

RUTTER GROUP PRACTICE GUIDE FEDERAL EMPLOYMENT LITIGATION 2025 UPDATE

This 2025 softbound Update completely replaces the 2024 Update.

These Highlights summarize the most significant developments over the past year. The paragraph numbers are keyed to the 2025 edition of the Practice Guide where the topics are discussed in greater detail. Our cut-off date for this Update was June 15, 2025. The update covers legislation, cases decided, as well as rules and regulations adopted as of that date.

It has been another very busy year for employment law, with many significant developments, including: the U.S. Supreme Court's overruling of the *Chevron* doctrine that required federal courts defer to an agency's interpretation of statutes in its *Loper Bright* decision, the *Ames* decision wherein the Supreme Court held that plaintiffs who are members of a majority group are *not* required to meet a heightened evidentiary standard to establish a prima facie case of Title VII discrimination and its *Stanley* decision which held that the ADA does not protect retirees from post-employment Title I discrimination.

Thank You! Your comments and suggestions are greatly appreciated. *Please keep them coming!*

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2025 UPDATE HIGHLIGHTS

CHAPTER 1 INTRODUCTION

Background

[1:1.1] **Comment re current uncertainty in employment law:** There is uncertainty around the application of employment laws, given President Trump’s attack on the rule of law generally, and his focus on aspects of employment law specifically. President Trump is attempting to render illegal (or overly difficult) DEI efforts, seeking to undo disparate impact as a method of proving discrimination and attacking the rights of federal works in particular. In addition, there is much uncertainty concerning the effectiveness of orders, decisions, regulations and informal guidance of federal administrative agencies (including the NLRB) in light of recent U.S. Supreme Court decisions discussed throughout the chapter, and the Practice Guide.

Judicial Deference to Administrative Agency’s Determinations

[1:56 ff.] **“Chevron” deference doctrine overruled:** The *Chevron* doctrine that required federal courts to give wide latitude and apply a standard of deference to statutory interpretations, regulations, guidelines and decisions rendered by administrative agencies such as the U.S. Department of Labor (DOL) and the Equal Employment Opportunity Commission (EEOC) has been overruled. Federal courts must now exercise their independent judgment in deciding whether an agency has acted within its statutory authority. [See *Loper Bright Enterprises v. Raimondo* (2024) 603 US 369, 409-413, 144 S.Ct. 2244, 2271-2273 (overruling *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.* (1984) 467 US 837, 104 S.Ct. 2778); see also *Restaurant Law Ctr. v. United States Dept. of Labor* (5th Cir. 2024) 120 F4th 163, 177 (declining to give deference to the DOL’s tip credit rule, and rejecting it; see also ¶1:56.21)]

[1:56.15 ff.] **“Skidmore deference” where agency administers statute:** Even where Congress has *not* delegated rulemaking authority to an agency, courts may afford some deference to the agency’s interpretation of a statute it administers (“*Skidmore* deference”). [*Loper Bright Enterprises v. Raimondo* (2024) 603 US 369, 412-413, 144 S.Ct. 2244, 2273]

Emerging Trend and New Ruling

[1:63.1] **Reverse-discrimination Supreme Court ruling:** In a unanimous opinion, the Supreme Court held that majority-group plaintiffs need not meet the heightened evidentiary standard of showing “background circumstances” to satisfy the first step of the *McDonnell Douglas* test, instead being subject to the same evidentiary burdens as minority-group plaintiffs. [*Ames v. Ohio Dept. of Youth Services* (2025) 605 US __, __, 145 S.Ct. 1540, 1548; see also ¶2:235]

CHAPTER 2

EMPLOYMENT DISCRIMINATION—IN GENERAL

Entities Subject to Title VII

[2:66] **Title VII, ADA, and ADEA—agent of employer:** A third-party agent may be liable as an employer where the agent has been delegated functions traditionally exercised by an employer. [*Mobley v. Workday, Inc.* (ND CA 2024) 740 F.Supp.3d 796, 804, 806—defendant applicant-screening service used tools that automatically excluded potential applicants from job pool based on age, race and disability; *see also* ¶13:6]

Exclusions

- [2:135-136.1] **Religious organizations:** A for-profit corporation operating a kosher certification program to serve the Orthodox Jewish community was a religious organization as its activities primarily served the religious community and the organization held itself out as religious. [*Markel v. Union of Orthodox Jewish Congregations of America* (9th Cir. 2024) 124 F4th 796, 804-805; *Garcia v. Salvation Army* (9th Cir. 2019) 918 F3d 997, 1004—Salvation Army eligible for religious organization exemption despite generating large-dollar sales revenue where that amount was only 15% of its total income, and it operated as nonprofit evangelical ministry that gave away services or charged nominal fees]
- [2:136-138] **Ministers:** The ministerial exception applied to a Zen center apprentice whose work, though mainly menial, was an essential component of Zen training and who had an essential role in carrying out the Zen Center’s mission. [*Behrend v. San Francisco Zen Ctr., Inc.* (9th Cir. 2024) 108 F4th 765, 756-759; *Billard v. Charlotte Catholic High School* (4th Cir. 2024) 101 F4th 316, 332-333 (high school English and drama teacher conforming instruction to Christian thought and classroom environment); *Markel v. Union of Orthodox Jewish Congregations of America* (9th Cir. 2024) 124 F4th 796, 807-808 (Orthodox “mashgiach” ensuring kosher compliance of food products)]

Proving Discrimination

Adverse employment action

- [2:235] The Supreme Court held in a reverse discrimination case that majority-group plaintiffs need *not* meet the heightened evidentiary standard of showing “background circumstances” to satisfy the first step of the *McDonnell Douglas* test, instead being subject to the same evidentiary burden as minority-group plaintiffs. [*Ames v. Ohio Dept. of Youth Services* (2025) 605 US ___, ___, 145 S.Ct. 1540, 1548]
- [2:393.14a; 2:393.15] Delay in providing requested training may qualify as an adverse action, where it can result in deferred promotions or raises. [*Thomas v. JBS Green Bay, Inc.* (7th Cir. 2024) 120 F4th 1335, 1336-1337; *Rios v. Centerra Group LLC* (1st Cir. 2024) 106 F4th 101, 112-113—mere admonition by a supervisor without any formal consequences not adverse employment action]
- [2:394.20f] Plaintiff, a lesbian public employee, raised a genuine

issue of material fact as to whether her heterosexual male co-worker was similarly situated, but treated more favorably, where plaintiff and her co-worker worked on the same small team, reported to the same supervisor, and performed similar, albeit not identical duties, and where elimination of plaintiff's position was immediately followed by creation of a new role that encompassed some of plaintiff's former duties, but was given to the heterosexual male co-worker. [*Ripoli v. Department of Human Services, Office of Veterans Services* (1st Cir. 2024) 123 F4th 565, 577-578]

Burden on employer to state legitimate, non-discriminatory reason for adverse action

- [2:462.5] Employer's shifting and retracting multiple and conflicting reasons for employee's termination, though legitimate, may suggest pretext. [*Wannamaker-Amos v. Purem Novi, Inc.* (4th Cir. 2025) 126 F4th 244, 258; compare *Vassileva v. City of Chicago* (7th Cir. 2024) 118 F4th 869, 874—employer's changing standards over time for non-promotion decisions did not support inference of pretext where there was no evidence change was motivated by unlawful discrimination]
- [2:465] Comparative evidence raised by a black employee, that he was singled out for random drug testing and fired for a positive test while subject to a second change agreement, while white employees were not subject to repeated drug testing or fired for failed drug tests under similar agreements, raised material issues of fact. [*Moore v. Coca-Cola Bottling Co. Consolidated* (6th Cir. 2024) 113 F4th 608, 624-627]

Retaliation

- [2:778.9; 2:780.4] **Inadequate investigation of complaint:** An employer's failure to investigate or inadequate investigation of an internal complaint of discrimination is not a materially adverse action "absent a showing of demonstrable harm" because it leaves the complaining employee no worse off than before the complaint was filed. [*Culp v. Remington of Montrose Golf Club, LLC* (10th Cir. 2025) 133 F4th 968, 977-978]

Enforcement Procedures—Private Right of Action

- [2:1018] **Notice from EEOC—circuit split:** Courts are split as to what constitutes "receipt" of notice when a plaintiff's lawyer receives email correspondence from the EEOC. [See, e.g., *Hayes v. New Jersey Dept. of Human Services* (3rd Cir. 2024) 108 F4th 219, 222-224; *García-Gesualdo v. Honeywell Aerospace of Puerto Rico, Inc.* (1st Cir. 2025) 135 F4th 10, 17-19; *McDonald v. St. Louis Univ.* (8th Cir. 2024) 109 F4th 1068, 1070-1071; see also *Kinder v. Marion County Prosecutor's Office* (7th Cir. 2025) 132 F4th 1005, 1007-1009]

CHAPTER 3 AGE DISCRIMINATION

Age Discrimination in Employment Act (ADEA)

Persons covered by ADEA

- [3:6] **ADEA claims against agents may include HR software vendor:** [See ¶12:66 of these Highlights Summaries]
- [3:238.3] **Title VII, ADEA—sufficiency of pretext showing—application:** Employer claimed it fired Employee due to employee’s approval of loan to an unqualified borrower. Evidence that younger employees made errors that were less costly or serious, or made serious mistakes but resigned or transferred, was insufficient to show pretext. [*McCreight v. AuburnBank* (11th Cir. 2024) 117 F4th 1322, 1338-1339]

CHAPTER 4 DISABILITY DISCRIMINATION

Americans With Disabilities Act (ADA)

ADA’s scope

- [4:6a] **Caution—Chevron deference overruled:** See ¶1:56 of the Highlights Summaries.

Essential elements of ADA claim

- [4:83.1] **State employers’ sovereign immunity:** [See *Stanley v. Western Mich. Univ.* (6th Cir. 2024) 105 F4th 856, 865-866—sovereign immunity bars retaliation claims for damages against states and state agencies under Title VI of the ADA where retaliation is predicated on a Title I claim]
- [4:586; 4:589; 4:660] **U.S. Supreme Court resolution of circuit split regarding qualified individual:** To prevail under Title I of the ADA, a plaintiff must plead and prove that plaintiff held or desired a job and could perform its essential functions with or without reasonable accommodation at the time of the employer’s alleged discriminatory act. Because plaintiff was retired and *not seeking* employment when the alleged discrimination (denial of extended health benefits) occurred, she was not a “qualified individual” protected by Title I. [*Stanley v. City of Sanford, Fla.* (2025) 606 US __, __, __ S.Ct. __, __ (2025 WL 1716138, *11)]
- [4:637; 4:946] **ADA discrimination—doctor’s recommendation does not insulate employer who relies on it:** An employer’s restriction of an employee’s work based on its reliance on a physician’s recommendation did not insulate it from the employee’s ADA discrimination claim. [*Sanders v. Union Pac. R.R. Co.* (8th Cir. 2024) 108 F4th 1055, 1061]
- [4:715.2] **ADA—qualified individual, essential job function, regular attendance and punctuality:** [See *Arroyo v. Volvo Group North America, LLC* (7th Cir. 2024) 93 F4th 1066, 1069—where employer had clearly stated attendance policy and reviewed regular

and timely attendance as an essential job function, employee failed to prove she was qualified individual as she often arrived late, and thus was not performing an essential job function]

- [4:812; 4:1055] **ADA discrimination—hostile work environment:** [*Mattioda v. Nelson* (9th Cir. 2024) 98 F4th 1164, 1174 (collecting cases and joining sister circuits in holding hostile work environment claims cognizable under ADA)]

Prohibited Discrimination—Particular Employer Requirements

Reasonable accommodation

- [4:1186a] **Rehabilitation Act—work-at-home arrangements:** An employer cannot force a work-from-home arrangement on an unwilling employee as the only option offered for accommodation unless the employer can show undue burden. The reasonableness of teleworking as an accommodation for an employee’s disability cannot be presumed, regardless of whether suggested by employee or employer. [*Ali v. Regan* (DC Cir. 2024) 111 F4th 1264, 1278-1280 (Rehabilitation Act case implementing ADA analysis)]

CHAPTER 5

HARASSMENT

Forms of Harassment

Sexual harassment and discrimination based on sexual orientation and gender identity

- [5:5] **Caution re Executive Orders:** President Trump issued several Executive Orders and memoranda in January 2025 seeking to diminish protections on gender identity and transgender status. For example, one order entitled “Prioritizing Military Excellence and Readiness” (Executive Order 14183, 90 FR 8757) directs the Department of Defense to prohibit transgender individuals from serving in the U.S. Military, although a challenge to the Order is currently on appeal in the Ninth Circuit. [See *Shilling v. Trump* (9th Cir. 2025) 2025 WL 1145052]
- [5:6; 5:90] **Courts grappling with impact of *Muldrow v. City of St. Louis* on harassment claims:** [See, e.g., *McNeal v. City of Blue Ash, Ohio* (6th Cir. 2024) 117 F4th 887, 904—hostile-work-environment claims arise out of the same statutory language as disparate-treatment claims, thus *Muldrow*’s holding that Title VII does not require plaintiffs to show significant harm applies to both; *Nabhan v. Indiana State Police* (ND IN 2024) 760 F.Supp.3d 674, 698-699 & fn. 8—“there is no indication in *Muldrow* that the Supreme Court intended to change the requirements for vicarious liability on a Title VII hostile work environment claim”; *Juarez v. Midwest Division—OPRMC, LLC* (D KS 2024) 2024 WL 4679220, *5—“the extent (if any) to which *Muldrow* will revolutionize Title VII case law is not yet clear”; see also ¶15:90 for a discussion of effects of *Muldrow* on what constitutes a “tangible employment action”]
- [5:9; 5:143] **Caution re EEOC 2024 Guidelines:** On April 29,

2024, the EEOC released a long-anticipated update to its enforcement guidance on harassment in the workplace. In it, the EEOC extended protections to cover discrimination based on pregnancy and pregnancy-related conditions, as well as sexual orientation and gender identity. The EEOC also recognized potentially unlawful forms of workplace harassment against LGBTQ+ individuals such as disclosing an individual's sexual orientation or gender identity without permission ("outing") and intentionally using a name or pronoun inconsistent with the individual's known gender identity ("misgendering"). In Executive Order 14168 ("Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government"), President Trump directed the EEOC to rescind the 2024 Enforcement Guidance (90 FR 8615). Based on President Trump's removal of certain EEOC Commissioners from office, however, the EEOC lacks a quorum of Commissioners to formally rescind the Enforcement Guidance. Additionally, consistent with that Executive Order, the EEOC has moved to dismiss prior cases on behalf of workers alleging gender identity discrimination. On May 15, 2025, a federal court declared unlawful, and vacated portions of, the document as contrary to law. [See *Texas v. EEOC* (ND TX 2025) 2025 WL 1414332, *16]

Make sure to carefully check the status of the *Texas v. EEOC* case and the EEOC Guidelines.

- [5:161.7a] **Title VII hostile work environment—actionable conduct:** The totality of the circumstances in a Title VII sexually hostile work environment claim includes evidence of sexually harassing conduct, even if it does not expressly target plaintiff, as well as evidence of nonsexual conduct directed at plaintiff that a jury could find retaliatory or intimidating. Conduct that occurs outside the physical workplace also can be actionable, "especially in light of the ubiquity of social media and the ready use of it to harass and bully both inside and outside of the physical workplace." [*Okonowsky v. Garland* (9th Cir. 2024) 109 F4th 1166, 1171]

CHAPTER 6

WAGES AND HOURS

Coverage and Exemptions Under the FLSA

[6:8-9] **"Auer" deference to Department of Labor (DOL) interpretations not necessarily controlling:** The U.S. Supreme Court's 2024 *Loper Bright* decision (see ¶1:56 ff.) raises questions about the continued validity of "Auer" deference. The court did not expressly overrule "Auer," but in the course of overruling "Chevron" deference, it stated that "courts need not and . . . may not defer to an agency interpretation of law simply because a statute is ambiguous." [*Loper Bright Enterprises v. Raimondo* (2024) 604 US 369, 412-413, 144 S.Ct. 2244, 2372]

[6:30.4] **County golf attendants—volunteers:** Golf attendants who provided services at County golf clubs who were unpaid, but received discounted golf in exchange for their services, were public agency volunteers, not employees under the FLSA. [*Adams v. Palm Beach County* (11th Cir. 2024) 94 F4th 1334, 1338-1339]

[6:30.5] **College athletes—volunteers?:** The Circuits are split on whether college athletes are employees under the FLSA. The Third Circuit held that college athletes *may* be employees under the FLSA when they “(a) perform services for another party, (b) necessarily and primarily for the [other party’s] benefit, (c) under that party’s control or right of control, and (d) in return for express or implied compensation or in-kind benefits.” [See *Johnson v. National Collegiate Athletic Ass’n* (3rd Cir. 2024) 108 F4th 163, 180 (internal quotes and citations omitted); compare *Berger v. National Collegiate Athletic Ass’n* (7th Cir. 2016) 843 F3d 285, 294—student athletes *not* employees under FLSA as a matter of law; *see also* ¶12:96]

[6:153] **Employers must prove an employee is exempt under FLSA by preponderance of evidence:** [*E.M.D. Sales, Inc. v. Carrera* (2025) 604 US 45, 52, 145 S.Ct. 34, 40]

Specific FLSA Exemptions—salaried executive, administrative and professional employees

- [6:167.1; 6:190; 6:220; 6:270; 6:300] **CAUTION—DOL executive, administrative or professional (EAP) rules vacated:** In 2024, a federal district court declared the DOL 2024 rules that raised the minimum salary at which EAP employees are exempt from minimum wage and overtime pay invalid and vacated them. [See *Texas v. United States Dept. of Labor* (ED TX 2024) 756 F.Supp.3d 361, 367-388, 398-399]

Check the status of this case as the salary thresholds could revert to those laid out in the DOL’s pre-existing rules.

Non-exempt “production” employees entitled to overtime pay

- [6:262] **Inside sales representatives:** Inside sales representatives, whose primary duty is to help sell products by “delivering discrete customer sales” which is “directly related” to the business’s purpose of making wholesale product sales, are not exempt. [*Su v. F.W. Webb Co.* (1st Cir. 2024) 110 F4th 391, 397]

Payment of Overtime Compensation

Determining hours worked

- [6:853.1] Travel time is compensable for employees who regularly travel during their normal working hours to overnight job sites. [*Walters v. Professional Labor Group, LLC* (7th Cir. 2024) 120 F4th 546, 550]
- [6:860] A meal period can constitute compensable work if an employee spends the time predominately for the benefit of the employer and that employer knew, or should have known, the employee performed such work. [*Micone v. Levering Regional Health Care Ctr., L.L.C.* (9th Cir. 2025) 132 F4th 1074, 1079]

CHAPTER 7 LEAVES OF ABSENCE

Overview of Key Federal Statutes

[7:22] “**Chevron**” deference overruled: [See ¶1:56 ff. of these Highlights Summaries]

Family and Medical Leave Act (FMLA)

[7:335.2] **Sibling seeking leave to care for terminally ill sister can be deemed “in loco parentis” relationship under FMLA:** [*Chapman v. Brentlinger Enterprises* (6th Cir. 2024) 124 F4th 382, 390-393]

[7:580; 7:1283] **Notice to employer:** An employee’s statement to supervisor that he was going “home on FMLA” because his wife was “not feeling very good” was sufficient in light of wife’s severe cardiovascular disease and FMLA paperwork from her doctor confirming she would require care approximately four times per month. [*Black v. Swift Pork Co.* (8th Cir. 2024) 113 F4th 1028, 1032—where employee took FMLA leave 158 times in three years prior to termination, employer’s retaliatory motive could not be established]

[7:1190.6] **Excessive unexcused absences:** Where the FMLA did not provide for pre-birth leave solely to wait for the birth of a child, an employer did not interfere with the employee’s rights by firing him for excessive unexcused absences when he traveled out of state in the days before his child was born. [*Tanner v. Stryker Corp. of Mich.* (11th Cir. 2024) 104 F4th 1278, 1285-1288]

[7:1226] **Entitlement to leave:** Plaintiff could not establish requisite entitlement to FMLA leave where he failed to produce evidence he sought treatment from a healthcare provider before his termination. [*Rodriguez v. Southeastern Pa. Transp. Auth.* (3rd Cir. 2024) 119 F4th 296, 298-299]

[7:1263.5; 7:1274.2] **Misuse of leave as ground for termination:** No retaliation found where plaintiff’s conflicting medical paperwork gave rise to employer’s honest belief plaintiff was misusing FMLA leave. [*Shipton v. Baltimore Gas & Elec. Co.* (4th Cir. 2024) 109 F4th 701, 708-709]

Pregnancy Discrimination Act (PDA)

[7:1657] **Employer’s obligation to accommodate:** An employee established a prima facie case of pregnancy discrimination through evidence she was denied light-duty work while others with work-related disabilities who were not pregnant were given light-duty work. [*Peifer v. Board of Probation & Parole* (3rd Cir. 2024) 106 F4th 270, 278-279; see also ¶2:299]

Americans with Disabilities Act (ADA)

[7:1729] **Flexible schedule:** Employee’s performance reviews demonstrating her “proficiency when she was present at work” did not show that she was able to perform the essential functions of her job, where her frequent absences from work continued even after she was granted a four-day workweek to accommodate her disability. [*Serrano-Colon*

v. United States Dept. of Homeland Security (1st Cir. 2024) 121 F4th 259, 278-279]

CHAPTER 9

LAYOFFS & PLANT CLOSINGS

Collective Bargaining Requirements

[9:121] **“Contract coverage” or “clear and unmistakable” standard applicable to union waiver of bargaining rights?** In December 2024, the NLRB returned to the “clear and unmistakable” standard requiring bargaining partners to unequivocally and specifically express their mutual intention to permit unilateral employer action with respect to a particular employment term, notwithstanding a statutory duty to bargain that might otherwise apply. [*Endurance Environmental Solutions, LLC* (2024) 373 NLRB No. 141 (2024 WL 5057785, *2)]

Worker Adjustment and Retraining Notification (WARN) Act

[9:673.1] **Voluntary payments for 32-hour work week while assessing hurricane damage offset potential WARN Act liability.** [*Rivera-Pina v. Luxury Hotels Int’l of Puerto Rico* (1st Cir. 2024) 100 F4th 325, 332-334]

CHAPTER 11

REMEDIES

Contract Damages

[11:137] **Backpay may be awarded for violations of the ADA:** [*Nawara v. Cook County* (7th Cir. 2025) 132 F4th 1031, 1038]

Punitive Damages

[11:387] **Civil rights claims under 42 USC §1981 not subject to statutory caps; Title VII claims are:** [*Harris v. FedEx Corporate Services, Inc.* (5th Cir. 2024) 92 F4th 286, 296]

[11:427-428] **Liquidated damages under Fair Labor Standards Act (FLSA):** Though liquidated damages (twice the unpaid minimum wages) are mandatory for FLSA violations unless the court finds the defendant employer acted in “good faith” and with reasonable belief its conduct was consistent with the law, courts retain “ample discretion” to award liquidated damages even if an employer demonstrates good faith. [*Gentry v. Hamilton-Ryker IT Solutions, L.L.C.* (5th Cir. 2024) 102 F4th 712, 726; *Secretary United States Dept. of Labor v. Nursing Home Care Mgmt. Inc.* (3rd Cir. 2025) 128 F4th 146, 161—burden on employer is “plain and substantial”]

Mitigation of Damages

[11:490] **Employee’s duty to mitigate:** Plaintiff’s burden is not onerous and plaintiff “need not go into another line of work, accept a demotion, or take a demeaning position.” [*Duvall v. Novant Health, Inc.* (4th Cir. 2024) 95 F4th 778, 793]

CHAPTER 12
PRACTICE AND PROCEDURE

Plaintiff's Complaint

[12:303] **Bankrupt plaintiff's standing to sue:** [See *Bercy v. City of Phoenix* (9th Cir. 2024) 103 F4th 591, 593-595—debtor's claims under Title VII and 42 USC §1981 alleging discriminatory conduct that occurred after debtor filed for bankruptcy belong to bankruptcy estate]

[12:354.1] **Citizenship discrimination:** Allegations that Employer refused to hire a United States citizen because employer prefers to hire noncitizens was held sufficient to state a claim under 42 USC §1981. [*Rajaram v. Meta Platforms, Inc.* (9th Cir. 2024) 105 F4th 1179, 1186-1187]

Discovery

[12:510] **Electronic discovery—destruction of evidence sanctions:** If a party has intentionally destroyed electronic evidence (e.g., deleting email messages) in order to suppress the truth, a court may impose “spoliation” sanctions. [*Jones v. Riot Hospitality Group LLC* (9th Cir. 2024) 95 F4th 730, 734-736—terminating sanctions not abuse of discretion where plaintiff intentionally deleted text messages and cooperated in deletion of messages by witnesses]

Right to Jury Trial

[12:843.1] **Right to jury trial in administrative enforcement action:** Under the Seventh Amendment, a defendant facing an administrative enforcement action seeking civil penalties for securities fraud has a right to a jury trial in federal court. [*Securities & Exchange Comm'n v. Jarkesy* (2024) 603 US 109, 122-125, 144 S.Ct. 2117, 2128-2130]

