

## NEWSLETTERS

### U.S. Supreme Court Limits Plaintiffs' Ability To Bring National Actions In Far-Flung States

July 20, 2017 | [Indianapolis](#) | [Atlanta](#) | [Chicago](#) | [Columbus](#) | [Dallas](#) | [Delaware](#) | [Elkhart](#) | [Fort Wayne](#) | [Grand Rapids](#) | [Los Angeles](#) | [Minneapolis](#) | [New York](#) | [South Bend](#)

#### **Barnes & Thornburg Commercial Litigation Update, July 2017**

In a decision that could limit the scope of mass litigation in plaintiff-friendly states, the U.S. Supreme Court recently held that states do not have personal jurisdiction over a defendant simply because another plaintiff in the same case can establish jurisdiction. The result in *Bristol-Myers Squibb Co. v. Superior Court*, 137 S.Ct. 1773 (2017) creates a barrier for plaintiffs who wish to group together scores of claims in a state perceived as favorable for plaintiffs.

The court's decision arose out of a California lawsuit in which hundreds of out-of-state plaintiffs alleged they were injured by blood-thinner drug Plavix, which is manufactured by Bristol-Myers Squibb Co. The case included eight separate complaints filed in San Francisco by 86 Californians and 592 residents of 33 other states. Each plaintiff asserted the same theories, including negligence, false or misleading advertising and strict product liability. An issue arose about whether some of the claims against Bristol-Myers involved enough contact with California to establish personal jurisdiction for it to be sued there.

In finding personal jurisdiction, the California Supreme Court lumped the entire group of plaintiffs into one group and considered them en masse. Since some of the plaintiffs could establish minimum contacts, the California high court concluded that all of the plaintiffs could sue in California. The California court held that Bristol-Myers' contacts with California – such as its marketing and distribution of the drug, as well as research and development facilities located there – helped to establish specific personal jurisdiction over the non-residents' claims. This result threatened to expose defendants to mass litigation in far-flung states favorable to plaintiffs – even where individual plaintiffs could not bring suit.

The U.S. Supreme Court reversed in an 8-1 decision, finding that each individual plaintiff must establish personal jurisdiction in California for his or her own claim. Justice Samuel Alito's opinion concluded that the non-resident plaintiffs could not rely on conduct related to the claims of resident plaintiffs to establish jurisdiction. "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."

The court then explained that the requirements of specific jurisdiction

## RELATED PEOPLE



**Mark J. Crandley**

Partner  
Indianapolis

P 317-261-7924  
F 317-231-7433  
[mark.crandley@btlaw.com](mailto:mark.crandley@btlaw.com)

## RELATED PRACTICE AREAS

Commercial Litigation

cannot be met even when “third parties (here, the plaintiffs who reside in California) can bring claims similar to those brought by the nonresidents. Nor is it sufficient—or even relevant—that [Bristol-Myers] conducted research in California on matters unrelated to Plavix. What is needed—and what is missing here—is a connection between the forum and the specific claims at issue.” The court disagreed with the California Supreme Court’s conclusion that the company’s marketing, distribution and other activities in California created minimum contacts sufficient to establish specific jurisdiction.

This result is a significant victory for companies faced with mass litigation. The court’s ruling prevents defendants from facing suits in far-flung states with little connection to the actions at issue. It curtails forum-shopping by plaintiffs seeking to litigate claims unconnected with a state solely because the state is believed to be favorable to their claims. Instead, defendants can require plaintiffs to prove that each individual claim meets the required minimum contacts to justify litigation in that state.

Mark J. Crandley, a member of the Firm’s Commercial Litigation Practice Group, is a partner in the Indianapolis office who has a diverse practice that concentrates on appeals, constitutional and government law, commercial litigation, and probate disputes. He is the co-chair of the firm’s Appellate and Critical Motions Practice Group and a founder and chair of the firm’s Government Litigation Practice Group. Mark can be reached by telephone at (317) 231-7924 or by email at [mark.crandley@btlaw.com](mailto:mark.crandley@btlaw.com).

Visit us online at [www.btlaw.com](http://www.btlaw.com).

*© 2017 Barnes & Thornburg LLP. All Rights Reserved. This page, and all information on it, is proprietary and the property of Barnes & Thornburg LLP. It may not be reproduced, in any form, without the express written consent of Barnes & Thornburg.*

*This Barnes & Thornburg LLP publication should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own lawyer on any specific legal questions you may have concerning your situation.*