Chapter 2 [1], infra, discusses the jurisdiction of the state and federal courts over consumer class actions. In many consumer class actions, federal court jurisdiction flows from the alleged violation of a federal statute. The federal diversity statute also applies to class actions when the named plaintiff’s claims exceed $75,000 and there is complete diversity between the named plaintiff(s) and the defendants. [2] In addition, under the Class Action Fairness Act of 2005 (CAFA), [2] federal court jurisdiction exists over most class actions in which any one member of a class (named or not) has diverse citizenship from any one defendant, provided that the aggregate amount in controversy exceeds $5 million. [2] This provision gives plaintiffs access to federal courts for some cases that previously could only have been filed in state court. On the other hand, it also gives defendants new rights to remove certain cases to federal court that previously could not have been removed. The jurisdictional provisions in CAFA are discussed in detail in Chapter 2 [1], infra. [3][4]Section 2.1 [2], infra, discusses the reasons a plaintiff class may prefer to litigate the case in federal court or, alternately, in state court.

As a result of the Supreme Court’s ruling in *Bristol-Myers Squibb Co. v. Superior Court of California*, another potential choice of jurisdiction decision has arisen, particularly with regard to putative multistate or national class actions. [5] Although the underlying case was not a class action, and originated in a state rather than in a federal court, the decision nonetheless may have serious ramifications for a plaintiff’s ability to pursue a class action against an out-of-state defendant even when the defendant is a corporation that engages extensively in business in the forum state.

*Bristol-Myers Squibb Co.* (Bristol-Myers) was sued in California state court by several hundred individuals from many states—including California—all of whom claimed injuries from the use of one of the company’s products. Bristol-Myers had extensive contacts with California but it is incorporated in Delaware and has its principal places of business in New York and New Jersey.

The Supreme Court has previously held that, as a matter of due process, unless a defendant consents to litigation in a state, a court may exercise personal jurisdiction only if the defendant has “minimum contacts” with that state. [6] The Court later identified two ways of finding minimum contacts: general jurisdiction (when the defendant has had sufficient systematic and continuous contacts with the state for it to be regarded as the defendant’s “home state or states”) and specific jurisdiction (based on the defendant’s contacts with the state that gave rise to the plaintiff’s cause of action). [7]

In *Bristol-Myers*, the trial court held that California had general jurisdiction, but the court of appeal disagreed, holding that there was specific jurisdiction. [8] The California Supreme Court affirmed, finding that there was sufficient contact with California to support specific jurisdiction over all of the claims asserted by both California and non-California residents. [9] However, the United States Supreme Court reversed, holding that specific jurisdiction did not exist for the out-of-state plaintiffs to sue in California because the connection between the state and the nonresidents’ claims was inadequate. [10]

Justice Sotomayor dissented, pointing out how the ruling will create a significant impediment to holding corporations accountable for their actions, particularly when many people across the country are affected by the corporation’s wrongdoing:

The majority’s rule will make it difficult to aggregate the claims of plaintiffs across the country whose claims may be worth little alone. It will make it impossible to bring a nationwide mass action in state court against defendants who are “at home” in different States. And it will result in piecemeal litigation and the bifurcation of claims. . . . A core concern in this Court’s personal jurisdiction cases is fairness. And there is 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. [10]

*Bristol-Myers* leaves many unanswered questions for class action practitioners who are trying to select the best or most appropriate jurisdiction for filing a multistate or national claim. Does the decision apply to class actions in the first place, as these are representative actions? [10] If it does, is the ruling limited only to state court actions or does it apply to federal courts as well? Can there be nationwide class actions if the putative class includes individuals injured by the defendant’s conduct in states other than those in which the named plaintiffs reside? In order to be sure of jurisdiction, are the plaintiff class representatives in such cases relegated to suing in the defendant’s home state? If that is the case, what does that mean for actions brought against foreign multinational corporations? Is the plaintiff practitioner’s only other option to file separate suits in each state court where a putative class member resides and is that feasible with an out-of-state named plaintiff? What does the decision mean for multidistrict litigation? Until these issues are resolved, choice-of-forum decisions will continue to present critical challenges for putative class action plaintiffs and their counsel.
Footnotes

91 28 U.S.C. § 1332. See § 2.3 [3], infra.


100 Bristol-Myers Squibb Co. v. Super. Ct. of Cal. [5], ___ U.S. ___, 137 S. Ct. 1773, 1782, 198 L. Ed. 2d (2017) (“The relevant plaintiffs are not California residents and do not claim to have suffered harm in that State. In addition . . . all the conduct giving rise to the nonresidents’ claims occurred elsewhere. It follows that the California courts cannot claim specific jurisdiction.”).

101 Id. 137 S. Ct. at 1784 (Sotomayor, J., dissenting).

102 Note, for example, that federal courts have Article III jurisdiction of a class action if the named plaintiff has standing, even if some or many class members do not. See § 10.3.3.2.1 [6], infra.

Source: National Consumer Law Center, Consumer Class Actions [10th Ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/class/010705-0

Links
[1] https://library.nclc.org/nclc/link/Class.02
[2] https://library.nclc.org/nclc/link/Class.02.01
[3] https://library.nclc.org/nclc/link/Class.02.03