

# News Release



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## **Labor Department Sues to Appoint Independent Fiduciary For Abandoned Colorado 401(k) Plan**

**DENVER, Colo.** —The U.S. Department of Labor has sued to obtain the court appointment of an independent fiduciary to manage the abandoned 401(k) plan of Denver-based Maximum Team Moving Services Inc. and distribute the assets to 15 participants.

The department's lawsuit alleges the company and its president, Brian Tsuchiya, violated the Employee Retirement Income Security Act when they failed to administer the plan. The defendants allegedly failed to appoint a successor fiduciary to manage the plan after October 2002. Maximum Team ceased operations on June 1, 2001 and filed for Chapter 7 bankruptcy in 2003. Since the defendants abandoned the plan, participants and beneficiaries are unable to obtain distribution of assets remaining in the plan. The court approved a consent decree appointing an independent fiduciary to terminate the plan and distribute the plan assets to the participants.

Plans become "orphan plans" when they are abandoned by all fiduciaries designated to manage and operate them and their assets. At one time, Maximum Team employed 30 employees who performed moving and shipping services in Colorado, Illinois, Minnesota and Wisconsin. The company sponsored the plan, which had 15 participants and assets of \$21,800 as of March 30, 2004.

"The department took legal action to ensure that the participants receive their promised benefits," said Steven Eischen, director of the Kansas City regional office of the department's Employee Benefits Security Administration (EBSA), which investigated the case.

In fiscal year 2004, EBSA achieved record monetary results of \$3.1 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families. Employers and workers can contact the regional office at (816) 426-5131. Help with problems relating to private-sector retirement and health plans can also be obtained by calling EBSA's toll free number - **1-866-444-EBSA (3272)**.

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(Chao v. Tsuchiya)  
Civil Action No. 04-N-2648 (bnb)

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