

Supreme Court's Personal Jurisdiction Ruling Has Immediate Impact

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On June 19th 2017, the **U.S. Supreme Court's** decision in ***Bristol-Meyers Squibb Co. v. Superior Court of California*** had an immediate impact on a high-risk state court case when the trial court granted a mistrial after seven days of trial.

In *Bristol-Meyers Squibb Co. v. Superior Court of California*, No. 16-466 (June 19, 2017), the Court held that only Plaintiffs injured in California can sue Bristol-Myers Squibb for injuries allegedly caused by use of Plavix - despite BMS's numerous business activities in the state - as Bristol-Meyers Squibb is neither incorporated nor headquartered in the State of California. The Court also held that just because some individuals are injured in California from Plavix does not mean that others who were not injured in California and who are nonresidents can also sue there. The Court limited the use of *specific* personal jurisdiction only to those cases arising from the defendant's activities within a state.

The impact of this decision was immediate. Yesterday, following the Supreme Court's announcement of its decision, Judge Burlison in St. Louis, Missouri, reportedly declared a mistrial in a talc case that had been on trial for seven days. Three plaintiffs claiming that they developed ovarian cancer from use of talcum powder had sued numerous defendants in the City of St. Louis state court, even though two of the Plaintiffs were non-residents and their injuries had no connection to Missouri. Nearly identical cases by nonresidents claiming that they had developed ovarian cancer from use of talcum products had been tried in St. Louis. Those cases had resulted in several high verdicts, ranging from \$55 million to \$ 110 million. Those verdicts are now potentially in jeopardy, assuming that the defendants in those earlier cases preserved the issue of lack of personal jurisdiction.

Following yesterday's decision, defendants involved in toxic and mass tort litigation should consider invoking this and prior decisions to challenge personal jurisdiction at an early stage in litigation. The decision as to whether to pursue a motion to dismiss based on lack of personal jurisdiction should be based on a reasoned analysis of the alternative jurisdiction's case law.

The Supreme Court, in addressing the lack of general personal jurisdiction over Bristol-Meyers Squibb, held:

As we have put it, restrictions on personal jurisdiction “are more than a guarantee of immunity from inconvenient or distant litigation. They are a consequence of territorial limitations on the power of the respective States.” *Id.* at p. 6. Our straightforward application in this case of settled principles of personal jurisdiction will not result in the parade of horrors that respondents conjure up. Our decision does not prevent the California and out-of-state plaintiffs from joining together in a consolidated action in the States that have general jurisdiction over BMS. BMS concedes that such suits could be brought in either New York or Delaware. Alternatively, the plaintiffs who are residents of a particular State—for example, the 92 plaintiffs from Texas and the 71 from Ohio—could probably sue together in their home States.” *Id.* at p. 12.

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National Law Review, Volume VII, Number 171

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