

ASHCROFT V. IQBAL: THE TWOMBLY SEQUEL — NO "THREADBARE RECITALS" IN FEDERAL COMPLAINTS

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In 2007, the United States Supreme Court decided *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007), which many saw as a major shift in the standard for what must be alleged in complaints for federal court. In *Twombly*, the Court required a higher standard of pleading in an antitrust case, demanding that a complaint present at least a “plausible” claim, and thereby retired a more lenient standard that had allowed any “conceivable” set of facts to state a claim. Yet even after *Twombly*, questions remained as to how much the decision had really changed pleading requirements and whether it applied beyond antitrust litigation. Last month, the Supreme Court answered those questions in the sequel to *Twombly*: *Ashcroft v. Iqbal*.

In *Iqbal*, the Court considered the claims of Javaid Iqbal, a Muslim Pakistani detained after the “September 11th” attacks. After his release, Iqbal filed a complaint against a number of high-ranking federal officials, including former Attorney General John Ashcroft and FBI Director Robert Mueller, alleging constitutional violations such as purposeful and unlawful discrimination during his detention. In the District Court, Ashcroft and Mueller moved to dismiss the complaint for failure to state factual allegations showing that they themselves were involved in any unconstitutional conduct. The District Court denied the motion and the Court of Appeals for the Second Circuit, in an interlocutory appeal, affirmed.

In a 5–4 decision, authored by Justice Kennedy, the Supreme Court reversed the Second Circuit and held that Iqbal’s complaint failed to state a claim against Ashcroft and Mueller. The Court began its reasoning with the two fundamental principles that underlie the “facial plausibility” requirement first described in *Twombly*.

First, though recognizing that courts must accept factual allegations as true at the pleading stage, such a rule is not so broad as to apply to “legal conclusions.” Therefore, “[t]hreadbare recitals of a cause of action’s elements, supported by mere conclusory statements, do not suffice.” The Court noted that while the existing standard “marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era ... it does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions.”

Second, the Court stated that only “plausible” claims can survive a motion to dismiss. The Court explained that determining whether allegations are plausible is a “context-specific task” requiring a court to “draw on its judicial experience and common sense.” Therefore, while “legal conclusions can provide the framework of a complaint, they must be supported by factual allegations.” In applying this test, the Court held that Iqbal’s “bald allegations,” that Ashcroft and Mueller “knew of” or “condoned” the harsh and discriminatory conditions of his detention, were simply too conclusory — putting aside the question of whether they were “extravagantly fanciful.”

Finally, the Court stated that the heightened standard in *Twombly* was not limited to antitrust cases but applied to “all civil actions.” It also repeated *Twombly*’s statement that it would not condone a practice in which conclusory statements are tolerated, only to be “weeded out” later in the discovery process.

The decision in *Iqbal* may be one of the more significant civil procedure decisions in years, and already its significance is being debated. For now, however, it is clear enough from *Iqbal* that the heightened “plausibility” standard is not limited to the facts of *Twombly* but instead represents a broad principle for all litigation in federal courts. This principle means that bare conclusions will not pass muster and that factual allegations must be specific enough not just to state a “conceivable” claim but one that is actually “plausible.”

If you have any questions about this decision or any of the legal issues that surround it, please contact E. King Poor at 312-715-5143 / king.poor@quarles.com (Chicago), Valerie P. Vidal at 414-277-5627 / valerie.vidal@quarles.com (Milwaukee) or your Quarles & Brady attorney.