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Once Upon A Time In A Dying Organization

Whether it's a synagogue, a law firm, or a third-party administration (TPA), I've been involved in one way or another with dying organizations. That's probably a good reason why I'm not involved in any civic organizations and I work on my own. My experience with dying organizations may not make me an expert, but I realize a common thread among them and I think it's great to identify these common threads so we can all avoid them as retirement plan provider because as they said in *The Shawshank Redemption*, "get busy living or get busy dying" and it makes no sense to die when you can choose life.



Read More

It's a wave of PEPs, but is it a wave of assets?

With January 1st past us, we knew that many plan providers were going to launch Pooled Employer Plans (PEPs). I know, because I helped launch four and still in the process of converting two multiple employer plans (MEPs) into PEPs.

The media loves a good story and a good story is the promulgation of many PEPs. I will say from experience, it's been a long process because



to steal a crass line from one of the Naked Gun movies, we have had to feel our way around a new system that had very little guidance. So many providers were ill-prepared with a launch because the guidance from the Department of Labor was a little late and underwhelming. So while people are creating PEPs, are they gathering any assets? Everything seems a little slow and I will be surprised that there are any PEPs achieving any large size in 2021 unless it's a conversion from a MEP.

Fidelity wins data as plan asset case



Fidelity won a huge case.

Schlichter, Bogard & Denton brought a lawsuit on behalf of four participants in Shell Oil Co.'s 401(k) plan. While the case focused on excessive fees, it alleged that the use of participant data by Fidelity, the recordkeeper to solicit non-plan-related services was wrong. The complaint alleged that Shell and Fidelity caused the Plan to engage in transactions that constituted a plan asset.

U.S. District Judge Jeffery Vincent Brown of the District Court for the Southern District of Texas, Galveston Division granted Fidelity's motion to dismiss those claims.

The Judge threw out the participant data as plan records because regulations promulgated under ERISA don't consider participant data as a plan asset. Also, the complaint tried to imply that Fidelity was a fiduciary and they certainly weren't.

Expect more litigation from a federal district court near you.

It doesn't matter when you get paid, do your job

There is a growing problem that I've seen dealing with plan providers (usually third party administrators (TPAs) who get paid for an entire plan year's work, get terminated and refuse to complete the end of the year work because that work takes place in the next plan year (where they are no longer the plan's provider).

A perfect example is what happened with a TPA I worked with on a multiple employer plan. The TPA was paid through February 28, 2021. The contract referenced annual work and fee which includes a Form 5500 and valuation. The TPA refused to do the 2020 Form 5500 valuation because that work would be done in July or October 2021 and wanted a fee so exorbitant to complete, you'd laugh. Just found the same issue with a client of a client where the ERISA fiduciary paid for the entire year doesn't want to do one simple task they were paid for because they no longer serve as a plan fiduciary.



I believe that if your promise annual work and get paid for the year, it doesn't matter that you're no longer the provider, you need to complete the work you were contracted for and paid for. I believe this is a bigger problem than anyone wants to admit and an industry heavyweight says that most billing disputes involve this topic.

DOL provides cybersecurity guidance



The Department of Labor (DOL) has issued guidance for plan sponsors and plan providers that cover best practices for them for maintaining cybersecurity.

This guidance comes pretty quickly after the Government Accountability Office (GAO) asked the DOL to guide everyone on the growing issue of cybersecurity. Thanks to the

sophistication of cybercriminals and some recent cases of cyberthreat, the guidance has come at a time of need for guidance.

The DOL provided three forms to provide guidance on cybersecurity.

- 1) Tips for Hiring a Service Provider: Provides guidance to plan sponsors and fiduciaries to prudently select a service provider with strong cybersecurity practices.
- 2) Cybersecurity Program Best Practices: Assists plan fiduciaries and record-keepers in their responsibilities to manage cybersecurity risks.
- 3) Online Security Tips: Provides guidance to plan participants and beneficiaries who check their retirement accounts some basic online rules to reduce the risk of fraud and loss.





Registration open for live events.

We have finally rescheduled our
2020 events for 2021.

**Our St. Louis event is scheduled
for Friday, September 10th with a
Cardinals game that night. To sign up, please click [here](#).**

Our Minneapolis event has been rescheduled for Friday, September 24th with a Twins
game that night. To sign up, please click [here](#).

Our Houston event has been scheduled for Wednesday, September 29th with a game
that night. For more information and to sign up, please click [here](#).

For more information on sponsorship, please contact [me](#).

Also, come join us for a great night of networking and a Mets game too. While the
networking event has 401(k) in it, it is open to professionals from all types of
businesses.

The event is on. Wednesday, July 28th while the Mets take on the Atlanta Braves.
Seats in the Honda Club behind the right field fence and foos too, for just \$150.

For more information and to buy tickets by PayPal, please click [here](#).





We will do it again virtually in 2022.

That 401(k) National Virtual Conference this January was such a hit, we will do it again for 2022. It's far easier to have dozens and dozens of advisors to show up for an event virtually, instead of asking them to take 4 days out of their life and thousands of dollars to attend an event elsewhere.

That 401(k) Virtual Conference will be Thursday-Friday, January 27-28, 2022.

This virtual event will have it all: great presentations to help grow your 401(k) business and a couple of celebrity guests.

Attending the event for two days will start with start at an early bird fee of \$20.22. That price will increase by 50% in the Fall.

To sign up for the event or get more information, click [here](#).

For information on sponsoring the event, click [here](#).

To see some my interview with Walt Frazier from the past Conference, click [here](#).

To see some of my interview with Dwight Gooden from the past Conference, click [here](#).

For a video of Day 1 from the 2021 conference, click [here](#).

For a video of Day 2 from the 2021 conference, click [here](#).

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