- Commentary
- Compliance
- Fees
- Conflicts of Interest
- Due Diligence
- Education

- Subscribe

Featured Stories

Time Magazine is Wrong!

By Chris Carosa | October 8, 2009

SHARE

As a 401k fiduciary concerned about reducing personal fiduciary liability, you should be extremely worried. *Time Magazine* just published a completely irresponsible article ("Why It's Time to Retire the 401(k)," Stephen Gandel, October 7, 2009). The publisher might sell more copies as a result, but a fiduciary may be justifiably afraid that trial lawyers, sights set on suing 401k plan sponsors and fiduciaries, might be the ones buying them.

In brief, the article spins a tear-jerker of a tale about a 68-year old who, rather than playing golf in his retirement, now must eke out a living by repairing broken golf carts ("of the rich and famous" is almost certainly implied, if not outright stated). Why must this elderly gentleman continue to work? *Time* decides the only villain has to be the evil 401k plan!

As if on cue, Mr. Gandel evokes a blatant party line mantra when he cites the 401k as a Reagan-era "executive perk – one more way to dodge Uncle Sam." No. The 401k was created to give regular Joes a chance to take control – and responsibility – for their own future. Rather than relying on corporate pensions (a.k.a., legalized Ponzi schemes, q.v., the Social Security System), which might disappear instantly for reasons unrelated to the employees own actions (corporate takeover, buy-out or bankruptcy), the 401k freed the average worker from their employer's chains.

Ironically, on the same day, *Plan Sponsor Magazine* defied *Time*'s emotional diatribe with an empirical counterpunch ("Long-Term 401(k) Balances are Up Despite Recession," October 7, 2009). This article states the average 401k balance grew 41.6% in the five years ending December 31, 2008. In addition, despite the worst recession in at least a generation, the median 401k balance grew a whopping 11.4% over the same period!

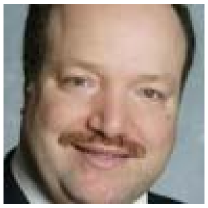
Still, while the real 401k growth numbers look good to the average fiduciary, the only numbers that matter are circulation statistics. *Time Magazine* has a wider – and potentially more influential readership – than *Plan Sponsor Magazine*. In addition, emotional arguments tend to tug at the synapses a bit hard and a bit longer than dry figures.

So, if trawling litigators seek to influence friendly juries in any case against an ERISA/401k fiduciary, the *Time* article offers a very good starting point.

And ill-prepared fiduciaries should be shaking in their boots.

SHARE

Posted in Commentary | Tagged 401k, Commentary, Defined Benefit Plans, investment performance, liability, participants, Plan Sponsor Magazine, Time Magazine



Chris Carosa