

# Ripeness

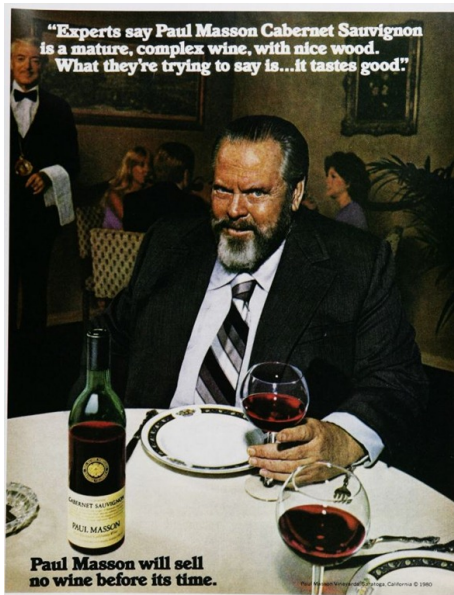
GOVPL 952: Administrative Law

Penn State Law

November 6, 2020



## Ripeness: Getting the timing right



# Abbott Laboratories v. Gardner (1967)



## Abbott Laboratories v. Gardner (1967)

Without undertaking to survey the intricacies of the ripeness doctrine it is fair to say that its basic rationale is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties. **The problem is best seen in a two-fold aspect, requiring us to evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration.**



## Statutory standing: APA text

### §702. Right of review

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. . . .



# Abbott Labs

<b>injury theory</b>	<b>Does Scalia buy it?</b>
“we’re going back!”	
ecosystem nexus	
animal nexus	
vocational nexus	
procedural injury	

# Lujan v. Defenders of Wildlife: the constitutional core of standing

504 U.S. 555, 560-61

Over the years, our cases have established that the irreducible constitutional minimum of standing contains three elements: first, the plaintiff must have suffered an “injury in fact” – an invasion of a legally-protected interest which is (a) concrete and particularized, (b) “actual or imminent, not ‘conjectural’ or ‘hypothetical.’” Second, there must be a causal connection between the injury and the conduct complained of – the injury has to be fairly . . . trace[able] to the challenged action of the defendant, and not . . . th[e] result [of] the independent action of some third party not before the court. Third, it must be “likely,” as opposed to merely “speculative,” that the injury will be “redressed by a favorable decision.”



# *Lujan v. Defenders of Wildlife:*

plaintiff's injury theories

<b>injury theory</b>	<b>Does Scalia buy it?</b>
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# The layers of standing doctrine

- Constitutional (Article III) Standing



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  - ▶ injury-in-fact



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  - ▶ redressability
- Non-constitutional Standing



# The layers of standing doctrine

- Constitutional (Article III) Standing
  - ▶ injury-in-fact
  - ▶ traceability
  - ▶ redressability
- Non-constitutional Standing
  - ▶ plaintiff must be in the “zone of interests” protected by the statute



# Non-constitutional Standing

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# The Structure of Standing



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- Article III standing (Lujan, Akins)



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- Non-constitutional standing



# The Structure of Standing

- Article III standing (Lujan, Akins)
- Non-constitutional standing
  - ▶ Pre-APA (Alexander Sprunt & Son v. United States)



# The Structure of Standing

- Article III standing (Lujan, Akins)
- Non-constitutional standing
  - ▶ Pre-APA (Alexander Sprunt & Son v. United States)
  - ▶ Under the APA (Ass'n of Data Proc. Serv. Orgs. v. Camp, Air Courier Conf. v. Postal Workers, Akins)



# Alexander Sprunt & Son

Compressing cotton for shipment



State

## Reviewability Hypothetical

Suppose the Secretary of Agriculture has the authority under statute “in his discretion to create plans for increasing farm ownership by disadvantaged groups.” The plan does not involve disbursing money to particular individuals, but may include guidelines for targeting advertising at certain venues, etc.



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**Can the claim go forward?**

