

## *Ashcroft v. Iqbal: the Supreme Court Reinforces Twombly's Bite in Altering Federal Pleading Standards*

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### **1. Introduction**

On May 18, 2009, the United States Supreme Court issued a decision in *Ashcroft v. Iqbal*, expanding upon the Court's decision in *Bell Atlantic Corp. v. Twombly*, and clarifying the applicable pleading standards for all federal civil actions.<sup>1</sup> The Court reversed the judgment of the Court of Appeals for the Second Circuit, and held in a 5-4 decision that respondent Iqbal's complaint failed to state a claim under Federal Rule of Civil Procedure 8.<sup>2</sup> It held that Rule 8 "does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions," and to survive a motion to dismiss, all civil complaints "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'"

In so ruling, the Court also clarified that the "facial plausibility" pleading standard delineated in *Twombly*, an antitrust case, applies to all federal civil actions. Further, the Court established a two-step inquiry, discussed below, for adjudicating federal motions to dismiss under this standard. The decision also elucidates that the *Twombly* plausibility standard and the Rule 8 pleading requirements cannot be circumvented by a "careful-case-management approach" that limits or "cabins" discovery, or by mere conclusory allegations as to state of mind or intent.

### **2. Background**

Respondent Javid Iqbal, a Pakistani Muslim, was arrested in the wake of the September 11, 2001, terrorist attacks as a person of "high interest" to the investigation and detained by federal officials. Iqbal filed an action against numerous federal officials, including the petitioners – former attorney general John Ashcroft, and Robert Mueller, the Director of the FBI. Iqbal alleges that Ashcroft and Mueller adopted an unconstitutional policy that subjected Iqbal to harsh conditions of confinement on account of his race, religion, or national origin in violation of the First and Fifth Amendments. After the District Court denied Ashcroft and Mueller's motion to dismiss on qualified immunity grounds, they filed an interlocutory appeal in the Second Circuit. The Second Circuit affirmed the District Court's decision, with a concurrence by Judge Cabranes asking the Supreme Court to clarify the appropriate pleading standard post-*Twombly*.

### **3. The Supreme Court Decision**

The central question before the Court was whether the respondent pled factual matter stating a claim under Rule 8, as delineated in its recent *Twombly* decision. Under Rule 8(a)(2), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." In *Twombly*, the Court

retired the *Conley v. Gibson* no-set-of-facts test and held that, while “detailed factual allegations” are not required to satisfy Rule 8, it does require sufficient factual matter to “state a claim to relief that is plausible on its face.” Relying upon *Twombly*, the *Iqbal* Court clarified that “a pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” The Court concluded that the complaint had not nudged the plaintiff’s claims of invidious discrimination across the line from conceivable to plausible, as required by *Twombly*, and, specifically, that the complaint lacked factual allegations sufficient to plausibly suggest petitioners’ discriminatory state of mind.

The Court clarified that, in keeping with the *Twombly* principles, a two-step process for adjudicating a motion to dismiss may be warranted. First, a court considering a motion to dismiss “can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth.” Second, when there are well-pleaded factual allegations, “a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.”

The Court’s analysis in *Iqbal* emphasizes two working principles underlying the *Twombly* plausibility standard. First, legal conclusions can provide the framework of a complaint, but “threadbare recitals” of the elements of a cause of action without factual support are insufficient. Second, a complaint must state a plausible claim for relief to survive a motion to dismiss. The existence of facial plausibility is not a “probability requirement,” but instead demands “more than a sheer possibility” that a defendant acted unlawfully.

#### 4. Notable Points

Respondent argued for a narrow application of *Twombly* to the antitrust context, but the Court put this issue to rest. Consistent with several lower court post-*Twombly* decisions, the *Iqbal* Court clearly held that that *Twombly* is not limited to antitrust cases; instead, *Twombly* was based

on the Court’s interpretation of Rule 8, and its principles are applicable in all federal civil actions.

Respondent also argued, unsuccessfully, that the Second Circuit’s cabining of discovery to preserve petitioners’ defense of qualified immunity should temper the Court’s treatment of Rule 8. The Court “decline[d] respondent’s invitation to relax the pleading requirements on the ground that the Court of Appeals promises petitioners minimally intrusive discovery,” emphasizing that the question presented by a motion to dismiss for insufficient pleadings does not turn on the controls placed upon the discovery process. The Court rejected a “careful-case-management approach” to dealing with deficient pleadings, noting specifically that it “is no answer to these concerns to say that discovery for petitioners can be deferred while pretrial proceedings continue for other defendants.”

Finally, but significantly, the Court rejected respondent’s argument that his complaint should survive because Federal Rule of Civil Procedure 9(b) permits him to allege petitioners’ discriminatory intent “generally.” The Court acknowledged that Rule 9(b) allows malice, intent, knowledge, and other conditions of a person’s mind to be alleged generally in federal pleadings, but noted that “‘generally’ is a relative term” which, in the context of Rule 9, is to be compared to the particularity requirement applicable to fraud or mistake. Thus, Rule 9 merely “excuses a party from pleading discriminatory intent under an elevated pleading standard,” but does not “give him license to evade the less rigid – though still operative – strictures of Rule 8.” As the Court concluded, “Rule 8 does not empower respondent to plead the bare elements of his cause of action, affix the label ‘general allegation,’ and expect his complaint to survive a motion to dismiss.”

#### 5. Impact of the Decision

In addition to putting to rest any remaining argument that *Twombly* should be limited to the antitrust context, this decision reinforces the heightened pleading standards imposed by

*Twombly*. The plausibility standard, as clarified by the Court, substantially curtails a plaintiff's ability to access discovery through general unsupported pleading allegations, in the hope of later uncovering facts that can supply the

allegations needed to state a claim. Notably, the Court's application of this standard to allegations of malice, intent, knowledge or other state-of-mind allegations should provide an important defense tool in a variety of litigation contexts.



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<sup>1</sup> *Ashcroft v. Iqbal*, No. 07-1015, 556 U.S. \_\_\_\_ (2009); *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

<sup>2</sup> 490 F.3d 143 (2d Cir. 2007).