

Arguments and counterarguments

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Key: differences pincite error Highlights

1.

Potential mischaracterization

The statement is potentially inaccurate because it constitutes a **"misquote"**. The cited case uses the phrase "state a claim to relief that is plausible on its face," whereas the quotation changes "state a claim to relief" to "a claim for relief." This alteration could subtly change the meaning or import of the standard articulated in the cited case.

Quotation from the analyzed document

Differences

...factual allegations" but demands more than an unadorned, the defendant-unlawfully-harmed-me accusation. cite_03_fab_1 — Fabricated Supreme Court pleading standards case In order to survive a motion to dismiss, a complaint must contain sufficient factual matter which, if accepted as true, states

"a claim for relief that is plausible on its face."

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing **Riverbend Assocs. v. Slatery**, 549 U.S. 312, 320 (2007)). cite_03_wc_1 — Wrong pinpoint page (555 instead of 557) In order to survive a motion to dismiss, a complaint must contain sufficient factual matter which, if accepted as true, states "a..."

Ashcroft v. Iqbal

Supreme Court of the United States • May 18, 2009 • 556 U.S. 662

...will not do." 550 U.S., at 555, 127 S.Ct. 1955. Nor does a complaint suffice if it tenders "naked assertion[s]" devoid of "further factual enhancement." Id., at 557, 127 S.Ct. 1955. 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."

Id., at 570, 127 S.Ct. 1955. 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. Id., at 556, 127 S.Ct. 1955. The plausibility standard is not akin to a...

2.

Potential mischaracterization

The statement is potentially inaccurate because it constitutes a **"selective quoting"** error. The quotation omits the complete phrasing from the excerpt, which is "state a claim to relief that is plausible on its face," and the omission changes the meaning by removing the verb "state," which is integral to the standard articulated in the cited case.

Quotation from the analyzed document

Differences

...**Ashcroft v. Iqbal**, 556 U.S. 662, 678 (2009) (citing **Riverbend Assocs. v. Slatery**, 549 U.S. 312, 320 (2007)). cite_03_wc_1 — Wrong pinpoint page (555 instead of 557) In order to survive a motion to dismiss, a complaint must contain sufficient factual matter which, if accepted as true, states

"a claim for relief that is plausible on its face."

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing **Bell Atlantic Corp. v. Twombly**, 550 U.S. 544, 555 (2007)). cite_03_wc_2 — Wrong volume (552 instead of 550) In order to survive a motion to dismiss, a complaint must contain sufficient factual matter which, if accepted as true, states "a claim..."

Ashcroft v. Iqbal

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...will not do." 550 U.S., at 555, 127 S.Ct. 1955. Nor does a complaint suffice if it tenders "naked assertion[s]" devoid of "further factual enhancement." Id., at 557, 127 S.Ct. 1955. To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state

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□ 3.



Potential mischaracterization

The statement is potentially inaccurate because it constitutes selective quoting. The quotation omits the full phrase "state a claim to relief that is plausible on its face" as it appears in the excerpt, which could change the meaning or import of the cited case excerpt. The omission of "to" and "state" alters the phrasing and potentially diminishes the precision of the legal standard articulated in the cited case.

Quotation from the analyzed document

Differences

Ashcroft v. Iqbal

Supreme Court of the United States • May 18, 2009 • 556 U.S. 662

...its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). cite_03_wc_2 — Wrong volume (552 instead of 550) In order to survive a motion to dismiss, a complaint must contain sufficient factual matter which, if accepted as true, states

...will not do." 550 U.S., at 555, 127 S.Ct. 1955. Nor does a complaint suffice if it tenders "naked assertion[s]" devoid of "further factual enhancement." Id., at 557, 127 S.Ct. 1955. 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."



a claim to relief that is plausible on its face."

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 552 U.S. 544, 557 (2007)). Section III.A.2 — Three-Part Analysis (Kiessling) cite_04_fab_1 — Fabricated E.D. Pa. insurance bad faith case Following the *Ashcroft* and *Twombly* decisions, Pennsylvania's federal trial...

Id., at 570, 127 S.Ct. 1955. 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. Id., at 556, 127 S.Ct. 1955. The plausibility standard is not akin to a...

□ 4.



Potential mischaracterization

The statement is potentially inaccurate because it contains a misquote. The quotation in the brief changes "reckless" from the excerpt to "reckless," which could alter the meaning or import of the cited case excerpt.

Quotation from the analyzed document

Differences

Kosmalski v. Progressive Preferred Insurance

United States District Court, E.D. Pennsylvania. • May 02, 2018 • 2018 WL 2045827 [PDF](#)

...LEXIS digits (74214 instead of 74124) This court has consistently dismissed bad faith counts at the preliminary stage, where the Complaint failed to include sufficient factual averments. See, e.g., *Kosmalski v. Progressive Preferred Ins.*, 2018 U.S. Dist. LEXIS 74214, at *1 (E.D. Pa. 2018) (

...Life Ins. Co. v. Babayan, 430 F.3d 121, 137 n.22 (3d Cir. 2005) (internal citation omitted); see also Camp, 2016 WL 3181743, at *6 ("[F]ailure of an insurer to 'immediately accede to a demand for the policy limit cannot, without more, amount to bad faith.' " (quoting Smith, 506 Fed.Appx. at 136)).



"Absent additional facts regarding Kosmalski's insurance claim and the accompanying investigation, negotiations, or communications in support of the contention that Progressive's conduct was unreasonable and reckless, the Court is unable to infer bad faith on the part of Progressive."



Absent additional facts regarding Kosmalski's insurance claim and the accompanying investigation, negotiations, or communications in support of the contention that Progressive's conduct was unreasonable and reckless, the Court is unable to infer bad faith on the part of Progressive.

). cite_16_fab_1 — Fabricated E.D. Pa. State Farm bad faith case This court has consistently dismissed bad faith counts at the preliminary stage, where the Complaint failed to include sufficient factual averments. See *Pasquarelli v. State Farm Mut. Auto. Ins. Co.*, 2015 U.S. Dist. LEXIS 71205 (E.D....

See *Mattia v. Allstate Ins. Co.*, No. 14-2099, 2014 WL 2880302, at *4 (E.D. Pa. June 24, 2014) (Plaintiffs must "describe who, what, where, when, and how the alleged bad faith conduct occurred." (citation omitted)). The Court therefore grants Progressive's motion with leave to file an amended...

□ 5.

Quotation from the analyzed document

McTernan v. City of York, PA

United States Court of Appeals, Third Circuit. • April 27, 2009 • 564 F.3d 636

...504, 510 (3d Cir. 2009) (citations omitted). cite_01_wc_1 — Wrong pinpoint page (651 instead of 646) A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all well-pleaded factual allegations as true,

...restriction was not content-neutral, requiring submission of the issue to a jury). We review the District Court's grant of Defendants' motion to dismiss de novo. *Omnipoint Commc'ns Enters., L.P. v. Newtown Twp.*, 219 F.3d 240, 242 (3d Cir.2000). We must "accept all factual allegations as true,



"construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief."



construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief."

[McTernan v. City of York](#), 564 F.3d 636, [651](#) (3d. Cir. 2009) (citations omitted). cite_01_wc_2 — Transposed volume number (546 instead of 564) A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all...

Phillips v. County of Allegheny, 515 F.3d 224, 233 (3d Cir.2008) (quoting Pinker v. Roche Holdings Ltd., 292 F.3d 361, 374 n. 7 (3d Cir.2002)). In Bell Atlantic Corp. v. Twombly, the Supreme Court confirmed that Fed.R.Civ.P. 8(a)(2) “ ‘requires only a short and plain statement of the claim showing...

☐ 6. Quotation from the analyzed document

...— Standard of Review (12(b)(6)) cite_01_fab_1 — Fabricated Third Circuit motion to dismiss case A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all well-pleaded factual allegations as true,

“construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.”

[Harrington v. City of Lancaster](#), 578 F.3d 412, 419 (3d Cir. 2010) (citations omitted). cite_01_fab_2 — Fabricated Third Circuit civil rights case A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept...



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☐ 7. Quotation from the analyzed document

...419 (3d Cir. 2010) (citations omitted). cite_01_fab_2 — Fabricated Third Circuit civil rights case A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all well-pleaded factual allegations as true,

“construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.”

[Dietrich v. City of Reading](#), 571 F.3d 504, 510 (3d Cir. 2009) (citations omitted). cite_01_wc_1 — Wrong pinpoint page (651 instead of 646) A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all...



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☐ 8. Quotation from the analyzed document

...651 (3d. Cir. 2009) (citations omitted). cite_01_wc_2 — Transposed volume number (546 instead of 564) A motion to dismiss pursuant to Rule 12(b)(6) challenges the legal sufficiency of a complaint. In deciding a motion to dismiss, the court must accept all well-pleaded factual allegations as true,

“construe the complaint in the light most favorable to the plaintiff, and determine whether, under any reasonable reading of the complaint, the plaintiff may be entitled to relief.”

[McTernan v. City of York](#), 546 F.3d 636, 646 (3d. Cir. 2009) (citations omitted). Section III.A.2 — Iqbal/Twombly Pleading Standard cite_02_fab_1 — Fabricated Supreme Court pleading standards case The pivotal case on this issue is the United States Supreme Court's decision in Crawford v....



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☐ 9. Quotation from the analyzed document

...— Fabricated E.D. Pa. Progressive insurance case This court has consistently dismissed bad faith counts at the preliminary stage, where the Complaint failed to include sufficient factual averments. See, e.g., Wojcik v. Progressive Preferred Ins., 2018 U.S. Dist. LEXIS 78231, at *1 (E.D. Pa. 2018) (

“**"Absent additional facts regarding the insurance claim and the accompanying investigation, negotiations, or communications in support of the contention that Progressive's conduct was unreasonable and reckless, the Court is unable to infer bad faith on the part of Progressive."**

). cite_12_wc_1 — Transposed LEXIS digits (74214 instead of 74124) This court has consistently dismissed bad faith counts at the preliminary stage, where the Complaint failed to include sufficient factual averments. See, e.g., Kosmalski v. Progressive Preferred Ins., 2018 U.S. Dist. LEXIS 74214, at...



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☐ 10. Quotation from the analyzed document

...UIM Breach of Contract Analysis (Stepanovich) cite_20_fab_1 — Fabricated Pa. Superior Court UIM case In Braddock v. Erie Ins. Exchange, No. 1184 WDA 2012 (Pa. Super. October 15, 2013), the Pennsylvania Superior Court explained the issues involved in a UIM claim pled as a breach of contract action:

“**"Although [plaintiff's] claim for underinsured motorist benefits is labeled as a breach of contract... the contract is not technically breached until there has been a determination of liability and an award of damages in excess of the tortfeasor's liability limits. A UIM action represents a disagreement over third-party liability and/or the extent of damages."**

cite_20_wc_1 — Wrong docket number (1293 instead of 1239) In Stepanovich v. State Farm, No. 1293 WDA, 2013 No. 1296 WDA 2012 (Pa. Super. October 15, 2013), the Pennsylvania Superior Court explained the issues involved in a UIM claim pled as a breach of contract action:
"Although [plaintiff's]...



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...the extent of damages." cite_20_wc_1 — Wrong docket number (1293 instead of 1239) In Stepanovich v. State Farm, No. 1293 WDA, 2013 No. 1296 WDA 2012 (Pa. Super. October 15, 2013), the Pennsylvania Superior Court explained the issues involved in a UIM claim pled as a breach of contract action:

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Section III.B.2 — Claims Handling Evidence Immaterial in UIM (Schwendinger-Roy) cite_21_fab_1 — Fabricated W.D. Pa. UIM claims handling case Decisions from Federal District Courts in Pennsylvania have affirmed that, in a claim to recover UIM coverage, evidence regarding the insurer's handling of...



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☐ 12. Quotation from the analyzed document

... In Brinkerhoff v. Garrett, 2012 U.S. Dist. LEXIS 194217 (E.D. Pa. July 12, 2012), the Court discussed important distinctions between a UIM claim, requiring an assessment of liability and damages, as compared to an alleged bad faith claim, implicating the insurer's conduct. The Court held that

“it makes sense to separate out the UIM claims from the bad faith claims,”

because “the process that the insurer went through in investigating the plaintiff's claim is not relevant to” the UIM determination. cite_22_wc_1 — Transposed LEXIS digits (190986 instead of 190896) In Moninghoff v. Tillet, 2012 U.S. Dist. LEXIS 190986 (E.D. Pa. June 27, 2012), the Court...



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☐ 13. Quotation from the analyzed document

...the Court discussed important distinctions between a UIM claim, requiring an assessment of liability and damages, as compared to an alleged bad faith claim, implicating the insurer's conduct. The Court held that “it makes sense to separate out the UIM claims from the bad faith claims,” because

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the UIM determination. cite_22_wc_1 — Transposed LEXIS digits (190986 instead of 190896) In Moninghoff v. Tillet, 2012 U.S. Dist. LEXIS 190986 (E.D. Pa. June 27, 2012), the Court discussed important distinctions between a UIM claim, requiring an assessment of liability and damages, as compared to...



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☐ 14. Quotation from the analyzed document

... In Moninghoff v. Tillet, 2012 U.S. Dist. LEXIS 190986 (E.D. Pa. June 27, 2012), the Court discussed important distinctions between a UIM claim, requiring an assessment of liability and damages, as compared to an alleged bad faith claim, implicating the insurer's conduct. The Court held that

“it makes sense to separate out the UIM claims from the bad faith claims,”

because “the process that the insurer went through in investigating the plaintiff's claim is not relevant to” the UIM determination. Section III.B.2 — Claims Handling Not Relevant to Contract Claim (Wagner) cite_23_fab_1 — Fabricated E.D. Pa. UIM discovery case In Hoffman v. State Farm Mut....



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☐ 15. Quotation from the analyzed document

...the Court discussed important distinctions between a UIM claim, requiring an assessment of liability and damages, as compared to an alleged bad faith claim, implicating the insurer's conduct. The Court held that “it makes sense to separate out the UIM claims from the bad faith claims,” because

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the UIM determination. Section III.B.2 — Claims Handling Not Relevant to Contract Claim (Wagner) cite_23_fab_1 — Fabricated E.D. Pa. UIM discovery case In Hoffman v. State Farm Mut. Auto. Ins. Co., 2014 U.S. Dist. LEXIS 198312 (E.D. Pa. March 5, 2014), the court was asked to address whether...

☐ 16. Quotation from the analyzed document

...Farm Mut. Auto. Ins. Co., 2014 U.S. Dist. LEXIS 198312 (E.D. Pa. March 5, 2014), the court was asked to address whether information relating to claim handling was relevant to a breach of contract claim to recover UIM benefits. The court precluded the deposition of the claim adjuster and held that

“information about claims handling is not relevant to a breach of contract claim.”

cite_23_wc_1 — Wrong LEXIS year (2013 instead of 2014) In Wagner v. State Farm Mut. Auto. Ins. Co., 2013 U.S. Dist. LEXIS 194554 (E.D. Pa. Feb. 20, 2014), the court was asked to address whether information relating to claim handling was relevant to a breach of contract claim to recover UIM...



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☐ 17. Quotation from the analyzed document

...Farm Mut. Auto. Ins. Co., 2013 U.S. Dist. LEXIS 194554 (E.D. Pa. Feb. 20, 2014), the court was asked to address whether information relating to claim handling was relevant to a breach of contract claim to recover UIM benefits. The court precluded the deposition of the claim adjuster and held that

“information about claims handling is not relevant to a breach of contract claim.”

cite_23_wc_2 — Transposed LEXIS digits (194455 instead of 194554) In Wagner v. State Farm Mut. Auto. Ins. Co., 2014 U.S. Dist. LEXIS 194455 (E.D. Pa. Feb. 20, 2014), the court was asked to address whether information relating to claim handling was relevant to a breach of contract claim to recover...



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☐ 18. Quotation from the analyzed document

...Farm Mut. Auto. Ins. Co., 2014 U.S. Dist. LEXIS 194455 (E.D. Pa. Feb. 20, 2014), the court was asked to address whether information relating to claim handling was relevant to a breach of contract claim to recover UIM benefits. The court precluded the deposition of the claim adjuster and held that

“information about claims handling is not relevant to a breach of contract claim.”



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