

11 results in Quote Check

1 ✓ This quote is Correct

Quote from your brief:

...Pursuant to Federal Rule of Civil Procedure 12(b)(6), this Court may dismiss Plaintiff's Complaint for failure to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6). 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, 564 F.3d 636, 646 (3d Cir. 2009) (citations omitted).

Quote from source citation:

"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"

Source Citation: [McTernan v. City of York, 564 F.3d 636](#)2 Ø This quote is Incorrect

Quote from your brief:

...System.Linq.Enumerable+<TakeRangeFromEndIterator>d__281`1[System.Char] "The pleading standard Rule 8 announces does not require 'detailed factual allegations' but it demands more than an unadorned, the defendant-unlawfully-harmed-me accusation. A pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do.' Nor does a complaint suffice if it tenders 'naked assertions[s]' devoid of further factual enhancement." ...Id. at 678 (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 557 (2007)) (internal citations omitted and emphasis supplied).

Quote from source citation:

"Cited document not found"

3 Ø This quote is Incorrect

Quote from your brief:

...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, 556 U.S. at 678 (citing Twombly, 550 U.S. at 556). A claim is facially plausible when the plaintiff pleads factual averments that allow the court to draw reasonable inferences that the defendant is liable for the alleged misconduct. Ashcroft, 556 U.S. at 678 (citing Twombly, 550 U.S. at 556). While the plausibility standard is not equivalent to a "probability requirement," it requires m

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

Source Citation: [Ashcroft v. Iqbal, 556 U.S. 662, 678](#)4 ✓ This quote is Correct

Quote from your brief:

...556 U.S. at 678 (citing Twombly, 550 U.S. at 556). A claim is facially plausible when the plaintiff pleads factual averments that allow the court to draw reasonable inferences that the defendant is liable for the alleged misconduct. Ashcroft, 556 U.S. at 678 (citing Twombly, 550 U.S. at 556). While the plausibility standard is not equivalent to a "probability requirement," it requires more than a "sheer possibility that a defendant has acted unlawfully." ... Id. The mere recital of the elements of a cause of action, supported by mere conclusory statements, does not meet the required pleading standard. Ashcroft, 556 U.S. at 678 (citing Twombly, 550 U.S. at 557). Only a complaint that sets forth a plausible claim for relief survives a motion to dismiss. Ashcroft, 556 U.S. at 679.

Quote from source citation:

"sheer possibility that a defendant has acted unlawfully"

Source Citation: [Ashcroft v. Iqbal, 556 U.S. 662, 678](#)5 Ø This quote is Incorrect

Quote from your brief:

...Farm Mut. Auto Ins. Co., 2019 U.S. Dist. LEXIS 24085, at *5-6 (E.D. Pa. 2019). First, the court must consider the elements a plaintiff is required to plead for a particular claim. Id. Second, it is the District Court's responsibility to identify all factual allegations that constitute nothing more than "legal conclusions" or "naked assertions," since such allegations are "not entitled to the assumption of truth and must be disregarded for purposes of resolving a 12(b)(6) motion to dismiss." ... Id. Third, the District Court must identify the well-pleaded, non-conclusory factual allegations, and determine whether the complaint states a plausible claim for relief. Id.

Quote from source citation:

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6

 This quote is Incorrect

Quote from your brief:

...Id. In that case, Judge Pappert dismissed the bad faith claim, holding that plaintiff's allegations were insufficient to ..."

Quote from source citation:

"No matching quote found in Id."

Source Citation: [Davis v. Malloy, 2017 usdistlexis 1](#)

7

 This quote is Incorrect

Quote from your brief:

...State Farm Mut. Auto Ins. Co., supra., this Court noted that bad faith claims are fact specific, and that in order to survive a motion to dismiss, a plaintiff must plead specific facts. 2019 U.S. Dist. LEXIS 24085, at *8 (E.D. Pa. 2019). A plaintiff cannot merely say that an insurer acted unfairly, but must specify what acts were unfair. Id. But allegations that, at their core, say no more than "insurer negotiated unfairly because it negotiated unfairly" ... or "insurer acted in bad faith by acting in bad faith," fall far short of meeting that critical pleading threshold.

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...faith claims are fact specific, and that in order to survive a motion to dismiss, a plaintiff must plead specific facts. 2019 U.S. Dist. LEXIS 24085, at *8 (E.D. Pa. 2019). A plaintiff cannot merely say that an insurer acted unfairly, but must specify what acts were unfair. Id. But allegations that, at their core, say no more than "insurer negotiated unfairly because it negotiated unfairly" or "insurer acted in bad faith by acting in bad faith," ... fall far short of meeting that critical pleading threshold.

Quote from source citation:

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Quote from your brief:

...This court has consistently dismissed bad faith counts at the preliminary stage, where, as here, the Complaint failed to include sufficient factual averments. See, e.g., Kosmalski v. Progressive Preferred Ins., 2018 U.S. Dist. LEXIS 74124 (E.D. Pa. 2018) (*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.*"); *Pasqualino v. State Farm Mut. Auto. Ins. Co.*, 2015 U.S. Dist. LEXIS 69318 (E.D. Pa. 2015) (Motion to dismiss granted and bad faith claim dismissed).

Quote from source citation:

"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."

Source Citation: [Kosmalski v. Progressive Preferred Ins., 2018 U.S. Dist. LEXIS 74124](#)

10

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Quote from your brief:

...System.Linq.Enumerable+<TakeRangeFromEndIterator>d_281'1[System.Char] "The Court finds that Defendant has demonstrated good cause for the issuance of a protective order. Plaintiff seeks to depose named personnel to gather information about the evaluation of his UIM claim. However, information about claims handling is not relevant to a breach of contract claim..." (Emphasis added.) "...In Schwindinger-Roy v. State Farm, supra, the plaintiff filed suit for UIM benefits - a contract claim like the one at issue here. State Farm filed a motion in limine to preclude evidence regarding its alleged breach of the insurance contract and improper claims handling. The Court granted the motion and precluded evidence regarding State Farm's handling of the claim as well as its alleged breach.

Quote from source citation:

"No matching quote found in v. State Farm, supra."

Source Citation: [Johnson v. United States, 56 fappx 1](#)

11

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Quote from your brief:

...System.Linq.Enumerable+<TakeRangeFromEndIterator>d_281'1[System.Char] "The Court finds that it makes sense to separate out the UIM claims from the bad faith claims in this matter. The UIM claims require determination of liability and assessment of the plaintiff's injuries. The process that the insurer went through in investigating the plaintiff's claim is not relevant to that issue..." "...Here, Plaintiff's allegations and inferences in Paragraphs 15, 16 and 17, relating to the Liberty Mutual's conduct and claims handling, would only be material and pertinent if they bore some relevance to the underlying issues of liability, negligence, and/or causation and extent of damages from the motor vehicle accident. But they don't."

Quote from source citation:

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