

The opinion summaries are not part of the Colorado Supreme Court's opinion. They have been prepared solely for the reader's convenience. As such, they may not be cited or relied upon. If there is any discrepancy between the language in the summary and the opinion, the language in the opinion controls.

ADVANCE SHEET HEADNOTE
April 6, 2026

2026 CO 20

No. 24SC644, *CenturyLink v. Houser* – Complaints – Sufficient Investigation – Copying of Allegations.

In this class action brought by shareholders against a corporation alleging securities law violations, the supreme court granted certiorari to decide whether C.R.C.P. 11(a)'s duty to conduct an objectively reasonable inquiry is satisfied when an attorney copies information, including allegations by confidential witnesses, from complaints in related lawsuits involving some of the same defendants.

The court now concludes that counsel must conduct a sufficient investigation to support the allegations contained in a complaint, at least on information and belief. The extent of the investigation required, however, is highly fact dependent, and, therefore, a plaintiff's copying of allegations contained in complaints in related actions does not alone violate counsel's duty under C.R.C.P. 11(a) but rather must be considered in the context of each case. Applying those principles here, the court further concludes that plaintiff's counsel conducted a sufficient investigation to allow counsel to include in the amended

complaint in this case, consistent with counsel's obligations under C.R.C.P. 11, allegations that were contained in complaints in related actions against some of the same defendants named here.

Accordingly, the court affirms the judgment of the court of appeals division below.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2026 CO 20

Supreme Court Case No. 24SC644
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 23CA1214

Petitioners:

CenturyLink, Inc.; Glen F. Post, III; R. Stewart Ewing, Jr.; David D. Cole;
William A. Owens; Martha H. Bejar; Virginia Boulet; Peter C. Brown; W. Bruce
Hanks; Jeffrey K. Storey; Steven T. Clontz; Mary L. Landrieu; Gregory J. McCray;
Harvey P. Perry; Michael J. Roberts; Laurie A. Siegel; and Sunit S. Patel,

v.

Respondent:

Dean Houser.

Judgment Affirmed

en banc

April 6, 2026

Attorneys for Petitioners:

Wheeler Trigg O'Donnell LLP
Frederick R. Yarger
Kathryn A. Reilly
Daniel N. Guisbond
Denver, Colorado

Attorneys for Respondent:

Ranson & Kane PC
Jason P. Kane
Denver, Colorado

Bottini & Bottini, Inc.
Francis A. Bottini, Jr.
Albert Y. Chang
La Jolla, California

Attorneys for Amicus Curiae Colorado Defense Lawyers Association:

Berg Hill Greenleaf Ruscitti LLP
Rudy E. Verner
Geoffrey C. Klingsporn
Andrew C. Fischer
Boulder, Colorado

Attorneys for Amicus Curiae Securities Industry and Financial Markets Association:

Womble Bond Dickinson (US) LLP
Kendra N. Beckwith
Kenneth F. Rossman
Denver, Colorado

JUSTICE GABRIEL delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ, JUSTICE BOATRIGHT, JUSTICE HOOD, JUSTICE SAMOUR, JUSTICE BERKENKOTTER,** and **JUSTICE BLANCO** joined.

JUSTICE GABRIEL delivered the Opinion of the Court.

¶1 In this class action brought by shareholders against a corporation alleging securities law violations, we granted certiorari to decide whether C.R.C.P. 11(a)'s duty to conduct an objectively reasonable inquiry is satisfied when an attorney copies information, including allegations by confidential witnesses, from complaints in related lawsuits involving some of the same defendants.¹

¶2 We now conclude that counsel must conduct a sufficient investigation to support the allegations contained in a complaint, at least on information and belief. The extent of the investigation required, however, is highly fact dependent, and, therefore, a plaintiff's copying of allegations contained in complaints in related actions does not alone violate counsel's duty under C.R.C.P. 11(a) but rather must be considered in the context of each case. Applying those principles here, we further conclude that plaintiff Dean Houser's counsel conducted a sufficient investigation to allow counsel to include in the amended complaint in this case, consistent with counsel's obligations under C.R.C.P. 11, allegations that were

¹ Specifically, we granted certiorari to decide:

Whether C.R.C.P. 11(a)'s non-delegable duty to conduct an objectively reasonable inquiry is satisfied when an attorney "borrows plausibility" from a complaint in another lawsuit.

Because we do not believe that the phrase "borrows plausibility" is clear or precise, we do not use that phrase in this opinion.

contained in complaints in related actions against some of the same defendants named here.

¶3 Accordingly, we affirm the judgment of the court of appeals division below.

I. Facts and Procedural History

¶4 In 2018, Houser filed a securities class action against CenturyLink, Inc. and Glen F. Post, III, R. Stewart Ewing, Jr., David D. Cole, William A. Owens, Martha H. Bejar, Virginia Boulet, Peter C. Brown, W. Bruce Hanks, Jeffrey K. Storey, Steven T. Clontz, Mary L. Landrieu, Gregory J. McCray, Harvey P. Perry, Michael J. Roberts, Laurie A. Siegel, and Sunit S. Patel (collectively, “defendants”) in Boulder County District Court. Houser filed the complaint on behalf of all persons and entities who had purchased or acquired CenturyLink stock pursuant or traceable to CenturyLink’s Registration Statement and Prospectus (the “Offering Documents”) issued in connection with the merger of CenturyLink, Level 3 Communications, Inc., and their subsidiaries. Houser alleged, among other things, that the Offering Documents were negligently prepared and, as a result, contained untrue statements of material fact, omitted material information, and failed to make adequate disclosures required by the applicable rules and regulations. Houser further alleged that the Offering Documents were false and misleading because they contained material omissions.

¶5 Defendants moved to dismiss the complaint pursuant to C.R.C.P. 12(b)(5) for failure to state a claim upon which relief can be granted. In this motion, defendants argued, as pertinent here, that (1) as a matter of law, none of the affirmative statements that Houser cited were misleading; and (2) the majority of the alleged omissions were, in fact, disclosed, and the remainder were not facts required to be disclosed.

¶6 Approximately thirteen months after defendants filed their motion to dismiss and while the motion was still pending, Houser filed a notice of supplemental authority citing *In re CenturyLink Sales Practices & Securities Litigation*, 403 F. Supp. 3d 712 (D. Minn. 2019) (“*CenturyLink*”), a parallel securities fraud class action lawsuit and multidistrict litigation proceeding pending in the United States District Court for the District of Minnesota. According to Houser, the plaintiffs in that case had alleged that CenturyLink and its executives had made false and misleading statements regarding the purportedly widespread practice of “cramming,” which, citing the complaint in that case, the *CenturyLink* court described as “adding services to customers’ accounts without authorization, deceiving customers about the prices they would be charged, and misquoting prices by failing to disclose that ‘bundles’ included fees for optional services that the customers did not need or authorize.” *CenturyLink*, 403 F. Supp. 3d at 720.

¶7 Several months later, the district court conducted a hearing on CenturyLink’s motion to dismiss, and four days after that hearing, Houser filed a supplemental brief responding to questions that the court had asked during the hearing. In this brief, Houser also requested leave to amend his complaint, if the court were inclined to grant defendants’ motion to dismiss. In support of this request, Houser cited the “substantial new facts” that had come to light since the current action was filed, as reflected in the *CenturyLink* case.

¶8 The district court, however, granted defendants’ motion to dismiss with prejudice and denied Houser’s request for leave to file an amended complaint. In so ruling, the court determined that Houser had “failed to plead with particularity any material misstatements or omissions in violation of Section 11 or Section 12(a)(2)” of the 1933 Securities Act.

¶9 Houser appealed, and in a unanimous, published opinion, a division of the court of appeals affirmed in part, reversed in part, and remanded the case for further proceedings. *Houser v. CenturyLink, Inc.*, 2022 COA 37, ¶ 51, 513 P.3d 395, 407 (“*Houser I*”). Specifically, the division (1) affirmed the district court’s order dismissing Houser’s claims under C.R.C.P. 12(b)(5); (2) reversed the court’s order denying Houser’s motion for leave to amend the complaint as it pertained to Houser’s omissions claims based on the cramming theory; and (3) otherwise affirmed the district court’s order denying Houser’s motion for leave to amend.

Houser I, ¶¶ 50–51, 513 P.3d at 407. In support of this determination, the division opined that it could not at that point say, as a matter of law, that Houser would be unable to state omissions claims under sections 11, 12(a)(2), and 15 with the addition of facts related to the cramming theory that the *CenturyLink* court had found sufficient to state a plausible claim. *Id.* at ¶ 50, 513 P.3d at 407. The division cautioned, however, that, to the extent that, on remand, Houser desired to use allegations made by another party in a separate lawsuit, “he must plead them as facts, not as allegations by someone else, and must do so only after reasonable inquiry as required by C.R.C.P. 11.” *Id.* at ¶ 28 n.9, 513 P.3d at 403 n.9.

¶10 Houser then filed an amended class action complaint, individually and on behalf of all former shareholders of Level 3 Communications, who, according to Houser, had acquired CenturyLink stock pursuant or traceable to the CenturyLink Offering Documents issued in connection with the merger between CenturyLink and Level 3. Defendants included certain executive officers and directors of CenturyLink at the time of the merger and certain executive officers and directors of Level 3 who had joined CenturyLink after the merger.

¶11 In the amended complaint, Houser alleged:

Plaintiff Dean Houser (“Plaintiff”), individually and on behalf of all others similarly situated, by Plaintiff’s undersigned attorney, for Plaintiff’s amended complaint against Defendants, alleges the following based upon personal knowledge as to Plaintiff and Plaintiff’s own acts and upon information and belief as to all other matters based on the investigation conducted by and through

Plaintiff's attorneys, which included, among other things, a review of U.S. Securities and Exchange Commission ("SEC") filings by CenturyLink, Inc. ("CenturyLink" or the "Company"), the Company's press releases and earnings calls, analyst reports and media reports about the Company, review of public filings in the related cases, including *State v. CenturyTel Broadband Services, LLC*, No. 02-CV-17-3488 (Minn. Dist. Ct., Cnty. of Anoka), *In re CenturyLink Sales Practices & Securities Litigation*, MDL No. 17-2795 (MJD/KMM) (D. Minn.), and *Heiser v. CenturyLink, Inc.*, No. CV2017-008928 (Az. Super. Ct., Cnty. of Maricopa), and discussions with plaintiffs' counsel in those actions, and review of other publicly-available information about CenturyLink. Plaintiff believes that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

(Footnote omitted.)

¶12 Houser further alleged, among other things, that the Offering Documents were false and misleading and omitted material information regarding systemic and ongoing illegal cramming practices at CenturyLink that existed at the time, were known to CenturyLink's senior management, and were likely to—and, in fact, did—have a material impact on CenturyLink's revenues and results of operations. Specifically, Houser asserted that when the truth about the undisclosed cramming practices became public, the price of CenturyLink's common stock fell, thereby injuring Houser and other members of the class.

¶13 In support of the foregoing contentions, Houser alleged that unnamed former employees at CenturyLink had said that cramming at CenturyLink was "happening all the time, all day, every day" and was a "very common and widespread" issue among customer complaints that were reported to senior

management. Houser further alleged that “[t]he rampant overbilling” at CenturyLink was not accidental and did not escape defendants’ attention. To the contrary, it was recorded in CenturyLink’s computer systems and regularly reported to senior management.

¶14 As noted above, the amended complaint also included references to a number of other lawsuits filed against CenturyLink. For example, the amended complaint referred to the *CenturyLink* case and relied on allegations made in that case by confidential witnesses.

¶15 The amended complaint further referred to a lawsuit filed by the Minnesota Attorney General against CenturyLink, captioned *State v. CenturyTel Broadband Services LLC*, No. 02-CV-17-3488 (Minn. Dist. Ct., Cnty. of Anoka). The amended complaint described and attached as exhibits four named customers’ affidavits describing alleged cramming practices that the Minnesota Attorney General had submitted in the *CenturyTel* case. Houser asserted in the amended complaint that he had obtained these affidavits from the public docket in that case.

¶16 The amended complaint alleged that the above-described lawsuits were “based on extensive research as well as thousands of complaints from aggrieved customers,” all of which painted a consistent picture and made clear that CenturyLink’s cramming practices were not isolated occurrences but rather

comprised a pervasive and systemic problem that was known to CenturyLink's senior management.

¶17 Finally, the amended complaint contained allegations from a lawsuit filed by a former employee named Heidi Heiser, who had discovered that multiple CenturyLink customers had been billed for additional services that they did not request or authorize. The amended complaint recited that Heiser had raised her concerns with CenturyLink's management and ultimately filed a whistleblower complaint against CenturyLink. Houser cited his counsel's review of public filings in Heiser's lawsuit as one of the bases for the allegations in his amended complaint.

¶18 Defendants subsequently filed a motion to dismiss the amended complaint pursuant to C.R.C.P. 12(b)(5), arguing, as pertinent here, that Houser had based his cramming omissions theory on "untested statements attributed to anonymous CenturyLink employees cited in other lawsuits." According to defendants, Houser did not allege that he or his counsel had spoken to any of these anonymous employees, verified their statements, or taken any other actions that could constitute a "reasonable inquiry" under C.R.C.P. 11. Defendants further contended that Houser had "simply plagiarized" complaints filed in other actions against CenturyLink without alleging that he or his counsel had spoken with any of the sources who had provided the underlying facts in those cases. As a result,

defendants argued, Houser had not conducted the reasonable inquiry required by C.R.C.P. 11 and, therefore, he did not have a basis to make such allegations. Accordingly, his amended complaint failed to state a plausible claim for relief.

¶19 The district court ultimately agreed with defendants and dismissed Houser's amended complaint. The court began by noting that Houser had not contended that he had spoken with the unnamed employees who had made allegations against the defendants in the *CenturyLink* case. Nor had he asserted that he had spoken with Heiser. And, the court found, the statements given by the former CenturyLink employees in *CenturyLink* were "given in interviews conducted by various attorneys, none of whom [were] Plaintiff's counsel." As a result, in the court's view, Houser's contentions amounted to no more than that he had conducted "painstaking research and review of the related lawsuits" and had had discussions with plaintiffs' counsel in those cases. This, however, was insufficient to satisfy the reasonable inquiry standard. Accordingly, the court reviewed the viability of Houser's amended complaint by considering only the allegations that remained after omitting the foregoing "copied" allegations, and the court concluded that such allegations could not establish the requisite plausibility above a speculative level.

¶20 Houser then appealed again, arguing that the district court had created an unworkable "reasonable inquiry" standard and incorrectly imposed on him the

burden to state the sources and bases for his allegations at the pleading stage. Specifically, Houser alleged that the district court had erred by (1) failing to apply the proper standard in deciding a C.R.C.P. 12(b)(5) motion and impermissibly converting C.R.C.P. 11's requirement of a reasonable inquiry into a standard of pleading; (2) failing to consider his allegations as a whole and to draw all reasonable inferences in his favor; and (3) denying him leave to amend again because this was his first amended complaint and there was no undue delay or prejudice.

¶21 In a unanimous, published opinion, a division of the court of appeals reversed and remanded for further proceedings. *Houser v. CenturyLink, Inc.*, 2024 COA 96, ¶ 8, 559 P.3d 677, 680 (“*Houser II*”). In so ruling, the division concluded that (1) if a plaintiff takes appropriate investigative steps, then the plaintiff may incorporate allegations from confidential witnesses cited in another complaint; and (2) in such circumstances, C.R.C.P. 11(a) does not require plaintiff's counsel to speak directly with the confidential witnesses. *Id.*

¶22 To reach this conclusion, the division began by noting that in evaluating the adequacy of an attorney's inquiry into the factual basis for a pleading, we have applied an “objective reasonableness standard.” *Id.* at ¶ 29, 559 P.3d at 684 (quoting *In re Trupp*, 92 P.3d 923, 930 (Colo. 2004) (“*Trupp II*”). Thus, an attorney

violates C.R.C.P. 11(a) “by failing to conduct an objectively reasonable inquiry prior to filing a signed pleading.” *Id.* (quoting *Trupp II*, 92 P.3d at 930).

¶23 Relying, then, on federal cases interpreting Fed. R. Civ. P. 11, the division concluded that Houser’s counsel had not violated C.R.C.P. 11 by copying allegations, including allegations made by confidential witnesses, from the *CenturyLink* complaint without speaking with those witnesses. *Id.* at ¶ 54, 559 P.3d at 687. The division reached this conclusion for six reasons: (1) counsel had undertaken an independent investigation, even though counsel did not speak with the witnesses; (2) Houser had attested in good faith that the allegations were based on personal knowledge as to him and his own acts and on information and belief as to all other matters, based on counsel’s investigation; (3) Houser had attested in good faith that he believed that additional evidentiary support for his allegations would exist after a reasonable opportunity for discovery; (4) another court had already determined that the confidential witness statements that Houser had copied into his amended complaint were sufficient to support a properly pled complaint; (5) Houser’s counsel’s inquiry was objectively reasonable; and (6) the federal cases cited by defendants regarding potential unethical behavior by attorneys did not warrant raising the bar for plaintiffs to access the justice system. *Id.* at ¶¶ 54-59, 559 P.3d at 687-88. As to the last point, the division observed that if a plaintiff filed a complaint largely premised on fabricated witness statements

from another complaint, then Colorado law provides for appropriate sanctions. *Id.* at ¶ 60, 559 P.3d at 688.

¶24 Defendants then sought certiorari review in this court, and we granted their petition.

II. Analysis

¶25 We begin by setting forth the applicable standard of review. We then discuss the pleading and investigation requirements set forth in our civil rules, and we review the case law setting forth the parameters of an attorney's obligation to conduct a reasonable investigation before making allegations in a complaint. Finally, we apply these principles to the facts now before us.

A. Standard of Review

¶26 Defendants' contentions before us require us to interpret C.R.C.P. 11. We interpret the Colorado Rules of Civil Procedure de novo. *Mason v. Farm Credit of S. Colo.*, ACA, 2018 CO 46, ¶ 7, 419 P.3d 975, 979. In doing so, we interpret the rules according to their commonly understood and accepted meanings. *Id.* Moreover, we construe the rules liberally to effectuate their objective of securing "the just, speedy, and inexpensive determination of every action." *Id.* (quoting C.R.C.P. 1(a)).

¶27 Similarly, we review de novo a district court’s dismissal of a complaint for failure to state a claim under C.R.C.P. 12(b)(5). *Jagged Peak Energy Inc. v. Okla. Police Pension & Ret. Sys.*, 2022 CO 54, ¶ 24, 523 P.3d 438, 446.

B. Pleading and Investigation Requirements

¶28 The principal purpose of a complaint is to provide notice of the claims being asserted. *Kluge v. Wilson*, 448 P.2d 786, 787 (Colo. 1968). C.R.C.P. 8(a)(2) sets out the basic requirements of a claim for relief: “A pleading which sets forth a claim for a relief whether an original claim, counterclaim, cross-claim, or a third-party claim, shall contain . . . a short and plain statement of the claim showing that the pleader is entitled to relief” C.R.C.P. 8(e)(1) adds, “When a pleader is without direct knowledge, allegations may be made upon information and belief.”

¶29 C.R.C.P. 11(a), in turn, provides, in pertinent part:

Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name. . . . The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

¶30 This rule focuses on the pre-filing and pre-pleading behavior of the attorney and personalizes the responsibility of the attorney who certified the pleading by signing it. *People v. Trupp*, 51 P.3d 985, 990, 992 (Colo. 2002) (“*Trupp I*”). The rule

also “safeguards the judicial process by compelling attorneys to submit pleadings which are truthful and advance meritorious legal arguments.” *Stepanek v. Delta Cnty.*, 940 P.2d 364, 370 (Colo. 1997).

¶31 The scope of a C.R.C.P. 11(a) inquiry “concerns whether the attorney (1) has read the pleading in question; (2) has undertaken reasonable inquiry into the pleading’s factual and legal assertions; and (3) possessed a proper purpose in filing the pleading.” *Trupp I*, 51 P.3d at 991. The inquiry does not, however, turn on the outcome of a case. *Id.* Rather, “it turns on whether the attorney met the reasonable inquiry and proper purpose threshold in preparing and filing the pleading.” *Id.*

¶32 Bad faith is not a prerequisite of a C.R.C.P. 11 violation. *Trupp II*, 92 P.3d at 930. Accordingly, an attorney may violate C.R.C.P. 11(a) solely by failing to conduct an objectively reasonable inquiry before filing a signed pleading. *Id.*

C. Objectively Reasonable Inquiry

¶33 Defendants essentially argue that Houser’s counsel did not conduct an objectively reasonable inquiry when drafting the amended complaint because counsel (1) copied allegations and information from complaints in other cases without personally verifying or corroborating such allegations and information and (2) did not speak with any of the confidential witnesses cited in the other cases before copying their allegations into the amended complaint here. As a result,

defendants contend, Houser's counsel failed to comply with C.R.C.P. 11, and, therefore, the division's decision should be reversed.

¶34 Colorado case law discussing the parameters of an attorney's C.R.C.P. 11(a) obligation to conduct an objectively reasonable inquiry appears to be limited. In *Trupp II*, 92 P.3d at 930-32, we considered whether an assistant attorney regulation counsel had conducted a reasonable investigation before filing a complaint alleging that an attorney had violated the Colorado Rules of Professional Conduct by not paying child support. We observed that before filing her complaint, counsel, either directly or through an investigator, had reviewed the intake file, spoken several times with the respondent attorney and a number of others with relevant information, reviewed the current and prior child support orders and records of the respondent attorney's payments, independently calculated the arrearages, and researched case law. *Id.* at 931. In those circumstances, we concluded that no evidence established that regulation counsel had failed to investigate either the facts or the law or had misrepresented the facts or law in her complaint. *Id.* at 931-32. Accordingly, we determined that the presiding disciplinary judge had abused his discretion in concluding that regulation counsel had violated C.R.C.P. 11. *Id.* at 932.

¶35 Federal courts construing Fed. R. Civ. P. 11 appear to have addressed the objectively reasonable inquiry requirement of that rule more frequently than we

have addressed the analogous requirement in C.R.C.P. 11, and because C.R.C.P. 11 closely parallels Fed. R. Civ. P. 11, *compare* Fed. R. Civ. P. 11(b)(3) (requiring reasonable inquiry), *with* C.R.C.P. 11(a) (same), we deem it appropriate to look to federal case law for guidance, *see Trupp I*, 51 P.3d at 990 (“We consider federal precedent when our rule is similar to the federal rule.”).

¶36 Federal courts addressing whether counsel who had not independently verified allegations in a complaint had satisfied Fed. R. Civ. P. 11’s reasonable investigation requirement have reached varying conclusions, depending on the particular facts of each case.

¶37 For example, in *In re Teva Securities Litigation*, 671 F. Supp. 3d 147, 164–66 (D. Conn. 2023), several plaintiffs who had opted out of a class action settlement brought direct actions concerning the same securities fraud allegations involving Teva Pharmaceutical Industries, Ltd. and others that underlay the class action. In their complaints in the direct actions, the plaintiffs had “recycle[d]” several allegations raised in the class action and in an action brought by state attorneys general, some of which contained allegations made by confidential witnesses. *Id.* at 191, 193. Although the direct action complaints were modeled on the class action, they also raised new claims and added new defendants. *Id.* at 166.

¶38 The defendants moved to dismiss, contending that the direct actions’ “wholesale lifting” of allegations from the other actions did not constitute the

reasonable investigation required by Fed. R. Civ. P. 11. *Id.* at 191. Ultimately, the district court rejected that contention and concluded that the direct action complaints complied with Fed. R. Civ. P. 11. *Id.* at 192–93. In reaching this conclusion, the district court observed that (1) the state attorneys general’s allegations “were the product of an intensive, multi-year investigation,” and it was reasonable for the direct action plaintiffs to rely on a governmental investigation because “such information may have more ‘evidentiary support’”; (2) counsel for the direct action plaintiffs had investigated the complaints on which counsel had relied; (3) it was proper for counsel for the direct action plaintiffs to reassert allegations brought in complaints drafted by experienced counsel or governmental investigators and counsel; and (4) each of the direct action complaints identified the sources that counsel had investigated and attested in good faith that discovery would provide evidentiary support for the allegations pled on information and belief. *Id.* (quoting *de la Fuente v. DCI Telecomms., Inc.*, 259 F. Supp. 2d 250, 260 (S.D.N.Y. 2003)). According to the court, “Rule 11 requires nothing more.” *Id.* at 193. And that rule specifically did not “require counsel to certify that counsel has spoken with the confidential witnesses and knows who they are.” *Id.*

¶39 In *Garr v. U.S. Healthcare, Inc.*, 22 F.3d 1274, 1277–79 (3d Cir. 1994), in contrast, the court affirmed the district court’s imposition of sanctions on two

plaintiffs' attorneys who had copied allegations from a complaint filed in a separate securities action. The court noted that the attorneys had relied only on a newspaper article, another complaint, and another attorney's research without making any effort to examine the materials that the other attorney had assembled and without justifying their failure to have done so. *Id.* at 1280. According to the court, no evidence suggested that the other attorney would have declined to share the materials with them, and the other attorney's office was a short distance from the plaintiffs' attorneys' offices. *Id.* In addition, the materials on which the other attorney had relied were all publicly accessible. *Id.* And there were no time constraints requiring the attorneys to act on an expedited basis. *Id.*

¶40 The court added, however:

A signer's obligation personally to comply with the requirements of Rule 11 clearly does not preclude the signer from any reliance on information from other persons. . . . Thus, in *CTC Imports and Exports*, we stated that a determination of whether there has been "a reasonable inquiry may depend on . . . whether [the signer] depended on forwarding counsel or another member of the bar."

Id. at 1278–79 (second omission and alteration in original) (quoting *CTC Imports & Exports v. Nigerian Petroleum Corp.*, 951 F.2d 573, 578 (3d Cir. 1991)). The court further observed that a court "must consider all the material circumstances in evaluating the signer's conduct." *Id.* at 1279.

¶41 Finally, in *In re BankAtlantic Bancorp, Inc. Securities Litigation*, 851 F. Supp. 2d 1299, 1309 (S.D. Fla. 2011), the court addressed, among other things, the propriety

of class counsel's relying on statements made by confidential witnesses to investigators employed by counsel's law firms. There, the defendants argued that class counsel had violated Fed. R. Civ. P. 11(b)(3) by falsely attributing factual assertions to confidential witnesses and by failing to make a reasonable inquiry to determine whether such assertions were true and properly attributable to those witnesses. *Id.* at 1309-10. The defendants also pointed out that four of the confidential witnesses had disavowed making some of the assertions attributed to them and one witness denied providing information to class counsel. *Id.* at 1310.

¶42 In response, class counsel asserted that investigators at their law firms had interviewed the confidential witnesses and that counsel had supervised the investigative efforts, provided the investigators with proposed points of inquiry, and reviewed the notes and memoranda prepared by the investigators. *Id.* at 1311.

¶43 On these facts, the court concluded that the inquiry that class counsel had conducted was not unreasonable under the circumstances. *Id.* In reaching this conclusion, the court, citing *Garr*, 22 F.3d at 1280, noted that "an attorney has a non-delegable duty to *analyze* the facts and law that support a pleading or motion, not necessarily to personally *gather* those facts." *BankAtlantic*, 851 F. Supp. 2d at 1311. Accordingly, the court found that the fact that some of the witnesses' later deposition testimony contradicted the assertions attributed to them in the consolidated complaints did not, without more, warrant a conclusion that class

counsel had violated Rule 11. *Id.* at 1311–12. In the court’s view, any such discrepancies created only credibility questions. *Id.* at 1312. The court did conclude, however, that class counsel’s inclusion of assertions attributed to one witness violated Rule 11 because that witness did not work for BankAtlantic’s credit department for years prior to or during the class period, and, therefore, a reasonable inquiry by class counsel would have revealed that the factual contentions attributed to this witness lacked adequate evidentiary support. *Id.* at 1313–14.

¶44 With this case law in mind, we turn to the facts now before us.

D. Application

¶45 Defendants contend that it was improper for Houser to copy allegations from other complaints against CenturyLink without interviewing the witnesses on whose statements the allegations were based. We do not believe that our civil rules or the above-described case law support so unbending a rule.

¶46 As noted above, C.R.C.P. 8(a) makes clear that the purpose of a complaint is notice. Subject to exceptions admittedly not at issue here, *see* C.R.C.P. 9(b) (indicating matters that must be alleged with particularity), a plaintiff need only set forth “a short and plain statement of the claim showing that the pleader is entitled to relief,” C.R.C.P. 8(a)(2). Moreover, our rules expressly provide that a party may plead on information and belief. C.R.C.P. 8(e)(1).

¶47 In light of the foregoing, and recognizing that the extent of investigation necessary in a given litigation is highly fact dependent, we decline to adopt a bright-line rule precluding a party from copying allegations in related litigation unless counsel speaks to the witnesses whose statements supported such allegations. It simply may not be possible for counsel to do so. Instead, we conclude that counsel must conduct a sufficient investigation to support the allegations contained in a complaint, at least on information and belief.

¶48 Here, we agree with the division that Houser's counsel conducted a sufficient inquiry. Houser's counsel stated in the amended complaint that their investigation included talking to plaintiffs' counsel in the other related cases involving CenturyLink. Houser's counsel further alleged that counsel had reviewed (1) publicly available filings in the related cases, including documents concerning the whistleblower's testimony and witnesses' testimony in other cases in which courts had determined that ample evidence supported the plaintiffs' claims; (2) investigations by state attorneys general; (3) SEC filings by CenturyLink; (4) CenturyLink's press releases, earning calls, and analyst reports; and (5) media reports about CenturyLink. Houser's counsel also attached to the amended complaint affidavits from four named customers describing their experiences with CenturyLink. In our view, these efforts, which largely paralleled those found sufficient by the court in *Teva*, 671 F. Supp. 3d at 192-93, satisfied

C.R.C.P. 11(a)'s reasonable inquiry requirement, even if counsel did not personally speak with the witnesses whose allegations counsel copied.

¶49 Such a conclusion is fully consistent with the above-described purposes of both C.R.C.P. 8 and 11, which are to provide a short and plain statement showing that the pleader is entitled to relief, C.R.C.P. 8(a), and to set forth a plausible claim for relief after conducting a reasonable investigation of the facts and law, C.R.C.P. 11(a); *see also Warne v. Hall*, 2016 CO 50, ¶ 24, 373 P.3d 588, 595 (adopting the plausibility standard for motions to dismiss for failure to state a claim). Such a conclusion also recognizes that, in many cases, essential facts are in the hands of civil defendants and may not be available to plaintiffs absent a fair opportunity for discovery after setting forth a plausible claim for relief, which is one reason that C.R.C.P. 8(e)(1) expressly authorizes counsel to plead on information and belief.

¶50 To conclude otherwise, as defendants would have us do, would dramatically raise the standard for sufficient pleading in a case like this. It would essentially require plaintiffs to set forth substantial evidence in their complaint before they have had an opportunity to conduct reasonable discovery. And it would also require plaintiffs to recite in their complaint all that their counsel did to investigate the allegations made in the complaint. Our civil rules, however, do not establish such requirements, and we will not impose them by judicial fiat.

¶51 Simply stated, our pleading rules and C.R.C.P. 11 exist to ensure fair notice to defendants of the claims being asserted against them and that plaintiffs conduct reasonable investigations before filing suit, so that plaintiffs' claims are plausibly supported by the facts and the law. In our view, these rules adequately protect the interests of all parties in a litigation, and we perceive no reason to require either more or less from plaintiffs.

¶52 In reaching our conclusion today, we are unpersuaded by defendants' argument that our opinion will allow plaintiffs in Colorado "to wholesale copy complaints from other lawsuits without personally investigating the facts alleged in them" and will leave Colorado courts in cases involving borrowed allegations with no ability to enforce C.R.C.P. 11's duty to investigate, because the attorney who investigated the claims will be absent and beyond the jurisdiction of Colorado's procedural and ethical rules. Contrary to defendants' assertions, our opinion requires the reasonable investigation mandated by our civil rules. In addition, we are confident that Colorado courts have all of the tools necessary to hold accountable attorneys who file pleadings in Colorado that violate Colorado procedural and ethical rules.

¶53 We likewise are unpersuaded by defendants' suggestion that opinions like ours today have caused (and presumably will continue to cause) securities class actions to skyrocket in state courts. We are not convinced by defendants'

suggestion that any increase in the number of securities class actions pending in state courts is attributable to judicial decisions allowing meritless actions to proceed. To the contrary, we believe that trial courts in this state and others have served—and we have every confidence will continue to serve—as appropriate gatekeepers to ensure that lawsuits that do not satisfy the requirements to survive motions to dismiss will be resolved properly and expeditiously.

III. Conclusion

¶54 For these reasons, we conclude that counsel must conduct a sufficient investigation to support the allegations contained in a complaint, at least on information and belief. The extent of the investigation required, however, is highly fact dependent, and, therefore, a plaintiff’s copying of allegations contained in complaints in related actions does not alone violate counsel’s duty under C.R.C.P. 11(a) but rather must be considered in the context of each case.

¶55 Applying these principles here, we further conclude that Houser’s counsel conducted a sufficient investigation to allow counsel to include in the amended complaint in this case, consistent with counsel’s obligations under C.R.C.P. 11, allegations that were contained in complaints in related actions against some of the same defendants named here.

¶56 Accordingly, we affirm the judgment of the division below.