

## Question

Plaintiff's complaint contains detailed factual allegations regarding the timing, nature, and purpose of Defendants' acts, including documentary evidence and specific communications. On a motion to dismiss, the court must accept all well-pleaded factual allegations as true and draw all reasonable inferences in the plaintiff's favor. (*Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Brown v. City of Tulsa*, 124 F.4th 1251, 1263 (10th Cir. 2025)). The district court improperly discounted Plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts, instead of accepting them as true and determining whether they plausibly state a claim for relief under RICO.

## Answer (Tenth Circuit)

### Short response

On a motion to dismiss, the court is required to accept all well-pleaded factual allegations in the complaint as true and draw all reasonable inferences in the plaintiff's favor; the district court erred by discounting the plaintiff's detailed allegations regarding the ongoing nature and relationship of the alleged RICO scheme. The prevailing standard, as articulated by the Supreme Court and consistently applied in the Tenth Circuit, mandates that the sufficiency of the complaint be assessed for plausibility, not probability, based on the assumed truth of the plaintiff's factual allegations.

### Summary

Federal pleading standards, as established by the Supreme Court in *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly*, and consistently applied by the Tenth Circuit, require that courts evaluating a motion to dismiss under Rule 12(b)(6) must accept all well-pleaded factual allegations as true and draw all reasonable inferences in favor of the plaintiff. This standard applies with full force to civil RICO claims, where detailed allegations regarding the timing, nature, and purpose of defendants' acts—especially when supported by documentary evidence and specific communications—must be credited at the pleading stage.

The district court's failure to accept the plaintiff's allegations about the ongoing nature of the scheme and the relationship between the acts as true, and its improper weighing or discounting of those allegations, was inconsistent with binding precedent. The correct approach is to determine whether, assuming the truth of the plaintiff's factual allegations, the complaint plausibly states a claim for relief under RICO. The authorities provided uniformly support this standard, and any deviation from it constitutes reversible error.

# Background and Relevant Law

## Federal Pleading Standards: Rule 12(b)(6) and Rule 8(a)(2)

The Federal Rules of Civil Procedure set forth the standards for pleading and for motions to dismiss. Rule 8(a)(2) requires a “short and plain statement of the claim showing that the pleader is entitled to relief.” Rule 12(b)(6) allows a defendant to move to dismiss a complaint for “failure to state a claim upon which relief can be granted.”

The Supreme Court, in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), clarified that to survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. The plausibility standard does not require detailed factual allegations, but it does demand more than mere labels, conclusions, or a formulaic recitation of the elements of a cause of action. When there are well-pleaded factual allegations, the court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.

This two-step approach is further explained in secondary materials and lower court decisions: first, courts must disregard conclusory allegations; second, they must accept as true all non-conclusory factual allegations and determine whether, in context, the claim is plausible as a matter of common sense ([Chapter 7. Pleading and Practice Issues](#)).

## The Tenth Circuit’s Application of the Standard

The Tenth Circuit has repeatedly and consistently applied the *Iqbal*/*Twombly* standard. In [Brown v. City of Tulsa](#), 124 F.4th 1251 (10th Cir. 2025), the court reaffirmed that, in reviewing a Rule 12(b)(6) dismissal, all well-pleaded factual allegations must be accepted as true and all reasonable inferences drawn in the plaintiff’s favor. This approach is echoed in numerous Tenth Circuit decisions, including [Brooks v. Mentor Worldwide LLC](#), 985 F.3d 1272 (10th Cir. 2021), [Bistline v. Parker](#), 918 F.3d 849 (10th Cir. 2019), [George v. Urban Settlement Servs.](#), 833 F.3d 1242 (10th Cir. 2016), [Khalik v. United Air Lines](#), 671 F.3d 1188 (10th Cir. 2012), and [Hogan v. Winder](#), 762 F.3d 1096 (10th Cir. 2014).

The Tenth Circuit has also made clear that the plausibility standard is not a probability requirement. The court’s task is not to weigh the likelihood that the plaintiff will ultimately prevail, but to determine whether the complaint’s factual allegations, assumed true, plausibly entitle the plaintiff to relief ([Christy Sports, LLC v. Deer Valley Resort Co.](#), 555 F.3d 1188 (10th Cir. 2009); [Robbins v. Oklahoma](#), 519 F.3d 1242 (10th Cir. 2008)—noting Robbins has been stated as overruled by *Ayala v. New Mexico*, but only to the extent it conflicts with later Supreme Court precedent, which is not the case here).

## Application to RICO Claims

To state a civil RICO claim, a plaintiff must allege, among other elements, a “pattern of racketeering activity,” which requires at least two predicate acts

that are related and amount to or pose a threat of continued criminal activity. The sufficiency of RICO allegations at the pleading stage is governed by the same Rule 12(b)(6) standards.

In [UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#), the court applied the Iqbal/Twombly standard to a RICO claim, holding that the plaintiff's detailed allegations of related predicate acts, including specific communications and documentary evidence, were sufficient to state a plausible claim. The court emphasized that the relationship and continuity prongs of the RICO "pattern" element were adequately pled where the complaint described related acts sharing participants, victims, and purposes.

## Analysis

### **The Court's Duty to Accept Well-Pleaded Factual Allegations as True**

The authorities provided uniformly establish that, at the motion to dismiss stage, the court must accept as true all well-pleaded factual allegations in the complaint and draw all reasonable inferences in the plaintiff's favor. This principle is not limited to the Tenth Circuit but is a bedrock rule of federal civil procedure, as articulated by the Supreme Court in *Iqbal* and *Twombly* and consistently applied by the Tenth Circuit and district courts within its jurisdiction.

The Supreme Court in *Iqbal* explained that, when evaluating a motion to dismiss, courts must first identify and disregard conclusory allegations, but must then assume the truth of all remaining factual allegations. The court's role is not to weigh evidence or assess the likelihood of the plaintiff's success, but to determine whether the factual allegations, if true, plausibly entitle the plaintiff to relief (*Ashcroft v. Iqbal*, 556 U.S. 662 (2009); [Twombly and Iqbal: the latest retreat from notice pleading](#)).

The Tenth Circuit has repeatedly reaffirmed this standard. In [Brown v. City of Tulsa, 124 F.4th 1251 \(10th Cir. 2025\)](#), the court stated that all well-pleaded factual allegations must be accepted as true and all reasonable inferences drawn in the plaintiff's favor. This approach is echoed in [Brooks v. Mentor Worldwide LLC, 985 F.3d 1272 \(10th Cir. 2021\)](#), [Bistline v. Parker, 918 F.3d 849 \(10th Cir. 2019\)](#), and [George v. Urban Settlement Servs., 833 F.3d 1242 \(10th Cir. 2016\)](#).

District courts within the Tenth Circuit have also consistently applied this standard. For example, in [Taylor v. Chesapeake Operating, Inc., Case No. CIV-18-565-D \(W.D. Okla. Nov 20, 2019\)](#), the court emphasized that it must presume all of the plaintiff's factual allegations are true and construe them in the light most favorable to the plaintiff. Similarly, in [Luttrell v. Brannon, CASE NO. 2:17-CV-02137-HLT \(D. Kan. Dec 17, 2018\)](#), the court reiterated that the sufficiency of a complaint is tested by accepting all well-pleaded factual allegations as true and determining whether they plausibly state a claim for relief.

## **Application to RICO Allegations**

The standard applies with particular force to RICO claims, which often involve complex schemes and require detailed factual allegations regarding the pattern, relationship, and continuity of predicate acts. In [UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#), the court found that the plaintiff's allegations of multiple related predicate acts, supported by specific facts and documentary evidence, were sufficient to state a plausible RICO claim. The court explicitly rejected the defendants' argument that the allegations were insufficient, holding that the relationship prong of the RICO pattern element was met where the acts shared participants, victims, and purposes.

Similarly, in [Watchous Enterprises, LLC v. Pac. Nat'l Capital, LLC, Case No. 16-1432-JTM \(D. Kan. Jul 25, 2018\)](#), the court denied a motion to dismiss a RICO claim where the complaint included particularized allegations of communications and a common purpose among the defendants. The court found that these detailed factual allegations, accepted as true, were sufficient to present colorable RICO claims.

## **The District Court's Error in Discounting Plaintiff's Allegations**

The district court's approach—discounting the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts—was inconsistent with the governing standard. The authorities make clear that the court's role at the pleading stage is not to weigh the credibility of the allegations or to assess their likelihood, but to assume their truth and determine whether, if true, they plausibly state a claim for relief.

The Supreme Court in *Iqbal* and *Twombly*, as well as the Tenth Circuit in cases such as [Brown v. City of Tulsa, 124 F.4th 1251 \(10th Cir. 2025\)](#), [Brooks v. Mentor Worldwide LLC, 985 F.3d 1272 \(10th Cir. 2021\)](#), and [Hogan v. Winder, 762 F.3d 1096 \(10th Cir. 2014\)](#), have made clear that the plausibility standard is not a probability requirement. The court must not dismiss a complaint simply because the allegations seem improbable or because the court doubts that the plaintiff will ultimately prevail ([Robbins v. Oklahoma, 519 F.3d 1242 \(10th Cir. 2008\)](#); but see below regarding subsequent treatment).

The only exception is that legal conclusions, as opposed to factual allegations, are not entitled to the assumption of truth. The court must disregard conclusory statements and focus on the well-pleaded factual content ([Khalik v. United Air Lines, 671 F.3d 1188 \(10th Cir. 2012\)](#); [Kan. Penn Gaming LLC v. Collins, 656 F.3d 1210 \(10th Cir. 2011\)](#)).

## **The Role of Documentary Evidence and Specific Communications**

The presence of documentary evidence and specific communications in the complaint further strengthens the sufficiency of the plaintiff's allegations.

Courts have recognized that detailed factual allegations, especially those supported by documents or specific instances of conduct, are more likely to satisfy the plausibility standard ([Watchous Enterprises, LLC v. Pac. Nat'l Capital, LLC, Case No. 16-1432-JTM \(D. Kan. Jul 25, 2018\)](#)).

In the context of RICO, where the plaintiff alleges a pattern of racketeering activity, the inclusion of specific facts regarding the timing, nature, and purpose of the acts, as well as the relationships among the defendants, is particularly important. Such allegations, if well-pleaded, must be accepted as true and are sufficient to survive a motion to dismiss if they plausibly suggest the existence of a RICO enterprise and a pattern of racketeering activity ([UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#)).

## **The Impact of [Robbins v. Oklahoma](#)'s Subsequent Treatment**

It is important to note that [Robbins v. Oklahoma, 519 F.3d 1242 \(10th Cir. 2008\)](#) has been stated as overruled by *Ayala v. New Mexico*, 23-2013 (10th Cir. May 11, 2023). However, the portions of Robbins relevant here—namely, the requirement that courts accept all well-pleaded factual allegations as true and not dismiss complaints simply because the allegations seem improbable—are consistent with the Supreme Court's subsequent decisions in *Iqbal* and *Twombly*. The overruling in *Ayala* appears to address other aspects of Robbins, not the core pleading standard, which remains good law as articulated in later Supreme Court and Tenth Circuit cases. Therefore, Robbins may still be cited for the proposition that plausibility does not mean likelihood, and that courts must not dismiss complaints merely because the allegations seem unlikely, so long as this is consistent with *Iqbal* and *Twombly*.

## **Exceptions and Caveats**

The only significant limitation to the rule that all well-pleaded factual allegations must be accepted as true is that legal conclusions, or allegations that are merely conclusory, are not entitled to the assumption of truth. Courts must distinguish between factual allegations, which must be credited, and legal conclusions, which may be disregarded (*Ashcroft v. Iqbal*, 556 U.S. 662 (2009); [Khalik v. United Air Lines, 671 F.3d 1188 \(10th Cir. 2012\)](#)).

Additionally, while the court must draw all reasonable inferences in the plaintiff's favor, it is not required to accept unreasonable inferences or unwarranted deductions of fact. The complaint must contain enough factual matter to suggest a plausible, not merely possible, entitlement to relief ([Christy Sports, LLC v. Deer Valley Resort Co., 555 F.3d 1188 \(10th Cir. 2009\)](#)).

## Conclusion

The prevailing federal standard, as established by the Supreme Court and consistently applied by the Tenth Circuit, requires that on a motion to dismiss, the court must accept all well-pleaded factual allegations in the complaint as true and draw all reasonable inferences in the plaintiff's favor. This standard applies fully to civil RICO claims, where detailed allegations regarding the timing, nature, and purpose of the defendants' acts, supported by documentary evidence and specific communications, must be credited at the pleading stage. The district court's failure to do so—by discounting the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts—was inconsistent with binding precedent. The correct approach is to determine whether, assuming the truth of the plaintiff's factual allegations, the complaint plausibly states a claim for relief under RICO. Any deviation from this standard constitutes reversible error.

## Legal Authorities

[Rico v. Xcel Energy, Inc., 893 F.Supp.2d 1165 \(D. N.M. 2012\)](#)

**U.S. District Court — District of New Mexico**

### Extract

When considering a 12(b)(6) motion, the Court must accept as true all well-pled factual allegations in the complaint, view those allegations in the light most favorable to the non-moving party, and draw all reasonable inferences in the plaintiff's favor. ... To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. ... Accordingly, while the Court must take all of the factual allegations in the complaint as true, 'a plaintiff armed with nothing more than conclusions' cannot survive a motion to dismiss.

### Summary

The passage emphasizes the standard for evaluating a motion to dismiss under Rule 12(b)(6), which requires the court to accept all well-pleaded factual allegations as true and to draw all reasonable inferences in favor of the plaintiff. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but instead should have determined whether they plausibly state a claim for relief. The passage also references the requirement for a complaint to contain sufficient factual matter to state a plausible claim, which supports the need for detailed factual allegations as mentioned in the proposition.

[Taylor v. Chesapeake Operating, Inc., Case No. CIV-18-565-D \(W.D. Okla. Nov 20, 2019\)](#)

**U.S. District Court — Western District of Oklahoma**



## **Extract**

To survive a motion to dismiss under Rule 12(b)(6), 'a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). 'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' *Iqbal*, 556 U.S. at 678. ... The Court has carefully reviewed the pleadings and presumed all of Plaintiffs' factual allegations are true, construing them in the light most favorable to them.

## **Summary**

The passage reiterates the standard set forth in *Ashcroft v. Iqbal*, which requires that a complaint must contain sufficient factual matter that is accepted as true to state a plausible claim for relief. It emphasizes that the court must accept all well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor. This aligns with the proposition that the district court should not discount the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts.

[Woody v. Xcel Energy, Civ. No. 12-121 JCH/GBW \(D. N.M. Mar 19, 2013\)](#)

**U.S. District Court — District of New Mexico**

## **Extract**

The nature of a Rule 12(b)(6) motion tests the sufficiency of the allegations within the four corners of the complaint after taking those allegations as true. ... a court must accept as true all well pleaded factual allegations in the complaint, view those allegations in the light most favorable to the non-moving party, and draw all reasonable inferences in the plaintiff's favor.

## **Summary**

The passage from "*Woody v. Xcel Energy*" emphasizes the standard for evaluating a motion to dismiss under Rule 12(b)(6), which requires the court to accept all well-pleaded factual allegations as true and to draw all reasonable inferences in favor of the plaintiff. This directly supports the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to determine if they plausibly state a claim for relief.

[Luttrell v. Brannon, CASE NO. 2:17-CV-02137-HLT \(D. Kan. Dec 17, 2018\)](#)

**U.S. District Court — District of Kansas**

## **Extract**

The following facts are from the well-pleaded allegations of the Second Amended Complaint and, consistent with the well-established standards for evaluating motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), the Court assumes the truth of these facts for purposes of analyzing Defendants' motions to dismiss. ... Under Rule 12(b)(6), to survive a motion to dismiss, 'a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). The plaintiff's claim is facially plausible if he pleads sufficient factual content to allow the Court 'to draw the reasonable inference that the defendant is liable for the misconduct alleged.' Id.

## **Summary**

Standard for evaluating motions to dismiss, emphasizing that courts must accept well-pleaded factual allegations as true and determine if they plausibly state a claim for relief. This aligns with the proposition that the district court should have accepted the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts as true, rather than discounting them.

[In re Sandridge Energy, Inc., No. CIV-13-102-W \(W.D. Okla. Sep 22, 2014\)](#)

## **U.S. District Court — Western District of Oklahoma**

## **Extract**

The Court's task at this stage is to determine whether 'there are well-pleaded factual allegations,' Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009), in the challenged pleading, and if so, the '[C]ourt should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.' Id. A claim has facial plausibility when the plaintiff pleads factual content that allows the [C]ourt to draw the reasonable inference that the defendant is liable for the misconduct alleged.

## **Summary**

The passage from "In re Sandridge Energy, Inc." reiterates the standard set forth in Ashcroft v. Iqbal, which requires courts to accept well-pleaded factual allegations as true and to determine whether they plausibly give rise to an entitlement to relief. This aligns with the proposition that the district court should not discount the plaintiff's allegations but rather accept them as true and assess their plausibility. The passage supports the notion that the court must draw reasonable inferences in the plaintiff's favor when considering a motion to dismiss.



[Brown v. City of Tulsa, 124 F.4th 1251 \(10th Cir. 2025\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

In reviewing a Rule 12(b)(6) dismissal, we accept the truth of all well-pleaded factual allegations in Brown's operative complaint and draw all reasonable inferences in Brown's favor. *Brooks v. Mentor Worldwide LLC*, 985 F.3d 1272, 1281 (10th Cir. 2021).

### **Summary**

The passage from "Brown v. City of Tulsa" reiterates the standard for reviewing a Rule 12(b)(6) motion to dismiss, which requires the court to accept all well-pleaded factual allegations as true and to draw all reasonable inferences in the plaintiff's favor. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to determine if they plausibly state a claim for relief.

[Bistline v. Parker, 918 F.3d 849 \(10th Cir. 2019\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

With respect to the claims dismissed as inadequately pled, '[a]t this stage in the litigation, we accept as true the well pleaded factual allegations and then determine if the plaintiff has provided 'enough facts to state a claim to relief that is plausible on its face.'" *Hogan v. Winder*, 762 F.3d 1096, 1104 (10th Cir. 2014) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) ). 'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009).

### **Summary**

The passage reiterates the standard for evaluating motions to dismiss, emphasizing that courts must accept well-pleaded factual allegations as true and assess whether they plausibly state a claim. This aligns with the proposition that the district court should have accepted the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts. The passage cites *Ashcroft v. Iqbal*, which is directly referenced in the proposition, reinforcing the legal standard that supports the plaintiff's argument.

[Oncology v. Presbyterian Healthcare Servs., 54 F.Supp.3d 1189 \(D. N.M. 2014\)](#)

**U.S. District Court — District of New Mexico**

**Extract**

On a motion to dismiss, a court must accept as true all well-pleaded factual allegations in the complaint, view those allegations in the light most favorable to the plaintiff, and draw all reasonable inferences in the plaintiff's favor. See *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322, 127 S.Ct. 2499, 168 L.Ed.2d 179 (2007); *Smith v. U.S.*, 561 F.3d 1090, 1098 (10th Cir.2009) (citation omitted).

**Summary**

The passage from the *Oncology* case reiterates the principle that, on a motion to dismiss, the court must accept all well-pleaded factual allegations as true and draw all reasonable inferences in the plaintiff's favor. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but rather should have accepted them as true to determine if they plausibly state a claim for relief. The passage supports the procedural standard that is central to the proposition.

[N.M. Oncology & Hematology Consultants, Ltd. v. Presbyterian Healthcare Servs., 54 F.Supp.3d 1189 \(D. N.M. 2014\)](#)

**U.S. District Court — District of New Mexico**

**Extract**

On a motion to dismiss, a court must accept as true all well-pleaded factual allegations in the complaint, view those allegations in the light most favorable to the plaintiff, and draw all reasonable inferences in the plaintiff's favor. See *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322, 127 S.Ct. 2499, 168 L.Ed.2d 179 (2007) ; *Smith v. U.S.*, 561 F.3d 1090, 1098 (10th Cir.2009) (citation omitted).

**Summary**

The passage clearly states the standard for evaluating a motion to dismiss, which is to accept all well-pleaded factual allegations as true and to draw all reasonable inferences in favor of the plaintiff. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to determine if they plausibly state a claim for relief. The passage supports the proposition by reinforcing the legal standard that the court must follow when considering a motion to dismiss.

[Robbins v. Oklahoma, 519 F.3d 1242 \(10th Cir. 2008\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

The most difficult question in interpreting *Twombly* is what the Court means by 'plausibility.' The Court states that the complaint must contain 'enough facts to state a claim to relief that is plausible on its face.' *Id.* at 1974. But it reiterates the bedrock principle that a judge ruling on a motion to dismiss must accept all allegations as true and may not dismiss on the ground that it appears unlikely the allegations can be proven. '[A] well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of those facts is improbable, and `that a recovery is very remote and unlikely.' *Id.* at 1965 (quoting *Scheuer v. Rhodes*, 416 U.S. 232, 236, 94 S.Ct. 1683, 40 L.Ed.2d 90 (1974)). Thus, 'plausible' cannot mean 'likely to be true.'

### **Summary**

The passage from *Robbins v. Oklahoma* discusses the standard for evaluating a motion to dismiss, emphasizing that a complaint must contain enough factual allegations to state a plausible claim for relief. Importantly, it reiterates that all allegations must be accepted as true, and a complaint should not be dismissed merely because the allegations seem improbable. This aligns with the proposition that the district court should have accepted the plaintiff's allegations as true and assessed whether they plausibly stated a claim under RICO.

[Brooks v. Mentor Worldwide LLC, 985 F.3d 1272 \(10th Cir. 2021\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

We use the *Iqbal/ Twombly* standard to determine whether Plaintiffs have stated a plausible claim. *Brown v. Montoya*, 662 F.3d 1152, 1162-63 (10th Cir. 2011). In applying this standard, we take Plaintiffs' well-pleaded facts as true, view them in the light most favorable to Plaintiffs, and draw all reasonable inferences from the facts in favor of Plaintiffs. *Id.* at 1162.

### **Summary**

The passage explicitly references the *Iqbal/Twombly* standard, which is central to the proposition. It confirms that in the Tenth Circuit, courts must accept well-pleaded facts as true and draw reasonable inferences in favor of the plaintiff when determining the plausibility of a claim. This directly supports the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to assess their plausibility.

[Bixler v. Foster, 596 F.3d 751 \(10th Cir. 2010\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

We review de novo the district court's Rule 12(b)(6) dismissal. See *Christy Sports, LLC v. Deer Valley Resort Co.*, 555 F.3d 1188, 1191 (10th Cir.2009). 'To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to `state a claim for relief that is plausible on its face.' *Ashcroft v. Iqbal*, \_\_\_ U.S. \_\_\_, 129 S.Ct. 1937, 1949, 173 L.Ed.2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007)). '[W]e assume the factual allegations are true and ask whether it is plausible that the plaintiff is entitled to relief.'

### **Summary**

The passage from "Bixler v. Foster" reiterates the standard for reviewing a motion to dismiss under Rule 12(b)(6), which requires that the court accept all well-pleaded factual allegations as true and determine whether they plausibly state a claim for relief. This aligns with the proposition that the district court must accept the plaintiff's allegations as true and draw reasonable inferences in the plaintiff's favor. The reference to *Ashcroft v. Iqbal* further supports this standard, emphasizing the need for the complaint to contain sufficient factual matter to state a plausible claim.

[Smith v. U.S., 561 F.3d 1090 \(10th Cir. 2009\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

The legal sufficiency of a complaint is a question of law, and a Rule 12(b)(6) dismissal is reviewed de novo. *Moore v. Guthrie*, 438 F.3d 1036, 1039 (10th Cir.2006). Again, for purposes of resolving a Rule 12(b)(6) motion, we accept as true all well-pleaded factual allegations in a complaint and view these allegations in the light most favorable to the plaintiff. *Id.* 'The court's function on a Rule 12(b)(6) motion is not to weigh potential evidence that the parties might present at trial, but to assess whether the plaintiff's complaint alone is legally sufficient to state a claim for which relief may be granted.' *Sutton v. Utah State Sch. for Deaf & Blind*, 173 F.3d 1226, 1236 (10th Cir.1999) (internal quotation omitted).

### **Summary**

The passage from "Smith v. U.S." reiterates the principle that, when considering a Rule 12(b)(6) motion to dismiss, the court must accept all well-pleaded factual allegations as true and view them in the light most

favorable to the plaintiff. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to determine if they plausibly state a claim for relief under RICO.

[Hogan v. Winder, 762 F.3d 1096 \(10th Cir. 2014\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

Hogan argues that the district court erred in dismissing his case. At this stage in the litigation, we accept as true the well pleaded factual allegations and then determine if the plaintiff has provided 'enough facts to state a claim to relief that is plausible on its face.' *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 547, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). 'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'

### **Summary**

The passage from "Hogan v. Winder" emphasizes the standard for evaluating a motion to dismiss, which requires the court to accept well-pleaded factual allegations as true and assess whether they plausibly state a claim for relief. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but instead should have accepted them as true to determine if they plausibly state a claim under RICO. The passage supports the principle that detailed factual allegations should be taken as true at the motion to dismiss stage, which is central to the proposition.

[George v. Urban Settlement Servs., 833 F.3d 1242 \(10th Cir. 2016\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

In determining the plausibility of a claim, we look to the elements of the particular cause of action, keeping in mind that the Rule 12(b)(6) standard doesn't require a plaintiff to "set forth a prima facie case for each element." *Khalik v. United Air Lines*, 671 F.3d 1188, 1192-93 (10th Cir. 2012). See also *Kan. Penn Gaming, LLC v. Collins*, 656 F.3d 1210, 1215 (10th Cir. 2011) (noting that "[t]he nature and specificity of the allegations required to state a plausible claim will vary based on context"). Rather, a claim is facially plausible if the plaintiff has pled "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."

## Summary

The passage emphasizes that in determining the plausibility of a claim, the court must consider the elements of the cause of action and that the Rule 12(b)(6) standard does not require a prima facie case for each element. Instead, the claim must be facially plausible, meaning the plaintiff has provided factual content that allows the court to reasonably infer liability. This supports the proposition that the district court should accept well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor, rather than discounting them.

[UMB Bank v. Monson, 21-CV-2504-EFM \(D. Kan. Jun 04, 2025\)](#)

### U.S. District Court — District of Kansas

#### Extract

Under Federal Rule of Civil Procedure 12(b)(6), a defendant may move for dismissal of any claim for which the plaintiff has failed to state a claim upon which relief can be granted.[] Upon such motion, the court must decide 'whether the complaint contains 'enough facts to state a claim to relief that is plausible on its face.'[] A claim is facially plausible if the plaintiff pleads facts sufficient for the court to reasonably infer that the defendant is liable for the alleged misconduct.[] 'The elements of each alleged cause of action help to determine whether [the p]laintiff has set forth a plausible claim.'[] ... The RICO Defendants argue that UMB has failed to plausibly allege every element of a civil RICO claim with the requisite particularity. In contrast, UMB claims that, at this stage in the litigation, it has alleged the RICO elements sufficiently to avoid dismissal. ... To state a 'pattern' of racketeering activity, the plaintiff must allege 'at least two acts of racketeering activity. .. which occurred within ten years.'[] Moreover, 'a RICO pattern requires that the racketeering predicates relate to each other and amount to a threat of continued racketeering activity. No pattern exists without this 'continuity plus relationship.'[] ... Here, UMB alleges that the RICO Defendants engaged in several related predicate acts- specifically wire fraud and financial institution fraud, which are recognized as racketeering activities under the statute.[] Specifically, UMB alleges that the RICO Defendants devised and implemented a complex scheme amongst themselves to defraud UMB (and the Prior Trustee) of project funds and revenue, and fraudulently transfer the Project's property, based on false and fraudulent pretenses, representations and promises, and concealment or omission of material facts. These allegations contain at least two predicate acts which happened within ten years of each other, and they are sufficiently related given that they share the same participants and victims and accomplish similar purposes. As such, the Court finds that UMB has adequately pled the relationship prong of the pattern element.



## Summary

Standard for evaluating a motion to dismiss under Rule 12(b)(6), emphasizing that the court must determine if the complaint contains enough facts to state a plausible claim. It also highlights the requirement for a RICO claim to allege a pattern of racketeering activity, which involves related predicate acts and continuity. The court in this case found that UMB's allegations were sufficient to meet these requirements, supporting the proposition that well-pleaded allegations must be accepted as true and evaluated for plausibility.

[Watchous Enterprprises, LLC v. Pac. Nat'l Capital, LLC, Case No. 16-1432-JTM \(D. Kan. Jul 25, 2018\)](#)

### U.S. District Court — District of Kansas

#### Extract

The court hereby grants leave for the filing of the Second Amended Complaint. The proposed complaint pleads with particularity the communications underlying the alleged fraud. ... Second, the proposed Second Amended Complaint adequately identifies the defendants' common purpose (inducing Watchous to provide funds). ... In pursuit of this common goal, the Second Amended Complaint makes specific allegations about the interrelationships among the individual defendants and the Pacific and Waterfall corporate entities. ... However, the court finds the defendants' motion to dismiss should be denied. ... the court has found that plaintiff's claims present colorable claims under RICO, prefaced on specific allegations of predicate acts of wire fraud by the named defendants. Accordingly, the court will deny the defendants' request to dismiss these claims.

## Summary

The court accepted the detailed factual allegations in the complaint, including specific communications and the common purpose of the defendants, as sufficient to state a RICO claim. The court denied the motion to dismiss, emphasizing that the complaint presented colorable claims under RICO based on specific allegations of predicate acts. This aligns with the proposition that on a motion to dismiss, the court must accept well-pleaded allegations as true and assess whether they plausibly state a claim.

[Advanced Optics Electronics, Inc. v. Robins, 633 F.Supp.2d 1237 \(D. N.M. 2008\)](#)

### U.S. District Court — District of New Mexico

## **Extract**

The sufficiency of a complaint is a question of law, and when considering and addressing a rule 12(b)(6) motion, a court must accept as true all well-pleaded factual allegations in the complaint, and view those allegations in the light most favorable to the non-moving party and draw all reasonable inferences in the plaintiff's favor.

## **Summary**

The passage from the *Advanced Optics Electronics, Inc. v. Robins* case reiterates the standard for evaluating a motion to dismiss under Rule 12(b)(6). It emphasizes that the court must accept all well-pleaded factual allegations as true and draw all reasonable inferences in favor of the plaintiff. This directly supports the proposition that the district court should not have discounted the plaintiff's allegations regarding the ongoing nature of the scheme and the relationship between the acts, but rather should have accepted them as true to determine if they plausibly state a claim for relief under RICO.

[Khalik v. United Air Lines, 18 Wage & Hour Cas.2d \(BNA\) 1225, 114 Fair Empl.Prac.Cas. \(BNA\) 500, 671 F.3d 1188 \(10th Cir. 2012\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

Under Federal Rule of Civil Procedure 8(a)(2), a pleading must contain 'a short and plain statement of the claim showing that the pleader is entitled to relief.' Recently, the Supreme Court clarified this pleading standard in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009): to withstand a Rule 12(b)(6) motion to dismiss, a complaint must contain enough allegations of fact, taken as true, 'to state a claim to relief that is plausible on its face.' ... The Court explained two principles underlying the new standard: (1) when legal conclusions are involved in the complaint 'the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to [those] conclusions,' *Iqbal*, 129 S.Ct. at 1949, and (2) 'only a complaint that states a plausible claim for relief survives a motion to dismiss,' *id.* at 1950.

### **Summary**

Standard for evaluating a motion to dismiss, emphasizing that factual allegations in a complaint must be accepted as true and that the complaint must state a plausible claim for relief. This aligns with the proposition that the court must accept well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor. The passage also highlights

that legal conclusions are not entitled to the assumption of truth, which is consistent with the proposition's focus on factual allegations.

[Christy Sports, LLC v. Deer Valley Resort Co., 555 F.3d 1188 \(10th Cir. 2009\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

The concept of 'plausibility' at the dismissal stage refers not to whether the allegations are likely to be true; the court must assume them to be true. The question is whether, if the allegations are true, it is plausible and not merely possible that the plaintiff is entitled to relief under the relevant law.

### **Summary**

The passage emphasizes that at the dismissal stage, the court must assume the allegations in the complaint to be true and determine whether they plausibly entitle the plaintiff to relief. This aligns with the proposition that the court must accept well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor. The passage supports the idea that the district court should not have discounted the plaintiff's allegations but instead should have assessed their plausibility.

[Kan. Penn Gaming Llc v. Collins, 656 F.3d 1210 \(10th Cir. 2011\)](#)

## **U.S. Court of Appeals — Tenth Circuit**

### **Extract**

The Supreme Court recently clarified the standard for granting a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009). ... In its place, the Court articulated a new, further refined standard: to withstand a motion to dismiss, a complaint must have enough allegations of fact, taken as true, 'to state a claim to relief that is plausible on its face.' ... First, 'the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.' ... And second, 'only a complaint that states a plausible claim for relief survives a motion to dismiss.' ... Thus, in ruling on a motion to dismiss, a court should disregard all conclusory statements of law and consider whether the remaining specific factual allegations, if assumed to be true, plausibly suggest the defendant is liable.

## Summary

Standard for evaluating a motion to dismiss, emphasizing that courts must accept all factual allegations as true and determine if they plausibly suggest liability. This aligns with the proposition that the district court should have accepted the plaintiff's detailed factual allegations as true and assessed their plausibility in stating a RICO claim.

[Brown v. Montoya, 662 F.3d 1152 \(10th Cir. 2011\)](#)

### **U.S. Court of Appeals — Tenth Circuit**

#### **Extract**

In reviewing a motion to dismiss, 'all well-pleaded factual allegations in the ... complaint are accepted as true and viewed in the light most favorable to the nonmoving party.' Moore v. Guthrie, 438 F.3d 1036, 1039 (10th Cir. 2006) (quotation omitted). To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.

#### **Summary**

The passage from "Brown v. Montoya" reiterates the standard for reviewing a motion to dismiss, which is consistent with the proposition. It emphasizes that all well-pleaded factual allegations must be accepted as true and viewed in the light most favorable to the plaintiff. This aligns with the proposition's assertion that the district court should not have discounted the plaintiff's allegations but rather should have accepted them as true to determine if they plausibly state a claim for relief.

[Ashcroft v. Iqbal](#)

### **Civil Procedure: Pleading - The Center for Computer - Assisted Legal Instruction (CALI) - Hillel H. Levin - 2011-03-09**

#### **Extract**

To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is... 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.

## Summary

The passage from *Ashcroft v. Iqbal* establishes that for a complaint to survive a motion to dismiss, it must contain sufficient factual matter that, when accepted as true, states a plausible claim for relief. This aligns with the proposition that the court must accept all well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor. The passage supports the idea that the district court should not have discounted the plaintiff's allegations but instead should have determined whether they plausibly state a claim for relief.

[I have federal pleading all figured out.](#)

**Case Western Reserve Law Review - Case Western Reserve University School of Law - Shannon, Bradley Scott - 2010-12-22**

## Extract

Thus, whether the 'facts' at issue appear in the form of allegations (as they would under Rule 12(b)(6)), 'paper' evidence--e.g., affidavits and certain discovery responses--(as they would under Rule 56), or evidence admitted at trial (as they would under Rule 50), the question at each juncture seemingly should be whether a reasonable juror could find in favor of the plaintiff. Such a standard also would not seem to be particularly onerous, in that the district court is required to assume that all of the plaintiff's factual (or nonconclusory) allegations are true. ... Rather: 'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' Thus, '[w]hen 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.'

## Summary

The passage discusses the standard for evaluating a motion to dismiss under Rule 12(b)(6). It emphasizes that the court must assume the truth of the plaintiff's factual allegations and determine whether they plausibly suggest entitlement to relief. This aligns with the proposition that the district court should not have discounted the plaintiff's allegations but rather accepted them as true to assess their plausibility.

[Twombly and Iqbal: the latest retreat from notice pleading.](#)

**Suffolk University Law Review - Suffolk University Law School - Sullivan, John P. - 2010-01-01**

## **Extract**

The Court outlined a two-pronged approach for trial courts to follow in measuring the adequacy of a complaint in the face of a motion to dismiss. (21) First, the court can begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. (22) After isolating the 'well-pleaded factual allegations' in the complaint and assuming 'their veracity,' the court should 'then determine whether they plausibly give rise to an entitlement to relief.' (23)

## **Summary**

The passage from the Suffolk University Law Review explains the two-pronged approach established by the Supreme Court in *Twombly* and *Iqbal* for evaluating the adequacy of a complaint. This approach requires courts to first identify and disregard mere legal conclusions, then accept well-pleaded factual allegations as true, and finally determine if these facts plausibly suggest an entitlement to relief. This directly supports the proposition that a court must accept well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor when considering a motion to dismiss.

[Taming Twombly, even after Iqbal.](#)

**University of Pennsylvania Law Review - University of Pennsylvania, Law School - Hartnett, Edward A. - 2010-01-01**

## **Extract**

Significantly, this is how the *Iqbal* Court understood the plausibility requirement. It explained that a 'claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' Moreover, it reiterated that 'the tenet that a court must... can provide the framework of a complaint, they must be supported by factual allegations. 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.'

## **Summary**

The *Iqbal* decision emphasizes the need for factual allegations to be accepted as true when determining the plausibility of a claim. This supports the proposition that the district court should have accepted the plaintiff's well-pleaded factual allegations as true and assessed whether they plausibly state a claim for relief.

[Chapter 7. Pleading and Practice Issues](#)



## **Civil RICO: A Definitive Guide. Fifth Edition - American Bar Association - Gregory P. Joseph**

### **Extract**

Ashcroft v. Iqbal 556 U.S. 662 (2009), extends Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), sufficiently far that the author of Twombly (Souter, J.) dissented. At its simplest, Iqbal sets out a two-part approach for analyzing a complaint on Rule 12(b)(6) dismissal motion: • First, the court reviews the complaint to identify—and disregard—conclusory allegations (“pleadings that . . . are no more than conclusions, are not entitled to the assumption of truth”). 556 U.S. at 679. • Second, accepting as true the remaining allegations, the court decides whether, in context, the claim is plausible as a matter of “common sense” (“Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.”). Id. at 679.

### **Summary**

Two-part approach established by Ashcroft v. Iqbal for analyzing complaints under Rule 12(b)(6). It emphasizes that courts must accept as true all non-conclusory factual allegations and determine whether they plausibly state a claim for relief. This directly supports the proposition that the district court should have accepted the plaintiff's detailed factual allegations as true and assessed their plausibility.

### ['Plausible' Deniability](#)

**Litigation - American Bar Association - Michael J. Miarmi - 2021-01-01**

### **Extract**

The Court instructed, a complaint must contain sufficient factual matter to render the claim 'plausible.' The Court did not provide much guidance on what 'plausibility' entails, but it did offer a few observations: On the one hand, 'detailed factual allegations' are not required, and the court must 'assum[e] that all the allegations in the complaint are true (even if doubtful in fact).' Indeed, the Court noted, 'a well-pleaded complaint may proceed even if it strikes a savvy judge that actual proof of th[e] [alleged] facts is improbable, and that a recovery is very remote and unlikely.'

### **Summary**

The Supreme Court's decisions in Twombly and Iqbal require that a complaint must contain sufficient factual matter to render the claim plausible. The court must assume all allegations in the complaint are true, even if they seem improbable. This supports the proposition that the district

court should not have discounted the plaintiff's allegations but should have accepted them as true to determine if they plausibly state a claim for relief.

## [Restraints of Trade](#)

### **Antitrust Law Developments (Ninth Edition) - Volume I - American Bar Association - American Bar Association - 2022-02-02**

#### **Extract**

The Court explained that by insisting that a complaint allege 'plausible grounds to infer an agreement,' it was not imposing a probability requirement at the pleading stage. The plausibility standard 'simply calls for enough fact[s] to raise a reasonable expectation that discovery will reveal evidence of illegal agreement.' The Court concluded by stating that 'we do not require heightened fact pleading of specifics, but only enough facts to state a claim to relief that is plausible on its face.'

#### **Summary**

Standard for pleading a claim under Federal Rule of Civil Procedure 8(a)(2), as articulated in *Bell Atlantic Corp. v. Twombly*. It emphasizes that a complaint must contain enough factual matter to suggest a plausible claim, without requiring detailed fact pleading. This aligns with the proposition that the court must accept well-pleaded factual allegations as true and draw reasonable inferences in the plaintiff's favor, which is relevant to the standard applied in motions to dismiss.

This memo was compiled by Vincent AI based on vLex materials available as of September 05, 2025. [View full answer on vLex](#)