

U.S. Supreme Court Holds That State Courts Lack Specific Personal Jurisdiction to Entertain Non-Residents' Claims for Injuries Not Connected to In-State Conduct

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On June 19, 2017, the U.S. Supreme Court issued its ruling in *Bristol-Myers Squibb Co. v. Superior Court*, which reversed a decision by the California Supreme Court that approved a state court's assertion of specific personal jurisdiction over personal injury claims by non-residents against a non-resident corporate defendant. In an opinion written by Justice Alito, the Court held that the California courts' exercise of personal jurisdiction under the circumstances violated the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution because there was not an adequate connection between the state forum and the specific claims at issue. The Court did not address the application of its decision in the class action context, and explicitly left open the question of whether the Fifth Amendment similarly restricts the ability of a federal court to exercise specific personal jurisdiction in a similar circumstance.

If you have any questions concerning this memorandum, please reach out to your regular firm contact or the following authors:

NEW YORK

Jonathan I. Blackman
+1 212 225 2490
jblackman@cgsh.com

Lawrence B. Friedman
+1 212 225 2840
lfriedman@cgsh.com

Howard S. Zelbo
+1 212 225 2452
hzelbo@cgsh.com

Carmine D. Boccuzzi, Jr.
+1 212 225 2508
cboccuzzi@cgsh.com

Inna Rozenberg
+1 212 225 2972
irozenberg@cgsh.com

One Liberty Plaza
New York, NY 10006-1470
T: +1 212 225 2000
F: +1 212 225 3999

WASHINGTON D.C.

Matthew D. Slater
+1 202 974 1930
m Slater@cgsh.com

2000 Pennsylvania Avenue, NW
Washington, DC 20006
T: +1 202 974 1500
F: +1 202 974 1999



clearygottlieb.com

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Background to *Bristol-Myers Squibb Co. v. Superior Court*

A group of 678 individual plaintiffs, of whom 592 were not California residents, sued Bristol-Myers Squibb Company (“BMS”), a pharmaceutical manufacturer, in California Superior Court. Plaintiffs asserted common law tort claims alleging that they suffered adverse consequences from Plavix, a drug created and marketed by BMS. BMS argued that the California state court could not exercise personal jurisdiction over BMS with respect to the claims asserted by the 592 non-California residents, none of whom was injured in California, because none of the research and development for, or manufacturing of, Plavix occurred in California, nor did any work relating to labeling, packaging, regulatory approval, advertising strategy or marketing strategy for Plavix occur in California.

The Superior Court’s finding of general personal jurisdiction over BMS was eventually overturned on the basis of the U.S. Supreme Court’s intervening decision in *Daimler AG v. Bauman*,¹ but the Court of Appeal affirmed the Superior Court’s decision on the alternative ground that the court could exercise specific personal jurisdiction over BMS.²

The California Supreme Court affirmed in a 4-3 decision, holding that California’s long-arm statute, which is coextensive with the Due Process Clause of the U.S. Constitution, permitted the exercise of specific personal jurisdiction over BMS with respect to the non-residents’ claims.³ Despite the lack of manufacture, sale to non-

resident plaintiffs, or injury to them in California, the majority concluded that the non-resident plaintiffs’ claims “related to” BMS’s California activities because “BMS’s *nationwide* marketing, promotion, and distribution of Plavix created a substantial nexus between the nonresident plaintiffs’ claims and the company’s contacts in California concerning Plavix.”⁴ The court also concluded that the presence of BMS’s California facilities – although no work on Plavix was performed there – provided another ground for asserting jurisdiction because “the fact that the company engages in research and product development in these California facilities is related to plaintiffs’ claims that BMS engaged in a course of conduct of negligent research and design that led to their injuries, even if those claims do not arise out of BMS’s research conducted in this state.”⁵

The U.S. Supreme Court’s Decision

The U.S. Supreme Court reversed, holding that the California courts’ exercise of specific personal jurisdiction violated the Fourteenth Amendment’s Due Process Clause.⁶ The Court emphasized that “[i]n order for a state court to exercise specific jurisdiction, the *suit* must arise out of or relate to the defendant’s contact with the *forum*. In other words, there must be an affiliation between the forum and the underlying controversy”⁷ In addition, the Court stated that the “primary concern” in a personal jurisdiction analysis is “the burden on the defendant,” and that the interest in interstate federalism, which is reflected in the Due Process Clause, “may be decisive” at times, even if the defendant would not be inconvenienced by

¹ 134 S. Ct. 746 (2014).

² *Bristol-Myers Squibb Co. v. Superior Court*, 175 Cal. Rptr. 3d 412, 415 (Cal. Ct. App. 2014).

³ *Bristol-Myers Squibb Co. v. Superior Court*, 377 P.3d 874 (Cal. 2016).

⁴ *Id.* at 888 (emphasis added).

⁵ *Id.*

⁶ *Bristol-Myers Squibb Co. v. Superior Court* (“*Bristol-Myers*”), No. 16–466, slip op. at 1, 4 (June 19, 2017).

⁷ *Id.* at 5 (emphasis in original) (internal quotations and citations omitted).

the litigation, and even if the forum state has a strong interest in adjudicating the controversy.⁸

Applying these jurisdictional principles, the Court held that specific personal jurisdiction is lacking in this case because there is not an “adequate link between the State and the nonresidents’ claims” and no “connection between the forum and the specific claims at issue.”⁹ The Court noted in particular that “the nonresidents were not prescribed Plavix in California, did not purchase Plavix in California, did not ingest Plavix in California, and were not injured by Plavix in California. The mere fact that *other* plaintiffs were prescribed, obtained, and ingested Plavix in California—and allegedly sustained the same injuries as did the nonresidents—does not allow the State to assert specific jurisdiction over the nonresidents’ claims.”¹⁰ Conduct by BMS in California unrelated to Plavix was likewise deemed an insufficient basis to exercise jurisdiction.¹¹

In this regard, the Court took issue with a “sliding scale” approach taken by the California Supreme Court, whereby “the strength of the requisite connection between the forum and the specific claims at issue is relaxed if the defendant has extensive forum contacts that are unrelated to those claims.”¹² The Court called this a “loose and spurious form of general jurisdiction”¹³ that contradicted the Court’s landmark *Daimler* holding that, absent an “exceptional case,” general jurisdiction only exists in the state where a corporation is incorporated or has its principal place of business.¹⁴

Following this theme, the Court stated that the California and non-California plaintiffs could bring a consolidated action against BMS in New York or Delaware, where BMS is subject to general jurisdiction, or all the plaintiffs resident in each state could “probably sue together in their home States.”¹⁵

Justice Sotomayor dissented, framing the question as “whether Bristol-Myers is subject to suit in California only on the residents’ claims, or whether a state court may also hear the nonresidents’ ‘identical’ claims.”¹⁶ Justice Sotomayor would find specific jurisdiction because BMS purposefully availed itself of the California market by conducting a substantial marketing and sales effort for Plavix there, and because the claims were, in her view, connected to those efforts, “which it undertook on a nationwide basis in all 50 States.”¹⁷ She expressed concern that the majority’s decision would “eliminate nationwide mass actions in any State other than those in which a defendant is ‘essentially at home’” and “may make it impossible to bring certain mass actions at all,” such as where there are multiple defendants “at home” in different states or in the case of a foreign defendant.¹⁸

Conclusion

Through its decision in *Bristol-Myers Squibb Co. v. Superior Court*, the U.S. Supreme Court further continued its recent trend, exemplified by *Daimler* and *J. McIntyre Machinery, Ltd. v. Nicastro*,¹⁹ of narrowing the circumstances in which personal jurisdiction may be exercised over corporate defendants. In this instance, the Court held that a

⁸ *Id.* at 6–7.

⁹ *Id.* at 8.

¹⁰ *Id.* (emphasis in original).

¹¹ *Id.*

¹² *Id.* at 7.

¹³ *Id.*

¹⁴ *Daimler*, 134 S. Ct. at 761 n.19.

¹⁵ *Bristol-Myers*, slip op. at 12.

¹⁶ *Id.*, dissenting op. at 3.

¹⁷ *Id.* at 5.

¹⁸ *Id.* at 10–11.

¹⁹ 564 U.S. 873 (2011).

state court may not exercise specific jurisdiction over a corporate defendant not “at home” in that state where the claims at issue are brought by non-residents and do not have a sufficient connection with the defendant’s in-state conduct.

However, the Court left open some interesting questions. First, as the dissent noted, the majority did not “confront the question whether its opinion here would also apply to a class action.”²⁰

Second, and without any further explanation, the majority stated that “since [its] decision concerns the due process limits on the exercise of specific jurisdiction by a State, we leave open the question whether the Fifth Amendment imposes the same restrictions on the exercise of personal jurisdiction by a federal court.”²¹ It remains to be seen how state courts and lower federal courts will tackle these questions in future cases, and whether the Supreme Court will need to clarify these important jurisdictional issues in the years to come.

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²⁰ *Bristol-Myers*, dissenting op. at 10 n.4.

²¹ *Id.*, slip op. at 12.