



# **CYPEN & CYPEN**

## **NEWSLETTER**

**for**

### **June 29, 2017**

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

**1. TOP SECURITIES SETTLEMENTS OF ALL TIME: ISS-**  
Securities Class Action Services has released its top 100 U.S.  
Settlements of all time. Report, a periodic confirmation of the 100  
largest securities recoveries in history. Security class action  
settlements in the United States for calendar 2016 totaled 137  
approved settlements, remaining steady since the prior year. Of the

137 settlements, SCAS recorded 64 in the second half of the year compared with 73 in the first half. Of the 64 settlements during the last half of 2016, six were large enough to be included in the top 100 list of settlements, with a total approved disbursement of USD \$2.9 billion.

The six settlements were

- Caremark, Rx, Inc. f/k/a MedPartners, Inc.
- Genworth Financial, Inc. (2014) (E.D.Va.)
- Household International, Inc. (N.D. Ill.)
- Bank of America Corporation (2011) (MERS and MBS)
- Pfizer, Inc. (2004)
- MF Global Holdings Ltd. (partial settlement with the Senior Notes Underwriter Defendants)

Of the above six, five were filed in U.S. Federal Courts, while one was filed in U.S. State Court. Notable characteristics of the six these companies include:

- Two were related to the companies' stock offerings
- One was related to the company's merger and acquisition transaction
- Two alleged violations of the Securities Act of 1933
- Four alleged violations of Generally Accepted Accounting Principles

- One company filed for bankruptcy
- Two are listed in the S&P 500 Index

Finally, 12 of the top 100 settlements were in 2016, resulting in the largest approved settlement fund in any single year. The entire report, which is 44 pages, packed with information, can be visited at [www.issgovernance.com/library/top-100-us-settlements](http://www.issgovernance.com/library/top-100-us-settlements).

## **2. DO NOT LET YOUR POWER OF ATTORNEY BECOME**

**POWERLESS:** *Forbes* says one of the cornerstones of a solid financial plan is properly configured estate planning documentation—especially your medical and financial powers of attorney (POA). POAs give you the ability legally to authorize an individual to handle your affairs and make healthcare decisions in the event you become incapacitated and are unable to make them on your own. While you may already have POAs in place, several legislative changes over the years have given financial institutions and healthcare providers reasons to reject them. Here are several steps you can take to ensure that your documents are effective:

- **Engage a qualified estate planning attorney** - Consulting an estate planning attorney in your state can mean less expense and hassle for you in the long run. These professionals will make sure that necessary legislative changes are incorporated into your POAs *correctly*, since state laws can vary dramatically.

While there are online legal service providers and forms you can download from the internet, you do not want to cut corners on this task.

- **Ensure legislative changes are included** - As new laws are enacted, necessary provisions must be incorporated in your POAs to keep them current. Not including certain language could mean your documents will not be accepted. Notable examples include:
  - **Your medical POA was executed prior to your state adopting the Uniform Health Care Decisions Act (UHCDA).** In 1993, the UHCDA was approved to expand and solidify the authority of a medical POA (also referred to as an advanced medical directive); and since then has been enacted state by state. Key changes include decision-making power surrounding life-prolonging procedures, authorizing organ donation and approving admission to health care facilities for treatment. Updating your documents with these authorities will provide your POA with additional flexibility.
  - **Your medical POA does not include Health Insurance Portability and Accountability Act (HIPAA) language.** In 1996, Congress enacted HIPAA to ensure privacy of a patient's medical information. If your POA was drafted prior to adoption of this law by your state, it may not include the necessary language authorizing access to your personal medical information and needs to be updated.
  - **Your financial POA does not disclose certain provisions adopted by the Uniform Power of Attorney Act (UPOAA).** The UPOAA was enacted in 2006 to help enforce the acceptance of POAs and to standardize provisions across states. This is so because financial institutions, particularly banks, often reject POAs if they believe, in good faith, that it may no longer be valid.
  - **Review your documents every two to three years** - Once your POAs are in place, it is vital to keep them current. If they become outdated, you run the risk of rejection when you need

them. Major life events or changes in your situation are also trigger points for reviewing your documents. It is important that the people you designate to act on your behalf continue to be in line with your wishes. Reasons to make a change could include separation or divorce from your spouse, death, distance or incapacity of the person you have named.

### **3. IRS WARNS OF NEW PHONE SCAM INVOLVING BOGUS CERTIFIED LETTERS, REMINDS PEOPLE TO REMAIN VIGILANT AGAINST SCAMS, SCHEMES THIS SUMMER:**

The Internal Revenue Service warns people to beware of a new scam linked to the Electronic Federal Tax Payment System (EFTPS), where fraudsters call to demand an immediate tax payment through a prepaid debit card. This scam is being reported across the country, so taxpayers should be alert to the details. In the latest twist, the scammer claims to be from the IRS and tells the victim about two certified letters purportedly sent to the taxpayer in the mail but returned as undeliverable. The scam artist then threatens arrest if a payment is not made through a prepaid debit card. The scammer also tells the victim that the card is linked to the EFTPS system when, in fact, it is entirely controlled by the scammer. The victim is also warned not to contact his tax preparer, an attorney or local IRS office until after the tax payment is made. This is a new twist to an old scam. Just because tax season is over, scams and schemes do not take the summer off. People should stay vigilant against IRS impersonation

scams. People should remember that the first contact they receive from IRS will not be through a random, threatening phone call. EFTPS is an automated system for paying federal taxes electronically using the Internet or by phone using the EFTPS Voice Response System. EFTPS is offered free by the U.S. Department of Treasury and does not require the purchase of a prepaid debit card. Since EFTPS is an automated system, taxpayers will not receive a call from the IRS. In addition, taxpayers have several options for paying a real tax bill, and are not required to use a specific one. Call the IRS at 800.829.1040. IRS workers can help. The IRS does not use email, text messages or social media to discuss personal tax issues, such as those involving bills or refunds. For more information, visit the "[Tax Scams and Consumer Alerts](#)" page on IRS.gov. Additional information about tax scams is available on IRS social media sites, including YouTube videos.

**4. A RANDOM ACT OF KINDNESS:** *Apropos* of nothing in particular, a piece from <http://www.cbsnews.com/news/womans-act-of-kindness-for-blind-chicago-cubs-fan-goes-viral/> may make your day. For several minutes, a resident watched as a blind man tried to hail a cab while Chicago Cub fans poured out of Wrigley Field. The resident was on a rooftop, across the street, when he noticed thousands of people passing the man, who was holding a walking stick and waving his hand in an attempt to stop the taxi. Not one cab stopped – but luckily, a pedestrian did. Casey Spelman, of Minneapolis, was visiting friends in the area and spotted the blind

man, as she walked out of the restaurant. Without a word, Spelman split from her friends, walked over to the man and tapped the man over the shoulder, "Do you want some help getting a cab?" Spelman asked. "He said, 'Yeah, you sound pretty, so cabs will probably stop for you before me,'" Spelman recalled the man joking. They chatted about baseball and how crowded the area was after a Saturday afternoon game, as Spelman stepped out into the street to flag down a cab. Within minutes, a taxi pulled up, and Spelman helped the blind man inside, giving him a hug goodbye in the process. They laughed and exchanged goodbyes, and went their separate ways. The 26-year-old did not think anything of her encounter with the man. But the resident, who was watching from above, was so touched by the kind gesture he posted pictures of the pair on Facebook, praising the woman for lending a helping hand. See the screenshot for yourself here.

**5. WOMEN WANT TO KNOW: WHY IS THE AC AT WORK SO COLD?:** It is so sweltering in the Southwest that planes cannot fly, stores are wrapping door handles so shoppers do not get burned, pavement is torture for tender paws of pets and air-conditioning repairmen are snowed under, reports *USA Today*. It may be a searing 118 degrees outside — but in your cubicle it is ice, ice baby. Yes, drape that pashmina and raise your frozen hands if you are snuggled up to that space heater under your desk, ruing that seemingly innocent a.m. decision to wear sandals. The working women of America are cold. In this workplace, we could not help but mark the

irony of talking about the serious, dangerous heat plaguing parts of the U.S., while complaining about the arctic blast coming from the a/c vents above our desks. And it is not just us, in suburban Washington, D.C. If you spend the day finding excuses to take a break to go outside for a quick hit of heat, you are not alone. If you keep an old, gray, oversize cardigan draped over your chair for those emergency moments when you forget that extra jean jacket, we are with you. Got a secret space heater? We will not tell. As a woman in the working world, no matter how high-powered and hectic your day is, do you sometimes feel (particularly in the summer) left out in the cold? So what are the rules? There is no requirement for employers to maintain a certain workplace temperature under federal Occupational Safety and Health Administration guidelines. However, OSHA does recommend workplace temperatures in the range of 68-76 degrees Fahrenheit and humidity control in the range of 20% to 60%. Sadly, many office cooling systems are centrally controlled, and even if your podmates warm to your temperature troubles, you may be out of luck. So tear out that duct tape to block up the vents, sip on hot cocoa and count the hours until you, too, are outside and acting appalled that it is closing in on 120. Brave office women of the world: Just show them you are chill.

**6. A SCARY FACTOID:** About 59% of Americans have less than \$1,000 in savings, according to [www.gobankingrates.com](http://www.gobankingrates.com).

**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 Missouri bear wrestling is banned. We all love a good bear hug now and then, but the real deal is outlawed in Missouri. This law was initiated on November 3, 1998, due to animal cruelty violations.

**9. CYNICAL THINKING:** Money talks...but all mine ever says is good-bye.

**10. PONDERISMS:** Is Disney World the only people trap operated by a mouse?

**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, **In Bellington Churchyard, Durham, it says:** Poems and epitaphs are but stuff; here lies Robert Burrows, that's enough.

**12. TODAY IN HISTORY:** In 2009 Financier Bernard Madoff sentenced to 150 years in prison, U.S. maximum, for conducting a massive Ponzi scheme.

**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.

**14. 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>.

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