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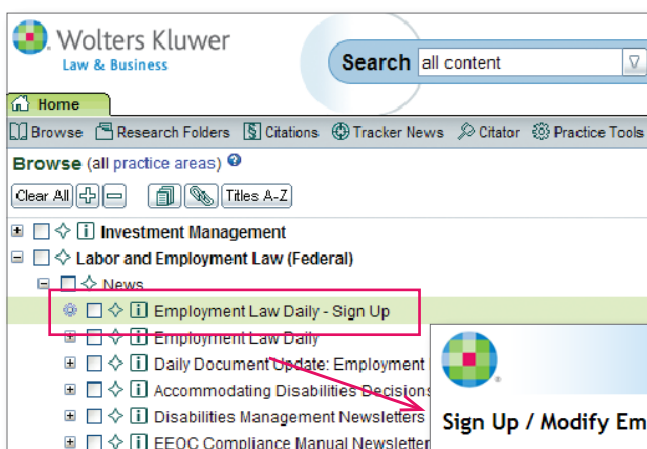
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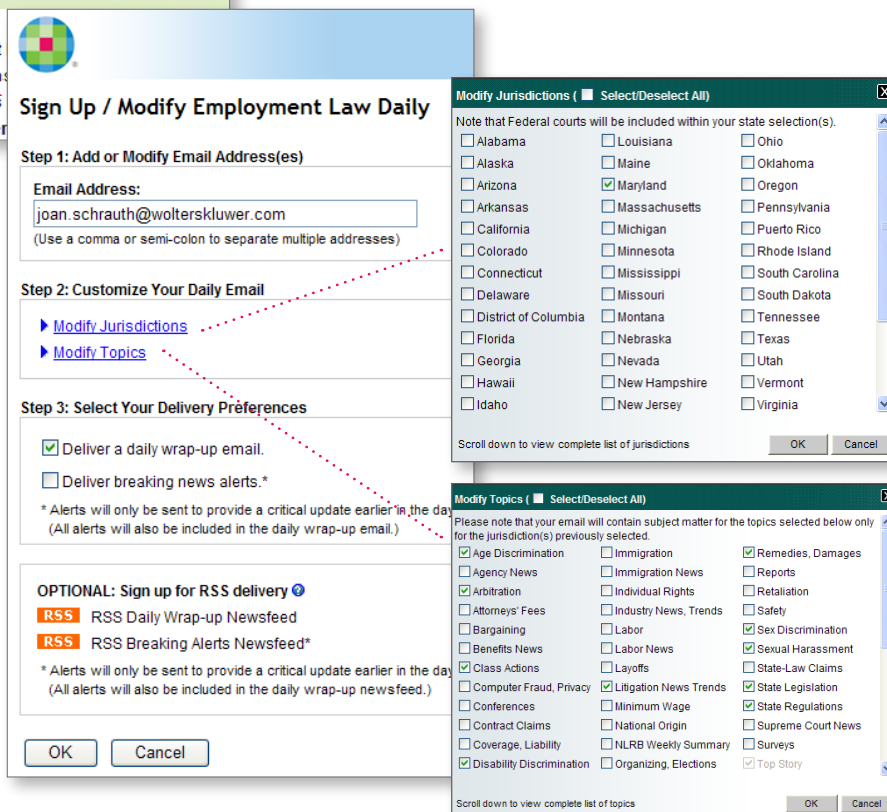


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Employment Law Daily Wrap Up, February 15, 2011

HEADLINES

- TOP STORY—1stCir: Employee's retaliation claims unsuccessful because she failed to dispute reasons for suspension, reassignment and discharge
- DISCRIMINATION—DISABILITY—NDCal: Summary judgment granted because demoted employee with MS was not disabled under ADA; only requested accommodation was granted
- DISCRIMINATION—DISABILITY—WDPa: Lifting may not be essential function of nursing program; summary judgment denied to employer
- EMPLOYEE LEAVE—WDTex: Employee who indisputably took medical leave failed
- EMPLOYEE STATUS—DNJ: Court refuses to sanction litigious applicant who threatened to continue suing employer after summary judgment entered in favor of employer on failure to hire claim
- INDIVIDUAL RIGHTS—MDTenn: School district's random drug-testing policy for teachers constitutionally flawed by lack of notice of what drugs were being tested
- INDIVIDUAL RIGHTS—WDKy: Class action alleges Res-Care's use of criminal background checks in hiring violated Fair Credit Reporting Act
- LABOR—ARBITRATION—3rdCir: Postal workers union denied enforcement of settlement agreement purporting to settle work assignment dispute that was subject to tripartite arbitration procedure
- LABOR—UNFAIR LABOR PRACTICES—NLRB: Discouraging blog postings, comments after discharge did not excuse employer from reinstating employee; decisions applying Jefferson Standard to post-discharge comments overruled
- NLRB WEEKLY SUMMARY—For the week ending February 11, 2011
- PENSION AND BENEFIT PLANS—WDMo: Employee not entitled to statutory penalties due to employer's failure to provide required COBRA notice of health care benefits
- PROCEDURE—Idaho: Trustee could pursue employment discrimination claim for estate; employee failed to list claim on bankruptcy schedules
- WAGE-HOUR—EXEMPTIONS—Idaho: Motor carrier exemption applies to UPS on-road supervisor; de minimis exception inapplicable
- STATE LEGISLATION/MISSOURI—Bill would minimize effects and reach of child labor laws
- DOL NEWS—ERISA extends applicability date of benefit plan disclosures

CASES

TOP STORY—1stCir: Employee's retaliation claims unsuccessful because she failed to dispute reasons for suspension, reassignment and discharge

The First Circuit affirmed summary judgment in favor of the Small Business Administration (SBA), after finding that a federal employee failed to provide evidence to support her claims that she was retaliated against for complaining about sex discrimination and sexual harassment. (*Rivera-Colon v Mills*, February 15, 2011, Level, P). The district court properly held that the employee's Title VII claims were unsuccessful after she failed to rebut the SBA's articulated reasons for its conduct, the appeals court ruled.

ing that two male supervisors were demanding sexual favors from female employees and asserted that they favored those who complied. However, the employee withdrew the claim. Several months later, she was suspended for acting unprofessionally at a training session about the telecommuting program. The suspension was effected in light of several factors witnessed by one of the supervisors, and was deemed to be hostile and unprofessional. Moreover, an agency attorney sent a letter regarding the employee's conduct, and union out her attempts to dissuade them from participating in the program. Although the employee was given a chance to refute the charges before the suspension was imposed, she thought the suspension was discriminatory.

decision to transfer all employees who spent more than 25 those who decided against relocation. The employee, who spent more than 35 percent of her time on liquidation, was separate by the first deadline, she was sent a second letter with a different deadline. The employee responded with a terminated due to her failure to accept the transfer. The employee filed suit under Title VII and the district court granted

The First Circuit agreed with the district court's finding that the employee failed to raise a material issue of fact rebutting Although the employee claimed a coworker told her it was "widely known throughout the office" that she was the person either supervisor learned that she was the one who complained. She also failed to provide any evidence showing they showing neither supervisor knew about her complaint when they imposed her suspension, the circuit court found the d

Further, the employee failed to provide any evidence to support her claim that her reassignment and termination were generally applicable policy that covered a large number of employees, the employee failed to provide evidence that the

Summaries contain links to full-text of summarized cases

Headlines link to summaries

United States Court of Appeals
For the First Circuit

No. 09-2417

RUTH RIVERA-COLÓN,
Plaintiff, Appellant,

v.

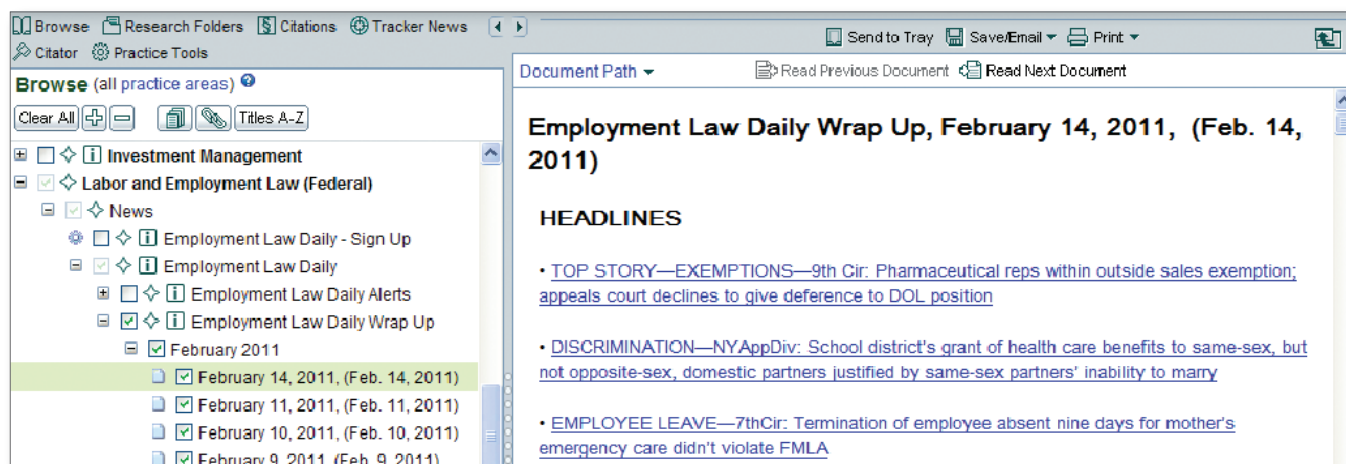
KAREN G. MILLS,
ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION,
Defendant, Appellee,

UNITED STATES ET AL.,
Defendants.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

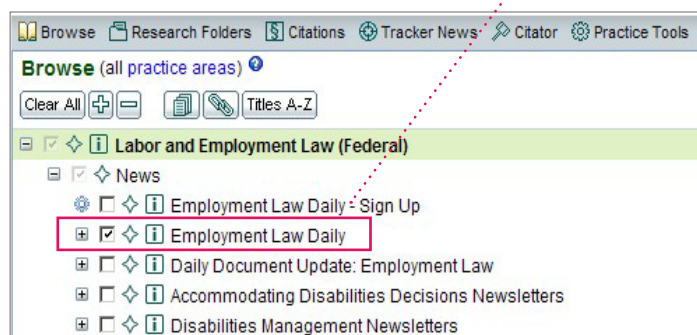
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