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## **Most Recent Summaries**

### **US v. Henry**

February 6, 2017

(United States First Circuit) - Conviction of possession of crack cocaine with intent to distribute is affirmed over defendant's meritless claims that: 1) the district court erroneously failed to suppress text messages the police obtained from his cell phone pursuant to a search warrant; and 2) the district court erred in admitting evidence of his prior drug conviction, allowing a police officer to provide inadmissible expert testimony, and by failing to instruct the jury on the lesser included offense of simple possession.

### **Mediterranean Shipping Co. v. Best Tire Recycling, Inc.**

February 6, 2017

Transportation, Admiralty, Contracts

(United States First Circuit) - In a dispute arising out of a contract for the shipment of used tires from Puerto Rico to Vietnam, which accrued demurrage charges, port storage charges, and related administrative fees, apparently because it arrived late to Vietnam, the district court finding that defendant was the shipper, and therefore, pursuant to the bills of lading, was liable for the charges and fees to the carrier, is affirmed where was designated as the shipper on the bills of lading.

### **US v. Herman**

February 6, 2017

Sentencing, Criminal Law & Procedure

(United States First Circuit) - Sentence and conviction of conspiracy, willful violation of the Investment Advisers Act, wire fraud, and corruptly impeding the administration of internal revenue laws, arising from a scheme in which defendant and a co-conspirator solicited funds for purported investment in a hedge fund management company, are affirmed where: 1) there were no deficiencies in the district court's instructions on the reasonable doubt standard; and 2) the district court did not err in refusing to grant an additional downward departure on her already below guidelines sentence.

### **US v. Perez-Diaz**

February 3, 2017

Evidence, Criminal Law & Procedure

(United States First Circuit) - Sentence for conviction by guilty plea to possession of child pornography in violation of 18 U.S.C. section 2252(a)(4)(B) is affirmed over defendant's claim that the district court erred in denying his motion to suppress evidence on Fourth Amendment grounds where the district court's factual findings do not support defendant's contentions.

**US v. Pereira**

February 3, 2017

Criminal Law & Procedure

(United States First Circuit) - Conviction of conspiring to possess cocaine with the intent to distribute, and aiding and abetting others to possess cocaine with the intent to distribute, in violation of 18 U.S.C. section 2 and 21 U.S.C. sections 841(a)(1) and 846, is vacated and remanded for a new trial where the prosecutor's improper questioning compelled defendant to comment on the veracity of two cooperating government witnesses, a problem that was exacerbated by improper judicial intervention in support of the prosecutor's questions.

**Prime Healthcare Services v. United Nurses and Allied Professionals**

February 3, 2017

ERISA, Labor & Employment Law, Dispute Resolution & Arbitration

(United States First Circuit) - In a dispute between employees and their successor employer, both of whom agreed to arbitrate, the district court's refusal to compel arbitration because it found that ERISA preempted arbitration of this dispute, which presented an issue of arbitrability properly decided by a judge, is reversed where the issue of ERISA preemption in this case is not an issue of arbitrability, but rather one that is squarely for the arbitrator to decide.