United States Supreme Court

CONLEY v. GIBSON, (1957)

Argued: October 21, 1957 Decided: November 18, 1957

The respondents also argue that the complaint failed to set forth specific facts to support its general allegations of discrimination and that its dismissal is therefore proper. The decisive answer to this is that the Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is "a short and plain statement of the claim" 8 that will give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests. The illustrative forms appended to the Rules plainly demonstrate this. Such simplified "notice pleading" is made possible by the liberal opportunity for discovery and the other pretrial procedures [355 U.S. 41, 48] established by the Rules to disclose more precisely the basis of both claim and defense and to define more narrowly the disputed facts and issues. 9 Following the simple guide of Rule 8 (f) that "all pleadings shall be so construed as to do substantial justice," we have no doubt that petitioners' complaint adequately set forth a claim and gave the respondents fair notice of its basis. The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits. Cf. Maty v. Grasselli Chemical Co., 303 U.S. 197.

The judgment is reversed and the cause is remanded to the District Court for further proceedings not inconsistent with this opinion.

It is so ordered.

[Footnote 9] See, e. g., Rule 12 (e) (motion for a more definite statement); Rule 12 (f) (motion to strike portions of the pleading); Rule 12 (c) (motion for judgment on the pleadings); Rule 16 (pre-trial procedure and formulation of issues); Rules 26-37 (depositions and discovery); Rule 56 (motion for summary judgment); Rule 15 (right to amend). [355 U.S. 41, 49]

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United States Supreme Court

ZENITH RADIO CORP. v. HAZELTINE RESEARCH, (1971)

No. 80

Argued: November 10, 1970 Decided: February 24, 1971

The motion was thoroughly and extensively argued. With respect to the defenses of limitations and release, [401 U.S. 321, 329] the trial court's ruling, after Zenith objected to them as being "too late," was expressed as follows: "Well, the record will show that leave is given to file them at this time, after proofs are closed and after findings have been made." 3

[Footnote 3] For example: "The Court: . . . underlying what you are saying [with respect to the embargoes] is what is said so frequently in [401 U.S. 321, 352] appeals in criminal cases, that

they are where they are by virtue of incompetence of counsel. "Now, there a person's liberty is involved, and what do the courts say in regard to this plea of incompetency of counsel? "They say, first, was he counsel of your choice rather than appointed counsel? And if he was, the courts say, in regard to keeping men incarcerated and depriving them of their liberty, that unless the trial conducted by counsel of the prisoner's choice was such a farce, such a fraud that justice would be horrified by the result, that since you are represented by counsel of your choice, why, agreed that he might not be the greatest in the world, but he was your lawyer and you picked him out. You are going to have to remain incarcerated for the balance of your term. "Now, how do we get around that analogy in this case?" App. 140-141. Hazeltine's attorney responded in terms of his theory of surprise, whereupon the District Judge answered that federal procedure was based on notice pleading and in his opinion Hazeltine had been put on notice. App. 141-144. See also, e. g., App. 116, 121-123, 146, 155.

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United States Supreme Court

YAZOO COUNTY INDUSTRIAL DEVELOPMENT CORPORATION v. SUTHOFF, (1982)

No. 80-1975

Argued: Decided: January 11, 1982

On petition for writ of certiorari to the United States Court of Appeals for the Fifth Circuit.

The petition for a writ of certiorari is denied.

Had the Court of Appeals been content to end its opinion at that point, this case would be one among hundreds where busy federal appellate courts decide whether "conclusory [454 U.S. 1157 , 1159] allegations" made under the "notice pleading" premise of the Federal Rules of Civil Procedure do or do not properly invoke federal jurisdiction. This Court in turn would be entirely correct in concluding that the petition for certiorari does not warrant plenary consideration. But, for better or for worse, the Court of Appeals did not stop there. Instead, it proceeded to step on what is, in my opinion, a legal landmine when it elaborated on the meaning of Bell v. Hood, 327 U.S. 678 (1946). The Court of Appeals obviously recognized its obligation to follow the dictates of that case as best it could, and because to me the decision in Bell is one of the most cryptic in the recent history of this Court's jurisprudence, I have nothing but sympathy for those who seek to divine its meaning.

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United States Supreme Court

BALDWIN COUNTY WELCOME CENTER v. BROWN, (1984)

No. 83-181

Argued: Decided: April 16, 1984

I will not engage in the task of identifying the nature and source of all of the failures to observe the procedural requirements [466 U.S. 147, 163] imposed by the Legislature in this case. As to whether it is fair to say on this record that respondent failed to act diligently to preserve her claim when she was acting pro se, I think the record largely speaks for itself. I might observe that if there had been strict adherence to the Federal Rules of Civil Procedure, in all likelihood this lawsuit would have ended in January 1982 with the bench trial originally scheduled, rather than stayed indefinitely in order to litigate an issue which would seem to have more relevance to a 19th-century lawyer schooled in technical pleading requirements than a 20th-century federal judge whose first procedural rule is to achieve the just, speedy, and inexpensive termination of litigation.

The question initially framed ***sua sponte*** by the Magistrate and then ***sua sponte*** ruled upon by the District Court was never presented in this case. The majority seems to agree with respondent that the statute of limitations issue was not a jurisdictional question, see Mohasco Corp. v. Silver, 447 U.S., at 811 , and n. 9; cf. Zipes v. Trans World Airlines, Inc., 455 U.S. 385 (1982), and hence since petitioner never set forth the affirmative defense of the statute of limitation pursuant to Rule 8(c) (though it "reserved" the right to do so) nor moved to dismiss the Title VII claims as time-barred under Rule 12(b), the District Court erred in dismissing these claims ***sua sponte***. Even if the issue were jurisdictional, the question in the case was never whether the right-to-sue letter was a complaint - the question was whether a complaint had been timely filed. The right-to-sue letter was the first document "filed" by respondent, and was apparently treated as a complaint for all practical purposes by the District Court, with the telling exception of failing to trigger issuance of a summons. But the right-to-sue letter was not the only document filed by respondent. In March she filed a complaint. Certainly the District Court should not have declined to treat the March letter as a complaint "merely because respondent did not label" it as a complaint "for that [466 U.S. 147, 164] would exalt nomenclature over substance." Browder v. Director, Illinois Department of Corrections, 434 U.S. 257, 272 (1978) (BLACKMUN, J., joined by REHNQUIST, J., concurring); see also Schlesinger v. Councilman, 420 U.S. 738, 742 , n. 5 (1975). If only this pro se civil rights plaintiff claiming racial discrimination had been able to grasp the talismanic significance of labeling that document a "complaint," or perhaps a "petition," to use the nomenclature of Judge Varner, the Clerk's office would have mechanically issued a summons, see Fed. Rule Civ. Proc. 4(a), and then petitioner could have filed a motion for a more definite statement pursuant to Rule 12(e) if the complaint did not adequately serve the purposes of modern-day notice pleading.

But of course petitioner would not have needed a more definite statement. The Federal Rules of Civil Procedure "do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, 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." Conley v. Gibson, 355 U.S. 41, 47 (1957) (footnote omitted). It would be absurd to suggest that petitioner would not have had fair notice of the claim against it had the documents filed pro se by respondent been served upon it. "The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." Id., at 48. Missteps by pro se Title VII plaintiffs, it would seem, are not so easily ignored.

Rule 8(f) provides that "[a]ll pleadings shall be so construed as to do substantial justice." We frequently have stated that pro se pleadings are to be given a liberal construction. E. g., Haines v. Kerner, 404 U.S. 519 (1972). If these pronouncements have any meaning, they must protect the pro se litigant who simply does not properly denominate her motion or pleading in the terms used in the Federal [466 U.S. 147, 165] Rules. If respondent was not pleading for relief in the District Court, one wonders what the majority thinks she was doing there.

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United States Supreme Court

CELOTEX CORP. v. CATRETT, (1986)

No. 85-198

Argued: April 1, 1986 Decided: June 25, 1986

The Federal Rules of Civil Procedure have for almost 50 years authorized motions for summary judgment upon proper showings of the lack of a genuine, triable issue of material fact. Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed "to secure the just, speedy and inexpensive determination of every action." Fed. Rule Civ. Proc. 1; see Schwarzer, Summary Judgment Under the Federal Rules: Defining Genuine Issues of Material Fact, 99 F. R. D. 465, 467 (1984). Before the shift to "notice pleading" accomplished by the Federal Rules, motions to dismiss a complaint or to strike a defense were the principal tools by which factually insufficient claims or defenses could be isolated and prevented from going to trial with the attendant unwarranted consumption of public and private resources. But with the advent of "notice pleading," the motion to dismiss seldom fulfills this function any more, and its place has been taken by the motion for summary judgment. Rule 56 must be construed with due regard not only for the rights of persons asserting claims and defenses that are adequately based in fact to have those claims and defenses tried to a jury, but also for the rights of persons opposing such claims and defenses to demonstrate in the manner provided by the Rule, prior to trial, that the claims and defenses have no factual basis. [477 U.S. 317, 328]

The judgment of the Court of Appeals is accordingly reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

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United States Supreme Court

RENNE v. GEARY, (1991)

No. 90-769

Argued: April 23, 1990 Decided: June 17, 1991

JUSTICE WHITE, dissenting.

The insistence by the majority and by JUSTICE WHITE that a party expressly style his claim in his complaint as a challenge based on overbreadth is also inconsistent with the liberal "notice pleading" philosophy that informs the Federal Rules of Civil Procedure. See Conley v. Gibson, 355 U.S. 41, 47 -48 (1957); see generally Fitzgerald v. Codex Corp., 882 F.2d 586, 589 (CA1 1989) ("[U]nder Fed.R.Civ.P. 8, it is not necessary that a legal theory be pleaded in the complaint if plaintiff sets forth `sufficient factual allegations to state a claim showing that he is entitled to relief' under some [tenable] legal theory" (emphasis in original)). I am particularly perplexed by JUSTICE WHITE's determination that "[t]he courts below erred in treating respondents' challenge in this case as a facial challenge." Ante, at 328 (emphasis added). At every stage of this litigation, beginning with respondents' summary judgment motion, the parties have framed the constitutional question exclusively in terms of 6(b)'s application to party endorsements, precisely the overbreadth argument that JUSTICE WHITE declines to reach. See Points and Authorities in Support of Summary Judgment in No. C-87 1724 AJZ (ND Cal.), pp. 22-26; Memorandum of Points of Authorities in Opposition to Summary Judgment in No. C-87-4724 AJZ (ND Cal.), pp. 20-41; Brief of Appellant in No. 88-2875 (CA9), pp. 7-18; Brief of Appellees in No. 88-2875 (CA9), pp. 5-36. In such circumstances, I do not understand what authority this Court would have for reversing the decision below, sua sponte, simply because the lower courts upheld a theory of relief not expressly relied upon in the complaint. See generally 5 C. Wright and A. Miller, Federal Practice and Procedure 1219, p. 190 (2d ed. 1990) (text of Federal Rules "makes it very plain that the theory of the pleadings mentality has no place under federal practice").

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United States Supreme Court

LEATHERMAN v. TARRANT COUNTY NICU, (1993)

No. 91-1657

Argued: January 12, 1993 Decided: March 3, 1993

Held:

A federal court may not apply a "heightened pleading standard" - more stringent than the usual pleading requirements of Federal Rule of Civil Procedure 8(a) - in civil rights cases alleging municipal liability under 1983. First, the heightened standard cannot be justified on the ground that a more relaxed pleading standard would eviscerate municipalities' immunity from suit by subjecting them to expensive and time-consuming discovery in every 1983 case. Municipalities, although free from respondeat superior liability under 1983, see Monell v. New York City Dept. of Social Services, 436 U.S. 658 , do not enjoy absolute or qualified immunity from 1983 suits, id., at 701; Owen v. City of Independence, 445 U.S. 622, 650 . Second, it is not possible to square the heightened standard applied in this case with the liberal system of "notice pleading" set up by the Federal Rules. Rule 8(a)(2) requires that a complaint include only "a short and plain statement of the claim showing that the pleader is entitled to relief." And while Rule 9(b) requires greater

particularity in pleading certain actions, it does not include among the enumerated actions any reference to complaints alleging municipal liability under 1983. Pp. 165-169.

954 F.2d 1054, reversed and remanded.

We think that it is impossible to square the "heightened pleading standard" applied by the Fifth Circuit in this case with the liberal system of "notice pleading" set up by the Federal Rules. Rule 8(a)(2) requires that a complaint include only "a short and plain statement of the claim showing that the pleader is entitled to relief." In Conley v. Gibson, 355 U.S. 41 (1957), we said in effect that the Rule meant what it said:

"[T]he Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, 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." Id., at 47 (footnote omitted).

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United States Supreme Court

SWIERKIEWICZ v. SOREMA N. A., (2002)

No. 00-1853

Argued: January 15, 2002 Decided: February 26, 2002

This Court has never indicated that the requirements for establishing a prima facie case under McDonnell Douglas also apply to the pleading standard that plaintiffs must satisfy in order to survive a motion to dismiss. For instance, we have rejected the argument that a Title VII complaint requires greater "particularity," because this would "too narrowly constric[t] the role of the pleadings." McDonald v. Santa Fe Trail Transp. Co., 427 U. S. 273, 283, n. 11 (1976). Consequently, the ordinary rules for assessing the sufficiency of a complaint apply. See, e.g., Scheuer v. Rhodes, 416 U. S. 232, 236 (1974) ("When a federal court reviews the sufficiency of a complaint, before the reception of any evidence either by affidavit or admissions, its task is necessarily a limited one. The issue is not whether a plaintiff will ultimately prevail but whether the claimant is entitled to offer evidence to support the claims").

In addition, under a notice pleading system, it is not appropriate to require a plaintiff to plead facts establishing a prima facie case because the McDonnell Douglas framework does not apply in every employment discrimination case. For instance, if a plaintiff is able to produce direct evidence of discrimination, he may prevail without proving all the elements of a prima facie case. See Trans World Airlines, Inc. v. Thurston, 469 U. S. 111, 121 (1985) ("[T]he McDonnell Douglas test is inapplicable where the plaintiff presents direct evidence of discrimination"). Under the Second Circuit's heightened pleading standard, a plaintiff without direct evidence of discrimination at the time of his complaint must plead a prima facie case of discrimination, even though discovery might uncover such direct evidence. It thus seems incongruous to require a plaintiff, in order to survive a motion to dismiss, to plead more facts than he may ultimately need to prove to succeed on the merits if direct evidence of discrimination is discovered.

Furthermore, imposing the Court of Appeals' heightened pleading standard in employment discrimination cases conflicts with Federal Rule of Civil Procedure 8(a)(2), which provides that a complaint must include only "a short and plain statement of the claim showing that the pleader is entitled to relief." Such a statement must simply "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." Conley v. Gibson, 355 U. S. 41, 47 (1957). This simplified notice pleading standard relies on liberal discovery rules and summary judgment motions to define disputed facts and issues and to dispose of unmeritorious claims. See id., at 47-48; Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U. S. 163, 168-169 (1993). "The provisions for discovery are so flexible and the provisions for pretrial procedure and summary judgment so effective, that attempted surprise in federal practice is aborted very easily, synthetic issues detected, and the gravamen of the dispute brought frankly into the open for the inspection of the court." 5 C. Wright & A. Miller, Federal Practice and Procedure §1202, p. 76 (2d ed. 1990).

Rule 8(a)'s simplified pleading standard applies to all civil actions, with limited exceptions. Rule 9(b), for example, provides for greater particularity in all averments of fraud or mistake.3 This Court, however, has declined to extend such exceptions to other contexts. In Leatherman we stated: "[T]he Federal Rules do address in Rule 9(b) the question of the need for greater particularity in pleading certain actions, but do not include among the enumerated actions any reference to complaints alleging municipal liability under §1983. Expressio unius est exclusio alterius." 507 U. S., at 168. Just as Rule 9(b) makes no mention of municipal liability under Rev. Stat. §1979, 42 U. S. C. §1983 (1994 ed., Supp. V), neither does it refer to employment discrimination. Thus, complaints in these cases, as in most others, must satisfy only the simple requirements of Rule 8(a).4

Other provisions of the Federal Rules of Civil Procedure are inextricably linked to Rule 8(a)'s simplified notice pleading standard. Rule 8(e)(1) states that "[n]o technical forms of pleading or motions are required," and Rule 8(f) provides that "[a]ll pleadings shall be so construed as to do substantial justice." Given the Federal Rules' simplified standard for pleading, "[a] court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding, 467 U. S. 69, 73 (1984). If a pleading fails to specify the allegations in a manner that provides sufficient notice, a defendant can move for a more definite statement under Rule 12(e) before responding. Moreover, claims lacking merit may be dealt with through summary judgment under Rule 56. The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading system, which was adopted to focus litigation on the merits of a claim. See Conley, supra, at 48 ("The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits").

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United States Supreme Court

CHRISTOPHER, FORMER SECRETARY OF STATE, et al. v. HARBURY, (2002)

No. 01-394

Argued: March 18, 2002 Decided: June 20, 2002

Footnote 17

Whether the Court of Appeals should have extended that opportunity is not an issue before us. We see counsel's answer as amounting to an amendment of pleadings that still fails to cure the inadequacy of the denial-of-access claim. In providing the clarification, Harbury's counsel appears to have been referring to the intentional-infliction counts against the CIA defendants alleged elsewhere in her complaint, App. 55 (counts 18-19). See infra, at 18. Whatever latitude is allowed by federal notice pleading, no one says Harbury should be allowed to construe "adequate legal redress" to mean causes of action that were not even mentioned in her complaint. As for Harbury's position here, suffice it to say that a brief to this Court, see Brief for Respondent at 22-33 (listing causes of action that Harbury could have brought in 1993), is not the place to supplement pleadings in response to a motion in the trial court to dismiss for failure to state a claim.

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United States Supreme Court

BELL ATLANTIC CORP. ET AL. v. TWOMBLY ET AL., (2007)

No. 05-1126

Argued: November 27, 2006 Decided: May 21, 2007

Rule 8(a)(2) of the Federal Rules requires that a complaint contain "a short and plain statement of the claim showing that the pleader is entitled to relief." The rule did not come about by happenstance and its language is not inadvertent. The English experience with Byzantine special pleading rules--illustrated by the hypertechnical Hilary rules of 18341--made obvious the appeal of a pleading standard that was easy for the common litigant to understand and sufficed to put the defendant on notice as to the nature of the claim against him and the relief sought. Stateside, David Dudley Field developed the highly influential New York Code of 1848, which required "[a] statement of the facts constituting the cause of action, in ordinary and concise language, without repetition, and in such a manner as to enable a person of common understanding to know what is intended." An Act to Simplify and Abridge the Practice, Pleadings and Proceedings of the Courts of this State, ch. 379, §120(2), 1848 N. Y. Laws pp. 497, 521. Substantially similar language appeared in the Federal Equity Rules adopted in 1912. See Fed. Equity Rule 25 (requiring "a short and simple statement of the ultimate facts upon which the plaintiff asks relief, omitting any mere statement of evidence").

A difficulty arose, however, in that the Field Code and its progeny required a plaintiff to plead "facts" rather than "conclusions," a distinction that proved far easier to say than to apply. As commentators have noted,

"it is virtually impossible logically to distinguish among 'ultimate facts,' 'evidence,' and 'conclusions.' Essentially any allegation in a pleading must be an assertion that certain occurrences took place. The pleading spectrum, passing from evidence through ultimate facts to conclusions, is largely a continuum varying only in the degree of particularity with which the occurrences are described." Weinstein & Distler, Comments on Procedural Reform: Drafting Pleading Rules, 57 Colum. L. Rev. 518, 520-521 (1957).

See also Cook, Statements of Fact in Pleading Under the Codes, 21 Colum. L. Rev. 416, 417 (1921) (hereinafter Cook) ("[T]here is no logical distinction between statements which are grouped by the courts under the phrases 'statements of fact' and 'conclusions of law' "). Rule 8 was directly responsive to this difficulty. Its drafters intentionally avoided any reference to "facts" or "evidence" or "conclusions." See 5 C. Wright & A. Miller, Federal Practice and Procedure §1216, p. 207 (3d ed. 2004) (hereinafter Wright & Miller) ("The substitution of 'claim showing that the pleader is entitled to relief' for the code formulation of the 'facts' constituting a 'cause of action' was intended to avoid the distinctions drawn under the codes among 'evidentiary facts,' 'ultimate facts,' and 'conclusions' ...").

Under the relaxed pleading standards of the Federal Rules, the idea was not to keep litigants out of court but rather to keep them in. The merits of a claim would be sorted out during a flexible pretrial process and, as appropriate, through the crucible of trial. See Swierkiewicz, 534 U. S., at 514 ("The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading system, which was adopted to focus litigation on the merits of a claim"). Charles E. Clark, the "principal draftsman" of the Federal Rules,2 put it thus:

"Experience has shown ... that we cannot expect the proof of the case to be made through the pleadings, and that such proof is really not their function. We can expect a general statement distinguishing the case from all others, so that the manner and form of trial and remedy expected are clear, and so that a permanent judgment will result." The New Federal Rules of Civil Procedure: The Last Phase--Underlying Philosophy Embodied in Some of the Basic Provisions of the New Procedure, 23 A. B. A. J. 976, 977 (1937) (hereinafter Clark, New Federal Rules).

The pleading paradigm under the new Federal Rules was well illustrated by the inclusion in the appendix of Form 9, a complaint for negligence. As relevant, the Form 9 complaint states only: "On June 1, 1936, in a public highway called Boylston Street in Boston, Massachusetts, defendant negligently drove a motor vehicle against plaintiff who was then crossing said highway." Form 9, Complaint for Negligence, Forms App., Fed. Rules Civ. Proc., 28 U. S. C. App., p. 829 (hereinafter Form 9). The complaint then describes the plaintiff's injuries and demands judgment. The asserted ground for relief--namely, the defendant's negligent driving--would have been called a " 'conclusion of law' " under the code pleading of old. See, e.g., Cook 419. But that bare allegation suffices under a system that "restrict[s] the pleadings to the task of general notice-giving and invest[s] the deposition-discovery process with a vital role in the preparation for trial."3 Hickman v. Taylor, 329 U. S. 495, 501 (1947); see also Swierkiewicz, 534 U. S., at 513, n. 4 (citing Form 9 as an example of " 'the simplicity and brevity of statement which the rules contemplate' "); Thomson v. Washington, 362 F. 3d 969, 970 (CA7 2004) (Posner, J.) ("The federal rules replaced fact pleading with notice pleading").

Most recently, in Swierkiewicz, 534 U. S. 506, we were faced with a case more similar to the present one than the majority will allow. In discrimination cases, our precedents require a plaintiff at the summary judgment stage to produce either direct evidence of discrimination or, if the claim is based primarily on circumstantial evidence, to meet the shifting evidentiary burdens imposed under the framework articulated in McDonnell Douglas Corp. v. Green, 411 U. S. 792 (1973). See, e.g., Trans World Airlines, Inc. v. Thurston, 469 U. S. 111, 121 (1985). Swierkiewicz alleged that he had been terminated on account of national origin in violation of Title VII of the Civil Rights Act of 1964. The Second Circuit dismissed the suit on the pleadings because he had not pleaded a prima facie case of discrimination under the McDonnell Douglas standard.

We reversed in another unanimous opinion, holding that "under a notice pleading system, it is not appropriate to require a plaintiff to plead facts establishing a prima facie case because the McDonnell Douglas framework does not apply in every employment discrimination case." Swierkiewicz, 534 U. S., at 511. We also observed that Rule 8(a)(2) does not contemplate a court's passing on the merits of a litigant's claim at the pleading stage. Rather, the "simplified notice pleading standard" of the Federal Rules "relies on liberal discovery rules and summary judgment motions to define disputed facts and issues and to dispose of unmeritorious claims." Id., at 512; see Brief for United States et al. as Amici Curiae in Swierkiewicz v. Sorema N. A., O. T. 2001, No. 00-1853, p. 10 (stating that a Rule 12(b)(6) motion is not "an appropriate device for testing the truth of what is asserted or for determining whether a plaintiff has any evidence to back up what is in the complaint" (internal quotation marks omitted)).7

The majority circumvents this obvious obstacle to dismissal by pretending that it does not exist. The Court admits that "in form a few stray statements in the complaint speak directly of agreement," but disregards those allegations by saying that "on fair reading these are merely legal conclusions resting on the prior allegations" of parallel conduct. Ante, at 18. The Court's dichotomy between factual allegations and "legal conclusions" is the stuff of a bygone era, supra, at 5-7. That distinction was a defining feature of code pleading, see generally Clark, The Complaint in Code Pleading, 35 Yale L. J. 259 (1925-1926), but was conspicuously abolished when the Federal Rules were enacted in 1938. See United States v. Employing Plasterers Assn. of Chicago, 347 U. S. 186, 188 (1954) (holding, in an antitrust case, that the Government's allegations of effects on interstate commerce must be taken into account in deciding whether to dismiss the complaint "[w]hether these charges be called 'allegations of fact' or 'mere conclusions of the pleader' "); Brownlee v. Conine, 957 F. 2d 353, 354 (CA7 1992) ("The Federal Rules of Civil Procedure establish a system of notice pleading rather than of fact pleading, ... so the happenstance that a complaint is 'conclusory,' whatever exactly that overused lawyers' cliché means, does not automatically condemn it"); Walker Distributing Co. v. Lucky Lager Brewing Co., 323 F. 2d 1, 3-4 (CA9 1963) ("[O]ne purpose of Rule 8 was to get away from the highly technical distinction between statements of fact and conclusions of law ..."); Oil, Chemical & Atomic Workers Int'l Union v. Delta, 277 F. 2d 694, 697 (CA6 1960) ("Under the notice system of pleading established by the Rules of Civil Procedure, ... the ancient distinction between pleading 'facts' and 'conclusions' is no longer significant"); 5 Wright & Miller §1218, at 267 ("[T]he federal rules do not prohibit

the pleading of facts or legal conclusions as long as fair notice is given to the parties"). "Defendants entered into a contract" is no more a legal conclusion than "defendant negligently drove," see Form 9; supra, at 6. Indeed it is less of one.9

Footnote 8

Our decision in Dura Pharmaceuticals, Inc. v. Broudo, 544 U. S. 336 (2005), is not to the contrary. There, the plaintiffs failed adequately to allege loss causation, a required element in a private securities fraud action. Because it alleged nothing more than that the prices of the securities the plaintiffs purchased were artificially inflated, the Dura complaint failed to "provide the defendants with notice of what the relevant economic loss might be or of what the causal connection might be between that loss and the [alleged] misrepresentation." Id., at 347. Here, the failure the majority identifies is not a failure of notice--which "notice pleading" rightly condemns--but rather a failure to satisfy the Court that the agreement alleged might plausibly have occurred. That being a question not of notice but of proof, it should not be answered without first hearing from the defendants (as apart from their lawyers).

Footnote 14

Given his "background in antitrust law," ante, at 13, n. 6, Judge Easterbrook has recognized that the most effective solution to discovery abuse lies in the legislative and rulemaking arenas. He has suggested that the remedy for the ills he complains of requires a revolution in the rules of civil procedure:

"Perhaps a system in which judges pare away issues and focus on investigation is too radical to contemplate in this country--although it prevailed here before 1938, when the Federal Rules of Civil Procedure were adopted. The change could not be accomplished without abandoning notice pleading, increasing the number of judicial officers, and giving them more authority ... . If we are to rule out judge-directed discovery, however, we must be prepared to pay the piper. Part of the price is the high cost of unnecessary discovery--impositional and otherwise." Discovery as Abuse, 69 B. U. L. Rev. 635, 645 (1989).

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United States Supreme Court

UNITED STATES v. GEORGIA et al., (2006)

No. 04-1203

Argued: November 9, 2005 Decided: January 10, 2006

The District Court adopted the Magistrate Judge's recommendation that the allegations in the complaint were vague and constituted insufficient notice pleading as to Goodman's §1983 claims. It therefore dismissed the §1983 claims against all defendants without providing Goodman an opportunity to amend his complaint. The District Court also dismissed his Title II claims against all individual defendants. Later, after our decision in Garrett, the District Court granted summary

judgment to the state defendants on Goodman's Title II claims for money damages, holding that those claims were barred by state sovereign immunity.

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United States Supreme Court

SWIERKIEWICZ v. SOREMA N. A., (2002)

No. 00-1853

Argued: January 15, 2002 Decided: February 26, 2002

In addition, under a notice pleading system, it is not appropriate to require a plaintiff to plead facts establishing a prima facie case because the McDonnell Douglas framework does not apply in every employment discrimination case. For instance, if a plaintiff is able to produce direct evidence of discrimination, he may prevail without proving all the elements of a prima facie case. See Trans World Airlines, Inc. v. Thurston, 469 U. S. 111, 121 (1985) ("[T]he McDonnell Douglas test is inapplicable where the plaintiff presents direct evidence of discrimination"). Under the Second Circuit's heightened pleading standard, a plaintiff without direct evidence of discrimination at the time of his complaint must plead a prima facie case of discrimination, even though discovery might uncover such direct evidence. It thus seems incongruous to require a plaintiff, in order to survive a motion to dismiss, to plead more facts than he may ultimately need to prove to succeed on the merits if direct evidence of discrimination is discovered.

Furthermore, imposing the Court of Appeals' heightened pleading standard in employment discrimination cases conflicts with Federal Rule of Civil Procedure 8(a)(2), which provides that a complaint must include only "a short and plain statement of the claim showing that the pleader is entitled to relief." Such a statement must simply "give the defendant fair notice of what the plaintiff's claim is and the grounds upon which it rests." Conley v. Gibson, 355 U. S. 41, 47 (1957). This simplified notice pleading standard relies on liberal discovery rules and summary judgment motions to define disputed facts and issues and to dispose of unmeritorious claims. See id., at 47-48; Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U. S. 163, 168-169 (1993). "The provisions for discovery are so flexible and the provisions for pretrial procedure and summary judgment so effective, that attempted surprise in federal practice is aborted very easily, synthetic issues detected, and the gravamen of the dispute brought frankly into the open for the inspection of the court." 5 C. Wright & A. Miller, Federal Practice and Procedure §1202, p. 76 (2d ed. 1990).

Other provisions of the Federal Rules of Civil Procedure are inextricably linked to Rule 8(a)'s simplified notice pleading standard. Rule 8(e)(1) states that "[n]o technical forms of pleading or motions are required," and Rule 8(f) provides that "[a]ll pleadings shall be so construed as to do substantial justice." Given the Federal Rules' simplified standard for pleading, "[a] court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." Hishon v. King & Spalding, 467 U. S. 69, 73 (1984). If a pleading fails to specify the allegations in a manner that provides sufficient notice, a defendant can move for a more definite statement under Rule 12(e) before responding. Moreover,

claims lacking merit may be dealt with through summary judgment under Rule 56. The liberal notice pleading of Rule 8(a) is the starting point of a simplified pleading system, which was adopted to focus litigation on the merits of a claim. See Conley, supra, at 48 ("The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits").