

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)

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