

NEWS RELEASE

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PUBLIC JUSTICE LAUNCHES *IQBAL* PROJECT TO PRESERVE ACCESS TO COURTS

Public Justice, a national public interest law firm headquartered in Washington DC, has launched a new initiative – the *Iqbal* Project – to prevent the U.S. Supreme Court's recent decision in *Ashcroft v. Iqbal* from being misused to preclude access to justice in cases throughout the country.

In *Iqbal*, announced in May 2009, the U.S. Supreme Court held that a Pakistani Muslim's complaint alleging unconstitutional discrimination by high level government officials in the aftermath of September 11th had to be dismissed unless it was amended to provide more specificity. In so doing, the Court said 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." Within days, defendants in consumers' rights, workers' rights, and civil rights lawsuits nationwide began moving to dismiss those cases, claiming that *Iqbal* dramatically changed federal law in numerous ways. Public Justice's *Iqbal* Project is designed to stop the defendants' improper use of the Supreme Court's decision and preserve plaintiffs' right to their day in court.

"*Iqbal* is a disturbing decision, but it did not change the Federal Rules of Civil Procedure, authorize judges to draw factual inferences left to juries by the Constitution, or eliminate supervisory liability in federal constitutional civil rights cases," said Public Justice Executive Director Arthur Bryant. "Defendants throughout America are trying to get cases thrown out on the grounds that it did. Our *Iqbal* Project is intended to stop that misuse of the Supreme Court's decision."

Alex Reinert, a law professor at the Benjamin N. Cardozo School of Law who argued *Iqbal* in the Supreme Court, will lead the project and chair Public Justice's newly-formed *Iqbal* Committee. He said the Committee's members have volunteered to serve as resources for lawyers facing motions and appeals relating to *Iqbal*.

"Our mission is to preserve the public's traditional right of access to the courts," said Reinert. "Broad, improper interpretations of *Iqbal* have the potential to undermine the public's confidence in a fair system of justice and prevent some of the most powerless litigants from being able to proceed with critical litigation, including important claims of discrimination."

Public Justice Staff Attorney Claire Prestel, who will coordinate the work of the *Iqbal* Committee, said, "Stemming the tide against the extension and abuse of *Iqbal* is essential to Public Justice's core mission of ensuring access to justice for all."

Defendants are misusing *Iqbal* in three primary ways. First, defendants are arguing that *Iqbal* requires detailed factual pleading by plaintiffs in all cases, but the decision does no such thing and did not purport to change the pleading standard established by the Federal Rules of Civil Procedure. Second, defendants are claiming that *Iqbal* empowers judges to make factual inferences previously left to a jury after discovery, but the Supreme Court never approved this end run around the Seventh Amendment's guarantee of a jury trial. Third, defendants are insisting that *Iqbal* abolished supervisory liability in constitutional civil rights case, but the Court clearly stated that supervisors can be liable when they violate their "superintendent responsibilities."

Public Justice's *Iqbal* Project will offer technical and strategic assistance in pending cases and maintain records on the use and abuse of *Iqbal* in federal and state courts. For information or assistance, contact iqbal@publicjustice.net or call our national headquarters in Washington, DC.