



CYPEN & CYPEN
NEWSLETTER
for
APRIL 21, 2016

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Stephen H. Cypen, Esq., Editor

Never Forget September 11, 2001

and

Always Remember May 2, 2011

**1. RESTRICTIONS IN FLORIDA WORKERS' COMPENSATION
STATUTE, AS APPLIED TO A CLAIMANT'S ABILITY TO RETAIN
COUNSEL UNDER A CONTRACT CALLING FOR PAYMENT OF A
REASONABLE FEE BY CLAIMANT, OR SOMEONE ON CLAIMANTS
BEHALF, ARE UNCONSTITUTIONAL VIOLATIONS OF CLAIMANT'S
RIGHT TO FREE SPEECH, FREE ASSOCIATION AND PETITION,
AND ARE NOT PERMISSIBLE TIME, PLACE OR MANNER**

RESTRICTIONS ON THOSE RIGHTS: Just as we were going to press, we received a copy of the 1st District Court of Appeal's decision in *Miles v. City of Edgewater*. Although we did not have time completely to digest it, we did pick out the pith of the decision. In the subject workers' compensation appeal, Miles, a law enforcement officer, appealed two orders of the Judge of Compensation Claims: the first order denied her motion to approve two attorney's fee retainer agreements -- one agreement provided for payment of a \$1,500 retainer by her union and the second agreement provided that she would pay her attorney an hourly fee once the \$1,500 is exhausted -- and the other order on appeal determined that she failed to establish she sustained a compensable injury. Miles challenged the constitutionality of Sections 440.105 and 440.34, Florida Statutes, which limit attorney's fees, as applied to her. She argued those provisions infringe on her First Amendment rights protected under the United States Constitution. The District Court of Appeal held that the challenged provisions do violate Miles's First Amendment guarantees of free speech, freedom of association, and right to petition for redress. Thus, the court reversed and remanded for a new hearing on the motion for approval of the retainer agreements on Miles's petitions for benefits. The restrictions in the cited sections, were applied to claimant's ability to retain counsel under a contract that calls for payment of a reasonable fee by claimant (or someone on his or her behalf), are unconstitutional violations of a claimant's rights to free speech, free association, and petition -- and are not permissible time, place, or manner restrictions on those rights. Likewise, those provisions also represent unconstitutional violations of a claimant's right to form

contracts -- and are not permissible police power restrictions on those rights. Thus, the criminal penalties of Section 440.105(3)(c), Florida Statutes, are unenforceable against an attorney representing a workers' compensation client seeking to obtain benefits under Chapter 440, Florida Statutes, as limited by other provisions discussed above. The statutory restrictions are unconstitutional, and that the proper remedy is to allow an injured worker and an attorney to enter into a fee agreement approved by the JCC, notwithstanding the statutory restrictions. Read the entire lengthy opinion at https://edca.1dca.org/DCADocs/2015/0165/150165_DC13_04202016_101529_i.pdf. *Miles. v. City of Edgewater Police Department/Preferred Governmental Claims Solutions*, 41 Fla. L. Weekly D985 (Fla. 1st DCA April 20, 2016).

2. HOW MANY TAX DOLLARS GO TO PUBLIC PENSIONS?: Tyler Bond posted a short white paper asking that very question. April 15 is typically Tax Day. This year, however, Tax Day is April 18 because of Emancipation Day -- a holiday celebrated only in Washington, DC. (Actually, Tyler, people in the states of Maine and Massachusetts have until April 19 to file. [See C & C Newsletter for February 11, 2016, Item 4.](#)) Regardless, many spent the weekend scrambling to finish their tax returns. The author thought it would be an appropriate time to answer the question: how many tax dollars go to public pensions? As he has written before, public pensions receive funds from three sources: employer contributions, employee contributions and investment returns. Teachers, firefighters and other public employees contribute a portion of every

paycheck toward their pension during their working years. Taxpayer dollars come in as employer contributions. Since teachers, firefighters and other public employees work for either state or local government, their salaries and benefits are paid for with the tax dollars collected by those governments. The amount that state and local governments contribute toward public pension funds varies across the country. However, on average, state and local governments contribute 4.1% of direct government spending toward pensions. The amounts are small, but it has a big impact: each dollar invested in a public pension generates \$8.06 in economic output. Nationwide this amount is \$943 billion a year in economic activity. Historically, state and local government employers have contributed 19.4% of pension plan revenues. The overwhelming amount of pension funding, 70.4%, has come from investment returns. For this reason, pensions are prefunded by investing the employer and employee contributions while the employee is working, the pension fund is able to earn investment returns to pay out benefits to that employee during retirement. Prefunding pensions is a good deal for taxpayers, because the majority of pension benefits are paid for with investment earnings, and it generates additional economic activity as mentioned above. Tax Day is a good time to look at how politicians spend our tax dollars, and what they prioritize with that spending. Each year states give away billions of dollars in handouts to powerful interest groups through the tax code. One report from last year found that states could generate \$128 billion in additional revenue each year if they taxed the wealthy and corporations at the same rate as they do working families. Meanwhile, anti-pension ideologues continue their

attacks on public pensions, despite evidence that pensions are a good investment of taxpayer dollars. Politicians must be responsible stewards of taxpayer dollars, and providing retirement security for public employees is a proven investment in local communities. Bravo.

3. STATE RETIREMENT COMMISSION ERRED BY FAILING TO EVALUATE WHETHER WORK PLACE INJURY WAS AN

“AGGRAVATING CAUSE” OF DISABILITY: O'Meara worked as a teacher at Buffalo Creek Middle School for more than seven years before retiring due to illnesses that left him disabled. Upon retiring, he applied to the Division of Retirement for in-line-of-duty disability retirement benefits because he attributed his disability to a workplace injury. O'Meara was working at school when a student threw a small object that struck him in the face near his eye. This event caused O'Meara a great amount of stress because he was already blind in one eye. The object allegedly struck very near his good eye. O'Meara left school and went to the emergency room, where he learned that there had not been physical damage to his good eye. O'Meara returned to work and continued teaching until almost the end of the school year. But his medical condition deteriorated. In May 2011, his doctor, Dr. Rabins, advised him to take a medical leave of absence for the rest of the school year. O'Meara's condition continued to worsen, and in January 2012 he was diagnosed with Post Traumatic Stress Disorder by another doctor. After retiring, O'Meara applied for in-line-of-duty disability retirement benefits, and the Division of Retirement denied his application. O'Meara appealed by filing a petition for an administrative hearing before the State

Retirement Commission. Two years later, the Commission held a hearing, and voted to deny O'Meara's application. The Commission issued a final order on April 20, 2015, and O'Meara timely appealed. Section 121.021(13), Florida Statutes, defines disability in line of duty as “an injury or illness arising out of and in the actual performance of duty required by a member's employment during his regularly scheduled working hours . . . required by the employer.” To establish entitlement to in-line-of-duty benefits, an individual must prove that (1) his injury was work-related, and (2) his injury was a substantial, producing cause or an aggravating cause of his permanent total disability. The dispute here only concerns the second prong of this test, wherein the Commission had to analyze whether O'Meara's injury was either a substantial producing cause of his permanent total disability, or an aggravating cause. The Commission's order, however, evaluated only the former part. The order answered the question of whether O'Meara's workplace injury was “brought about by” and “was the proximate cause of” his total and permanent disability with a clearly stated “no.” But it did not evaluate whether O'Meara's workplace injury was an “aggravating cause” of disability. The thrust of O'Meara's argument was this very point. He claimed that his workplace injury was an aggravating cause, not the proximate cause, of his permanent total disability. The order, however, did not make a clear finding on the question of aggravating cause, but merely hinted that the stress of the workplace and workplace incident was “tertiary” to other non-work-related causes. For this reason, the court reversed the order, so that the Commission can decide whether the workplace incident, which the order concedes to have been “emotionally

traumatic” for O’Meara, constituted an aggravating cause of his permanent total disability. *O’Meara v. State of Florida, Department of Management Services, Division of Retirement*, 41 Fla. L. Weekly D947 (Fla. 1st April 14, 2016).

4. ERISA REQUIRES PLAN ADMINISTRATOR IN DENIAL OF BENEFITS LETTER TO INFORM A CLAIMANT OF NOT ONLY HIS RIGHT TO BRING A CIVIL ACTION, BUT ALSO THE PLAN-IMPOSED

TIME LIMIT FOR DOING SO: United States Court of Appeals for the First Circuit considered an appeal under the Employee Retirement Income Security Act of 1974 in which Santana-Díaz challenged the district court’s dismissal of his suit as time-barred. He argued that he was entitled to equitable tolling, in part because the plan administrator, Metropolitan Life Insurance Company, failed to include the time period for filing suit in its denial of benefits letter. The appellate court held that ERISA required a plan administrator in its denial of benefits letter to inform a claimant of not only his right to bring a civil action, but also the plan-imposed time limit for doing so. Because the administrator violated this regulatory obligation, the limitations period in this case was rendered inapplicable, and Santana-Díaz’s suit was therefore timely filed.

Accordingly, the appellate court reversed. ERISA itself does not contain a statute of limitations for bringing a civil action, so federal courts usually borrow the most closely analogous statute of limitations in the forum state. But where the employee benefit plan itself provides a shorter limitations period, that period will govern as long as it is reasonable. In this case, the plan contained a three-year limitations period that ran from

the date proof of disability was due. The administrator included no mention of this time limit in its final denial letter. The issue at the heart of the appeal was what impact such defective notice should have on a contractual limitations period. The appellate court's ruling was in keeping with ERISA's purpose of ensuring their opportunity for judicial review, and with its overall purpose as a remedial statute. Note that the court did not rule on whether a plan administrator's benefit denial letter must explain the applicable state's statute of limitation where the plan itself does not impose a time limit for filing suit under ERISA. Finally, regardless of whether or not this decision does not apply to non-ERISA proceedings, it seems like a good idea to be guided by these disclosures. *Santana-Diaz v. Metropolitan Life Insurance Company*, Case No. 15-1273 (U.S. 1st March 14, 2016).

5. HEALTH BENEFITS CONTRACT REQUIRING PAYMENTS OF PREMIUMS FOR INDEFINITE TOTAL AMOUNT OVER UNCERTAIN PERIOD OF TIME DIVISIBLE, AND, THUS, BREACH RUN

SEPARATELY AS TO EACH PAYMENT: Wood brought a class action alleging that the Unified Government of Athens-Clarke County, Georgia breached contractual obligations to provide health benefits to eligible retirees. The county moved for partial judgment on the pleadings, arguing that the statute of limitations barred appellant's claims. The district court granted the motion, and after careful review of the record and the decision of the district court, and with the assistance of oral argument, the appellate court reversed. The county promised each employee it hired before July 1, 2002, that in return for a certain

minimum number of years of employee services (usually 10 years), the county would provide cost-free health coverage for life at the same level that the employee received on his last day of employment. In other words, the county promised to indemnify retirees for healthcare costs at the same level that it indemnified them for healthcare costs on their last day of employment. Wood worked the requisite number of years, and was eligible for indemnification. Thus, he upheld his end of the deal. Wood alleged that when the time came for the county to honor its end, the county refused. Wood insists on the day of his retirement, the county covered all health insurance premiums. Yet ordinances adopted in 2002 and 2013 now require Wood to elect Medicare at the age of 65 and pay his own Medicare premiums. Through these ordinances, the county also provides monthly contributions to Wood to purchase supplemental insurance as an add-on to Medicare. Suffice it to say, the supplement insurance contribution is not enough for Wood to purchase supplemental insurance that, when combined with Medicare, provides a level of health cost indemnification equal to the level provided on his last day of employment. Consequently, Wood maintains that the county breached, and continues to breach, its promise to provide him with healthcare benefits for life at the same level that he received on his last day of employment. As a result of these breaches, Wood allegedly suffered damages in two ways: first, he must pay out-of-pocket for his Medicare premiums, and, second, he must incur additional healthcare costs resulting from the county's refusal to have supplemental coverage providing the same level of indemnification received on his last day of employment. The question on appeal is simple: is the contract between

the county and Wood entire or divisible? If the contract is entire, only one action may be maintained for a breach, and the statute of limitations runs from the breach. Because Wood initiated this action in 2014, well beyond the limitations period, the statute of limitations would bar his and other claims for the 2002 breach. On the other hand, if the contract is divisible, the statute of limitations runs separately as to each breach, allowing Wood and others to proceed with any breaches occurring within the statute of limitations. Accordingly, if the contract is divisible, it is irrelevant when the county first breached the contract. It matters only that the successive breaches forming the basis of the claims happened within the limitations period. In Georgia, a contract is entire if the whole quantity, service, or thing, all as a whole, is of the essence of the contract, and if it appears that the contract was to take the whole or none. In contrast, a contract is divisible if the quantity, service, or thing is to be accepted by successive performances. Based on the above criteria alone, the contract within the county and Wood is divisible. Although the county made a single promise to provide retirement healthcare benefits, the county can perform this promise only by successive performances in form of premium payments or other cost indemnification or both. And the obligation to provide healthcare benefits continues throughout the uncertain span of each retiree's life. Further, the unpredictable fluctuations in each retiree's healthcare costs make it even more uncertain the ultimate amount that the county will owe each month. Thus, as with divisible contracts, the contract here requires successive payments of healthcare premiums and indemnification, for an indefinite total amount over the uncertain term of Wood's life. Moreover, Wood has

no immediate claim for entirety of the contract, as he would if the contract were entire. *Wood v. Unified Government of Athens-Clarke County, Georgia*, 26 Fla. L. Weekly Fed. C225 (MD Ga. April 7, 2016.)

6. RETIREMENT IS A FLAWED CONCEPT: Writing in *Harvard Business Review*, Neil Pasricha says every day there is another article about how all of our retirements are doomed. Some public pension promises in the U.S. exceed their ability to pay. We now need nearly \$400,000 at age 65 just to cover health care costs. And retirement itself increases risk of depression by 40%. For many of us, it is starting to feel like the light at the end of the tunnel of life has been blocked by a triple-bolted steel door. Who is to blame for this mess? The Germans. Back in 1889. German Chancellor Otto von Bismarck invented the idea of retirement, establishing the concept for the rest of us. Those who are disabled from work by age and invalidity have a well-grounded claim to care from the state, he said. He wanted to address high youth unemployment by paying those 70 and older to leave the workforce, and other countries followed suit with retirement ages around 65 or 70. There is one big difference between 1889 Germany and the world we live in today: the average lifespan then was 70 years. Now we are all living much, much longer. Many of us would like to retire much earlier. But the scary headlines -- and the realities that we see around us -- cast doubt on our ability to ever retire. The entire concept of retirement is starting to feel flimsy at best. So, what do we do, short of working the rest of our days away? To get to the root of the issue, let us look past the North American shorelines all the way to Okinawa. According to a study, men

and women in Okinawa live an average of seven years longer than Americans, and have one of the longest disability-free life expectancies in the world. *National Geographic* studied why Okinawans live so long. What did they find out? Among other things, Okinawans eat off of smaller plates, stop eating when they are 80% full and have a beautiful setup wherein they are put into social groups as babies to slowly grow old together. They also have an outlook on life that is very different from those in the West. While we think of retirement as the golden age of golf greens and cottage docks, guess what they call retirement in Okinawa? They do not even have a word for it! Literally nothing in their language describes the concept of stopping work completely. Instead, one of the healthiest societies in the world has the word ikigai (pronounced like “icky guy”), which roughly translates to “the reason you wake up in the morning” -- it is the thing that drives you most. Another researcher wondered whether having an ikigai could actually help extend longevity, health and late-life stability. Participants reporting an ikigai at the beginning of the study were more likely to be married, educated and employed. They had higher levels of self-rated health and lower levels of stress. At the end of a seven-year study, 95% of the folks with an ikigai were alive. Only 83% of those without an ikigai made it that long. To put it another way, we do not actually want to retire and do nothing. We just want to do something we love. While we might want some time to relax and do nothing, you will be surprised to learn how quickly the bloom can come off of that type of rosy retirement. We would all be better served by taking the concept of ikigai and distilling it into what the author calls the 4S's:

- friends, peers, and coworkers who brighten our days and fulfill our social needs.
- the alarm clock ringing because you have a reason to get up in the morning, and the resulting satisfaction you get from earned time off.
- keeping our minds challenged by learning something new each day.
- Being part of something bigger than ourselves by joining a group whose high-level purpose is something you could not accomplish on your own.

If you are already struggling to pay bills and your career is sitting on tectonic plates that are threatening to shift below the labor market, the author recommends that you dig deep into your natural passions to find a second act that aligns with your values. There are far more problems and opportunities on this spinning planet than there are people to help with them, so go solve some. If you feel lost, follow your heart, find your ikigai, and remember the 4S's. And stop worrying that you will not ever be able to retire. You will be far better off if you do not. Note to the author: look into the country of Bhutan.

7. CLOSING THE FUNDING GAP IN DEFINED BENEFIT PLANS: In the sixth annual survey that CFO Research has conducted with Prudential Financial, Inc., finance executives from companies with defined benefit plans reveal a continuing concern with funding DB plans. Accordingly, many companies are increasing contributions to close their

funding gaps, moving them closer to full funding. The survey shows that, while some companies still need to improve just to reach the minimum funded level required by law, others are working towards higher funded ratios. Sixty-four percent of respondents report either that their companies have already increased contributions (15%) or that they are likely to do so within two years (49%). A fully funded plan reduces future financial risk to the company and enables consideration of different investment strategies available to maintain full funding. (It can also lay the groundwork for the next steps of DB risk management, such as the questionable transferring of pension obligations to a third party insurer.) The issue of funding pension plans has risen to the attention of companies' leadership. When asked if their board of directors and senior management are focused on the financial risk of their DB plans, four times as many respondents agree (48%) as disagree (12%). However, uncertainties about timing of interest rate increases, continued volatility in equity markets, and increasing life expectancies make it more difficult to calculate liabilities and returns over the long term. Accordingly, half of the firms in the survey (49%) report that they have modeled future DB contributions based on assumptions of extreme market volatility, while 62% have modeled for increasing longevity.

8. AWARD OF ATTORNEY'S FEES AGAINST FLORIDA PUBLIC

AGENCY NOT CONTINGENT UPON ITS BAD FAITH: In a recent case, the Supreme Court of Florida considered whether a prevailing party is entitled to an award of statutory attorney's fees under Florida's Public Records Act after the trial court determined in a civil action that the public

agency violated the Public Records Act in failing to permit a public record to be inspected or copied. The lower appellate court concluded that attorney's fees should have been awarded after a finding that the public agency imposed conditions that were in violation of the Public Records Act, even though the agency's violation was not knowing, willful or done with malicious intent. Prior district court of appeal opinions were in conflict: one other district court of appeal concluded that there is no "good faith" or "honest mistake" exception to a statutory award of attorney's fees when the public agency has violated the Public Records Act; the other district courts of appeal construed the attorney's fee provision of the Public Records Act to require a showing that the public agency acted unreasonably or in bad faith before attorney's fees can be awarded. In accordance with case law liberally construing the Public Records Act in favor of open access to public records, the reasonable statutory construction of the attorney's fee provision and the letter and spirit of the constitutional right to inspect or copy public records, the Supreme Court held that a prevailing party is entitled to statutory attorney's fees under the Public Records Act when the trial court finds that the public agency violated a provision of the Public Records Act in failing to permit a public record to be inspected or copied. There is no additional requirement, before awarding attorney's fees under the Public Records Act, that the trial court find that the public agency did not act in good faith, acted in bad faith, or acted unreasonably. The trial court had held that some of the actions and charges of the pension fund to be proper but determined that two conditions -- an hourly photocopying fee and an hourly supervisory fee -- were imposed in violation of the

provisions of Section 119.07, Florida Statutes, which governs the fees, inspection, and copying of public records. Pension boards need to take note of this important decision. *Board of Trustees, Jacksonville Police & Fire Pension Fund v. Lee*, No. SC13-1315 (Fla. April 14, 2016.)

9. SHORTER LIFE EXPECTANCY REDUCES PROJECTED LIFETIME BENEFITS FOR LOWER EARNERS -- GAO:

In a report, Governmental Accountability Office found that the increase in average life expectancy for older adults in the United States contributes to challenges for retirement planning by the government, employers and individuals. Social Security retirement benefits and traditional defined benefit pension plans, both key sources of retirement income that promise lifetime benefits, are now required to make payments to retirees for an increasing number of years. This development, among others, has prompted a wide range of possible actions to help curb the rising future liabilities for the federal government and DB sponsors. For example, to address financial challenges for the Social Security program, various options have been proposed, such as adjusting tax contributions, retirement age, and benefit amounts. Individuals also face challenges resulting from increases in life expectancy because they must save more to provide for the possibility of a longer retirement. Life expectancy varies substantially across different groups with significant effects on retirement resources, especially for those with low incomes. For example, according to studies GAO reviewed, lower-income men approaching retirement live, on average, 3.6 to 12.7 fewer years than higher-income men. GAO developed hypothetical scenarios to calculate the projected amount of

lifetime Social Security retirement benefits received, on average, for men with different income levels born in the same year. In these scenarios, GAO compared projected benefits based on each income groups' shorter or longer life expectancy with projected benefits based on average life expectancy, and found that lower income groups' shorter-than-average life expectancy reduced their projected lifetime benefits by as much as 11 to 14%. Effects on Social Security retirement benefits are particularly important to lower income groups because Social Security is their primary source of retirement income. GAO-16-354 (March 2016.)

10. SERVING ON A BOARD NOT FOR THE FAINT OF HEART: Writing in jonesday.com, two of its attorneys state that following the 2008 financial crisis, government regulators and prosecutors have been under tremendous public pressure to prosecute individuals. Senior government officials have responded by speaking forcefully about their desires to sue or prosecute more individuals. What does the government's heated rhetoric and renewed focus on individual liability mean for corporate directors? As the chairman of the Securities and Exchange Commission recently noted, "service as a director is not for the faint of heart." The good news is that directors who perform their role with even a modicum of reasonableness are highly unlikely to be held personally liable in carrying out their responsibilities. Of course, most directors want more than to stay out of trouble. As a former SEC chairman put it: "it is not an adequate ethical standard to aspire to get through the day without being indicted." The commentary discusses the landscape of director liability in the SEC context, and provides some suggestions that may help directors

minimize the risks of regulatory scrutiny. It never hurts to bone-up on this stuff.

11. PAY RATIO DISCLOSURES BEGIN TO APPEAR IN PROXY

STATEMENTS: Dodd-frank.com says some companies have begun to disclose pay ratios in their proxy statements in advance of the SEC requirement. The following is just one example:

We believe our executive compensation program must be consistent and internally equitable to motivate our employees to perform in ways that enhance shareholder value. We are committed to internal pay equity, and the Compensation Committee monitors the relationship between pay of our executive officers and pay of our non-executive employees. The Compensation Committee reviewed a comparison of our CEO's annual total compensation in fiscal year 2015 to that of all other company employees for the same period. The calculation of annual total compensation of all employees was determined in the same manner as the "Total Compensation" shown for our CEO in the "Summary Compensation Table." Pay elements that were included in the annual total compensation for each employee are

- salary received in fiscal year 2015
- annual incentive payment received for performance in fiscal year 2015
- grant date fair value of stock option and PSU awards granted in fiscal year 2015

- Company-paid 401(k) Plan or RRSP match made during fiscal year 2015
- Company-paid ESPP match made during fiscal year 2015
- Company-paid life insurance premiums during fiscal year 2015
- Auto allowance paid in fiscal year 2015
- Reimbursement for Company-paid executive physical during fiscal year 2015

Our calculation includes all employees. We determined the compensation of our median employee by: (i) calculating the annual total compensation described above for each of our employees, (ii) ranking the annual total compensation of all employees except for the CEO from lowest to highest and (iii) since we have an even number of employees when not including the CEO, determining the average of the annual total compensation of the two employees ranked sixth and seventh on the list (“Median Employee”). The annual total compensation for fiscal year 2015 for our CEO was \$5,207,257, and for the Median Employee was \$386,962. The resulting ratio of our CEO’s pay to the pay of our Median Employee for fiscal year 2015 is 13.5 to one.

Gee, we wonder why this particular company was not shy in disclosing.

12. TEN SUPREME COURT NOVELS TO GET YOUR MIND OFF THE NOMINATION BATTLE: At the U.S. Supreme Court, a single vote can alter the outcome of the country’s most hot-button disputes to wit: abortion, affirmative action, campaign finance, gun control and

immigration, to name a few ([See C & C Newsletter for April 7, 2016, Item 3](#)). So it is no surprise that within minutes after the announcement of Justice Antonin Scalia's death, members of Congress began drawing battle lines about the next nominee. Conspiracy theories flashed across the Internet. And with President Barack Obama's nomination of Judge Merrick Garland, the battle rages on. The Supreme Court is back in the spotlight. It is not the first time, it will not be the last. If you are interested in the high court, but want an escape from the pundits and political theater of the coming months, several novels have explored the mysteries of 1 First Street. From Attorney Anthony Franze, here are ten notables:

- *Murder in the Supreme Court*, Margaret Truman 1982
- *The Pelican Brief*, John Grisham 1992
- *The Tenth Justice*, local boy made-good, Brad Meltzer 1997
- *Nine Scorpions*, another local boy, Paul Levine 1998
- *Supreme Courtship*, Christopher Buckley 2008
- *Supreme Justice*, Phillip Margolin 2010
- *Supreme Justice*, (another one?) Max Allan Collins, 2014
- *Supreme Ambitions*, David Lat 2014
- *Allegiance*, Kermit Roosevelt 2015
- *Tuttle in the Balance*, Jay Wexler 2015

13. GOLDEN OLDIE HITS RENAMED: Some of the pop stars of yesteryear are revising their hits with new lyrics to accommodate aging Baby Boomers. They include: Bobby Darin -- Splish, Splash, I Was Havin' A Flash.

14. SO YOU THINK YOU KNOW EVERYTHING: In the last 4,000 years, no new animals have been domesticated.

15. TODAY IN HISTORY: In 1898, Spanish-American War begins.

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.