St. Louis County grand jury not to indict the police officer responsible for Brown's death compounded these issues, as did a similar verdict by a Staten Island, New York, grand jury that declined to indict a white police officer in the death of Eric Garner, a black man accused of selling cigarettes individually on the street, by an apparent

chokehold. Mayors and police chiefs know full well that effect of community policing is practiced in a constitutional manner by many police departments, and that the vast majority of police officers have developed trusting relationships with the communities they serve. But they also believe that this country cannot let the deaths of Michael Brown and Eric Garner or of other men and boys of color who have died in encounters with police officers, or of Rafael Ramos and Wenjian Liu or other officers who have lost their lives in the line of duty, to be lost in a set of statistics. They believe that the nation must learn from these painful experiences, and do everything possible to prevent them from happening again. The report, developed by a working group of mayors and police chiefs provides a set of recommendations for local and national actions intended to improve police- community relations in America. The recommendations are grouped into six areas: building police-community trust, improving police department practices, ensuring timely/accurate communications, conducting independent investigations, addressing racial/economic disparities and providing national leadership. In some instances the recommendations go beyond the purview of mayors and police chiefs and call for actions by the broader community in cities and the nation as a whole, and by the federal government. Specifically

- **Building Trust Between Police and Community.** Recent events have demonstrated that, despite instituting community policing in many departments and realizing substantial reductions in the crime rate in many cities, mistrust between the police and the communities they serve and protect continues to be a challenge that must be addressed.
- **Improving Police Department Practices.** Police departments, like all well-run organizations, should be reviewing their operations on a continuing basis, and working to improve their procedures and practices.
- **Ensuring Timely and Accurate Communications.** How a police department communicates with the public and the media is crucial to the success of its relationship with the community, especially when officer-involved shootings and other high profile incidents, such as demonstrations or significant crimes, occur.
- **Conducting Independent Investigations of Deaths Relating to Police Encounters.** Recent events have heightened the

importance of conducting independent, transparent, and thorough investigations so that, when an incident involving a police officer occurs, the affected community and the public are confident that all of the facts will be examined and a just decision made.

- **Addressing Racial and Economic Disparities and Community Frustration with and Distrust of Governmental Institutions.** Many of the fault lines exposed by the events in Ferguson and elsewhere stem from basic problems of racism and inequality that, sadly, still exist in this country. Reducing community frustration with and distrust of the police and other governmental institutions requires a complex set of actions.
- **Providing National Leadership.** Ensuring police protection is primarily a local responsibility in the United States. Municipalities account for 47% of the nation's expenditures on police protection and employ 48% of the nation's police personnel.

Hopefully this report will be acted upon, as necessary, and will help start the healing process.

**7. WHY ARE WORKERS NOT SAVING MORE?:** That question is asked in the current issue of *International Foundation of Employee Benefit Plans' benefits* magazine. Workers who reach their full retirement age this year and draw their first Social Security retirement check can expect the federal government program to replace one-quarter to two-thirds of their preretirement income. How much they receive will depend on what they earned during their working years. The more they earned, the lower the replacement rate. Most households that want to maintain their preretirement level of living must have other sources of retirement income to supplement Social Security. Unfortunately, according to Employee Benefits Research Institute, slightly less than two-thirds of workers report they and their spouses have saved money for retirement (excluding employer-provided contributions to a retirement plan). Sixty percent report they have less than \$25,000 (excluding home equity), which includes 36% with less than \$1,000 saved. Only 10% say they are contributing the maximum amount permitted by their retirement benefit plan or by law. Workers know they need to save for retirement, but many do not. The article explores reasons why beyond macroeconomic factors for which workers may have no control such as high unemployment and

stagnant wages. A better grasp of these factors is essential to increasing worker savings and easing the retirement crisis. One of every two workers says debt is the reason he is not saving for retirement. In addition, of the workers who say they will retire later than previously planned, 22% say the delay is due to too much debt. From 1998 to 2010, the share of adults aged 62 to 69 with debt increased from 48% to 62%. Moreover, the median value of this debt grew 68% -- from \$19,020 to \$32,130 per person. During difficult times, many workers turn to their retirement funds to pay pressing short-term expenses. For some, cashing in or borrowing from a defined contribution plan is a cheap source of money for a down payment on a home or educational expenses. In 2013, 6.7% had initiated a hardship withdrawal the previous year. About one-in-four participants had an outstanding loan. Reasons people do not save more are more complex than debt or a lack of money. A stunning 87% of plan participants who were not contributing the maximum to their employer-sponsored plan admitted they could afford to increase their annual contribution by 1% of their salary. In fact, 59% confessed they could boost their contributions by 3% and 32% believed they could afford an extra 5%! What explains the contradiction? Economists are learning that people do not save for retirement or about more than whether they can afford to do so. Emotions are involved. Two human factors are in play:

- **Future discounting.** People tend to focus on the short term versus the long term. Given a choice, they typically select a smaller payoff now versus a bigger payoff later. They are more likely to buy something for today or set aside money for a vacation in a few months than save for retirement.
- **Inertia and procrastination.** Stop and think about it. People who do not enroll in their retirement plan are making a choice. They are choosing to do nothing. Failing to do something (inertia) and putting off doing it (procrastination) impede action even when people know it would be in their best interest to do something.

An essential element in preparing for retirement is simply having a plan. The planning process involves not only figuring how much to save through one's working years, but also determining how to tap resources during a retirement that can last many years. Among those

who have used a professional financial advisor for planning, 61% say they saved more for retirement as a result. When the financial advisor helped them develop a written financial plan, the proportion saving more increases to 72%. Retirement and life in general are full of uncertainties. The Society of Actuaries asked individuals whether they had considered how they would respond to a number of major life changes that might occur in retirement. Few had made plans for how they would respond in these scenarios. For example, only 23% of married retirees had considered and made plans for the death of their spouse or partner. Even after retirement, the proportion who had planned for such a scenario was relatively small at 31%. One reason individuals do not have contingency plans for their retirement is very likely unrealistic expectations regarding their working lives and retirement. In a recent survey of pre-retirees and retirees, sizable percentages of both groups say they will never become:

- Less able to manage their money (38% and 54%)
- Mentally unable to work (34% and 46%)
- Unable to drive (19% and 33%)
- Less able to provide caregiving (15% and 30%)
- Less able to do household chores (18% and 28%)

In addition, 23% of married pre-retirees and 31% of married retirees (incredibly) report they will never lose their spouse. Other factors, which space will not permit us to discuss, are Retirement May Not Be When Planned; Incorrectly Assuming Work After Retirement; Underestimating Income Needs; Underestimating the Number of Retirement Years; Failing to Consider Inflation; Underestimating the Cost of Health Care and Long-Term Care; Setting Unsustainable Rates for Withdrawals; and Financial Illiteracy. Readers can find the entire excellent article at <https://www.ifebp.org/members/pdf/benmag/2015/febfull.pdf>.

**8. REGULATIONS WOULD PROVIDE RELIEF FOR CERTAIN PARTICIPANTS IN SECTION 414(D) GOVERNMENTAL PLANS:** In Notice 2015-07, IRS and the Treasury Department anticipate issuing proposed regulations under §414(d) of the Internal Revenue Code to define the term “governmental plan.” The notice describes specific rules that IRS and Treasury Department are considering proposing that relate to whether a State or local retirement system that covers employees of a charter school is a governmental plan within meaning

of §414(d). The notice describes the guidance under consideration, which would provide that employees of a public charter school may participate in a State or local retirement system if certain conditions are satisfied. The other section of this notice discusses the potential for broader transition relief for governmental plans once final regulations under §414(d) are issued. Finally, the notice requests comments on the guidance under consideration described in the notice (due by May 11, 2015).

**9. FOUR FLORIDA COMPANIES MAKE DELOITTE'S "EXCEPTIONAL 100":** Southflorida.citybizlist.com reports that Dallas-based Copart Inc., a provider of online auto auctions, chocolate maker Hershey, Co. and Panera Bread Co. are the top three companies on Deloitte University Press's list of "Exceptional 100" companies. The companies were chosen on the basis of three performance features: multidimensional performance (profitability, growth, and value), relative performance (how the company stacks up when compared to its competitors) and the impact of the industry's general trends on the company's performance. The following data are from the year 2013:

No. 27, HEICO Corp, Headquarters, Hollywood, Florida, \$1.0 billion revenue

No. 34, Publix Super Markets Inc., Lakeland, Florida, \$29 billion revenue

No. 39, Tupperware Brands Corp., Orlando, Florida, \$2.7 billion revenue

No. 97, Landstar System Inc., Jacksonville, Florida, \$2.7 billion revenue

**10. TO THE EXTENT THAT IT PREVENTED PRISONER FROM GROWING A ONE-HALF INCH BEARD IN ACCORDANCE WITH HIS RELIGIOUS BELIEFS, PRISON'S GROOMING POLICY VIOLATED RLUIPA:** Section 3 of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) provides that no government shall impose a substantial burden on the religious exercise of an institutionalized person unless the government demonstrates that the burden is the least restrictive means of furthering a compelling governmental interest. Holt is an Arkansas inmate and devout Muslim who wishes to grow a one-half inch beard

in accordance with his religious beliefs. The Arkansas Department of Correction prohibits its prisoners from growing beards, with the single exception that inmates with diagnosed skin conditions may grow one-fourth inch beards. Holt sought an exemption on religious grounds, although he believed that his faith required him not to trim his beard at all, he proposed a compromise under which he would be allowed to maintain a one-half inch beard. When his request was denied, he sued in Federal District Court. At an evidentiary hearing before a Magistrate Judge, Department witnesses testified that beards compromised prison safety because they could be used to hide contraband and because an inmate could quickly shave his beard to disguise his identity. The Magistrate Judge recommended dismissing Holt's complaint, emphasizing that prison officials are entitled to deference on security matters and that the prison permitted Holt to exercise his religion in other ways. The District Court adopted the recommendation in full, and the Eighth Circuit affirmed, holding that the Department had satisfied its burden of showing that the grooming policy was the least restrictive means of furthering its compelling security interests, and reiterating that courts should defer to prison officials on matters of security. On certiorari to the Eighth Circuit, the U.S. Supreme Court held that the policy violated RLUIPA insofar as it prevented Holt from growing a one-half inch beard in accordance with his religious beliefs. Under RLUIPA, the challenging party bears the initial burden of proving that his religious exercise is grounded in a sincerely held religious belief, and that the government's action substantially burdens his religious exercise. Once the challenging party satisfies his burden, the burden shifts to the government to show that substantially burdening the religious exercise of the particular claimant is the least restrictive means of furthering a compelling governmental interest. While the Department has a compelling interest in regulating contraband, its argument that this interest is compromised by allowing an inmate to grow a one-half inch beard is unavailing, especially given the difficulty of hiding contraband in such a short beard and lack of a corresponding policy regulating the length of hair on the head. RLUIPA does not permit the unquestioning deference required to accept the Department's assessment. Even if the Department's grooming policy furthers its compelling interest in prisoner identification, its policy still violates RLUIPA as applied in the present circumstances. As Holt argues, requiring inmates to be photographed both with and without beards and then periodically

thereafter is a less restrictive means of solving the Department's identification concerns. In addition to the Department's failure to prove that Holt's proposed alternatives would not sufficiently serve its security interests, the Department also fails adequately to explain the substantial under-inclusiveness of its policy, since it permits one-quarter inch beards for prisoners with medical conditions and more than one-half inch hair on the head. *Holt v. Hobbs*, Case No. 13-6827 (U.S. January 20, 2015).

**11. S&P SETTLES SEC CHARGES INVOLVING RATINGS OF MORTGAGE-BACKED SECURITIES:** Plansponsor.com reports that the Securities and Exchange Commission announced a series of federal securities law violations by Standard & Poor's Ratings, involving fraudulent misconduct in its ratings of certain commercial mortgage-backed securities. S&P agreed to pay more than \$58 million to settle the SEC's charges, plus an additional \$19 million to settle parallel cases announced by the New York Attorney General's office (\$12 million) and the Massachusetts Attorney General's office (\$7 million). SEC issued three orders: (1) addressing S&P's practices in its conduit fusion CMBS ratings methodology; (2) finding that being frozen out of the market for rating conduit fusion CMBS in late 2011 and (3) involving internal controls failures in S&P's surveillance of residential mortgage-backed securities. The enforcement actions are the first ever against a major ratings firm, and reflect SEC's aggressive commitment to police the integrity and transparency of the credit ratings process. About time.

**12. FPPTA TRUSTEES SCHOOL:** Florida Public Pension Trustees Association Trustees School will take place on February 1 – February 4, 2015 at the Rosen Centre Hotel, Orlando. To access information please log on to [www.fppta.org](http://www.fppta.org). All board of trustee members, and anyone interested in the administration and operation of the Chapters 112, 175 and 185 pension plans should attend the Trustees School.

**13. DILLERISMS:** We spend the first twelve months of our children's lives teaching them to walk and talk and the next twelve years telling them to sit down and shut up. Phyllis Diller

**14. YOU KNOW YOU ARE LIVING IN 2015 when...:** You have not

played solitaire with real cards ever.

**15. TODAY IN HISTORY:** In 1936, Ty Cobb, Babe Ruth, Honus Wagner, Christy Mathewson, and Walter Johnson become the first inductees to the Baseball Hall of Fame.

**16. KEEP THOSE CARDS AND LETTERS COMING:** Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

**17. PLEASE SHARE OUR NEWSLETTER:** Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

**18. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.**

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