

THE
ROSENBAUM
LAW FIRM P.C.

ADVISORS ADVANTAGE

A Publication for Retirement Plan Professionals

For Retirement Plan Providers, It's All About Relationships.

That is what it's about.



The retirement plan business is a relationship driven business. It's about connecting with other plan providers and more importantly, connecting with plan sponsors. So while you may think what gets you business is a nice website or a great salesperson, what really gets you in the door as the plan provider for that specific plan sponsor is making a connection and continuing that relationship as long as you can. So this article is about how retirement plan providers can make connections with current and potential clients.

To read the article, please click [here](#).

The IRS takes a look at cash balance plan formulas.

They are cracking down on some funny business.

Throughout my career as an ERISA attorney, I've come across actuarial third party recordkeeping firms that push the envelope in cash balance and defined benefit plan designs. I can't forget the actuaries who still push for special trustees and trustees with life insurance in defined benefit plans, years after the Internal Revenue Service (IRS) said no. What frightens me is that I almost accepted an ERISA attorney position at one of these firms many years ago.

$$\frac{d}{dt} \ln(s^2 + (x-H_0)^2) = \frac{2s}{s^2 + (x-H_0)^2} \cdot 2(x-H_0) = \frac{4s(x-H_0)}{s^2 + (x-H_0)^2}$$

$$\frac{d}{dt} \ln(s^2 + (x-H_0)^2) = \frac{4s(x-H_0)}{s^2 + (x-H_0)^2}$$

So it should come as no surprise that the IRS is directing its agents to review cash balance formulas especially as it relates to compensation.

A qualified plan "within the meaning of section 401(a) is a plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to his employees over a period of years, usually for life, after retirement."

The IRS is advising their agents to determine whether a benefit formula based on only a portion of annual compensation, a special bonus, or other measure not based on annual compensation, is "definitely determinable."

The memo they issues states that if the terms of the plan specifically allow the employer to vary the employee's compensation used in the benefit formula (e.g., an employee's annual compensation less an amount designated by the employer), the plan would violate the definitely determinable rule. That's a big rule to violate and I applaud the IRS trying to crack down what I think is some trickery in the administration of cash balance plans.

The problem with pushing other providers.

Choice is a good thing for plan sponsors.



Many larger third party administration (TPAs) firms, especially those owned by insurance companies are feeling the heat and they've been feeling the heat of competition ever since everyone had to fully disclose fees thanks to fee disclosure regulation.

So many of these providers are pushing services offered by other providers especially in the §3(21) and 3(38) space of financial advisory firms. Everyone knows how much I like

ERISA §3(21) and 3(38) fiduciaries, but I find a problem with this push. These TPA firms tend to only push the service of one provider and I'm all for choice for the plan sponsor to select the provider they're most comfortable with.

The TPAs think they're adding something special to their service, but I think they're adding a headache because in my mind, slowly pushing the service of another provider may unwittingly make the TPA a fiduciary no matter how much they may disclaim in the contract with their plan sponsors. The TPA by wedding themselves to just one fiduciary provider partner, they are marrying themselves to a provider that may cost them clients if they don't do a credible job.

I like choice and anytime a client ask me for a referral, I give them at least 3 choices so that they can make a decision on their own. I recommend TPAs to offer fiduciary services from more than one advisory firm. Nobody asked me, but my opinion is out there.

Don't give up.

It's not always bad.

If you start a retirement plan provider practice, it can be frustrating. Like I always say about thing in my life, "If it wasn't a struggle, it wasn't any fun". Building a retirement plan practice isn't easy because a stash of clients isn't going to fall into your lap. When it comes to building a practice, the one thing you can never yield to is disillusionment.



I was disillusioned many times in life; I think my three years at law school was 6 months of hope followed by 2 ½ years of disillusionment. I let some of the bad things that happened to me there really affect me and I did it to the detriment of my grades and friendships in law school.

Getting clients isn't easy and some of the most frustrating people you meet are potential clients who will accept the fact that they are being ripped off by their current providers and still won't give you the time of day.

It's ok to be disillusioned at times, but don't let it paralyze you or sidetrack you in building your practice.

I always say that the only reason I ever had any success is my ambition and will to persevere. I'm not the smartest or the best, I just will never quit. 7 years after starting my own practice, it's still a struggle and like I stated in the first paragraph, it has been a lot of fun.

Watch the photos you use on your site.

You may get a shakedown request.



This is a heads up for retirement plan providers and it has nothing to do with retirement plans.

It has to do with your website and the pictures you may use. As you know, I have this website called that401k.com (see the pandering for ads below!).

For the articles, I use photos to illustrate the articles. Since I know a thing or two about copyright, so when searching for photos on Google and I search it using with photos that are tagged that they are allowed to be reused.

So a few months back, I get a letter addressed to my law firm (even though a separate company owns the website) with a demand from another law firm that I pay some photographer \$5,000 for the use of some photo on employee benefits. The demand was attached with an image of my website and nothing to indicate that the photographer actually owned the image.

So I searched from the image and while it was labeled as allowed to be reused on a site, there was a caveat that suggested that you need to pay \$10 for the image. So while it was labeled as giving permission to be reused, the photographer had this \$10 request that no one would know about unless you clicked on his site and looked around. So if the photographer is willing to sell it for

\$10, why is his lawyer demanding \$5,000? It's what we call a honeypot or honeytrap scam. This photographer in cahoots with a lawyer entices people to use a stock image that appears to be free and they try to extort money from small websites for money. I went on Google and did further research and discovered that the law firm and the photographer are well known for this scam. Many small websites settle for hundreds of dollars because they don't want to hire an attorney and I have the luxury of being one.

They send me another letter and I ignore it. Then I get a call from someone who claims to be a lawyer and I know from 5 seconds in that the person on the phone with me is not a lawyer because she asks me where to send the paperwork for a lawsuit. Like I'm going to her job for her. So I tell her that what she is doing is extortion and I will refer the matter to the proper authorities. I also tell her that next time she wants to extort money from me, she should bring a gun because she'll have a better chance. Totally unprofessional on my part, but I didn't give her my name and I'm going to respond in kind for someone who is trying to rip me off. A few days later, I get another message from someone who is claiming to be an attorney who wants to settle the case. I don't return the call because I don't think they'll settle for nothing and I never hear from them again.

The point here is that you should always be careful about the images used on your website and if you ever get a threatening letter like I did, give me a call.

Support that401ksite.com with a discounted ad.

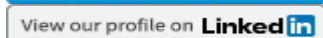
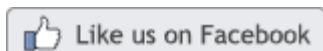
Great way to get plan sponsor clients and plan provider contacts.

My blog site, that401ksite.com is still accepting content from all retirement plan providers. We're big into recycling. So even if you published your articles on your own site, we're always interested in airing interesting content.

In addition, we're rolling back advertising rates by 50% in order to interest retirement plan providers like you to advertise the only news site about retirement plans that is trying to attract both plan sponsor and plan provider readers.

For a limited time, rates will now start as low as \$500 annually (for our plan provider directory) and will also include discounted banner page ads.

Please contact [me](#) for more information on advertising or article submissions.



**The Rosenbaum Law Firm Advisors Advantage, May 2017
Vol. 8 No. 5**

The Rosenbaum Law Firm P.C.
734 Franklin Avenue, Suite 302

Garden City, New York 11530
516-594-1557
Fax 516-368-3780

ary@therosenbaumlawfirm.com
www.therosenbaumlawfirm.com

Attorney Advertising. Prior results do not guarantee similar results. Copyright 2017, The Rosenbaum Law Firm
P.C. All rights reserved.