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Supreme Court Limits Jurisdiction for Claims by Non-Resident Plaintiffs

By Andrew B. Downs

Almost a year ago we reported on the California Supreme Court's substantial expansion of jurisdiction over claims by non-resident plaintiffs against non-resident defendants ("Back to the Future for California Jurisprudence"). Yesterday, in good news for defendants and their insurers, the United States Supreme Court reversed that decision.

Bristol-Myers Squibb v. Superior Court involved products liability claims by patients who took Plavix. Over 600 plaintiffs, some from California, but many more from elsewhere, sued Bristol-Myers in state court in San Francisco. Bristol-Myers challenged the court's exercise of jurisdiction over it for the claims of the non-resident plaintiffs. The California Supreme Court held there was jurisdiction; the United States Supreme Court disagreed and reversed.

Courts are only permitted to exercise jurisdiction over a non-resident defendant if the defendant has sufficient contacts with the state to meet constitutional due process standards. For example, if a California resident travels to Oregon and causes an automobile accident in Oregon, the Oregon courts would have specific jurisdiction over the non-resident defendant for a case arising out of the automobile accident because the California defendant went to Oregon, used that state's roads and was involved in an accident there. Our hypothetical Oregon plaintiff also could sue the California defendant in the California courts because the defendant lives there and the California courts accordingly have general jurisdiction.

Bristol-Myers is a specific jurisdiction case. The courts have struggled with how extensive a non-resident defendant's contacts need to be to allow it to be forced to litigate a case in a state where neither party resides. The general rule is the case needs to arise out of or relate to the defendant's contacts with the forum state. This is the kind of amorphous standard that law professors may love, but civil defendants find frustrating. Over the past 70 years, the courts have developed a series of tests by which they judge the nature of a defendant's contacts. What the California Supreme Court had done here was apply a "sliding scale" standard which relaxed the level of claim specific connection required if the defendant had extensive forum contacts unrelated to the particular claim to be litigated.

In reversing, the United States Supreme Court held the fact that California resident plaintiffs had alleged similar claims based on their use of Plavix could not be used to support jurisdiction over claims by plaintiffs who did not take Plavix in California, were not injured by Plavix in California, were not prescribed the drug in California, and did not ingest it in California. The court explained that corporate defendant's "continuous activity of some sort within a state" is not enough to support jurisdiction over claims unrelated to that activity. Instead, there must be an activity or occurrence connected to the claim occurring in the forum state. And, when there is no connection, there is no specific jurisdiction regardless of how extensive the non-resident defendant's unconnected activities may be in the state.

Bristol-Myers makes it substantially more difficult for plaintiffs to bring national mass actions in state courts other than in the defendant's home jurisdiction. This will not eliminate this type of forum shopping, but it will hinder it. As we noted last year, the California Supreme Court has been moving in a plaintiff-friendly direction. It is unlikely *Bristol-Myers* will change that approach going forward.