

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

Andrew J. Mitchell v. Chad Wilson Law Firm, PLLC

Civil Action No. 3:26-cv-00093 (S.D. Tex. Apr. 30, 2026) (Memorandum and Recommendation) · No. 3:26-cv-00093 · Decided April 30, 2026

SUMMARY

The United States Magistrate Judge recommends conditionally dismissing Andrew J. Mitchell’s lawsuit without prejudice unless he appears through licensed counsel within 30 days. The recommendation concludes that the asserted claims belong to Mitchell Adjusting International LLC, not Mitchell individually, and that an LLC may not litigate in federal court without licensed counsel. The parties are given 14 days from service to file 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	3:26-cv-00093
DISPOSITION	other
PROCEDURAL POSTURE	A magistrate judge issued a Memorandum and Recommendation, sua sponte recommending conditional dismissal without prejudice unless the incarcerated pro se plaintiff appears 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PRECEDENTIAL VALUE	nonprecedential
PARTIES	Andrew J. Mitchell v. Chad Wilson Law Firm, PLLC

TOPICS

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

PRACTICE AREAS

civil procedure

limited liability companies

standing

commercial litigation

QUESTIONS PRESENTED

1. Whether a sole member of a limited liability company may prosecute in federal court claims belonging to the LLC while proceeding pro se.
2. Whether the court may sua sponte recommend conditional dismissal without prejudice based on the plaintiff's failure to appear through licensed counsel for the LLC, provided that the plaintiff receives notice and an opportunity to respond.

HOLDINGS

1. A sole member may not prosecute in federal court, without licensed counsel, claims that belong to the limited liability company rather than to the member individually.
2. A court may sua sponte dismiss a claim when the procedure is fair, including notice of the proposed dismissal and an opportunity to respond.

KEY QUOTATIONS

“that a corporation may appear in the federal courts only through licensed counsel.” (201-02)

“A district court may dismiss a claim on its own motion as long as the procedure employed is fair.” (310)

FACTUAL BACKGROUND

Andrew Mitchell, an incarcerated person proceeding pro se, sued Chad Wilson Law Firm, PLLC, asserting claims based on alleged diversion, short payment, and withholding of public-adjusting fees. Mitchell conducted the business through Mitchell Adjusting International LLC, a Texas limited liability company of which he was the sole member, and purported to sue on the company's behalf while doing business as the LLC. The court determined that the asserted claims belonged to the LLC rather than Mitchell individually.

PROCEDURAL HISTORY

Mitchell filed the action pro se on March 15, 2026, asserting claims arising from alleged diversion and withholding of fees belonging to Mitchell Adjusting International LLC. The case was referred to the magistrate judge for pretrial purposes. The magistrate judge recommended conditional dismissal and advised that the parties had 14 days to object; no final district-court disposition is stated in the opinion.

DISPOSITION

other

CASES CITED

- Rowland v. California Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201-02 (1993)

- *Alternative Materials, LLC v. TCH Construction Group, Inc.*, 339 F.R.D. 322, 324 (N.D. Fla. 2021)
- *Robinson v. Ashland Inc.*, No. 1:24-CV-97, 2024 WL 5158429, at *8 (E.D. Tex. Dec. 18, 2024)
- *Davoodi v. Austin Independent School District*, 755 F.3d 307, 310 (5th Cir. 2014)

OPINION

UNITED STATES DISTRICT COURT April 30, 2026 SOUTHERN DISTRICT OF TEXAS
 Nathan Ochsner, Clerk GALVESTON DIVISION ANDREW J MITCHELL, § § Plaintiff, § § V. §
 CIVIL ACTION NO. 3:26-cv-00093 § CHAD WILSON LAW FIRM, PLLC, § § Defendant. §
 MEMORANDUM AND RECOMMENDATION This case has been referred to me for all pretrial
 purposes. See Dkt. 9. I am sua sponte issuing this memorandum and recommendation to suggest
 that the court order the conditional dismissal of this lawsuit without prejudice unless Plaintiff
 Andrew Mitchell appears through licensed counsel within 30 days from the date this memorandum
 and recommendation is adopted.

On March 15, 2026, Mitchell, an incarcerated person proceeding pro se, instituted this lawsuit
 against Defendant Chad Wilson Law Firm, PLLC. See Dkt. 1. Mitchell was a licensed public
 adjuster. Mitchell provided his public adjusting services through Mitchell Adjusting International
 LLC (“MAI”), a Texas limited liability company. At all times, Mitchell has been the sole member
 of MAI.

Mitchell claims that Defendant diverted MAI’s earned public adjusting fees to a third-party
 factoring company after MAI revoked authorization for such diversion, short-paid certain invoices,
 and withheld fees following Mitchell’s incarceration. See Dkt. 1 at 1. Mitchell asserts claims for
 RICO, RICO conspiracy, breach of fiduciary duty, breach of oral/implied-in-fact contract, account
 stated, conversion, unjust enrichment/money had and received, tortious interference, declaratory
 judgment, and accounting and constructive trust.

Mitchell purports to bring this lawsuit “doing business as Mitchell Adjusting International LLC.”
 Id. Mitchell cannot do this. “In all courts of the United States the parties may plead and conduct
 their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted
 to manage and conduct causes therein.” 28 U.S.C. § 1654.

The right to conduct one’s own cases personally is limited to one’s own interests. “It has been the
 law for the better part of two centuries... that a corporation may appear in the federal courts only
 through licensed counsel.” *Rowland v. Cal. Men’s Colony, Unit II Men’s Advisory Council*, 506
 U.S. 194, 201–02 (1993). This rule applies to all “[a]rtificial business entities—such as limited
 liability companies, corporations, and partnerships.” *Alt.*

Materials, LLC v. TCH Constr. Grp., Inc., 339 F.R.D. 322, 324 (N.D. Fla. 2021). The claims in
 this case belong to MAI, not Mitchell. Mitchell cannot prosecute MAI’s claims himself. See, e.g.,
Robinson v. Ashland Inc., No. 1:24-CV-97, 2024 WL 5158429, at *8 (E.D. Tex. Dec. 18, 2024)

(collecting cases and holding that “Plaintiffs, even as sole owners of their LLC, lack standing to assert claims individually where the cause of action belongs to the company.”). “A district court may dismiss a claim on its own motion as long as the procedure employed is fair.” Davoodi v. Austin Indep.

Sch. Dist., 755 F.3d 307, 310 (5th Cir. 2014) (cleaned up). Fairness “requires both notice of the court’s intention and an opportunity to respond.” Id. (quotation omitted). Here, Mitchell has both the opportunity to object to this memorandum and recommendation and, in the event it is adopted, 30 days to appear through counsel before this action is dismissed without prejudice.

That is fair. CONCLUSION For the reasons discussed above, I recommend that the court order the conditional dismissal of this lawsuit without prejudice unless Mitchell appears through licensed counsel within 30 days from the date this memorandum and recommendation is adopted.

The parties have 14 days from service of this Memorandum and Recommendation to file written objections. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(2). Failure to file timely objections will preclude appellate review of factual findings and legal conclusions, except for plain error. SIGNED this ____ day of April 2026. _____ ANDREW M. EDISON UNITED STATES MAGISTRATE JUDGE