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## **Most Recent Summaries**

### **Rodriguez-Miranda v. Benin**

July 13, 2016

Civil Procedure, Labor & Employment Law, Corporation & Enterprise Law, Corp. Governance (United States First Circuit) - In another appeal in a protracted employment dispute between two former colleagues in which plaintiff sought payment of his promised wages and loan money, the District Court's decision to use Federal Rule of Civil Procedure 25(c) to hold defendant and related entities liable for the judgment originally entered against defendant's company only is affirmed where the District Court did not plainly err in joining related entities as alter egos of defendant's company and holding them liable for the judgment entered in favor of plaintiff.

### **Kelley v. Fidelity Mgmt. Trust Co.**

July 13, 2016

Class Actions, ERISA

(United States First Circuit) - In a putative class action filed by retirement-plan participants and one plan administrator, involving investments to generate retirement benefits, the District Court's dismissal under Federal Rule of Civil Procedure 12(b)(6) is affirmed over plaintiffs' contentions that defendants are dealing with plan assets in breach of fiduciary duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. sections 1001-1461.

### **US v. Stokes**

July 13, 2016

Criminal Law & Procedure, Sentencing

(United States First Circuit) - In a case in which defendant pled guilty to wire fraud under 18 U.S.C. section 1343 and mail fraud under 18 U.S.C. section 1341, the District Court's denial of his motion to suppress and its sentencing determination are affirmed where: 1) defendant's inability demonstrate a reasonable expectation of privacy in the mail items searched and seized is fatal to his Fourth Amendment claim; and 2) given the breadth and duration of defendant's operation, the District Court did not clearly err in its loss calculation under U.S.S.G. section 2B1.1(b)(1).

### **Burns v. Johnson**

July 12, 2016

Civil Rights, Labor & Employment Law

(United States First Circuit) - In a suit brought by a former TSA employee's alleging claims of sex discrimination and sex harassment in violation of violations of Title VII of the Civil Rights Act of 1964, the District Court's dismissal of plaintiff's supervisor from the suit and subsequent summary judgment in favor of defendant employer is reversed where: 1) the district court erred

by requiring her to present direct evidence to establish sex discrimination under the mixed-motives theory; 2) the district court also erred by requiring plaintiff to show that the supervisor's conduct was severe and pervasive to establish sex harassment; and 3) under the correct legal frameworks, there is sufficient circumstantial evidence from which a reasonable jury could find in plaintiff's favor on both claims.

**US v. Ortiz-Islas**

July 11, 2016

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Conviction and sentence for conspiracy to possess cocaine for distribution and to distribute it are affirmed over defendant's meritless claims of: 1) an impermissible variance between the indictment's charge and the Government's proof; 2) erroneous admission of evidence because the September 2012 sting 'transaction' occurred after the indictment issued in August; 3) error involving the district court's application of the relevant sentencing statute: 21 U.S.C. section 841(b)(1); and 4) an unreasonable disparity between his sentence and that of each of his co-conspirators.

**US v. Alvarez-Nunez**

July 8, 2016

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Sentence for convictions of possession of a firearm and ammunition by an unlawful user of a controlled substance, 18 U.S.C. section 922(g)(3), and possession of a machine gun, section 922(o), is vacated and remanded for resentencing where: 1) the District Court's consideration of defendant's musical group whose songs promoted violence, drugs and the use of weapons and violence, blurred the line between the artistic expression of a musical performer and that performer's state of mind qua criminal defendant; and 2) this line-blurring undermined the plausibility of the court's sentencing rationale.

**US v. Rodriguez-Melendez**

July 8, 2016

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Sentence for possessing a firearm in furtherance of a drug trafficking crime in violation of the conditions of defendant's supervised release is vacated and remanded for resentencing where the sentence was procedurally unreasonable because it was premised on purported facts from Probation Office records, directly contrary to the facts contained in the relevant Presentence Investigation Report (PSR).

**Aponte-Davila v. Municipality of Caguas**

July 8, 2016

Civil Procedure, Injury & Tort Law

(United States First Circuit) - In a 'slip-and-fall' negligence suit invoking the federal courts' diversity jurisdiction, the District Court's dismissal for lack of subject-matter jurisdiction is reversed where plaintiff had not abandoned his Texas domicile while receiving medical care in Puerto Rico, and, that in any event, defendant had reinstated his Texas domicile before suit was filed.