U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 25-2546

NATIONAL SHOOTING SPORTS FOUNDATION,
Appellant

v.

ATTORNEY GENERAL NEW JERSEY

Appeal from the U.S. District Court, D.N.J.
Judge Zahid H. Quraishi, No. 3:22-cv-6646

Before: PORTER, MATEY, and AMBRO, *Circuit Judges*
Argued Jun. 2, 2026; Filed Sep. 8, 2026

OPINION OF THE COURT

PORTER, *Circuit Judge*.

In this appeal we consider whether National Shooting Sports Foundation's ("NSSF") lawsuit challenging the constitutionality of a New Jersey firearms regulation is barred by *Younger v. Harris*, 401 U.S. 37 (1971). We previously dismissed the lawsuit for lack of Article III standing because the prospect of imminent enforcement against NSSF's members was too speculative. *NSSF v. Att'y Gen. of N.J.* ("*NSSF I*"), 80 F.4th 215 (3d Cir. 2023). Yet just a few months later, New Jersey started enforcement actions against gun manufacturers and sellers, including Glock, Inc. ("Glock"), one of NSSF's members. NSSF moved to reopen the case, to file an amended complaint, and for a preliminary injunction. The District Court reopened the case, accepted the amended complaint, and found that NSSF now had standing to bring its suit. But the Court then held that it was required to abstain from reaching the merits of NSSF's preliminary injunction motion under *Younger*. We agree that NSSF now has standing to bring this suit. But for the reasons below, we disagree that *Younger* abstention applies. We will therefore reverse.

I

A

In 2005, Congress enacted the Protection of Lawful Commerce in Arms Act ("PLCAA") to, among other things, "prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended." 15 U.S.C. § 7901(b)(1). The PLCAA carves out certain exceptions, such as for negligence per se. *Id.* § 7903(5)(A)(ii). Relevant here, the so-called predicate exception requires proof that the manufacturer or seller "knowingly violated a State or Federal statute applicable to the sale or marketing of the product," and that "the violation was a proximate cause of the harm for which relief is sought." *Id.* § 7903(5)(A)(iii). The Supreme Court recently clarified that this exception applies only to those cases where the "plaintiff makes a plausible allegation that a gun manufacturer participated in a firearms violation as in something that it wished to bring about and sought to make succeed." *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 299 (2025) (citation modified).

In 2022, New Jersey enacted A1765, which subjects "gun industry members"—gun sellers, manufacturers, distributors, importers, and marketers—to civil liability for conduct it deems a "public nuisance." *See* N.J.S. §§ 2C:58-33, *et seq*. It defines two categories of conduct as public nuisances. First, gun industry members "shall not, by conduct either unlawful in itself *or unreasonable under all the circumstances*,

knowingly or recklessly create, maintain, or contribute to a public nuisance in this State through the sale, manufacturing, distribution, importing, or marketing of a gun-related product." *Id.* § 2C:58-35(a)(1) (emphasis added). Second, gun industry members "shall establish, implement, and enforce reasonable controls regarding its manufacture, sale, distribution, importing, and marketing of gun-related products." *Id.* § 2C:58-35(a)(2). The statute grants the New Jersey Attorney General enforcement authority, *id.* § 2C:58-35(b), and provides that he "shall not be required to demonstrate that the gun industry member acted with the purpose to engage in any public nuisance or otherwise cause harm to the public," *id.* § 2C:58-35(c).

B

NSSF filed suit the same year A1765 became law, seeking a declaration that A1765 is unconstitutional under the Interstate Commerce Clause, First Amendment, and Second Amendment, and that it is preempted by the PLCAA. It then moved for a preliminary injunction.

The District Court preliminarily enjoined the law's enforcement. It found that the "gravamen of the parties' dispute is [] whether A1765 falls within the predicate exception to the PLCAA." Joint Appendix ("J.A.") at 34. Though its decision came before the Supreme Court's decision in *Smith & Wesson*, the District Court was likewise concerned that a broad reading of the predicate exception would "gut the PLCAA" by subjecting gun industry members "to civil liability for the harm solely caused by the criminal or unlawful misuse of firearm or ammunition products by others." J.A. at 39; *see also* 605 U.S. at 299 ("But that exception, if Mexico's suit fell within it,

would swallow most of the rule. We doubt Congress intended to draft such a capacious way out of PLCAA, and in fact it did not.").

The District Court found risk of irreparable harm because, absent an injunction, NSSF would be "required to either comply with the statute, which would result in members being subject to [A1765's] vague requirement to enforce 'reasonable controls'" or "be faced with prosecution and fees upon A1765's enforcement for noncompliance." J.A. at 43. It also observed that "money damages from either complying with A1765 or the fines assessed for noncompliance will be unrecoverable . . . under the Eleventh Amendment." *Id.*

On the third preliminary injunction factor—the possibility of harm to public interests—the District Court stated that New Jersey "does not have a legitimate interest in the enforcement of an unconstitutional law" and noted that the State failed to propose any other damage that might be caused by an injunction. J.A. at 44. Finally, the Court reasoned that, when the plaintiff has shown a likelihood of success and irreparable injury, the public interest will almost always favor plaintiff.

On appeal, we did not reach the merits but instead held that NSSF's harm was insufficiently concrete to establish Article III standing. *NSSF I*, 80 F.4th 215. We looked for "several signs of a substantial threat" of enforcement. *Id.* at 220. Foremost, we observed that "the Law has not been enforced against anyone, let alone [NSSF] or its members." *Id*. We also remarked that the risk of enforcement is lower because private parties cannot bring suit under the statute; only New Jersey officials, "constrained by explicit guidelines or ethical

obligations," are permitted to enforce it. *Id.* at 221 (citation omitted).

Finally, although noting that "statements made in litigation are hardly dispositive," we trusted the Attorney General's litigation statement "disavow[ing] prosecuting [NSSF] or its members just for participating in 'lawful commerce,' which is all [NSSF] has said it wants to do." *Id*. Rather, New Jersey told us that the law only covers industry members' "own *misconduct*"—though we admitted "we are not sure just how far the Attorney General's view of 'misconduct' sweeps." *Id.* (emphasis in original).

Because NSSF failed to show an imminent risk of enforcement, we vacated the preliminary injunction and remanded with instructions to dismiss the lawsuit for lack of jurisdiction. *Id.* at 223.

C

Since *NSSF I*, New Jersey has commenced six enforcement actions under A1765 against gun industry members. Because these lawsuits are relevant to the standing analysis, we will summarize each.

1. Eagle Shows and JSD Supply

In December 2023, New Jersey sued Eagle Shows and JSD Supply, both Pennsylvania companies, for selling ghost gun kits to customers in Pennsylvania. Because it is illegal in New Jersey to have ghost guns, the State alleged that Eagle Shows and JSD Supply acted unreasonably in violation of A1765 by selling ghost gun kits to customers who then

transported them to New Jersey. New Jersey relied on an accomplice liability theory.

2. FSS Armory

Also in December 2023, New Jersey sued FSS Armory for allegedly storing "stacks of guns within easy reach of a ground-floor window" which were subsequently stolen. J.A. at 569–71. New Jersey alleged this was "unlawful in itself" under A1765 because it violated N.J.S. § 2C:58-2(a)(3) and implementing regulations. J.A. at 583–86. New Jersey also alleged this conduct violated A1765 for being unreasonable under the circumstances, § 2C:58-35(a)(1), and failing to implement reasonable controls, § 2C:58-35(a)(2).

3. Point Blank Guns and Ammo ("Point Blank")

In November 2024, New Jersey commenced an action against Point Blank for violating N.J.S. § 2C:58-35(a)(2) by failing "to establish, implement and enforce reasonable controls regarding its sale of ammunition and ammunition magazines." J.A. at 642. As alleged, New Jersey sent undercover investigators into the Point Blank store. The store sold these investigators ammunition and a magazine and "did not ask to see, and did not review, any type of identification, permit, or credential." J.A. at 630. The Point Blank complaint did not allege a violation of a separate state or federal law.

4. Butch's Gun World

New Jersey's complaint against Butch's Gun World was filed the same day as the Point Blank action and alleged

the same conduct and violation.

5. Glock

In December 2024, New Jersey sued Glock, Inc.—an NSSF member—alleging that Glock sells handguns capable of being converted into functionally automatic firearms with the use of an "auto sear." New Jersey claims Glock has personal knowledge of how its handguns are sometimes converted but has not taken any legal or manufacturing action to prevent it. Thus, New Jersey claims Glock is violating A1765 by unreasonably and knowingly creating a public nuisance through its sale of its switchable handguns and by failing to update its design. New Jersey also makes other claims for conduct "unlawful in itself" under A1765. First, that Glock violated A1765 because its conduct violates N.J.S. § 2C:39-9(a), which prohibits the manufacturing of machine guns without a license. Second, that Glock violated A1765 by unlawfully aiding and abetting the illegal possession of machine guns. Finally, that Glock violated A1765 by violating product liability laws.

6. Sig Sauer

NSSF claims that New Jersey brought a sixth action since these proceedings began, this one against NSSF member and gun manufacturer, Sig Sauer. Although this action is not in the record, the complaint is publicly available and we can take judicial notice of its allegations. *See Orabi v. Atty. Gen.*, 738 F.3d 535, 537–38 & n.1 (3d Cir. 2014) ("We may take judicial notice of the contents of another Court's docket."); Compl., *Platkin v. Sig Sauer*, No. ESX-C-000217-25 (N.J. Sup. Ct. Oct. 16, 2025) ("Sig Sauer Compl."), https://perma.cc/379B-ZFLB.

In this action, New Jersey claims Sig Sauer's P320 pistol randomly discharges and thus seeks to "enjoin[] Sig Sauer from continuing to distribute its defective P320s in New Jersey and to cease its unreasonable deceptive marketing of its P320s." Sig Sauer Compl. ¶ 25. New Jersey alleges Sig Sauer's "[m]anufacturing, [d]istributing, and [s]elling" of P320s violate N.J.S. § 2C:58-35(a)(1) both as unreasonable under the circumstances and separately violating New Jersey's products liability law. *Id.* ¶¶ 128–68. New Jersey also argues Sig Sauer's marketing of P320s violates N.J.S. § 2C:58-35(a)(1) because it is unreasonable under the circumstances and because it violates the State's product liability and consumer fraud laws. *Id.* ¶¶ 169–203. Finally, it alleges Sig Sauer failed to maintain reasonable controls under N.J.S. § 2C:58-35(a)(2). *Id.* ¶¶ 204–14

D

In February 2025, NSSF moved the District Court to reopen the case and for leave to file an amended complaint. The Court granted that motion, so NSSF filed an amended complaint and moved for another preliminary injunction.

The District Court first addressed standing, finding that "the landscape has clearly changed and this matter is no longer a pre-enforcement challenge." J.A. at 11. It recognized that, "since the Third Circuit's decision, the Attorney General has initiated five enforcement actions, including the Glock suit." *Id.* The Court then abstained from reaching the merits of the case under *Younger* due to the ongoing enforcement action against NSSF-member Glock. NSSF timely appealed.

II[1]

New Jersey again argues that NSSF lacks standing for its amended complaint. But the District Court was correct to hold that NSSF now has standing to challenge A1765.

To establish Article III standing, a plaintiff must "show an injury in fact caused by the defendant and redressable by a court order." *United States v. Texas*, 599 U.S. 670, 676 (2023). An injury in fact must be "concrete, particularized, and imminent rather than conjectural or hypothetical." *Trump v. New York*, 592 U.S. 125, 131 (2020) (per curiam) (internal quotation marks omitted). To be "imminent," either a threat of injury must be "certainly impending," or there must at least be "a substantial risk that the harm will occur." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (internal quotation marks omitted). A plaintiff "satisfies the injury-in-fact requirement where he alleges he intends to do something arguably protected by the Constitution, but arguably barred by the regulation, and that he faces a credible threat of prosecution under the regulation." *Greenberg v. Lehocky*, 81 F.4th 376, 384–385 (3d Cir. 2023).

Similarly, the case must be ripe for court review. It must not "depend[] on contingent future events that may not occur as anticipated, or indeed may not occur at all." *Trump*, 592 U.S.

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[1] The District Court had jurisdiction under 28 U.S.C. §§ 1331 & 1343(a)(3). We have jurisdiction over this interlocutory appeal under 28 U.S.C. § 1292(a)(1). "We exercise plenary review over a trial court's . . . determination of whether *Younger* abstention is proper." *Hamilton v. Bromley*, 862 F.3d 329, 333 (3d Cir. 2017).

at 131 (internal quotation marks omitted). Standing and ripeness both stem from the same constitutional limit and often "boil down to the same question." *Driehaus*, 573 U.S. at 157 n.5 (internal quotation marks omitted). "[W]e usually refer to standing, though most of our analysis applies to both." *NSSF I*, 80 F.4th at 219.

For associations like NSSF, "we apply a specialized test to discern whether the threat of enforcement is imminent." *Id.* NSSF must demonstrate that "it or its members (1) intend to take action that is (2) 'arguably affected with a constitutional interest' but is (3) arguably forbidden by the Law, and (4) the threat of enforcement against them is substantial." *Id.* (quoting *Driehaus*, 573 U.S. at 159).

We start with NSSF's intent to act. NSSF's members are gun manufacturers, distributors, and retailers, and its members intend to continue manufacturing, distributing, and selling firearms. NSSF primarily claims its members fear enforcement actions under A1765 for engaging in "otherwise-lawful commerce." NSSF Reply Br. at 22. In other words, they worry that they will be subject to A1765 enforcement for selling, marketing, and transporting firearms in a manner that violates no other state or federal laws. Last time we faced this question, we rejected NSSF's similar allegations of its members' intent to act because "its bold assertion [was] backed by no evidence." *NSSF I*, 80 F.4th at 220. But as we discuss below, in the years since *NSSF I*, New Jersey has commenced multiple enforcement actions against gun industry members that allege otherwise lawful yet "unreasonable" conduct. In any event, NSSF has submitted declarations outlining specific actions some of its members intend to take but can't, for fear of prosecution.

NSSF's members' intended actions are arguably precluded by A1765 and affected with constitutional interests. NSSF argues A1765 enforcement actions against its members for otherwise lawful commerce would be an attempt to "hold [its members] liable for the acts of third parties who use their legal products to commit heinous crimes." J.A. at 114. But with the help of the Supremacy Clause, the PLCAA precludes "causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended." 15 U.S.C. § 7901(b)(1). True, the PLCAA's predicate exception may apply to A1765. But that's a merits question. NSSF can show that the PLCAA at least arguably preempts A1765.

Similarly, as NSSF alleges, A1765 arguably regulates extraterritorial commerce. A1765 does not limit its application to "gun industry member[s]" who do business in New Jersey. *See* N.J.S. § 2C:58-34. And "[g]un-related product" is defined to include firearm products not only "sold, manufactured, distributed, imported, or marketed" in New Jersey, but also those merely "possessed" in the state. *Id.* Thus, A1765 arguably implicates the Interstate Commerce Clause. *See Healy v. Beer Inst.*, 491 U.S. 324, 335–37 (1989).

The same is true for NSSF's due process and First and Second Amendment claims. A1765 regulates any "marketing" by gun sellers and distributors that contributes towards a "public nuisance" and that New Jersey deems "unreasonable." N.J.S. § 2C:58-35(a)(1). This language is vague, and it could

be applied to constitutionally protected, non-misleading commercial speech. *See Sorrell v. IMS Health Inc.*, 564 U.S. 552, 557 (2011). It could also plausibly be subjected to a due-process void-for-vagueness challenge. *See Kolender v. Lawson*, 461 U.S. 352, 353–54 (1983). Finally, it is at least arguable that A1765's firearms regulations violate the Second Amendment. Some courts have found that firearms manufacturers and sellers may assert Second Amendment claims if they can "demonstrate that the would-be purchasers' core right of possession is being meaningfully constrained." *United States v. Vlha*, 142 F.4th 1194, 1198 (9th Cir. 2025). It is certainly plausible that A1765's limitations on the otherwise lawful manufacture and sale of firearms burden New Jersey residents' ability to purchase firearms and might fall outside our nation's regulatory tradition.

Which brings us to the final and most contested element: whether the risk of imminent enforcement is substantial. Last time around, we dismissed NSSF's suit because it only "conjure[d] the specter of 'sweeping liability' that will force its members to shutter their businesses," yet that assertion was "backed by no evidence." *NSSF I*, 80 F.4th at 220. As we noted, "[a] strong sign of future enforcement is that a law has been enforced against the plaintiff, a closely related party, or others for similar conduct." *Id.* There was no history of past enforcement then. But now, New Jersey has commenced six enforcement actions under A1765 against gun manufacturers and sellers, including two NSSF-members. *See supra* Section I.C.

These enforcement actions give NSSF standing to challenge A1765 on behalf of its members. First, NSSF can show substantial risk of imminent enforcement against its

members because A1765 actions *have been brought* against two of its members. *See Summers v. Earth Island Inst.*, 555 U.S. 488, 497–98 (2009) (holding that an association need only "make specific allegations establishing that at least one identified member had suffered or would suffer harm."). The Glock and Sig Sauer suits allege similar conduct to that which NSSF claims its members fear. Both complaints include one count seeking to hold Glock and Sig Sauer, respectively, liable for "designing, manufacturing, assembling, advertising, marketing, and distributing" their handguns, even though that conduct is not unlawful in itself under federal or state law. J.A. at 746; *see also* Sig Sauer Compl. ¶¶ 128–38. New Jersey's allegations show that NSSF's members face substantial risk of liability for lawfully selling and marketing firearms that may be precluded by the PLCAA and unconstitutional under the First Amendment.

Even without the claims against NSSF members Glock and Sig Sauer, NSSF would have standing by virtue of the four other actions against "closely related" gun industry members for "similar conduct." NSSF I, 80 F.4th at 220. These actions move the imminency of harm from speculative to "credible" and "substantial." *Id.* The enforcement actions against Point Blank and Butch's Gun World allege violations of A1765 for conduct that is not unlawful in itself but is still claimed to have been unreasonable due to the unlawful actions of third parties. *See supra* Section I.C. This is what NSSF alleges is preempted by PLCAA and unlawful under the Second Amendment. In particular, NSSF claims its members fear being held responsible for otherwise lawful conduct, that they cannot predict what will and will not be deemed "unreasonable," and

that they are incurring costs as they try their best at guessing.[2] The suit against Eagle Shows and JSD Supply, both Pennsylvania companies, alleges unreasonable conduct that occurred wholly in Pennsylvania. This creates a substantial threat of enforcement against NSSF's members outside of New Jersey, triggering its Commerce Clause theory. Thus, we agree with the District Court that the suits against NSSF members and non-NSSF members create a substantial risk of imminent enforcement against NSSF's members.

New Jersey disagrees. It describes the Glock suit as "the centerpiece of NSSF's suit," and the "only then-existing suit against an NSSF member . . . for which NSSF had proven Article III standing." N.J. Response Br. at 56. According to New Jersey, because NSSF's lawsuit relies on the Glock suit for standing, and that suit is barred by *Younger*, NSSF lacks standing.

This argument fails. To start, as we've explained, the State incorrectly focuses on the Glock suit and suggests that its

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[2] The monetary harms that NSSF's members are allegedly incurring in attempting to comply with A1765 is "a classic pocketbook injury sufficient [for] standing." *Tyler v. Hennepin Cnty.*, 598 U.S. 631, 636 (2023); *see also Angelo v. District of Columbia*, --- F.4th ---, 2026 LX 355440, at *11–12, (D.C. Cir. July 7, 2026) (holding that "pistol owners allege an ongoing pocketbook injury" because they "challenge a law that is addressed directly to them, and aimed directly at them" and therefore must "resort to alternative and more expensive modes of transit") (citation modified). The parties did not comprehensively brief this issue, so we focus our analysis instead on the imminency of enforcement proceedings.

lawsuits against closely related parties for similar conduct are not relevant to our standing analysis. Second, New Jersey improperly makes standing rise or fall with its *Younger* argument. In *NSSF I*, we rejected NSSF's attempt to conflate standing with the merits of the case. 80 F.4th at 219. We now reject New Jersey's similar attempt to conflate *Younger* and standing. And the reason is simple: Unlike Article III standing, *Younger* is not jurisdictional. *Ohio C.R. Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619, 626 (1986) ("[*Younger* abstention] does not arise from lack of jurisdiction . . . but from strong policies counseling against the exercise of such jurisdiction where particular kinds of state proceedings have already been commenced."); *accord Hamilton v. Bromley*, 862 F.3d 329, 334 (3d Cir. 2017). Article III standing "is always an antecedent question" and a "court cannot abstain under *Younger* unless it concludes that it has Article III jurisdiction to abstain from." *Hamilton*, 862 F.3d at 334 (citation omitted).[3]

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[3] The Supreme Court has sometimes suggested that courts may assume without deciding that a federal plaintiff has Article III standing in order to hold that *Younger* abstention applies. *Sinochem Int'l Co. Ltd. v. Malaysia Int'l Shipping Corp.*, 549 U.S. 422, 431 (2007) ("Nor must a federal court decide whether the parties present an Article III case or controversy before abstaining under *Younger v. Harris*."); *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 585 (1999) (noting that district courts do not err when they "abstain under *Younger v. Harris* . . . without deciding whether the parties present a case or controversy"). *But see Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) ("Without jurisdiction the court cannot proceed at all in any cause." (quoting *Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868)).

Because we've held that NSSF has standing to bring its constitutional claims against A1765, we now turn to *Younger* abstention.[4]

III

A

Though we agree with the District Court that NSSF has standing to challenge A1765, we disagree with its decision to abstain from reaching the merits and dismissing the suit under *Younger*. We will reverse on that ground.

Though the Supreme Court permits lower courts to "choose among threshold grounds for denying audience to a case on the merits," that does not mean that *Younger* and standing may be conflated. *Sinochem*, 549 U.S. at 431 (citation omitted). Nor does it mean that the jurisdictional question of standing isn't conceptually "antecedent" to *Younger*. *Hamilton*, 862 F.3d at 334 (citation omitted). And since we hold that *Younger* does *not* apply here, we must begin with the antecedent and distinct jurisdictional question of standing.

[4] We noted in *NSSF I* that the risk of *criminal* as opposed to "purely civil" penalties can increase the risk of enforcement. 80 F.4th at 222. But that does not mean plaintiffs can *only* bring a pre-enforcement challenge when incarceration is a possibility. *See, e.g.*, *Peace Ranch, LLC v. Bonta*, 93 F.4th 482, 487 (9th Cir. 2024). Here, though criminal penalties are not on the table, New Jersey's six civil enforcement actions under A1765 against gun industry members render the threat of imminent enforcement substantial, thus conferring Article III standing.

Three requirements must be met "before *Younger* abstention is appropriate: (1) there must be an ongoing state judicial proceeding to which the federal plaintiff is a party and with which the federal proceeding will interfere, (2) the state proceedings must implicate important state interests, and (3) the state proceedings must afford an adequate opportunity to raise the constitutional claims." *FOCUS v. Allegheny Cnty. Ct. of Common Pleas*, 75 F.3d 834, 843 (3d Cir. 1996).

As the first *FOCUS* element suggests, a federal court may not "abstain on the basis of *Younger* when the federal plaintiff is not a party to the state court action." 17A Moore's Federal Practice § 122.71(4). We will refer to this as the identical-party requirement. It is undisputed that NSSF is not a party to any ongoing state court action.

Still, New Jersey claims that *Younger* applies because NSSF's requested declaration that A1765 is unconstitutional would practically provide Glock with an absolute defense in its state court suit. But it's always true that a constitutional challenge to a state statute in federal court, if accepted, would "interfere" in that way with ongoing state enforcement actions under the state statute. That collateral effect is not the kind of direct interference *Younger* contemplates. "Abstention is not in order simply because a pending state-court proceeding involves the same subject matter." *Smith & Wesson Brands, Inc. v. Att'y Gen. of N.J.*, 27 F.4th 886, 891 (3d Cir. 2022) (citation modified); *see also New Orleans Pub. Serv., Inc. v. Council of New Orleans*, 491 U.S. 350, 368 (1989) ("It is true, of course, that the federal court's disposition of such a case may well affect, or for practical purposes preempt, a future—or, as in the present circumstances, even a pending—state-

court action. But there is no doctrine that the availability or even the pendency of state judicial proceedings excludes the federal courts."); *N.J.-Phila. Presbytery of Bible Presbyterian Church v. N.J. State Bd. of Higher Educ.*, 654 F.2d 868, 880 n.19 (3d Cir. 1981) ("A federal plaintiff not the subject of a pending state enforcement proceeding cannot avoid interfering in some way with some pending state proceeding if he seeks to declare the underlying statute invalid, or to enjoin the state official from enforcing that statute.").

We have never read *Younger* so expansively as to preclude federal review of any case that might determine an issue—even a "dispositive" issue—in parallel state proceedings against a different entity. *Bible Presbyterian Church*, 654 F.2d at 880–81. That's why the first *FOCUS* element is key; it ensures that the two proceedings are linked together in the relevant sense. For a federal-court action to "interfere" with a state proceeding for *Younger* purposes, the federal-court plaintiff must be the state-court defendant. *See Green v. City of Tucson*, 255 F.3d 1086, 1094 (9th Cir. 2001) ("[T]he *Younger* doctrine applies only when . . . the federal relief sought would interfere in some manner in the state court litigation. That requirement ordinarily . . . restricts application of the *Younger* doctrine to circumstances in which the state court proceeding is an enforcement action against the federal court plaintiff, and is not met simply by the prospect that the federal court decision may, through claim or issue preclusion, influence the result in state court."). In such cases, injunctive relief in the federal action would "enjoin pending proceedings in state courts." *Younger*, 401 U.S. at 45. That's not what is happening here—Glock and NSSF are distinct entities.

The District Court responded to this argument by stating

"*Younger* does not require perfect identity of parties[,] [i]t merely requires an 'adequate opportunity to raise [federal] challenges.'" J.A. at 19 (citing *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 81 (2013)). That's not right. The language the District Court quoted comes from the third *FOCUS* element, and its citation offers no support for the stated proposition. The Court erroneously conflated the first and third element, thereby excising the identical-party requirement from our case law.

B

To be sure, the identical-party requirement is not without exceptions. The Supreme Court has suggested that a federal plaintiff which is a nonparty in the state action can still be subject to *Younger* abstention where it is "closely related" to the state defendant in terms of "ownership, control, and management." *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 928–29 (1975). In *Doran*, the Court refused to apply *Younger* to three corporate plaintiffs who, though "represented by common counsel" and having "similar business activities and problems," did not share corporate control or management. *Id*. The same year that it released *Doran*, the Supreme Court applied this identical-party exception for the first and only time. In *Hicks v. Miranda*, it abstained from reaching the merits of a theater's lawsuit that would directly interfere with state prosecutions against the theater's employees. 422 U.S. 332, 348–49 (1975). There, the theater was in a managerial role over the employees and it expressly sought to enjoin the state proceedings.

New Jersey has not shown that NSSF is the owner, manager, or controlling shareholder of Glock, or vice versa.

Rather, it argues that NSSF's associational relationship with Glock satisfies this exception. It asks us to adopt a novel rule that "an association cannot bring a federal claim based specifically on harms to one of its members without facing the abstention consequences of state-court actions pending against that member." N.J. Response Br. at 40.

We decline New Jersey's invitation to expand *Younger* abstention in this manner. First, as we explained, standing and abstention are separate inquiries not to be conflated. Second, New Jersey's argument ignores the four enforcement actions against non-NSSF members that combine to create a substantial threat of imminent prosecution to NSSF's members. Third, New Jersey's proposed rule would be unfaithful to the Supreme Court's precedent, which requires a showing that the federal plaintiffs "own, [] control, [or] manage" the state-court defendant.[5] *Bible Presbyterian Church*, 654 F.2d at 878. Finally, and perhaps most significantly, "[s]uch a broad abstention requirement would make a mockery of the rule that only exceptional circumstances justify a federal court's refusal to decide a case in deference to the States." *New Orleans Pub. Serv., Inc.*, 491 U.S. at 368. Rather, New Jersey's overbroad abstention rule would effectively eliminate all associational lawsuits when one member is facing an ongoing enforcement action by precluding

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[5] This control factor is not one directional. It could be the case that a state-court defendant owns, controls, or manages the federal plaintiff. But we need not decide whether *Younger* would apply in such a case because it is not presented. Rather, New Jersey argues that NSSF (the federal plaintiff) stands in the shoes of Glock (the state-court defendant) by virtue of its associational relationship.

associations from prospectively challenging state regulations in federal court on behalf of *all* of its members.

What's more, New Jersey's proposed rule would create a Catch-22. If the association sued before the enforcement action against one of its members, it would be dismissed for lack of standing, like in *NSSF I.* If it sued after the enforcement action, it would be dismissed under *Younger*. *See Bible Presbyterian Church*, 654 F.2d at 880 n.19 ("Because it is clear that 'collateral' federal interference is no less intrusive than direct interference in the workings of the state court," a rule requiring *Younger* to apply in the latter scenario would "preclude nonparty federal plaintiffs from initiating any federal declaratory or injunctive action."). Because NSSF, and its members, are "entitled to [their] own day in court," we reject New Jersey's proposed rule. *Green*, 255 F.3d at 1100 (citing *Richards v. Jefferson Cnty.*, 517 U.S. 793 (1996)).

New Jersey cites two Eighth Circuit cases, but they do not convince otherwise. In *Tony Alamo Christian Ministries v. Selig*, that court applied *Younger* abstention to a church's suit challenging the seizure of minor children from its property. 664 F.3d 1245, 1247 (8th Cir. 2012). But unlike the church, which sought to enjoin the proceedings against the children, NSSF expressly disclaims any injunctive relief to interfere with the ongoing Glock suit.

New Jersey also cites *Cedar Rapids Cellular Telephone, L.P. v. Miller*, in which two Iowa telephone service providers sued the Iowa Attorney General to enjoin enforcement of Iowa consumer protection statutes. 280 F.3d 874, 876–77 (8th Cir. 2002). The Iowa Attorney General pursued state enforcement proceedings against U.S. Cellular,

the parent company of the federal plaintiffs. As a result, the court abstained from reaching the federal suit because "U.S. Cellular has a controlling interest in [appellants'] operations" and the appellants "could use that injunction to obstruct the Attorney General's attempts to enforce any remedy granted by the state courts." *Id.* at 882. Thus, the corporate control contemplated by the Supreme Court in *Doran* was at issue in *Miller*. But again, no such relationship exists between NSSF and Glock.[6]

New Jersey's cited Eighth Circuit decisions do not support its proposed rule. In neither case did the court address the association-specific rule New Jersey proposes to us. But we are not the first circuit to be confronted with this issue. In *Massachusetts Delivery Association v. Coakley*, the First Circuit rejected the defendant's argument that an associational plaintiff's federal lawsuit should be barred by *Younger* because three of its forty-plus members were facing ongoing state enforcement actions under the challenged regulation. 671 F.3d 33, 35 (1st Cir. 2012). The court held that *Younger* did not apply because (1) the association "is legally distinct from its members," (2) the association "and each of its members have

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[6] This distinction is underscored during *Miller*'s discussion of a separate federal plaintiff, WWC License, LLC. The Eighth Circuit held that, although WWC's "interests are generally aligned with those of U.S. Cellular," it would not abstain from WWC's suit because "it does not have the type of close relationship with U.S. Cellular" that the other corporate plaintiffs had. *Cedar Rapids Cellular Tel., L.P. v. Miller*, 280 F.3d 874, 882 (2002). Thus, the injunction WWC sought would not "interfere with the Attorney General's enforcement action against U.S. Cellular." *Id.*

their own interests," (3) "[o]nly a small fraction . . . of its members are involved in the state court proceedings where [the challenged regulation] is at issue," and (4) "[t]hose of its members who are not involved in such proceedings have an interest in a determination of whether [the challenged regulation] is pre-empted." *Id.* at 43–44.

The *Coakley* court went on to distinguish that case from *Hicks*:

> *Hicks* involved (1) a close employer-employee relationship between the federal-court plaintiff and state-court defendant, (2) a particular piece of property at issue in both proceedings, and (3) a federal action that 'sought to interfere with the pending state prosecution.' Here, none of those circumstances is present: there is no such relationship, no particular piece of property at issue, and, as is explained below, no risk of interference.

Id. (quoting *Hicks*, 422 U.S. at 348–49) (internal citation omitted).

We agree with the First Circuit. Here, as there, NSSF is legally distinct from Glock, NSSF and each of its members has a distinct interest, only two of NSSF's members are involved in state-court proceedings, and the rest of its members have an interest in challenging A1765's legality. NSSF and Glock do not share a corporate relationship, an employer-employee relationship, or any other relationship implying control, ownership, or management. So the identical-party requirement is not satisfied, NSSF's suit would not interfere with the

ongoing Glock suit in the relevant sense, and *Younger* abstention does not apply.

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For the reasons above, we will reverse the District Court's order.

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