The Illinois Supreme Court recently unanimously held that an out-of-state manufacturer defendant’s constitutional rights were violated by exercising jurisdiction over the manufacturer. *Rios et al., v. Bayer Corporation et al.,* and *Hamby et al., v. Bayer Corporation et al.*, 2020 IL 125020. The Court, relying on the U.S. Supreme Court’s 2017 decision in *Bristol-Myers Squibb Co. v. Superior Court of California,* held that Illinois may not exercise specific jurisdiction “over an out-of-state defendant as to the claims of out-of-state plaintiffs when the conduct giving rise to the claims did not occur in the forum state.”

The Court held that a non-resident plaintiff must show a “meaningful connection” between the claim and the defendant’s activity in Illinois to justify the exercise of specific jurisdiction by Illinois courts. A defendant’s general activity in the state, unrelated to the plaintiff’s claim, provides no basis for exercising specific personal jurisdiction over that defendant.
Here, the nonresident plaintiffs had argued that Illinois’ exercise of specific jurisdiction was proper because Bayer 1) sought regulatory approval of the product, 2) created a physician accreditation program and conducted physician training, and 3) conducted clinical trials in Illinois. The Court disagreed and pointed to the lack of allegations that 1) the product was manufactured in Illinois, 2) the nonresident plaintiffs or their medical providers had received false information in Illinois, 3) the nonresident Plaintiffs’ physicians were inadequately trained in Illinois, nor 4) the nonresident Plaintiffs’ devices were implanted in Illinois.

A nonresident plaintiff’s argument that they sustained the same injury as an in-state co-plaintiff does not suffice to establish specific jurisdiction. The Court further highlighted the *Bristol-Myers* observations that the out-of-state plaintiffs could pursue their claims elsewhere, including by joining in a consolidated action in states that had general jurisdiction over defendant.

With this decision, the Illinois Supreme Court slammed the door on plaintiff’s argument that Illinois could exercise specific personal jurisdiction over a non-resident defendant as to the claims of out-of-state plaintiffs for personal injuries suffered outside of Illinois from a device manufactured outside of Illinois. Timely motions to dismiss must be filed to preserve this defense and the issue should be raised at the earliest possible time. Polsinelli attorneys have the expertise to analyze issues of personal jurisdiction and advise clients on whether motions to dismiss are appropriate under the facts of the individual case.

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