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California high court gives green light to out-of-state plaintiffs

(Reuters) - The California Supreme Court has ruled non-residents can bring claims over Bristol-Myers Squibb's blood thinner Plavix in the state's courts, finding the corporation's national marketing campaign and sales in the state subjected it to specific jurisdiction.

In a 4-3 ruling on Monday, the state high court affirmed that California courts had jurisdiction over nearly 600 non-residents' claims against New York-based Bristol-Myers, based on the company's "single, coordinated, nationwide course of conduct" involving Plavix.

A lawyer for the plaintiffs, Hunter Shklonik of Napoli Shklonik, called the ruling a "monumental" decision that would affect a wide swath of mass tort claims.

It was the first time California's top court weighed in on the U.S. Supreme Court's 2014 decision in Daimler AG v. Bauman, which said general jurisdiction exists where a company is "at home." The California ruling arises from a series of cases alleging Plavix can increase risk of stroke, heart attack and internal bleeding. In 2012, eight complaints were filed in San Francisco state court on behalf of 86 California residents and 592 non-residents.

Bristol-Myers moved to quash summonses from non-resident plaintiffs for lack of general jurisdiction, arguing it was neither headquartered nor incorporated in California. Plaintiffs noted Bristol-Myers had offices and employees in California, and had sold nearly \$1 billion worth of Plavix there.

The trial court denied Bristol-Myers' motion, and its request for an appeal was initially denied. In response to the Daimler ruling though, the California Supreme Court directed the lower appeals court to hear the case.

The First Appellate District held in 2014 that, under Daimler, there was no general jurisdiction over Bristol-Myers in California. But there was specific jurisdiction based on the company's "substantial, continuous economic activity" in the state with regard to Plavix.

Bristol-Myers appealed, arguing First District's ruling contravened Daimler and would turn California into a "national court for mass tort product liability litigation against out-of-state companies."

But the state supreme court agreed that specific jurisdiction existed. Bristol-Myers' "nationwide marketing, promotion and distribution of Plavix created a substantial nexus" between nonresidents' claims and its California conduct, wrote Chief Justice Tani Cantil-Sakauye in a

majority opinion joined by Justices Goodwin Liu, Leandra Kruger and Mariano-Florentino Cuellar.

The majority tamped down fears the ruling would turn California into a mass torts destination, noting questions of specific jurisdiction would still turn on the "nature and quality of the defendant's activities in the state."

Three dissenting judges, led by Justice Kathryn Wedegar, reached a different conclusion, noting the decision granted specific jurisdiction entirely on the fact that Plavix was sold in California. The majority "sanctions our state to regularly adjudicate disputes arising purely from conduct in other states" in a manner "inconsistent with the limits set by due process," Wedegar wrote. Shklonik said the cases would now move forward in the lower court, where California plaintiffs' claims have been proceeding toward a series of early trial dates set to start in 2017. BMS was not immediately available for comment.

The case is Bristol-Myers Squibb Co v S.C., California Supreme Court, No. S221038

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