

**A**

**ADMINISTRATIVE LEAVE**

Public sector workplaces, misconduct investigations, § 8.2.B.2

**ADMISSIONS**

Public sector workplaces, voluntary employee statements, § 8.2.A

**AMERICANS WITH DISABILITIES ACT (ADA)**

Access to information, legal limitations, § 2.2.C.3

**ATTORNEY INVESTIGATIONS**

Conflicts of interest, § 9.10

**ATTORNEY-CLIENT PRIVILEGE.** *See*

*also* CONFIDENTIAL OR PRIVILEGED INFORMATION; WORK PRODUCT DOCTRINE

Generally, §§ 6.1 to 6.13

Adequacy of internal investigation

Preparation for affirmative defense, § 6.4

Separating fact vs. impression records, § 6.4

Affirmative defenses, hiring outside counsel, § 6.4

Attorney investigations, conflicts of interest, § 9.10

Business advice from attorney, § 6.5.B

Communication with former employees, requirements, § 6.7

Communications with third parties, § 6.5.A

Conflicts of interest, attorney investigations, § 9.10

Crime-fraud exception, § 6.9

Criminal misconduct, *Upjohn* privilege, § 7.2

Electronic communications, requirements, § 6.6

Fiduciary duty exception, ERISA fiduciaries, § 6.10

Foreign country interpretations, § 6.11

Forms

Confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A

*Upjohn* letter, Chapter 7 Appendix A

Inadvertent disclosure of privileged materials, professional conduct procedures, § 6.8

Joint-defense privilege, § 6.12

Third party disclosures, § 6.12

Media campaigns vs. litigation strategy, § 6.5.A

Non-lawyer presence effect, communications with third parties, § 6.5.A

Non-legal advice, dual purpose communications, § 6.5.B

Oral reports, documenting investigation, § 5.3.B

Presence of third parties, waiver principles application, § 6.5.A

Primary purpose test, electronic communications, § 6.6

Report of investigator, written vs. oral, § 5.1.D

Selecting investigator, attorney as investigator, § 1.2.E.3

Selective waiver of investigation material, § 6.2

Scope of waiver, § 6.3

Separating fact vs. impression records, § 6.2

Third parties, communications with or presence of, § 6.5.A

Who holds privilege, § 6.1

Work product doctrine compared, § 6.1

**ATTORNEY-CLIENT RELATIONSHIP**

Conflicts of interest

Attorney investigations, § 9.10

Corporation vs. employees or officers, § 7.4

Vicarious liability, § 7.7

Criminal misconduct, report up or out obligations, § 7.9

Forms, *Upjohn* letter, Chapter 7 Appendix A

Internal investigations, employee right to indemnification and defense, § 7.5

Multiple defendants, conflicts of interest, § 7.4

Withdrawal due to client action, criminal misconduct, § 7.9

**B**

**BIAS**

Credibility determinations, § 4.1

**BRIBERY**

Criminal misconduct, witnesses, § 7.8.A

Professional conduct, report up or out obligations, § 7.9

**BULLYING**

Credibility determinations, sample written credibility analysis, § 4.4

**C**

**CHECKLISTS**

Report of investigator, effective documentation, § 5.2.A

**CIVIL INVESTIGATIVE DEMANDS**

Disclosure, corporations, § 7.3

**COERCION**

Criminal misconduct, witnesses, § 7.8.A

*Garrity* statements

Employee statements, § 8.2.A

Public employee statements, § 8.2.A

*Garrity* warnings, public sector workplaces, § 8.2.A.1

*Miranda* warnings, public employee statements, § 8.2.A

Misconduct investigations, employee right to indemnification and defense, § 7.5

## SUBJECT INDEX

---

### COLLECTIVE BARGAINING

- Interviews, employee interview disclosure notice, § 3.3.K
- Public sector workplaces, § 8.3
  - Employee procedural protections, § 8.2.B.1
- Weingarten* rights, interviews, § 1.3.A, § 3.3.K

### COMMUNICATION

- Attorney-client privilege
  - Communication with former employees, § 6.7
  - Communications with third parties, § 6.5.A
  - Electronic communication requirements, § 6.6
- Documentation, communications to employees, § 2.1
- Dual purpose communications, business advice from attorney, § 6.5.B
- Forms, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A
- Joint-defense privilege, third party disclosures, § 6.12
- Work product doctrine, communications with third parties, § 6.5.A

### COMPANY RESPONSE

- Actions to take
  - Wrongdoing found, § 1.6.A
  - Wrongdoing not found, § 1.6.B
- Monitoring and prevention, § 1.6.C
- Retaliation
  - Prohibited actions, § 1.6.B
  - Prohibitions, § 1.6.B

### COMPELLED INTERVIEWS

- Garrity* warnings, public sector workplaces, § 8.2.A.1

### COMPUTER FRAUD AND ABUSE ACT

- Violations, § 9.6.A

### COMPUTER SEARCHES

- Computer Fraud and Abuse Act, violations, § 9.6.A
- Electronic Communications Privacy Act, legal limitations, § 2.2.C.1
- Invasion of privacy, incorrect behaviors, § 9.5.B
- Stored Communications Act (SCA), violations, § 9.6.B

### CONDUCTING INVESTIGATION

- Generally, § 1.3
- Interviews
  - Alleged victim interviews, § 1.3.C
  - Alleged wrongdoer interviews, § 1.3.DS
  - Common procedures, § 1.3.B
  - Persons to interview, § 1.3.A
  - Witness interviews, § 1.3.E

### CONFIDENTIAL OR PRIVILEGED

#### INFORMATION. See also ATTORNEY-CLIENT PRIVILEGE; MINNESOTA GOVERNMENT DATA PRACTICES ACT (MGDPA)

- Generally, §§ 6.1 to 6.13
- Attorney-client privilege, foreign country interpretations, § 6.11
- Business advice from attorney, § 6.5.B
- Communications with third parties, waiver factors and guidelines, § 6.5.A
- Defamation claims, incorrect behaviors, § 9.2.B
- Forms
  - Confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A
  - Upjohn* letter, Chapter 7 Appendix A
- Gathering information, legal limitations, § 2.2.C
- Interviews, confidentiality explanations, § 3.2.B
- Joint-defense privilege, third party disclosures, § 6.12
- National Labor Relations Act violations, mistakes in investigation, § 9.9
- Report of investigator
  - Upjohn* warnings, § 5.1.D
  - Written vs. oral, § 5.1.B
- Selecting investigator, attorney as investigator, § 1.2.E.3
- Upjohn* privilege, criminal misconduct, § 7.2

### CONFLICTS OF INTEREST

- Attorney investigations, § 9.10
- Corporations, vicarious liability, § 7.7
- Criminal misconduct, corporation vs. employees or officers, § 7.4
- Defined, § 7.4
- Legal limitations on access to information, attorney professional conduct standards, § 2.2.D

### CONSUMABLES

- Lawful consumable products, mistakes and consequences in investigations, § 9.6.C

### CORPORATE *MIRANDA* WARNINGS

- Interviews, opening statements and explanations, § 3.2.C

### CORPORATIONS

- Conflicts of interest
  - Corporation vs. employees or officers, § 7.4
  - Vicarious liability, § 7.7
- Criminal misconduct
  - Fifth Amendment rights, § 7.2
  - Joint defense agreements, § 7.7
  - Non-cooperative employee discipline, § 7.8.A
- Employer liability, criminal misconduct, § 7.1.A
- Individual employees, Fifth Amendment rights impact, § 7.3

### Internal investigations

Employee right to indemnification and defense, § 7.5

Work product doctrine, § 7.2

Vicarious liability, § 7.7

### CORROBORATION

Contemporaneous corroboration, collecting evidence, § 4.3.E.2.a

Credibility determinations

Contemporaneous corroboration, § 4.3.E.2

Rule out evidence, § 4.3.E.3

Strong corroboration, § 4.3.E.1

Weight of evidence, § 4.3.E

Defined, § 4.3.E

### CREDIBILITY DETERMINATIONS

Generally, §§ 4.1 to 4.5

Ascertaining truth, § 4.2

Assessment of credibility, § 4.3

Analytic factors, § 4.3.A

Baselining for falsehoods, § 4.3.B

Changes from baseline behaviors, § 4.3.C

Response to credibility challenges, § 4.3.D

Specific words or actions, § 4.3.A

Behavior observations, reliability, § 4.2

Bias, § 4.1

Challenging credibility, § 4.3.D

Alternate versions of events, § 4.3.D.2

Demeanor observation confrontation, § 4.3.D.4

Eraser method, § 4.3.D.1

Exculpatory evidence, § 4.3.D.5

Reputational pattern/practice information, § 4.3.D.3

Confirmation bias, control techniques, § 4.3.A

Corroboration and weight of evidence, § 4.3.E

Contemporaneous corroboration, § 4.3.E.2

Rule out evidence, § 4.3.E.3

Strong corroboration, § 4.3.E.1

Discrimination, § 4.2, § 4.3

EEOC guidance, § 4.1

Explicit bias, § 4.1

Harassment, § 4.3

Implicit bias, § 4.1

Indeterminate credibility, § 4.5

Language

Sample written credibility analysis, § 4.4

Statement matrix, written credibility analysis, § 4.4

Trauma-informed interviews, stages of recounting, § 4.2

Written credibility analysis, § 4.4

Report of investigator, § 5.2.C

### CREDIT CHECKS

Fair Credit Reporting Act, mistakes in investigation, § 9.7.B

### CRIMES AND OFFENSES

Attorney-client privilege

Crime-fraud exception, § 6.9

Selective waiver of investigation material, § 6.2

Criminal misconduct, §§ 7.1 to 7.9

Potential criminal misconduct, § 1.2.D.3

### CRIMINAL MISCONDUCT

Generally, §§ 7.1 to 7.9

Attorney-client privilege, crime-fraud exception, § 6.9

Conflicts of interest, corporation vs. employees or officers, § 7.4

Corporations, joint defense agreements, § 7.7

Electronic communications, litigation holds, § 7.8.B

Electronically stored information (ESI)

Litigation holds, § 7.8.B

Post-COVID remote work issues, § 7.8.C

Employer liability, § 7.1.A

Fifth Amendment rights

Corporations, § 7.2

Individual employees, § 7.3

Limitations, § 8.2

Public sector workplaces, § 8.2.A

Forms

Non-subject Tennessee/*Garrity* warning, Chapter 8 Appendix A

Peace officer subject Tennessee/*Garrity* warning, Chapter 8 Appendix C

Subject Tennessee/*Garrity* warning, Chapter 8 Appendix B

*Upjohn* letter, Chapter 7 Appendix A

Impact, § 7.1

Internal investigations

Civil vs. criminal proceedings, § 7.3

Employee right to indemnification and defense, § 7.5

Post-COVID remote work issues, inappropriate digital behavior, § 7.8.C

Potential wrongdoing, monitoring, § 7.1.A

Professional conduct, report up or out obligations, § 7.9

Public sector workplaces, Fifth Amendment rights, § 8.2.A

Record retention policies, post-COVID remote work issues, § 7.8.C

Tennessee warnings, government agencies, § 7.4

*Upjohn* warnings, non-cooperative employee discipline, § 7.8.A

Whistleblower rewards program, § 7.1.A

## SUBJECT INDEX

---

Witnesses, non-cooperative employee discipline, § 7.8.A

## D

### DATA COLLECTION

Public sector workplaces, government data practices, § 8.4  
Tennessee warnings, government agencies, § 7.4

### DEFAMATION

Generally, § 9.2  
Elements of claim, § 9.2.A  
Incorrect behaviors, § 9.2.B

### DEFENSES

Affirmative defenses  
    *Faragher/Ellerth* harassment defense, § 5.1.A  
    Hiring outside counsel, § 6.4  
Wrongful discipline claims, § 6.13

### DEFINITIONS

Conflict of interest, § 7.4  
Corroboration, § 4.3.E  
Dual purpose communications, § 6.5.B  
Non-state public officials, § 8.4.B.3  
Self-critical analysis privilege, § 6.13  
State public officials, § 8.4.B.3

### DEPARTMENT OF JUSTICE (DOJ)

Corporations, criminal misconduct case policies, § 7.2  
Criminal misconduct, joint defense agreements policies, § 7.7  
Internal investigations, employee right to indemnification and defense, § 7.5  
Misconduct investigations, employee right to indemnification and defense, § 7.5

### DESTRUCTION OF DOCUMENTS. *See also* MISHANDLING DOCUMENTS; RECORD RETENTION POLICIES

Attorney-client privilege, crime-fraud exception, § 6.9

### DISCIPLINARY ACTIONS

Attorneys, failure to report up or out, § 7.9  
Compelled interviews, *Garrity* warnings, § 8.2.A.1  
Failure to cooperate with investigation  
    Whistleblowers, § 7.3  
    Witnesses, § 7.4  
Fifth Amendment self-incrimination rights  
    Criminal misconduct, § 8.2  
    Whistleblowers, § 7.3  
Final disposition of disciplinary action, private vs. public sector employee data, § 8.4.B.2

### Forms

Non-subject Tennessee/*Garrity* warning, Chapter 8 Appendix A  
Peace officer subject Tennessee/*Garrity* warning, Chapter 8 Appendix C  
Subject Tennessee/*Garrity* warning, Chapter 8 Appendix B  
Investigation report  
    Follow-up action recommendations, § 5.2.E  
    Record retention policies, § 5.2.G  
Peace officers, § 8.6  
Personnel records, § 2.1.A, § 2.1.C  
    History in final report, § 5.2.B.2  
    Review for final report, § 5.2.A  
Public sector employees, Minnesota Open Meeting Law requirements, § 8.5  
Public sector workplaces, final disposition of disciplinary action, § 8.4.B.2  
Tennessee warnings, government employees, § 7.4  
*Weingarten* rights, interviews, § 1.3.A, § 3.3.K  
Whistleblowers, failure to cooperate with investigation, § 7.3  
Witnesses, failure to cooperate with investigation, § 7.4  
Wrongdoing found, § 1.6.A  
Wrongful discipline claims, defenses, § 6.13

### DISCLOSURE

Attorney-client privilege  
    Inadvertent disclosure of privileged materials, § 6.8  
    Selective waiver of investigation material, § 6.2  
Corporations  
    Civil investigative demands, § 7.3  
    Criminal misconduct, § 7.2  
Discrimination, documentation, § 1.3.D  
Forms, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A  
Professional conduct, criminal misconduct, § 7.9  
Public sector workplaces, data privacy and disclosure, § 8.4

### DISCOVERY

Criminal misconduct, electronically stored information (ESI), § 7.8.B  
Interviews, documenting interview and impressions, § 3.4.C

### DISCRIMINATION

Alleged race discrimination, written credibility analysis, § 4.4  
Credibility determinations, § 4.2  
Documentation, disclosures, § 1.3.D  
Elements of claim, § 9.4.A

Forms, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A  
Internal investigations, as affirmative defenses, § 6.4  
Interviews, § 1.3.A  
*McDonnell-Douglas* burden-shifting analysis, § 9.4.A  
Mistakes in investigation, § 9.4.B  
Record retention policies, § 2.3  
Retaliation claims, § 9.3.A  
Tennessee warnings, contents, § 7.4  
Written credibility analysis, sample language, § 4.4

### DOCUMENTATION

Generally, §§ 2.1 to 2.4  
Access to information  
    Legal limitations, § 2.2.C  
    Privacy considerations, § 2.1.D  
Accurate documenting, § 2.1.D  
Communications to employees, personnel records, § 2.1.A  
Criminal misconduct, electronically stored information (ESI), § 7.8.B  
Destroying records, § 2.3.B  
Destruction of documents, crime-fraud exception to privilege, § 6.9  
Disciplinary actions, personnel records, § 2.1.A  
Disclosures, discrimination, § 1.3.D  
Electronically stored information (ESI), § 2.1, § 2.1.A  
Gathering documents, § 1.2.D.1  
Gathering information, § 2.2  
    Legal limitations, § 2.2.C  
    Strategies for obtaining, § 2.2.B  
    Where to look, § 2.2.A  
Human resource files, § 2.1.A  
Internal investigations, gathering information, § 2.2  
Interviews, documenting interview and impressions, § 3.4  
Legal limitations on access  
    Americans with Disabilities Act (ADA), § 2.2.C.3  
    Attorney professional conduct standards, § 2.2.D  
    Common law invasion of privacy claims, § 2.2.C.4  
    Electronic Communications Privacy Act, § 2.2.C.1  
    Federal Wiretap Act, § 2.2.C.1  
    Health Insurance Portability and Accountability Act (HIPAA), § 2.2.C.2  
Litigation holds, § 2.4.A  
Mishandling documents, § 2.4  
Oral reports, documenting investigation, § 5.3.B

Personnel records, § 2.1.A  
Record retention policies, § 2.3  
Report preparation, checklist of effective documentation, § 5.2.A  
Spoliation, § 2.4.B  
Storage and retrieval standards, § 2.1.C  
Topics to be documented, § 2.1.B

### DRUG TESTING

Documentation, § 2.1.A

### DUAL PURPOSE COMMUNICATIONS

Defined, § 6.5.B

### DUE PROCESS

Public sector workplaces, constitutional issues, § 8.2.B

## E

### E-DISCOVERY

Criminal misconduct, electronically stored information (ESI), § 7.8.B

### ELECTRONIC COMMUNICATIONS

Attorney-client privilege, requirements, § 6.6  
Computer Fraud and Abuse Act, violations, § 9.6.A  
Criminal misconduct, litigation holds, § 7.8.B  
Invasion of privacy claims, computer searches, § 9.5  
Stored Communications Act (SCA), violations, § 9.6.B

### ELECTRONIC COMMUNICATIONS PRIVACY ACT

Access to information, legal limitations, § 2.2.C.1

### ELECTRONICALLY STORED INFORMATION (ESI)

Access to information, privacy considerations, § 2.1.D  
Accurate documenting, § 2.1.D  
Computer Fraud and Abuse Act, violations, § 9.6.A  
Computer searches, invasion of privacy claims, § 9.5  
Criminal misconduct  
    Litigation holds, § 7.8.B  
    Post-COVID remote work issues, § 7.8.C  
Destroying records, § 2.3.B  
Documentation, § 2.1.A  
Electronic signatures, federal e-sign laws, § 2.1.A  
Gathering information  
    Legal limitations, § 2.2.C  
    Strategies for obtaining, § 2.2.B  
    Where to look, § 2.2.A  
Government regulations, § 2.1.C  
Litigation holds, § 2.4.A

## SUBJECT INDEX

---

- Management and security, § 2.1
- Mishandling documents, § 2.4
- Record retention policies, § 2.3
- Spoliation, § 2.4.B
- Stored Communications Act (SCA), violations, § 9.6.B

### EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)

- Attorney-client privilege, fiduciary duty exception, § 6.10
- Documentation, storage and retrieval standards, § 2.1.C

### EMPLOYEES

- Collective bargaining agreements, contractual employee protections, § 8.3
- Criminal misconduct investigations, cooperation vs. consequences, § 7.3
- Forms
  - Non-subject Tennesen/*Garrity* warning, Chapter 8 Appendix A
  - Peace officer subject Tennesen/*Garrity* warning, Chapter 8 Appendix C
  - Subject Tennesen/*Garrity* warning, Chapter 8 Appendix B
- Individual employees, Fifth Amendment rights impact, § 7.3
- Internal investigations, employee right to indemnification and defense, § 7.5
- Public sector workplaces
  - Criminal misconduct impact, § 8.2.A
  - Fifth Amendment rights, § 8.2.A
  - Garrity* statements, § 8.2.A
  - Personnel data classification, § 8.4
- Tennesen warnings, government agencies, § 7.4
- Witnesses, non-cooperative employee discipline, § 7.8.A

### EMPLOYER LIABILITY

- Criminal misconduct, § 7.1.A

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

- Documentation, storage and retrieval standards, § 2.1.C

### ETHICS. See PROFESSIONAL CONDUCT

### EVIDENCE

- Contemporaneous corroboration, collecting evidence, § 4.3.E.2.a
- Corroboration and weight of evidence, § 4.3.E
  - Contemporaneous corroboration, § 4.3.E.2
  - Rule out evidence, § 4.3.E.3
  - Strong corroboration, § 4.3.E.1

- Criminal misconduct, post-COVID remote work issues, § 7.8.C
- Documentation, §§ 2.1 to 2.4
- Electronically stored information (ESI), § 2.1
- Interviews, § 1.3

### EXPLICIT BIAS

- Credibility determinations, § 4.1

## F

### FAIR CREDIT REPORTING ACT

- Elements of claim, § 9.7.A
- Mistakes in investigation, § 9.7.B

### FEDERAL WIRETAP ACT

- Access to information, legal limitations, § 2.2.C.1

### FIFTH AMENDMENT RIGHTS

- Criminal misconduct
  - Corporations, § 7.2
  - Individual employees, § 7.3
  - Public sector workplaces, § 8.2.A
- Individual employees, corporate investigation inferences, § 7.3

### FINDINGS OF INVESTIGATION. See also REPORT OF INVESTIGATOR

- Conclusion process, § 1.4

### FINES AND PENALTIES

- Employer liability, criminal misconduct, § 7.1.A

### FOREIGN COUNTRIES

- Attorney-client privilege, foreign country interpretations, § 6.11

### FORMS

- Attorney-client privilege, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A
- Criminal misconduct, *Upjohn* letter, Chapter 7 Appendix A
- Public sector workplaces
  - Non-subject Tennesen/*Garrity* warning, Chapter 8 Appendix A
  - Peace officer subject Tennesen/*Garrity* warning, Chapter 8 Appendix C
  - Subject Tennesen/*Garrity* warning, Chapter 8 Appendix B

### FRAUD

- Attorney-client privilege, crime-fraud exception, § 6.9
- Misconduct investigations, employee right to indemnification and defense, § 7.5



**FRUIT OF THE POISONOUS TREE**

Public sector workplaces, employee statements,  
§ 8.2.A

**G**

**GARRITY STATEMENTS**

Public sector workplaces, employee statements,  
§ 8.2.A

**GARRITY WARNINGS**

Forms

Non-subject Tennessen/*Garrity* warning,  
Chapter 8 Appendix A

Peace officer subject Tennessen/*Garrity*  
warning, Chapter 8 Appendix C

Subject Tennessen/*Garrity* warning, Chapter 8  
Appendix B

Public sector workplaces, compelled interviews,  
§ 8.2.A.1

**GOVERNMENT AGENCIES**

Attorney-client privilege, selective waiver of  
investigation material, § 6.2

Corporations, criminal misconduct case policies,  
§ 7.2

Criminal misconduct, investigation coordination,  
§ 7.1.A

Peace Officer Standards and Training (POST)  
Board, reporting requirements, § 8.5

Public sector workplaces, operating as, §§ 8.1 to  
8.6

Tennessen warnings, private data collection, § 7.4

Theft of local government funds, reporting  
requirements, § 8.5

Work product doctrine, selective waiver of  
investigation material, § 6.2

**GOVERNMENT DATA PRACTICES. See also  
MINNESOTA GOVERNMENT DATA PRACTICES  
ACT (MGDPA)**

Public sector workplaces, § 8.4

**H**

**HARASSMENT**

Affirmative defenses, *Faragher/ Ellerth* defense,  
§ 5.1.A

Alleged sexual harassment and retaliation, written  
credibility analysis, § 4.4

Credibility determinations, § 4.3

Report of investigator, written vs. oral, § 5.1.A

**HEALTH INSURANCE PLANS**

Attorney-client privilege, fiduciary duty exception,  
§ 6.10

**HEALTH INSURANCE PORTABILITY AND  
ACCOUNTABILITY ACT (HIPAA)**

Access to information, legal limitations, § 2.2.C.2

**I**

**I-9 FORMS**

Documentation, § 2.1.A

**IMPLICIT BIAS**

Credibility determinations, § 4.1

**INADVERTENT DISCLOSURES**

Forms, confidentiality, cooperation, and joint  
defense agreement, Chapter 6 Appendix A

Privileged materials, professional conduct  
requirements, § 6.8

**INDEMNIFICATION**

Internal investigations, employee right to  
indemnification and defense, § 7.5

**INDEPENDENT CONTRACTORS**

Attorney-client privilege, non-lawyer presence  
effect, § 6.5.A

**INDUCEMENTS. SEE BRIBERY**

**INSURANCE REPRESENTATIVES**

Attorney-client privilege, non-lawyer presence  
effect, § 6.5.A

**INTERNAL INVESTIGATIONS**

Criminal misconduct, employee right to  
indemnification and defense, § 7.5

Forms, *Upjohn* letter, Chapter 7 Appendix A

**INTERNATIONAL LAW**

Attorney-client privilege, foreign country  
interpretations, § 6.11

**INTERROGATIONS**

*Miranda* warnings, voluntary public employee  
statements, § 8.2.A

**INTERVIEWS**

Generally, §§ 3.1 to 3.6

Alleged wrongdoer interviews, § 3.6

Eliciting information, § 3.6.A

Maintaining neutrality, § 3.6.A

Questions to ask, § 1.3.D

Common procedures, § 1.3.B

Complainant/alleged victim interviews, § 3.5

Location and timing, § 3.5.B

Questions to ask, § 1.3.C

Retaliation reminders, § 3.5.C

Support person presence, § 3.5.A

Witness courtesy, § 3.5.B

Credibility determinations, §§ 4.1 to 4.5

## SUBJECT INDEX

---

- Defamation claims, incorrect behaviors, § 9.2.B
- Documenting interview and impressions, § 3.4
  - Discovery, § 3.4.C
  - Interview memorandum, § 3.4.B
  - Notetaking during interview, § 3.4.A
- Gathering information, where to look, § 2.2.A
- Initiating conversation, § 3.2
- Investigator impressions, effective notetaking procedures, § 3.4.A.2
- Location considerations, § 3.1.B
  - Neutral space, § 3.1.B.2
  - Third-party space, § 3.1.B.2
  - Virtual interviews, § 3.1.B.3
  - Workplace, § 3.1.B.1
- NLRA-protected concerns, employee interview disclosure notice, § 3.3.K
- Notetaking during interview
  - Drafts, § 3.4.B
  - Effective note procedures, § 3.4.A.2
  - Investigator impressions, § 3.4.A.2
  - Witness statements, § 3.4.A.1
- Opening statements and explanations, § 3.2
  - Attorney disclosure of representation, § 3.2.C
  - Confidentiality explanations, § 3.2.B
  - Employee conversations with each other, § 3.2.B
  - Establishing rapport, § 3.2.A
  - Upjohn* warnings, § 3.2.C
- Persons to interview, § 1.3.A
- Preparation, § 3.1
  - Organization, § 3.1.E
  - Recordings, § 3.1.D
  - Reviewing information, § 3.1.A
  - Safety of witnesses, § 3.1.F
  - Scheduling, § 3.1.C
  - Selecting location, § 3.1.B
  - Technical considerations, § 3.1.E
  - Written statements, § 3.1.D
- Recommendations, § 3.3
  - Building rapport, § 3.3.B
  - Common question framework for witnesses, § 3.3.A
  - Cross-checking information, § 3.3.F
  - Knowing when to conclude, § 3.3.J
  - Observing demeanor, § 3.3.B
  - Obtaining answers from witness, § 3.3.E
  - Question formats, § 3.3.D
  - Review and recap points, § 3.3.G
  - Translator communications, § 3.3.H
  - Union employee considerations, § 3.3.K
  - Use of documents and electronic communications, § 3.3.I
  - Witness narratives, § 3.3.C

- Recordings, § 3.1.D
- Sample language, employee interview disclosure notice, § 3.3.K
- Scheduling, § 3.1.C
- Trauma-informed interviews, § 4.2
- Weingarten* rights, § 1.3.A, § 3.3.K
- Witness interviews, questions to ask, § 1.3.E
- Written statements, § 3.1.D

### INVASION OF PRIVACY

- Elements of claim, § 9.5.A
- Mistakes in investigation, § 9.5.B

### INVESTIGATORS

- Attorney as investigator, § 1.2.E.3
- Credibility determinations, §§ 4.1 to 4.5
- Findings of investigation, conclusion process, § 1.4
- Interview impressions, effective notetaking procedures, § 3.4.A.2
- Interviews, preparation, § 3.1
- Outside investigators, § 1.2.E.2
- Qualifications, § 1.2.E.1
- Report of investigator, contents, § 1.5
- Selecting investigator, § 1.2.E

## J

### JOINT DEFENSE AGREEMENTS

- Criminal misconduct, corporations, § 7.7
- Forms, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A

### JOINT REPRESENTATION

- Conflicts of interest, corporation vs. employees or officers, § 7.4

### JOINT-DEFENSE PRIVILEGE

- Third party disclosures, § 6.12

### JUSTICE MANUAL, US DEPARTMENT OF JUSTICE

- Attorney-client privilege, selective waiver of investigation material, § 6.2

## K, L

### LANGUAGE. *See also* FORMS

- NLRA-protected concerns, employee interview disclosure notice, § 3.3.K
- Report of investigator, specificity, § 5.2.A
- Sample language, *Upjohn* letter, Chapter 7 Appendix A



**LAW ENFORCEMENT.** See PEACE OFFICERS

**LAWFUL CONSUMABLE PRODUCTS**

Nonwork activities, mistakes and consequences in investigations, § 9.6.C

**LITIGATION HOLDS**

Criminal misconduct, electronically stored information (ESI), § 7.8.B  
Mishandling documents, § 2.4.A

**M**

**MCDONNELL-DOUGLAS ANALYSIS**

Discrimination, § 9.4.A

**MEDICAL RECORDS**

Documentation, § 2.1.A

**METADATA**

Electronically stored information (ESI), destroying records, § 2.3.B

**MINNESOTA GOVERNMENT DATA PRACTICES ACT (MGDPA), § 8.4.B**

Classification of investigation data, § 8.4.B  
Private vs. public sector employees, § 8.4.B.2  
Public officials, § 8.4.B.3  
Public sector workplaces, § 8.4  
Final disposition of disciplinary action, § 8.4.2  
Tennessen warnings, § 8.4.C

**MINNESOTA OPEN MEETING LAW**

Requirements, § 8.5

**MIRANDA WARNINGS**

Interviews, opening statements and explanations, § 3.2.C  
Public sector workplaces, voluntary employee statements, § 8.2.A

**MISHANDLING DOCUMENTS.** See *also*

**RECORD RETENTION POLICIES**

Litigation holds, § 2.4.A  
Spoliation, § 2.4.B

**MISTAKES AND CONSEQUENCES**

Generally, §§ 9.1 to 9.10  
Attorney investigations, conflicts of interest, § 9.10  
Computer Fraud and Abuse Act, violations, § 9.6.A  
Defamation, § 9.2  
Elements of claim, § 9.2.A  
Incorrect behaviors, § 9.2.B  
Discrimination  
Elements of claim, § 9.4.A  
Incorrect behaviors, § 9.4.B  
Fair Credit Reporting Act  
Elements of claim, § 9.7.A  
Incorrect behaviors, § 9.7.B

Invasion of privacy  
Elements of claim, § 9.5.A  
Incorrect behaviors, § 9.5.B  
Lawful consumable products, nonwork activities, § 9.6.C  
National Labor Relations Act violations  
Elements of claim, § 9.9.A  
Incorrect behaviors, § 9.9.B  
Retaliation claims  
Elements, § 9.3.A  
Incorrect behaviors, § 9.3.B  
Social media breach of terms of use or service  
Elements of claim, § 9.8.A  
Incorrect behaviors, § 9.8.B  
Stored Communications Act (SCA), violations, § 9.6.B

**MULTIPLE DEFENDANTS**

Conflicts of interest  
Corporation vs. employees or officers, § 7.4  
Vicarious liability, § 7.7

**N**

**NATIONAL LABOR RELATIONS ACT**

Violations  
Elements of claim, § 9.9.A  
Mistakes in investigation, § 9.9.B

**NON-COOPERATIVE RESPONDENT**

Compelled interviews, *Garrity* warnings, § 8.2.A.1  
Credibility determinations, sample written credibility analysis, § 4.4

**NON-STATE PUBLIC OFFICIALS**

Defined, § 8.4.B.3

**O**

**OBSTRUCTION OF JUSTICE**

Witnesses, non-cooperative employee discipline, § 7.8.A

**OPEN MEETING LAW**

Requirements, § 8.5

**P**

**PEACE OFFICER STANDARDS AND TRAINING (POST) BOARD**

Investigations, reporting requirements, § 8.5

**PEACE OFFICERS**

Disciplinary actions, § 8.6  
Forms, peace officer subject Tennessen/*Garrity* warning, Chapter 8 Appendix C

## SUBJECT INDEX

---

- Peace Officer Standards and Training (POST)
  - Board, reporting requirements, § 8.5
- Personnel investigations, Peace Officers Discipline Procedures Act (PODPA), § 8.6
- Public sector workplaces, employee procedural protections, § 8.2.B.1

### PEACE OFFICERS DISCIPLINE PROCEDURES ACT (PODPA)

- Law enforcement personnel investigations, § 8.6

### PERSONNEL RECORDS

- Documentation, § 2.1.A

### PLANNING INVESTIGATION

- Generally, § 1.2.F

### POLICE. *SEE* PEACE OFFICERS

### POPULAR NAME LAWS

- Americans with Disabilities Act (ADA), legal limitations on access to information, § 2.2.C.3
- Computer Fraud and Abuse Act, violations, § 9.6.A
- Electronic Communications Privacy Act, legal limitations on access to information, § 2.2.C.1
- Employee Retirement Income Security Act of 1974 (ERISA)
  - Attorney-client privilege exceptions, § 6.10
  - Storage and retrieval standards, § 2.1.C
- Fair Credit Reporting Act, violation claims, § 9.7
- Federal Wiretap Act, legal limitations on access to information, § 2.2.C.1
- Health Insurance Portability and Accountability Act (HIPAA), legal limitations on access to information, § 2.2.C.2
- Minnesota Government Data Practices Act (MGDPA), public sector workplaces, § 8.4
- Minnesota Open Meeting Law, requirements, § 8.5
- National Labor Relations Act, violation claims, § 9.9
- Peace Officers Discipline Procedures Act (PODPA), law enforcement personnel investigations, § 8.6
- Stored Communications Act (SCA), violations, § 9.6.B

### PRE-INVESTIGATION CONSIDERATIONS

- Generally, §§ 1.1 to 1.6
- Actions needed, § 1.2.D
  - Gathering documents, § 1.2.D.1
  - Interim steps pending results, § 1.2.D.2
  - Potential criminal misconduct, § 1.2.D.3
- Complaint process, § 1.2
  - Establishment and effectiveness, § 1.2.A
  - Response training, § 1.2.B
- Objectives, § 1.1
- Planning investigation, § 1.2.F

- Private sector vs. public sector employers, obligations, § 1.1
- Purpose, § 1.1
- Selecting investigator, qualifications, § 1.2.E
- Triggering issues, § 1.1, § 1.2.C

### PRIMARY PURPOSE TEST

- Attorney-client privilege, electronic communications, § 6.6

### PRIVACY RIGHTS

- Invasion of privacy
  - Elements of claim, § 9.5.A
  - Mistakes in investigation, § 9.5.B
- Legal limitations on access to information, common law invasion of privacy claims, § 2.2.C.4
- Public officials, classification of investigation data, § 8.4.B.3
- Public sector workplaces
  - Data privacy and disclosure, § 8.4
  - Government data practices, § 8.4
- Tennessen warnings, government agencies, § 7.4

### PRIVILEGES AND IMMUNITIES

- Attorney-client privilege, §§ 6.1 to 6.13
- Forms
  - Confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A
  - Upjohn* letter, Chapter 7 Appendix A
- Joint-defense privilege, § 6.12
- Selecting investigator, attorney as investigator, § 1.2.E.3
- Self-critical analysis privilege, § 6.13
- Upjohn* privilege, criminal misconduct, § 7.2

### PROCESS AND PROCEDURES. *See also* INTERVIEWS

- Generally, §§ 1.1 to 1.6
- Actions needed, § 1.2.D
  - Gathering documents, § 1.2.D.1
  - Interim steps pending results, § 1.2.D.2
  - Potential criminal misconduct, § 1.2.D.3
- Company response, § 1.6
  - Actions if wrongdoing found, § 1.6.A
  - Actions if wrongdoing not found, § 1.6.B
  - Monitoring and prevention, § 1.6.C
  - Retaliation prohibitions, § 1.6.B
- Complaint process, § 1.2
  - Establishment and effectiveness, § 1.2.A
  - Response training, § 1.2.B
- Conducting investigation, § 1.3
- Credibility determinations, §§ 4.1 to 4.5
- Documentation, gathering information, § 2.2
- Findings, conclusion process, § 1.4
- Interim steps pending results, § 1.2.D.2

- Interviews, § 1.3
- Location selection, § 3.1.B
- Objectives, § 1.1
- Planning investigation, § 1.2.F
- Reports, contents, § 1.5
- Selecting investigator
  - Attorney as investigator, § 1.2.E.3
  - Outside investigators, § 1.2.E.2
  - Qualifications, § 1.2.E.1
- Triggering issues, § 1.1, § 1.2.C
- PROFESSIONAL CONDUCT**
  - Attorneys, failure to report up or out, § 7.9
  - Conflicts of interest
    - Attorney investigations, § 9.10
    - Corporation vs. employees or officers, § 7.4
  - Criminal misconduct
    - Report up or out obligations, § 7.9
    - Witnesses, § 7.8.A
  - Inadvertent disclosure of privileged materials, procedures, § 6.8
  - Legal limitations on access to information, attorneys, § 2.2.D
- PROTECTIVE ORDERS**
  - Corporations, criminal misconduct proceedings, § 7.3
- PUBLIC OFFICIALS**
  - Classification of investigation data, state vs. non-state officials, § 8.4.B.3
  - Minnesota Open Meeting Law, § 8.5
- PUBLIC RELATIONS CONSULTANTS**
  - Attorney-client privilege, non-lawyer presence effect, § 6.5.A
- PUBLIC SECTOR WORKPLACES**
  - Generally, §§ 8.1 to 8.6
  - Administrative leave, paid vs. unpaid leave, § 8.2.B.2
  - Application of law, § 8.1
  - Classification of investigation data
    - Complaint existence and status, § 8.4.B.1
    - Final disposition of disciplinary action, § 8.4.B.2
    - Public officials, § 8.4.B.3
  - Collective bargaining agreements, contractual employee protections, § 8.3
  - Compelled interviews, *Garrity* warnings, § 8.2.A.1
  - Constitutional issues, § 8.2
    - Due process, § 8.2.B
    - Fifth Amendment rights, § 8.2.A
    - Search and seizure, § 8.2.C
  - Data privacy and disclosure, § 8.4
    - Classification of investigation data, § 8.4.B
    - Responsible authority, § 8.4.A
    - Tennessee warnings, § 8.4.C
  - Due process
    - Administrative leave, § 8.2.B.2
    - Employee procedural protections, § 8.2.B, § 8.2.B.1
  - Forms
    - Non-subject Tennessee/*Garrity* warning, Chapter 8 Appendix A
    - Peace officer subject Tennessee/*Garrity* warning, Chapter 8 Appendix C
    - Subject Tennessee/*Garrity* warning, Chapter 8 Appendix B
  - Garrity* warnings, compelled interviews, § 8.2.A.1
  - Minnesota Government Data Practices Act (MGDPA), § 8.4
  - Minnesota Open Meeting Law, employee disciplinary action requirements, § 8.5
  - Miranda* warnings, voluntary employee statements, § 8.2.A
  - Misconduct investigations
    - Administrative leave, § 8.2.B.2
    - Criminal investigation vs. employee misconduct procedures, § 8.2.A
    - Search and seizure, § 8.2.C
  - Notice, employee procedural protections, § 8.2.B.1
  - Peace Officer Standards and Training (POST) Board, reporting requirements, § 8.5
  - Personnel data classification, government data practices, § 8.4
  - Personnel manuals, employee procedural protections, § 8.2.B.1
  - Search and seizure
    - Reasonable expectation of privacy, § 8.2.C.1
    - Reasonableness of search, § 8.2.C.2
  - Theft of local government funds, reporting requirements, § 8.5
  - Weingarten* rights
    - Collective bargaining agreements, § 8.3
    - Interviews, § 1.3.A, § 3.3.K
- Q, R**
- RACE DISCRIMINATION**
  - Alleged race discrimination, written credibility analysis, § 4.4
  - Credibility determinations, sample written credibility analysis, § 4.4
- RECORD RETENTION POLICIES**
  - Generally, § 2.3
  - Attorney-client privilege, crime-fraud exception, § 6.9

## SUBJECT INDEX

---

- Criminal misconduct
  - Electronically stored information (ESI), § 7.8.B
  - Post-COVID remote work issues, § 7.8.C
- Destroying records, § 2.3.B
- Establishing policy, requirements, § 2.3.A
- Report of investigator, § 5.2.G
- Tennessen warnings, government agencies, § 7.4

### **RECORDS AND RECORDKEEPING.** *See also* MINNESOTA GOVERNMENT DATA PRACTICES ACT (MGDPA)

- Access to information, privacy considerations, § 2.1.D
- Documentation, §§ 2.1 to 2.4
- Electronically stored information (ESI), government regulations, § 2.1.C
- Record retention policies, § 2.3

### **REPORT OF INVESTIGATOR**

- Generally, §§ 5.1 to 5.4
- Checklists, effective documentation, § 5.2.A
- Contents, § 1.5
- Credibility determinations, § 5.2.C
- Distributing report, § 5.2.F
- Document retention, § 5.2.G
- Drafting report, § 5.2.A, § 5.2.B
  - Alleged victim performance history, § 5.2.B.3
  - Alleged wrongdoer disciplinary history, § 5.2.B.2
  - Credibility determination, § 5.2.C
  - Fact-based conclusion, § 5.2.D
  - Identifying follow-up action, § 5.2.E
  - Supervisor interview descriptions, § 5.2.B.1
- Fact-based conclusion, § 5.2.D
- Findings of investigation, conclusion process, § 1.4
- Interviews
  - Documenting interview and impressions, § 3.4
  - Notes, § 5.2
- Language, specificity, § 5.2.A
- Oral reports
  - Attorney-client privilege preservation, § 5.3.B
  - Delivery and record of delivery, § 5.3
  - Documenting investigation, § 5.3.B
  - Preparation and delivery, § 5.3.A
- Preparation, § 5.2
  - Checklist of effective documentation, § 5.2.A
  - Starting with the end in mind, § 5.3.B
  - Summarize information, § 5.2.A
- Previews, § 5.1
- Purpose and function, written vs. oral, § 5.1.A
- Questions to be answered, § 5.2.A
- Security of report, § 5.1.C
- Self-critical analysis privilege, § 6.13
- Specificity of language, drafting report, § 5.2.A

- Written vs. oral
  - Attorney-client privilege, § 5.1.D
  - Confidential or privileged information, § 5.1.B
  - Considerations, § 5.1
  - Harassment complaints, § 5.1.A
  - Likelihood of litigation, § 5.1.E
  - Security of report, § 5.1.C
  - Trade secrets, § 5.1.B

### **RESPONSE**

- Company response, § 1.6

### **RETALIATION**

- Alleged sexual harassment and retaliation, written credibility analysis, § 4.4
- Company response, prohibited actions, § 1.6.B
- Credibility determinations, sample written credibility analysis, § 4.4
- Elements of claim, § 9.3.A
- Mistakes in investigation, § 9.3.B

## **S**

### **SANCTIONS**

- Criminal misconduct, electronically stored information (ESI), § 7.8.B
- Inadvertent disclosure of privileged materials, failure to comply with professional conduct, § 6.8

### **SEARCH AND SEIZURE**

- Computer searches, § 9.6
- Invasion of privacy, incorrect behaviors, § 9.5.B
- Public sector workplaces
  - Constitutional issues, § 8.2.C
  - Reasonable expectation of privacy, § 8.2.C.1
  - Reasonableness of search, § 8.2.C.2

### **SECURITY**

- Report of investigator, written vs. oral, § 5.1.C

### **SELF-CRITICAL ANALYSIS PRIVILEGE**

- Application of privilege, § 6.13
- Defined, § 6.13
- Procedures, § 6.13

### **SEXUAL HARASSMENT**

- Alleged sexual harassment and retaliation, written credibility analysis, § 4.4
- Credibility determinations, sample written credibility analysis, § 4.4

### **SIGNATURES**

- Electronic signatures, federal e-sign laws, § 2.1.A

### **SOCIAL MEDIA**

- Breach of terms of use or service
- Elements of claim, § 9.8.A

Mistakes in investigation, § 9.8.B

## **SPOLIATION**

Mishandling documents, § 2.4.B

## **STATE PUBLIC OFFICIALS**

Defined, § 8.4.B.3

## **STAY OF PROCEEDINGS**

Corporate criminal misconduct proceedings, staying civil proceedings, § 7.3

## **STORED COMMUNICATIONS ACT (SCA)**

Violations, § 9.6.B

## **SUBPOENAS**

Disclosure, corporations, § 7.3

## **SUPERVISORS**

Investigators, qualifications, § 1.2.E.1

# **T**

## **TENNESSEN WARNINGS**

Forms

Non-subject Tennesen/*Garrity* warning, Chapter 8 Appendix A

Peace officer subject Tennesen/*Garrity* warning, Chapter 8 Appendix C

Subject Tennesen/*Garrity* warning, Chapter 8 Appendix B

Government agencies, private data collection, § 7.4

Public sector workplaces, data privacy and disclosure, § 8.4.C

## **THIRD PARTIES**

Attorney-client privilege, waiver principles application, § 6.5.A

Forms, confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A

Joint-defense privilege, third party disclosures, § 6.12

## **THREATS. SEE COERCION**

## **TRADE SECRETS**

Report of investigator, written vs. oral, § 5.1.B

# **U**

## **UNION WORKPLACES**

Interviews, employee interview disclosure notice, § 3.3.K

Public sector workplaces, employee procedural protections, § 8.2.B.1

*Weingarten* rights

Collective bargaining agreements, § 8.3

Interviews, § 1.3.A, § 3.3.K

## **UPJOHN LETTER**

Sample language, Chapter 7 Appendix A

## **UPJOHN PRIVILEGE**

Criminal misconduct, investigation procedures, § 7.2

## **UPJOHN WARNINGS**

Criminal misconduct, non-cooperative employee discipline, § 7.8.A

Interviews, opening statements and explanations, § 3.2.C

Report of investigator, attorney-client privilege, § 5.1.D

## **USE IMMUNITY**

*Miranda* warnings, public employee statements, § 8.2.A

# **V**

## **VICARIOUS LIABILITY**

Corporations, criminal misconduct, § 7.7

## **VOLUNTARY SELF-EVALUATIONS**

Self-critical analysis privilege, § 6.13

# **W**

## **WEINGARTEN RIGHTS**

Application of law, § 8.3

Interviews, § 1.3.A, § 3.3.K

Procedures, § 8.3

Public sector workplaces, collective bargaining agreements, § 8.3

## **WHISTLEBLOWERS**

Criminal misconduct, whistleblower rewards program, § 7.1.A

## **WITNESSES**

Criminal misconduct, non-cooperative employee discipline, § 7.8.A

Interviews, safety of witnesses, § 3.1.F

Notetaking during interview, witness statements, § 3.4.A.1

*Weingarten* rights, application of law, § 8.3

## **WORK PRODUCT DOCTRINE. See also ATTORNEY-CLIENT PRIVILEGE; CONFIDENTIAL OR PRIVILEGED INFORMATION**

Adequacy of internal investigation

Preparation for affirmative defense, § 6.4

Separating fact vs. impression records, § 6.4

Affirmative defenses, hiring outside counsel, § 6.4

Attorney-client privilege compared, § 6.1

## SUBJECT INDEX

---

- Communication with former employees,
  - requirements, § 6.7
- Communications with third parties, § 6.5.A
- Corporations, criminal misconduct, § 7.2
- Forms
  - Confidentiality, cooperation, and joint defense agreement, Chapter 6 Appendix A
  - Upjohn* letter, Chapter 7 Appendix A
- Inadvertent disclosure of privileged materials,
  - professional conduct procedures, § 6.8
- Internal investigations, corporations, § 7.2
- Media campaigns vs. litigation strategy, § 6.5.A
- Non-lawyer presence effect, communications with third parties, § 6.5.A
- Non-legal advice, dual purpose communications,
  - § 6.5.B
- Presence of third parties, waiver principles
  - application, § 6.5.A
- Selective waiver of investigation material
  - Scope of waiver, § 6.3
  - Separating fact vs. impression records, § 6.2
- Self-critical analysis privilege as alternative, § 6.13
- Upjohn* privilege, criminal misconduct, § 7.2
- Who holds privilege, § 6.1

### **WORKERS' COMPENSATION**

- Documentation, § 2.1.A

### **WRITTEN CREDIBILITY ANALYSIS**

- Sample language, § 4.4

### **WRONGFUL DISCIPLINE CLAIMS**

- Defenses, § 6.13

## **X, Y, Z**