

News Release



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Labor Department Sues to Appoint Independent Fiduciary For Abandoned Ohio 401(k) Plan

CINCINNATI, Ohio —The U.S. Department of Labor has sued to obtain the court appointment of an independent fiduciary to manage the abandoned the 401(k) plan of the Forest City Auto Parts Company in Solon, Ohio, distribute \$3,050,520 in assets to 702 participants and terminate the plan.

“The Labor Department’s action in the Forest City Auto case shows the department’s commitment to protecting the benefits of America’s workers and their families,” said Secretary of Labor Elaine L. Chao. “Last year, the Administration achieved record monetary results recovering a total of \$1.4 billion for retirement, 401(k), health and other benefits.”

The department’s lawsuit alleges the company and trustee Timothy Katona violated the Employee Retirement Income Security Act when they failed to administer and terminate the plan. The defendants allegedly failed to appoint a successor fiduciary to manage the plan when Forest City Auto Parts ceased operations after filing for bankruptcy on Feb. 26, 2001. Katona failed to formally terminate the plan. As a result, participants and beneficiaries were unable to obtain distribution of assets remaining in the plan.

Plans become “orphan plans” when they are abandoned by all fiduciaries designated to manage and operate them and their assets.

Employers and workers can reach EBSA’s Cincinnati regional office at (859) 578-4680 or through its toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans.

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(Chao v. Forest City Auto Parts)
Civil Action No. 1:04-CV-1831

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