

## TOP STORY

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### **ANC Foundation Matching Donor Program**

NAGDCA and the ANC Foundation invite you and your company to participate in the second annual matching donor program during this year's NAGDCA Annual Conference, September 12-16, 2009, in Austin, TX. All industry members are invited to participate.

During the NAGDCA Annual Conference we will be encouraging attendees to donate to the ANC Foundation. Companies who sign up to participate in the program agree to match, up to their pledged amount, the donations pledged/received by both public and private sector conference attendees from Saturday, September 12 through Wednesday, September 16<sup>th</sup>. After the conference, we will notify each private-sector donor of its total match contribution. All donations are tax deductible.

### **ANC Foundation Silent Auction**

This year at the 2009 NAGDCA annual conference there will be a silent auction and various raffles to raise money to support the Arthur N. Caple Foundation. You can help by contributing an item or a monetary donation towards the silent auction and raffle. We would like to have all donations by August 14, 2009. All donations are tax deductible.

Government members are encouraged to contribute an item representative of their state.

For more information contact Tracy Tucker at [tucker@amrms.com](mailto:tucker@amrms.com) or 859-514-9210.

*The ANC Foundation provides scholarships to college students studying retirement and financial planning. In addition to the money the Foundation awards towards tuition, the scholarship winners are brought to our annual conference for them to participate and meet the government and industry leaders.*

## PRESIDENT'S CORNER

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*By: Alex Turner*

Dear NAGDCA friends,

It's hard to believe that we are so quickly approaching the 2009 NAGDCA Annual Conference in Austin, Texas. It's been quite a year, and I suspect none of us anticipated the unprecedented political and economic changes that actually surfaced when we were together in Baltimore last September. The focus on saving for retirement has taken on a special significance. More than ever, we are called upon to educate, assist and counsel our participants as they face the uncertainty of the markets.

Over the past year, the Executive Board has remained committed to maintaining NAGDCA as a leading information resource for governmental defined contribution plans. Despite challenges in our resources and budget brought by the economy, NAGDCA has continued to provide up-to-date, relevant information to its members through the website and clearinghouse, listserv, NAGDCASTS, and the annual conference.

I'm delighted to report that despite these challenges, the 2009 NAGDCA Annual Conference should be one of the best! The Conference Committee has worked very hard to provide educational sessions that are innovative, relevant to our work as plan administrators, and timely to today's retirement issues. We are maintaining the number of conference sessions offered, and will continue to provide professional education credits for the CFP and CPE designations. In a time when we all have had to trim and prioritize our educational budgets, both industry and government members have continued to recognize and support the value of the Annual Conference, and registrations and room reservations are currently at the same level as in previous years. This year's conference will continue to be filled with great educational opportunities. For more information about the conference, please visit:  
[http://www.nagdca.org/content.cfm/id/2009\\_annual\\_conference](http://www.nagdca.org/content.cfm/id/2009_annual_conference).

In addition to the Annual Conference, the Executive Board has also been working hard to fulfill NAGDCA's mission "to unite representatives from state and local governments along with private sector organizations that service and support defined contribution plans..." Some of the recent highlights have been in the following areas:

- A very successful 2009 Industry Roundtable was held May 14-15. Speakers representing a "retirement plan who's who" in the Treasury, the IRS, and both parties in the House and Senate engaged in a lively and frank discussion of current issues and challenges.
- Concurrent with the Industry Roundtable, Mindy Harris, Janet Kendall, Susan White, and I, along with NAGDCA staff, met with Mark Iwry, who that week had been appointed Deputy Assistant Secretary for Tax Policy. NAGDCA legislative priorities were discussed, along with the Saver's Credit. The Treasury emphasized that the encouragement of retirement savings is a priority of the new administration. The Treasury was most interested in NAGDCA's views in having a significantly increased Saver's Credit that could be deposited directly into retirement accounts. The meeting was very insightful, and it is apparent NAGDCA continues to be well-respected in the new administration.

- A legislative update NAGDCAST was held at the end of April; there were over 100 attendees and the evaluations of the event were very high. The next NAGDCAST will be on August 25 at 1 pm EDT, on “Saving and Surviving: Education About the Current Market.”
- The NAGDCA education presentation was taken into three classrooms – the University of Georgia, Concordia University and Southern Arkansas University. Student and faculty evaluations were outstanding, and two additional universities have expressed interest in participating this Fall.
- The Publications Committee has finalized its first brochure, “Is Your Mattress a Valid Retirement Savings Option?” It is available on the website. The Committee is now focusing on a second brochure – “You’re Retired...Now What? The Confidence Factor.”
- The second DC Survey Report and the Membership Satisfaction Survey have been completed, and will be available on the website shortly.
- The Membership Committee has been working with the Industry Committee on ways to reach additional plan sponsors with information about NAGDCA. TIAA-CREF and Great-West Retirement Services have agreed to share information about NAGDCA with their clients, and an e-postcard has been shared with all industry primary members in hopes that they will forward it to clients.
- The ANC Foundation awarded six scholarships. Meghan Shepard, University of Georgia, was awarded the ANC Foundation Scholarship. Five students received \$1,000 ANC Foundation Scholarships - Matthew Bagley, Texas Tech University; Katie Reeves, University of Georgia; Tim Griesdorn, Texas Tech University; Kristin Smith, University of Georgia and Alden Mergenthal, University of Georgia. Congratulations to each of the six winners, and we look forward to seeing them at the Annual Conference!
- Last, and definitely not least, don’t forget to check out NAGDCA’s debut into the world of “viral video” – the first YouTube video promoting the association! A link to the video is on the NAGDCA homepage.

I am looking forward to seeing everyone at the 2009 Annual Conference in Austin. Together we can reconnect, share our experiences over the last year, as well as our plans as we move forward into the future!

## INDUSTRY VIEWPOINT

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### Advice in DC Plans: Is It Working?

*By Ray Martin, EA, CFP®, CEBS*

With more and more plan sponsors adopting advice programs and the April 2009 introduction of new investment advice legislation by Congressman Robert Andrews (D-NJ), it is more important than ever to be able to answer the question whether investment

advice programs can help defined contribution (DC) plan participants save for financial security in retirement.

I submit that they can, and that we can measure the benefits objectively.

Of course I'm talking about *effective* advice programs – those that are objective and free from conflicts; have meaningful fiduciary protection; charge reasonable fees; are both personalized and integrated with other pertinent information sources; deliver services through a variety of media; and offer the services of expertly trained investment advisors.

### **Do plan participants *need* investment advice?**

Is there reason to believe that participants need advice, or are they doing fine on their own? Unfortunately, there is widespread evidence that participants all too often make poor retirement investment decisions. Data show that too many participants are saving too little, making inefficient investment allocations and inappropriate risk decisions, and trying to time the market. For example<sup>1</sup>:

- The percentage of workers very confident about having enough money for a comfortable retirement decreased sharply, from 27% in 2007 to 13 percent in 2009
- 28 percent of workers say the age at which they expect to retire has changed in the past year. Of those, 89% say that they have postponed retirement with the intention of increasing their financial security
- 53% of workers report that the total value of their household savings and investments, excluding the value of their primary residences and any defined benefit plans, is less than \$25,000; 20% say they have less than \$1,000 in savings
- Only 44% of workers have tried to calculate how much money they will need to save for retirement – 44% of whom guessed or made their own estimates

### **Do plan participants *use* investment advice when it's available?**

Given the record of poor decision-making by plan participants, is it realistic to believe that they will seek and act on objective investment advice when it is available to them? Participant behavior during the recent market volatility offers compelling evidence that they will. In our experience<sup>2</sup> during October 2008, Advisor Call Center volume surged to 160 percent of average. And we see demand strengthening again as of March 2009, as people see early indicators of possible market recovery. During the same time periods many self-directed participants, the victims of uncertainty and inertia, either attempted to rush to safety or rode out the volatility until extreme conditions took hold. For example, in November 2008, 83% of monthly cash flows moved from various equity funds to GIC/Stable Value.<sup>3</sup>

### **Does investment advice make a *difference* for plan participants?**

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<sup>1</sup> EBRI Issue Brief No. 328. April 2009. [www.ebri.org](http://www.ebri.org).

<sup>2</sup> ING Retirement Services.

<sup>3</sup> Hewitt 401(k) Index, November 2008.

When effective, objective investment advice is available to participants and when they act on it, is there a positive result? Our experience<sup>4</sup> has shown that participants using advice and managed account services save more than their plan peers and maintain diversified investment allocations suitable for their retirement time horizons.

For example:

- 99.9% of managed account members are maintained in diversified and risk-adjusted portfolios
- When self-directed participants enroll in managed accounts, the projected increase in expected annual performance is approximately 113 basis points (net of fees)
- When managed account members increase their savings rates, they do so at nearly twice the level of self-directed plan participants
- The savings rate of managed account members is 7% compared to 5% for self-directed participants

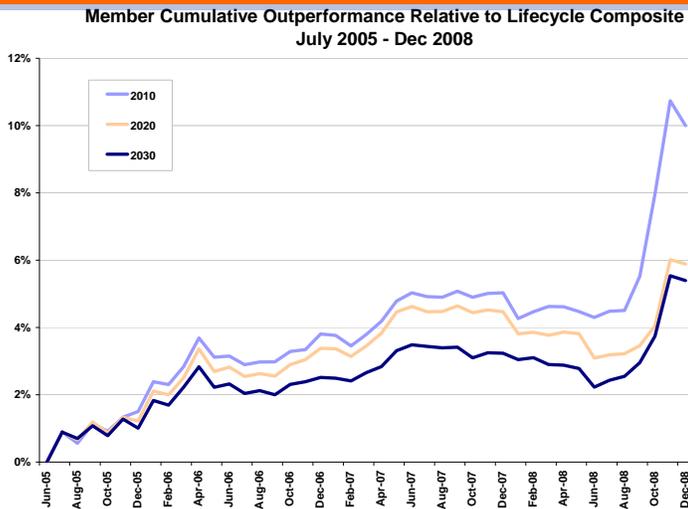
Also in our experience<sup>5</sup>, the investment performance of managed accounts compares favorably with the performance of lifecycle funds:

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<sup>4</sup> 2008 Financial Engines National 401(k) Evaluation and February 2009 ING Advisor Service Monthly Usage Report.

<sup>5</sup> Performance figures for the Member Portfolios reflect asset weighted estimated performance (net of all fees) across all members in plans that had the requisite data. Sponsors were included in a monthly calculation as soon as they met the data requirements. The returns shown include the following number of sponsors for each month: 2 for July 2005, 4 for August and September 2005, 5 for October through December 2005, 9 for January 2006, 12 for February 2006, 15 for March 2006, 20 for April 2006, 24 for May 2006, 26 for June 2006, 31 for July 2006, 33 for August 2006, 35 for September 2006, 36 for October 2006, 38 for November 2006, 41 for December 2006, 42 for January 2007, 44 for February 2007, 46 for March 2007, 52 for April 2007, 55 for May 2007, 57 for June 2007, 58 for July 2007, 59 for August 2007, 62 for September 2007, 66 for October 2007, 72 for November 2007, 76 for December 2007, 79 for January 2008, 87 for February 2008, 91 for March 2008, 99 for April 2008, 107 for May 2008, 111 for June 2008, 116 for July 2008, 121 for August 2008, 124 for September 2008, and 142 for December 2008. Member portfolios do not include results of all program members in the reported plans. The Member Portfolios do include all members retiring in a specified target year, plus/minus one year regardless of personalization. (For example, the Member Portfolio 2010 includes members retiring in years 2009, 2010, and 2011). Results for members that cancelled out of the program are not included within the period that includes time of cancellation. Daily participant contribution and withdrawal data may not be available. Member Portfolio performance estimated by attributing the reported performance of the underlying plan account assets to applicable plan accounts based on balances available at the end of each prior month. The lifecycle composite benchmark is an average weighted performance of the lifecycle funds of Fidelity, Vanguard, T. Rowe Price, Principal Investments, and Barclays. For some target years, a fund family did not offer a specific target horizon fund – in those cases the return was interpolated using the returns of the existing lifecycle funds. The performance data shown represents estimated past performance for the number of sponsors indicated, in accordance with the Member Portfolio inclusion criteria. Historical performance, particularly short-term performance, is no guarantee of future returns. The lifecycle composite is provided as a benchmark, but is not illustrative of any particular investment. An investment cannot be made in the benchmark.

# Relative FE Investment Performance



Cumulative monthly performance differences between FE managed account member cohort returns and relevant lifecycle composite benchmark cohort returns, net of fees, over the 3.5 year period ending 12/31/2009 (from inception of FE managed account program).

## Can we make advice *even more effective* for participants?

Advice is an ongoing process, and we can always do better – serving more participants and providing more assistance.

We can help more new and existing participants to overcome inertia with more “automatics,” including automatic enrollment, managed savings and suitable qualified default investment alternatives (QDIAs). And we can increase the scope of advisory services by accepting and implementing advice and managed accounts to create a “tipping point;” by integrating advice with managed savings programs; by deepening the integration of advice and plan account recordkeeping; and by extending into retirement with income solutions.

## What’s a prudent sponsor to do?

What are the fiduciary protections for sponsors that want to make advice available to plan participants? Existing protections include:

- U.S. Dept of Labor supports investment advice -- SunAmerica Advisory Opinion (2001-09A)
- ERISA investment manager §3(38) protections for managed account service -- §402 (c)(3) and §405(d)(1) fiduciary relief from liability
- QDIA safe harbor protection under §404(c)(5):
  - For auto-enrolled participants
  - For participants asked to make a “re-election” or “re-direction”
  - QDIA coverage for company stock
- Financial Services Agreement (per terms of agreement) that includes fiduciary status

To ensure that an effective advice program helps to manage fiduciary concerns, plan sponsors should look for these features:

- Experienced investment advisors
- Personalized service delivered through a variety of media
- Compliant with Department of Labor (DOL) Advisory Opinion 2001-09A; advice recommendations provided by an independent financial expert
- Reasonable fees within institutional pricing guidelines
- Provider is the fiduciary and investment advisor for the advisory services; assumes contractual responsibility for the advice program; assumes liability for the advice recommendations
- Fully integrated with plan recordkeeping and pertinent benefits information

By working with a service provider that offers such a program and by maintaining a focus on transparency, reliability, and track record, sponsors can adopt and provide an investment advice program that effectively serves their participants now and for the future.

*Ray Martin is president and CEO of ING Investment Advisors, LLC.*

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## **INDUSTRY VIEWPOINT**

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### **Liability in a Litigious Environment**

Ways to potentially reduce your fiduciary liability

*By: Vincent Galindo, Consultant, Arnerich Massena & Associates*

Liability in a Litigious Environment “Fiduciary liability” may seem like just two words on a page, but in a litigious environment, they can turn into reality quickly. As participants watch their accounts dwindle, they may understandably experience anger; it is a natural response to look for a culprit and point fingers. Unfortunately, in this era, that occasionally translates into seeking someone to sue. Now, perhaps more than ever, is a time to carefully review your fiduciary responsibilities and make sure that your processes and documents are in order. Following is a list to help you review your plan for potential areas of exposure to liability. Review your Investment Policy Statement Your Investment Policy Statement (IPS) should establish clear guidelines for investment decisions. It should include the criteria for fund selection, monitoring investment options, and the process for fund changes and terminations. The more explicit the IPS is, the less likely anyone is to find gaps or omissions. On the other hand, a policy that is too rigid may not be effective. An IPS should be rules-based but flexible enough to give committee members some discretion. Most importantly, make sure that your committee’s actions actually follow the guidelines set out in the IPS and work to align any inconsistencies. Keep a committee charter and maintain documentation. The committee charter is as fundamental to a plan’s documents as the IPS. The charter should address the selection and appointment of committee members and note how often regular committee meetings should occur. It should also specify which activities the committee is responsible for, such as coordinating vendor analysis and recommending plan design features. The charter should also identify to whom the committee needs to provide

recommendations and any governing bodies it must consult. Meeting minutes, reports, and any other pertinent documentation should be carefully maintained and organized. Documents should be readily accessible and decisions easy to track. Provide appropriate information to participants. Participants must have access to a Summary Plan Description, a Summary of Material Modification (informing participants of any plan changes), a Summary Annual Report, and any Blackout Period Notices. Make sure these reports are up-to-date and that participants know how to access them. Monitor your service providers. Your fiduciary responsibility extends beyond selecting and monitoring investment options to selecting and monitoring service providers. Maintain records of any research and due diligence and regularly review your contracts to make sure the services provided and fees charged are still reasonable, in line with, and appropriate for your plan's needs. Avoid prohibited transactions. It may be a good idea to occasionally audit your plan for potential prohibited transactions. The prevention of prohibited transactions is meant to protect participants from fiduciaries acting with a conflict of interest. This is a starting point for reviewing your plan and not an exhaustive description. Your advisor or service provider may be able to assist you in navigating through the complexities of fiduciary responsibilities and help you identify potential areas of liability exposure. Most of all, you should feel confident that your committee is acting prudently and solely on the behalf of your participants.

## **WASHINGTON UPDATE**

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*Susan J. White & Jonah Mainzer  
Susan J. White & Associates, Inc.*

### **Administration**

Since President Obama was inaugurated in late January, his new Administration has faced a myriad of issues, including the continued downturn in the economy, wars in Iraq and Afghanistan and a stepped up focus on federal health care reform. Even with all of these pressing issues, the Administration did send retirement related proposals to Capitol Hill and the President and some of his senior advisors have talked about "moving beyond the recession and focusing on savings...".

The Administration has proposed an Automatic IRA and an expanded Savers Credit, as part of its overall economic plan, while Congress continues to discuss these issues and those related to disclosure and fees in defined contribution plans. For example, Representative Earl Pomeroy (D-ND), a member of the House Committee on Ways and Means, introduced H.R. 1961 (The Savings for American Families' Future Act of 2009) on this issue. Currently the bill has eight cosponsors including Representative McDermott (D-WA) Chairman, Subcommittee on Social Security, and there is currently no companion bill in the Senate.

### **National Save for Retirement Week**

NAGDCA has once again been working with both the House and Senate to introduce a National Save for Retirement Week resolution and has reviewed a draft of the resolution. NAGDCA has pointed out, in its advocacy efforts on Capitol Hill, that the Resolution this year is more important than ever and, while the economy makes this more difficult, the need to save has not changed. Representative Schwartz (D-PA) has indicated her

support for sponsoring a resolution again this year, and the Senate is working on a similar measure.

## **Roth 457**

On June 12, the House of Representatives passed a Senate amended version of H.R. 1256 (The Family Smoking Prevention and Tobacco Control Act) which contains Roth provisions for federal employees. The President has indicated that he will sign the bill and is expected to do so shortly. Passage of this bill means that state and local government 457(b) plans are one of the few plans still excluded from taking part in Roth type retirement savings vehicles.

Because the Roth 457(b) proposal (first proposed by NAGDCA) has gained attention on Capitol Hill, it is possible that it could be included in a tax bill this fall.

## **Fee Disclosure Hearings**

Currently, the House Committee on Education & Labor is actively looking at fee disclosure. Chairman Miller (D-CA) has reintroduced H.R. 1984 (The 401(k) Fair Disclosure for Retirement Security Act of 2009) after it failed to move during the last Congress. This bill is directed at 401(k) and other ERISA plans and would not directly affect state and local government plans—given their exemption from ERISA.

H.R. 1984 addressed issues of information provided to participants to make choices, to employers and employees, and address conflicts of interest. Additionally, the measure provides a low cost index fund option for all defined contribution plans. Because the House Committee on Ways and Means and the Committee on Education and Labor share jurisdiction on this issue, unresolved matters remain that must be worked out by both panels before a bill is brought to the House floor.

Representative Neal (D-MA) recently introduced H.R. 2779 (The Defined Contribution Plan Fee Transparency Act of 2009). This bill addresses transparency with respect to fees and expenses charged to participant-directed defined contribution plans and to improve participant communication, but is different from the Education and Labor Committee in several respects. Until the differences are worked out, it is likely a measure will not reach the House floor.

The Committee on Education and Labor Subcommittee on Health, Employment, Labor and Pensions recently held a mark up and reported the bill to the full committee on a party line vote. Full committee action has not yet been scheduled but this bill is expected to pass the full committee when it is brought up. Again, given the complexities of the two committees working out a final measure to be brought to the floor, both chambers' distraction with health care reform and the fact that there is no similar bill in the Senate, it is unlikely that fee disclosure legislation is expected to pass this year.

## **Legislative Webcast**

On April 28, NAGDCA held its annual Legislative Webcast. Listeners were able to hear presentations from our offices, the Majority Tax Counsel to the House Committee on Ways & Means and the American Benefits Council. The discussion was focused on

NAGDCA's legislative priorities as well as where Congress was headed with legislation this year and National Save for Retirement Week.

## **Industry Roundtable**

On May 15, NAGDCA held its fifth Industry Roundtable. Speakers on the Legislative Panel included the outgoing Benefits Tax Counsel at the Department of the Treasury and the Majority and Minority Tax Counsels to the House Committee on Ways & Means. Issues that that were covered included the Saver's Credit, Roth 457s and fee disclosure.

Following the Roundtable, NAGDCA board members met with the new Department of the Treasury, Assistant Secretary for Tax Policy, Mark Iwry. NAGDCA's President, Legislative Chair and Industry Committee Chair had an opportunity to discuss the Association's legislative priorities, including the Administration's pending retirement related proposals.

## **AROUND THE COUNTRY**

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### **Call for NAGDCA's 2009 Media Recognition Award Nominations**

Nominations are still being accepted for the Media Recognition Awards. Please take this opportunity to acknowledge outstanding colleagues and outstanding work.

The Media Recognition Award recognizes a member of the media for outstanding coverage of pension and retirement issues in newspapers, magazines, national newsletters or research reports.

[Click here](#) to submit your Media Recognition Award nomination. The deadline for submissions is June 30, 2009.

**All nominations must be submitted online.**

Awards will be presented to government and industry partners at NAGDCA's Annual Conference in Austin, Texas on September 16, 2009.

Winners will be recognized in a printed publication at the conference.

## **NEW MEMBERS**

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Please visit the NAGDCA on-line directory for member's full contact information. You will need a username and password to access the information. Join me in welcoming our new members!!!

### **Industry Primary Member**

Mike Cochran

TCG Consulting LP

Ronan Burke  
AIB Investment Managers

John Chadwick  
Hewitt Associates, LLC

**Local Government Primary Member**

Jacob Kuijper  
CCOERA

## **MEMBER BENEFIT SPOTLIGHT**

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To remind members of benefits they receive throughout the year, NAGDCA spotlights a benefit of membership in each edition of *The Contributor*. For more information on this or any benefits of membership, please visit our website at [www.nagdca.org](http://www.nagdca.org) or contact NAGDCA staff at (859) 514-9161.

### **Information**

- [Career Center - Post job openings and review resumes](#)
- The Contributor, NAGDCA's quarterly newsletter that provides the latest information on association issues, members and legislative matters
- An interactive Web site at [www.nagdca.org](http://www.nagdca.org) that provides current information on federal activities, meetings, members, RFPs, presentations and more!
- An electronic clearinghouse with resources that offer answers and perspectives on various issues by showing actual practices used by members across the country
- Legislative representation in Washington, DC

## **ABOUT THE CONTRIBUTOR**

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*The Contributor* is published by the National Association of Government Defined Contribution Administrators, Inc. (NAGDCA). NAGDCA encourages the submission of articles on topics relating to defined contribution/deferred compensation retirement savings/plans. Articles that appear under the by-line of an individual express the opinions of the author and not those of NAGDCA as an organization. The deadline for submissions for the next issue is June 12, 2009. Articles should be approximately two pages in length and should be submitted in Word format. Please direct all newsletter items and questions to NAGDCA, 201 East Main Street, Ste 1405, Lexington, KY 40507. You may also e-mail submissions to Kari Emmons at [kemmons@amrms.com](mailto:kemmons@amrms.com). Please contact Kari Emmons at 859-514-9218 with any questions or comments.

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