

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-2305

PETER J. CRESCI, Individually;
JOHN DOES 1-3; XYZ CORPS 1-5

v.

TIMOTHY J. MCNAMARA, Individually;
CHARLES CENTINARO, Individually;
JOHN DOES 1-5; JANE DOES 1-3; ABC CORP 1-3

Peter J. Cresci,

Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil No. 2:18-cv-16207)
District Judge: Honorable Esther Salas

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
April 21, 2026

Before: RESTREPO, BIBAS and FISHER, *Circuit Judges*.

(Filed: August 19, 2026)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

FISHER, *Circuit Judge*.

Peter Cresci sued Timothy McNamara and Charles Centinaro, alleging violations of his statutory and constitutional rights under New Jersey and federal law. The District Court granted the defendants’ motion to dismiss. We will affirm.¹

Although Cresci did not oppose dismissal, the District Court correctly analyzed the merits of the complaint.² Even an unopposed motion to dismiss should not be granted unless the complaint fails to state a claim.³ However, by declining to file an opposition to the motion to dismiss in the District Court, Cresci has forfeited all of his arguments on appeal.⁴ We nevertheless review the District Court’s decision *de novo*,⁵ assessing the merits of the complaint in light of controlling law.

Cresci makes one argument that we address despite his forfeiture: he asserts that the District Court erred because it did not vacate the orders the Honorable Evelyn Padin entered before granting his motion to recuse. We may address forfeited arguments in “extraordinary circumstances,” including when “failure to consider the argument would lead to a miscarriage of justice or undermine confidence in the judicial system.”⁶ If a

¹ The District Court had jurisdiction under 28 U.S.C. §§ 1331 (federal questions), 1343 (civil rights actions). We have jurisdiction under 28 U.S.C. § 1291 (final decisions of district courts).

² *Stackhouse v. Mazurkiewicz*, 951 F.2d 29, 30 (3d Cir. 1991).

³ *Id.*

⁴ *In re Niaspan Antitrust Litig.*, 67 F.4th 118, 135 (3d Cir. 2023).

⁵ *Abramowski v. Nuvei Corp.*, 166 F.4th 391, 393 n.2 (3d Cir. 2026).

⁶ *United States v. Andrews*, 681 F.3d 509, 532 (3d Cir. 2012) (citation omitted).

judge who should recuse entered a substantive order, there could be a miscarriage of justice or a loss of confidence in the judiciary.⁷ There is no such danger here, however, because our law requires only that “[o]nce a judge has disqualified [her]self, . . . she may enter no further orders in the case.”⁸ Cresci contends that our opinion in *Moody v. Simmons* “can be read broadly ‘to [require] vacat[ur of] the orders of a judge who acted when [she] should have recused.’”⁹ But in *Moody*, the district judge entered several substantive orders after expressing the intent to recuse and before the case was assigned to a different judge.¹⁰ Here, Judge Padin entered no further orders after granting the motion to recuse, so *Moody* is inapposite.

Turning to the sufficiency of the complaint, Cresci asserts claims stemming from McNamara and Centinaro’s performance of their jobs as employees of the New Jersey Office of Attorney Ethics. Because the claims are based on both federal and state law, federal and New Jersey immunity law apply.¹¹ Federal “[q]uasi-judicial absolute immunity attaches when a public official’s role is functionally comparable to that of a judge.”¹² “It is clear beyond doubt that the New Jersey Supreme Court considers its bar

⁷ See *Williams v. Pennsylvania*, 579 U.S. 1, 16 (2016) (“Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself.”).

⁸ *Moody v. Simmons*, 858 F.2d 137, 143 (3d Cir. 1988).

⁹ Appellant’s Br. 9 (quoting *Moody*, 858 F.2d at 143).

¹⁰ *Moody*, 858 F.2d at 143.

¹¹ See *El v. City of Pittsburgh*, 975 F.3d 327, 334 n.3 (3d Cir. 2020).

¹² *Dotzel v. Ashbridge*, 438 F.3d 320, 325 (3d Cir. 2006) (citation modified).

disciplinary proceedings as judicial in nature,”¹³ so the defendants are absolutely immune from federal claims brought for their participation in ethics proceedings. They are similarly immune from state claims, because New Jersey law provides that “[m]embers of the Office of Attorney Ethics . . . shall be absolutely immune from suit, whether legal or equitable in nature, based on their respective conduct in performing their official duties.”¹⁴

The only possible basis for liability, then, is conduct outside the ethics proceedings. Any discernible allegations about such conduct were, as the District Court correctly concluded, conclusory and lacking in the specificity required to “nudge[] [Cresci’s] claims . . . across the line from conceivable to plausible.”¹⁵ For instance, the complaint alleged that McNamara and Centinaro committed “acts . . . beyond the bounds of” their “lawful authority,” that they “fil[ed] frivolous complaints with state agencies, third party agencies, [and] courts,” and that they “interfer[ed] with [Cresci’s] professional contracts; . . . governmental responsibilities; . . . [and] clients.”¹⁶ However, the complaint neither explains what the relevant acts were nor describes the frivolous complaints or the interference. The complaint alleges that the defendants “caused [Cresci] to be detained,”

¹³ *Middlesex Cnty. Ethics Comm. v. Garden State Bar Ass’n*, 457 U.S. 423, 433–34 (1982) (citation modified).

¹⁴ N.J. Ct. R. 1:20-7(e).

¹⁵ *Ashcroft v. Iqbal*, 556 U.S. 662, 680 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

¹⁶ App. 340, 342.

but does not state when or where the detention occurred or who detained him.¹⁷

Conclusory allegations like these fail to state a claim.¹⁸

For all these reasons, we will affirm.

¹⁷ App. 348; *see also id.* at 350.

¹⁸ *See Twombly*, 550 U.S. at 555 (dismissal cannot be avoided through “labels and conclusions” or “a formulaic recitation of the elements of a cause of action”).