No. ______

In the Supreme Court of the United States

TITLEMAX OF SOUTH CAROLINA, INC.,
PETITIONER,
v.
WENDY S. SPICHER, SECRETARY, PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES,
RESPONDENT.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT*

PETITION FOR WRIT OF CERTIORARI

MISHA TSEYTLIN
Counsel of Record
KEVIN M. LEROY
TROUTMAN PEPPER
LOCKE LLP
225 W. Randolph Street,
Suite 2600
Chicago, IL 60606
(608) 999-1240
misha.tseytlin@troutman.com

RYAN J. STRASSER
GRAHAM K. BRYANT
LAUREN H. MILLER
TROUTMAN PEPPER
LOCKE LLP
1001 Haxall Point,
15th Floor
Richmond, VA 23219

(Additional counsel listed on inside cover.)

MARY GRACE W.
METCALFE
TROUTMAN PEPPER
LOCKE LLP
875 Third Avenue
New York, NY 10022

Attorneys for Petitioner TitleMax of South Carolina, Inc.

QUESTION PRESENTED

Whether a State's "generic," *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans*, 491 U.S. 350, 365 (1989), interest in regulating the transactions that out-of-state companies enter into with the State's residents within other States' borders is sufficiently important to permit the State to evade federal court under *Younger v. Harris*, 401 U.S. 37 (1971).

PARTIES TO THE PROCEEDINGS

Petitioner (plaintiff-appellant below) is TitleMax of South Carolina, Inc.

Respondent (defendant-appellee below) is Wendy S. Spicher, the Secretary of the Pennsylvania Department of Banking and Securities.

CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, Petitioner TitleMax of South Carolina, Inc., provides the following Corporate Disclosure Statement.

TMX Finance LLC is the parent company of Petitioner TitleMax of South Carolina, Inc. Project Trident Purchaser LLC is the parent company of TMX Finance LLC. CCF Intermediate Holdings LLC is the parent company of Project Trident Purchaser LLC. CCF Holdings LLC is the parent company of CCF Intermediate Holdings LLC. Katapult Intermediate Holdings II, LLC is the parent company of CCF Holdings LLC. Katapult Intermediate Holdings, LLC is the parent company of Katapult Intermediate Holdings II, LLC. Katapult Holdings, Inc. is the parent corporation of Katapult Intermediate Holdings, LLC.

Katapult Holdings, Inc. is a publicly traded corporation that owns 10 percent or more of Petitioner's stock and has the stock ticker "KPLT."

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

TitleMax of S.C., Inc. v. Spicher, No. 25-2027 (4th Cir.) (judgment from panel entered August 5, 2026).

TitleMax of S.C., Inc. v. Spicher, No. 4:24-cv-04399-JD (D.S.C.) (order dismissing action under the doctrines of issue preclusion and *Younger* abstention entered August 15, 2025).

There are no proceedings in state or federal trial or appellate courts, or in this Court, directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

TABLE OF CONTENTS

TABLE OF CONTENTS – Continued

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Statutes And Rules

PETITION FOR WRIT OF CERTIORARI

This is now the third Petition pending before this Court that arises out of the same unconstitutional enforcement proceeding. *See TitleMax of Va., Inc. v. Spicher*, No. 25-1359 (U.S. June 8, 2026); *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 26-23 (U.S. July 7, 2026). The Commonwealth of Pennsylvania dragged companies from across the Nation into this agency proceeding for making loans to Pennsylvania residents at brick-and-mortar stores located in other States, even though the loans complied with the laws of those States. Several of these out-of-state companies promptly filed separate lawsuits in federal court, arguing that the Pennsylvania proceedings violate the dormant Commerce Clause for regulating out-of-state transactions and the Due Process Clause because these companies lack minimum contacts with Pennsylvania. The federal courts dismissed these lawsuits under *Younger v. Harris*, 401 U.S. 37 (1971), dooming these companies to spending even more funds, for an indefinite period of time, in bureaucratic enforcement proceedings in a State where they have never done any business.

While the Third, Fourth, and Fifth Circuits held that these companies' lawsuits must be dismissed under *Younger*, the divergence in the approaches that these courts took underscores an entrenched circuit split. The Third and Fifth Circuits misread this Court's *Younger* precedent as overcoming federal courts' "obligation" to exercise jurisdiction, *Sprint*

Commc'ns, Inc. v. Jacobs, 571 U.S. 69, 77 (2013), when a State asserts a "generic" state interest under *New Orleans Public Service, Inc. v. Council of City of New Orleans*, 491 U.S. 350, 365 (1989) ("*NOPSI*"), defined at the highest level of generality. Because Pennsylvania claimed that it was preventing "usury," that was enough for the Third and Fifth Circuits. On the other hand, the Fourth Circuit's longstanding precedent rejects this abbreviated approach, explaining that reading *NOPSI*'s "generic" interest language to authorize such "a lofty level of generality" in characterizing the state interests would "nulli[fy]" this *Younger* element. *Harper v. Pub. Serv. Comm'n of W. Va.*, 396 F.3d 348, 353 (4th Cir. 2005). When a case implicates *Younger*'s federalism-based underpinnings, the Fourth Circuit requires a more searching analysis. The Fourth Circuit conducted such an analysis here but erroneously focused that inquiry only on whether "existing Commerce Clause precedent in this circuit," App.29a, mandated the conclusion that Pennsylvania's enforcement proceeding violates the dormant Commerce Clause.

This Court should grant this Petition to resolve this circuit split and then should reject the approaches taken by these courts. As already explained in the petitions in *TitleMax of Virginia, Inc.* and *TMX Finance Corporate Services, Inc.*, the tack that the Third and Fifth Circuits take is a nonstarter under this Court's *Younger* precedent because it gives no consideration to *Younger*'s federalism-based underpinnings. The Fourth Circuit approach is better because it does give weight to those underpinnings, but it is still wrong in critical respects. Contrary to the Fourth Circuit's holding, the proper body of law for determining whether a state proceeding is enforcing an important-enough interest to justify abstention under *Younger*'s federalism-based framework is not limited to binding circuit precedent applying the dormant Commerce Clause. In this case, the relevant body of law includes the authorities that the parties explored in their briefs before this Court in *Suncor Energy (U.S.A.) Inc. v. County Commissioners of Boulder County*, No. 25-170: whether and to what extent the Constitution authorizes States to regulate out-of-state conduct, where that conduct is legal in the State in which the activity takes place.

Petitioner respectfully submits that resolving this Question Presented is particularly urgent now. As *Suncor* illustrates, States are increasingly attempting to reach across other States' borders to advance their regulatory agendas. Under the lower courts' approach to *Younger*, any State can now effectively nullify federal constitutional and statutory limitations on its extraterritorial overreach by simply providing that it will enforce its regulations through state administrative proceedings. Because *Younger* abstention prevents federal courts from vindicating federal rights, any company that happens to do business with anyone who visits from another State would be subject to years of expensive proceedings in that far-flung State where it does no business, with no recourse to federal court. That is what is happening to Petitioner here, with no end in sight.

This Court should grant the Petition and reverse the Fourth Circuit. Alternatively, this Court should grant the pending petitions in *TitleMax of Virginia, Inc.* and/or *TMX Finance Corporate Services, Inc.* and hold this Petition pending its decision.

DECISIONS BELOW

The Fourth Circuit's published opinion is available at --- F.4th ---, 2026 WL 2251903 (4th Cir. Aug. 5, 2026), and reproduced at App.1a–42a. The District Court's opinion is not reported but is available at 2025 WL 2378121 (D.S.C. Aug. 15, 2025), and reproduced at App.43a–92a.

JURISDICTION

The Fourth Circuit entered its judgment on August 5, 2026. App.1a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Commerce Clause of the Constitution provides: "The Congress shall have Power . . . [t]o regulate Commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3.

The Due Process Clause of the Fourteenth Amendment to the Constitution provides: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . . ." U.S. Const. amend. XIV, § 1.

Subsection (a) of Section 201 of the Pennsylvania Loan Interest and Protection Law provides: "Except as provided in Article III of this act, the maximum lawful rate of interest for the loan or use of money in an amount of fifty thousand dollars ($50,000) or less in all cases where no express contract shall have been made for a less rate shall be six per cent per annum." P.L. 13, 41 P.S. § 201(a).

Section 3(A) of the Pennsylvania Consumer Discount Company Act, P.L. 262, 7 P.S. § 6203(A), provides in part that "no person shall engage or continue to engage in this Commonwealth . . . in the business of negotiating or making loans or advances of money on credit . . . and charge, collect, contract for, or receive interest . . . in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act . . . ." Section 3(A) is reproduced in full in the Appendix. App.93a.

STATEMENT

A. Petitioner is a licensed lender authorized to provide short-term title loans in compliance with

South Carolina law. JA015.[1] It provides such loans only to consumers who physically come into its brick-and-mortar stores in South Carolina. JA015, 17. Petitioner has never operated or originated loans in Pennsylvania. JA020–21.

The Secretary is the chief executive and administrative officer of the Pennsylvania Department of Banking and Securities ("Department"), which is the state agency tasked with regulating financial services in Pennsylvania. JA016. The Secretary enforces the Pennsylvania Loan Interest and Protection Law ("LIPL") and the Consumer Discount Company Act ("CDCA"), JA023, which regulate the interest rates of specific loans made "in th[e] Commonwealth," 7 P.S. § 6203(A).[2] Neither statute governs debt-collection activities, which other Pennsylvania laws and agencies (such as the Bureau of Consumer Protection) regulate. *See Commonwealth v. Auto Equity Loans of Del., LLC*,

[1] References to JA___ are to pages in the Joint Appendix, *TitleMax of S.C., Inc. v. Spicher*, No. 25-2027 (4th Cir. Oct. 16, 2025), Dkt. No. 22.

[2] The LIPL provides that the maximum interest rate for most consumer loans is "six per cent per annum," 41 P.S. § 201(a), and the CDCA applies this limit to those who "engage in this Commonwealth . . . in the business of negotiating or making loans or advances," 7 P.S. § 6203(A). The LIPL and CDCA are "in pari materia," meaning they are "construed together" "as one statute." 1 Pa. Cons. Stat. § 1932(b).

2022 WL 946083, at *1 & n.2 (Pa. Commw. Ct. Mar. 30, 2022) (unpublished table decision).

B. In 2017, the Department initiated an investigation into a variety of related companies, including Petitioner. JA025. The Department began by issuing a subpoena seeking information that would allegedly demonstrate whether these entities were "making loans" that exceed Pennsylvania's interest-rate cap "in th[e] Commonwealth [of Pennsylvania]." 7 P.S. § 6203(A); *see* Mem. Op. at 3–5, *Commonwealth of Pa. Dep't of Banking & Sec. v. TitleMax of Del., Inc.*, No. 417 M.D. 2017 (Pa. Commw. Ct. Feb. 22, 2023); *TitleMax of Del., Inc. v. Weissmann*, 505 F. Supp. 3d 353, 355 (D. Del. 2020), *rev'd*, 24 F.4th 230 (3d Cir. 2022). The subpoenaed entities challenged the Department's authority to investigate them under the dormant Commerce Clause. *TitleMax of Del., Inc. v. Weissmann*, 24 F.4th 230, 235 (3d Cir. 2022). The Third Circuit rejected their challenge, concluding that the Secretary could investigate their conduct to ascertain whether that conduct violated Pennsylvania law. *Id.* at 239–41. This Court declined to review that decision after the Secretary represented that the case involved only whether the Department could investigate, and not whether it could bring an enforcement action against out-of-state entities. Br. in Opp'n at 8, 10–11, *TitleMax of Del., Inc. v. Vague*, No. 21-1262 (U.S. May 23, 2022).

In June 2024, the Secretary filed an Order to Show Cause ("OSC"), initiating that enforcement action. JA049–58. The OSC directed Petitioner and certain other related companies to show cause why the Department should not jointly and severally impose $52.7 million in civil penalties, plus restitution, for making or facilitating 5,270 loans to Pennsylvania residents with interest rates above Pennsylvania's limits. JA051–52, 54–55. Because the Secretary's earlier investigation confirmed that none of the entities had ever originated or facilitated a loan in Pennsylvania, the OSC is based on only one theory: any loan made to a Pennsylvania resident—even if lawful where it originated—is a loan made "in" Pennsylvania under the CDCA and LIPL and thus subject to Pennsylvania's interest rate cap. JA054–55. The OSC alleged that Petitioner and the other named entities collectively made 5,270 loans at interest rates above that cap to Pennsylvania residents. JA055.

C. Petitioner swiftly challenged the Secretary's enforcement proceeding under 42 U.S.C. § 1983 in the U.S. District Court for the District of South Carolina, arguing that the proceeding violates the dormant Commerce Clause as an extraterritorial regulation and the Due Process Clause given Petitioner's lack of minimum contacts with Pennsylvania. JA037–42. Petitioner "has never had any offices, employees or agents in Pennsylvania," "advertised or marketed inside of Pennsylvania," or "intentionally advertised or marketed toward Pennsylvania consumers." JA020. Per Petitioner's records, it only originated about 132 of the 5,270 loans at issue, and each of those loans were made to customers who "came to stores inside the borders [of] South Carolina." JA029. Some of those 132 loans "were made to residents of other states who later moved into Pennsylvania during the life of the loan." JA029.[3]

The District Court granted the Secretary's motion to dismiss on two grounds: *Younger* and issue preclusion (by relying on the Northern District of

[3] Related companies that the Secretary targeted in the OSC brought similar challenges in their home federal districts. *See TitleMax of Del., Inc. v. Spicher*, No. 1:24-cv-930 (D. Del.); *CCFI Cos., LLC v. Spicher*, No. 3:24-cv-220 (S.D. Ohio); *TitleMax of Va., Inc. v. Spicher*, No. 7:24-cv-532 (W.D. Va); *TMX Fin. LLC v. Spicher*, No. 4:24-cv-175 (S.D. Ga.); *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 3:24-cv-2054 (N.D. Tex.). Upon the Secretary's motion, the courts in Delaware, Ohio, Virginia, and Georgia transferred their cases to the Middle District of Pennsylvania. *See TitleMax of Del., Inc. v. Spicher*, No. 1:24-cv-02224 (M.D. Pa.); *CCFI Cos., LLC v. Spicher*, No. 1:24-cv-02134 (M.D. Pa.); *TitleMax of Va., Inc. v. Spicher*, No. 1:24-cv-02212 (M.D. Pa.); *TMX Fin. LLC v. Spicher*, No. 1:24-cv-02093 (M.D. Pa.). Both the Middle District of Pennsylvania and the Northern District of Texas abstained under *Younger*, and the Third and Fifth Circuits affirmed. *TMX Fin. LLC v. Spicher*, No. 1:24-cv-02093, 2025 WL 221798 (M.D. Pa. Jan. 16, 2025), *aff'd TitleMax of Va., Inc. v. Sec'y Pa. Dep't of Banking & Sec.*, No. 25-1137, 2026 WL 49584 (3d Cir. Jan. 7, 2026); *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 3:24-cv-2054, 2024 WL 4995580 (N.D. Tex. Dec. 5, 2024), *aff'd* No. 24-11087, 2026 WL 74504 (5th Cir. Jan. 9, 2026). Petition for writs of *certiorari* from both decisions are pending, and this Court has requested responses as to both. *TitleMax of Va., Inc. v. Spicher*, No. 25-1359 (U.S. June 8, 2026); *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 26-23 (U.S. July 7, 2026).

Texas' and the Middle District of Pennsylvania's *Younger*-based dismissals of actions to which Petitioner was not a party). *See supra* n.3; App.54a, 88a–89a. The District Court "incorporate[d] in full the reasoning" of the Middle District of Pennsylvania's *Younger*-abstention analysis and so made the same error as that court in simply accepting Pennsylvania's characterization of its interest in "prevent[ing] usury." App.79a–80a, 91a; Petition for Writ of Certiorari at 12–13, 21–24, *TitleMax of Virginia, Inc.*, No. 25-1359. Although the District Court acknowledged the "Fourth Circuit's instruction" in *Harper v. Public Service Commission*, 396 F.3d 348 (4th Cir. 2005), that courts should view purported state interests more narrowly in dormant Commerce Clause cases, it did not scrutinize Pennsylvania's interest further given that its issue-preclusion conclusion "significantly diminished" that consideration. App.89a.

The Fourth Circuit affirmed only on *Younger* grounds. App.18a, 38a. In analyzing *Younger*'s important-state-interest element—which is the element at issue in this Petition—the Fourth Circuit explained that this Court's decision in *NOPSI* required it to look to "the importance of the generic proceedings to the State" rather than the State's interest in succeeding on the merits of a particular case. App.25a (quoting *NOPSI*, 491 U.S. at 365). It additionally recognized that under the Fourth Circuit's *Harper* precedent, dormant Commerce Clause challenges "require special consideration under *Younger*" because "[a] state proceeding that affects interstate commerce may affect other states and the national government in a way that ordinary constitutional challenges do not." App.25a–26a.

The Fourth Circuit then reformulated *Harper*'s analytical framework, evaluating "the nature of the state's interest" under *Younger* through the lens of whether the State's asserted interest was contrary to "existing Commerce Clause precedent." App.28a–29a. The Fourth Circuit explained that the OSC sought to "enforce generally applicable usury" laws, which the Fourth Circuit determined implicated Pennsylvania's "important interest in protecting its residents from usurious lending" and did not "impede interstate commerce." App.28a–29a. The Fourth Circuit claimed that the state proceeding "does not seek to regulate commerce occurring wholly outside Pennsylvania" because it "concerns lending activity allegedly connected to Pennsylvania borrowers, Pennsylvania vehicle collateral, Pennsylvania liens, payments from Pennsylvania, and repossessions in Pennsylvania." App.29a. The Fourth Circuit explained that no "existing Commerce Clause precedent in this circuit" makes clear that the OSC enforcement proceedings would violate the dormant Commerce Clause. App.29a. Even while claiming that it was not "address[ing] the merits" of the dormant Commerce Clause claim, the Fourth Circuit noted that the Third Circuit in *Weissman* did not find that Pennsylvania's interest was "suspect" in a dormant Commerce Clause case brought by companies related to Petitioner seeking to stop the investigatory subpoena. App.29a. And it distinguished *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660 (7th Cir. 2010)—where the regulated parties prevailed on a similar challenge to the ones Petitioner brought here—because that ruling "does not provide [a] *precedential* rejection" of the OSC's claimed interests. App.30a n.8 (emphasis added).

In all, because no binding precedent made clear that Pennsylvania's interest was "the kind of market-excluding or protectionist interest" that would be invalid under the dormant Commerce Clause, the Fourth Circuit held that the OSC advanced important-enough state interests for *Younger* abstention. App.30a.

D. Since the Secretary initiated the state proceeding in June 2024, Petitioner and the related companies named in the OSC have spent two years and millions of dollars defending against an enforcement action in a State where they have never done business. When they moved to have the action dismissed on multiple grounds—including dormant Commerce Clause and lack of personal jurisdiction—the hearing examiner recommended denying their motion. The Banking Commission refused consideration of their internal agency appeal. And the Commonwealth Court held that it lacked jurisdiction over the subsequent appeal. *TitleMax of Del., Inc. v. Dep't of Banking & Sec.*, No. 635 C.D.

2025, 2026 WL 1077707, at *5–7 (Pa. Commw. Ct. Apr. 21, 2026).

Without an avenue for judicial relief, Petitioner had to continue to participate in these enforcement proceedings, including defending itself in a lengthy evidentiary hearing in October 2025. After that hearing, the chief hearing examiner for the Commonwealth of Pennsylvania issued a proposed adjudication in Petitioner's favor, concluding that the Secretary failed to establish any violation of Pennsylvania law, as well as providing other bases for the OSC's dismissal. The Department has appealed that proposed adjudication to the Banking Commission, which is free to disregard the hearing examiner's findings. *See Duvall v. Dep't of Corr.*, 926 A.2d 1220, 1225–26 (Pa. Commw. Ct. 2007). The Department is undoubtedly confident in its chances of success, given that the Secretary is the Vice Chair of the Banking Commission and presumably authorized the enforcement action in the first place. Regardless, once the Banking Commission issues its final order, an appeal to Pennsylvania's appellate courts is likely. *See* Pa. R. App. P. 1511.

REASONS FOR GRANTING THE PETITION

I. The Fourth Circuit's Decision Further Underscores The Circuit Split On The Question Presented That The Petitions In *TitleMax of Virginia, Inc.* And *TMX Finance Corporate Services* Identified

As discussed in more detail below, *see infra* pp.22–23, this Court in *Younger* held that federal courts typically cannot enjoin ongoing state-court criminal proceedings, reasoning that "Our Federalism" demands "sensitivity to the legitimate interests of both State and National Governments." 401 U.S. at 44. This Court subsequently refined the doctrine, applying it also to state administrative proceedings if three conditions were met, including that the state proceedings implicated "important state interests." *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982). Then, in *NOPSI*, this Court held what *Younger*'s "inquir[y] into the substantiality of the State's interest in [parallel] proceedings" requires of federal courts, explaining that courts "do not look narrowly to [the State's] interest in the *outcome* of the particular case"—i.e., whether the federal plaintiff alleged a "substantial constitutional challenge." 491 U.S. at 365. Rather, they must analyze "the importance of the generic proceedings to the State." *Id.*

As explained in the pending petitions for writs of certiorari in *TitleMax of Virginia, Inc.* and *TMX*

Finance Corporate Services, Inc., the Courts of Appeals are divided on how to apply *NOPSI*'s mandate that a federal court consider whether the State proceedings involve a sufficiently important "generic" interest to warrant *Younger* abstention. As those petitions explained, the Fourth and Tenth Circuits have held that federal courts must consider the State's alleged important interest under *NOPSI* within the context of *Younger*'s federalism-based underpinnings. On the other hand, the Third, Fifth, and Seventh Circuits interpret *NOPSI*'s "generic" interest language to mandate only consideration of whether the State's interest, defined at the highest level of generality, is facially legitimate. The Fourth Circuit's decision below further highlights this split, given how different its reasoning is from the Third and Fifth Circuits' decisions dealing with challenges to the same OSC proceedings.

A. Before its decision in this case, *Harper* was the Fourth Circuit's leading decision on the Question Presented. There, the Fourth Circuit explained that *Younger*'s "requirement that the state interest be 'important' precludes some candidates from admission," and such interests must be considered in the context of federalism. *Harper*, 396 F.3d at 353. *Harper* held that "[w]hen there is an overwhelming federal interest—an interest that is as much a core attribute of the national government as the list of important state interests are attributes of state sovereignty in our constitutional tradition—no state interest, for abstention purposes, can be nearly as strong at the same time." *Id.* at 356. Thus, because the dormant Commerce Clause "by its very nature [ ] implicates interstate interests," dormant Commerce Clause challenges require an "abstention analysis quite different from many of the other" constitutional provisions. *Id.* at 355. Given the "peculiarly national interest," such a framework "in no way threatens the kind of comity that has always underpinned the *Younger* doctrine." *Id.* at 356.

Employing this framework, *Harper* held that *Younger* abstention was inappropriate in litigation between an Ohio waste-disposal business and a West Virginia agency, which had prevented the Ohio business from operating in West Virginia and encumbered the company in agency proceedings. *Id.* at 350–51, 356. The Fourth Circuit rejected West Virginia's alleged "important state interest in protecting the health and welfare of its citizens," *id.* at 354 (internal quotation omitted), as "too remote," noting that its interest was better characterized as "limiting interstate access to the waste removal market," which was incompatible with *Younger*'s federalism values, *id.* at 355. West Virginia's interest "serve[d] to impede interstate commerce," *id.*, and thus could not outweigh the "overwhelming federal interest" in the case, *id.* at 356. Interpreting *NOPSI*'s "generic" state-interest language to sanction "a lofty level of generality" in characterizing state interests would "nulli[fy]" *Younger*'s important-state-interest requirement. *Id.* at 353; *accord Life Partners, Inc. v. Morrison*, 484 F.3d 284, 300–01 (4th Cir. 2007)

(Virginia's claimed "interest in regulating viatical settlements" insufficient given the "overwhelming federal interest" in regulating interstate commerce (quoting *Harper*, 396 F.3d at 356)).

The Fourth Circuit's decision below modified its approach from *Harper*. App.28a. The Fourth Circuit began by recognizing *Harper*'s core point that the important-state-interest element "reflects *Younger*'s concern with comity and respect for state functions," focusing on whether the state proceeding at issue involves the State's use of its "judicial or administrative processes to vindicate 'important state interests.'" App.24a (citation omitted). The Fourth Circuit then reasoned that this importance inquiry has particular import in dormant Commerce Clause cases, noting that such challenges "require special consideration under *Younger*." App.26a. Because the dormant Commerce Clause involves "allocation of authority among sovereigns" and "protect[s] the national market by limiting state laws that" interfere with interstate commerce, a facially legitimate state interest is not necessarily sufficient to render it important for *Younger* purposes in the dormant Commerce Clause context and instead "require[s] closer attention." App.25a. "A state proceeding that affects interstate commerce may affect other states and the national government in a way that ordinary constitutional challenges do not." App.25a–26a.

The Fourth Circuit then modified the *Harper* analysis by training the important-state-interest inquiry on whether the State's asserted interest is contrary to binding dormant Commerce Clause precedent. App.28a. The Fourth Circuit explained that the OSC proceeding "does not seek to regulate commerce occurring wholly outside Pennsylvania" because "[i]t concerns lending activity allegedly connected to Pennsylvania borrowers, Pennsylvania vehicle collateral, Pennsylvania liens, payments from Pennsylvania, and repossessions in Pennsylvania." App.29a. The Court then reasoned that no "existing Commerce Clause precedent in this circuit" mandated the conclusion that Pennsylvania's enforcement action would violate the dormant Commerce Clause. App.29a. Even as it asserted that it was not "address[ing] the merits" of the dormant Commerce Clause claim, the Fourth Circuit pointed out that the Third Circuit in *Weissman* concluded that Pennsylvania's interest was not "suspect" in a dormant Commerce Clause case brought by companies related to Petitioner that sought to stop Pennsylvania's investigatory subpoena. App.29a. The Fourth Circuit also distinguished the Seventh Circuit's dormant Commerce Clause merits decision in *Midwest Title Loans*—in which the regulated entities successfully maintained a dormant Commerce Clause challenge similar to the one Petitioner asserted—because that court's decision did "not provide [a] *precedential* rejection" of the OSC's claimed interests. App.30a n.8 (emphasis added).

The Tenth Circuit has also interpreted *Younger*'s important-state-interest element to require analyzing the State's claimed interest in the context of *Younger*'s federalism justifications, although it has not developed the type of detailed doctrine on this issue that the Fourth Circuit now has. In *Seneca-Cayuga Tribe of Oklahoma v. Oklahoma ex rel. Thompson*, 874 F.2d 709 (10th Cir. 1989), the Tenth Circuit held *Younger* abstention inapplicable in an action involving an Indian tribe's request to enjoin an ongoing state proceeding brought by Oklahoma to stop the tribe's bingo games. *Id.* at 710, 717. Oklahoma argued that it had "important state interest[s]" in "preventing the infiltration of organized crime" in "high-stakes bingo games" and in "protecting the State's economy and tax base." *Id.* at 711. *Seneca-Cayuga* held that because the tribe's "activities" were "necessarily primarily of federal interest" under the federal Indian Gaming Regulatory Act, Oklahoma's "interests [were] not of great weight." *Id.* at 712–13 & n.3. Stated differently, given that the state action implicated "issues of federal law in an area in which federal interests predominate, the State's interest in the litigation [was] in [the Tenth Circuit's] view not important enough to warrant *Younger* abstention." *Id.* at 714.

B. The Third, Fifth, and Seventh Circuits analyze *Younger*'s important-state-interest element differently than do the Fourth and Tenth Circuits.

In contrast to the Fourth Circuit's recognition that even facially legitimate state interests require careful analysis in cases implicating interstate comity, the Third Circuit employs a cursory *Younger* importance inquiry in such cases. Under its approach, the Third Circuit views a purported state interest at the highest level of generality and does not consider whether the interest is consistent with the federalism principles that underpin *Younger*.

The Third Circuit most recently applied this approach when it considered a challenge to the same OSC at issue here brought by companies that either originated loans outside of Pennsylvania or facilitated such out-of-state loans. *TitleMax of Va., Inc. v. Spicher*, No. 25-1137, 2026 WL 49584 (3d Cir. Jan. 7, 2026); Appellants' Combined Br. at 9–10, *TitleMax of Va., Inc.*, No. 25-1137 (Apr. 24, 2025), Dkt. No. 59. In performing its important-state-interest analysis, the Third Circuit cited its own published precedent that relied on *NOPSI*'s holding that, in analyzing "the substantiality of the State's interest in its proceedings," courts must look to "the importance of the generic proceedings." *TitleMax of Va., Inc.*, 2026 WL 49584, at *3 (quoting *PDX N., Inc. v. Comm'r N.J. Dep't of Lab. & Workforce Dev.*, 978 F.3d 871, 885 (3d Cir. 2020)). The Third Circuit then concluded that, "[v]iewed generically, the enforcement of usury laws is important to Pennsylvania." *Id.* The Third Circuit's *NOPSI* analysis thus begins and ends with the State's articulation of a facially legitimate state interest at a high level of generality, without conducting anything like the analyses that the Fourth Circuit conducted in *Harper* and in the decision below. *See supra* pp.15–18.

The Fifth Circuit follows the same approach as the Third Circuit does, as it demonstrated in a recent case considering another challenge to the same OSC at issue here. *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 24-11807, 2026 WL 74504 (5th Cir. Jan. 9, 2026). The Fifth Circuit defined Pennsylvania's alleged state interest at the highest level of generality, without any regard for *Younger*'s federalism-based underpinning. Pointing to *NOPSI*'s language that courts should consider "the importance of the generic proceedings to the State," *id.* at *2 (quoting *NOPSI*, 491 U.S. at 365), the Fifth Circuit simply said that Pennsylvania had a "substantial interest in enforcing" its "criminal laws and their analogs," *id.* Because "[t]he Pennsylvania usury laws at issue create both criminal and civil penalties," the Fifth Circuit concluded that Pennsylvania's interest was sufficiently important to justify abstention. *Id.* The Fifth Circuit, like the Third Circuit, conducted its important-state-interest analysis without considering the federalism concerns underpinning *Younger*.

The Seventh Circuit employed a similar framework in *Stroman Realty, Inc. v. Martinez*, 505 F.3d 658 (7th Cir. 2007). *Stroman Realty* involved a federal challenge to Illinois's consumer-protection enforcement action against a Texas business that employed only real-estate associates licensed in Texas. *Id.* at 660–61, 663–64. Relying on *NOPSI*, the Seventh Circuit held that Illinois's "generic" "state interest" in regulating "real estate professionals engaged in the business of timeshare brokerage" satisfied *Younger*. *Id.* at 663–64 (quoting *NOPSI*, 491 U.S. at 365). The Seventh Circuit, like the Third and Fifth Circuits, did not consider the importance of Illinois's interest in the context of the federalism principles underlying *Younger*. *Id.*

II. While The Fourth Circuit's Approach Is Preferrable To The One That The Third, Fifth, And Seventh Circuits Use, The Fourth Circuit's Analysis Is Still Inconsistent With This Court's Precedent

The Fourth Circuit's approach is more faithful to this Court's jurisprudence than that of the Third, Fifth, and Seventh Circuits because it recognizes that courts must consider the importance of the State's interest in light of "*Younger*'s concern with comity and respect for state functions." App.24a. Nevertheless, the Fourth Circuit's analysis, as now refined by its published decision in this case, violates this Court's *Younger* case law by focusing far too narrowly on whether any binding dormant Commerce Clause precedent renders the State's asserted interest constitutionally invalid. Under a proper application of this Court's precedent, Pennsylvania does not have an important enough state interest to invoke *Younger* here because its interest in regulating the transactions that out-of-state companies enter into with its residents within other States is insubstantial when analyzed in the context of other States' much stronger interest in deciding the rules that apply to companies operating within their borders.

A. *Younger* abstention is a narrow exception to the general rule that an ongoing state action poses "no bar to proceedings concerning the same matter in the Federal court having jurisdiction." *Sprint*, 571 U.S. at 73 (quoting *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817 (1976)). This Court explained in *Younger* that "Our Federalism" typically prevents federal courts from enjoining ongoing state-court criminal proceedings. 401 U.S. at 44. This Court based that decision on "the notion of 'comity'"—the idea that federal courts should have a "proper respect for state functions" given that our Nation consists of "separate state governments" and the federal "Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways." *Id.* Given that "Our Federalism" demands "sensitivity to the legitimate interests of both State and National Governments," federal courts should attempt "to vindicate and protect federal rights and federal interests" without "unduly interfer[ing] with the legitimate activities of the States." *Id.*

In *Middlesex*, this Court held that *Younger* abstention extends to state administrative proceedings when the abstention proponent establishes three elements. 457 U.S. at 432. First, there must be "an ongoing state judicial proceeding." *Id.* Second, that proceeding must "implicate important" or "vital" "state interests." *Id.* Lastly, there must be "an adequate opportunity in the state proceedings" for the federal plaintiff "to raise constitutional challenges." *Id.* This Court subsequently extended *Younger* to state administrative proceedings that are subject to judicial review, if those proceedings vindicate "important state interests." *Ohio Civ. Rts. Comm'n v. Dayton Christian Schs., Inc.*, 477 U.S. 619, 627–29 (1986).

This Court returned to *Younger* in *NOPSI*, which involved a utility's preemption challenge to the City Council's decision to prevent a rate increase that would allow the utility to recoup certain costs from Louisiana ratepayers. 491 U.S. at 356–58. *NOPSI* clarified *Younger*'s "inquir[y] into the substantiality of the State's interest in [parallel] proceedings." *Id.* at 365. This Court explained that federal courts "do not look narrowly to [the State's] interest in the *outcome* of the particular case"—i.e., whether the federal plaintiff alleged a "substantial constitutional challenge." *Id.* Rather, they must consider "the importance of the generic proceedings to the State." *Id.* Regarding the utility's challenge, "the appropriate question [ ] is not whether Louisiana has a substantial, legitimate interest in reducing NOPSI's retail rate below that necessary to recover its wholesale costs, but whether it has a substantial, legitimate interest in regulating *intrastate* retail rates." *Id.* (emphasis added). Because "the regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States," Louisiana had such an important interest. *Id.* (citations omitted).

Finally, in *Sprint*, this Court "define[d] *Younger*'s scope," 571 U.S. at 78, and limited its application to "exceptional circumstances," *id.* at 82. *Sprint* "clarif[ied]," *id.*, that all three *Middlesex* factors—including the "important state interest[ ]" test—must be satisfied before a federal court can abstain pursuant to *Younger*, *id.* at 81 (citations omitted).

In all, this Court's *Younger* precedent requires federal abstention only when, viewed through the lens of Our Federalism, a State's "generic" interest in a parallel state proceeding, *NOPSI*, 491 U.S. at 365, is sufficiently "important" to justify "abstention from the exercise of federal jurisdiction," which is "the 'exception, not the rule.'" *Sprint*, 571 U.S. at 81 (citation omitted). The "State's interests in the proceeding" must be "so important that exercise of the federal judicial power would disregard the comity between the States and the National Government" for *Younger* to apply. *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 11 (1987). That is why *NOPSI* focused on whether Louisiana had a "substantial, legitimate interest in regulating *intrastate retail rates*," as opposed to the general enforcement of its own laws. 491 U.S. at 365 (emphasis added). Adopting a less stringent approach would give *Younger* "extraordinary breadth," "extend[ing] [it] to virtually all parallel state and federal proceedings, at least where a party could identify a plausibly important state interest." *Sprint*, 571 U.S. at 81.

B. Applying these principles here, Pennsylvania's interest underlying the OSC is not "important" within the meaning of this Court's *Younger* precedent. *Middlesex*, 457 U.S. at 432. Pennsylvania's claimed interest is regulating the interest rates that out-of-state companies charge Pennsylvania residents in out-of-state transactions, in order to "protect[ ] its residents from usurious lending." App.28a. This is not "important" under *Younger*'s federalism-based framework because all of those transactions occur in other States, in compliance with those State's laws.

This conclusion follows from the precedents that parties and *amici* discussed at length in the pending *Suncor* case. *See, e.g.*, Br. for Pet'rs, *Suncor Energy (U.S.A.) Inc.*, No. 25-170, at 21–24 (U.S. May 14, 2026); Br. for the United States as *Amicus Curiae* Supporting Pet'rs, *Suncor Energy (U.S.A.) Inc.*, No. 25-170, at 12–16 (May 21, 2026); Br. of *Amicus Curiae* Consumers' Rsch. in Supp. of Pet'rs, *Suncor Energy (U.S.A.) Inc.*, No. 25-170, at 3–21 (May 21, 2026). Briefly summarized, "[a] basic principle of federalism is that each State may make its own reasoned judgment about what conduct is permitted or proscribed within its borders." *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 422 (2003). A State has the "reserved" constitutional authority to regulate its "internal commerce," *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 194–95 (1824), which applies only "within the limits of its own territory," *Hoyt v. Sprague*, 103 U.S. 613, 630 (1880). States thus have sovereign authority only over the policies applicable within their own borders. A State can neither regulate activities occurring wholly in other States, pursuant to those States' laws, *id.*, nor "impose its own legislation" or "enforce its own policy" within those States' borders, *Kansas v. Colorado*, 206 U.S. 46, 95, 97 (1907). Stated differently, "State sovereign authority is bounded by the States' respective borders." *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 14 (2025); *accord Bonaparte v. Tax Court*, 104 U.S. 592, 594 (1882); *Nielsen v. Oregon*, 212 U.S. 315, 321 (1909); *Huntington v. Attrill*, 146 U.S. 657, 669 (1892); *N.Y. Life Ins. Co. v. Head*, 234 U.S. 149, 161 (1914). An individual leaving his State's border does not bring his State's laws with him.

These principles compel the conclusion that Pennsylvania's interest here is not "substantial[ ]" under *Younger*'s federalism-based rule. *NOPSI*, 491 U.S. at 365. Pennsylvania's goal here is stopping its residents from entering into transactions that the Commonwealth believes are harmful with out-of-state companies that are lawfully operating in those States. *See supra* pp.8, 25–26. This is insufficient to justify *Younger* abstention in light of the federalism principles animating *Younger*. That is because this interest collides with South Carolina's (and other States') much stronger interest in regulating transactions occurring within their borders. *See State Farm*, 538 U.S. at 422; *Hoyt*, 103 U.S. at 630; *Ogden*, 22 U.S. (9 Wheat.) at 195; *Fuld*, 606 U.S. at 14; *Bonaparte*, 104 U.S. at 594; *Nielsen*, 212 U.S. at 321; *Head*, 234 U.S. at 161.

The OSC here dragged a South Carolina company more than 500 miles up the eastern seaboard to answer for charging interest rates in South Carolina at levels that are legal there. That is an affront to South Carolina's sovereign dignity—and thus the federalism principles underpinning *Young*er—because South Carolina has the sovereign right to determine what interest rates South Carolina companies can charge within its borders. The interest underlying the OSC cannot justify the "exceptional" decision to abstain from the exercise of federal jurisdiction over Pennsylvania's extraterritorial overreach. *Sprint*, 571 U.S. at 82 (citation omitted).

C. The Fourth Circuit reached a contrary conclusion by misconstruing the *Younger* doctrine. The Fourth Circuit correctly explained that the State invoking *Younger* must have a sufficiently weighty interest when viewed through the lens of *Younger*'s federalism principles. App.24a. But it then misidentified the body of law that resolves whether the State's interest is sufficiently important by looking only to whether "existing Commerce Clause precedent in this circuit" mandated the conclusion that Pennsylvania's enforcement action violates the dormant Commerce Clause. App.29a.

The Fourth Circuit's focus on binding dormant Commerce Clause precedent overly narrows the important-state-interest *Younger* inquiry. To be sure, reasoning contained in binding dormant Commerce Clause decisions can sometimes be relevant to the

Younger analysis, at least when that reasoning sheds light on the nature of the State's interest within *Younger*'s federalism-based rule. But the Fourth Circuit's elevation of binding dormant Commerce Clause precedent as deciding the important-state-interest analysis—seeming akin to the "clearly established law" standard in a qualified-immunity analysis that requires a "clear foundation in then-existing precedent," *District of Columbia v. Wesby*, 583 U.S. 48, 63 (2018)—is wrong, as other cases and principles can also provide important guidance to this analysis, *see supra* pp.26–28.

The Fourth Circuit's reliance on the Third Circuit's prior decision in *Weissmann* underscores the problem with its approach. App.29a–30a. Contrary to the Fourth Circuit's claim, *Weissmann* did not "reject[ ] TitleMax's [d]ormant Commerce Clause challenge," App.29a, let alone opine on *Younger*'s important-state-interest inquiry. *Weissmann* considered only whether the dormant Commerce Clause prevented Pennsylvania from investigating loans originated by nonparties outside of Pennsylvania. 24 F.4th at 234–35. Indeed, *Weissman* held that *Younger* abstention did not apply in that case because there was no "civil enforcement proceeding" yet. *Id.* at 236 (quoting *Sprint*, 571 U.S. at 73). *Weissmann* therefore says nothing about whether the enforcement proceeding—which began only after *Weissman* concluded—is sufficiently important under *Younger*.

Finally, the Fourth Circuit's incorrect claim that the OSC "does not seek to regulate commerce occurring wholly outside Pennsylvania" does nothing to salvage its analysis. App.29a. The Fourth Circuit pointed to the OSC's bare-bones allegations that some of the targeted companies also engaged in actions such as using "Pennsylvania vehicle[s] [as] collateral, [placing] Pennsylvania liens, [receiving] payments from Pennsylvania, and [making] repossessions in Pennsylvania." App.29a. The OSC charges Petitioner and related companies with 5,270 counts of "provid[ing] loans . . . to Pennsylvania residents that exceed[ ]" Pennsylvania's interest-rate cap. JA055; *see supra* p.8. The debt-collection and loan-servicing activities that the Fourth Circuit references are not even arguably the basis for the OSC proceedings; indeed, such activities are governed by statutes and Pennsylvania regulators that are not involved in the OSC. *See supra* pp.6–7. The OSC does not allege that these activities occurred as to all of the 5,270 loans, and it does not even allege that Petitioner engaged in *any* of these activities. Put another way, the only fact that matters in identifying a targeted loan under the OSC is whether one of the out-of-state companies made such a loan to a Pennsylvania resident while that resident was outside of Pennsylvania.

III. The Question Presented Is Important And This Court Should Resolve It In This Case, *TitleMax of Virgina, Inc.*, And/Or *TMX Finance Corporate Services, Inc.*

A. The present case, as well as the other two petitions currently pending before this Court arising from the same OSC proceeding, well demonstrate the importance of the Question Presented.

Pennsylvania's unconstitutional enforcement proceeding here has created a blueprint for States that want to reach into other States to achieve their own policy ends by abusing byzantine administrative proceedings. Following Pennsylvania's example, a State wanting to regulate the out-of-state transactions in which its residents engage can make it illegal for any out-of-state company to enter into such a transaction with its residents, no matter where, and then subject any company allegedly in violation of that prohibition to state enforcement proceedings. The State can then initiate such proceedings against out-of-state businesses and avoid review in federal court by invoking its "substantial interest in enforcing" its own "criminal laws and their analogs," which would be enough to evade federal court in the Third and Fifth Circuits. *TMX Fin. Corp. Servs., Inc.*, 2026 WL 74504, at *2; *see TitleMax of Va., Inc.*, 2026 WL 49584, at *3. Or the State could argue that there is "no existing Commerce Clause precedent" that prohibits its action, which would evade federal court under the Fourth Circuit's approach. App.29a. *Younger* would then prevent the targeted out-of-state business from challenging those proceedings in federal court—including under the dormant Commerce Clause, *see Healy v. Beer Inst., Inc.*, 491 U.S. 324, 336 (1989), and the Due Process Clause, *see Bristol-Myers Squibb Co. v. Superior Ct.*, 582 U.S. 255, 262–63 (2017)—with the sole exception being if the company is in the Fourth Circuit and has a winning argument under already "existing Commerce Clause precedent." App.29a.

The extraterritorial overreach that this blesses would fall on both the out-of-state company—as happened to Petitioner here—and on the State where the company actually does business. As discussed, each State has sovereign authority to regulate conduct "within the limits of its own territory." *Hoyt*, 103 U.S. at 630; *see State Farm*, 538 U.S. at 422; *Ogden*, 22 U.S. (9 Wheat.) at 36, 195; *Fuld*, 606 U.S. at 14; *Bonaparte*, 104 U.S. at 594; *Nielsen*, 212 U.S. at 321; *Head*, 234 U.S. at 161. "A basic principle of federalism is that each State may make its own reasoned judgment about what conduct is permitted or proscribed within its borders." *State Farm*, 538 U.S. at 422. If a State can drag an out-of-state business into its bureaucratic maze for years solely because a couple of its customers happen to reside in that State, the State in which that business operates will lose a portion of its sovereignty. *Id.*

It is easy to imagine how this will play out in today's hyperpartisan atmosphere, as explained in the petitions in *TitleMax of Virginia, Inc.* and *TMX Finance Corporate Services, Inc. See* Petition for Writ of Certiorari at 33–34, *TitleMax of Virginia, Inc.*, No. 25-1359; Petition for Writ of Certiorari at 26–27, *TMX Fin. Corp. Servs., Inc.*, No. 26-23. Along with the hypotheticals that those petitions discuss, many more are possible. A State could outlaw its residents wagering money on games of chance that the State considers to be exploitative of players. If the State's residents fly to a different State where gambling is lawful to make wagers in a casino, the residents' home State could subject the operator of that out-of-state casino resort to years of agency proceedings in a distant forum. Or another State could prohibit the sale of fireworks to any of its residents. If a resident of that State drives to another State that permits the sale of fireworks, walks into a fireworks store and purchases fireworks in a face-to-face transaction, the fireworks retailer could find itself defending an enforcement action in the resident's home State even though the entire transaction took place inside the other State's borders and complied with that State's laws regulating fireworks sales. Both examples would easily justify *Younger* abstention under the Third and Fifth Circuits' approach because, in both cases, the enforcing State could simply invoke its interest in enforcing its own laws and promoting the safety of its residents. The same result would follow under the Fourth Circuit's analysis unless there happened to be a binding, on-point dormant Commerce Clause decision already invalidating such a law.

B. This case presents an ideal vehicle for addressing these concerns, given that the OSC did not allege that Petitioner made or facilitated a single loan in Pennsylvania. *See supra* pp.8, 29–30. Because of the Fourth Circuit's decision, Petitioner remains mired in proceedings in a State in which it conducts no business. Despite spending over two years and significant sums of money challenging this unconstitutional enforcement proceeding, Petitioner has still not yet received judicial review of its federal constitutional challenges.

There are no vehicle issues with resolving the Question Presented here. The Question Presented is dispositive of whether Petitioner's complaint will be dismissed under *Younger* and concerns only *Younger*'s important-state-interest element, leaving the merits of the underlying federal claims to the lower courts. Further, no factual development is necessary to answer the Question Presented.

While the District Court dismissed on alternative issue preclusion grounds, App.54a, 88a–89a, the issue-preclusion conclusion was also based on *Younger*. The District Court concluded that, because the Northern District of Texas and the Middle District of Pennsylvania abstained under *Younger* in distinct proceedings, *see supra* n.3, issue preclusion compelled the court to likewise abstain under *Younger*, App.88a–89a.[4] Those cases are both pending review in this Court, and if Petitioner prevails on the Question Presented in this case, then the entities involved in the Third and Fifth Circuit cases will presumably prevail in their cases after a GVR, eliminating any preclusive effect. *See Hewitt v. United States*, 606 U.S. 419, 431 (2025). Nonetheless, to the extent that this Court considers the District Court's alternative conclusion to be a vehicle problem, this Court should grant certiorari in *TitleMax of Virginia, Inc.* or *TMX Finance Corporate Services, Inc.* and hold this Petition pending that review.

CONCLUSION

This Court should grant the Petition.

[4] The District Court's issue-preclusion ruling was also misguided because the companies involved in the Third and Fifth Circuit cases are distinct corporate entities from Petitioner. The District Court's privity analysis, App.86a–88a, failed to give effect to the longstanding principle, recently reaffirmed by this Court, that "organizations are separate legal units with distinct legal rights and obligations," *Galette v. New Jersey Transit Corp.*, 607 U.S. 509, 524 (2026) (internal quotation omitted).

Respectfully submitted,

RYAN J. STRASSER
GRAHAM K. BRYANT
LAUREN H. MILLER
TROUTMAN PEPPER
LOCKE LLP
1001 Haxall Point
15th Floor
Richmond, VA 23219

MARY GRACE W.
METCALFE
TROUTMAN PEPPER
LOCKE LLP
875 Third Avenue
New York, NY 10022

MISHA TSEYTLIN
Counsel of Record
KEVIN M. LEROY
TROUTMAN PEPPER
LOCKE LLP
225 W. Randolph Street,
Suite 2600
Chicago, IL 60606
(608) 999-1240
misha.tseytlin@troutman.com

Attorneys for Petitioner
TitleMax of South
Carolina, Inc.

August 2026

APPENDIX

TABLE OF APPENDICES

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT, FILED AUGUST 5, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-2027

TITLEMAX OF SOUTH CAROLINA, INC.,

Plaintiff-Appellant,

v.

WENDY SPICHER, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF BANKING AND SECURITIES,

Defendant-Appellee.

STATE OF SOUTH CAROLINA,

Amicus Supporting Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Joseph Dawson, III, District Judge. (4:24-cv-04399-JD)

Argued: March 18, 2026 Decided: August 5, 2026

Before THACKER, RUSHING, and BENJAMIN, Circuit Judges.

Affirmed in part, vacated in part, and remanded with instructions by published opinion. Judge Benjamin wrote the opinion, in which Judge Thacker and Judge Rushing joined.

DEANDREA GIST BENJAMIN, Circuit Judge:

This appeal addresses when a federal court may intervene in state civil enforcement proceedings.

TitleMax of South Carolina, Inc. ("TitleMax SC") originates all of its loans in South Carolina, but the Pennsylvania Department of Banking and Securities (the "Department") contends that some of those loans involved Pennsylvania borrowers and violated Pennsylvania usury laws. Based on TitleMax SC's conduct in Pennsylvania, the Department issued an investigative subpoena in 2017, seeking records related to loans involving Pennsylvania consumers. After litigation over that subpoena, the Department initiated a formal administrative enforcement proceeding against TitleMax SC for alleged violations of Pennsylvania's usury laws. The Department separately issued a second investigative subpoena in 2024.

TitleMax SC responded with this federal suit, seeking to halt both the administrative enforcement proceeding and the second investigative subpoena. TitleMax SC alleges a Dormant Commerce Clause claim, arguing that the Department may not apply Pennsylvania's usury laws to loans originated in South Carolina because doing so would regulate commerce occurring wholly outside Pennsylvania. The district court dismissed the complaint, concluding that TitleMax SC's claims related to the enforcement proceedings were barred by issue preclusion or, in the alternative, *Younger* abstention. The district court also held that TitleMax SC's claims related to the second investigative subpoena were not ripe.

We affirm on the *Younger* and ripeness grounds. First, we hold that TitleMax SC's claims challenging the administrative enforcement proceeding interfere with an ongoing state proceeding, triggering the court's duty to abstain under *Younger*. Second, we hold the claims challenging the second investigative subpoena are not ripe because TitleMax SC has not alleged a present injury from the second investigative subpoena itself.

I. Background

A. TitleMax of South Carolina and Its Affiliated Companies

TitleMax SC is a South Carolina corporation with its principal place of business in Savannah, Georgia. It is licensed under South Carolina law to offer consumer loans secured by motor vehicle titles[1], and it maintains physical locations in South Carolina. In addition to title secured loans, TitleMax SC also offers unsecured personal loans both online and in-store.

1. Title secured loans (or auto title loans) are loans where a borrower uses their lien-free vehicle as collateral for receiving the loan.

Although TitleMax SC offers unsecured loans online[2], TitleMax SC originates loans exclusively within the territorial and geographic borders of South Carolina. TitleMax SC only offers title secured loans in person at TitleMax SC's stores, all of which are in South Carolina. To obtain an unsecured online loan, the borrower must have GPS location services turned on, allowing TitleMax SC to determine that the borrower is in South Carolina before processing the loan. Thus, a borrower located outside of South Carolina must travel into South Carolina to obtain a loan from TitleMax SC.

Even with these geographic requirements, TitleMax SC has made some loans to non-South Carolina residents, including Pennsylvania residents who traveled to South Carolina. TitleMax SC's internal corporate records show it made approximately 120 loans to individuals who had a Pennsylvania address between 2008 and the present. TitleMax SC maintains that it does not originate loans, keep offices, employ personnel, or disburse loan proceeds in Pennsylvania, and that any borrower must appear in person at a South Carolina store to obtain a title secured loan. TitleMax SC has, however, engaged in conduct connected to Pennsylvania borrowers or collateral, including perfecting or recording liens with the Pennsylvania Department of Transportation, collecting payments from Pennsylvania residents, communicating with borrowers in Pennsylvania, and repossessing vehicles located in Pennsylvania.

---

2. Unsecured loans do not require the borrower to provide collateral and are issued and approved by the lender based solely on the borrower's credit history, income, and present debt.

TitleMax SC is part of a broader family of affiliated entities (collectively, "TitleMax"[3]).

B. Pennsylvania Usury Laws and State Administrative Process

Pennsylvania regulates consumer lending through two statutes relevant here: the Loan Interest and Protection Law ("LIPL") and the Consumer Discount Company Act ("CDCA"). LIPL, 41 Pa. Cons. Stat. §§ 101-605; CDCA, 7 Pa. Cons. Stat. §§ 6201-6221. The LIPL establishes Pennsylvania's general usury rule by capping interest at 6% per year for loans less than $50,000. LIPL, 41 Pa. Cons. Stat. § 201(a). The CDCA functions as the licensing statute for lenders seeking to charge more than the lawful rate. CDCA, 7 Pa. Cons. Stat. §§ 6203(A), 6213. The CDCA expressly prohibits engaging "in the business of negotiating or making loans or advances of money or credit" at higher rates without first obtaining a license. CDCA, 7 Pa. Cons. Stat. § 6203(A). The CDCA still caps the interest that licensed lenders can charge at 24% per

3. TMX Finance LLC is the parent company of TitleMax SC and other entities that offer motor vehicle title secured loans, including, but not limited to, TitleMax of Ohio, Inc., TitleMax of Delaware, Inc., and TitleMax of Virginia, Inc.

For convenience, the court refers collectively to TitleMax SC and the affiliated TitleMax companies as "TitleMax." This definition is only used as descriptive shorthand and does not resolve any disputed question concerning corporate separateness, privity, control, adequate representation, alter-ego status, or whether TitleMax SC may be bound by a ruling entered against any other TitleMax affiliated company.

year for loans of $25,000 or less. *Id.* §§ 6203(A), 6213. Violations of these acts may carry both criminal and civil penalties. LIPL, 41 Pa. Cons. Stat. § 505; CDCA, 7 Pa. Cons. Stat. § 6218.

Pennsylvania's Department of Banking and Securities (the "Department") is the state agency charged with administering and enforcing these laws. LIPL, 41 Pa. Cons. Stat. § 506(b), (c); CDCA, 7 Pa. Cons. Stat. § 6212. Within the Department's enforcement structure, the compliance office brings the charges, while the Pennsylvania Banking and Securities Commission (the "Commission") is the agency head and final adjudicator for the administrative proceeding. 71 Pa. Cons. Stat. §§ 733-1121-A, 733-1122-A(1).

The Department's enforcement process typically begins with an investigation. Under the CDCA, the Department may examine the business of licensees and may exercise authority over those engaged in the business regulated by the Act. *Id.* §§ 6211-12. Under the LIPL, the Department may examine instruments, documents, accounts, books, records, electronic data, and files, and may conduct investigations necessary to administer the statute. LIPL, 41 Pa. Cons. Stat. § 506(b). The Department may also issue subpoenas requiring testimony or production of records and may seek court assistance if a subpoenaed person refuses to comply. CDCA, 7 Pa. Cons. Stat. § 6212; LIPL, 41 Pa. Cons. Stat. § 506(b).

If the Department elects to pursue administrative enforcement for alleged LIPL or CDCA violations, the compliance office may initiate a formal enforcement action by issuing an order to show cause ("OSC") stating the grounds for the action and requiring the respondent to answer. 1 Pa. Code § 35.14. The respondent's answer must admit or deny the charges, state facts on which the respondent relies, and identify the legal grounds for its position. *Id.* § 35.37. After the OSC and answer, the matter proceeds to a hearing before the Commission or a hearing examiner designated by the Commission. *Id.* §§ 35.123, 35.185, 35.187.

A designated hearing examiner may conduct a hearing and then issue a proposed report or recommended decision for the Commission. *Id.* §§ 35.121, 35.187, 35.202. During the hearing, the hearing examiner may receive evidence and address procedural matters but may not dispose of motions that determine the proceeding before issuing a proposed report. *Id.* § 35.187. Once the hearing examiner has issued a proposed report, a party may file objections with the Commission. *Id.* § 35.211, 35.213. The Commission, as agency head, will then take final administrative action and issue a final order adjudicating the proposed report and the filed exceptions. *Id.* § 35.226.

Once the Commission issues a final adjudication, a party may seek judicial review in the Pennsylvania Commonwealth Court. 2 Pa. Cons. Stat. § 702; 42 Pa. Cons. Stat. § 763(a)(1).

Interlocutory review from a hearing examiner's decision or from an interim Commission order is more limited. A participant generally may not appeal a hearing examiner's ruling "except in extraordinary circumstances where prompt decision by the Commission is necessary to prevent detriment to the public interest." 1 Pa. Code § 35.190(a). A participant may seek interlocutory certification of a non-final order from the Commission, but that request does not automatically stay the administrative proceeding. *Id.* § 35.225.

C. The Department's 2017 Subpoena

The Department's investigation of TitleMax began in August 2017, when the Department issued an investigative subpoena concerning possible violations of Pennsylvania's usury laws. *TitleMax of Del., Inc. v. Weissmann*, 24 F.4th 230, 235 (3d Cir. 2022); J.A. 025.[4] The 2017 subpoena sought documents concerning loans made by TitleMax[5] to Pennsylvania consumers. *Weissmann*, 24 F.4th at 235. The requested documents included: "loan agreements between TitleMax and Pennsylvania consumers, information presented to Pennsylvania consumers through the mail or internet, solicitations or offerings circulated or aired in Pennsylvania, records of TitleMax employees who traveled to Pennsylvania, lists of vehicles repossessed in Pennsylvania, Pennsylvania consumer complaints, invoices or bills sent to Pennsylvania consumers, and any electronic transfers of funds from Pennsylvania consumer bank accounts." *Id.*

---

4. Citations to "J.A." refer to the joint appendix filed by the parties. The J.A. contains the record on appeal from the district court. Page numbers refer to the "J.A. #" pagination.

5. The 2017 subpoena was addressed to "TitleMax, TMX Finance | Family of Companies." J.A. 143.

After receiving the 2017 subpoena, TitleMax did not comply and instead filed suit in the United States District Court for the District of Delaware. *TitleMax of Del., Inc. v. Weissmann*, 505 F. Supp. 3d 353, 354-55 (D. Del. 2020). In that action, TitleMax sought to enjoin the Department's investigation, arguing, among other things, that the Department's investigative subpoena attempted to apply Pennsylvania's usury laws extraterritorially in violation of the Dormant Commerce Clause. *Id.*

The Department separately filed a petition in Pennsylvania Commonwealth Court to enforce the subpoena. *Weissmann*, 24 F.4th at 235.

In the Delaware federal action, the parties conducted discovery and filed cross-motions for summary judgment. *Id.* The district court granted summary judgment for TitleMax, finding the Department's subpoena violated the Dormant Commerce Clause because the loans were made and executed outside Pennsylvania at physical TitleMax locations in Delaware, Ohio, or Virginia. *Weissmann*, 505 F. Supp. 3d at 360.

The Department appealed to the Third Circuit, which reversed and held that applying the CDCA and LIPL to TitleMax's conduct did not violate the Dormant Commerce Clause. *Weissmann*, 24 F.4th at 235-36.

The court began with Dormant Commerce Clause principles and its analytical framework. *Id.* at 238. Dormant Commerce Clause analysis concerns the state law's effect on interstate commerce. *Id.* (citing *Brown-Forman Distillers Corp. v. N.Y. State Liquor Auth.*, 476 U.S. 573, 579 (1986)). One way a law may affect interstate commerce is by having extraterritorial impact on another state's economic activity. *Id.* (quoting *Cloverland-Green Spring Dairies, Inc. v. Pa. Milk Mktg. Bd.*, 462 F.3d 249, 261-62 (3d Cir. 2006)). But not every extraterritorial effect violates the Dormant Commerce Clause. *See id.* at 238 n.7. A law violates the Dormant Commerce Clause on extraterritoriality grounds when it directly controls commerce occurring "wholly outside" the State's borders. *Id.* (citing *Healy v. Beer Inst.*, 491 U.S. 324, 336 (1989)). If it does not have that prohibited extraterritorial reach and does not discriminate against out-of-state actors, the law is evaluated under the *Pike* balancing test and will be upheld unless the burden on interstate commerce is clearly excessive in relation to the putative local benefits. *Id.* (quoting *Pike v. Bruce Church, Inc.*, 397 U.S. 137, 142 (1970)).

Applying that framework, the Third Circuit proceeded in two steps. First, the court described TitleMax's lending activity as extending beyond loan origination in the relevant States (Delaware, Ohio, and Virginia) and into Pennsylvania. *Id.* at 234-35. Although TitleMax did not have offices, employees, agents, or physical stores in Pennsylvania, the court noted that TitleMax recorded liens with Pennsylvania state authorities, collected payments from Pennsylvanians, communicated with Pennsylvania borrowers, and repossessed vehicles in Pennsylvania. *Id.* The court held that TitleMax's conduct was not "wholly outside of Pennsylvania" because TitleMax received payments from within Pennsylvania and maintained security interests in vehicles located in Pennsylvania. *Id.* at 239-40.

Second, having concluded that TitleMax's conduct did not occur wholly outside Pennsylvania, the court applied *Pike* balancing. *Id.* at 240-41. On the burden side, the court noted that applying Pennsylvania's usury laws to transactions with Pennsylvanians placed TitleMax in "no different position than an in-state lender." *Id.* at 240. On the benefit side, the court noted that Pennsylvania had "a strong interest in prohibiting usury." *Id.* at 241. The court ultimately concluded that applying Pennsylvania's usury laws to TitleMax furthered Pennsylvania's interest in prohibiting usury and that "any burden on interstate commerce from doing so [was], at most, incidental." *Id.* Pennsylvania could therefore "investigate and apply its usury laws to TitleMax without violating the Commerce Clause." *Id.* Accordingly, the Third Circuit reversed and directed the district court to enter judgment for the Department. *Id.*

After the Third Circuit's ruling, the Commonwealth Court granted the Department's petition to enforce the 2017 subpoena, ordering TitleMax to produce all responsive documents. TitleMax complied.

D. The Department's 2024 Subpoena

In 2024, the Department issued another investigative subpoena to TitleMax[6] seeking documents concerning

---

6. The 2024 subpoena defined "TitleMax" to include "TitleMax of Delaware, Inc., TitleMax of Ohio, Inc., TitleMax of Virginia, Inc., TitleMax of South Carolina, Inc., TitleMax Funding, Inc.,

loans and related activity involving Pennsylvania borrowers. The subpoena invoked the Department's investigative authority under the CDCA and LIPL. The subpoena stated that the Department had information that TitleMax had made automobile title loans to borrowers with Pennsylvania addresses during the relevant period.

The subpoena requested information for the period beginning August 23, 2017, and continuing through the present. It sought loan or pawn documents between TitleMax and any Pennsylvania consumer, including loan agreements, promissory notes, pawn tickets, deferment agreements, Truth in Lending Act disclosures, and security agreements. It also sought electronic payment records relating to Pennsylvania consumers and records concerning repossessions of vehicles owned by Pennsylvania consumers.

E. The Department's OSC and Enforcement Proceeding

Based on information retrieved from the 2017 subpoena, the Department's compliance office initiated a formal administrative enforcement proceeding by issuing an order to show cause (the "OSC Proceeding"). The OSC named multiple TitleMax entities, including TitleMax SC, as respondents and ordered TitleMax to show cause why the Commission should not impose sanctions and remedies

TMX Finance LLC, TMX Finance Corporate Services, Inc., CCFI Companies, LLC, and all successors or predecessors in interest, affiliates, subsidiaries, or parent companies of any of the foregoing." J.A. 062.

based on alleged violations of the LIPL and CDCA. The OSC alleged that, from July 2008 through September 2017, TitleMax entered into at least 5,270 title secured loan agreements with Pennsylvania residents for loans of $50,000 or less at interest rates exceeding the LIPL's 6% cap. It alleged that those loan agreements carried interest rates as high as 720%.

It further alleged that TitleMax conducted loan-servicing activities in Pennsylvania, including collecting payments, sending phone calls or text messages to borrowers residing in Pennsylvania, and repossessing vehicles in Pennsylvania after default. The OSC alleged that TitleMax was not, and had never been, licensed by the Department under the CDCA or otherwise. The OSC further alleged that TitleMax recorded liens with the Pennsylvania Department of Transportation on the vehicles associated with the title secured loans.

Based on those allegations, the OSC asserted 5,270 counts for violation of § 201(a) of the LIPL. The compliance office requested a civil penalty of $10,000 per offense under § 505(b) of the LIPL. It also requested restitution for actual damages to aggrieved Pennsylvania residents under § 506(c)(3) of the LIPL. Ultimately, the OSC proposed more than $52.7 million in civil penalties.

The notice accompanying the OSC advised TitleMax that they could challenge the OSC by filing a written answer and that failure to answer could waive their right to a hearing and allow the Commission to enter a final order against them. After an answer, TitleMax would be notified of the hearing examiner and, if a hearing were scheduled, the date, time, and place of the hearing.

After a hearing examiner was designated, TitleMax answered the OSC and moved to dismiss in the state agency proceedings. The motion to dismiss argued that the Department lacked personal jurisdiction over TitleMax. The hearing examiner issued a "Proposed Adjudication of Respondents' Motion to Dismiss," recommending denying the motion to dismiss and concluding that Pennsylvania had jurisdiction over TitleMax.

TitleMax then sought Commission review of the hearing examiner's proposed adjudication. First, TitleMax moved the hearing examiner to refer or certify the matter for Commission review. After the hearing examiner denied certification, TitleMax filed a direct appeal with the Commission. The Commission entered an order stating that the matter was not properly before it under 1 Pa. Code § 35.190, which, as stated above, allows interlocutory review in extraordinary circumstances where prompt decision by the Commission is necessary to prevent detriment to the public interest. The order further stated that the Commission would take no action at that time.[7]

---

7. TitleMax sought review of the Commission's order in the Pennsylvania Commonwealth Court. [Opening Br. at 19-20.] The Department opposed that effort and took the position that the Commonwealth Court lacked appellate jurisdiction before final agency action. [*Id.*] At the time of appellate briefing and argument, that petition for review remained pending. [Response Br. at 29.]

After the Commission's order, the state proceeding continued to an evidentiary hearing. The hearing examiner held a three-day hearing at which the Department and TitleMax presented their respective cases. At the time of briefing in this case, the parties were engaged in post-hearing briefing, after which the hearing examiner was expected to issue a proposed adjudication for Commission review.

F. TitleMax's Federal Challenges to the Department's Regulatory Activity

After the Department commenced the state proceeding, TitleMax SC and other TitleMax entities filed six nearly identical complaints challenging the 2024 subpoena and the OSC. TitleMax filed those complaints in six different federal courts: the District of South Carolina, the Southern District of Ohio, the Western District of Virginia, the Southern District of Georgia, the District of Delaware, and the Northern District of Texas. The complaints all raised similar constitutional challenges and sought to enjoin the state proceeding by alleging that the state proceeding violated the Dormant Commerce Clause, the Due Process Clause of the Fourteenth Amendment, the Full Faith and Credit Clause, and the Equal Protection Clause of the Fourteenth Amendment.

As relevant here, TitleMax's principal theory arises under the Dormant Commerce Clause, which limits the authority of states to enact legislation affecting interstate commerce. TitleMax principally argues that the Department is attempting to regulate commerce occurring wholly outside Pennsylvania by applying Pennsylvania's usury laws to loans originated in South Carolina. TitleMax also argues that applying Pennsylvania law would impermissibly burden interstate commerce.

The Department moved to dismiss each federal action on *Younger* abstention grounds and for lack of personal jurisdiction. *Younger* abstention is the doctrine under which federal courts may decline to interfere with certain ongoing state proceedings. *See Younger v. Harris*, 401 U.S. 37 (1971). The Department also sought to transfer the related actions to the Middle District of Pennsylvania. The Southern District of Georgia, Southern District of Ohio, District of Delaware, and Western District of Virginia transferred their respective actions to the Middle District of Pennsylvania.

The Northern District of Texas was the first federal court to dismiss one of the related actions. *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 24-cv-2054, 2024 WL 4995580, at *1 (N.D. Tex. Dec. 5, 2024). The Fifth Circuit affirmed that dismissal, holding that *Younger* abstention was appropriate. *TMX Fin. Corp. Servs., Inc. v. Spicher*, No. 24-11087, 2026 WL 74504, at *1-3 (5th Cir. Jan. 9, 2026).

The Middle District of Pennsylvania also dismissed the transferred Georgia, Ohio, Virginia, and Delaware actions, citing *Younger* abstention. *TMX Fin. LLC v. Spicher*, 2025 WL 221798, at *1 (M.D. Pa. Jan 16, 2025). The Third Circuit affirmed the district court's dismissal under *Younger* abstention. *TitleMax of Va., Inc. v. Sec'y Pa. Dep't of Banking & Sec.*, No. 25-1137, 2026 WL 49584, at *1-5 (3d Cir. Jan. 7, 2026).

In this case, the Department moved to dismiss the complaint on three grounds. First, it argued that the district court should abstain under *Younger*. Second, it argued that the district court lacked personal jurisdiction over the Department. Third, after the Texas and Pennsylvania district courts dismissed the related actions, the Department argued that issue preclusion, a legal doctrine that prevents a party or its privy from relitigating an issue already decided in a prior proceeding, barred TitleMax SC from relitigating whether *Younger* abstention was appropriate.

The district court granted the Department's motion to dismiss. The district court declined to address the Department's personal jurisdiction argument because dismissal was required even assuming personal jurisdiction existed. It first dismissed TitleMax SC's claims challenging the 2024 subpoena as unripe. The district court reasoned that the 2024 subpoena was not self-executing, had not been enforced against TitleMax SC, and would require a future court order before enforcement. The district court then held that TitleMax SC's OSC-related claims were barred by issue preclusion because the Texas and Pennsylvania federal courts had already decided that *Younger* abstention applied to the state proceeding. In doing so, the district court found that TitleMax SC was in privity with other TitleMax affiliates for purposes of issue preclusion. In the alternative, the district court found that *Younger* abstention independently required dismissal of the OSC-related claims. Ultimately, the district court dismissed the entire complaint with prejudice and denied all pending motions as moot.

TitleMax SC now appeals the district court's order. For the reasons explained below, we affirm the dismissal of TitleMax SC's claims challenging the OSC under *Younger* abstention and affirm the dismissal of TitleMax SC's claims challenging the 2024 subpoena on ripeness grounds. Because those grounds fully resolve this appeal, we need not address the district court's alternative ruling that issue preclusion also barred TitleMax SC's OSC-related claims.

II. *Younger* Abstention and the OSC Proceeding

We review the district court's ultimate decision to abstain for abuse of discretion, *New Beckley Mining Corp. v. International Union, United Mine Workers*, 946 F.2d 1072, 1074 (4th Cir. 1991), but we review de novo whether the basic requirements for abstention are satisfied, *VonRosenberg v. Lawrence*, 781 F.3d 731, 734 (4th Cir. 2015) (citing *Myles Lumber Co. v. CNA Fin. Corp.*, 233 F.3d 821, 823 (4th Cir. 2000)).

Younger abstention expresses "the 'national policy forbidding federal courts to stay or enjoin pending state court proceedings except under special circumstances.'" *Robinson v. Thomas*, 885 F.3d 278, 285 (4th Cir. 2017) (quoting *Younger*, 401 U.S. at 41). This "flavor of abstention is based on two deep-rooted concepts." *Erie Ins. Exch. v. Md. Ins. Admin.*, 105 F.4th 145, 149 (4th Cir. 2024). The first is traditional equity practice, which establishes that "courts of equity should not act" to restrain another proceeding "when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief." *Younger*, 401 U.S. at 43-44. The second and "even more vital consideration" is "the notion of 'comity,'" including the "belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways." *Id.* at 44. This comity principle rests, in part, on the premise that "'state courts are fully competent to decide issues of federal law.[]'" *Harper v. Pub. Serv. Comm'n of W. Va.*, 396 F.3d 348, 355 (4th Cir. 2005) (quoting *Richmond, Fredericksburg & Potomac R.R. Co. v. Forst*, 4 F.3d 244, 251 (4th Cir. 1993)).

But like all abstention doctrines, *Younger* abstention "is an exception to the general rule that federal courts must decide cases over which they have jurisdiction." *Air Evac EMS, Inc. v. McVey*, 37 F.4th 89, 96 (4th Cir. 2022). A court therefore may abstain under *Younger* only after determining that the state proceeding satisfies the doctrine's two threshold requirements and that no exception permits federal intervention. *See Air Evac*, 37 F.4th at 95-96.

To determine whether *Younger* abstention applies, the court first must determine whether the ongoing state proceeding falls within one of "three exceptional" categories: (1) state criminal prosecutions, (2) quasi-criminal civil enforcement proceedings, and (3) civil proceedings involving certain orders uniquely in furtherance of the state court's ability to perform their judicial functions. *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 78-79 (2013). If the state proceeding falls within one of these three *Sprint* categories, courts must then consider the "*additional* factors" identified in *Middlesex County. Ethics Committee v. Garden State Bar Ass'n*, 457 U.S. 423, 432 (1982), commonly known as the *Middlesex* factors. *Sprint*, 571 U.S. at 81. The three *Middlesex* factors ask (1) whether ongoing state proceedings are judicial in nature; (2) whether the state proceedings implicate important state interests; and (3) whether the state proceedings provide an adequate opportunity to raise the federal claims. *Middlesex*, 457 U.S. at 432 (1982). Finally, even when both the *Sprint* and *Middlesex* steps are satisfied, the court must determine whether one of *Younger*'s three exceptions to the court's duty to abstain applies: "(1) 'bad faith or harassment' by state officials responsible for the prosecution; (2) a statute that is 'flagrantly and patently violative of express constitutional prohibitions'; and (3) other 'extraordinary circumstances' or 'unusual situations.'" *Air Evac*, 37 F.4th at 96 (quoting *Younger* 401 U.S. at 49-54).

Our analysis here follows that sequence. We first ask whether the OSC Proceeding falls within one of the exceptional categories identified in *Sprint*. We next consider whether the *Middlesex* factors are satisfied. Finally, we address whether any exceptions to *Younger* permit federal intervention.

A. *Sprint* Categories

The first and third *Sprint* categories do not accommodate the OSC Proceeding. The OSC Proceeding is civil, not criminal, and it did not touch on a state court's ability to perform its judicial function. *See Sprint*, 571 U.S.

at 79-80. The OSC Proceeding therefore can only arguably fall under the second *Sprint* category, quasi-criminal civil enforcement proceedings.

A proceeding falls in this category if it is "akin to a criminal prosecution" in "important respects." *Id.* at 79 (quoting *Huffman v. Pursue, Ltd.*, 420 U.S. 592, 604 (1975)). Such proceedings "are characteristically initiated to sanction the federal plaintiff, *i.e.* the party challenging the state action, for some wrongful act." *Id.* The state actor involved in the proceeding is "routinely a party to the state proceeding and often initiates the action." *Id.* And "[i]nvestigations are commonly involved, often culminating in the filing of a formal complaint or charges." *Id.* at 79-80. In other words, a proceeding is quasi-criminal if (1) "the proceeding was initiated by the state in its sovereign capacity"; (2) "the proceeding sought to sanction the federal plaintiff for a violation of a legal right or duty"; and (3) "the proceeding has another striking similarity with a criminal prosecution, such as by beginning with a preliminary investigation that culminates with the filing of formal charges or by the state's ability to sanction the federal plaintiff's conduct through a criminal prosecution." *Borowski v. Kean Univ.*, 68 F.4th 844, 851 (3d Cir. 2023) (citing *Smith & Wesson Brands, Inc. v. Att'y Gen. of N.J.*, 27 F.4th 886, 891 (3d Cir. 2022)).

The OSC Proceeding satisfies those requirements. First, the Department initiated the OSC Proceeding in Pennsylvania's sovereign capacity. The OSC was issued by the Department's compliance office, and it invoked the Department's statutory authority to enforce

Pennsylvania's lending laws. J.A. 048, 052, 055. Second, the OSC Proceeding seeks to sanction TitleMax SC for alleged violations of Pennsylvania law. The OSC seeks to determine whether TitleMax violated the LIPL and CDCA and whether the proposed sanctions and remedies should be imposed. J.A. 052. It alleges that TitleMax entered into thousands of loan agreements with Pennsylvania borrowers at interest rates exceeding the interest rate caps. J.A. 054-55. And it requests a civil penalty of $10,000 per offense, as well as restitution for aggrieved Pennsylvania residents, for the alleged statutory violations. J.A. 055. Third, the OSC Proceeding followed an investigation and culminated in formal charges. The Department's 2017 subpoena was an investigative subpoena and was issued under statutory authority permitting the Department to investigate potential violations of the LIPL and CDCA. J.A. 142-43. After that investigation, the Department issued the OSC, which set forth 5,270 counts alleging violations of the LIPL and requested civil penalties and restitution. J.A. 054-55. That sequence—investigation, formal administrative charges, and requested sanctions—is the kind of quasi-criminal civil enforcement proceeding *Sprint* describes.

B. *Middlesex* Factors

Now that we've determined that the OSC Proceeding falls into the second *Sprint* category, we must now determine whether the OSC Proceeding satisfies the *Middlesex* factors. To satisfy the *Middlesex* factors, the OSC Proceeding must (1) be ongoing and judicial; (2) implicate important state interests; and (3) provide an adequate opportunity to raise constitutional challenges.

457 U.S. at 432. We hold that the OSC Proceeding satisfies each factor.

1. Ongoing and Judicial

The first *Middlesex* factor asks whether the state proceeding is "ongoing" and "judicial in nature." *Id.* at 432-34. A state proceeding is ongoing for *Younger* purposes if it was pending before the federal action was filed. *See PDX N., Inc. v. Comm'r N.J. Dep't of Lab & Workforce Dev.*, 978 F.3d 871, 885 (3d Cir. 2020); *Baran v. Port of Beaumont Nav. Dist.*, 57 F.3d 436, 441 (5th Cir. 1995). And a proceeding is judicial in nature when it "investigates, declares, and enforces liabilities" based on "present or past facts" and existing law. *Allstate Ins. Co. v. W. Va. State Bar*, 233 F.3d 813, 817 (4th Cir. 2000) (quoting *D.C. Ct. App. v. Feldman*, 460 U.S. 462, 477 (1983)). "'[P]roceedings may be judicial in nature if,' for example, judicial review is available, 'they are initiated by a complaint, adjudicative in nature, governed by court rules or rules of procedure, or employ legal burdens of proof.'" *Altice USA, Inc. v. N.J. Bd. of Pub. Utils.*, 26 F.4th 571, 579 (3d Cir. 2022) (quoting *Kendall v. Russell*, 572 F.3d 126, 131 (3d Cir. 2009)). Administrative enforcement proceedings may satisfy this requirement where they are adjudicatory and subject to state court review. *See, e.g., Air Evac*, 37 F.4th at 97; *Erie Ins. Exch.*, 105 F.4th at 147-49.

Here, the OSC Proceeding was ongoing because the Department issued the OSC before TitleMax SC filed this federal action. J.A. 048; J.A. 011. The OSC Proceeding is judicial in nature because it was initiated by a formal pleading, the OSC. J.A. 048-55. Additionally, TitleMax SC has a right to challenge the OSC's allegations. *Id.* Moreover, the OSC Proceeding is governed by a comprehensive set of rules and is subject to judicial review. *See* 1 Pa. Code §§ 31.1-35.251; 2 Pa. Cons. Stat. § 702.

Thus, the first *Middlesex* factor is satisfied.

2. Important State Interest

The second *Middlesex* factor asks whether the state proceeding implicates important state interests. *Middlesex*, 457 U.S. at 432. The second factor reflects *Younger*'s concern with comity and respect for state functions. *See id.*; *Pennzoil Co. v. Texaco Inc.*, 481 U.S. 1, 11 (1987) (finding abstention proper "if the State's interests in the proceeding are so important that exercise of the federal judicial power would disregard the comity between the States and the National Government"). It asks whether the state is using its own judicial or administrative processes to vindicate "important state interests." *See Ohio Civil Rights Comm'n v. Dayton Christian Sch., Inc.*, 477 U.S. 619, 627 (1986) ("We have also applied [*Younger*] to state administrative proceedings in which important state interests are vindicated[.]"). State interests are important where the proceeding concerns matters that "implicate[] the sovereignty and dignity of a state" and fall within traditional areas of state authority. *Harper*, 396 F.3d at 354. Those interests include the State's administration of its courts, regulation of professions, protection of family and public welfare, control of land use and local affairs, and enforcement of laws governing conduct within the State. *Id.* The inquiry focuses on "the importance of the generic proceedings to the State," not the State's interest in prevailing in the particular case. *New Orleans Pub. Serv., Inc. (NOPSI) v. Council of City of New Orleans*, 491 U.S. 350, 365 (1989).

Constitutional challenges to state actions may "call into question the legitimacy of the State's interest in its proceedings reviewing or enforcing that action." *Id.* But "the mere assertion of a substantial constitutional challenge to state action will not alone compel the exercise of federal jurisdiction." *Id.* That is because constitutional questions "generally can be resolved by state courts"; in fact, *Younger* rests on the premise that "'state courts are fully competent to decide issues of federal law.[]'" *Harper*, 396 F.3d at 355 (quoting *Forst*, 4 F.3d at 251).

That principle has particular force when the federal constitutional claim itself does not implicate the allocation of authority among sovereigns. *See id.* In that setting, there is "no disrespect to federal-state relations" or comity in allowing state courts to decide the federal question. *Id.* Dormant Commerce Clause challenges, however, require closer attention because the Dormant Commerce Clause is concerned with the allocation of authority among sovereigns. *See id.* Specifically, the Dormant Commerce Clause seeks to protect the national market by limiting state laws that directly regulate, discriminate against, or unduly burden interstate commerce. *N. Va. Hemp & Agric., LLC v. Virginia*, 125 F.4th 472, 496-97 (4th Cir. 2025). A state proceeding that affects interstate commerce may affect other states and the national government in a way that ordinary constitutional challenges do not and therefore require special consideration under *Younger. See Harper*, 396 F.3d at 355.

In *Harper v. Public Service Commission*, the court declined to abstain under *Younger* because the West Virginia proceeding in that case "squarely implicate[d] the Commerce Clause." *Id.* at 357. West Virginia required an Ohio waste hauler to obtain a certificate of convenience and necessity before serving West Virginia customers. *Id.* at 350. The certificate could not issue unless existing haulers were not already "adequately serving the same territory." *Id.* (quoting W. Va. Code Ann. § 24A-2-5(a) (2004)). The challenged system therefore protected incumbent providers from competition and restricted market entry by out-of-state haulers. *Id.* at 350-51. The court rejected West Virginia's broad characterization of its interest as protecting health and welfare, stating that the challenged requirement did not concern the "improper disposal of solid waste." *Id.* at 355. To the court, the challenged requirement concerned who has the right to contract with West Virginia customers to remove waste, and therefore, the actual state interest was "limiting interstate access to the waste removal market." *Id.*

That characterization changed the *Younger* analysis. "Because the interest advanced [by West Virginia was] one that *by its very nature* serve[d] to impede interstate commerce," the court found it necessary to "evaluate the effect of the [D]ormant Commerce Clause upon the decision to abstain." *Id.* The court explained that "[t]he commerce power plays a role in abstention analysis quite different from many of the other provisions of the Constitution" because the Dormant Commerce Clause "implicates interstate interests" and protects the national market from state-imposed barriers to trade. *Id.* The court found the interest in preventing the states from "balkanizing into separate economic units" as "a peculiarly national interest." *Id.* Given that strong federal interest, and because West Virginia's asserted interest directly conflicted with it, the court concluded that the state's interest was "more limited," *id.* at 356, and insufficient to support abstention, *see id.* (quoting *Envtl. Tech. Council v. Sierra Club*, 98 F.3d 774, 786 (4th Cir. 1996)).

Central to the court's decision was *Medigen of Kentucky, Inc. v. Public Service Commission*, 985 F.2d 164 (4th Cir. 1993), where the court held that materially similar West Virginia restrictions on interstate waste transportation were unconstitutional under the Dormant Commerce Clause. *Harper*, 396 F.3d at 350-51, 356-57. The court in *Harper* specifically noted that "West Virginia's interest, in light of our decision in *Medigen*, could not be sufficiently strong to require abstention." *Id.* at 357. The court further noted that, even though *Medigen* was not an abstention case, *Medigen* should have made clear to the parties that the federal interest outweighs the state's interest in restricting market entry for *Younger* purposes. *Id.* ("We there made clear that state action 'restricting market entry,' *Medigen*, 985 F.2d at 167—the interest at stake here—was suspect. Although *Medigen* was not primarily an abstention case, its balancing of state interests similar to those raised here should have put the parties on notice of the *Younger* analysis that we have detailed above.").

Despite the *Harper* court's detailed discussion of the appellant's Dormant Commerce Clause claim, it did not require courts to decide the merits of the underlying claim before applying *Younger. See id.* at 355; *see also PDX*, 978 F.3d at 885 ("Even assuming [the appellant] is correct about the merits of its claims, we do not consider the merits 'when we inquire into the substantiality of the State's interest in its proceedings.'" (quoting *O'Neill v. City of Philadelphia*, 32 F.3d 785, 791-92 (3d Cir. 1994))). The court in fact stated that it did not "reach the merits of the underlying claim." *Harper*, 396 F.3d at 355. Rather, as just discussed, the court looked to the nature of the state's interest and to existing Commerce Clause precedent to determine whether the interest was important enough to justify abstention. *See id.* at 355-57.

We do the same here, and both considerations countenance abstention.

First, we address the nature of Pennsylvania's interest. Pennsylvania seeks to enforce generally applicable usury and consumer-credit laws against alleged lending activity involving Pennsylvania residents. J.A. 055; J.A. 653. The OSC alleges that TitleMax entered into 5,270 consumer loan agreements with Pennsylvania residents, took security interests in borrowers' vehicles, recorded liens with the Pennsylvania Department of Transportation, and repossessed vehicles in Pennsylvania after default. J.A. 653. The OSC seeks a civil penalty of $10,000 per offense and restitution for aggrieved Pennsylvania residents. J.A. 055. The proceeding therefore implicates Pennsylvania's important interest in protecting its residents from usurious lending. *See Weissmann*, 24 F.4th at 241.

This interest does not, "by its very nature," impede interstate commerce. *Harper*, 396 F.3d at 355. Pennsylvania's usury laws do not reserve a market for Pennsylvania lenders or burden out-of-state lenders because they are out-of-state. *See Weissmann*, 24 F.4th at 240-41. They apply evenhandedly to in-state and out-of-state lenders transacting with Pennsylvania borrowers. *Id.* As *TitleMax of Delaware, Inc. v. Weissmann* explained, applying those laws to transactions with Pennsylvania borrowers places TitleMax in "no different position than an in-state lender." *Id.* at 240. And the OSC Proceeding does not seek to regulate commerce occurring wholly outside Pennsylvania. It concerns lending activity allegedly connected to Pennsylvania borrowers, Pennsylvania vehicle collateral, Pennsylvania liens, payments from Pennsylvania, and repossessions in Pennsylvania. J.A. 054-55; J.A. 653. That is different than in *Harper*, where West Virginia's interest was, in substance, "limiting interstate access" to a market. 396 F.3d at 355. Pennsylvania's asserted interest therefore falls within the traditional state interest in enforcing laws governing conduct connected to the state.

Second, no existing Commerce Clause precedent in this circuit precludes Pennsylvania's interest from being "sufficiently strong to require abstention." *Harper*, 396 F.3d at 357. And although we do not address the merits of TitleMax SC's Dormant Commerce Clause claim, the Third Circuit in *Weissman* did not suggest this state interest was "suspect." *Id.* The Third Circuit in *Weissmann* considered Pennsylvania's application of the LIPL and CDCA to TitleMax's Pennsylvania conduct and rejected TitleMax's Dormant Commerce Clause challenge. *See* 24 F.4th at 239-41. In its *Pike* analysis, *Weissmann* recognized Pennsylvania's strong local interest in protecting its residents from usurious lending. *Id.* at 241. Neither *Weissman* nor any precedent from this circuit "ma[kes] clear" that Pennsylvania's asserted interest is the kind of market-excluding or protectionist interest that was "more limited" in *Harper*.[8] *Harper*, 396 F.3d at 356, 357.

Accordingly, the second *Middlesex* factor is satisfied.

8. *Midwest Title Loans, Inc. v. Mills*, 593 F.3d 660, 669 (7th Cir. 2010), does not alter that conclusion. In *Midwest*, the Seventh Circuit held that Indiana could not apply its consumer credit law to title loans made by an Illinois lender to Indiana residents because doing so directly regulated commercial activity occurring in Illinois. *Midwest*, 593 F.3d at 669. Midwest was an Illinois title lender that made loans to Indiana residents only at its Illinois offices. *Id.* at 662-63. A borrower would receive a cashier's check drawn on an Illinois bank, be handed over car keys in Illinois, and make payments to the lender in Illinois. *Id.* at 662-63, 668-69. But the loans had Indiana connections. *Id.* at 663. Midwest recorded its liens with Indiana motor vehicle authorities, repossessions occurred in Indiana, the repossessed vehicles were auctioned in Indiana, and Midwest advertised to Indiana residents. *Id.* at 663. The court nevertheless reasoned that those connections did not permit Indiana to regulate the loans because the contracts were "made and executed in Illinois," and Indiana's law interfered with "commercial activity that occurred in another state." *Id.* at 668-69.

At the same time, the Seventh Circuit acknowledged that Indiana had "a colorable interest in protecting its residents from the type of loan that Midwest purveys." *Id.* at 664. *Midwest* therefore does not change our *Younger* analysis. That case does not provide the precedential rejection of state interests that made abstention inappropriate in *Harper*.

3. Adequate Opportunity to Raise Constitutional Challenges

The third *Middlesex* factor asks whether the state proceeding affords the federal plaintiff an adequate opportunity to raise its federal claims. *Middlesex*, 457 U.S. at 432. Abstention is not "appropriate" where "state law clearly bars" a litigant from bringing constitutional claims, *Nivens v. Gilchrist*, 444 F.3d 237, 246 (4th Cir. 2006), or functionally bars meaningful consideration of a federal plaintiff's claims for relief, *Jonathan R. by Dixon v. Justice*, 41 F.4th 316, 335-39 (4th Cir. 2022). To provide an adequate opportunity to raise federal constitutional challenges, there must be a procedure for the relevant state adjudicator to consider and resolve those claims. *Middlesex*, 457 U.S. at 435. "It is sufficient under *Middlesex* . . . that constitutional claims may be raised in state-court judicial review of the administrative proceeding." *Dayton Christian Sch.*, 477 U.S. at 629.

TitleMax SC has not shown that Pennsylvania law "clearly bars" it from raising its federal claims in the OSC Proceeding. The Pennsylvania Rules of Administrative Practice and Procedure permit written motions "at any time," 1 Pa. Code § 35.178, and allow rulings on motions before a hearing, *id.* § 35.180(a). Pennsylvania law also provides judicial review after final agency action. 2 Pa. Cons. Stat. § 702 ("Any person aggrieved by an adjudication of a Commonwealth agency who has direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure).”). Those procedures give TitleMax SC an adequate opportunity to present its constitutional objections in the OSC Proceeding and, if necessary, raise them on judicial review of a final agency adjudication.

The record confirms that TitleMax SC has availed itself, and continues to avail itself, of this process. The OSC advised TitleMax that it could challenge the OSC’s allegations by filing an answer. J.A. 049-50. After an answer, the matter would proceed through the administrative hearing process. *Id.* TitleMax filed an answer and moved to dismiss in the administrative proceeding, arguing that Pennsylvania lacked personal jurisdiction over TitleMax. J.A. 641-43; J.A. 714-15. The hearing examiner issued a proposed adjudication recommending denial of that motion. J.A. 641-42; J.A. 714-15. TitleMax then sought Commission review. J.A. 641-42. The Commission concluded that the matter was not properly before it for interlocutory review and stated that it would take no action at that time. J.A. 649. That interlocutory ruling meant that TitleMax SC could not obtain immediate Commission review before the administrative proceeding ran its course, but it did not prevent TitleMax SC from preserving its objections in the OSC Proceeding or from seeking judicial review after final agency action.

TitleMax SC responds that it has not received an adequate opportunity to raise constitutional challenges because Pennsylvania did not give it a final pre-hearing ruling on its personal jurisdiction defense. Appellant’s Br.

(ECF No. 21) at 49-53[9] (hereinafter "Opening Br."). In its view, personal jurisdiction is a threshold constitutional limit on the Department's authority, such that the defense should be finally resolved before TitleMax SC was required to participate in the OSC merits hearing. *Id.* at 50-51.

But that argument demands more than *Middlesex* requires, which, as discussed above, only asks whether the state proceeding allows a competent adjudicator to consider and resolve constitutional claims. *See Erie Ins. Exch.*, 105 F.4th at 151 ("What matters is that [the federal plaintiff] will have the chance to make its arguments to the hearing officer and later (if necessary) to the 'presumptively competent' Maryland state courts . . . . That is all *Younger* demands."). Even in federal courts, the denial of a motion to dismiss for lack of personal jurisdiction is ordinarily not immediately appealable as of right. *Rux v. Republic of Sudan*, 461 F.3d 461, 474-75 (4th Cir. 2006). Absent narrow exceptions, a party whose personal jurisdiction motion is denied must litigate to final judgment before seeking appellate review. *See* 28 U.S.C. §§ 1291, 1292(b). Requiring TitleMax SC to proceed to its merits hearing while preserving its jurisdictional objection therefore does not, by itself, make Pennsylvania's process inadequate.

Because TitleMax SC can raise its constitutional objections in the OSC Proceeding and, if necessary, on

9. Page numbers for citations to ECF documents utilize the page numbers in the red header on each document.

judicial review of a final agency adjudication, the third *Middlesex* factor is satisfied.

C. Exceptions to *Younger*'s Duty to Abstain

Having determined that the OSC Proceeding falls within *Sprint*'s civil enforcement category and satisfies all three *Middlesex* factors, we next consider whether any of *Younger*'s narrow exceptions apply. There are "three exceptions to the court's duty to abstain: (1) 'bad faith or harassment' by state officials responsible for the prosecution; (2) a statute that is 'flagrantly and patently violative of express constitutional prohibitions; and (3) other 'extraordinary circumstances' or 'unusual situations.'" *Air Evac*, 37 F.4th at 96 (quoting *Younger*, 401 U.S. at 49-54). Additionally, *Younger* abstention is unwarranted when a federal plaintiff seeks relief that is "wholly prospective" and not "designed to annul the results of a state [proceeding]." *Wooley v. Maynard*, 430 U.S. 705, 711 (1977).

TitleMax SC invokes two exceptions. It argues that the Department acted in bad faith, Opening Br. at 53-55, and that some of its requested relief is wholly prospective, Reply Br. (ECF No. 34) at 12-13. Neither argument succeeds.

1. Bad Faith

The bad faith exception only applies in cases involving "proven harassment" or proceedings brought "without hope" of success. *Perez v. Ledesma*, 401 U.S. 82, 85 (1971).

TitleMax SC argues that the Department's attempt at enforcing the LIPL and CDCA against TitleMax SC without allowing an adequate opportunity for raising constitutional claims constitutes bad faith. TitleMax SC takes particular issue with its inability to obtain a final ruling on its personal jurisdiction defense before the OSC merits hearing. But that argument identifies, at most, a dispute about interlocutory procedure and the timing of review. It does not show harassment or a proceeding brought without hope of success.

The record shows that the hearing examiner and the Commission followed Pennsylvania's administrative process. As discussed above, Pennsylvania's rules permit parties to file written motions "at any time," 1 Pa. Code § 35.178, and allow the presiding officer to issue rulings on motions, *id.* § 35.180. They also permit interlocutory appeals from presiding-officer rulings only in limited circumstances, including when the presiding officer certifies that the ruling involves an important question of law requiring immediate review, or when the agency head allows interlocutory review. *Id.* § 35.190(a), (c). Consistent with that framework, the hearing examiner issued a proposed adjudication on TitleMax SC's motion to dismiss, TitleMax SC sought Commission review, and the Commission concluded that the matter was not properly before it for interlocutory review and would take no action at that time. J.A. 641-49.

Additionally, the Department's enforcement theory is not hopeless. The Department began investigating TitleMax in 2017, when it issued an investigative subpoena seeking records concerning loans made to Pennsylvania consumers. J.A. 025. After litigation over that subpoena, the Third Circuit held that Pennsylvania could investigate and apply its usury laws to TitleMax's Pennsylvania-related lending activity without violating the Commerce Clause. *Weissmann*, 24 F.4th at 241. The Commonwealth Court then enforced the subpoena, and TitleMax eventually complied. J.A. 026-27; J.A. 088.

After that investigation, the Department issued the OSC. The OSC alleged that TitleMax entered into 5,270 title-secured loan agreements with Pennsylvania residents for loans of $50,000 or less at interest rates exceeding the LIPL's 6% interest rate cap, with rates as high as 720%. J.A. 054. It further alleged that TitleMax engaged in loan activities in Pennsylvania. J.A. 054-55. Based on those allegations, the Department sought civil penalties and restitution and began administrative enforcement proceedings. J.A. 055.

Those allegations and the investigative history defeat TitleMax SC's bad-faith theory. The Department did not initiate the OSC Proceeding without prior notice. It proceeded after an investigative subpoena, subpoena-related litigation, production of responsive documents, and a Third Circuit decision confirming that Pennsylvania had authority to investigate and apply its usury laws to TitleMax's conduct in Pennsylvania. Given that history, TitleMax SC's disagreement with the Department's jurisdictional and substantive theories does not establish that the OSC Proceeding was brought in bad faith.

2. Wholly Prospective

Relief is wholly prospective only when it is "in no way designed to annul the results of a state [proceeding]." *Wooley*, 430 U.S. at 711. The exception therefore applies only when the requested federal relief would not interfere with any pending state proceeding. *See id.* Accordingly, requested relief is not wholly prospective if it would invalidate, halt, or circumvent an ongoing state adjudication. *Laurel Sand & Gravel, Inc. v. Wilson*, 519 F.3d 156, 166-67 (4th Cir. 2008). The exception therefore turns on practical interference, not on how the requested relief is labeled. *See TitleMax of Va.*, 2026 WL 49584, at *4. ("A federal-court order that prohibits the Department from regulating TitleMax in the future could interfere with the determination in the state proceeding of whether the Department may regulate TitleMax's identical past conduct—and not just by 'providing persuasive authority,' as TitleMax says."). That means even requests aimed at future state action are not wholly prospective if ruling on the future state action would affect or interfere with a pending state proceeding. *See id.*

This exception does not apply because TitleMax SC's requests related to future proceedings would interfere with the current, ongoing OSC Proceeding. The complaint seeks a declaration barring "any further action on the Order to Show Cause," an injunction prohibiting the Department from "enforcing the Order to Show Cause," and an injunction barring the Department from initiating any action "to enforce the June 2024 Subpoena, to enforce the Order to Show Cause, or to further regulate

TitleMax of South Carolina's business practices." J.A. 046. TitleMax SC's arguments related to that future regulation mirror its arguments related to the OSC Proceeding, which generally claim the Department may not enforce Pennsylvania usury laws against TitleMax SC for various constitutional reasons. J.A. 012-14; J.A. 037-41; J.A. 045-46. Accordingly, a federal ruling on the future regulation request would affect the ongoing OSC Proceeding because it would decide whether the Department may regulate the same business practices at issue there. The requested relief therefore is not wholly prospective.

* * *

Because the OSC Proceeding falls within *Sprint*'s civil-enforcement category, satisfies each *Middlesex* factor, and presents no exception permitting federal intervention, *Younger* abstention applies to TitleMax SC's OSC-related claims.

III. Ripeness and the 2024 Subpoena

Where parties do not dispute relevant jurisdictional facts, we review a district court's dismissal based on ripeness de novo. *Cooksey v. Futrell*, 721 F.3d 226, 234 (4th Cir. 2013) (citing *Frank Krasner Enters. v. Montgomery Cnty.*, 401 F.3d 230, 234 (4th Cir. 2005)).

Ripeness and standing, two related justiciability doctrines that originate in Article III's case or controversy requirement, guide our analysis here. *Trump v. New York*, 592 U.S. 125, 131 (2020); *South Carolina v. United States*, 912 F.3d 720, 730 (4th Cir. 2019) ("'Analyzing ripeness is similar to determining whether a party has standing.'" (quoting *Miller v. Brown*, 462 F.3d 312, 319 (4th Cir. 2006))). Standing requires a plaintiff to show "'an injury that is concrete, particularized, and imminent rather than conjectural or hypothetical.'" *Trump*, 592 U.S. at 131 (quoting *Carney v. Adams*, 592 U.S. 53, 58 (2020)). Ripeness likewise prevents courts from deciding claims that depend on "'contingent future events that may not occur as anticipated or indeed may not occur at all.'" *Id.* (quoting *Texas v. United States*, 523 U.S. 296, 300 (1998)).

In the subpoena context, these doctrines require courts to distinguish between injuries caused by the subpoena itself and injuries that depend on later enforcement of the subpoena. *See First Choice Women's Res. Ctrs., Inc. v. Davenport*, 146 S. Ct. 1114, 1121-24 (2026). Pre-enforcement challenges to investigative subpoenas are generally premature when the subpoena is non-self-executing and the recipient alleges only future injuries that might arise if a court later enforces the subpoena. *See, e.g., Wearly v. FTC*, 616 F.2d 662, 667 (3d Cir. 1980) (finding issuance of non-self-executing subpoena alone did not place subpoenaed party "on the horns of a dilemma" to either turn over the document or suffer civil or criminal penalties and that the subpoenaed person was "free to await enforcement proceedings, and at that time or thereafter, could have raised his objections"); *Google, Inc. v. Hood*, 822 F.3d 212, 223 (5th Cir. 2016) ("[W]e cannot agree with [the state] that an executive official's service of a non-self-executing subpoena creates an ongoing state judicial proceeding.").

A plaintiff may proceed before enforcement, however, if the subpoena itself causes an "actual or imminent" constitutional injury. *First Choice*, 146 S. Ct. at 1122. The subpoena in *First Choice Women's Resources Centers, Inc. v. Davenport* demanded private donor information from a plaintiff, an advocacy organization. *See id.* at 1121. The plaintiff organization alleged that the issuance of the administrative subpoena had deterred donors from associating with it, causing the organization "to suffer an actual and ongoing injury" sufficient for standing purposes. *Id.* at 1122. The Supreme Court held that the plaintiff had "established a present injury" because a demand for private donor information can burden associational rights "when the [demand] is made and for as long as it remains outstanding." *Id.* at 1124. Important to the Court was that the allegations did not focus on future injuries that the plaintiff might face if a court enforced the subpoena. *Id.* at 1128.

The 2024 subpoena here is non-self-executing. Under Pennsylvania law, if a person disobeys a subpoena issued by the Department, "the Secretary of Banking may invoke the aid of the courts," and the court may then issue an order requiring compliance. 7 Pa. Cons. Stat. § 6212. Only if the person fails to obey that court order may the court punish the failure as contempt. *Id.* The Department has not sought judicial enforcement of the 2024 subpoena. J.A. 744. TitleMax SC therefore faces no immediate sanction from the subpoena itself.

TitleMax SC also has not alleged that the subpoena itself causes "actual or imminent" constitutional injury. The 2024 subpoena seeks business records concerning loans, electronic payments, repossessions, and loan information for borrowers with Pennsylvania addresses. J.A. 060-64. TitleMax SC does not allege that the issuance of the subpoena itself changed its business practices or otherwise inflicted a present injury. TitleMax SC's asserted injury instead rests on the premise that the Department may not constitutionally enforce Pennsylvania's usury laws against it. Therefore, unlike the subpoena in *First Choice*, the 2024 subpoena did not create a constitutional injury when "it [was] made" or "for as long as it remains outstanding." 146 S. Ct. at 1125.

Accordingly, TitleMax SC's claims challenging the 2024 subpoena were properly dismissed as unripe.

The dismissal of those claims, however, must be without prejudice. *See, e.g., Scoggins v. Lee's Crossing Homeowners Ass'n*, 718 F.3d 262, 276 (4th Cir. 2013) (remanding a claim to the district court with instructions to dismiss without prejudice "because that claim is not ripe for judicial review"). The district court dismissed the 2024 subpoena claims for ripeness but entered judgment dismissing the complaint with prejudice. J.A. 744; J.A. 760. We therefore affirm the dismissal of the 2024 subpoena claims on ripeness grounds, vacate the judgment insofar as it dismissed those claims with prejudice, and remand with instructions to dismiss those claims without prejudice.

IV. Conclusion

For these reasons, we affirm the dismissal of TitleMax SC's OSC-related claims under *Younger* abstention. We also affirm the dismissal of TitleMax SC's claims challenging the 2024 subpoena on ripeness grounds. Because those claims are not ripe, however, they must be dismissed without prejudice. We therefore vacate the judgment insofar as it dismissed the 2024 subpoena claims with prejudice and remand with instructions to dismiss those claims without prejudice.

AFFIRMED IN PART, VACATED IN PART, AND REMANDED WITH INSTRUCTIONS.

APPENDIX B — ORDER AND OPINION OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, FLORENCE DIVISION, FILED AUGUST 15, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

CASE NO.: 4:24-cv-04399-JD

TITLEMAX OF SOUTH CAROLINA, INC.,

Plaintiff,

vs.

WENDY SPICHER, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE PENNSYLVANIA DEPARTMENT OF BANKING AND SECURITIES,

Defendant.

ORDER AND OPINION GRANTING DEFENDANT'S MOTION TO DISMISS PURSUANT TO ISSUE PRECLUSION OR YOUNGER ABSTENTION

This case concerns federalism and comity issues arising from a multi-jurisdictional litigation campaign challenging state regulation of short-term, collateralized title loans. Presently before the Court is Defendant Wendy Spicher's Motion to Dismiss under Federal Rules of Civil Procedure 12(b)(1), 12(b)(6), and 12(b)(2). (DE 22.) In light of prior litigation between the parties across multiple jurisdictions, the Court directed Defendant Wendy Spicher ("Spicher") and Plaintiff TitleMax of

South Carolina, Inc. ("TitleMax") to file, respectively, consolidated supplemental memoranda in support of, and in opposition to, the Motion to Dismiss. (*See* DE 69.) Although this case is stayed (DE 36), the parties have ably complied. (*See, e.g.*, DE 70 (Spicher's supplemental memoranda); DE 71 (TitleMax's consolidated response).)

For the reasons set forth below, the Court grants Defendant Wendy Spicher's Motion to Dismiss. All remaining motions are denied as moot.

I. BACKGROUND

A. Factual Background[1]

1. TitleMax's Business

TitleMax is a South Carolina corporation with its principal place of business in Savannah, Georgia. (Compl. ¶ 10, DE 1 at 5.) TitleMax offers what South Carolina law calls "supervised loans" to consumer-borrowers. (*Id.* ¶ 9, DE 1 at 5.) These loans are secured by the consumer-borrower's car title. (*Id.* ¶ 25, DE 1 at 8.)

TitleMax has several locations in South Carolina (*id.* ¶ 22, DE 1 at 7), and with few exceptions involving servicing its loans,[2] TitleMax has "always" contracted to

---

1. Because this is a ruling on a motion to dismiss, the Court takes as true all facts as presented in the Complaint. *See Hebb v. City of Asheville*, F.4th , No. 24-1383, slip op. at 10 (4th Cir. July 23, 2025).

2. TitleMax explains that some activities involved with its supervised loans may not occur in South Carolina, namely:

provide its services only in South Carolina at its "brick-and-mortar" locations. (*Id.* ¶ 25, DE 1 at 8.) In addition, TitleMax uses GPS tracking to ensure that consumer-borrowers contracting with TitleMax using the internet are located in South Carolina. (Compl. ¶¶ 43-44, DE 1 at 11-12.) Nonetheless, TitleMax has identified about 120 consumer-borrowers with "a Pennsylvania address." (*Id.* ¶ 42, DE 1 at 11.)

2. Pennsylvania's Relevant Actions to Regulate TitleMax

On June 7, 2024, TitleMax received a subpoena from the Pennsylvania Department of Banking and Securities ("the Department").[3] (*Id.* ¶ 64, DE 1 at 17.) The subpoena—issued by the Department and labelled "Investigative Subpoena for the Production of Documents and Information" ("the 2024 Subpoena")—demands that TitleMax produce four categories (with subparts) of

- refinancing the loan (Compl. ¶ 25, DE 1 at 8),
- fund-disbursement through MoneyGram International, Inc. (*id.* ¶ 29, DE 1 at 9), and
- "the ministerial act of securing its lien on the borrower's motor vehicle with the appropriate agency in the state where the motor vehicle is registered by submitting the necessary lien documentation." (*Id.* ¶ 30, DE 1 at 9.)

3. This was not the first subpoena TitleMax received from the Department. As recounted elsewhere, this is a "years-long dispute" between TitleMax and Spicher. *See TMX Finance LLC v. Spicher*, No. 1:24-cv-02093, 2025 U.S. Dist. LEXIS 8303 at *2 (M.D. Pa. Jan. 16, 2025), ECF No. 65.

records "from August 23, 2017[,] through the present" (DE 1-2 at 4-6), and that it do so "no later than July 8, 2024[.]"[4] (*Id.* at 3.) TitleMax contends this subpoena was improperly served upon it. (Compl. ¶ 69, DE 1 at 18.)

Seven days later, on June 14, 2024, the Department issued an Order to Show Cause ("OSC") to TitleMax. (*Id.* ¶72. DE 1 at 18.) The OSC was filed in an administrative proceeding in Pennsylvania within the Department ("the Pennsylvania Proceeding" or "the Proceeding"). (DE 1-1 at 4.) The OSC asserts that TitleMax must explain why it is not liable for over 5,000 violations of Pennsylvania law, each carrying "a civil penalty of $10,000," in addition to restitution. (DE 1-1 at 8.) TitleMax urges that the OSC, too, was improperly served upon it. (Compl. ¶ 76, DE 1 at 19.)

B. Procedural Background

1. TitleMax's Constitutional Claims

On August 13, 2024, TitleMax filed the Complaint in this case. In it, TitleMax asserts four causes of action against Spicher (in her official capacity) under 42 U.S.C. § 1983:

---

4. Courts may consider a document attached to a pleading when the document is "integral to and explicitly relied on in the complaint" and where no "challenge [to] authenticity" exists. *Phillips v. LCI Int'l, Inc.*, 190 F.3d 609, 618 (4th Cir. 1999). Here, some of TitleMax's claims turn on the 2024 Subpoena and its domestication. (*See, e.g.*, Compl. ¶ 120, DE 1 at 30; *id.* ¶ 129, DE 1 at 33.) No one disputes the authenticity of the 2024 Subpoena.

- Count I: Violation of the so-called Dormant Commerce Clause of Article I, § 4 of the U.S. Constitution;

- Count II: Violation of the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution;

- Count III: Violation of the Full Faith and Credit Clause of Article IV of the U.S. Constitution; and

- Count IV: Violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

(Compl. ¶¶ 105-40, DE 1 at 27-35.) These claims center on the constitutional propriety of the 2024 Subpoena and of the OSC. (*See, e.g., id.* ¶¶ 111-12, DE 1 at 28.) TitleMax seeks declaratory and prospective relief, plus fees and costs. (*Id.* ¶¶ a.-g., DE 1 at 35-36.) Notably, TitleMax did *not* seek a preliminary injunction.

2. The Parties' Requests For Preliminary Relief and Venue-Transfer

(a) TitleMax's First Request for Injunctive Relief

On September 25, 2024, TitleMax moved this Court for a preliminary injunction. (DE 16.) TitleMax asserted that the OSC compelled it to choose between two untenable options: either to "submit to the purported authority" of the Department in the Pennsylvania Proceeding or to "accept a default judgment" exceeding fifty million dollars. (DE 16-1 at 8.) TitleMax also argued that Pennsylvania law precluded it from moving to dismiss the action on jurisdictional grounds. (DE 18 at 6.)

On September 30, 2024, Spicher responded in opposition. Her response revealed that TitleMax's response to the OSC was due—after two extensions—on September 13, 2024. (DE 17 at 5.) Spicher also explained that during the extension period, TitleMax's affiliates chose to file *five other* federal lawsuits against her in her official capacity. (*Id.* & at 4 n.1.) Those suits—which the Court will return to in due course in this Order[5] —were:

- *CCFI Companies, LLC and TitleMax of Ohio, Inc. v. Spicher ("The Ohio Suit")*, No. 3:24-cv-00220 (S.D. Ohio transferred Dec. 11, 2024);

- *TitleMax of Virginia, Inc. v. Spicher ("The Virginia Suit")*, No. 7:24-cv-00532 (W.D. Va. transferred Dec. 20, 2024);

- *TMX Fin. LLC and Title Max Funding, Inc. v. Spicher ("The Georgia Suit")*, No. 4:24-cv-00175 (S.D. Ga. transferred Dec. 4, 2024);

5. This Court takes judicial notice of these lawsuits. Rule 201(b), Fed. R. Evid.; *see Corbitt v. Baltimore City Police Dep't*, 675 F. Supp. 3d 578, 587 (D. Md. 2023).

- *TMX Fin. Corp. Servs., Inc. v. Spicher ("The Tex. Suit")*, No. 3:24-cv-02054, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580 (N.D. Tex. Dec. 5, 2024); and

- *TitleMax of Delaware, Inc. v. Spicher ("The Delaware Suit")*, No. 1:24-cv-00930, 2024 U.S. Dist. LEXIS 231146 (D. Del. transferred Dec. 20, 2024).

(DE 17 at 5 n.1.) Spicher explained that only after TitleMax failed to obtain a stay in the Pennsylvania Proceeding did it—and its five affiliates in their respective lawsuits—seek six total injunctions against her. (*Id.* at 5.)

On October 10, 2024, TitleMax notified this Court that it wished to stay its earlier motion for a preliminary injunction due to TitleMax obtaining a stay three days prior in the Pennsylvania Proceeding. (*See* DE 23 at 1.) The Court granted TitleMax's motion.[6] (DE 36.) In addition, the Court ordered the parties to provide joint status reports every ninety days as to the status of the Pennsylvania Proceeding. (*Id.*) The parties have done so. (*See* First Joint Status Report, DE 63; Second Joint Status Report, DE 67; Third Joint Status Report, DE 75.)

---

6. The stay Order directed that the case be held in abeyance "until Defendant's appeal of the Stay Order granted in the Pennsylvania administrative proceeding that is the subject of Plaintiff's motion for a preliminary injunction has been resolved." (DE 36.) As noted *infra*, the Court lifts this stay.

(b) Spicher's Motion to Change Venue

On November 5, 2024, Spicher moved this Court to transfer venue of this action to the Middle District of Pennsylvania. (DE 34.) In the alternative, Spicher requested that the Court stay proceedings pending resolution of the Motion to Dismiss. (*Id.* at 1.) TitleMax opposes the requested transfer on the threshold ground that it could not have initiated this action in the Middle District of Pennsylvania. Also, it argues that the relevant factors governing venue transfer weigh against such a move in this case. (*Id.* at 12-22.) TitleMax further contends that a stay is unwarranted. (*Id.* at 22-25.) This motion remains pending.

(c) TitleMax's Request to Lift the Stay and Grant Injunctive Relief

On November 21, 2024, TitleMax filed two motions: one to lift the stay (DE 43) and another seeking an expedited ruling on its motion for a preliminary injunction (DE 44). TitleMax explains that it had unsuccessfully appealed the previously granted stay in the Pennsylvania Proceeding (*id.* at 3), and therefore requests an Order from this Court establishing expedited briefing before the December 16, 2024, deadline to respond to the OSC. (*Id.* at 4.) TitleMax reiterates in its argument that the OSC presents a Hobson's choice. (*Id.* at 4-5.) Spicher opposes the motion, insisting that TitleMax "will not waive any constitutional rights or defenses by" responding to the OSC. (DE 47 at 1.) This motion, too, remains pending.

3. Spicher's Motion to Dismiss

In Spicher's original October 7, 2024, motion to dismiss, Spicher made two arguments:

- this Court should invoke *Younger* abstention and dismiss pursuant to Rules 12(b)(1) or 12(b)(6) of the Federal Rules of Civil Procedure (DE 22 at 7-8 (citing *Younger v. Harris*, 401 U.S. 37, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971)), and

- this Court is without personal jurisdiction under Rule 12(b)(2) of the Federal Rules of Civil Procedure (*id.* at 14-21).

Beginning in December 2024—two months after Spicher's motion to dismiss was filed—other federal courts began to rule on Spicher's and the TitleMax affiliates' motions. The Court outlines some of these rulings below[7] :

- On December 16, 2024, Spicher provided the Court with an order in *The Ohio Suit*, in which the U.S. District Court for the Southern District of Ohio granted Spicher's motion to transfer venue,[8] (DE 49);

7. Not mentioned here is *The Georgia Suit*. In Spicher's December 5, 2024, opposition to TitleMax's motion for an expedited ruling on its preliminary injunction, Spicher notified this Court of transfer of *The Georgia Suit* to the Middle District of Pennsylvania. (*See* DE 47 at 4 n.7.)

8. Order at 10-11, *The Ohio Suit*, No. 3:24-cv-00220 (S.D. Ohio Dec. 11, 2024), ECF No. 37.

- On December 24, 2024, Spicher provided the Court with an order in *The Delaware Suit*, in which U.S. District Court for the District of Delaware granted Spicher's motion to transfer venue,[9] (DE 52);

- Also on December 24, 2024, Spicher provided the Court with an order in *The Virginia Suit*, in which the U.S. District Court for the Western District of Virginia granted Spicher's motion to transfer venue,[10] (DE 53); and

- On January 16, 2025, Spicher provided the Court with an order from the U.S. District Court for the Middle District of Pennsylvania granting Spicher's motion and dismissing *The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit* pursuant to *Younger* abstention,[11] (DE 58).

Given these developments, on May 19, 2025, the Court granted Spicher's requests to file supplemental memoranda to her motion. (DE 69.) The Court also ordered "a single, consolidated response" be filed by TitleMax to Spicher's forthcoming, "twice[-]supplemented" memoranda. (*Id.*) The parties ably complied, with TitleMax also filing a supplemental memorandum (DE 72.) These matters are now ripe for review and adjudication.

---

9. Order at 1, *The Delaware Suit*, No. 1:24-cv-00930, 2024 U.S. Dist. LEXIS 231146 (D. Del. Dec. 20, 2024), ECF No. 43.

10. Order at 13, *The Virginia Suit*, No. 7:24-cv-00532 (W.D. Va. Dec. 20, 2024), ECF No. 80.

11. *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *1.

II. DISCUSSION

A. Even If Personal Jurisdiction Exists,[12] Issue Preclusion Applies, or in the Alternative, *Younger* Abstention Independently Is Warranted

Spicher consistently has maintained that *Younger* abstention should apply here. (*See* DE 22 at 7-14.) As

12. This Court has reason to believe that specific personal jurisdiction, at a minimum, may exist in this matter. But it remains unsettled whether the South Carolina long-arm statute reaches "an agent of a foreign state" who is "[a]cting in her official capacity[ ] . . . ." (DE 73 at 15.)

It is true that the South Carolina Supreme Court has construed the term "person" under the statute to reach the outer limits permitted by the Due Process Clause. *See Cockrell v. Hillerich & Bradsby Co.*, 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005). And *Ex Parte Young*, 209 U.S. 123, 143, 28 S. Ct. 441, 52 L. Ed. 714 (1908), was understood to be part of the judicial status of pleading causes of action at least as of 1972, when the long-arm statute was re-codified. *Cf. Branchville Motor Co. v. Adden*, 158 S.C. 90, 155 S.E. 277, 278 (1930) (explaining "judicial status" of act at time of enactment is one "natural and safe guide to [ ] intent"); *Eslinger v. Thomas*, 340 F. Supp. 886, 895 (D.S.C. 1972), *aff'd in part, rev'd in part*, 476 F.2d 225 (4th Cir. 1973) (official-capacity suit for prospective relief alleging Equal Protection claim).

But whether subsequent judicial expansion of *Ex Parte Young* can be relied on here is a question this Court need not resolve to grant Spicher's motion. Likewise, the question of whether Spicher's alleged contacts are sufficient is one that might ordinarily warrant limited jurisdictional discovery—but such discovery is unnecessary in light of this Court's ruling.

In short: the Court declines to reach and rule on Spicher's Rule 12(b)(2) arguments because even assuming personal jurisdiction exists, dismissal is required.

discussed above, however, the question now before the Court is more nuanced: whether this Court's ability to abstain under *Younger* and its progeny is foreclosed by the doctrine of federal issue preclusion. Spicher says yes. (*See* DE 70 at 4-11.) TitleMax disagrees, arguing that *Younger* abstention is either wholly inapplicable, or that, even if it applies, this case presents an exception to the doctrine. In any event, TitleMax asserts that issue preclusion does not bar this Court's consideration. (*See generally* DE 71; DE 72.)

After careful consideration, and for the reasons below, the Court concludes that issue preclusion applies, or in the alternative, this Court must abstain under *Younger*.

1. The Principles of Issue Preclusion

The doctrine of "issue preclusion ordinarily bars relitigation of an issue of fact or law raised and necessarily resolved by a prior judgment." *Bravo-Fernandez v. United States*, 580 U.S. 5, 10, 137 S. Ct. 352, 196 L. Ed. 2d 242 (2016). As Justice Harlan explained in 1896, "[t]his general rule is demanded by the very object for which civil courts have been established," namely "to secure the peace and repose of society by the settlement of matters capable of judicial determination." *S. Pac. R. Co. v. United States*, 168 U.S. 1, 49, 18 S. Ct. 18, 42 L. Ed. 355 (1897). In addition, issue preclusion "protect[s] litigants from the burden of relitigating an identical issue with the same party or his privy" and "promot[es] judicial economy by preventing needless litigation." *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 326, 99 S. Ct. 645, 58 L. Ed. 2d 552 (1979).

In the Fourth Circuit, "the proponent [seeking to establish issue preclusion] must establish" the following:

1. "the issue sought to be precluded is identical to one previously litigated;"

2. "the issue must have been actually determined in the prior proceeding;"

3. "determination of the issue must have been a critical and necessary part of the decision in the prior proceeding;"

4. "the prior judgment must be final and valid;" and finally

5. "the party against whom estoppel is asserted must have had a full and fair opportunity to litigate the issue in the previous forum."

Sedlack v. Braswell Servs. Grp., Inc., 134 F.3d 219, 224 (4th Cir. 1998).

That said, proponents may invoke the doctrine "defensively," *see Blonder-Tongue Lab'ys, Inc. v. Univ. of Illinois Found.*, 402 U.S. 313, 350, 91 S. Ct. 1434, 28 L. Ed. 2d 788 (1971), or "offensively." *See Parklane Hosiery Co.*, 439 U.S. at 326. In any case, there is a "mutuality" principle holding that "as a general rule, nonparties will not have had a full and fair opportunity to litigate the issues raised in the previous action." *Virginia Hosp. Ass'n v. Baliles*, 830 F.2d 1308, 1312 (4th Cir. 1987).

Yet, as the Fourth Circuit has recognized, "[u]nder some circumstances, however, nonparties can be precluded from relitigating issues determined in a prior suit." *Martin v. Am. Bancorporation Ret. Plan*, 407 F.3d 643, 654 n.18 (4th Cir. 2005) (quoting *Baliles*, 830 F.2d at 1312). This is permissible only when the non-party is of one of three classes:

- "a non-party who controls the original action";
- "a successor-in-interest to a prior party"; or
- "a non-party whose interests were adequately represented by a party to the original action."

Martin, 407 F.3d at 651.

2. The Issue On Which Preclusion Is Invoked: *Younger* Abstention

"In the main, federal courts are obliged to decide cases within the scope of federal jurisdiction." *Sprint Communs., Inc. v. Jacobs*, 571 U.S. 69, 72, 134 S. Ct. 584, 187 L. Ed. 2d 505 (2013). However, "there are some classes of cases in which the withholding of authorized equitable relief because of undue interference with state proceedings is 'the normal thing to do[.]'" *New Orleans Pub. Serv., Inc. v. Council of City of New Orleans ("NOPSI")*, 491 U.S. 350, 359, 109 S. Ct. 2506, 105 L. Ed. 2d 298 (1989) (quoting *Younger v. Harris*, 401 U.S. 37, 45, 91 S. Ct. 746, 27 L. Ed. 2d 669 (1971)). In those cases, to so withhold relief is called invoking "the *Younger v. Harris* doctrine," *Moore v. City of Asheville, N.C.*, 396 F.3d 385, 390 (4th Cir. 2005), or more simply, "*Younger* abstention." *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass'n*, 457 U.S. 423, 431, 102 S. Ct. 2515, 73 L. Ed. 2d 116 (1982).

In *Sprint Communications, Inc. v. Jacobs*, the U.S. Supreme Court clarified that *Younger* abstention only applies to certain state cases, namely:

- "ongoing state criminal prosecutions";
- "certain 'civil enforcement proceedings'";[13] or
- "pending 'civil proceedings involving certain orders . . . uniquely in furtherance of the state courts' ability to perform their judicial functions.'"

571 U.S. at 78 (quoting *NOPSI*, 491 U.S. at 368.)

But the fact that such a case is in issue is not the end of the inquiry. That is because "underlying *Younger* abstention" is a policy of "comity and federalism," *Middlesex Cnty. Ethics Comm.*, 457 U.S. at 431 n.10, that must be furthered by abstaining in each case. *See Sprint Commc'ns, Inc.*, 571 U.S. at 81 (2013) (explaining that

13. The Fourth Circuit has clarified that these "civil enforcement proceedings" which are "akin to a criminal prosecution in important respects" are "commonly referred to as 'quasi-criminal' proceedings[ ] . . . ." *Air Evac EMS, Inc. v. McVey*, 37 F.4th 89, 96 (4th Cir. 2022).

"additional factors [are] appropriately considered by the federal court before invoking *Younger*"). "Comity" means "a proper respect for state functions," *Moore*, 396 F.3d at 391 (quoting *Younger*, 401 U.S. at 44), and "federalism" here means, at a minimum, "tak[ing] into account that an adequate state forum for all relevant issues" exists and such forum was "available prior to" the federal proceedings. *Middlesex Cnty. Ethics Comm.*, 457 U.S. at 437. So, a court considering abstaining under *Younger* must consider whether the proceeding:

- is an "ongoing state judicial proceeding";
- "implicate[s] important state interests"; and
- offers "an adequate opportunity . . . to raise constitutional challenges."

Id. at 432. These are referred to colloquially as the "*Middlesex* factors."

In short, courts in this circuit must follow a two-step procedure when confronted with a *Younger*-abstention issue: "if [a] case falls into one of the three settled [*Sprint*] categories, courts should go on to determine if federal involvement will in fact put comity at risk" using the *Middlesex* factors. *Jonathan R. by Dixon v. Just.*, 41 F.4th 316, 329 (4th Cir. 2022). If, on the other hand, it "does not, [then] courts need go no further," and "can properly entertain their federal-question jurisdiction without worrying about stepping on state toes." *Id.*

Nonetheless, "even when both steps are satisfied," *Younger* abstention may not apply. *Air Evac EMS, Inc.*, 37 F.4th at 96. That happens under circumstances such as "where irreparable injury is both great and immediate, where the state law is flagrantly and patently violative of express constitutional prohibitions, or where there is a showing of bad faith, harassment, or . . . other unusual circumstances that would call for equitable relief." *Mitchum v. Foster*, 407 U.S. 225, 230, 92 S. Ct. 2151, 32 L. Ed. 2d 705 (1972) (internal quotation marks and citations omitted).

With these principles in mind, the Court turns to the case *sub judice*. The Court begins by outlining the relevant decisions rendered in the parallel proceedings. The Court then addresses whether those decisions meet the elements necessary to give rise to issue preclusion with respect to each dispositive question presented here.

3. The Decisions in the Parallel Proceedings

(a) The Issues Presented to Those District Courts

As explained above, TitleMax raises four constitutional claims in this case. Review of TitleMax's complaints in each of the five other cases reveal that TitleMax raised identical claims in those courts. *See* Compl. ¶¶ 100-35, *The Ohio Suit*, No. 3:24-cv-00220 (S.D. Ohio Aug. 13, 2024), ECF No. 1; Compl. ¶¶ 103-138, *The Virginia Suit*, No. 7:24-cv-00532 (W.D. Va. Aug. 13, 2024), ECF No. 1; Compl. ¶¶ 87-123, *The Georgia Suit*, No. 4:24-cv-00175 (S.D. Ga

Aug. 13, 2024), ECF No. 1; Compl. ¶¶ 82-124, *The Texas Suit*, No. 3:24-cv-02054 (N.D. Tex. Aug. 13, 2024), ECF No. 1; Compl. ¶¶ 97-131, *The Delaware Suit*, No. 1:24-cv-00930 (D. Del. Aug. 13, 2024), ECF No. 1.

As also explained above, Spicher raised two alternative defenses in this case: lack of personal jurisdiction and *Younger* abstention. Review of Spicher's papers in each of the other five cases reveals that Spicher raised these same defenses before each court. *See* Mot. to Dismiss at 7-20, *The Ohio Suit*, No. 3:24-cv-00220 (S.D. Ohio Oct. 7, 2024), ECF No. 20; Mem. in Supp. of Mot. to Dismiss at 7-21, *The Virginia Suit*, No. 7:24-cv-00532 (W.D. Va. Oct. 7, 2024), ECF No. 20; Mot. to Dismiss at 7-22, *The Georgia Suit*, No. 4:24-cv-00175 (S.D. Ga Oct. 7, 2024), ECF No. 24; Mot. to Dismiss at 7-23, *The Texas Suit*, No. 3:24-cv-02054 (N.D. Tex. Oct. 7, 2024), ECF No. 32; Mot. To Dismiss at 6-18, *The Delaware Suit*, No. 1:24-cv-00930 (D. Del. Oct. 7, 2024), ECF No. 18.

In sum, as of the date of this Order, TitleMax's constitutional claims—and Spicher's *Younger*-abstention defense now before *this* Court—have been considered by *five other* federal district courts. The Court now turns to examine the two decisions in which its sister courts addressed the *Younger*-abstention issue directly.[14]

14. Repeated for the reader's convenience—but noted *supra* text accompanying note 11—*The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit* were transferred to the Middle District of Pennsylvania and all were resolved by that court. *The Texas Suit* was resolved by the U.S. District Court for the Northern District of Texas.

(b) The December 2024 Decision in The Texas Suit

On December 5, 2024, the U.S. District Court for the Northern District of Texas in the *Texas Suit* resolved the *Younger*-abstention issue in Spicher's favor. In so doing, the district court elected to leave the "issues of personal jurisdiction or preclusion" unresolved. *The Texas Suit*, No. 3:24-CV-2054-N, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *1 (N.D. Tex. Dec. 5, 2024). The district court's analysis of *Younger* centered on the three so-called "*Middlesex* factors." *Id.*

Beginning with the first of those factors, the district court considered "whether there [wa]s an ongoing state judicial proceeding." *Id.* The district court had no trouble concluding that this factor was met. It rejected the arguments advanced by the TitleMax affiliate about the stay in the Pennsylvania Proceeding, noting that the stay had been lifted.[15] But the Court observed that even if the stay had remained in effect, the proceeding would still be considered ongoing, as it was "pending at the time" the TitleMax affiliate "filed its initial complaint in [*The Texas Suit*]." *Id.* (quoting *PDX N., Inc. v. Comm'r N.J. Dep't of Lab. & Workforce Dev.*, 978 F.3d 871, 885 (3d Cir. 2020).)

The district court then turned to the second *Middlesex* factor—"whether the proceeding implicates important state interests." 2024 U.S. Dist. LEXIS 220181, [WL]

15. This refers to the October 7, 2024, stay that TitleMax obtained in the Pennsylvania Proceeding. (DE 23 at 1.) That stay, as noted *supra*, was lifted on appeal.

at *2. Quoting an earlier Third Circuit Court of Appeals decision discussing the Pennsylvania laws in issue,[16] the district court had no issue concluding that this second factor was "clearly" met. *Id.*

Turning to the final factor—whether "state law clearly bars the interposition of the constitutional claims," *The Texas Suit*, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *2 (quoting *Middlesex Cnty. Ethics Comm.*, 457 U.S. at 432)—the district court again concluded this factor favored abstention. *Id.*

The district court took care to address the TitleMax affiliate's arguments about its inability to obtain a pre-merits personal jurisdiction determination and whether that would constitute irreparable harm. 2024 U.S. Dist. LEXIS 220181, [WL] at *2-3. On the first issue, the district court looked to the statutes governing the Department and the Proceeding—and authority interpreting them—to conclude that the TitleMax affiliate "has adequate opportunity to be heard" regarding its dispositive motions. 2024 U.S. Dist. LEXIS 220181, [WL] at *2. And as to the issue of "irreparable harm," the district court observed the TitleMax affiliate's conduct in the interim showed "no evidence" that they ever sought to "move for dismissal on lack of personal jurisdiction or that they were denied the opportunity to do so by the Department." 2024 U.S. Dist. LEXIS 220181, [WL] at *3.

16. The laws discussed in that Third Circuit case—*TitleMax of Delaware, Inc. v. Weissmann*, 24 F.4th 230 (3d Cir. 2022)—are the same laws enforced against TitleMax here. Notably, the *Weissmann* opinion dealt with one of the constitutional arguments raised here.

But the district court did not end its analysis there. It went on to address other of the TitleMax affiliate's arguments for departing from *Younger* abstention, specifically invoking the risk of "great and immediate" harm and alleging "bad faith" in the Pennsylvania Proceeding. *Id.* The district court found these arguments unpersuasive. First, the district court emphasized that the TitleMax affiliate had not met its burden to show the absence of an "adequate opportunity to raise constitutional challenges," thereby foreclosing any claim of irreparable harm on that basis. *Id.*

Second, with respect to the bad-faith allegation, the district court characterized the TitleMax affiliate's claim as little more than a challenge on the "merits." *The Texas Suit*, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *3. The district court also noted that Spicher had "recused herself from all TitleMax[-]related adjudicative matters," and, in light of the presumption of regularity afforded to official actions, the court found no grounds for concern. *Id.*

The district court thus granted Spicher's motion to dismiss, and denied all remaining motions—including the TitleMax affiliate's motion for a TRO and transfer motions—as moot. 2024 U.S. Dist. LEXIS 220181, [WL] at *3 & n.1.

(c) The January 2025 Decision in *The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit*

On January 16, 2025, the U.S. District Court for the Middle District of Pennsylvania resolved the

Younger-abstention issue in Spicher's favor in the four cases transferred to it. That district court began its comprehensive opinion by outlining the "years-long dispute" between the TitleMax affiliates and the Department. *See TMX Finance LLC v. Spicher*, No. 1:24-cv-02093, 2025 U.S. Dist. LEXIS 8303 at *2 (M.D. Pa. Jan. 16, 2025), ECF No. 65. Beginning with the Department's 2017 subpoena, *id.* at 3-4, the district court turned to the subsequent June 2024 subpoena and the initiation of the Pennsylvania Proceeding, *id.* at 4-5, and the six federal lawsuits filed while the Proceeding was pending. *Id.* at 5-6. The district court then described the TitleMax affiliates' efforts to stay the Pennsylvania Proceeding, *id.* at 6-7, and Spicher's motions to dismiss and change venue. *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *8.

(i) Conclusion as to *Younger* Part One: The Pennsylvania Proceeding Was Quasi-Criminal

Turning to the merits of *Younger* abstention,[17] the district court began with the question of whether the Pennsylvania Proceeding was "quasi-criminal" in nature, under the law of the Third Circuit. *Id.* (quoting three-factor test for this inquiry from *Borowski v. Kean Univ.*, 68 F.4th 844, 851 (3d Cir. 2023)). The district court concluded that the first *Younger* factor was satisfied. Despite the TitleMax affiliates' objections, the court found that the Pennsylvania Proceeding had been initiated by a Pennsylvania administrative agency—an entity created by

17. The district court first noted that it had jurisdiction, rendering that portion of Spicher's argument moot. *See TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *10 n.8.

statute—thereby establishing that the Proceeding "was initiated by [Pennsylvania] in its sovereign capacity." *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303, *14.

Next, the district court found that the purpose of the Proceeding was retributive. *Id.* at 18. Pointing to a provision of Pennsylvania law authorizing criminal penalties, the district court unequivocally rejected the TitleMax affiliates' argument concerning improper incentive structure and the purported unavailability of injunctive relief, finding both contentions misplaced and the supporting authorities inapposite. *Id.* at 15-18.

On the third *Borowski* factor, the district court concluded that the Pennsylvania Proceeding was sufficiently similar to a criminal proceeding. 2025 U.S. Dist. LEXIS 8303 at *19. The district court first noted that the scope of the 2017 subpoena directed at TitleMax and its affiliates "imbu[ed] the Pennsylvania Proceeding with a quasi-criminal quality," 2025 U.S. Dist. LEXIS 8303 at *21, despite the fact that some TitleMax affiliates "were not investigated at all" in that subpoena. *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *20. The district court also had no difficulty concluding that a "parallel criminal statute exist[ed]." 2025 U.S. Dist. LEXIS 8303 at *21. So, in sum, the proceeding was quasi-criminal.

(ii) Conclusion as to *Younger* Part Two: The *Middlesex* Factors Are Satisfied

Concluding the Proceeding was "quasi-criminal," the district court turned to the *Middlesex* factors, beginning with whether the Pennsylvania Proceeding was "ongoing and judicial in nature." 2025 U.S. Dist. LEXIS 8303 at *22. The district court considered and rejected each of the TitleMax affiliates' arguments—namely, that "the date the same constitutional claims pled in the federal complaint were raised in the state proceeding" controls, 2025 U.S. Dist. LEXIS 8303 at *22 (quoting another source); that the "OSC alone is insufficient" to constitute an ongoing proceeding, 2025 U.S. Dist. LEXIS 8303 at *22, and the purportedly "defective service of the OSC" rendered the Pennsylvania Proceeding not properly initiated. *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *25.

The district court then pointed to the judicial nature of the Proceeding. Specifically, the Proceeding's "initiat[ion] by a formal pleading[ ]"; the TitleMax affiliates' "right to challenge" the OSC in the Proceedings; the "comprehensive set of rules" governing the Proceeding, and the TitleMax affiliates' ability to challenge the results of the Proceeding in judicial review. 2025 U.S. Dist. LEXIS 8303 at *26.

As to the second *Middlesex* factor, the district court easily rejected the TitleMax affiliates' argument about Pennsylvania's interests in this case as going to "the merits of [the] TitleMax[ ] [affiliates'] underlying claims" rather than the question of "the importance of the generic proceeding to the State[ ] . . . ." *Id.* at 25-26 (quoting *NOPSI*, 491 U.S. at 365).

On the third *Middlesex* factor, the district court considered three arguments. First, the argument that

"Pennsylvania's General Rules of Administrative Practice and Procedure preclude the filing of and rulings on motions to dismiss." *Id.* at 26. The district court noted contrary language in the statutes, and explained that the TitleMax affiliates' argument bottomed on an improper assumption with no language supporting it that "state procedures will [not] afford an adequate remedy[ ] . . . ." *Id.* (quoting *Pennzoil Co. v. Texaco, Inc.*, 481 U.S. 1, 15, 107 S. Ct. 1519, 95 L. Ed. 2d 1 (1987)).

Next, that the TitleMax affiliates had no ability to "present [their] constitutional claims" because "the Department has no authority to rule on the constitutionality of the laws it enforces." *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *29. Importantly, the district court noted that it has long been the law that it is sufficient if "state-court judicial review" permits such arguments. *Id.* (quoting *Ohio Civil Rights Comm'n v. Dayton Christian Sch., Inc.*, 477 U.S. 619, 629, 106 S. Ct. 2718, 91 L. Ed. 2d 512 (1986)).

Third, that the TitleMax affiliates cannot appeal a loss in the Proceeding in Pennsylvania court due to a state jurisdictional statute. 2025 U.S. Dist. LEXIS 8303 at *37. The district court explained that the TitleMax affiliates' interpretation is both internally inconsistent with its position and based on a misreading of the law. *Id.* With these arguments resolved, the district court concluded that the *Middlesex* factors were satisfied.

(iii) Conclusion as to Exceptions to *Younger*: None Apply

The district court turned to the TitleMax affiliates' arguments about the applicability of exceptions to *Younger*, namely:

- that its injury "is irreparable" as well as "great and immediate," 2025 U.S. Dist. LEXIS 8303 at *31;
- that "bad faith" exists on the part of the Department, *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *31;
- that the Department is "unconstitutionally disqualified" from hearing the case, given its pecuniary interest in the outcome, 2025 U.S. Dist. LEXIS 8303 at *33;
- that Spicher's presence on the Department's appellate commission renders the Proceeding inherently biased, 2025 U.S. Dist. LEXIS 8303 at *33;
- that the TitleMax affiliates' relief sought is "wholly prospective" because it only seeks to prevent of "future administrative proceedings" through legal action. 2025 U.S. Dist. LEXIS 8303 at *35.

The district court rejected each argument in turn. 2025 U.S. Dist. LEXIS 8303 at *31. First, the district court noted that the TitleMax affiliates could raise their constitutional arguments in the Proceeding. Second, the TitleMax affiliates failed to point to anything aside from the merits of their position—which is insufficient to establish bad faith. Third, the isolated statement on the Department's website that it is "funded entirely by the assessments and fees paid" is "plainly insufficient." *TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *34. Fourth, that no authority establishes that Spicher's mere presence on the appellate body renders it constitutionally defective, and besides, Spicher "previously recused herself" in related proceedings, and would do so again. 2025 U.S. Dist. LEXIS 8303 at *34. Finally, the TitleMax affiliates' arguments about "wholly prospective relief" ignore the context—that "the purpose of [the] TitleMax[ ] [affiliates'] singular request for prospective relief *cannot be separated* from the purpose of its requesting present relief or the overall purpose of [the] TitleMax[ ] [affiliates'] lawsuits, i.e., to *interfere with the Pennsylvania Proceeding*." 2025 U.S. Dist. LEXIS 8303 at *36 (emphasis added). With no exception applicable to the facts, the district court decided to abstain.

Having reviewed the opinions of the district courts in the Northern District of Texas and the Middle District of Pennsylvania, the Court now turns to TitleMax's supplemental memoranda, wherein it argues that events occurring subsequent to the issuance of the Middle District of Pennsylvania's opinion bear upon this Court's analyses under the principles of issue preclusion and *Younger*.

4. TitleMax's Supplemental Memorandum of June 5, 2025

On June 5, 2025, TitleMax filed a supplemental memorandum. (DE 72.) In it, TitleMax provides additional history of the Pennsylvania Proceeding. Specifically, that on May 29, 2025, TitleMax and its affiliates' interlocutory appeal of a proposed denial of their constitutional objections to personal jurisdiction was itself denied ("the May 28 Commission Denial"). (DE 72 at 1-2; *see* DE 72-1 (the denial itself).) Also, TitleMax explains that it lost on appeal to the Pennsylvania Commonwealth Court regarding denial of the November 15, 2024, motion to stay in an order and opinion issued on May 28, 2025 ("the May 29 Commonwealth Court Denial"). (*See* DE 72 at 1; *see also TitleMax of Delaware v. Dep't of Banking & Securities*, No. 1697 C.D. 2024, slip op. at 1 (Pa. Commw. Ct. May 28, 2025).)

In its briefings, TitleMax contends that these decisions of May 28 and May 29, 2025, undermine the Northern District of Texas's decision in *The Texas Suit* as well as the Middle District of Pennsylvania's decision in *The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit*. (*See* DE 72 at 2.) Spicher, in response, maintains that the supplemental authority does not alter the Court's analysis. (*See* DE 73 at 3.) The Court addresses the merits of each of these arguments below in its analysis.

All this in hand, the Court now turns to the central issue in this case: whether TitleMax's challenge to Spicher's *Younger*-abstention defense to its constitutional claims are precluded by prior litigation. To begin the analysis, the Court turns to a threshold ripeness concern about TitleMax's claims regarding the 2024 Subpoena.

5. TitleMax's Claims as to the 2024 Subpoena Are Unripe

As noted above, TitleMax challenges two separate actions of the Department—the 2024 Subpoena and the OSC. TitleMax argues that both the 2024 Subpoena and the OSC violate constitutional principles.

TitleMax notes that the 2024 Subpoena "seeks [ ] documents for a seven-year period running from August 23, 2017, through the present." (Compl. ¶ 71, DE 1 at 18.) This, TitleMax asserts, violates the Constitution in the following particulars:

- it "is attempting to regulate 'commerce that takes place wholly outside of [Pennsylvania]'s borders,'" (*id.* ¶ 113, DE 1 at 28 (quoting another source));

- it "deprives TitleMax . . . of its rights under the Due Process Clause," (*id.* ¶ 120, DE 1 at 30); and

- it did not comply with South Carolina law regarding domestication, violating Full Faith and Credit and Equal Protection principles, (*id.* ¶¶ 131, 137-38, DE 33-35).

Accordingly, TitleMax asks this Court to issue a judgment that the 2024 Subpoena is "null and void." (*Id.* at a., DE 35.)

But as TitleMax explains in the context of *Younger* abstention, "a subpoena, and even a subpoena enforcement action (*which has not occurred yet*) is *not* a 'civil enforcement proceeding' . . . ." (DE 71 at 9 (emphasis added).) Indeed—a decision by this Court on TitleMax's claims as to the 2024 Subpoena would be problematic for other reasons, too—for to do so would venture outside of a ripe controversy.

Ripeness doctrine arises from, and "is founded in[,] the constitutional requirement that there must be a 'case or controversy' before courts can act."[18] *Ent. Concepts, Inc., III v. Maciejewski*, 631 F.2d 497, 500 (7th Cir. 1980). It is closely related to standing, but principally has to do with the timing of the suit. *Cf. Norfolk & W. Ry. Co. v. Bhd. of R.R. Signalmen*, 164 F.3d 847, 856 (4th Cir. 1998). As this suggests, claims are not ripe if they "depend[ ] on 'contingent future events that may not occur as anticipated, or indeed may not occur at all.'" *Trump v. New York*, 592 U.S. 125, 131, 141 S. Ct. 530, 208 L. Ed. 2d 365 (2020) (quoting another source). The commonly repeated formulation is that "ripeness turns on 'the fitness of the issues for judicial decision' and 'the hardship to the parties of withholding court consideration.'" *Pac. Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n*, 461 U.S. 190, 201, 103 S. Ct. 1713, 75 L. Ed. 2d 752 (1983)

18. For this reason, the Court does not rely on the Middle District of Pennsylvania's resolution of this issue.

(quoting *Abbott Laboratories v. Gardner*, 387 U.S. 136, 148-149, 87 S. Ct. 1507, 18 L. Ed. 2d 681 (1967)).

The ripeness problem here flows from the nature of the subpoena. Whereas the OSC served to initiate the Pennsylvania Proceeding, the 2024 Subpoena merely compelled TitleMax to produce certain materials. (*See* DE 1-2 at 2-6.) As noted *supra*, the 2024 Subpoena was issued by the Department. (*See id.* at 3.) But under Pennsylvania law, a court order is *required* for enforcement—making this a non-self-executing subpoena. *Cf.* 7 Pa. Stat. Ann. § 6212 (West, Westlaw through Act 38) (noting that "In case of disobedience of any subpoena . . . , the Secretary of Banking may invoke the aid of the courts, *and such court shall thereupon issue an order requiring the person subpoenaed to obey the subpoena*" (emphasis added)).

As noted, TitleMax concedes the 2024 Subpoena has not been enforced against it. (*See* DE 71 at 9.) The mere fact that TitleMax faces a "decision to comply with" the 2024 Subpoena, *Wearly v. F.T.C.*, 616 F.2d 662, 667 (3d Cir. 1980), is not sufficient to create a ripe controversy. *See Google, Inc. v. Hood*, 822 F.3d 212, 226 (5th Cir. 2016) (observing that it is not obvious why "a state's non-self-executing subpoena should be ripe for review," especially "when there is no current consequence for resisting the subpoena and the same challenges raised in the federal suit could be litigated in state court"). Notably, too, TitleMax does not explain how withholding a decision here would constitute a hardship for it.

Moreover, despite continuing to press its claim following the submission of its supplemental memoranda, TitleMax has brought no enforcement action to the Court's attention—an omission that is particularly notable given that the deadline has already passed. This absence of enforcement activity reinforces the conclusion that any such action remains a "contingent future event" that may never materialize. *Trump*, 592 U.S. at 131. Accordingly, as TitleMax is presently confronted only with the decision whether to comply with the 2024 Subpoena, the Court dismisses those claims challenging the Subpoena as unripe.

6. TitleMax's Claims as to the OSC Are Barred by *Younger* Under Principles of Federal Issue Preclusion

(a) The Court May Consider Preclusion Now

TitleMax briefly contends that it is premature to address issue preclusion at this stage of the proceedings. (DE 71 at 22.) This argument, however, is readily dismissed. The Court may properly consider issue preclusion at this juncture, especially given the extraordinary circumstances of this litigation.[19]

---

19. TitleMax is correct as a matter of general federal practice: indeed, "the defenses of claim preclusion and issue preclusion are affirmative defenses." *Georgia Pac. Consumer Prods., LP v. Von Drehle Corp.*, 710 F.3d 527, 533 (4th Cir. 2013) (emphasis added). But "[i]t is well-settled in the Fourth Circuit that a court ruling on a motion to dismiss may properly consider affirmative defenses when such defenses 'clearly appear on the face of the complaint.'" *Turner v. Virginia Dep't of Med. Assistance Servs.*, 301 F. Supp. 3d 637, 643 (E.D. Va. 2018) (quoting *Richmond, Fredericksburg & Potomac R.R. Co. v. Forst*, 4 F.3d 244, 250 (4th Cir. 1993)). (Continued)

(b) The Issue Sought To Be Precluded Is Identical

The first element of issue preclusion requires classifying the issues previously decided and determining whether they are identical to those presented here. As noted, there is one relevant issue presented here as being subject to preclusion—*Younger* abstention. But this is composed of three sub-issues:

- whether the Pennsylvania Proceeding falls into any one of the three *Sprint* categories, and if it does,
- whether analysis of the *Middlesex* factors indicate any problems with comity or federalism, and
- whether any exception to *Younger* applies.

See Jonathan R. by Dixon, 41 F.4th at 329; *Mitchum*, 407 U.S. at 230.

There is no dispute that "a district court may properly 'take judicial notice of facts from a prior judicial proceeding when the collateral estoppel defense raises no disputed issue of fact." *Id.* (alterations adopted) (quoting *Ashe v. PNC Fin. Servs. Grp.*, 652 Fed. App'x. 155, 157 (4th Cir. 2016) (per curiam)). As noted above, this Court has taken notice of TitleMax's other lawsuits. Critically, despite bringing new facts to this Court's attention—which the Court addresses in-text—TitleMax has *not* disputed the completeness of any facts addressed by the district courts in the Northern District of Texas or the Middle District of Pennsylvania.

(i) The Factual and Legal Components of the Sub-Issues Addressed Are Identical

To begin with, TitleMax does not dispute the Fourth Circuit's articulation of the elements of *Younger* compared to those adopted by the Third or Fifth Circuits. Nor should it. As the Supreme Court has explained—"if federal law provides a single standard, parties cannot escape preclusion simply by litigating anew in tribunals that apply that one standard differently." *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 154, 135 S. Ct. 1293, 191 L. Ed. 2d 222 (2015).

Moreover, the Court concludes that the factual and legal components underlying these determinations—raised at the same procedural stage and addressed under the same standard—are identical to those presented in *The Texas Suit, The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit*.[20]

In its consolidated response, TitleMax offers minimal opposition to this conclusion, arguing only that *The Texas Suit* "was decided under a stay order" and that TitleMax's affiliates brought that suit. (DE 71 at 24.) These contextual

20. Of course, these determinations involve numerous discrete issues of fact and law. But "ordinarily [issue preclusion] is appropriate as to issues defined by application of legal rules to *historic* facts that *were completed by the time of the initial decision*." 18 Wright & Miller, *Federal Practice & Procedure* § 4425 (May 21, 2025, update) (emphasis added). As noted *supra* note 19, that describes this situation.

distinctions are insufficient to preclude the application of issue preclusion. In fact, as the district court in *The Texas Suit* acknowledged, its order was issued *after* the stay had been lifted. *See* 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *1. While the issue of privity will be addressed *infra*, it is sufficient for present purposes to note that a mere difference in party identity does not defeat preclusion where, as here, the underlying issues are the same.

(ii) The Purportedly New Issues Either Are Not New, or They Independently Are Insufficient Under *Younger*

Turning to TitleMax's additional arguments about the implications of the decisions of May 28 and May 29, 2025—the Court finds these arguments unpersuasive. TitleMax contends that:

- the May 28 Commission Denial means TitleMax now has no ability to raise its Due Process claim or make a special appearance to contest personal jurisdiction such that *Middlesex* factor three is unsatisfied (*id.* at 2-3);

- the May 28 Commission Denial has undermined the preclusive weight this Court should give *The Texas Suit*, regarding TitleMax's ability to assert defenses (*id.* at 3-5); and

- in the light of the dicta in the May 29 Commonwealth Court Denial, the May 28 Commission Denial illustrates "egregious manipulation of the system" and "structural bias and bad faith" calling for departure from *Younger*. (*Id.* at 5-6.)

In short—these arguments do not change the Court's conclusion about the appropriateness of preclusion. While the Court recognizes TitleMax's constitutional concerns about Due Process, the May 28 Commission Denial illustrates that TitleMax and its affiliates *can* raise those very concerns in the Proceeding, and seek interlocutory appeal of a rejection of those concerns. Indeed, the basis for rejecting TitleMax and its affiliates' interlocutory appeal was simply that it was "not properly before [the appellate body] pursuant to 1 Pa. Code § 35.190 . . . ." (DE 72-1 at 2.) The quoted provision of law provides that only "*in extraordinary circumstances* where prompt decision by the agency head is necessary to prevent detriment to the public interest" does an interlocutory appeal lie. 1 Pa. Code § 35.190(a) (West, Westlaw through Penn. Bulletin, Vol. 55, Num. 29) (emphasis added). Despite TitleMax's characterization of the May 28 Commission Denial as a "refus[al] to rule" (DE 72 at 4), it instead appears to be a denial. *See* 1 Pa. Code § 35.190(c). And denial suggests an opportunity to be denied.

The May 28 Commission Denial—though TitleMax and its affiliates are fully entitled to disagree with it—likely does not constitute a "new fact" for purposes of issue preclusion. After all, TitleMax and its affiliates raised their personal jurisdiction objection under the same statutory scheme that was in effect when the district courts in the Northern District of Texas and the Middle District of Pennsylvania rendered their decisions. *See, e.g., The Texas Suit*, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *2 (noting TitleMax's affiliate had "an adequate opportunity to be heard" on personal jurisdiction). Those courts addressed that scheme. It is therefore unclear why TitleMax and its affiliates' choice to delay asserting that objection until January 30, 2025, should bear any significance for preclusion purposes.

Moreover, the third *Middlesex* factor requires only "an *adequate* opportunity . . . to raise constitutional challenges." *Middlesex Cnty. Ethics Comm.*, 457 U.S. at 432 (emphasis added). State-court review of TitleMax and its affiliates' claims *was* available under that same statutory scheme addressed by the district courts. *See, e.g., TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *29 (explaining "state-court judicial review of the administrative proceeding" suffices (quoting *Dayton Christian Sch., Inc.*, 477 U.S. at 629)). TitleMax and its affiliates have, in fact, since availed themselves of this remedy. (Third Joint Status Report at 1-2, DE 75 at 1-2.) Their decision to do so only *after* the district courts in the Northern District of Texas and the Middle District of Pennsylvania had determined the adequacy of that scheme under *Younger* does not change the preclusive effect of those decisions.

But even if the May 28 Commission Denial were deemed a new fact under an independent *Younger*-

abstention analysis—into which this Court incorporates in full the reasoning of the U.S. District Court for the Middle District of Pennsylvania as stated in its January 16, 2025, Memorandum—it would not render the Pennsylvania Proceeding inadequate. That is because the third *Middlesex* factor is plainly satisfied. *Cf. Laurel Sand & Gravel, Inc. v. Wilson*, 519 F.3d 156, 167 (4th Cir. 2008) (the fact that a federal plaintiff "did in fact raise" his procedural due-process challenge before administrative tribunal sufficient for *Younger*).

TitleMax presses that one further "new fact" supports this Court not applying *Younger* under that doctrine's "bad faith" exception. *See, e.g., Middlesex Cnty. Ethics Comm.*, 457 U.S. at 429 (explaining that "bad faith, harassment, or other extraordinary circumstance [ ] would constitute an exception to *Younger* abstention"). The substance of this allegation is that the Department represented to TitleMax and its affiliates—and to the Pennsylvania Commonwealth Court—that TitleMax and its affiliates *would* have an opportunity to file an "interlocutory appeal" on the issue of personal jurisdiction. (DE 72 at 5 (quoting *TitleMax of Delaware*, No. 1697 C.D. 2024, slip op. at 10 n.7).) But nonetheless, "days after" the May 29 Commonwealth Court Denial, TitleMax's interlocutory appeal was met with the May 28 Commission Denial, which TitleMax characterizes as an "order dismissing the appeal on the *ipse dixit* that [the appellate body] could not review the" motion to dismiss.[21] (DE 72 at 5-6.)

21. Initially, TitleMax explained that the Department's appellate body declined to rule on TitleMax's motion to dismiss within a statutory deadline. (Second Joint Status Rep. at 2, DE 67 at 2.)

It goes without saying that "[t]he basic due process requirement of a 'fair trial in a fair tribunal' applies to administrative agencies as well as to courts." *FERC v. Powhatan Energy Fund, LLC*, 286 F. Supp. 3d 751, 768 (E.D. Va. 2017) (quoting *Withrow v. Larkin*, 421 U.S. 35, 47, 95 S. Ct. 1456, 43 L. Ed. 2d 712 (1975) (alterations adopted)). But equally, "a person claiming bias on the part of an administrative tribunal 'must overcome a presumption of honesty and integrity in those serving as adjudicators.'" *Hicks v. City of Watonga*, 942 F.2d 737, 746 (10th Cir. 1991) (quoting *Withrow*, 421 U.S. at 47)).

To begin with, the district courts in the Northern District of Texas and the Middle District of Pennsylvania did not have the May 28 Commission Denial and the May 29 Commonwealth Court Denial before them. Nonetheless, under an independent *Younger*-abstention analysis, the Court concludes TitleMax does not meet its burden—whether alone or considered with previous allegations. Mere characterization of the May 28 Commission Denial as "*ipse dixit*" is insufficient. Nor is the order inconsistent with what was purportedly represented, as noted in the May 29 Commonwealth Court Denial. So, even under a *Younger* analysis divorced from issue preclusion, this scintilla does not call fairness into question.

The bottom line is this: the district courts in the Northern District of Texas and the Middle District of Pennsylvania concluded that abstention from exercising Article III jurisdiction under *Younger* and its progeny is appropriate. TitleMax's newly alleged—and independently insufficient—factual allegations do not change that conclusion. So, this element is satisfied.

(b) The Issue Was Actually Determined

"An issue has been actually determined or litigated in the previous action 'if the parties to the original action disputed the issue and trier of fact resolved it.'" *Cassell v. United States*, 348 F. Supp. 2d 602, 605 (M.D.N.C. 2004) (quoting another source). As this Court has previously detailed, there is one issue—*Younger* abstention. And the sub-issues necessary to resolve the applicability of *Younger* abstention—namely, that the Pennsylvania Proceeding constitutes a quasi-criminal civil enforcement action, *see TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *13, that the *Middlesex* factors are satisfied, 2025 U.S. Dist. LEXIS 8303 at *22, and that no exception to *Younger* applies, 2025 U.S. Dist. LEXIS 8303 at *22—were all fully litigated and adjudicated. Indeed, the latter two determinations were independently resolved in *The Texas Suit* as well. 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *1-3.

TitleMax offers minimal opposition to this element, arguing only that the resolution of *The Texas Suit, The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit* did not address Spicher's authority to "regulate business activities occurring exclusively in South Carolina." (DE 71 at 25.) But TitleMax and its affiliates attack the application of the same Pennsylvania laws in the Pennsylvania Proceeding—and as noted *supra*, in each case Spicher presented the issue of *Younger* abstention by seeking dismissal on that basis. So, TitleMax offers only a characterization, not a relevant difference.

True distinctions in the issues do not depend on such semantics. For example, in *Martin*, a class-and derivative-action suit was brought by retirees seeking a judgment against their former employer's ERISA plan for certain promised but allegedly unpaid benefits. 407 F.3d 648-49. The former employer contended collateral estoppel applied, arguing that a prior declaratory judgment action against another employee resolved the issue. *Id.* at 649. But as the Fourth Circuit explained, the other employee's action resolved only whether certain "amendments . . . were adopted in accordance with plan documents." *Id.* at 653-44. Clearly, that was *not* the same issue as whether a summary plan description entitled the retirees to certain benefits. *Id.* at 654. No such distinction between the issue actually determined and that presented here exists—as it must for this element to fail. *See, e.g., Sedlack*, 134 F.3d at 224 (concluding that where "the dispositive issue" was "whether [an] accident was work-related" as compared to "whether an injury occurred" on a specific day, there is no identity of issues).

Moreover, while TitleMax's observation is accurate, it is ultimately beside the point. TitleMax's underlying premise appears to be either that South Carolina occupies a privileged position among its sister States—a proposition at odds with TitleMax's purported invocation of federalism principles—or that federal district courts may be selectively invoked to produce varying constitutional outcomes. In either case, the argument fails to undermine the dispositive fact that the Middle District of Pennsylvania squarely resolved both prongs of the

Younger-abstention analysis as well as possible exceptions to that doctrine. So, this element, too, is satisfied.

(c) Determination of the Issue Was Critical and Necessary

"[I]n describing the scope of the 'critical and necessary' criterion," the Fourth Circuit has emphasized restrictiveness, pointing to its use of "the alternative word 'essential.'" *In re Microsoft Corp. Antitrust Litig.*, 355 F.3d 322, 327 (4th Cir. 2004) (quoting another source). In both the Northern District of Texas and the Middle District of Pennsylvania, the district courts were unequivocal about what they were resolving. *See TMX Finance LLC*, 2025 U.S. Dist. LEXIS 8303 at *10 (noting that "[t]he court agrees" with Spicher's argument "that the *Younger*[-] abstention doctrine necessitates the dismissal of [the] TitleMax[ ] [affiliate's] lawsuits"); *TMX Fin. Corp. Servs., Inc.*, 2024 U.S. Dist. LEXIS 220181, 2024 WL 4995580, at *1 ("The Court holds that abstention under the *Younger* doctrine is proper.").

In short—neither court "qualified" its holding. *Tuttle v. Arlington Cty. Sch. Bd.*, 195 F.3d 698, 704 (4th Cir. 1999) (no preclusion where injunction against school policy applied "as long as" a purportedly constitutionally defective selection process was employed). As the exposition of those decisions suggests, the Court has carefully scrutinized each court's holdings for alternatives, qualifications, or elaborate dicta in resolving the issues—and it found none.[22] So, the determinations of the issue of *Younger* abstention was critical and necessary. This element, too, is satisfied.

(d) The Prior Judgment on That Issue Is Final and Valid

TitleMax presses that the dismissals in *The Texas Suit, The Ohio Suit, The Virginia Suit, The Georgia Suit*, and *The Delaware Suit* were without prejudice. (DE 71 at 25.) But in the very case TitleMax cites to suggest a lack of finality, the Fourth Circuit wrote that "if the grounds of the dismissal *make clear that no amendment could cure the defects in the plaintiff's case*, the order dismissing the complaint is final in fact and appellate jurisdiction exists." *Mallory v. Fahey*, 390 F. App'x 240, 240 (4th Cir. 2010) (per curiam) (alterations adopted). That describes the orders here. Despite TitleMax's appeals, the orders are sufficiently "final" so as not to impede their preclusive effect. *See Perry v. LaHood*, No. 1:09CV62 (JCC), 2009 U.S. Dist. LEXIS 39860, 2009 WL 1350470, at *6 (E.D. Va. May 12, 2009) ("It is well settled that the pendency of an appeal does not affect the finality of the trial court's order dismissing the case."). TitleMax raises no reason to question the validity of the orders—and the Court finds none. So, this element is satisfied.

---

22. It bears noting again that the district courts in the Northern District of Texas and the Middle District of Pennsylvania resolved Spicher's *Younger*-abstention defense at the motion-to-dismiss stage, applying the same plaintiff-friendly pleading standard.

(e) TitleMax Had a Full and Fair Opportunity to Litigate the Issue

Here, Spicher asserts non-mutual issue preclusion in a "defensive" posture. *See In re Microsoft Corp. Antitrust Litig.*, 355 F.3d at 326 ("[W]hen a defendant employs the doctrine 'to prevent a plaintiff from asserting a claim the plaintiff has previously litigated and lost against another defendant,' it is known as 'defensive collateral estoppel.'" (quoting another source)). Spicher relies on the prior determinations of the Northern District of Texas and the Middle District of Pennsylvania on *Younger* abstention as to TitleMax's *affiliates* to bar *TitleMax's* claims in this proceeding. (DE 70 at 4-10.) The collateral estoppel here is "non-mutual," such that the "full-and-fair opportunity to litigate" and "privity" components of the issue-preclusion analysis necessarily overlap. *See, e.g., Martin*, 407 F.3d at 654 n.18.

On this point, TitleMax makes three arguments:

- TitleMax did not participate in, let alone control, *The Texas Suit, The Ohio Suit, The Virginia Suit, The Georgia Suit*, or *The Delaware Suit*;

- TitleMax is not a successor-in-interest of any of the affiliates in those suits;

- TitleMax's interests were not adequately represented in the previous suits.

(DE 71 at 23-24.)

As courts have long recognized, "privity is no talismanic concept," but rather, "a word used to say that the relationship between the one who is a party on the record and another is close enough to include that other within the res judicata." *United States v. Manning Coal Corp.*, 977 F.2d 117, 121 (4th Cir. 1992) (quoting another source), *as amended* (Jan. 20, 1993). The Fourth Circuit has made clear that privity exists when "a non-party whose interests were adequately represented by a party to the original action" asserts preclusion. *Martin*, 407 F.3d at 651. Fundamentally, privity serves to ensure fairness in the application of non-mutual preclusion, and the inquiry is an objective one. *See S.E.C. v. Resnick*, 604 F. Supp. 2d 773, 779-80 (D. Md. 2009) ("For purposes of collateral estoppel, however, the key is the objective fullness and fairness of the opportunity to litigate.")

If the standard of privity can be met anywhere, it is here. TitleMax is closely affiliated with the corporate entities involved in the other suits, as its coordinated litigation strategy strongly suggests. *Cf. Cent. Transp., Inc. v. Four Phase Sys., Inc.*, 936 F,2d 256, 260 (6th Cir. 1991) (noting the "close affiliation, joint legal representation and identity of interests" as sufficient for privity); *Ruiz v. Comm'r of Dep't of Transp. of City of New York*, 858 F.2d 898, 903 (2d Cir. 1988) (explaining that after having "examined all of the surrounding circumstances" privity was warranted). Indeed, each of TitleMax's affiliates raised legal claims identical to those presented here in response to the same actions by the Department. Indeed, the Department asserted the same penalties against each of TitleMax's affiliates, and did so in the same administrative proceeding. And critically, all six suits were filed by TitleMax and its affiliates on the same day in six different federal district courts—further underscoring the shared legal strategy and alignment of interests.[23]

If further confirmation were needed, the record provides direct evidence of the corporate relationship. *See* Compl. ¶ 4, No. 4:24-cv-00175-RSB-CLR (S.D. Ga. transferred Dec. 4, 2024) ECF No. 1 (noting "TMX is the parent company *of the various 'TitleMax' entities* (among others)" that has a "principal place of business in Savannah, Georgia" (emphasis added)). Notably, TitleMax's principal place of business is Savannah. (Compl. ¶ 10, DE 1 at 5.) In short—TitleMax's interests were not only aligned with those of its affiliates—they were adequately represented. Accordingly, for all the reasons discussed above, the Court concludes that TitleMax had a full and fair opportunity to litigate these issues because it was in privity with the parties to the prior actions.

As each of the necessary elements for issue preclusion is satisfied, the Court holds that issue preclusion applies.

---

23. That TitleMax and its affiliates coordinated their filings to all land on the same day to avoid exposure to the first-to-file rule and consolidation need hardly be said.

In addition, the Court notes that the same law firm represents TitleMax and its affiliates in all its suits—as the Second Circuit observed, "although not conclusive on the issue of privity, the fact that the parties in [the earlier-filed cases] and in this case had the same attorney in actions brought at about the same time is of 'singular significance.'" *Ruiz*, 858 F.2d at 903 (quoting another source).

TitleMax's Complaint must, therefore, be dismissed under *Younger*-abstention grounds. *See Grieve v. Tamerin*, 269 F.3d 149, 153 (2d Cir. 2001) (affirming Eastern District of New York decision to abstain under *Younger* in Hague Convention case because collateral estoppel applied). As an alternative holding, the Court concludes that *Younger* abstention independently is warranted for the reasons recounted above and in the already-incorporated analysis of the U.S. District Court for the Middle District of Pennsylvania.

The Court makes two further notes. First, this Court has not overlooked the Fourth Circuit's instruction that "the commerce power itself justifies a narrower view of state interests in the abstention context." *Harper v. Pub. Serv. Comm'n of W.VA.*, 396 F.3d 348, 356-57 (4th Cir. 2005) (explaining the "peculiarly national interest—and therefore, more limited state interest" involved with claims under the Article I Commerce Power). However, the force of that consideration is significantly diminished here—given that TitleMax has *already* litigated this precise issue—and lost. *See TitleMax of Delaware, Inc.*, 24 F.4th at 238-41 (rejecting TitleMax's affiliate's Commerce Clause claim regarding a 2017 subpoena issued by the Department). Indeed, the prolonged and duplicative consumption of judicial resources across multiple jurisdictions occasioned by this dispute more closely resembles a strain on, rather than a vindication of, national interests.

Second and equally, the Court acknowledges the amicus curiae brief filed by the Attorney General of

South Carolina, which was submitted with leave of the Court in support of TitleMax's position. (*See* DE 28; *see also* DE 38.) The amicus brief raises concerns regarding the extraterritorial application of Pennsylvania law, the preservation of South Carolina's regulatory sovereignty, and the federalism implications of Defendant's conduct. The Court has considered these arguments in its resolution of the motion to dismiss and notes that while the views expressed therein are important, they do not alter the conclusion that abstention is appropriate under the principles of issue preclusion and the principles set forth in *Younger* and its progeny.

B. All Remaining Motions Now Are Moot

Because the Court concludes that a threshold ripeness issue exists, and where it does not, issue preclusion applies, or alternatively that *Younger* abstention independently is warranted, it declines to reach the merits of TitleMax's Motion for Preliminary Injunction. (DE 19.) Accordingly, that motion is denied as moot in light of the Court's dismissal of the Complaint.

For the same reasons, the remaining motions are rendered moot and are, therefore, denied on that basis.

* * *

The principle that the federal judiciary serves as a guardian of its jurisdictional boundaries is particularly relevant in cases such as this, where the dispute reflects not merely a legal disagreement but underlying tensions between differing policy judgments made by coequal sovereigns. Here, what TitleMax characterizes as regulatory overreach, Pennsylvania deems a legitimate exercise of its authority to prevent usury. These differing perspectives are the product of democratic processes—just as Pennsylvania's regulatory actions reflect the choices of its electorate, so too does TitleMax's business model reflect the policy environment sanctioned by voters and lawmakers in South Carolina.

It is not the role of this Court to evaluate the wisdom or propriety of those choices. Rather, the Court is tasked with applying established legal principles to ensure that disputes remain within their proper jurisdictional and constitutional confines. Where litigation threatens to extend beyond those bounds, the Court's responsibility is to guide such matters back to the channels prescribed by law.

In this instance, the resolution of the case according to those principles reinforces not only federalism but also finality, consistency, and the orderly development of the law.

III. CONCLUSION

For the purpose of resolving the pending dispositive motion and entering this Order, the November 2024 stay ordered by this Court is hereby **LIFTED**. The Clerk is directed to update the docket to reflect that the stay is no longer in effect.

For the reasons set forth above, ripeness and issue preclusion or, in the alternative, *Younger* abstention apply, and Defendant Wendy Spicher's Motion to Dismiss (DE 22) is **GRANTED**, and Plaintiff TitleMax of South Carolina, Inc.'s Complaint is hereby **DISMISSED WITH PREJUDICE**.

All other pending motions, including Plaintiff's Motion for Preliminary Injunction (DE 19), are **DENIED AS MOOT** in light of the Court's dismissal.

IT IS SO ORDERED.

/s/ Joseph Dawson, III
Joseph Dawson, III
United States District Judge

Florence, South Carolina
August 15, 2025

APPENDIX C — STATUTORY PROVISION INVOLVED

Section 3(A) of the Pennsylvania Consumer Discount Company Act, P.L. 262, 7 P.S. § 6203(A).

Section 3. License Required.—A. On and after the effective date of this act, no person shall engage or continue to engage in this Commonwealth, either as principal, employe, agent or broker, in the business of negotiating or making loans or advances of money on credit, in the amount or value of twenty-five thousand dollars ($25,000) or less, and charge, collect, contract for or receive interest, discount, bonus, fees, fines, commissions, charges, or other considerations which aggregate in excess of the interest that the lender would otherwise be permitted by law to charge if not licensed under this act on the amount actually loaned or advanced, or on the unpaid principal balances when the contract is payable by stated installments except a domestic business corporation organized under or existing by virtue of the Business Corporation Law of this Commonwealth, after first obtaining a license from the Secretary of Banking of the Commonwealth of Pennsylvania in accordance with the provisions of this act.