UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, GALVESTON DIVISION

Andrew J. Mitchell v. Maison Insurance Company

Mitchell v. Maison Insurance Co. · No. Civil Action No. 3:26-cv-00131 · Decided April 30, 2026

SUMMARY

This memorandum and recommendation addresses whether a pro se incarcerated plaintiff may prosecute claims purportedly assigned to him by a limited liability company. The court concludes that the company is the real party in interest and may appear in federal court only through licensed counsel, even if it validly assigned its claims. The magistrate judge recommends conditional dismissal without prejudice unless the plaintiff appears through counsel within 30 days after adoption, and allows 14 days for objections.

CASE DETAILS

COURT	United States District Court for the Southern District of Texas, Galveston Division
WRITING FOR THE COURT	Andrew M. Edison
JURISDICTION	United States District Court for the Southern District of Texas, Galveston Division
DECIDED	April 30, 2026
DOCKET	Civil Action No. 3:26-cv-00131
DISPOSITION	other
PROCEDURAL POSTURE	A pro se incarcerated plaintiff sued Maison Insurance Company, asserting claims individually and as assignee of receivables and business claims belonging to Mitchell Adjusting International LLC. The magistrate judge issued a Memorandum and Recommendation, sua sponte recommending conditional dismissal without prejudice unless the plaintiff appeared through licensed counsel within 30 days after adoption.
STANDARD OF REVIEW	For sua sponte dismissal, the procedure must be fair, requiring notice of the court's intention and an opportunity to respond.
PRECEDENTIAL VALUE	Unknown; Memorandum and Recommendation from a federal district court magistrate judge, with no final adoption shown in the source.

TOPICS

civil procedure · limited liability companies · pleadings · standing · commercial litigation

PRACTICE AREAS

civil procedure · commercial litigation · corporate law · insurance

QUESTIONS PRESENTED

1. Whether a sole member of a limited liability company may prosecute the company's claims in federal court without counsel.
2. Whether an assignment of an LLC's claims to a pro se individual permits that individual to prosecute the claims without counsel.
3. Whether the court could recommend sua sponte dismissal, subject to notice and an opportunity to object and obtain counsel.

HOLDINGS

1. An individual may not prosecute claims belonging to a limited liability company in federal court without licensed counsel, even if the LLC validly assigns the claims to that individual. The assignment does not authorize the individual to appear on the LLC's behalf.
2. A district court may dismiss a claim on its own motion when the procedure is fair, including notice of the court's intention and an opportunity to respond. The proposed conditional dismissal procedure satisfied those requirements because Mitchell could object and, if the recommendation were adopted, had 30 days to appear through counsel.

KEY QUOTATIONS

> *"Artificial business entities—such as limited liability companies, corporations, and partnerships—may appear in federal court only through counsel."* (at 2)

> *"But MAI can only appear in federal court through an attorney. Mitchell is not an attorney. Thus, he cannot prosecute MAI's claims on his own, even if they are validly assigned to him."* (at 3)

> *"A district court may dismiss a claim on its own motion as long as the procedure employed is fair."* (at 4)

FACTUAL BACKGROUND

Mitchell, a licensed public adjuster, provided services through Mitchell Adjusting International LLC, a Texas limited liability company of which he was the sole member. He alleged that Maison Insurance Company failed to include his name on settlement checks and disbursements connected to claims he adjusted. The complaint asserted state and federal claims and purported to proceed both individually and as assignee of MAI's receivables. Documents attached to the complaint identified MAI as the payee on the settlement checks and showed invoices issued by MAI.

PROCEDURAL HISTORY

Mitchell filed the action on April 14, 2026, proceeding pro se. The case was referred to the magistrate judge for pretrial purposes. The magistrate judge recommended conditional dismissal because the claims appeared to belong to MAI, a limited liability company, and Mitchell could not prosecute MAI's claims in federal court without counsel. The parties were given 14 days to object, and the recommendation had not yet been adopted in the text provided.

DISPOSITION

other

CASES CITED

- Alt. Materials, LLC v. TCH Constr. Grp., Inc., 339 F.R.D. 322, 324 (N.D. Fla. 2021)
- Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-02 (1993)
- Stark v. Kohrs, No. 1:19-cv-041, 2020 WL 734480, at *3 (W.D. Tex. Feb. 12, 2020)
- Heiskell v. Mozie, 82 F.2d 861, 863 (D.C. Cir. 1936)
- M2 Tech., Inc. v. M2 Software, Inc., 589 F. App'x 671, 675 n.2 (5th Cir. 2014)
- Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1386 (11th Cir. 1985)
- Jones v. Niagara Frontier Transp. Auth., 722 F.2d 20, 23 (2d Cir. 1983)
- Davoodi v. Austin Indep. Sch. Dist., 755 F.3d 307, 310 (5th Cir. 2014)