

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
TEXAS, SHERMAN DIVISION

Heather Wing v. National Credit Systems, Inc.

Wing · No. 4:25-cv-608-JDK-KNM · Decided February 11, 2026

SUMMARY

The United States District Court for the Eastern District of Texas adopts a magistrate judge’s report and recommendation concerning Defendant National Credit Systems, Inc.’s motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). The court grants the motion in part, denies it in part as moot, dismisses the complaint without prejudice, and allows the plaintiff thirty days to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Eastern District of Texas, Sherman Division
JURISDICTION	United States District Court for the Eastern District of Texas, Sherman Division
DECIDED	February 11, 2026
DOCKET	4:25-cv-608-JDK-KNM
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's report and recommendation on the defendant's Rule 12(b)(6) motion to dismiss. No objections were filed, so the district court applied clear-error, abuse-of-discretion, and contrary-to-law review, adopted the report and recommendation, dismissed the complaint without prejudice, and granted leave to amend.
STANDARD OF REVIEW	When no objections are filed to a magistrate judge's report and recommendation, the district court reviews factual findings for clear error or abuse of discretion and legal conclusions to determine whether they are contrary to law.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown
PARTIES	Heather Wing v. National Credit Systems, Inc.

TOPICS

motions to dismiss

pleadings

fair debt collection

civil procedure

consumer protection

PRACTICE AREAS

civil procedure

fair debt collection

consumer protection

QUESTIONS PRESENTED

1. What standard of review applies when no objections are filed to a magistrate judge's report and recommendation?
2. Whether the magistrate judge's recommendation to grant the motion to dismiss in part, deny it in part as moot, dismiss the complaint without prejudice, and allow amendment should be adopted.

HOLDINGS

1. When no objections are filed, the district court reviews the magistrate judge's factual findings for clear error or abuse of discretion and reviews legal conclusions to determine whether they are contrary to law.
2. The court found no clear error, abuse of discretion, or conclusions contrary to law in the magistrate judge's report and recommendation, adopted it, granted the Rule 12(b)(6) motion in part, denied it in part as moot, and dismissed the complaint without prejudice with thirty days to amend.

KEY QUOTATIONS

"The Court therefore reviews Judge Mitchell's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law." (at 1)

"Accordingly, the Court hereby ADOPTS the Report and Recommendation of the United States Magistrate Judge (Docket No. 13) as the findings of this Court, GRANTS in part and DENIES in part as moot the motion to dismiss (Docket No. 10), and DISMISSES Plaintiff's complaint without prejudice." (at 2)

FACTUAL BACKGROUND

The plaintiff brought an action against National Credit Systems, Inc. The defendant moved to dismiss under Rule 12(b)(6). The magistrate judge found deficiencies in the complaint and recommended dismissal without prejudice with thirty days to file an amended complaint.

PROCEDURAL HISTORY

Defendant moved to dismiss under Federal Rule of Civil Procedure 12(b)(6). The case was referred to Magistrate Judge K. Nicole Mitchell, who recommended granting the motion in part, denying it in part as moot as to a claim not raised in the complaint, dismissing the complaint without prejudice, and allowing thirty days to amend. No written objections were filed, and the district court adopted the report and recommendation.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

No remand. Plaintiff was given thirty days to file an amended complaint curing the deficiencies in the original complaint; failure to do so would result in entry of final judgment.

CASES CITED

- *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc)
- *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION HEATHER WING, § § Plaintiff, § § v. § Case No. 4:25-cv-608-JDK-KNM § NATIONAL CREDIT SYSTEMS, INC., § § Defendant. § ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE Before the Court is Defendant National Credit Systems Inc.'s motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

Docket No. 10. This case was referred to a United States Magistrate Judge K. Nicole Mitchell in accordance with 28 U.S.C. § 636. On January 21, 2026, Judge Mitchell issued a Report and Recommendation recommending that the motion to dismiss be granted in part,¹ the Plaintiff's complaint be dismissed without prejudice, and the Plaintiff be given thirty days to file an amended complaint curing the deficiencies in her original complaint.

Docket No. 13. No written objections have been filed. This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1).

In conducting a de novo review, the Court ¹ Judge Mitchell recommended the motion to dismiss be denied in part as moot with respect to a claim Plaintiff did not raise in her complaint. Docket No. 13 at 12. examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, no objections were filed. The Court therefore reviews Judge Mitchell's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendations, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby

ADOPTS the Report and Recommendation of the United States Magistrate Judge (Docket No. 13) as the findings of this Court, GRANTS in part and DENIES in part as moot the motion to dismiss (Docket No. 10), and DISMISSES Plaintiff's complaint without prejudice.

Plaintiff shall have thirty days to file an amended complaint curing the deficiencies in her original complaint. Failure to timely file an amended complaint will result in the entry of final judgment. So ORDERED and SIGNED this 11th day of February, 2026. G5, LHe UNITED STATES DISTRICT JUDGE