No. S221038
(Court of Appeal No. A140035)
(San Francisco County Super. Ct. J.C.C.P. No. 4748)

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

BRISTOL-MYERS SQUIBB COMPANY,
Petitioner,

v.

SUPERIOR COURT FOR THE COUNTY OF SAN FRANCISCO,
Respondent.

BRACY ANDERSON, *ET AL.*,
Real Parties in Interest.

PETITIONER'S REPLY BRIEF ON THE MERITS

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INTRODUCTION

The nonresident Plaintiffs' Answer Brief is notable for what it does *not* contain. They cite *no* post-*Daimler* case upholding the assertion of general jurisdiction in a state other than that of the defendant's incorporation or principal place of business. They cite no case finding the "relatedness" requirement for specific jurisdiction satisfied based on the similarity of distinct claims brought by others who reside in the forum state.

Instead, the nonresident Plaintiffs shine a spotlight, perhaps inadvertently, on the extraordinary departure from precedent they urge upon this Court. To obtain general jurisdiction over BMS, they ask the Court to disregard the two most important U.S. Supreme Court general jurisdiction cases since *International Shoe Co. v. Washington*, 326 U.S. 310 (1945). In their attempt to procure specific jurisdiction, they ask this Court to discard its own precedent requiring a "substantial connection" between the *plaintiff's* claim and the defendant's activities within the forum. The Court should do neither.

Daimler AG v. Bauman, 134 S. Ct. 746 (2014), and *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 131 S. Ct. 2846 (2011), redefined the general jurisdiction paradigm. No longer may general jurisdiction over a corporation be created by simply adding up a company's contacts with, sales in, and profits from sales in the forum state. A corporation, like an individual, has a home, and in almost all cases that will be where it is incorporated or has its principal place of business. Theoretically, exceptional circumstances may warrant finding a home elsewhere, but in the single case in which the U.S. Supreme Court has applied that exception, the company had relocated its headquarters in response to wartime conditions, making a temporary "home" in the forum state. BMS has no

headquarters in California, either temporary or permanent. It is "at home" in New York and Delaware, not in California.

Now that the U.S. Supreme Court has reined in general jurisdiction, the nonresident Plaintiffs seek to free the doctrine of specific jurisdiction from well-understood limitations that have been articulated and applied for decades. That doctrine requires the lawsuit to be "related," or as this Court has articulated it, "substantially connected" to the defendant's forum activities. Case after case from this Court has required a relationship between the defendant's forum activities and the facts of the *claimant's* lawsuit. That relationship undoubtedly has been stronger in some cases than in others. But it has always been present. In no case has this Court found the test satisfied merely because the defendant conducted general, even substantial, business activities in the State. In no case has this Court found it satisfied simply because other unrelated in-state plaintiffs have filed similar claims in the State. Nor would Due Process tolerate such a result.

We recognize that the application of *Daimler*'s limitation on general jurisdiction with no corresponding departure from the established limits on specific jurisdiction will result in fewer lawsuits proceeding in California than before. But that is as it should be. There is no legitimate reason why California should have to host mass tort litigations against out-of-state companies predominated by nonresident plaintiffs. In this litigation alone, over 3,000 nonresidents have sued BMS—a New York and Delaware company—in California state court for Plavix®-related injuries. Yet these same lawyers have filed almost 600 Plavix® claims in a coordinated New York state court litigation and more than 50 Plavix® claims in a coordinated Delaware state court litigation, and have more than 200 Plavix® plaintiffs pending in a federal multidistrict litigation. Every one of these nonresident

Plaintiffs could have found a home for his or her lawsuit outside of California. None of them belongs here.

DISCUSSION

I.

BECAUSE BMS IS NOT "AT HOME" IN CALIFORNIA, IT IS NOT SUBJECT TO GENERAL JURISDICTION.

The nonresident Plaintiffs begin their brief by debating whether *Daimler* "changes the legal landscape of personal jurisdiction" (AB 8)[1] or is merely "an application of the concept embedded within *Goodyear*." *Id.* It makes no difference. The "concepts embedded within *Goodyear*" and *Daimler* significantly narrowed the scope of general jurisdiction as lower state and federal courts had applied it. OB 2, 8-9. Despite acknowledging *Daimler* and *Goodyear*, the nonresident Plaintiffs give no effect to those decisions. Perhaps most puzzling, they describe as "patently false" our characterization of those cases as holding that "there is only one—at the most two—jurisdictions where a defendant can be deemed to be 'at home' and subject to general jurisdiction." AB 9-10. But other than the type of "exceptional case" described below, that is exactly what *Daimler* and *Goodyear* held. *See* OB 9-10 & n.2.

In the seventy years since *International Shoe*, the Court has found only one exceptional case. *See Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437 (1952). There, an out-of-state defendant was neither formally incorporated nor headquartered in Ohio, but had essentially relocated to that state during World War II. The corporate president kept his office, oversaw corporate activities, and maintained the company files there. For all intents and purposes, "Ohio was the

[1]We refer to the nonresident Plaintiffs' Answer Brief on the Merits as "AB" and to BMS's Opening Brief on the Merits as "OB."

corporation's principal, if temporary, place of business . . . ." *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 779-80 n.11 (1984) (discussing *Perkins*). In *Daimler*, Justice Ginsberg cited *Perkins* as the type of exceptional case that would exclude it from the general rule. *Daimler*, 134 S. Ct. at 761 n.19. The nonresident Plaintiffs make no attempt to place the facts of this case within the *Perkins* paradigm.

Instead, they fall back on the outdated "continuous and systematic" test for general jurisdiction which *Daimler* and *Goodyear* emphatically rejected. The nonresident Plaintiffs say that because BMS has 400 employees in California, occupies or owns five buildings, and has California sales "account[ing] for an astonishing 1.1% of all U.S. Plavix® sales," BMS is subject to general jurisdiction here. AB 5, 11, 13.[2] But these contacts are even more attenuated than the ones *Daimler* rejected as insufficient. In *Daimler*, the company had "multiple California-based facilities, including a regional office in Costa Mesa, a Vehicle Preparation Center in Carson, and a Classic Center in Irvine." 134 S. Ct. at 752. Daimler's California sales accounted for 2.4% of its *worldwide* sales, and Daimler was the single largest supplier of luxury vehicles to the California market. *Id.*[3]

Yet despite Daimler's substantial business in California, the Court held that for purposes of general jurisdiction, "Daimler's slim contacts with the State hardly render it at home there." *Id.* at 760. The Court reasoned that to find general jurisdiction simply because a company does significant

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[2]That the nonresident Plaintiffs should be "astonish[ed]" by the 1.1% figure is puzzling. California has more than 12% of the United States population, and more than 12% of the country's GDP.

[3]The Court treated the sales of automobiles in California by Daimler's U.S. subsidiary, MBUSA, as attributable to Daimler for purposes of its analysis. *Daimler*, 134 S. Ct. at 760.

business in a forum would subject all nationwide companies to general jurisdiction in every state, a patently unconstitutional result. The Court reasoned:

> If Daimler's California activities sufficed to allow adjudication of this Argentina-rooted case in California, the same global reach would presumably be available in every other State in which [the U.S. subsidiary's] sales are sizable. Such exorbitant exercises of all-purpose [general] jurisdiction would scarcely permit out-of-state defendants to structure their primary conduct with some minimum assurance as to where that conduct will and will not render them liable to suit. (*Id.* at 761-62 (citation and internal quotation marks omitted))

Consequently, as *Daimler* explained, being "at home" cannot be established merely by showing that a company does business—even substantial business—in the forum State. *Id.* But that is exactly what the nonresident Plaintiffs ask this Court to hold.

The nonresident Plaintiffs do not argue that BMS's California sales are more significant than Daimler's California sales—because they are not. Nor do they argue that BMS's five California buildings are a materially greater California presence than Daimler's substantial facilities were—again, because they are not. The nonresident Plaintiffs do not say why this case warrants a different result. Instead, without explanation, they say that reliance on *Daimler* is "disingenuous." AB 11.

The nonresident Plaintiffs also attempt to distinguish the recently decided *BNSF Railway Co. v. Superior Court*, 235 Cal. App. 4th 591 (2015), by arguing that BMS's forum contacts were "far more extensive." AB 12. That is untrue. In *BNSF Railway*, the defendant owned 1,149 miles of California track, employed 3,520 people in California, and generated 6% of its revenue in California—contacts that far surpass BMS's 400 employees, 1.1% California sales, and modest physical presence here. 235 Cal. App. 4th at 394. Just as the Court of Appeal said in *BNSF Railway*, if California courts are

permitted to exercise general jurisdiction over BMS here, "'the same global reach would presumably be available in every other State in which [petitioner's] sales are sizeable.' This result is not permissible under the due process clause as interpreted in *Daimler*." *Id.* at 401 (citation omitted).

The nonresident Plaintiffs finally imply that BMS's appointment of an agent for service of process in California somehow confers general jurisdiction. AB 11, 13. But they cite no case in support of that proposition. Tellingly, they fail to address *DVI, Inc. v. Superior Court*, 104 Cal. App. 4th 1080, 1095 (2002), and *Gray Line Tours v. Reynolds Electrical & Engineering Co.*, 193 Cal. App. 3d 190, 193-94 (1987), both of which rejected that argument out of hand. Appointing such an agent is a requirement to do business in this State, not an authorization for unlimited lawsuits. *See* CORP. CODE §2105(a)(5) (requiring foreign corporations doing business in California to file a certification of qualification, including the name of a registered agent for service of process). To hold that compliance with that statute constitutes consent to be sued for any and all matters would potentially deter many companies from doing business here.

II.

CALIFORNIA COURTS MAY NOT EXERCISE SPECIFIC JURISDICTION OVER BMS TO DECIDE CLAIMS OF NONRESIDENTS THAT HAVE NO CONNECTION TO CALIFORNIA.

A. The Nonresident Plaintiffs Fail To Establish Any Connection Between Their Claims And BMS's Activities In California.

The nonresident Plaintiffs' brief provides a scattershot of policy and quasi-policy arguments for allowing the assertion of specific jurisdiction. What it fails to do is tie these arguments to the governing legal standard. That standard requires the nonresident Plaintiffs to show *each* of the

following: (1) the defendant purposefully availed itself of the forum benefits; (2) the cause of action "arises out of" or "relates to" the defendant's forum contacts; and (3) the exercise of jurisdiction comports with "fair play and substantial justice." *Snowney v. Harrah's Entm't, Inc.*, 35 Cal. 4th 1054, 1062 (2005) (citations omitted). In this appeal, BMS does not contest the first and third prongs. Consequently, this Court should disregard the nonresident Plaintiffs' "reasonableness" arguments (AB 24-28), which relate to the third prong. At issue here is the second, "relatedness" prong, which this Court has held satisfied only when there is "a substantial nexus or connection *between the defendant's forum activities and the plaintiff's claim.*" *Vons Cos. v. Seabest Foods, Inc.*, 14 Cal. 4th 434, 456 (1996) (emphasis added).

The nonresident Plaintiffs assume they can satisfy this standard by tallying up the same *unrelated* forum contacts that they rely on to argue for general jurisdiction: the amount of Plavix® sales and profits in California, BMS's California employees and offices, and a single distribution agreement with a California company.[4] To satisfy specific jurisdiction, however, these California contacts must be "substantially connected" *to the nonresident Plaintiffs' claims.* They are not: BMS's California connections never intersect with the nonresident Plaintiffs' claims. Their claims would be exactly the same if BMS had never set foot in California, had never engaged in any commercial activity in California, had never sold any product here, and had engaged only non-California distributors. OB 14. These unconnected contacts do not take

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[4] These contacts are relevant to the first "purposeful availment" prong for specific jurisdiction—a point that BMS has not contested. Those contacts may also be "related to" the claims of California residents who purchased the Plavix® that BMS sold here as a result of its California sales operations. BMS is also not challenging jurisdiction as to those in-state plaintiffs.

the nonresident Plaintiffs even one step towards establishing specific jurisdiction.

It is no wonder that the nonresident Plaintiffs rely on the separate claims brought by California residents—claims based on those California residents' in-state purchase and use of Plavix®. But no court has allowed such an amorphous "connection," completely divorced from the facts of a plaintiff's own claim, to satisfy the relatedness prong. *See, e.g., In re Plavix Related Cases*, No. 2012L5688, 2014 WL 3928240 (Ill. Cir. Ct. Aug. 11, 2014); OB 16-17.

Vons requires "a substantial nexus or connection between the defendant's forum activities *and the plaintiff's claim*." 14 Cal. 4th at 456 (emphasis added). If relatedness were relaxed to allow for specific jurisdiction merely because others who *do* reside in the forum have brought similar claims based on *their* purchase and use of the product within the forum, then relatedness could be satisfied in every state by the simple expedient of joining one or a few local plaintiffs in an action brought by nonresidents. Every company engaged in nationwide commerce could be sued by any plaintiff in any state for product-related injuries. That result would resurrect by another name the concept of nationwide jurisdiction that *Daimler* rejected.

In the following sections, we distill and respond to the nonresident Plaintiffs' specific arguments.

B. McKesson's California Residence Does Not Support Specific Jurisdiction Over BMS.

McKesson Corporation, headquartered in California, is one of several wholesalers that distribute BMS's products nationally to pharmacies and other institutions. Reading the nonresident Plaintiffs' brief, one would think that, at a minimum, McKesson distributed Plavix® to the pharmacies at which these plaintiffs filled their prescriptions. But the record is

devoid of any such evidence, despite the nonresident Plaintiffs having had a full opportunity to conduct pre- and post-filing discovery.

Even if the nonresident Plaintiffs could make this showing, McKesson's California residence has no "substantial connection" to their claims against BMS. Their complaints allege that BMS failed to warn of risks associated with Plavix® and promoted the drug improperly. *See, e.g.*, Pet. Ex. 32-35. These claims have nothing to do with how BMS distributed the drug to pharmacies or medical institutions, which is what wholesalers like McKesson do. That BMS uses a California company as one of its distributors is no more relevant to the nonresident Plaintiffs' claims than if BMS had used a California-based trucking company to ship Plavix® from its manufacturing facilities to pharmacies in the nonresident Plaintiffs' respective states. Unsurprisingly under these circumstances, the nonresident Plaintiffs cite no case supporting their argument that McKesson's residence bears a connection, let alone a substantial connection, to their claims.

In fact, the case law supports the opposite view. In *Glater v. Eli Lilly & Co.*, 744 F.2d 213, 214 (1st Cir. 1984), a Massachusetts resident brought a pharmaceutical product liability action in New Hampshire, arising from her mother's use of DES in Massachusetts. The out-of-state manufacturer did business in New Hampshire, including selling its products in New Hampshire to in-state wholesale distributors. *Id.* at 214-15. Despite these contacts, the First Circuit concluded: "[Plaintiff's] cause of action did not arise from Lilly's New Hampshire activities; rather, her injuries were caused in Massachusetts by exposure *in utero* to DES which her mother purchased and consumed in Massachusetts." *Id.* at 216; *see also Fisher Governor Co. v. Superior Court*, 53 Cal. 2d 222 (1959) (in a product liability action involving nonresident plaintiffs injured outside forum, no specific jurisdiction even

though the out-of-state defendant sold the same product in California through independent manufacturers' agents).

The nonresident Plaintiffs argue that BMS went beyond asking McKesson to distribute the drug and "chose to enter into a commercial and contractual relationship with California resident defendant McKesson Corporation to have . . . [Plavix®] *advertised*, sold, *marketed* and distributed within California." AB 13 (emphasis added). This assertion is just made up: the record is devoid of any evidence that McKesson had anything to do with the advertising, marketing and labeling of Plavix®.[5] But even if true, such a contractual relationship to advertise, market and distribute Plavix® *within California* could at most support specific jurisdiction over the claims of California residents. That has no relevance to the nonresident Plaintiffs, whose doctors did not view advertising here, and who did not purchase or consume Plavix® here.

Finally, the nonresident Plaintiffs claim that if they cannot sue BMS in California, they would "be forced to litigate against McKesson in California" while suing BMS elsewhere. AB 29. That is not so. The nonresident Plaintiffs could bring an action against both McKesson and BMS in any state in which McKesson distributes Plavix® to a consumer who purchased, consumed, and is injured by Plavix® there.

But the reality is they will not do that. In pharmaceutical product liability cases filed nationwide, plaintiffs have sued no distributors other than McKesson and they have sued McKesson only in California. The reasons are unrelated to the merits of the claims against McKesson. Rather, naming

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[5]In support, the nonresident Plaintiffs cite three charts that describe Plavix® sales to distributors in California, including to McKesson. At best, this evidence shows that BMS sold Plavix® to McKesson for distribution; they do not show a "commercial and contractual relationship" to do anything else.

McKesson, a California resident, in California actions can help defeat removal to federal court because of the forum defendant rule, 28 U.S.C. §1441(b).[6] But whatever traction that tactic has gained in the removal-remand context, it does not confer personal jurisdiction over BMS.

C. The Nonresident Plaintiffs Cite No Relevant Authority Supporting The Assertion Of Specific Jurisdiction By Nonresident Plaintiffs Who Acquired, Used And Were Allegedly Injured By The Product Outside The Forum.

The three cases the nonresident Plaintiffs cite to support their theory of relatedness actually show why that requirement is not satisfied here. *See* AB 16-20.

The nonresident Plaintiffs cite *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770 (1984), and *In re Oil Spill by the Amoco Cadiz off the Coast of France on March 16, 1978*, 699 F.2d 909 (7th Cir. 1983), for the proposition that specific jurisdiction may exist in states other than where the plaintiff and defendant reside. AB 16. We agree. But whether the plaintiff is a resident or a nonresident, there must be a substantial connection between the plaintiff's own claim and the out-of-state defendant's forum activities to invoke specific jurisdiction.

One need look no further than *Keeton* and *Amoco Cadiz* to see this. *Keeton* involved the publication of libelous magazine articles sold and distributed within the forum state. The U.S. Supreme Court explained that "[t]he tort of libel is generally held to occur wherever the offending material is circulated" (*Keeton*, 465 U.S. at 777) and that "it is beyond dispute that New Hampshire has a significant interest in redressing injuries *that actually occur within the State.*" *Id.* at 776

[6] *See, e.g., In re Plavix Prod. Liab. & Mktg. Litig.*, MDL No. 2418, 2014 WL 4954654 (D.N.J. Oct. 1, 2014) (in pharmaceutical actions involving McKesson, federal court remanded action to California state court based on the forum defendant rule).

(emphasis added). The nonresident Plaintiffs' injuries here are alleged to have occurred in many states—but not in California.

In *Amoco Cadiz*, French plaintiffs alleged that a Spanish shipbuilder was liable for defectively designing a ship which caused an oil spill off the French coast. 699 F.2d at 912. The construction contract for the ship out of which the claim arose was signed in the forum state (Illinois), "following extensive negotiations there, and followed by other meetings there related to the *Amoco Cadiz* contract . . . ." *Id.* at 916. Because the plaintiffs "were harmed by Amoco's operation of the ship in its defective condition, and the negotiation and signing of the contract were critical steps in the chain of events that led to the oil spill," the court concluded that the injuries arose "from the transaction of business in Illinois between [the ship owner] and [the defendant shipbuilder] . . . ." *Id.* at 917. *Amoco Cadiz* might have some relevance where an out-of-state company developed, tested, and labeled a drug in California and then contracted to sell the drug nationwide. But that is not the case here. Here, those underlying events occurred in New York and New Jersey, not California. Pet. Ex. 432. If anything, *Amoco Cadiz* shows the type of careful, case-specific analysis of the causal chain that must be done to support specific jurisdiction.

The nonresident Plaintiffs also argue that *Cornelison v. Chaney*, 16 Cal. 3d 143 (1976), permits this Court to consider the "interstate character of defendant's business" in determining relatedness. AB 17, 20. *Cornelison* did consider the interstate character of the defendant's business, but only in assessing the *third* "fairness and reasonableness" prong for specific jurisdiction. 16 Cal. 3d at 150-51 ("While the existence of an interstate business *is not an independent basis of jurisdiction* which, without more, allows a state to assert its jurisdiction, this element *is relevant to considerations of fair-*

ness and reasonableness") (emphases added). As stated above, BMS does not contest the "reasonableness" prong here. BMS contests relatedness, and *Cornelison* nowhere states that the interstate character of the defendant's business was relevant to that inquiry.

Cornelison, like *Vons*, involved a tangible connection between the defendant's forum activities and the plaintiff's cause of action. Both the decedent and plaintiff in *Cornelison* were California residents,[7] and the accident occurred just outside of California's border during the course of one of the defendant's regular delivery trips to the State. 16 Cal. 3d at 146, 149. Because the California plaintiff's cause of action arose out of the defendant's business relationship *with California*, the Court found that the substantial connection test was satisfied. *Id.* at 149 ("The accident arose out of the driving of the truck, the very activity which was the essential basis of defendant's contacts with this state").

D. The Nonresident Plaintiffs' Arguments For Distinguishing Cases On Which BMS Relies Are Without Merit.

Confronted with cases contrary to their assertion of jurisdiction, the nonresident Plaintiffs offer a *potpourri* of arguments to distinguish them.

They distinguish *Boaz v. Boyle & Co.*, 40 Cal. App. 4th 700 (1995), because the plaintiffs there "conceded that the alleged injuries of the only California resident plaintiff had nothing to do with the California-related activities of the defendant," whereas "[n]o such concession has been made here." AB 21-22. But while the nonresident Plaintiffs have not *conceded*

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[7]Although specific jurisdiction may be proper in a state other than where the defendant and plaintiff resides, undoubtedly, a state has an interest in "providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors." *Vons*, 14 Cal. 4th at 472-73.

the absence of a substantial connection between their claims and BMS's activities in California, they have failed to demonstrate the existence of one—as it was their burden to do. *See, e.g., Elkman v. Nat'l States Ins. Co.*, 173 Cal. App. 4th 1305, 1312-13 (2009) ("Where a nonresident defendant challenges jurisdiction by way of a motion to quash, the plaintiff bears the burden of establishing by a preponderance of the evidence that minimum contacts exist between the defendant and the forum state to justify imposition of personal jurisdiction") (citations omitted). Indeed, their heavy reliance on BMS's contacts in California with California residents implicitly concedes their inability to prove any actual connection between their own claims and BMS's California contacts.

The nonresident Plaintiffs attempt to distinguish *Fisher Governor Co. v. Superior Court*, 53 Cal. 2d 222 (1959), on the same basis. AB 21-22 ("[T]he plaintiffs conceded that their causes of action were not related to [the defendant's California] activities"). But they provide no citation to *Fisher Governor* supporting such a "concession," and the opinion makes no reference to one. Instead, this Court surveyed the facts and concluded that there was no connection between the manufacturer's California sales or its contract with a California distributor and the product liability claims the nonresident plaintiff was asserting.

Finally, the nonresident Plaintiffs say that BMS's reliance on *Greenwell v. Auto-Owners Insurance Co.*, 233 Cal. App. 4th 783 (2015), is "misplaced" because that decision was based on the language of a contract. AB 22-23. But they do not explain the significance of this supposed distinction, and we can think of none. *Greenwell* rejected the exercise of specific jurisdiction where the plaintiff's injury did not arise in California. Although the insurer had conducted activities in California and wrote a policy for the plaintiff covering potential losses there, the insurance policy claim in question

related to a fire that damaged the plaintiff's building in Arkansas. The Court found no "substantial nexus" between the California activities and the fire that occurred elsewhere. *Greenwell*, 233 Cal. App. 4th at 787, 799-800.

E. The Nonresident Plaintiffs' Judicial Efficiency Arguments Do Not Satisfy The Relatedness Requirement.

The nonresident Plaintiffs argue that it is reasonable and efficient to litigate their claims together with the 84 California residents who have an unchallenged right to sue BMS here. AB 28-30. But they fail to explain why California courts and jurors should bear the brunt of hearing thousands of nonresident claims, and why—in these days of scarce judicial resources and budget pressures—California taxpayers should foot the bill for the adjudication of those claims. *See* OB 4, 19.

There is, in fact, no need for California to provide a nationwide forum. California is not the only place that the nonresident Plaintiffs can have their claims adjudicated in an efficient manner. AB 28. Each of them can join with other residents of their state and sue BMS where they purchased and used Plavix®. Alternatively, the nonresident Plaintiffs can join together with residents of multiple states and collectively sue BMS in one of the states in which it is "at home," as thousands of other Plavix® claimants have done. And Congress has allowed for a third means by which the nonresident Plaintiffs can join together to pursue their claims—the federal multidistrict litigation procedure for pretrial discovery. *See* OB 17-18. But no state may create a broader national forum for the resolution of claims arising in other states; only Congress has that nationwide power. *See id.*

In any event, jurisdiction does not arise based on convenience or expediency. The fundamental limits on the sovereignty of each state in our federal system cannot be cast

aside as the nonresident Plaintiffs urge. *See, e.g.*, *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 293 (1980) ("[T]he Framers . . . intended that the States retain . . . the sovereign power to try causes in their courts. The sovereignty of each State, in turn, implied a limitation on the sovereignty of all of its sister States"). The nonresident Plaintiffs supply no state interest that could justify extending California's jurisdictional reach beyond its borders to allow hundreds or thousands of out-of-state litigants to bring suit in its courts against out-of-state defendants.

CONCLUSION

For the foregoing reasons and those discussed in BMS's opening brief, the Court should reverse the judgment of the Court of Appeal and remand the case with directions to issue a writ of mandate directing the San Francisco Superior Court to vacate its order denying BMS's motion to quash and to enter a new order granting that motion.

DATED: May 11, 2015.

Respectfully,

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CERTIFICATE OF COMPLIANCE PURSUANT TO CAL. R. CT. 8.520(c)(1)

Pursuant to California Rule of Court 8.520(c)(1), and in reliance upon the word count feature of the software used to prepare this document, I certify that the foregoing **Petitioner's Reply Brief On The Merits** contains 4,584 words, exclusive of those materials not required to be counted under Rule 8.520(c)(3).

DATED: May 11, 2015.

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PROOF OF SERVICE

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Three Embarcadero Center, 10th Floor, San Francisco, California 94111-4024. On May 11, 2015, I served the following document(s) described as:

PETITIONER'S REPLY BRIEF ON THE MERITS

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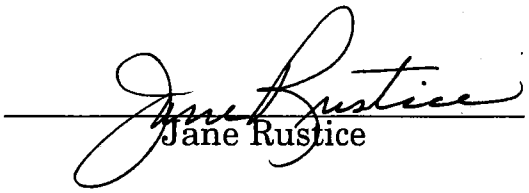

Jane Rustice