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## **Most Recent Summaries**

### **Mercury Systems, Inc. v. Shareholder Representative Servs., LLC**

April 26, 2016

Tax Law, M&A, Contracts

(United States First Circuit) - In a dispute arising out of a merger agreement in which one party agreed to indemnify the other against a purely hypothetical tax loss, involving the issue of whether the prepayments and credits, and resulting tax refunds, affect the tax indemnification obligation of the sellers, the District Court's judgment in favor of sellers is vacated and remanded for further proceedings where; 1) the indemnification provision is ambiguous as to how the tax refunds affect the indemnification obligation of the sellers; and 2) the parties' arguments about the purpose and negotiating history of the provision cannot be resolved without the aid of a fact-finder.

### **Pazol v. Tough Mudder Inc.**

April 26, 2016

Class Actions

(United States First Circuit) - In a case arising out of a physically challenging obstacle course event that changed locations twice, resulting in plaintiffs not being able to participate or receive a refund of registration fees, and involving the standards for showing that a class action has an amount in controversy of more than \$5 million, which is the threshold for enabling a case to be removed to federal court under the Class Action Fairness Act of 2005 (CAFA), the decision of the District Court is reversed where the defendants did not meet their burden of showing that the amount in controversy in this class action exceeds that threshold.

### **LaPierre v. City of Lawrence**

April 26, 2016

Civil Procedure, Civil Rights

(United States First Circuit) - In a civil rights action brought by a plaintiff who was sexually assaulted by one of the City's police officers, involving Federal Rule of Civil Procedure 68, which allows a party defending against a claim to make an offer of judgment that, if accepted within 14 days, must be enforced upon the filing of the offer, the acceptance, and proof of service, and such offer "to allow judgment on specified terms, with the costs then accrued," the District Court's judgment granting defendant's motion to strike the filing on grounds that plaintiff's acceptance was invalid is reversed where plaintiff was entitled to accept the City's original Rule 68 offer and to treat it as a complete offer exclusive of costs.

### **Milward v. Rust-Oleum Corp.**

April 25, 2016

### Product Liability, Injury & Tort Law

(United States First Circuit) - In a toxic tort case involving plaintiff's exposure to benzene from paints and other products manufactured by defendant, the district court's grant of summary judgment to defendant following the evidentiary ruling is affirmed where the district court's ruling was a supportable exercise of its discretion.

### **Murray v. Warren Pumps, LLC**

April 25, 2016

#### Civil Rights, Labor & Employment Law

(United States First Circuit) - In a suit brought against plaintiff's former employer and its parent company, claiming that their actions toward him violated the Americans with Disabilities Act (ADA) and its Massachusetts analog, 42 U.S.C. sections 2112(a) and (b)(5)(A) and M.G.L. ch. 151B section 4(16), and alleging a state common law claim that he had been terminated from his employment for raising complaints about suspected workplace safety violations, in contravention of Massachusetts public policy, the District Court's grant of summary judgment to defendant on all claims is affirmed where: 1) plaintiff cannot establish a nexus between his complaints about disability harassment and the alleged retaliation; and 2) Massachusetts courts recognize limitations on the protection afforded to at-will employees under the public policy exception and the district court adhered to the line drawn in the state court decisions.

### **US v. Milan-Rodriguez**

April 22, 2016

#### Sentencing

(United States First Circuit) - Sentences for convictions on conspiring to distribute cocaine and possessing a firearm while being an unlawful user of a controlled substance are: 1) affirm as to the sentence for the drug conspiracy count; but 2) vacated as to the sentence for the firearm count because it exceeds the statutory maximum penalty for that count.

### **Peralta Saucedo v. Lynch**

April 22, 2016

#### Immigration Law, Administrative Law

(United States First Circuit) - In a petition for review of the Board of Immigration Appeals' (BIA) affirmance of an immigration judge's (IJ) decision that he was not eligible for cancellation of removal, based on extreme hardship to his wife and son, because he had failed to meet his burden of proving by a preponderance of the evidence that he had not previously been convicted of a crime of domestic violence in 2006, 8 U.S.C. sections 1227(a)(2)(E)(i) and 1229b(b)(1)(C), the petition is granted where, despite strong arguments to the contrary by the Government, that the issue before us is one of law and that the Supreme Court's decision in *Moncrieffe v. Holder*, 133 S. Ct. 1678 (2013) requires a different outcome than before.

### **Acosta v. Lynch**

April 22, 2016

#### Immigration Law, Administrative Law

(United States First Circuit) - In a petition for review of a Board of Immigration Appeals (BIA) decision that petitioner is removable as an alien present in the U.S. without being admitted or paroled under Immigration and Nationality Act (INA) section 212(a)(6)(A)(i), 8 U.S.C. section

1182(a)(6)(A)(i), the petition is denied where petitioner has failed to explain the many inconsistencies in his travel documentation, and neither the IJ nor BIA erred in crediting the Government's substantial evidence rebutting petitioner's own account.

**US v. Perez**

April 22, 2016

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Sentence for guilty plea to six counts of drug conspiracy and distribution related charges arising out of a cocaine-smuggling venture is affirmed over defendant's meritless challenges to the procedural underpinnings and the substantive reasonableness of his sentence.

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