No. 25-966

IN THE

Supreme Court of the United States

DEPARTMENT OF LABOR, ET AL.,

Petitioners,

v.

SUN VALLEY ORCHARDS, LLC,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF FORMER U.S. ATTORNEYS GENERAL EDWIN MEESE III AND MICHAEL B. MUKASEY AND PROFESSORS STEVEN G. CALABRESI AND GARY S. LAWSON AS AMICI CURIAE SUPPORTING RESPONDENT

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August 3, 2026

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INTEREST OF AMICI CURIAE[1]

The Honorable Edwin Meese III served as the seventy-fifth Attorney General of the United States. Previously, Mr. Meese was Counselor to the President. During his tenure as Attorney General, the Department of Justice defended proper limits on federal power.

The Honorable Michael B. Mukasey served as the eighty-first Attorney General of the United States. Previously, Mr. Mukasey was a U.S. District Judge of the U.S. District Court for the Southern District of New York. During his tenure as Attorney General, the Department of Justice defended proper limits on federal power.

Steven G. Calabresi is the Clayton J. & Henry R. Barber Professor of Law at Northwestern Pritzker School of Law, and Gary S. Lawson is the Levin, Mabie & Levin Professor of Law at the University of Florida Levin College of Law. They are scholars of the Constitution's original public meaning. This Court has relied on their scholarship. *See, e.g.*, *United States v. Vaello Madero*, 596 U.S. 159, 169 (2022) (Thomas, J., concurring) (citing Calabresi); *id.* at 181 (Gorsuch, J., concurring) (citing Lawson).

Amici submit this brief to assist the Court in interpreting Article III, as well as the public-rights exception that the Department of Labor invokes. Amici address only the first question presented.

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[1] Under this Court's Rule 37.6, amici state that no counsel for a party authored this brief in whole or in part, that no such counsel or party made a monetary contribution intended to fund the brief's preparation or submission, and that no person other than amici and their counsel made such a monetary contribution.

INTRODUCTION & SUMMARY OF ARGUMENT

The Department of Labor ("DOL") charged Sun Valley Orchards with violating its contractual obligations to foreign and domestic seasonal farm workers—and imposed over half a million dollars in monetary liability on the family farm. A case of that kind reaches private rights, and Article III commits cases about private rights to life-tenured, salary-protected, and accordingly independent judges. But rather than file its breach-of-contract action in an Article III court, DOL funneled the case into an in-house proceeding.

A DOL investigator spent two days at the farm, and nearly a year later, DOL officials issued a letter assessing ruinous civil penalties and back wages for alleged contractual breaches. When Sun Valley contested the assessment, DOL lawyers prosecuted the case before a DOL administrative law judge ("ALJ"), and DOL investigators testified as witnesses. The DOL ALJ affirmed the assessment, and a DOL administrative review board ("ARB") affirmed the DOL ALJ's decision. The prosecutors, witnesses, judge, and reviewing body were all employees of the same Department, and Sun Valley reached an independent Article III court only after its liability was determined—and even then, the administrative adjudication was subject only to deferential judicial review.

Article III is designed to prevent that consolidation, a lesson that the framers drew from a Crown that had made "Judges dependent on his Will alone." The Declaration of Independence para. 11 (U.S. 1776). An agency may not sidestep the Article III guarantee by routing Cases in Law or Equity through its own adjudicators—and this was a Case in Law on DOL's own account: DOL enforcement officials, the DOL ALJ, and the DOL ARB approached the case as a breach-of-contract action, holding Sun Valley liable for violating contractual terms, and issuing monetary remedies intended to punish it. And where, as here, "a suit is in the nature of an action at common law, then the matter presumptively concerns private rights, and adjudication by an Article III court is mandatory." *SEC v. Jarkesy*, 603 U.S. 109, 128 (2024).

Nor does the answer change if this case sounds in equity. Article III's judicial Power reaches Cases in Equity as fully as Cases in Law, and the equitable path to Article III adjudication of private rights should not be overlooked. For good reason: a decree directing a regulated party to pay restitutionary back wages can be just as coercive as a money judgment. Indeed, this Court has long recognized that the political branches may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, *or in equity*." *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272, 284 (1856) (emphasis added).

That leaves the public-rights exception to Article III, which cannot reach this case and remain an exception. Our history and tradition tolerate executive adjudication of who may enter the country and who must leave, and the political branches may channel those determinations outside Article III courts. But DOL decided nothing of the sort here. It fixed a domestic employer's liability over the terms of employment on an American farm, collectible as a debt.

Below, the Third Circuit held that DOL's case implicated private rights that triggered an entitlement to an Article III forum, and that the case did not fall within the public-rights exception. Both holdings are sound, and this Court should affirm.

ARGUMENT

I. Article III Is a Structural Guarantee of Individual Liberty.

Article III vests the "judicial Power" over "all Cases, in Law and Equity" in judges who "hold their Offices during good Behaviour" and whose "Compensation … shall not be diminished during their Continuance in Office." U.S. Const. art. III, §§ 1, 2. The Constitution's references to tenure and salary are easy to read past as bookkeeping, but they are vital. As Hamilton explained, "a power over … subsistence amounts to a power over … will," The Federalist No. 79, and "[p]eriodical appointments" of judges would be "fatal to their necessary independence," The Federalist No. 78. The framers understood that judicial independence was critical to the separation of powers, which was critical to safeguarding individual liberty. As Madison put the point: "The accumulation of all powers, legislative, executive, and judiciary, in the same hands … may justly be pronounced the very definition of tyranny." The Federalist No. 47. And this Court has repeatedly endorsed the framers' wisdom, expressly linking the separation of powers and individual liberty. *See, e.g.*, *Bond v. United States*, 564 U.S. 211, 222 (2011) ("The structural principles secured by the separation of powers protect the individual as well."); *Collins v. Yellen*, 594 U.S. 220, 245 (2021) ("As we have explained on many prior occasions, the separation of powers is designed to preserve the liberty of all the people."); *Metro. Wash. Airports Auth. v. Citizens for the Abatement of Aircraft Noise, Inc.*, 501 U.S. 252, 272 (1991) ("The ultimate purpose of this separation of powers is to protect the liberty and security of the governed."); *see also* Steven G. Calabresi & Kevin H. Rhodes, *The Structural Constitution: Unitary Executive, Plural Judiciary*, 105 Harv. L. Rev. 1153, 1155 (1992) ("The genius of the American Constitution lies in its use of structural devices to preserve individual liberty."); Gary S. Lawson, *The Rise and Rise of the Administrative State*, 107 Harv. L. Rev. 1231, 1248 (1994) ("The constitutional separation of powers is a means to safeguard the liberty of the people.").

Hence the principle that this Court set forth in *Murray's Lessee* and that should control this case: the political branches may not "withdraw from judicial cognizance any matter which, from its nature, is the subject of a suit at the common law, or in equity, or admiralty." *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. 272, 284 (1856). Were it otherwise, "Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking." *SEC v. Jarkesy*, 603 U.S. 109, 132 (2024). The government's position here inverts that order, beginning with an exception to Article III and reasoning back to the default.

II. The Department's Case Implicated Sun Valley's Private Rights, Triggering Its Entitlement to Article III Adjudication.

A. A Suit to Enforce a Contract Is the Paradigm of an Article III-Triggering, Private-Rights Action.

This Court confirmed in *Jarkesy* that "[i]f a suit is in the nature of an action at common law, then the matter presumptively concerns private rights, and adjudication by an Article III court is *mandatory*." 603

U.S. at 128 (emphasis added); *see also id.* ("A hallmark that we have looked to in determining if a suit concerns private rights is whether it is made of the stuff of the traditional actions at common law tried by the courts at Westminster in 1789.") (citing *Stern v. Marshall*, 564 U.S. 462, 484 (2011)).

A breach-of-contract action falls within that description's heartland. The *Northern Pipeline* plurality gave "the right to recover contract damages" as its "obvious[]" example of a "private right." *N. Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U.S. 50, 71 (1982) (Brennan, J.) (plurality opinion). And *Granfinanciera* recognized that claims "resembl[ing] state-law contract claims" were "quintessentially suits at common law." *Granfinanciera, S.A. v. Nordberg*, 492 U.S. 33, 56 (1989); *see also Crowell v. Benson*, 285 U.S. 22, 51 (1932) (defining a case of "private right" as one involving "the liability of one individual to another under the law as defined").

The record here leaves no doubt that DOL's proceeding against Sun Valley was, in essence, a breach-of-contract action. A DOL enforcement official testified that the job order "lay[s] out terms and conditions of employment basically in the form of a contract," Pet. App. 168a; the DOL administrative law judge ("ALJ") found that Sun Valley had "breached a material term of the job order"—"the contract that cemented the working relationship," *id.* at 141a, including because the farm fired the workers "before they worked the guaranteed three-fourths of the hours promised in their contracts," *id.* at 159a; and the DOL administrative review board ("ARB") affirmed the ALJ's decision, holding that the farm "failed to honor the terms of each worker's job contract," *id.* at 65a, and that the workers were entitled to payment as "specified in the work contract," *id.* at 71a.

Because the substance of the suit was a breach-of-contract action, the suit implicated Sun Valley's private rights, thereby triggering its entitlement to Article III adjudication. Where, as here, the agency describes its own case in the vocabulary of Westminster, it may not channel the case into an in-house proceeding and away from an Article III forum.

B. Dubbing Back Wages "Equitable" Does Not Displace Article III.

1. The remedies that DOL sought and obtained reinforce Sun Valley's entitlement to Article III adjudication. After a two-day investigation, DOL issued a letter to Sun Valley nearly a year later, imposing over half a million dollars in monetary liability in the form of civil penalties and back wages. Pet. App. 183a, 187a–199a. The ALJ affirmed that liability assessment; the ARB affirmed the ALJ's decision. Pet. App. 47a, 141a. Notably, the ALJ had remarked that back wages were needed to "deter such harm from occurring in the future," and that "a less severe consequence … would provide a decreased deterrent effect to future employers"; and in upholding the award, the ARB had cited the need to "deter other H-2A employers." Pet. App. 67a, 148a, 150a.

On these facts, Sun Valley was entitled not only to an Article III forum—it was entitled to a Seventh Amendment jury trial. Or, from a different angle, Sun Valley was entitled to an Article III forum *because* it was entitled to a Seventh Amendment jury trial, under greater-includes-the-lesser logic.

As this Court explained in *Jarkesy*, a civil suit requires a right to a jury trial under the Seventh Amendment if it is "legal in nature," which turns on (i) whether the cause of action resembles common-law causes of action and (ii) whether the remedy is the sort that was traditionally obtained in a court of law. 603 U.S. at 122–23. The remedy is "the more important" consideration. *Id.* at 123 (citation modified). Here, DOL's case against Sun Valley resembled a common-law cause of action (for breach of contract, as explained) and the remedies were the sort traditionally obtained in a court of law—in two ways.

For one, DOL's remedies of civil penalties and back wages were legal in nature because they were "designed to punish or deter the wrongdoer." *See Jarkesy*, 603 U.S. at 123; *see also Tull v. United States*, 481 U.S. 412, 422 (1987) ("A civil penalty was a type of remedy at common law that could only be enforced in courts of law. Remedies intended to punish culpable individuals, as opposed to those intended simply to extract compensation or restore the status quo, were issued by courts of law, not courts of equity."). For another, the compensatory portion of the backpay was essentially an award of breach-of-contract damages—and "money damages are the prototypical common law remedy." *See Jarkesy*, 603 U.S. at 123; *see also Mertens v. Hewitt Assocs.*, 508 U.S. 248, 255 (1993) ("Although they often dance around the word, what petitioners in fact seek is nothing other than compensatory *damages*—monetary relief for all losses their plan sustained as a result of the alleged breach of fiduciary duties. Money damages are, of course, the classic form of *legal* relief.").

2. Although the government observes that back wages are "generally treated as equitable rather than legal" (Op. Br. 40), that observation does the government no favors. Even if DOL's case were equitable rather than legal, Sun Valley would still be entitled to an Article III forum, because Cases in Equity, like Cases in Law, presumptively implicate private rights. After all, Article III's judicial Power extends to "all Cases, in Law *and Equity*, arising under this Constitution, the Laws of the United States, and Treaties." U.S. Const. art. III, § 2 (emphasis added). The framers did not protect one half of the docket and abandon the other. *Murray's Lessee* tracked Article III's text, forbidding the political branches from withdrawing any matter that is "the subject of a suit at the common law, *or in equity*." 59 U.S. at 284 (emphasis added). A decree ordering a regulated party to pay restitutionary back wages, to perform, or to desist binds it as surely as a judgment at law—sometimes more intrusively—and the framers placed both types of cases in the hands of judges whose tenure and salary the political branches could not touch.

Jarkesy is not to the contrary. It held: "*If* a suit is in the nature of an action at common law, then the matter presumptively concerns private rights, and adjudication by an Article III court is mandatory." 603 U.S. at 128 (emphasis added). "If"—not "only if." *See* Amit R. Vora, *The Overlooked Equitable Path to Article III*, Yale J. on Reg., Notice & Comment (Sept. 25, 2025) ("As the if-then construction shows, this passage sets forth a sufficient condition for finding private rights that trigger Article III: if a suit is in the nature of a case in law. Crucially, however, this condition is not a necessary one."). Private rights are at stake in Cases in Equity no less than in Cases in Law.

Jarkesy answered a Seventh Amendment question and had no occasion to map equity's frontier. In a sense, that makes this the easier case. Jarkesy claimed a Seventh Amendment jury trial; Sun Valley claims (only) an Article III forum.

On this score, the analytical framework that the Fifth Circuit recently set forth in *Intuit* has much to commend it:

> Courts often ask whether a claim is made of the stuff of the traditional actions at common law tried by the courts at Westminster in 1789, although Article III extends beyond strictly "legal" actions. Claims that are naturally the subject of a suit at the common law, or in equity, implicate private rights and thus fall under federal jurisdiction regardless whether they originate in a newly fashioned regulatory scheme or possess a long line of common-law forebears. And once a suit is brought within the bounds of federal jurisdiction, an Article III court must decide it.

Intuit, Inc. v. FTC, 170 F.4th 411, 415 (5th Cir. 2026) (citation modified).

III. The Department's Case Against Sun Valley Did Not Implicate Public Rights.

This Court in *Jarkesy* warned that the public-rights exception to Article III must remain just that—an "*exception*"—because it "has no textual basis in the Constitution." 603 U.S. at 131. Heeding that admonition—taking it seriously—compels the conclusion that DOL's case here was not a matter of public right.

Executive-branch adjudication to determine immigration *status* has a clear historical pedigree. A long line of nineteenth-century decisions recognized that the executive branch wields the power to admit, exclude, or deport aliens. *See, e.g.*, *Lem Moon Sing v. United States*, 158 U.S. 538, 547–48 (1895) (recognizing that the executive may "determine whether a particular alien seeking admission into this country belongs to the class entitled by some law or treaty to come into the country, or to a class forbidden to enter the United States"); *Li Sing v. United States*, 180 U.S. 486, 495 (1901) (recognizing that the executive may consider "whether, and upon what conditions, these aliens shall be permitted to remain within the United States") (citation omitted); *Fok Yung Yo v. United States*, 185 U.S. 296, 302 (1902) ("the power to exclude or expel aliens").

That same line, however, acknowledged that government action implicating vested rights to life, liberty, or property belonged in Article III courts. For example, in *Wong Wing v. United States*, this Court observed that, while executive officials could decide whether to deport aliens, "confiscating their property" required "a judicial trial." 163 U.S. 228, 237 (1896). While *Wong Wing* was a criminal case, its reasoning turned on the character of the deprivation rather than on the criminal label, and the Court treated confiscation of an alien's property, alongside punishment at hard labor, as consequences that the political branches could not impose on their own say-so. *See id.*

Penalties arising from contracts for immigrant labor were likewise adjudicated in Article III courts. The Alien Contract Labor Law of 1885 made it illegal to pay the cost of bringing a foreigner to the United States under a contract to perform labor after arrival. 23 Stat. 332. A violation carried a penalty of $1,000, "which may be sued for and recovered by the United

States or by any person who shall first bring his action therefor including any such alien or foreigner who may be a party to any such contract or agreement, as debts of like amount are now recovered in the circuit courts of the United States." *Id.* at 333, § 3. And the Immigration Act of 1903 carried forward a substantially similar prohibition on contract labor. 32 Stat. 1213, 1214, § 4. That law also punished violations with a penalty of $1,000, "which may be sued for and recovered … as debts of like amount are now recovered in the courts of the United States." *Id.* 1215, § 5.

In *Hepner*, this Court considered an Article III proceeding brought by the government against a defendant-employer for violating the 1903 contract-labor prohibition, and it upheld the entry of a directed verdict for the government on the ground that there were no fact disputes—while noting that, if there were fact disputes, the "defendant was, of course, entitled to have a jury summoned." *Hepner v. United States*, 213 U.S. 103, 115 (1909).

History and tradition thus militate against shoehorning this case into the public-rights exception alongside admission, exclusion, and deportation matters: if actions against employers who unlawfully contracted with foreign workers triggered Article III adjudication, there is no principled basis for excluding, from Article III's ambit, actions against employers for civil penalties and back wages arising from breaches of contracts with foreign and domestic workers.

The government misplaces its reliance on *Oceanic Steam Navigation Co. v. Stranahan*, 214 U.S. 320 (1909), decided the same Term as *Hepner* under the same 1903 immigration law—but under a different provision, section 9, which prohibited ships from bringing, into the country, aliens afflicted with certain contagious diseases. 32 Stat. at 1215–16. That law authorized customs officers to adjudicate fines on vessels and provided that "no vessel shall be granted clearance papers while any such fine imposed upon it remains unpaid." *Id.*

In *Oceanic*, customs officials adjudicated the at-issue penalties at the border, based on the prohibited movement of persons across the border—and the officials collected those penalties by "refus[ing] to perform the administrative act of granting a clearance." 214 U.S. at 343. Those features situate *Oceanic* within a narrow customs tradition: customs officers assessing duties and other monetary liabilities and requiring payment before authorizing a ship to leave port. Indeed, *Oceanic* expressly reserved judgment on "the questions which would arise for decision if the case presented an attempt to endow administrative officers with the power to enforce a lawful exaction by methods which were not within the competency of administrative duties, because they required the exercise of judicial authority." *Id.*

Unlike *Oceanic*, this case falls outside that customs tradition, because it does not concern liability assessed against property within the control of border officials. DOL has instead imposed a liability collectible as a debt—a personal liability that, like the penalties at issue in *Hepner*, amounts to a judgment that only the courts may enter. *See, e.g.*, Pet. App. 185a ("The dollar amount(s) reflected above constitute a debt owed to the Federal government."). The liability imposed here thus demands the "exercise of judicial authority" that *Oceanic* set aside.

CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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August 3, 2026