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Appendix I

APPENDIX-A

Fifth Circuit Opinion and Judgment (25-40449)

United States Court of Appeals for the Fifth Circuit

No. 25-40449
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 7, 2026

Lyle W. Cayce
Clerk

HOUHE ZENG,

Plaintiff—Appellant,

versus

OWNER OF 8020 QUARTZ LANE; FIRSTKEY HOMES, L.L.C.,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:25-CV-91

JUDGMENT

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges.*

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that Appellant pay to Appellee the costs on appeal to be taxed by the Clerk of this Court.

No. 25-40449

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See FED. R. APP. P. 41(B). The court may shorten or extend the time by order. See 5TH CIR. R. 41 I.O.P.



Certified as a true copy and issued
as the mandate on May 20, 2026

Attest:

John W. Cuyler
Clerk, U.S. Court of Appeals, Fifth Circuit

United States Court of Appeals
for the Fifth Circuit

No. 25-40449
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 7, 2026

Lyle W. Cayce
Clerk

HOUHE ZENG,

Plaintiff—Appellant,

versus

OWNER OF 8020 QUARTZ LANE; FIRSTKEY HOMES, L.L.C.,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:25-CV-91

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges*.

PER CURIAM:*

Houhe Zeng, a litigant proceeding *pro se*, filed suit against her landlord and property management company alleging violations of the Fair Housing Act (FHA) and the Texas Property Code. Specifically, Zeng alleges her olfactory impairment affected her ability to detect apartment odors and that the Defendants discriminated against her by refusing to make requested

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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repairs, including replacing moldy carpet and air conditioning filters. After granting Zeng leave to amend her complaint to cure its deficiencies, the district court dismissed her suit under Federal Rule of Civil Procedure 12(b)(6).¹ She appeals the dismissal and challenges the denial of her motion to recuse or disqualify the district judge.

We review the district court's dismissal de novo. *Inclusive Cmty. Project, Inc. v. Lincoln Prop. Co.*, 920 F.3d 890, 899 (5th Cir. 2019). The FHA outlaws discriminating “against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap.” 42 U.S.C. § 3604(f)(2). Plaintiffs must allege facts to demonstrate a causal connection between the alleged discrimination and the disability. *See Inclusive Cmty. Project*, 920 F.3d at 903. As Zeng did not plead specific facts showing a causal link between the alleged failure to make repairs and her purported disability, she has failed to establish causality for purposes of discrimination under the FHA, as we persuasively explained in *Mason v. Integra Peak Mgmt. Inc.*, 821 F. App'x 382, 383 (5th Cir. 2020).

Zeng argues that Defendants implemented exploitative practices nationwide to silence tenants. These claims were not raised in her amended complaint, and to the extent her later-filed letter alleging them could be construed as a motion to amend her complaint, the district court did not abuse its discretion by denying it because Zeng lacks standing to bring such a claim. *See NAACP v. City of Kyle*, 626 F.3d 233, 237 (5th Cir. 2010); *Ashe v. Corley*, 992 F.2d 540, 542 (5th Cir. 1993). She has abandoned any challenge to the ruling on her state law claims by failing to identify any error in the

¹ Zeng argues that the district court erred by enforcing a settlement agreement. This argument is meritless because the district court did not enforce a settlement agreement; it dismissed the suit for failure to state a claim.

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court's analysis. *See Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

We review the denial of the motion to recuse or disqualify for abuse of discretion. *United States v. Scroggins*, 485 F.3d 824, 829 (5th Cir. 2007). As for her recusal motion, the judge's adverse rulings are insufficient to show judicial bias. *Liteky v. United States*, 510 U.S. 540, 555-56 (1994). Zeng has failed to show that the denial of her motion to recuse was an abuse of discretion because, apart from the court's rulings, Zeng does not identify other evidence suggesting bias or deep-seated favoritism or that a reasonable person would otherwise doubt the judge's impartiality. *See id.*; *United States v. Brocato*, 4 F.4th 296, 304 (5th Cir. 2021).

The judgment of the district court is AFFIRMED. Zeng's motion for summary disposition, to expedite the appeal, and to reassign the case in the event of a remand is DENIED.

United States Court of Appeals
for the Fifth Circuit

No. 25-40449

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2026

Lyle W. Cayce
Clerk

HOUHE ZENG,

Plaintiff—Appellant,

versus

OWNER OF 8020 QUARTZ LANE; FIRSTKEY HOMES, L.L.C.,

Defendants—Appellees.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:25-CV-91

ON PETITION FOR REHEARING
AND REHEARING EN BANC

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges.*

PER CURIAM:

The petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 40 and 5TH CIR. R. 40), the petition for rehearing en banc is DENIED.

ENTERED

July 18, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

HOU HE ZENG,

Plaintiff,

VS.

OWNER OF 8020 QUARTZ LN., *et*
al.,

Defendants.

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3:25-cv-91

ORDER

Hou He Zeng sued her landlord and property-management company *pro se*, alleging violations under the Fair Housing Act and Texas Property Code. Dkt. 1 at 3–6. On May 20, 2025, the court gave Zeng notice of its intent to dismiss her complaint *sua sponte* for failure to state a claim. Dkt. 14. Zeng filed an amended complaint.* Dkt. 16. Having reviewed the amended pleading and the applicable law, the court finds dismissal under Rule 12(b)(6) is warranted. *See Century Sur. Co. v. Blevins*, 799 F.3d 366, 372 (5th

* Zeng titled the filing “Enhanced Response to the Court’s Sua Sponte Dismissal Order (Dkt. 14).” *Id.* Because the court’s prior order gave Zeng notice of its intent to dismiss her case unless she filed an *amended complaint* with sufficient factual allegations to support her claim, the court construes Zeng’s “Enhanced Response” as an amended complaint. Dkt. 14; *see Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006) “[The court] must construe the pleadings of pro se litigants liberally.”).

Cir. 2015) (the district court may *sua sponte* dismiss a complaint for failure to state a claim so long as the procedure is fair, *i.e.*, notice and opportunity to respond).

To survive a motion to dismiss for failure to state a claim, a plaintiff must plead facts sufficient to “state a claim to relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when the pleaded facts allow the court to reasonably infer that the defendant is liable for the alleged conduct. *Id.* In reviewing the pleadings, a court accepts all well-pleaded facts as true, “construing all reasonable inferences in the complaint in the light most favorable to the plaintiff.” *White v. U.S. Corr., L.L.C.*, 996 F.3d 302, 306–07 (5th Cir. 2021). But the court does not accept “[c]onclusory allegations, unwarranted factual inferences, or legal conclusions” as true. *Plotkin v. IP Axxess Inc.*, 407 F.3d 690, 696 (5th Cir. 2005).

Zeng alleges the defendants violated § 3604(f)(2) of the Fair Housing Act. Dkt. 16. To state a claim under § 3604(f)(2), she must plead facts showing (1) her limitation falls within the statutory definition of “handicap” and (2) a causal link between her handicap and the discrimination. *Davis v. Echo Valley Condo. Ass’n*, 945 F.3d 483, 490 (6th Cir. 2019); *Harmony*

Haus Westlake, L.L.C. v. Parkstone Prop. Owners Ass'n, 851 F. App'x 461, 463 (5th Cir. 2021); 42 U.S.C. §§ 3602(h)(1), 3604(f)(3)(B).

Zeng alleges she suffers from a “permanent olfactory impairment” that constitutes a “qualifying disability” under the Fair Housing Act. Dkt. 16 at 3–5. She further claims the defendants had “actual knowledge of the disability” and her requests to replace molded carpet and remediate “identified bacterial contamination,” but refused to accommodate her. *Id.* at 4–5. Assuming *arguendo* that an olfactory impairment is a qualifying handicap, Zeng’s amended complaint suffers from the same defect as her first—she fails to plead facts supporting a *causal link* between her olfactory impairment and the defendants’ failure to remedy her subpar living conditions. *Id.*; 24 C.F.R. §§ 100.201(a)(1), (b); *Davis*, 945 F.3d at 490. In other words, Zeng must allege that the defendants denied her maintenance request *because* of her diminished sense of smell, not simply *in spite of it*. Alleging that the defendants knew about the disability is not enough. Because § 3604(f)(2) “prohibits discrimination only ‘*because of a handicap*,’” Zeng’s failure to allege *causation* is fatal to her claim. *Davis*, 945 F.3d at 490 (quoting 42 U.S.C. § 3604(f)(2)) (emphasis added). Accordingly, the court dismisses this claim under Rule 12(b)(6).

Notably, Zeng's amended complaint raises only her purported claim under the Fair Housing Act, and not her state-law claims. *See* Dkt. 16 (omitting state-law claims raised in the original complaint, Dkt. 1). "An amended complaint supersedes the original complaint and renders it of no legal effect unless the amended complaint specifically refers to and adopts or incorporates by reference the earlier pleading." *King v. Dogan*, 31 F.3d 344, 346 (5th Cir. 1994). But even if Zeng had repleaded or incorporated her state-law claims, the court would still lack a "jurisdictional hook" to establish supplemental jurisdiction over them—as federal-question jurisdiction does not exist and the parties are not diverse. *Halmekangas v. State Farm Fire & Cas. Co.*, 603 F.3d 290, 294 (5th Cir. 2010); *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1079 (5th Cir. 2008) (holding complete diversity requires all parties on one side of a controversy to be citizens of different states from all parties on the other side); Dkt. 1 at 1; *see also Mitchell v. Bailey*, 982 F.3d 937, 944 (5th Cir. 2020) (holding exercise of supplemental jurisdiction improper where "there was no claim over which the district court had original jurisdiction and to which supplemental jurisdiction could adhere").

For the reasons above, the court *sua sponte* dismisses Zeng's amended complaint, Dkt. 16, for failure to state a claim under Rule 12(b)(6). A final judgment will issue separately.

Signed on Galveston Island this 18th day of July, 2025.



JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**