



**Civil Justice Association of California**

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**Out-of-State Plaintiffs**

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## **Out-of-State Plaintiffs**

**Are Out-Of-State Plaintiffs clogging California Courts?**

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For the Civil Justice Association of California

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# Executive Summary

## Are Out-Of-State Plaintiffs clogging California Courts?

The Civil Justice Association of California conducted a study to determine the volume of cases filed in California state courts by out-of-state plaintiffs. The study included product liability cases against pharmaceutical companies filed in Los Angeles and San Francisco between January 2010 and May 2016.

### The Numbers

- Total # of cases: 2,919
- Total # of plaintiffs: 25,503
- Total # of Non-California plaintiffs: 22,935 (89.9%)
- Total # of California plaintiffs: 2,568 (10.1%)
- Cases with no California plaintiffs: 1,964 (67.3%)
- Cases with at least 95% of plaintiffs from outside CA: 2,085 (71.4%)
- Cases with at least 75% of plaintiffs from outside CA: 2,442 (83.6%)
- Cases with at least 50% of plaintiffs from outside CA: 2,509 (85.9%)

### Takeaways

- Our research found that the majority of the plaintiffs in these suits had no connection to the state of California.
- Only 10 percent of the plaintiffs in these pharmaceutical cases were California residents.
- Over 67 percent of the cases had no California plaintiffs at all.
- Over 85 percent of the cases had more than half of the plaintiffs from out of state.
- California is the most populous state, making up 12% of the population of the United States. California residents are actually slightly *less* represented in these lawsuits than in the general population.

### Which Law Firms Are Doing this?

A small number of law firms represented the plaintiffs in these cases, with 25 firms representing 91% of the plaintiffs. Out of those firms, seven of them had California residents make up less than 7% of their plaintiffs:

- Andrews & Thornton
- Napoli Bern Ripka Shkolnik
- Audet & Partners
- The Miller Firm
- The Mulligan Law Firm
- Edwards & de la Cerda
- The Law Offices of Sin-Ting Mary Liu

None of the top firms had California residents make up more than one third of their plaintiffs.

### ***Bristol-Meyers Squibb Company v. Superior Court of San Francisco County***

A recent California Supreme Court case, *Bristol-Meyers Squibb Company v. Superior Court of San Francisco County* addressed this issue. In this case, 678 total plaintiffs sued Bristol-Meyers Squibb (BMS) for injuries allegedly arising from their use of Plavix, a prescription medicine used to inhibit blood clotting after a heart attack or stroke. The California Supreme Court, in a divided 4-3 opinion, allowed California jurisdiction for mass tort cases that involve out of state plaintiffs, out of state defendants and out of state events because the defendant corporation advertised and sold its products within California and because California residents have parallel claims.

- The numbers in the Bristol Meyers Squibb case are similar to those the research found. In that case, 86 of 678 total plaintiffs, or 12.6%, were California residents. Five hundred ninety two, or 87.4% were from thirty-four other states.
- The potential for more out-of-state plaintiffs to rely on the *Bristol Meyers Squibb* decision and to sue in California courts is great.
- California courts have been plagued with budget issues – courthouse construction is currently on hold and allocated and necessary judgeships have not been funded. Yet our courts are available for out of state plaintiffs to sue out of state defendants, while California residents have to wait in line for an available courtroom.

<http://www.courts.ca.gov/opinions/documents/S221038.PDF>

- There is no evidence connecting the Plavix taken by any of the nonresident -plaintiffs to California.
- There is no evidence California doctors prescribed the Plavix to the nonresident plaintiffs.
- There is no evidence the Plavix was manufactured in California.
- There is no evidence the Plavix was distributed by a California distributor.
- There is no evidence that BMS's California employees marketed the drug in California.
- "As California holds a substantial portion of the United States population, any company selling a product or service nationwide, regardless of where it is incorporated or headquartered, is likely to do a substantial part of its business in California. Under the majority's theory of specific jurisdiction, California provides a forum for plaintiffs from any number of states to join with California plaintiffs seeking redress for injuries from virtually any course of business conduct a defendant has pursued on a nationwide basis, without any showing of a relationship between the defendant's conduct in California and the nonresident plaintiffs' claims. The majority thus sanctions our state to regularly adjudicate disputes arising purely from conduct in other states, brought by nonresidents who suffered no injury here, against companies who are not at home here but who simply do business in the state." See dissent page 33.