

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

Andrew J. Mitchell v. Church Mutual Insurance Company

Mitchell v. Church Mutual Insurance Co. · No. 3:26-cv-00129 · Decided April 30, 2026

SUMMARY

This memorandum and recommendation addresses whether a pro se incarcerated plaintiff may prosecute claims allegedly assigned to him by a limited liability company. The court recommends conditional dismissal without prejudice unless the plaintiff appears through licensed counsel within 30 days after adoption, concluding that the LLC is the real party in interest and may appear in federal court only through counsel.

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-00129
DISPOSITION	other
PROCEDURAL POSTURE	A pro se incarcerated plaintiff filed claims individually and purportedly as assignee of receivables and business claims belonging to a limited liability company. The magistrate judge issued a memorandum and recommendation sua sponte recommending conditional dismissal without prejudice unless the plaintiff appeared through licensed counsel.
STANDARD OF REVIEW	A district court may dismiss a claim sua sponte if the procedure is fair, which requires notice of the court's intention and an opportunity to respond.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- civil procedure
- limited liability companies
- standing
- pleadings

PRACTICE AREAS

civil procedure

limited liability companies

commercial litigation

QUESTIONS PRESENTED

1. Whether Mitchell may prosecute claims belonging to Mitchell Adjusting International LLC in federal court without licensed counsel after receiving an assignment of those claims.
2. Whether the action may be conditionally dismissed without prejudice sua sponte, subject to notice and an opportunity to object and to appear through counsel.

HOLDINGS

1. An individual who is not an attorney may not prosecute claims belonging to a limited liability company in federal court merely because the company assigned those claims to him. The LLC remains the real party in interest for purposes of federal-court representation, and an LLC may appear only through licensed counsel.
2. A court may dismiss a claim on its own motion when the procedure provides notice of the proposed dismissal and an opportunity to respond. The proposed conditional dismissal procedure was fair because Mitchell could object to the recommendation and, if 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)

“In sum, the claims here belong to MAI, the company with whom the insured contracted. Even if MAI validly assigned its claims to Mitchell—an issue I need not address—said assignment merely allows Mitchell to stand in MAI’s shoes. But MAI can only appear in federal court through an attorney. Mitchell is not an attorney. Thus, Mitchell cannot prosecute MAI’s claims on his own, even if they are validly assigned to him.” (at 3)

FACTUAL BACKGROUND

Andrew Mitchell, an incarcerated pro se plaintiff and licensed public adjuster, sued Church Mutual over the alleged omission of his name from settlement checks and disbursements relating to claims he adjusted. He conducted his public-adjusting services through Mitchell Adjusting International LLC, of which he was the sole member. The settlement-check authorization attached to the complaint identified MAI as the payee, and Mitchell purported to sue individually and as assignee of MAI’s receivables and business claims.

PROCEDURAL HISTORY

Mitchell filed the action on April 14, 2026, against Church Mutual Insurance Company. The case was referred to the magistrate judge for pretrial purposes. The magistrate judge recommended that the district court conditionally dismiss the action without prejudice unless Mitchell appeared through licensed counsel within 30 days after adoption of the recommendation, while allowing 14 days for objections.

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)

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