

November 16, 2009

Public Justice is launching 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.

The *Iqbal* decision, issued in May, 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*'s standard for plaintiff's complaints dramatically changed federal law in numerous ways. **Our *Iqbal* Project -- part of our Access to Justice Campaign -- is designed to stop the defendants' improper use of the Supreme Court's decision and preserve plaintiffs' right to their day in court.**



Defendants are misusing *Iqbal* in three primary ways. First, they are arguing that *Iqbal* requires detailed factual pleading by plaintiffs in all cases, but the decision 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 cases, but the decision clearly states that supervisors can be held liable when they violate their "superintendent responsibilities."

Public Justice's *Iqbal* Project will offer technical and strategic assistance in pending cases involving *Iqbal* issues and track the use and abuse of the Supreme Court's decision in federal and state courts. The project will be led by Professor Alex Reinert of the Benjamin N. Cardozo School of Law, who argued *Iqbal* in the Supreme Court, and by our newly formed *Iqbal* Committee. Staff Attorney Claire Prestel will coordinate the Committee's work.

If you have documents or information related to *Iqbal* that we should know about, including complaints that have survived *Iqbal* motions, successful briefs filed in response to *Iqbal* challenges, and published or unpublished decisions interpreting *Iqbal* or rejecting *Iqbal* arguments, please send them to us at iqbal@publicjustice.net.

If you would like strategic assistance with your case or would like us to get involved on appeal, please contact us at iqbal@publicjustice.net or call our national headquarters in Washington, DC. We want to help everyone respond properly to arguments about conclusory allegations, plausibility, and supervisory liability, and to share useful materials as we gather them.

Thank you for your continued support of Public Justice and our Access to Justice Campaign. With your help, we can -- and must -- preserve access to justice for all.

Arthur Bryant
Executive Director

Public Justice
and the Public Justice Foundation

P.S. Please forward this email to friends and colleagues who'd be interested. (When you do so, delete the information below about unsubscribing, or they could unsubscribe you.) To make a special contribution, renew your membership, or join us, please [click here](#).

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