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Clearly Unfair: McCleary-Evans and the Problems Associated with Pleading an Employment Discrimination Case

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While nearly eight years have passed since the Supreme Court's landmark decision in *Ashcroft v. Iqbal*, the proper pleading standard for employment discrimination claims remains in a state of flux. That is because seven years prior to its decision in *Swierkiewicz v. Sorema, N.A.*, where it held that in the context of employment discrimination, pleadings need not contain specific facts establishing a prima facie case of discrimination under the burden-shifting framework articulated in *McDonnell Douglas v. Green*. While the "plausibility" standard first articulated in *Bell Atlantic Corp. v. Twombly* and later cemented by *Iqbal* undoubtedly governs transsubstantively, both courts and commentators alike have been puzzled as to what the standard means for employment discrimination complainants and their civil complaints.

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