

COWDEN TIMES

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[Amy Crouse, Senior Analyst at Cowden Associates, Inc., Receives Special Service Award from Acrisure](#)

Amy Crouse, senior analyst with Cowden Associates, Inc., recently received a Special Services Award from Acrisure, a growing national group of agencies offering insurance and risk management expertise to a broad base of personal, small and middle market clients. Acrisure's CEO Greg Williams, and Executive Vice President Tim Johnson presented Amy with the award at the May Conference. The award recognizes individuals who exhibit the following:

- Excel and work directly with clients, manage relationships and are instrumental in retaining revenue
 - Develop and maintain good working relationships with clients
 - Identify client's business needs and solutions to solve clients' needs
 - Show an aptitude to go above and beyond to make the agency successful
 - Constantly strive to improve oneself and the agency he/she works for and do more for clients and their respective agency
 - Maintain a positive attitude and "no lose" approach to their job
 - Have shown excitement around the Company and a strong desire to succeed in new ways with the resources that are available
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Amy stated, "I am very honored and humbled by this nomination and award. Thank you, Acrisure and the management team at Cowden Associates, for this recognition. I want to extend a special thank you to Elliot Dinkin, our CEO, who, nine years ago, took a chance on a young and inexperienced college graduate. If you ask Elliot, he would tell you that chance had nothing to do with it. He was able to see my drive and potential even before I was able to. He, along with many others at Cowden, have invested significantly in my professional growth and have helped guide me into the consultant that I am today. I look forward to continuing to serve our clients and invest in those who have joined our team after me."

"We congratulate Amy and look forward to her future success!" says Elliot Dinkin, president/CEO of Cowden Associates, Inc.

[Click to see a video of her accepting the award.](#)

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[Talk Business: Federal Trust Pays \\$18.1 Million to Arkansas Retirees in 2017, Pension Bubble Fears Grow](#)

The federal Pension Benefit Guaranty Corporation (PBGC) paid out more than \$18.111 million to 4,580 Arkansas retirees in failed pension plans in 2017. The payments came despite fears that rising deficits for some of the nation's largest employer programs will cause the government-funded trust to run out of money in the next decade.

Elliot Dinkin, president/CEO of Cowden Associates, Inc., was recently quoted in the Talk Business article.

[Click here to view the article.](#)

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Industry News

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Compliance Bulletin: Supreme Court Rules Service Advisors Exempt from FLSA Overtime Rules

On April 2, 2018, the United States Supreme Court ruled that service advisor employees at car dealerships are exempt from the Fair Labor Standards Act (FLSA) overtime pay requirements. Service advisors are no longer eligible for overtime pay under the FLSA; however, they may be eligible for overtime pay under state law.

Contact your Cowden [representative](#) for more information on this or other FLSA requirements.

[Read the Compliance Bulletin PDF.](#)

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Compliance Bulletin: HHS Extends Transition Policy for Non-ACA Compliant Health Plans

On April 9, 2018, the Department of Health and Human Services (HHS) extended an existing transition policy for certain health plans that do not comply with the Affordable Care Act (ACA) for an additional year, to policy years beginning on or before October 1, 2019. Any plans that are renewed under this transition policy must end by December 31, 2019. This ACA Compliance Bulletin describes the extended transition policy in more detail.

Contact your [Health and Benefits Consultant](#) for more information on this policy extension.

[Read the Compliance Bulletin PDF.](#)

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[Compliance Bulletin: New Resources for Mental Health Parity Compliance](#)

The Department of Labor (DOL) has provided new resources to promote compliance with the Mental Health Parity and Addiction Equity Act (MHPAEA). Employers should use the DOL's resources to review their health plan's compliance with the MHPAEA.

Contact your Cowden [representative](#) for more information on this or other compliance issues.

[Read the Compliance Bulletin PDF.](#)

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[Meet Our Team](#)

Our team consists of 23 employees; each newsletter we take time to highlight some of our employees. To see our leadership team [click here](#); to see all employees please [click here](#).



Elliot N. Dinkin

President/CEO

What would you most like to tell yourself at age 13?

Be curious, ask questions about everything; the girls you have a crush on that ignore you now will be the ones after you later in life – too late, as you will already find much better!

Where is the best place you've traveled to and why? Each time I visit a place there is always something special about each one – even if it's so small of a factor that makes them special, they become memorable for that reason.



Kathy Colbert

Manager, Marketing and Communications

What would you most like to tell yourself at age 13?

Always believe in yourself, be able to support yourself, and know that materialistic items can break, get lost or stolen – memories from experiences, adventures and travel will always be with you.

Where is the best place you've traveled to and why?

Europe – it's not a vacation – it's an experience; if you let yourself, you will live it, you will become part of it, and then you will understand it.



Frank M. Canonico, EA, MAAA
Director, Retirement and Actuarial Services

What would you most like to tell yourself at age 13?

Do everything in your power to remain intact.

Where is the best place you've traveled to and why? Vacation at beach just before starting college. Most serene five days of my life.



Bob Crnjarich, EA, FCA, MAAA
Senior Vice President, Retirement and Actuarial Services

What would you most like to tell yourself at age 13?

Don't sweat the small stuff.

Where is the best place you've traveled to and why? Punta Cana. The beaches, clear blue ocean and weather made it a great destination to visit.

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What's Dinkin Thinkin?



Elliot Dinkin is equally comfortable whether he is in a courtroom providing testimony or in a CFO's office providing strategic counsel. The 25-year plus veteran of the actuarial, compensation, and employee benefits fields continues to make his mark.

Today, as President and CEO at Cowden Associates, Inc., Elliot provides leadership to position the company at the forefront of the industry. You can learn more about changes in actuarial, benefits, management, and compensation policies from his blog, "[What's Dinkin Thinkin?](#)" or on Twitter, [@ElliotDofCowden](#).

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[To Ask or Not to Ask About Prior Compensation — That is the Question](#)

The Ninth Circuit Court of Appeals issued a recent ruling that wage disparity based on “prior salary alone or in combination with other factors” violated the Equal Pay Act (*Rizo v. Yovino*).

The court adopted the viewpoint that the objective of the Equal Pay Act is to eliminate long-standing pay disparities, not to preserve them, going as far as stating that “acceptable factors of pay disparities should be limited to legitimate, job-related factors such as prospective employee’s experience, educational background, ability, or prior job performance.” From a practical matter, this opinion overturned the longstanding and accepted practice (since 1982) that viewed employee’s pay history as one of the federal law’s catchall exceptions that are “based on any other factor than sex.” Said another way: If a prior employer-based

wage decisions inaccurately, why should the new employer continue this (potential) discriminatory practice?

The case will be petitioned for review to the Supreme Court of the United States. The appeal documents contain a preview of some of the ideas that might be argued, including details contained in the concurring opinions. Specifically, although certain judges agreed with the ultimate ruling, they did disagree with some of the rationale for the conclusions.

Impact for Employers

Employers should continue to review all aspects of their pay practices to ensure that they can ultimately defend and conclude that they are not discriminatory. It would also be a good practice to examine internal procedures, as well as those utilized by any external recruiters, to comprehend the type of data that is accumulated as part of this process and to fully understand how starting salaries are established.

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Voluntary Correction Program (VCP) Equivalent to Fix Violations Under the Fair Labor Standards Act (FLSA)

The Internal Revenue Service has created an Employee Plans Compliance Resolution System (EPCRS) for correcting qualified plan (e.g., Defined Benefit and Defined Contribution) errors, including Self-Correction Program (SCP), Voluntary Correction Program (VCP), and the Audit Closing Agreement Program (Audit CAP), to expedite the resolution of fixing certain operating mistakes. These plans have been widely used and benefit employers (and employees) in creating an acceptable correction process. This started out in a very narrow fashion and then, ultimately, expanded into what exists today.

In a somewhat similar manner, the Wage and Hour Division (WHD) of the Department of Labor (DOL) has announced a new nationwide pilot program, the Payroll Audit Independent Determination (PAID) program, to facilitate the resolution of potential overtime and minimum wage issues under the FLSA. Like the mirror program, also created by the IRS, this program's primary objective is to resolve claims quickly, without litigation. The WHD will implement this pilot program nationwide and evaluate the effectiveness of the program after, approximately, six months.

Advantages and Disadvantages of Participation for Employers

- The only payment due is for all back wages, without additional payment of liquidated damages or civil monetary penalties.
 - It is purely the employee's choice whether to accept the payment of back wages due, and employers are prohibited from retaliating against the employee for his or her choice.
 - If the employee chooses to not accept the payment, the employee will not release any private right of action.
 - If the employee chooses to accept the payment, the employee will *not* grant a broad release of all potential claims under the FLSA, as the releases are only tailored to the identified violations and time period for which the employer is paying the back wages.
 - The WHD does not waive its right to conduct any future investigations of the employer.
 - It appears that, once the WHD makes its assessment, an employer must accept the method and amount.
 - It does not appear that making an anonymous filing (John Doe) will be accepted by the WHD during this pilot program. The benefit of a John Doe filing is to gauge the potential cost of a corrective action, in a non-binding manner.
-

- PAID does not resolve state issues related to pay, and several states have longer statutes of limitation than the FLSA. Therefore, employers will still be subject to state DOL compliance; that does not mean that an agreement couldn't be reached similar to the federal agreement.

This may be a valuable approach to correcting an FLSA defect for overtime and/or minimum wage violations, if the benefits are greater than the risks. We will continue to monitor these developments and provide additional updates.

Employers are encouraged to continue to evaluate their pay programs to insure compliance with a variety of federal and state regulations, including internal and external pay equity.

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California Supreme Court Ruling Will Result in a Higher OT Rate for Employers Who Pay Flat Bonuses

The California Supreme Court issued a decision on March 5, 2018 ([Alvarado v. Dart Container Corp](#)) regarding the proper method under California law to calculate nonexempt employees' overtime rate of pay when those employees receive a flat bonus, which generally are payments that do not vary on factors such as effort or productivity. Flat bonuses include attendance bonuses, seniority/longevity bonuses, and certification bonuses.

The court adopted the view pushed by the Division of Labor Standard Enforcement that the amount of a flat bonus must be divided by only the employee's actual non-overtime hours worked and then multiplied by 1.5 to calculate the employee's overtime rate. This is different from the calculation method allowed under the federal Fair Labor Standards Act where the flat bonus is divided by all hours

worked—straight time and overtime hours—and then multiplied by 0.5 to calculate the employee’s overtime rate.

The method required by the California Supreme Court results in a much higher overtime rate than the federal method. As part of the decision, the Court indicated that the decision applies retroactively, as they interpreted this as not a new standard of law. The court clarified that its holding is limited to flat bonuses, and that a different analysis may be warranted for other types of non-hourly compensation whose amounts are roughly increased based on hours worked, such as a production or piecework bonus or commission.

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Cowden View

Attractive Employee Perks: What’s Hot Now (and What Works)

When it comes to employee benefits, you have a clear path on what to offer top talent. Repeated studies have shown some of [the most important benefits](#) to offer in order to remain competitive are:

- Health Insurance
 - Paid Time Off
 - Parental Leave
 - Retirement Plans
 - Tuition Assistance
-

But when it comes to perquisites—the layer of icing on top of the benefits cake—you have much more room for creativity. Offering a [colorful perks package](#) can help you to stand out from other employers, just as much as your benefits.

Not only that—perks can also save you money. Numerous studies, both [big](#) and [small](#), have found that workers are willing to accept a pay cut in exchange for a better work-life balance in the form of working remotely and flexible office hours.

Perks to Get on Your Radar

To increase your company's allure, consider offering these perks:

Health

Drink/Snack Fridge – Keeping it fully-stocked at all times will prevent workers from ever needing to leave the office during the day to fight off afternoon hunger pangs.

Napping Room – While it might sound counterintuitive, giving employees a quiet place to rest will allow them a chance to [tackle tough challenges fully-charged](#).

Onsight Gym – Even a small room with a treadmill and a set of weights can save busy professionals a bundle of cash and time by enabling them to work out on their lunch break.

Family-Life Balance

No Official Office Hours – The benefit here is obvious: [better work-life balance](#).

Remote Work Options – With better internet connections, the need to be physically in the office every day has declined.

Onsite Childcare – This service may require hiring an extra set of hands, but it's a major benefit for parents who worry about their young tikes during the day.

The Option to Bring Your Pet – [When done right](#), having some furry friends around the office boosts morale.

Community

Game Room – Stocking up on a few board games and electronic consoles gives hard-working employees a chance to unwind and recharge during the most stressful days.

Company-Sponsored Sports Teams – Not only will paying for some bats and gloves get employees engaged outside of work, it will also increase exercise—which may cut down on your healthcare expenses.

Season Tickets – If you have a local sports team, buying a few season tickets offers employees a chance to bond outside of work, while sharing a popular form of entertainment.

Volunteer Days – Granting a day or two off every year for folks to volunteer at a cause of their choice shows that you're dedicated to the community.

Doing It the Right Way

Increase the effectiveness of your perks with help from true professionals.

Contact [Cowden Associates](#) to determine which perks are best for your workforce—and what you can best afford.

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Should You Invest in Standing Desks?

In the last few years, standing desks – or height adjustable desks – have become very popular among workers for their purported health benefits. But do they make sense as an investment by employers? How could they impact your business?

Health Benefits to Employees

The average office worker sits for nearly 6 hours each workday. This can have a serious impact on the employee's health. Sitting for long periods has been associated with various negative health conditions:

- Increases the likelihood of [developing obesity](#), especially among men
- Increases the [risk of certain cancers](#): colon cancer by 8%, endometrial cancer by 10%
- Increases the risk of [cardiovascular events like heart attacks](#) by 125%

Standing for at least some portion of the workday helps to alleviate these health effects. In one study, workers increased their diets by 1000 calories a day to [test obesity rates](#). The group that sat two hours less on average saw no significant weight gain.

Working at a standing desk has also been shown to reduce pain in both the [lower back](#) and the [upper back and neck](#). Workers who use standing desks report greater energy levels and a feeling of well-being throughout the day. And, workers who feel better tend to be more engaged and productive. Which brings us to the upsides for your business.

Financial Benefits to the Company

First, there are simple logistical benefits. Height adjustable desks allow you to [better fit one workstation to many potential users](#). Even if an employee sits for most of their day, the desk can be adjusted to provide better ergonomics. Simply adjusting the height of a desk designed for that function costs less than retrofitting a fixed-height desk for a new user.

In at least one study, standing desks were shown to [increase productivity by 10%](#). Other studies show improvements up to nearly 50%, though their results are debated. However, different workers have different needs, and if one works better standing than sitting, it may be best to give them the option.

We talked about the possible health benefits of standing desks, and improved general health lowers healthcare costs. One study showed that workers with non-adjustable desks had [20x the cost in treating musculoskeletal disorders](#) than those with standing desks. Eliminating health problems and promoting wellness should be part of any business's benefits program.

It is easy to fall into the trap of looking at simplified cost breakdowns when investing in something like office furniture. But, in the case of something fundamental, like whether your employees sit or stand, there's actually a much more complicated story to be told. Cowden Associates can help you take a broader view on employee wellness. [Contact us](#) for more information.

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[About Cowden](#)

Cowden Associates, Inc. (Cowden) is recognized as a leading independent compensation, health and benefits, and retirement consulting firm regionally, nationally, and internationally. Cowden was established in 1996, bringing together seasoned professionals to provide client-focused advice designed to produce superior and measurable results to businesses, regardless of size or industry. Client industries include: financial institutions, governmental entities, healthcare, manufacturing, not-for-profit, school districts, and Taft-Hartley.

Cowden's exceptional interactive approach is what sets us apart from similar consulting firms. To deliver a tailored resolution to your specific needs, we first identify the overall attributes exclusive to your organization. We build an

understanding of your organization by asking questions, observing, and listening. In this manner you are not merely receiving a pre-fabricated answer, but rather a unique solution for your circumstances.

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How Are We Doing?

Please let us know how we're doing by submitting a Cowden Gram!

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