



## Article III Standing (Litigator Series)

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THIS CASEBOOK contains a selection of 204 U. S. Court of Appeals decisions that analyze, discuss and apply the doctrine of Article III standing. The selection of decisions spans from 2005 to the date of publication.

Article III standing is an "indispensable part" of any case that must be present at every stage of the case. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992). *In re Nexium Antitrust Litigation*, 777 F. 3d 9 (1st Cir. 2015).

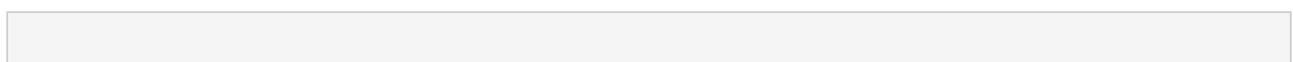
"[T]he Constitution's central mechanism of separation of powers depends largely upon common understanding of what activities are appropriate to legislatures, to executives, and to courts." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 559-60 (1992). "No principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies." *Raines v. Byrd*, 521 U.S. 811, 818 (1997) (quoting *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 37 (1976)). Consistent with this checks and balances principle, a private party can bring a "case" only if it has standing—"a concrete and particularized injury that is fairly traceable to the challenged conduct, and is likely to be redressed by a favorable judicial decision." *Hollingsworth v. Perry*, 133 S. Ct. 2652, 2661 (2013) (citing *Lujan*, 504 U.S. at 560-61). A generalized grievance is not enough; a plaintiff must have more than merely an interest in seeing the law obeyed. *FEC v. Akins*, 524 U.S. 11, 23-24 (1998); see also *Lujan*, 504 U.S. at 572-78. *Consumer Financial Protection Bureau v. Gordon*, (9th Cir. 2016).

As part of our separation of powers foundation, the Executive Branch is charged under our Constitution with the enforcement of federal law. "Vindicating the public interest (including the public interest in Government observance of the Constitution and laws) is the function of Congress and the Chief Executive." *Lujan*, 504 U.S. at 576 (emphasis in original); see also U.S. Const. art. II, § 3 (providing that the President has the duty to "take Care that the Laws be faithfully executed"). Thus, [ ] the Executive Branch and its duly appointed officers are excepted from the generalized grievance prohibition that private parties face under Article III. *Consumer Financial Protection Bureau v. Gordon*, *ibid.*

[A] federal court can't "assume" a plaintiff has demonstrated Article III standing in order to proceed to the merits of the underlying claim, regardless of the claim's significance. See *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (explaining that "such an approach . . . carries the courts beyond the bounds of authorized judicial action and thus offends fundamental principles of separation of powers"). *Colorado Outfitters Association v. Hickenlooper*, (10th Cir. 2016).

"Article III standing must be decided first by the court and presents a question of justiciability; if it is lacking, a federal court has no subject-matter jurisdiction over the claim." *Miller v. Redwood Toxicology Lab., Inc.*, 688 F.3d 928, 934 (8th Cir. 2012). *Higgins Electric, Inc. v. O'Fallon Fire Protection District*, (8th Cir. 2016).

If [a plaintiff] does not have Article III standing to sue [ ], the court has "no subject matter jurisdiction over the suit." *Demien Construction Co. v. O'Fallon Fire Protection District*, (8th Cir. 2016).



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