We have previously written about the Supreme Court’s personal jurisdiction decision in *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017) and how the federal district courts were applying it. Now, two Courts of Appeals have finally weighed in, issuing the very first appellate decisions addressing whether *Bristol-Myers* applies to class actions in federal courts.

In *Molock v. Whole Foods Market Group, Inc.*, No. 18-7162, 2020 WL 1146733 (D.C. Cir. March 10, 2020), plaintiffs, current and former employees of Whole Foods, brought a putative class action seeking to recover alleged lost wages. Defendant moved to dismiss and argued that the court lacked personal jurisdiction over the claims of nonresident putative class members. The district court denied the motion, and Whole Foods appealed. In a 2-1 decision, the D.C. Circuit held that the question of whether *Bristol-Myers* applied to class actions was premature and need not be addressed because no class had been certified and the putative class members therefore were not parties. In his dissent, Judge Silberman opined that Whole Foods had actually moved to dismiss the claims of the named plaintiffs, not nonresident
putative class members. He viewed this as a “run-of-the-mill attack on class certification at the pleading stage, and such a motion” is not premature. Judge Silberman would have held that class claims unrelated to Whole Foods’ contacts with the District of Columbia could not proceed.

In *Mussat v. IQVIA, Inc.*, No. 19-1204 (7th Cir. March 11, 2020), plaintiffs brought a putative class action under the Telephone Consumer Protection Act (“TCPA”). Relying on *Bristol-Myers*, Defendant moved to strike the class definition to the extent it alleged a nationwide class, and the district court granted defendant’s motion. On appeal on a Rule 23(f) petition, the Seventh Circuit held that *Bristol-Myers* did not apply to a nationwide class action filed in federal court under a federal statute, such as the TCPA. Unlike the D.C. Circuit, the Seventh Circuit was unconcerned with whether the defendant’s motion was premature. The Seventh Circuit reasoned that the Supreme Court had, on numerous occasions, adjudicated nationwide class actions without flagging the personal jurisdiction issue raised by *Bristol-Myers*, applying “settled principles of personal jurisdiction.”


In all of these cases, the issue of personal jurisdiction arises because plaintiffs sue defendants in jurisdictions where defendants are not subject to general jurisdiction. The viability of the nonresident plaintiffs’ (or class members’) claims in such cases depends on principles of specific jurisdiction, focused on whether such claims arise from sufficient contacts with the forum.

We will continue to track the *Bristol-Myers* personal jurisdiction issue as other federal Courts of Appeals and District Courts within the First Circuit issue decisions. Should a circuit split arise, it would not be surprising if the Supreme Court ultimately grants a petition for certiorari in a case to clarify whether its holding in *Bristol-Myers* extends to class actions in federal court.

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