RECENT CASES

CONSTITUTIONAL LAW — ARTICLE III — THIRD CIRCUIT HOLDS ARTICLE III ADJUDICATION IS REQUIRED FOR IMPOSITION OF BACK WAGES AND CIVIL PENALTIES. — *Sun Valley Orchards, LLC v. United States Department of Labor*, 148 F.4th 121 (3d Cir. 2025).

In *SEC v. Jarkesy*,[1] the Supreme Court failed to fully clarify the "unquestionably muddy" relationship between Article III and the Seventh Amendment.[2] Yet it has repeatedly treated the two constitutional provisions as analytically distinct[3] given that they have distinct scopes, with Article III adjudication required for cases based in common law, equity, and admiralty, while the Seventh Amendment right to a jury trial applies only to cases rooted in common law.[4] Recently, in *Sun Valley Orchards, LLC v. United States Department of Labor*,[5] the Third Circuit held that Sun Valley was entitled to have an Article III court adjudicate its case involving the remedies of backpay and civil penalties.[6] The court's determination rested in part on the view that the back wages were a legal remedy because their secondary purpose was to deter undesirable conduct.[7] But parsing whether a remedy is legal or equitable is key to determining whether jury trials are required under the Seventh Amendment, not whether a case must be heard by an Article III court.[8] By confusing the two, the Third Circuit risked pulling other equitable remedies with secondary deterrent effects within the ambit of the Seventh Amendment.

Sun Valley concerned a farm's compliance with the H-2A visa program, which allows "domestic employers [to] temporarily hire foreign

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[1] 144 S. Ct. 2117 (2024).

[2] Note, *Unlinking the Seventh Amendment and Article III*, 138 HARV. L. REV. 588, 600 (2024).

[3] Matthew Strada, *The Unfolding Meaning of* Jarkesy, YALE J. ON REGUL.: NOTICE & COMMENT (Apr. 27, 2025), https://www.yalejreg.com/nc/the-unfolding-meaning-of-jarkesy-by-matthew-strada [https://perma.cc/U6FH-ZXMZ] (noting that the Court "has developed different analytical frameworks for the [Seventh Amendment and Article III]"); Note, *supra* note 2, at 595 ("[T]he Article III and Seventh Amendment analyses are clearly distinct.").

[4] Colleen P. Murphy, Note, *Article III Implications for the Applicability of the Seventh Amendment to Federal Statutory Actions*, 95 YALE L.J. 1459, 1461 (1986) ("Article III extends the judicial power of the United States to 'all Cases, in Law and Equity;' the Seventh Amendment preserves the right to jury trial in 'Suits at common law.'" (footnote omitted) (quoting U.S. CONST. art. III, § 2, cl. 1; U.S. CONST. amend. VII)).

[5] 148 F.4th 121 (3d Cir. 2025).

[6] *Id.* at 124.

[7] *Id.* at 129.

[8] *Compare* SEC v. Jarkesy, 144 S. Ct. 2117, 2128 (2024) ("The [Seventh] Amendment therefore 'embrace[s] all suits which are not of equity or admiralty jurisdiction . . . .'" (second alteration in original) (quoting Parsons v. Bedford, 28 U.S. (3 Pet.) 433, 447 (1830))), *with id.* at 2134 (recognizing that Article III adjudication is required for "any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty" (quoting Murray's Lessee v. Hoboken Land & Improvement Co., 59 U.S. (18 How.) 272, 284 (1856))).

laborers to perform seasonal agricultural work."[9] To participate in the program, employers must post a "job order" that functions as a contract whose terms are enforceable by the Department of Labor (DOL).[10] Those terms include regulatory requirements like the provision of free housing, kitchen access or a meal plan, and transportation to work.[11] DOL "is authorized to take such actions . . . as may be necessary to assure employer compliance with" the H-2A program,[12] including "recover[ing] back wages, debar[ring] the employer from receiving future H-2A labor certifications, and impos[ing] civil money penalties."[13] A party can appeal DOL's decision to an Administrative Law Judge (ALJ) and can further appeal the ALJ's decision to the Administrative Review Board (ARB).[14]

Sun Valley is a New Jersey farm that hired H-2A workers to harvest crops in 2015.[15] Its job order promised a minimum of forty work hours per week; assured free housing, transportation, and kitchen access; and guaranteed employment for the equivalent of three-fourths of the promised hours.[16] After investigating, DOL identified several violations: Contrary to its job order, Sun Valley failed to supply adequate housing,[17] did not provide kitchen access,[18] violated its transportation obligations,[19] and contravened its "three-fourths [wage-hours] guarantee."[20] DOL levied back wages for the kitchen-access and three-fourths-guarantee violations and assessed civil penalties for all four violations.[21] Sun Valley requested a hearing before an ALJ, who agreed with DOL's findings of violations but modified the amount of penalties and back wages owed.[22] The ARB affirmed the ALJ's decision.[23] Sun Valley brought suit in the U.S. District Court for the District of New Jersey, arguing that (1) the adjudication violated Article III, (2) Congress had not authorized agency adjudication, (3) the ALJ's appointment violated the Appointments Clause, (4) the ALJ's statutory removal protections contravened the President's removal power, (5) DOL's decision was

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[9] *Sun Valley*, 148 F.4th at 124. *See also generally* 8 U.S.C. § 1188 (codifying the H-2A program).
[10] *Sun Valley*, 148 F.4th at 124 (citing 20 C.F.R. § 655.122(q) (2024)).
[11] 20 C.F.R. § 655.122(d)(1), (g), (h)(1) (2024).
[12] 8 U.S.C. § 1188(g)(2).
[13] Sun Valley Orchards, LLC v. U.S. Dep't of Lab., No. 21-cv-16625, 2023 WL 4784204, at *2 (D.N.J. July 27, 2023).
[14] *Id.*
[15] *Sun Valley*, 148 F.4th at 125.
[16] *Id.*
[17] *Id.*
[18] *Id.* at 125–26.
[19] *Id.* at 126.
[20] *Id.*
[21] *Id.* at 125–26.
[22] *Id.* at 126.
[23] *Id.*

arbitrary and capricious, and (6) DOL's action violated the Excessive Fines Clause.[24]

The district court dismissed Sun Valley's claims in full.[25] First, the district court held that the case fell under the public rights exception to Article III adjudication.[26] The court explained that the public rights exception "applies 'when the right is integrally related to [a] particular Federal Government action.'"[27] Because immigration issues — including the H-2A program — inherently fall under the scope of the public rights doctrine, the district court held the exception applied here.[28] Second, the court held that Congress had authorized the action because the statute's plain language permitted DOL to adjudicate remedies in administrative proceedings.[29] Third, the court concluded that the ALJ had been properly appointed as an inferior officer when she decided the case because the Secretary of Labor had ratified her appointment prior to her decision.[30] Fourth, the court rejected the removal challenge, finding that, as inferior officers, ALJs can be provided with for-cause removal protection consistent with Article II.[31] Fifth, the court held that the ALJ's actions were not arbitrary and capricious because the ALJ had "reasonably considered the relevant issues . . . and reasonably explained the imposition of back wages and penalties."[32] Lastly, the court held that the imposed remedies were not grossly disproportionate to Sun Valley's violations.[33]

The Third Circuit reversed.[34] Writing for the panel, Judge Hardiman[35] first resolved the threshold question of whether the case against Sun Valley concerned private rights.[36] To do so, the court considered whether the case "[was] made of the stuff of the traditional actions at common law tried by the courts at Westminster in 1789."[37] The panel determined that the enforcement action against Sun Valley was analogous to common law breach of contract[38] because it was predicated on

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[24] Sun Valley Orchards, LLC v. U.S. Dep't of Lab., No. 21-cv-16625, 2023 WL 4784204, at *3 (D.N.J. July 27, 2023); *Sun Valley*, 148 F.4th at 126–27.

[25] *Sun Valley*, 2023 WL 4784204, at *11. Judge Rodriguez wrote the opinion for the court.

[26] *Id.* at *6.

[27] *Id.* (alteration in original) (quoting Stern v. Marshall, 564 U.S. 462, 490–91 (2011)).

[28] *Id.*

[29] *Id.* at *7.

[30] *Id.* at *8.

[31] *Id.* It also found that Sun Valley had "failed to raise its Appointments Clause and Removal Power objections" before the agency, thereby forfeiting them. *Id.* at *7.

[32] *Id.* at *10.

[33] *Id.* at *11.

[34] *Sun Valley*, 148 F.4th at 124. The Third Circuit reached this decision by considering "only [Sun Valley's] challenge under Article III," not the Seventh Amendment, because its "complaint did not allege a violation of the Seventh Amendment." *Id.* n.3.

[35] Judge Hardiman was joined by Judges Porter and Smith.

[36] *Sun Valley*, 148 F.4th at 128.

[37] *Id.* (quoting SEC v. Jarkesy, 144 S. Ct. 2117, 2132 (2024)).

[38] *Id.* at 129.

Sun Valley's violation of the terms of the work contract rather than a violation of regulations.[39] The panel also looked to the remedies sought by DOL: civil penalties and backpay.[40] At common law, civil penalties "could only be enforced in courts of law."[41] And, because the assessed back wages served at least some deterrent purpose, they too sounded in the common law.[42] It was the "punitive" nature of these remedies that "presumptively entitl[ed] Sun Valley to adjudication before an Article III court."[43]

The panel also held that the public rights exception to Article III adjudication did not apply because the relevant regulations do not directly address immigration but "[i]nstead . . . [are] designed to vindicate the domestic national policy goal of preserving 'the wages and working conditions of workers in the United States.'"[44] The regulations involved issues like "worker hours, housing, cooking, and transportation," which "regard[ed] employment law, not . . . 'immigration,'" in contrast to what DOL had argued and the district court had found.[45] The panel noted, however, that certain H-2A actions, such as debarment proceedings, would fall under the public rights exception "to the extent they vindicate the federal government's critical interest in border control."[46]

Lastly, the panel rejected DOL's argument that Sun Valley had waived its Article III objection, holding that it had not consented to agency adjudication.[47] It also held that DOL had waived any exhaustion arguments by failing to raise them before the district court.[48] "Because Article III required [DOL] to . . . proceed before a federal district court," the panel reversed the district court and directed the entry of judgment in favor of Sun Valley.[49]

The relationship between the Seventh Amendment and Article III has long been confused,[50] but the Court "confirm[ed] their analytical similarity" in *Jarkesy*.[51] The Third Circuit relied upon that similarity in *Sun Valley*, interpreting *Jarkesy* as articulating an analytical framework — one that requires the consideration of whether the remedies pursued by an agency were legal or equitable in nature — that was

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[39] *Id.* at 128.

[40] *Id.* at 129.

[41] *Id.* (quoting Tull v. United States, 481 U.S. 412, 422 (1987)).

[42] *Id.* (noting that the ALJ had "assessed back wages at least in part '[t]o deter such harm from occurring in the future'" (alteration in original)).

[43] *Id.*

[44] *Id.* at 131 (quoting 8 U.S.C. § 1188(a)(1)(B)).

[45] *Id.*

[46] *Id.*

[47] *Id.* at 131–32.

[48] *Id.* at 132.

[49] *Id.*

[50] Note, *supra* note 2, at 608 ("The nature of the Seventh Amendment's relationship to Article III has been a puzzle for decades.").

[51] *Sun Valley*, 148 F.4th at 128 n.3.

applicable to both Article III and Seventh Amendment challenges.[52] While the two provisions bear similarities, they have distinct scopes: The Seventh Amendment's guarantee of a jury trial applies only to actions that are legal in nature, while Article III adjudication is required for certain actions that may be either legal or equitable in nature.[53] In concluding that the backpay order's secondary deterrent effect made it analogous to traditional actions at common law, the Third Circuit reached its conclusion based on reasoning that appears incorrect, as it contradicted separate Supreme Court precedent regarding back wages. And, by doing so, it subverted the distinction between legal and equitable remedies that is foundational to *Jarkesy* and thereby risked expanding the applicability of the Seventh Amendment to a wide range of administrative actions.

Whether a matter requires an Article III adjudication depends on whether it concerns private rights.[54] As the Court noted in *Jarkesy*, a suit "in the nature of an action at common law . . . presumptively concerns private rights, and adjudication by an Article III court is mandatory."[55] But Article III — as well as the private rights category itself — sweeps more broadly than just common law: It also prohibits Congress from "withdraw[ing] from judicial cognizance any matter which, from its nature, is the subject of a suit . . . in equity, or admiralty."[56] By contrast, the Seventh Amendment encompasses only claims in the nature of common law, and therefore concerns only legal remedies.[57] As such, even if backpay were equitable, Article III adjudication could still be

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[52] The Third Circuit wrote that "*Jarkesy* considered whether the SEC" action was "consistent with Article III and the Seventh Amendment," and thus conflated them. *Id.* at 128. However, *Jarkesy* was primarily about the Seventh Amendment, not Article III: In contrast to *Sun Valley*, *Jarkesy* "affirm[ed] the ruling of the Fifth Circuit on the Seventh Amendment ground alone." SEC v. Jarkesy, 144 S. Ct. 2117, 2139 (2024). Regardless, the Court, like the Third Circuit, seemed to conflate the two. Strada, *supra* note 3 (noting *Jarkesy*'s "conflation of [Seventh Amendment and Article III] cases").

[53] Strada, *supra* note 3 ("[T]he Article III judicial power . . . extends to cases arising under equitable, admiralty, and maritime jurisdiction, among other kinds of cases. Article III thus gives federal courts jurisdiction over many matters to which the Seventh Amendment clearly does not apply.").

[54] *See* John Harrison, *Jurisdiction, Congressional Power, and Constitutional Remedies*, 86 GEO. L.J. 2513, 2516 (1998) ("[T]he extent to which the judiciary reviewed actions and legal determinations of the executive depended on private right.").

[55] *Jarkesy*, 144 S. Ct. at 2132.

[56] Murray's Lessee v. Hoboken Land & Improvement Co., 59 U.S. (18 How.) 272, 284 (1856); *cf.* Crowell v. Benson, 285 U.S. 22, 51 (1932) ("In cases of equity and admiralty, it is historic practice to call to the assistance of the courts, without the consent of the parties . . . .").

[57] As the Court explained in *Jarkesy*, "the Framers used the term 'common law' in the [Seventh] Amendment 'in contradistinction to equity, and admiralty, and maritime jurisprudence.' The Amendment therefore 'embrace[s] all suits which are not of equity or admiralty jurisdiction . . . .'" 144 S. Ct. at 2128 (second alteration in original) (citation omitted) (quoting Parsons v. Bedford, 28 U.S. (3 Pet.) 433, 446–47 (1830)).

required because the private rights category encompasses equity,[58] a fact Sun Valley itself advanced in its *Jarkesy* amicus brief.[59] The court's conclusion that "back wages . . . are legal in nature"[60] was thus unnecessary — since it purported to decide solely based on Article III — and implicated the Seventh Amendment because the adjudication of cases involving legal remedies, but not equitable remedies, requires a jury trial.

In reaching the superfluous result that the backpay orders against Sun Valley were a legal remedy, the Third Circuit misread and misapplied Seventh Amendment jurisprudence. Specifically, it held that the backpay orders were legal in nature because they were imposed "at least in part '[t]o deter such harm from occurring in the future.'"[61] This reasoning is problematic for two reasons. First, it is not clear that an incidental deterrent effect necessarily makes back wages legal. As the Supreme Court has explained, the fact that backpay provides an "incentive to shun practices of dubious legality"[62] does not change its capacity "to make persons whole for injuries suffered," which "is the historic purpose of equity."[63] Indeed, the Court has held that backpay orders under Title VII are equitable[64] even though "the purpose behind the statute was twofold: (1) to compensate the plaintiff and (2) to deter discriminatory conduct."[65] Similarly, the Third Circuit has previously held that backpay can be equitable even when "guided by . . . deterrence."[66] While these cases are about Title VII, they reflect how the Court and Third Circuit have analyzed whether remedies are legal or equitable in

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[58] *See* James E. Pfander & Wade Formo, *The Past and Future of Equitable Remedies: An Essay for Frank Johnson*, 71 ALA. L. REV. 723, 728 n.25 (2020) ("[E]arly equity concerned itself primarily with the enforcement of private rights . . . and rarely offered relief in connection with public-law disputes.").

[59] Brief of Amici Curiae The Institute for Justice et al. in Support of Respondents at 19, *Jarkesy*, 144 S. Ct. 2117 (No. 22-859) ("The 'private rights' category includes issues that would have been tried both in courts of equity and courts of law.").

[60] *Sun Valley*, 148 F.4th at 129.

[61] *Id.* (alteration in original).

[62] Albemarle Paper Co. v. Moody, 422 U.S. 405, 417 (1975).

[63] *Id.* at 418.

[64] *Id.* at 416 ("The power to award backpay [under Title VII] . . . is equitable in nature . . . ."). By contrast, the Supreme Court has held that backpay is legal when the statute authorizes "both 'legal or equitable relief.'" Murphy, *supra* note 4, at 1462 n.19 (quoting Lorillard v. Pons, 434 U.S. 575, 584 (1978)). The Third Circuit did not decide on that basis in *Sun Valley*, although it could have done so because the H-2A statute also authorizes both legal and equitable relief. *See* 8 U.S.C. § 1188(g)(2) (authorizing DOL to both "impos[e] appropriate penalties and seek[] appropriate injunctive relief" for H-2A violations).

[65] Anna Ku, Note, *"You're Fired!" Determining Whether a Wrongly Terminated Employee Who Has Been Reinstated with Back Pay Has an Actionable Title VII Retaliation Claim*, 64 WASH. & LEE L. REV. 1663, 1688 (2007).

[66] Squires v. Bonser, 54 F.3d 168, 171 (3d Cir. 1995) ("In . . . actions arising under Title VII, . . . the district court's consideration of equitable remedies is to be guided by the statute's central goals of make-whole relief and deterrence.").

nature.[67] A secondary deterrence function does not automatically transmute a remedy from equitable to legal.

Second, the Third Circuit's reasoning ignored a key distinction laid out in *Jarkesy* between legal and equitable remedies. There, the Court explained that "[w]hat determines whether a monetary remedy is legal is if it is designed to punish or deter the wrongdoer, or . . . solely to 'restore the status quo.'"[68] Because the monetary penalties were "designed to punish and deter, not to compensate," "nothing in th[e] analysis turn[ed] on 'restor[ing] the status quo.'"[69] By contrast, "courts of equity could order a defendant to return unjustly obtained funds."[70] That is precisely what backpay does,[71] and it was true of the action against Sun Valley, in which "the award of back wages . . . ma[de] the workers' [sic] whole in compensation."[72] Unlike *Jarkesy*'s civil penalties, the amount of backpay was determined based on that compensatory purpose.[73] The ALJ invoked deterrence only to support its conclusion that "the equities of the case require back pay [to be paid] *at the . . . full amount*" even though Sun Valley did not make a financial profit; it was not part of the basis for *choosing to impose* backpay.[74] In other words, deterrence was merely a secondary function of the backpay, "not its primary purpose."[75] The Third Circuit effectively disregarded *Jarkesy*'s distinction between legal and equitable remedies by overlooking the core remedial purpose of the backpay ordered against Sun Valley.

The suggestion that a secondary deterrence function transforms a remedy from equitable into legal has significant Seventh Amendment implications and could expand the right to a jury trial into administrative actions long thought to be outside the Seventh Amendment's ambit. Were such secondary functions sufficient to establish a remedy as legal and not equitable, it is hard to see how *any* equitable remedy would avoid the Seventh Amendment's scope because most, if not all,

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[67] *See* Tull v. United States, 481 U.S. 412, 417–18 (1987) (articulating a two-part test for the Seventh Amendment in which courts ask if (1) the action and (2) the remedy are legal or equitable in nature).

[68] SEC v. Jarkesy, 144 S. Ct. 2117, 2129 (2024) (quoting *Tull*, 481 U.S. at 422).

[69] *Id.* at 2130 (third alteration in original) (quoting *Tull*, 481 U.S. at 422).

[70] *Id.* at 2129.

[71] *See, e.g.*, Golden State Bottling Co. v. NLRB, 414 U.S. 168, 188 (1973) ("[A]n order requiring . . . backpay is aimed at 'restoring the economic status quo . . . .'" (quoting NLRB v. J.H. Rutter-Rex Mfg. Co., 396 U.S. 258, 263 (1969))). The Third Circuit distinguished the back wages against Sun Valley by noting that they were not imposed "solely to provide restitution," *Sun Valley*, 148 F.4th at 129 n.5, but, as discussed, the fact that backpay has that secondary function does not necessarily make it legal.

[72] Sun Valley Orchards, LLC v. U.S. Dep't of Lab., No. 21-cv-16625, 2023 WL 4784204, at *10 (D.N.J. July 27, 2023).

[73] *See* Sun Valley Orchards, LLC, A.L.J. No. 2017-TAE-00003, at 38, 40–42, 47–48 (U.S. Dep't of Lab. A.L.J. Oct. 28, 2019) (describing how the amount of backpay was calculated for each violation based on the actual losses suffered by workers).

[74] *Id.* at 40 (emphasis added).

[75] SEC v. Collyard, 861 F.3d 760, 765 (8th Cir. 2017).

"[e]quitable remedies have a deterrence function."[76] If that is the case, the distinction between equitable and legal claims underlying *Jarkesy* — and broader Seventh Amendment jurisprudence — would be fundamentally changed[77] given that "the remedy [is] the 'more important' consideration" for Seventh Amendment analysis relative to the nature of the action.[78] It is difficult to believe that the Court intended for *Jarkesy* to effect such a significant shift sub silentio. By determining that an equitable remedy becomes legal in nature by virtue of a secondary deterrence function, *Sun Valley* risks greatly expanding the Seventh Amendment's applicability and thereby further undermining agency enforcement.[79]

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[76] T. Leigh Anenson & Gideon Mark, *Inequitable Conduct in Retrospective: Understanding Unclean Hands in Patent Remedies*, 62 AM. U. L. REV. 1441, 1489 n.317 (2013); *see also, e.g.*, Hecht Co. v. Bowles, 321 U.S. 321, 329 (1944) ("The historic injunctive process was designed to deter . . . ."); Mark C. Weber, *Beyond* Price Waterhouse v. Hopkins*: A New Approach to Mixed Motive Discrimination*, 68 N.C. L. REV. 495, 532 (1990) ("Enhancing deterrence is a major justification for restitution and other equitable remedies . . . ."); Afra Afsharipour, *Transforming the Allocation of Deal Risk Through Reverse Termination Fees*, 63 VAND. L. REV. 1161, 1177 (2010) (explaining that one "goal[] of specific performance [is] to . . . deter opportunistic promisors from breaching the contract").

[77] *See* Feltner v. Columbia Pictures Television, Inc., 523 U.S. 340, 347–48 (1998) ("[T]he Court has understood [the Seventh Amendment] to refer . . . '[to] suits in which *legal* rights were to be ascertained and determined, in contradistinction to those where . . . equitable remedies were administered.'" (third alteration in original) (quoting Parsons v. Bedford, 28 U.S. (3 Pet.) 433, 447 (1830))).

[78] SEC v. Jarkesy, 144 S. Ct. 2117, 2129 (2024) (quoting Tull v. United States, 481 U.S. 412, 421 (1987)).

[79] If *Jarkesy* is interpreted as broadly limiting agencies' power to impose remedies outside of Article III courts, *see* Strada, *supra* note 3, requiring jury trials would further constrain agencies. *Cf.* Dianne LaRocca, *The Bench Trial: A More Beneficial Alternative to Arbitration of Title VII Claims*, 80 CHI.-KENT L. REV. 933, 957 (2005) (noting that "a bench trial costs less and offers faster resolutions compared to a jury trial").