Seventh Circuit Holds District Court Had Jurisdiction Over Claims of Unnamed Non-Resident Class Members in TCPA Class Action

Thursday, March 12, 2020

In 2017, the Supreme Court held in the context of a coordinated mass action that a California State Court did not have jurisdiction over claims asserted against the defendant by plaintiffs who were not residents of the state. *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017). Since then, the reasoning of the *Bristol-Myers* case has been used by defendants to argue in the context of nationwide class actions that Federal Courts do not have jurisdiction over the claims of unnamed, non-resident class members (at least where jurisdiction is specific versus general).

There is logical appeal to this argument, and the argument did catch on for a time—particularly in a pocket of rulings within the Illinois District Courts. However, outside of this pocket, many District Courts declined to extend the Supreme Court’s holding in *Bristol-Myers* to class-actions. And now, the Seventh Circuit has weighed in and held that the Supreme Court’s holding in *Bristol-Myers* does not apply to nationwide class actions brought in Federal Court. *Mussat v. Iqvia, Inc.*, No. 19-1204, 2020 U.S. App. LEXIS 7560 (7th Cir. Mar. 11, 2020).

In *Mussat*, the plaintiff brought a nationwide TCPA class action against the defendant and sought to certify a class of anyone in the country who received a certain fax message from the defendant. The District Court granted the defendant’s motion to strike the plaintiff’s class allegations on the basis that, under the Supreme Court’s holding in *Bristol-Myers*, the court did not have jurisdiction over the claims of non-resident putative class members. The Seventh Circuit disagreed with the District Court’s holding, and reversed. The court’s decision came down to two key points.

The first point stemmed from more holistic considerations. The court observed that “[t]he Supreme Court has regularly entertained cases involving nationwide classes where the plaintiff relied on specific, rather than general, personal jurisdiction in the trial court, without any comment about the supposed jurisdictional problem [the appellant] raises.” Thus, “decades of case law show that this has not been the practice of federal courts,” to consider the residency of unnamed class members when evaluating jurisdiction.

Second, the court held that the procedural context within which *Bristol-Myers* was decided foreclosed its application to nationwide class actions. In the words of the court, “[p]rocedural formalities matter.” The court reasoned there were important differences between a mass action—in which each Plaintiff is an active, named party in the case—versus class actions where “the lead plaintiffs earn the right to represent the interests of absent class members by satisfying all four criteria of [Fed. R. Civ. P.] 23(a) and one branch of 23(b).” As a result, “absent class members are not full parties to the case for many purposes,” and hence their residency should not be examined in assessing jurisdiction.

In particular, the court focused on the fact that absent class members are not considered when: (1) the court assesses the existence of diversity jurisdiction; and (2) the court decides whether it is the proper venue. In light
of how class members are treated in these two contexts, the court “saw no reason why personal jurisdiction should be treated any differently from subject-matter jurisdiction and venue: the named representatives must be able to demonstrate either general or specific jurisdiction, but the unnamed class members are not required to do so.”

The court’s opinion in Mussat unfortunately will eliminate an arrow in a class action defendant’s quiver for cases within the Seventh Circuit. Outside of the Seventh Circuit, the opinion may be viewed as persuasive, but is not likely to alter the status quo very much. The application of Bristol-Myers to class actions was a concept that was not exactly well-received by many courts prior to Mussat. As such, from a practical standpoint this case reflects that it will likely be business as usual when it comes to the wide availability of forums in which plaintiffs may pursue nationwide class actions. This in turn emphasizes the importance of mitigation strategies to avoid class actions in the first place, which where feasible may include arbitration provisions, class action waivers, and forum selection clauses.

Copyright © 2020 Womble Bond Dickinson (US) LLP All Rights Reserved.

Source URL: https://www.natlawreview.com/article/seventh-circuit-holds-district-court-had-jurisdiction-over-claims-unnamed-non