

U.S. Supreme Court Again Limits Forums for Suits Against Corporations

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Last month, the U.S. Supreme Court held that due process restricts a state court's power to exercise "general" (*i.e.* all-purpose) jurisdiction to hear any and all claims against a defendant. General jurisdiction exists only where the defendant is "at home." *BNSF Railway. v. Tyrrell* (decided May 30, 2017 - [click here to read our earlier alert regarding this decision](#)). In most cases against a corporation, it will only be "at home" in the state where it is incorporated or the state where it has its principal place of business.

The Supreme Court has now issued a second opinion holding that due process also restricts the power of state courts to exercise "specific" or "case-linked" jurisdiction. *Bristol-Myers Squibb Co. v. Superior Court* (decided June 19, 2017). For a state court to exercise specific jurisdiction, the lawsuit must arise out of or relate to the defendant's contacts with the forum state. Typically, specific jurisdiction involves a lawsuit based on an activity or an occurrence that took place in the forum state, and specific jurisdiction is confined to the adjudication of issues derived from or connected to the dispute that provides the basis for specific jurisdiction.

Bristol-Myers Squibb Company (BMS) was sued in California state court for alleged injuries caused by the blood-thinning drug Plavix. BMS was not "at home" in California because it is incorporated in Delaware and headquartered in New York. BMS sells Plavix in California, but did not develop, manufacture, label or package Plavix, or work on its regulatory approval, in California.

The plaintiffs in the California suits against BMS included 86 California residents and 592 residents from 33 other states. All plaintiffs asserted various claims under California law, but the nonresident plaintiffs did not allege they obtained Plavix through California physicians or from any other California source, nor did they claim they were given Plavix or treated for their injuries in California.

The California Supreme Court agreed there was no general jurisdiction because BMS was not "at home" in California. But the California court found there was specific jurisdiction because the nonresidents asserted claims similar to those of the California residents. The California court also found it significant that BMS conducted research on drugs other than Plavix at five California research facilities.



The United States Supreme Court reversed, finding no constitutional basis for the non-residents to assert jurisdiction over BMS in California state court:

"As noted, 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."

And the Court found it was not sufficient, or even relevant, that BMS conducted non-Plavix research in California. The Court also rejected jurisdiction over BMS based on the bare fact that it had contracted with a California company to distribute Plavix nationwide. The plaintiffs had not alleged that BMS acted with the distributor in California, that BMS was vicariously liable for acts by the distributor in California, or that the distributor was involved with the pills the nonresidents had consumed.

A court assessing the constitutionality of personal jurisdiction must consider a variety of interests, including those of the forum state, the plaintiff and the defendant. The primary concern has long been the burden on the defendant. But the constitutional limits of personal jurisdiction require a court to do more than merely consider the practical problems a defendant may face in litigating in the forum: "it also encompasses the more abstract matter of submitting to the coercive power of a State that may have little legitimate interest in the claims in question."

The eight-member majority noted that its decision would not result in a "parade of horrors" or preclude redress. For example, residents of California and other states could join together and sue BMS in either New York or Delaware, where it is "at home." Or the residents in a particular state could join together to sue BMS in that state. And the Court left open the question of whether the same restrictions would apply to the exercise of personal jurisdiction by a federal court.

Justice Sotomayor was the lone dissenter. She found "nothing unfair about subjecting a massive corporation to suit in a State for a nationwide course of conduct that injures both forum residents and nonresidents alike."
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Although the majority framed its decision in terms of long-settled precedents on the outer limits of personal jurisdiction, the BMS decision signals that lower courts will be expected to conduct a more rigorous analysis to determine whether there is a sufficient constitutional basis to sue a nonresident defendant in state court. Indeed, whether the question involves general or specific jurisdiction, the upshot of these two recent decisions is that motions to dismiss for lack of personal jurisdiction in state courts may now enjoy better prospects for success.



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