

## APPENDICES

## **APPENDIX A**

**Judgment of the United States Court of Appeals for the Fifth Circuit (Mar.  
25, 2026)**

### **Appendix A**

**A-1: Judgment of the United States Court of Appeals for the Fifth Circuit**  
**(Mar. 25, 2026)**

Case: 25-20323 Document: 170-1 Page: 1 Date Filed: 05/12/2026

**United States Court of Appeals  
for the Fifth Circuit**

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No. 25-20323  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

March 25, 2026

Lyle W. Gayce  
Clerk

MITCHELL CROCKER,

*Plaintiff—Appellant,*

*versus*

CENTERPOINT ENERGY,

*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:24-CV-1051

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Before HIGGINBOTHAM, ENGELHARDT, and RAMIREZ, *Circuit Judges.*

PER CURIAM:\*

After being terminated by CenterPoint Energy, Mitchell Crocker sued for retaliation under the Americans with Disabilities Act, 42 U.S.C. § 12203, retaliation under Texas Labor Code § 21.055, and defamation. The district court granted CenterPoint Energy's motion for summary judgment, dismissed all of Crocker's claims, and denied his various motions. The

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

No. 25-20323

district court determined that Crocker abandoned his ADA retaliation claim, presented no evidence of causation supporting his retaliation claim under Texas law, and presented no evidence of a defamatory statement. The court has carefully reviewed the briefs, records, and applicable law. We find no error in the district court's grant of summary judgment. And because Crocker failed to adequately brief how the district court erred in denying his motions, he has forfeited those challenges. *See Nichols v. Enterasys Networks, Inc.*, 495 F.3d 185, 190 (5th Cir. 2007).

Finding no reversible error, the judgment is AFFIRMED.<sup>1</sup>

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<sup>1</sup>Crocker asks the court to take judicial notice of certain adjudicative facts pursuant to Federal Rule of Evidence 201. Because these facts are not the proper subject of judicial notice, his motions for judicial notice are DENIED.

United States Court of Appeals  
for the Fifth Circuit

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No. 25-20323  
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March 25, 2026  
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MITCHELL CROCKER,

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*Defendant—Appellee.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:24-CV-1051

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JUDGMENT

Before HIGGINBOTHAM, ENGELHARDT, and RAMIREZ, *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.

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 12, 2026

Attest: *Jyle W. Cayer*  
Clerk, U.S. Court of Appeals, Fifth Circuit

## **APPENDIX B**

### **Opinion and Final Judgment of the U. S. District Court (July 9, 2025)**

#### **Appendix B**



with his designated work schedule. Crocker did not meet the PIP objectives. He scored only 73.13 percent on customer surveys. He also showed up to work more than 30 minutes late on 22 separate occasions between January 6, 2023, and February 23, 2023. Because Crocker failed to meet his PIP objectives, CenterPoint terminated his employment on March 15, 2023.

On October 17, 2023, Crocker filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC"). In the charge, Crocker specified that CenterPoint had discriminated against him based on his race and color. After receiving a right-to-sue letter, Crocker, represented by counsel, instituted this lawsuit in state court. Crocker's state court petition, the live pleading in this case, does not allege any causes of action for race or color discrimination, whether under Title VII of the Civil Rights Act of 1964 ("Title VII") or any state law equivalent. Instead, Crocker brings retaliation claims under the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12203,<sup>1</sup> and Texas Labor Code § 21.055.<sup>2</sup> The factual allegations underpinning Crocker's federal and state law retaliation claims are identical: Crocker "engaged in a protected activity by filing a charge of discrimination," and CenterPoint unlawfully terminated Crocker "very shortly after" the company received notice that Crocker had filed a charge of discrimination. Dkt. 1-5 at 5. In addition to the retaliation claims brought under the ADA and the Texas Labor Code, Crocker alleges a defamation claim.

CenterPoint has moved for summary judgment on all of Crocker's claims. Three days after CenterPoint filed its motion for summary judgment, Crocker's counsel asked to withdraw from the case. Crocker now represents himself in this matter.

<sup>1</sup> Section 12203 prohibits retaliation against a person because he has exercised his rights under the ADA. See 42 U.S.C. § 12203.

<sup>2</sup> Section 21.055 prohibits an employer from retaliating against a person who, among other things, "makes or files a charge" of discrimination. Tex. Lab. Code § 21.055.

### MOTION FOR CLARIFICATION

Before I turn to CenterPoint's motion for summary judgment, I will first address Crocker's motion for clarification, which he filed on the same day as his summary judgment response. In the motion for clarification, Crocker seeks four types of relief: (1) "Clarification of Disputed Facts"; (2) "Compelled Documentary Discovery"; (3) "Acknowledgment of Violations"; and (4) "Preservation of Pro Se Rights and Judicial Notice." Dkt. 26 at 10–12. For the reasons that follow, Crocker's motion for clarification is denied.

The first two categories—Clarification of Disputed Facts and Compelled Documentary Discovery—are nothing more than a motion to compel discovery masquerading as a motion for clarification. Crocker specifically asks me to "[o]rder [CenterPoint] to disclose the complete methodology and basis of the internal survey . . . and to detail the rationales underlying the imposition of both the PIP . . . and the Alternative Work Schedule Agreement." *Id.* at 10. Crocker also requests that I "[d]irect [CenterPoint] to produce all relevant internal communications from company departments . . . that directly interfered with [his] career development." *Id.* at 11. To the extent Crocker seeks discovery from CenterPoint, that ship has sailed. Discovery closed on January 27, 2025, and Crocker did not serve a single discovery request during the discovery period. *See* Dkt. 17 at 2. He offers no reason—much less good cause—for modifying the discovery deadline.

The third category—Acknowledgment of Violations—asks me to

[a]cknowledge that [CenterPoint's] sequential adverse actions—including the imposition of the Alternative Work Schedule Agreement, the pretextual PIP, the ostracization and exclusion following the EEOC Charge . . . , and the termination on March 15, 2023—constitute clear violations of Title VII, the Texas Commission on Human Rights Act, and the Whistleblower Protection Act.

Dkt. 26 at 11–12. This appears to be a request to grant summary judgment in Crocker's favor on claims arising under "Title VII, the Texas Commission on Human Rights Act, and the Whistleblower Protection Act." *Id.* at 12. There are several problems with this request. First, the deadline for filing a dispositive

motion passed on March 3, 2025, and Crocker did not file the present motion until seven weeks after that date. Second, the statutory basis upon which Crocker seeks relief—Title VII, the Texas Commission on Human Rights, and the Whistleblower Protection Act—are not mentioned in his operative pleading for affirmative relief. Third, Crocker offers no explanation as to why he should be entitled to prevail on these unpled claims; he simply claims he is in the right.

The fourth category—Preservation of Pro Se Rights and Judicial Notice—asks me to (1) liberally construe Crocker's pleadings since he is proceeding pro se, and (2) take judicial notice of an unsigned and undated letter from Crocker to the court. Although Crocker is currently representing himself in this litigation, he was previously represented by an attorney who filed the operative pleading on Crocker's behalf before withdrawing from the case. Still, even if I liberally construe Crocker's pleadings as he requests, Crocker's pro se status does not excuse him from the burden of establishing that there is a genuine issue of material fact in order to avoid summary judgment. *See E.E.O.C. v. Simbaki, Ltd.*, 767 F.3d 475, 484 (5th Cir. 2014). On the judicial notice issue, the unsigned and undated letter is not the proper subject of judicial notice as it does not involve facts that are (1) "generally known within the trial court's territorial jurisdiction"; or (2) capable of accurate and ready determination "from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(1)–(2).

I now turn to the motion for summary judgment.

#### **MOTION FOR SUMMARY JUDGMENT**

##### **A. LEGAL STANDARD**

Summary judgment is proper when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "A fact is material if it might affect the outcome of the suit and a factual dispute is genuine if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." *Harville v. City of Houston*, 945 F.3d 870, 874 (5th Cir. 2019) (citation modified). To survive summary judgment, the nonmovant

must present evidence to support each essential element of his claim. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The nonmovant's "burden will not be satisfied by some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or by only a scintilla of evidence." *Boudremix v. Swift Transp. Co.*, 402 F.3d 536, 540 (5th Cir. 2005) (quotation omitted). Rather, "the nonmovant must identify specific evidence in the record and articulate the precise manner in which that evidence supports his or her claim." *Carr v. Air Line Pilots Ass'n, Int'l*, 866 F.3d 597, 601 (5th Cir. 2017) (citation modified).

**B. RETALIATION CLAIMS**

As noted, Crocker's live pleading advances two retaliation claims—one under the ADA and the other under the Texas Labor Code.

**1. ADA Retaliation Claim**

At a June 6, 2025 hearing, Crocker voluntarily abandoned his ADA retaliation claim. As a result, the ADA retaliation claim is no longer before me.

**2. Texas Labor Code § 21.055 Retaliation Claim**

Turning to the Texas Labor Code § 21.055 retaliation claim, CenterPoint argues that this claim is barred because Crocker has failed to exhaust his administrative remedies as it relates to disability discrimination. The problem with this argument is that Crocker's § 21.055 claim is not based on disability discrimination. In his live pleading, Crocker claims he "filed a charge of racial discrimination with the [EEOC]," and that he was fired "very shortly after" for filing that charge of discrimination. Dkt. 1-5 at 4, 5.

As I indicated at the June 6, 2025 hearing, this claim confuses me. The summary judgment record indicates that CenterPoint terminated Crocker on March 15, 2023. *See* Dkt. 20-2 at 29. Crocker did not file his administrative charge with the EEOC until October 17, 2023. *See* Dkt. 20-11 at 3. Because Crocker filed his EEOC charge approximately seven months *after* his employment with