



CYPEN & CYPEN

NEWSLETTER

for

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Never Forget September 11, 2001
and
Always Remember May 2, 2011

1. KEY LARGO DIVE TEAM CAPTAIN SAYS LOOK ELSEWHERE FOR HELP: Whether or not the Key Largo Volunteer Fire Department ever had a dive rescue team, the man credited for decades for leading such a squad says his services and equipment are no longer available from Key Largo's fire department and Ambulance Corps. The move

coincides with a lawsuit filed by the family of Canadian filmmaker Rob Stewart, who went missing in late January deep diving on a film shoot six miles off Islamorada, and whose body was found by a dive team led by Bleser. But the department insists the issue has to do with workers' compensation insurance, or lack thereof, and is not related in any way to the lawsuit. For the two months that followed Stewart's recovery, the Key Largo Volunteer Fire Department's dive team received international acclaim as the outfit that found Stewart. That included official statements from the U.S. Coast Guard. But by late March, the department officially distanced itself from Bleser, saying he has nothing to do with the Key Largo Volunteer Fire Department. Bleser is a long-time diver and owns a diving service. Part of the reason his more than a dozen recovery operations are so successful (and he is called on by agencies like the Coast Guard and the Sheriff's Office) is that he coordinates responses with the local dive community based on the expertise needed for the specific mission at hand. The situation means Bleser's divers are often not certified firefighters and members of the fire department. For this reason, the department's attorney said the department cannot assume legal responsibility for those people, especially when it comes to workers' compensation insurance should someone get hurt on the job. However, Bleser has operated this way since 1999, he thought, under the auspices of being part of the fire department. Now that the department made it clear there is no dive team, Bleser, who volunteers without reimbursement and donated much of the scuba gear and a boat used by the department, said look elsewhere the next

time someone goes missing in the waters off the Keys. Effective immediately, Bleser will no longer accept any responsibility or positions as captain of the Water Emergency Team. Bleser said he also wants his equipment and boat back, and since the department says he is not a member, he is giving back all the gear and decals the district provided him indicating that he is a Key Largo firefighter. No good deed ever goes unpunished. We have Curt Varone to thank for this interesting story.

2. ARE 401(K) PLAN LOANS DOUBLE TAXED?: The foregoing question is posed (and answered) by Robert C. Lawton, Investment Adviser. Mr. Lawton gives an example in which it appears that the principal amounts of 401(k) loans that are distributed at retirement are taxed at a rate that is more than double that of a participant's incremental tax rate. Here are the assumptions:

- 401(k) plan loan amount of \$10,000
- Payroll deduction is the only way to pay back this loan
- The participant is in the 25% federal tax bracket while working and when retired
- No state taxes
- To eliminate the impact of interest, assume the interest rate on this 401(k) plan loan is 0%
- To simplify the example, assume only one payroll deduction payment for \$10,000 to pay back the loan.

The load origination of \$10,000 creates no tax impact. One \$10,000 payroll-deducted after-tax payment of \$13,333 in gross earnings needed to realize the \$10,000 after-tax payment resulting in \$3,333 in taxes attributable to the payment. Distribution of the \$10,000 at retirement is taxed at 25%, resulting in \$2,500 in taxes. Thus, total taxes paid on the \$10,000 used for the 401(k) plan loan and then distributed at retirement is \$5,833 (58%), more than double the amount of \$2,500 (25%) that would be paid on a \$10,000 distribution at retirement. Some financial experts believe that 401(k) loans are not double taxed. They say that the overall tax treatment of the individual is the same whether he takes a 401(k) plan loan or a loan from somewhere else. An equivalent amount of taxes would be required to pay back a loan from any other lender. However, that supposition does not change the fact that a participant appears to experience a tax on the principal portion of 401(k) loans that is more than double his incremental tax rate. Mr. Lawton believes that 401(k) loans are bad. Plain and simple. One of the reasons is that the loan interest is not tax deductible (like a home equity loan). Also, the lender (plan) is required to lend to a borrower (participant) regardless of whether the participant is creditworthy. So, 401(k) plan loans often become the lender of last resort for many participants who have no business taking on additional debt. Many of these participants end up defaulting on their loans if they lose their jobs or leave for new jobs because participant loans become immediately due in most plans when a participant separates from service. In addition, most participants who

take 401(k) loans end up reducing or stopping their contributions while making loan payments. As a result, they often lose company matching contributions since they no longer contribute up to the maximum matched percentage. The author welcomes other opinions.

3. THE 10 BIGGEST 401(k) PLAN

MISCONCEPTIONS: Unfortunately for plan sponsors, 401(k) plan participants have some big misconceptions about their retirement plan, reports www.benefitnews.com. Having worked as a 401(k) plan consultant for more than 30 years with some of the most prestigious companies in the world — including Apple, AT&T, IBM, John Deere, Northern Trust and Northwestern Mutual, the author is always surprised by the simple but significant 401(k) plan misconceptions many plan participants have. Following are the most common and noteworthy, all of which employers need to help employees address.

- **I only need to contribute up to the maximum company match:** Many participants believe that their company is sending them a message on how much they should contribute. As a result, they only contribute up to the maximum matched contribution percentage. In most plans, that works out to be only 6% in employee contributions. Many studies have indicated that participants need to average at least 15% in contributions each year. To dispel this misperception, and motivate participants to contribute something closer to what they should, plan sponsors

should consider stretching their matching contribution.

- **It is okay to take a participant loan:** I have had many participants tell me, If this were a bad thing why would the company let me do it? Account leakage via defaulted loans is one of the reasons why some participants never save enough for retirement. In addition, taking a participant loan is a horrible investment strategy. Plan participants should first explore taking a home equity loan, where the interest is tax deductible. Plan sponsors should consider curtailing or eliminating their loan provisions.
- **Rolling a 401(k) account into an IRA is a good idea:** There are many investment advisers working hard to convince participants this is a good thing to do. However, higher fees, lack of free investment advice, use of higher-cost investment options, lack of availability of stable value and guaranteed fund investment options and many other factors make this a bad idea for most participants.
- **My 401(k) account is a good way to save for college, a first home, etc.:** When 401(k) plans were first rolled out to employees decades ago, human resources staff helped persuade skeptical employees to contribute by saying the plans could be used for saving for many different things. They should not be. It is a bad idea to use a 401(k) plan to save for an initial down payment on a home or to finance a home. Similarly, a

401(k) plan is not the best place to save for a child's education — 529 plans work much better. Try to eliminate the language in your communication materials that promotes your 401(k) plan as a place to do anything other than save for retirement.

- **I should stop making 401(k) contributions when the stock market crashes:** This is a more prevalent feeling among plan participants than you might think. I have had many participants say to me, “Bob, why should I invest my money in the stock market when it is going down. I am just going to lose money!” These are the same individuals who will be rushing into the stock market at market tops. This logic is important to unravel with participants and something plan sponsors should emphasize in their employee education sessions.
- **Actively trading my 401(k) account will help me maximize my account balance:** Trying to time the market, or following newsletters or a trader's advice, is rarely a winning strategy. Consistently adhering to an asset allocation strategy that is appropriate to a participant's age and ability to bear risk is the best approach for most plan participants.
- **Indexing is always superior to active management:** Although index investing ensures a low-cost portfolio, it does not guarantee superior performance or proper diversification. Access to commodity, real estate and international funds is often sacrificed by many pure indexing strategies. A blend of

active and passive investments often proves to be the best investment strategy for plan participants.

- **Target date funds are not good investments:** Most experts who say that target date funds are not good investments are not comparing them to a participant's allocations prior to investing in target date funds. Target date funds offer proper age-based diversification. Many participants, before investing in target date funds, may have invested in only one fund or a few funds that were inappropriate risk-wise for their age.
- **Money market funds are good investments:** These funds have been guaranteed money losers for a number of years because they have not kept pace with inflation. Unless a participant is five years or less away from retirement or has difficulty taking on even a small amount of risk, these funds are below-average investments. As a result of the new money market fund rules, plan sponsors should offer guaranteed or stable value investment options instead.
- **I can contribute less because I will make my investments will work harder:** Many participants have said to me, "Bob, I don't have to contribute as much as others because I am going to make my investments do more of the work." Most participants feel that the majority of their final account balance will come from earnings in their 401(k) account. However, studies have shown that the major determinant of how much participants end

up with at retirement is the amount of contributions they make, not the amount of earnings. This is another misconception that plan sponsors should work hard to unwind in their employee education sessions.

4. HALF OF AMERICANS ARE RESPONSIBLE FOR ONLY 3 PERCENT OF HEALTH CARE COSTS: Here is a simple reason crafting health policy is so devilishly hard: Most Americans are pretty healthy and a few are really sick. The *Washington Post* reports that the top 1 percent of healthcare spenders use more resources, collectively, than the bottom 75 percent, according to a new study based on national surveys. Slice the data a different way, and the bottom half of spenders all together rack up only about 3 percent of overall health care spending, a pattern that has not budged for decades. This creates a fundamental inequality in the country's health spending that is the crux of the challenge policymakers face: They need a system that works for people who are ill, but is attractive to those who are healthy and spend little on health care. The political debate over health care often focuses on how a new system will meet the needs of the sick: Will cancer patients or people with diabetes access and afford care when they need it? But the Health Affairs study, "[Most Americans have good health, little unmet need and few health care expenses](#)," shows just how important the healthy people who spend very little on health care are. The message you draw from that, however, may depend on your politics.

The key takeaway message really is most people are in good health; they do not spend a lot of money, and yet it is important to have them be part of our insurance system. If they are left out of the system, we are not going to have the funds to take care of people who are very sick. But Tom Miller, a resident fellow at the American Enterprise Institute, disagreed. He said that the study is based on quick and incomplete snapshots of health and argued that it is yet another way to divert from the health-care discussion we should be having: about how to rein in spending. Using these data to argue about where to get premium dollars from the pockets of the well or the sick, simply allows the system to grow ever bigger and prop up an even-more-expensive medical system. We all get diverted by hoping we can hide the bill under someone else's pillow. I think that is the political argument you hear these low spenders, we are scared to death they might catch on to the fact they are getting taken to the cleaners by being forced to buy expensive health insurance they do not need. According to House Speaker Paul Ryan, the inequality in spending and sickness is the fatal conceit of Obamacare. Ryan used a graph that showed that chronically ill people are a narrow slice of the population, but a big driver of spending. The whole idea of Obamacare is the people who are healthy pay for the people who are sick; it is not working and that is why it is in a death spiral. As critics have pointed out, this was part of how the Affordable Care Act was

designed, and it is how insurance traditionally works. The auto insurance of people who do not get into car crashes helps foot the bill for those who do. The premiums from homeowners who never file a claim help underwrite the insurance payouts for those whose houses burn down. It is the same for health, and a major challenge in the exchanges, where people buy individual plans with government subsidies, has been getting enough healthy people to sign up to keep the premiums reasonable for everyone. A conservative vision of health care would have people take more responsibility for their own health care costs, but there are policy challenges as well, because it suggests that solution would not just be a matter of making people at all levels smarter shoppers. It would saddle those with the bad luck of being sick with costs that could quickly become untenable. To different people, the pattern suggests very different policy implications: Berk thinks the data are a powerful argument that everyone needs to pay in to the system; to Miller, it suggests the opposite. We should probably leave a lot more people alone. There is unexpected catastrophic coverage, but do not micromanage every detail of coverage for people who are just going to be fine.

5. EQUAL PAY DAY: NEW YORK HAS SMALLEST U.S. GENDER PAY GAP, WYOMING THE BIGGEST: New York has the smallest gender pay gap in the United States, while Wyoming has the widest. Created in 1996 by the National

Committee on Pay Equity, Equal Pay Day each year is held on the day that marks how far into the next year the average woman would need to work to earn the same as the average man made in the entire previous year, according to www.newsweek.com. So, while it was being held on April 4 this year, if miraculous strides were somehow made in the upcoming months to close the gender pay gap, the day could be held on, say, March 31 next year, still representing a full extra three months of work for the average woman. Women earn a median of \$40,742 in the U.S., compared to the \$51,212 taken home by men, according to the Census Bureau. The Pew Research Center points out that while the gender pay gap has narrowed since 1980, it is mainly only younger workers, between ages 25 and 34, who are benefiting. Women in that age group earned 90 cents to the dollar earned by men, compared to the 67 cents they earned in 1980. In New York, there is an 11 percent gap in pay between men and women, while Wyoming has a 36 percent gap. Not only does the wage gap increase as women get older, but more educated women will often be out-earned by less-educated men, according to the U.S. Joint Economic Committee. Across 120 professions with enough men and women to make a decent comparison, women outearned or earned the same as men in just four. In 28 states, the pay gaps between men and women are larger than the U.S. average, and the majority of those states are in the South and West. Following Wyoming, the country's worst offenders are

Louisiana (32 percent gap); West Virginia, Utah and North Dakota (29 percent gap); and Montana and Oklahoma (27 percent gap). Delaware, Florida and the District of Columbia are among the states with the smallest wage gaps. The gender pay gap also disproportionately affects black and Hispanic women. (Asian women often earn more than white, black and Hispanic women, and in some cases earn as much or more than white men.) In Wyoming, black and Hispanic women earn only about half of what white men earn, at 56 percent and 54 percent, respectively. Louisiana is the worst state for black women, who earn 49 percent of what white men take home, closely followed by Utah, where they earn 54 percent, and Washington, D.C., where they earn 55 percent. Even in New York, which has the smallest gap overall, Hispanic women earn 58 percent of white men's pay, compared to 69 percent for black women, 81 percent for white women and 85 percent for Asian women. The gap between white men and Hispanic women is also particularly glaring in a number of other states: In Connecticut, New Jersey, Maryland, Utah and Washington State, Hispanic women earn less than half of what white men take home. Sexuality is seen as another factor in the pay gap. According to Hired, a career site, non-LGBTQ men out earn all other categories, followed by LGBTQ men, non-LGBTQ women and LGBTQ women. With the wage gap not estimated to close until at least 2059, there is a lot of waiting to be done. That is especially true in Wyoming, where the gap is not seen as closing for at least another

century, in 2153. Even though Ivanka Trump, President Donald Trump's daughter, and someone who helps pay \$15,000 in monthly rent, tweeted that women deserve equal pay for equal work. Women probably should not try to hold their breath.

6. AMERICA'S RUDEST CITIES: According to *Travel + Leisure*, whether they are giving you side-eye or waving a foam finger in your face, some cities cannot seem to break the ice with travelers. Fair or not, locals in Miami are known for being a little aloof. Whether it is the heat or the velvet ropes, Miami made its debut as the No. 1 rudest city, according to *Travel + Leisure* readers. In the latest survey, voters ranked big cities (with populations over 100,000) for such cosmopolitan features as their world class museums, chef driven restaurants and cocktail lounges. But the survey also scored some quality-of-life features, like how walkable a city is, how safe it feels and how cordial (or not) the locals seem. To be fair, rudeness in cities on the list can be in the eye of the beholder. So, here are America's rudest:

- **Miami, Florida:** Last year's runner-up is now the top dog when it comes to readers' impressions of rudeness. It is hard to imagine how anyone could be in a bad mood here, what with the city's perennial tropical weather and pristine beachfront real estate. But maybe it is Miami's display of luxury, from gleaming new condos to couture boutiques that turned off travelers. In

addition to rudeness, the city had a pretty high snob score.

- **Phoenix, Arizona:** The capital of the Grand Canyon State keeps creeping up the list, moving from No. 12 in 2014 to No. 8 in 2015 and now No. 2. Phoenix does not seem to be getting more hospitable toward visitors, but we should not be surprised by the influx.
- **New York, New York:** Despite being one of the top three rudest cities in America, the Big Apple improved its reputation this year, dropping from the No. 1 spot. If you want to avoid dirty looks and scathing retorts, there is one thing you can do to improve your experience with locals, and that is to walk like a New Yorker.
- **Los Angeles, California:** Despite sunny skies and palm tree-fringed boulevards, Los Angeles still has a reputation for being a bit unfriendly. To mingle with affable Angelenos, avoid overrated Hollywood glitz and seek out world-class museums (like the stunning new Board) and vibrant arts and culinary communities. It is hard to be rude to anyone while enjoying a bowl of banchan in Koreatown.
- **Philadelphia, Pennsylvania:** It is known as the City of Brotherly Love, but it is not all hugs and tenderness in Philadelphia. Head to any one of the city's countless historical sites, where you are sure to strike up a conversation with American history buffs at the Liberty Bell, Independence Hall or

the revamped Benjamin Franklin Museum.

- **Salt Lake City, Utah:** What is not to like about a metropolis surrounded almost entirely by ski resorts? Maybe all that cold air leaves locals in the top city for ski trips feeling frigid.
- **Boston, Massachusetts:** If you want to make a good impression on Bostonians — some of the most passionate sports fans in the country — leave your Yankees cap and Golden State Warriors jersey at home.
- **Dallas, Texas:** Even with a healthy dose of Texas twang, Dallas did not come across to visitors as being very welcoming. What did resonate with travelers in the Big D were the city's bars and barbecue.
- **Colorado Springs, Colorado:** Even if the locals rub you the wrong way, you will have no trouble staying entertained in Colorado Springs.
- **Ann Arbor, Michigan:** Ann Arbor residents may have come off as rude, but visitors also say they are notably hip and intelligent. Hordes of students also make for excellent people-watching.

7. NEW OFFICE ADDRESS: Please note that Cypen & Cypen has a new office address: Cypen & Cypen, 975 Arthur Godfrey Road, Suite 500, Miami Beach, Florida 33140. All other contact information remains the same.

8. CRAZY STATE LAWS: *Good Housekeeping* reminds us that there are crazy laws in every state. In the State of Kansas, tire screeching is banned. Another disturbing-the-peace-victim for ya! If you live in the city of Derby, Kansas, make sure your gears are greased and tires are checked as tire screeching is not only considered unlawful, but painfully annoying to listen to.

9. ZEN PROVEN TEACHINGS TO LIVE BY: Some days you are the dog, some days you are the tree.

10. PONDERISMS: Have you noticed since everyone has a cell phone these days no one talks about seeing UFOs like they used to?

11. OLD CEMETERIES & EPITAPHS: A truly happy person is one who can enjoy the scenery on a detour and one who can enjoy browsing old cemeteries. For example, a cemetery in Ruidoso, New Mexico reads: Here lies Johnny Yeast. Pardon him for not rising.

12. TODAY IN HISTORY: **On this day in 2006** construction begins on the Freedom Tower (later renamed One World Trade Center) in New York City.

13. 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.

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