

Discussion Questions for *Iqbal*- September 10, 2025

1. *Conley*'s assertion that "all the Rules require is 'a short and plain statement of the claim' that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests,"
 - A. Reflects an accurate description of pleading standards before 2007.
 - B. Reflects only a partially accurate description of pleading standards before 2007 because it fails to recognize that allegations could be stated with clarity but still be legally insufficient.
 - C. Reflects only a partially accurate description of pleading standards before 2007 because it fails to recognize that allegations could be stated with clarity but some could still be so extreme as to be factually insufficient.
 - D. Both B and C are correct.
2. True or false: In *Iqbal*, the Supreme Court declined to follow Rule 8's pleading standard that the claimant must set forth a "short and plain statement of the claim showing the pleader is entitled to relief."
3. In imposing the two-step conclusory/plausibility inquiry, did the Supreme Court say it was articulating a new pleading standard or just following the pleading requirements of Rule 8?
4. True or false: If a court finds that all allegations in a plaintiff's complaint are nonconclusory, then it should deny a Rule 12(b)(6) motion.
5. True or false: If a court finds that all allegations in a plaintiff's complaint are conclusory, then it should grant a Rule 12(b)(6) motion.
6. True or false: If a court finds some allegations in a plaintiff's complaint to be conclusory and others to be non-conclusory, then it must determine if the remaining allegations are plausible.
7. True or false: If a party fails to plead some element of a claim or a defense, the party can still prevail on that claim or defense if they carry their evidentiary burden at trial.
8. After *Iqbal*,
 - A. A court is no longer required to accept conclusory allegations as true.
 - B. A court is required to accept all nonconclusory allegations as true.
 - C. Both A and B are correct.
 - D. Neither A nor B are correct.
 - E. A is correct but B is incorrect.
 - F. B is correct but A is incorrect.

9. True or false: According to the Court, the problem with the plaintiffs' allegations in *Twombly* was that there weren't any nonconclusory allegations of an illegal agreement among the defendants. The only nonconclusory allegations made, the Court said, were about parallel conduct.
10. True or false: If a court concludes that there is less than a 50% chance, that the defendant acted unlawfully, then that would not be a plausible claim.
11. Assume that a complaint includes this allegation: *The defendant violated the plaintiff's legal rights, entitling the plaintiff to relief.* After *Iqbal*, most would probably agree that a court should find the allegation is conclusory because it does not provide fair notice of what the claim is and the grounds on which it rests.

But what if the allegation read like this: *By driving negligently, the defendant violated the plaintiff's legal rights, entitling the plaintiff to relief.* Different result? Be sure to defend your answer by comparing this hypothetical to cases we've read.

12. Below is paragraph 96 of the *Iqbal* complaint:

[General Ashcroft and Director Mueller] each knew of, condoned, and willfully and maliciously agreed to subject" respondent to harsh conditions of confinement "as a matter of policy, solely on account of [his] religion, race, and/or national origin and for no legitimate penological interest.

Did the Court find that these allegations were conclusory or that they were not plausible?

13. Below are paragraphs 47 and 69 of the *Iqbal* complaint:

The [FBI], under the direction of Defendant MUELLER, arrested and detained thousands of Arab Muslim men ... as part of its investigation of the events of September 11. (¶ 47)

[T]he policy of holding post-September-11th detainees in highly restrictive conditions of confinement until they were 'cleared' by the FBI was approved by Defendants ASHCROFT and MUELLER in discussions in the weeks after September 11, 2001.

Did the Court find that these allegations were conclusory or that they were not plausible?

14. In his article, Professor Steinman writes, "According to the Supreme Court's own words, an allegation can never be disregarded because it is not plausible. It can be disregarded only because it is conclusory." (CM97). There's certainly some support in the *Iqbal* case for this statement. Can you find it? But there are other parts of the case that seem inconsistent with this statement. Can you articulate what those are?