



No Right, Just Rules: Court Lacks Jurisdiction Over Steakhouse Managers' Claims

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A Massachusetts federal court this week became the latest district court to weigh in on the applicability of the [Supreme Court's decision](#) in *Bristol-Myers Squibb Co. v. Superior Court of California, San Francisco Cty*, to nationwide collective actions brought under the Fair Labor Standards Act (FLSA).

This time, the court found that *Bristol-Myers* does apply to the FLSA, and thus it did not have personal jurisdiction over the defendant employers with regard to the claims of out-of-state opt-in plaintiffs. While courts across the country are divided concerning the applicability of *Bristol-Myers* to FLSA collective actions, this case adds to the growing body of cases favorable to employers seeking to limit the scope of collective actions.

In [Chavira v. OS Restaurant Services, LLC, et al.](#), the plaintiff sought conditional certification of a nationwide collective of “front of house” Outback Steakhouse restaurant managers, alleging that they had been misclassified as exempt from overtime requirements of the FLSA. In support, the plaintiff filed several affidavits by managers who had opted in to join the case, only one of whom worked at a Massachusetts location. In addition to opposing conditional certification, the defendant employer moved to strike the opt-in consents of managers who had joined the case but did not work at Massachusetts restaurant locations.

In *Bristol-Myers*, the Supreme Court of the United States determined the limits of personal jurisdiction in cases where the defendant was neither

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incorporated nor headquartered in the state where the lawsuit was filed. The Supreme Court held that in those instances, courts in the forum state lack specific personal jurisdiction over the defendant where non-resident plaintiffs' claims arose outside of the forum state.

Outback Steakhouse is headquartered in Florida, so it argued that according to *Bristol-Myers* the U.S. District Court for the District of Massachusetts did not have specific personal jurisdiction over the claims of opt-in plaintiffs outside Massachusetts. The plaintiff, on the other hand, argued that *Bristol-Myers* did not apply to FLSA claims.

Although the court expressed "serious concerns regarding the implications of its ruling on the future of FLSA collective actions," it ultimately agreed with the employer. The court found that the opt-in mechanism of an FLSA collective action is more similar to the multi-plaintiff action brought in *Bristol-Myers* than it is to the opt-out nature of state law class actions. Courts rejecting the application of *Bristol-Myers* to FLSA collective actions have found the collective action mechanism to be analogous to the class action mechanism. As a result, the court deemed the *Bristol-Myers* specific jurisdiction inquiries to be appropriate and applicable in the FLSA context.

The court went on to find that, under *Bristol-Myers*, the out-of-state opt-in plaintiffs could not show a sufficient connection between Massachusetts and the claims at issue in *Chavira*, because their claims arose outside of Massachusetts. The court held that the out-of-state opt-in plaintiffs could thus not demonstrate the court's specific personal jurisdiction over the employer, and therefore struck those opt-in plaintiffs.

Turning to the motion for conditional certification, the court also noted that the affidavits of the out-of-state opt-ins were immaterial, because the affidavits did not speak to the practices of restaurants and employees in Massachusetts – which were the only restaurants or employees over which the court had personal jurisdiction. Thus, because only one affidavit came from a Massachusetts plaintiff, the court found that it could not find that the front of house managers in Massachusetts were sufficiently similar to conditionally certify a collective action. The court explained that while the conditional certification inquiry requires only a "modest factual showing," the court could not make the "necessary finding on Plaintiff's representations alone." The court thus denied the motion for conditional certification, with leave to renew "if Plaintiff is later able to submit information showing other similarly situated employees whose claims against Defendants would not be barred on jurisdictional grounds."

The *Chavira* decision provides useful reminders for employers facing nationwide collective actions under the FLSA. First, employers can consider asserting a defense based on personal jurisdiction as soon as it is available. Second, while workplace arbitration agreements receive most of the attention, jurisdictional arguments available under *Bristol-Myers* are another important tool employers can use to fracture putative nationwide FLSA collective actions. This well-reasoned decision provides employers with further support for this sort of argument.