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### FINDLAW DAILY OPINION SUMMARIES U.S. 1ST CIRCUIT COURT OF APPEALS

#### Civil Procedure

##### **Novak v. The Bank of New York Mellon Trust Co., No. 13-2543**

Service of process is generally not a prerequisite for removal and a defendant may remove a state-court action to federal court any time after the lawsuit is filed but before the statutorily-defined period for removal ends.

#### Criminal Law & Procedure

##### **US v. Graf, No. 14-1156**

Conviction for drugs and firearms charges is affirmed where the district court did not err in denying defendant's motion to suppress evidence where: 1) defendant was not entitled to a full hearing to challenge the detective's veracity; and 2) the magistrate did not improperly allow the government to investigate itself before deciding to deny his motion to suppress.

#### Civil Procedure, Class Actions, Family Law

##### **M. v. Raimondo, No. 14-1585**

In a putative class action, brought on behalf of ten foster children in custody of the Rhode Island Department of Children, Youth and Families (DCYF), the district court's judgment in favor of DCYF is vacated where it: 1) erroneously prevented the plaintiffs without sufficient reason from meeting with their lawyers; and 2) improvidently pretermitted discovery relating to DCYF's policies and customs.

#### ERISA

##### **Niebauer v. Crane & Co., Inc., No. 14-2059**

In an ERISA case, alleging that the administrator of plaintiff's former employer's executive severance plan denied him severance benefits after erroneously determining that he had retired voluntarily from his position and that the former-employer interfered with plaintiff's rights under the plan, 29 U.S.C. section 1140, the district court's grant of summary judgment to defendant on both counts is: 1) affirmed in part where the plan administrator's decision to deny plaintiff's claim for benefits was both supported by substantial evidence and procedurally proper; but 2) vacated as to the interference claim.