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

Andrew J. Mitchell v. Lionheart Funding LLC, et al.

Andrew J. Mitchell v. Lionheart Funding LLC, No. 3:26-cv-00096 (S.D. Tex. Apr. 30, 2026) (Memorandum and Recommendation) · No. 3:26-cv-00096 · Decided April 30, 2026

SUMMARY

The magistrate judge recommends conditionally dismissing the action without prejudice unless Plaintiff Andrew J. Mitchell appears through licensed counsel within 30 days after adoption of the recommendation. The recommendation concludes that the claims belong to Mitchell Adjusting International LLC, an artificial entity that must appear in federal court through counsel, and that an assignment of the company's claims does not permit Mitchell to litigate them pro se. 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-00096
DISPOSITION	other
PROCEDURAL POSTURE	A pro se incarcerated plaintiff brought claims individually and doing business as Mitchell Adjusting International LLC. The magistrate judge, to whom the case was referred for pretrial purposes, issued a Memorandum and Recommendation proposing 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, meaning the plaintiff receives notice of the court's intention and an opportunity to respond. Objections to a magistrate judge's Memorandum and Recommendation are governed by 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b)(2).

PRECEDENTIAL VALUE	The document is a magistrate judge's Memorandum and Recommendation in a district court case; it is not a final district court judgment in the supplied text.
PARTIES	Andrew J. Mitchell v. Lionheart Funding LLC, et al.

TOPICS

civil procedure · limited liability companies · commercial litigation · standing

PRACTICE AREAS

civil procedure · limited liability companies · commercial litigation

QUESTIONS PRESENTED

1. Whether a sole member of a limited liability company may prosecute claims belonging to the LLC in federal court without licensed 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 may conditionally dismiss the action sua sponte, without prejudice, after providing notice and an opportunity to respond.

HOLDINGS

1. A limited liability company is an artificial business entity that may appear in federal court only through licensed counsel; its sole member may not prosecute the company's claims pro se. An assignment of the company's claims to the individual does not authorize the individual to represent the company without counsel.
2. The court may recommend sua sponte dismissal without prejudice when the plaintiff receives notice of the proposed dismissal and an opportunity to object, including an opportunity to obtain counsel before dismissal.

KEY QUOTATIONS

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

> *"MAI is free to assign its claims to Mitchell, but such assignment still does not authorize Mitchell to appear on MAI's behalf."*

> *"Thus, he cannot prosecute MAI's claims on his own, even if they are validly assigned to him."*

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

FACTUAL BACKGROUND

Mitchell, an incarcerated person proceeding pro se, sued defendants over alleged fraudulent merchant cash advance contracts, wire fraud, unlawful ACH debits, coerced wire transfers, alter-ego liability, and debt-collection harassment. He provided public-adjusting services through Mitchell Adjusting International LLC, a Texas limited liability company of which he was the sole member. The documents supporting the complaint were made in the name and for the benefit of the LLC, and Mitchell claimed to proceed individually after purportedly receiving an assignment of the LLC's accounts receivable and business claims.

PROCEDURAL HISTORY

Mitchell filed the action on March 15, 2026, alleging claims arising from allegedly fraudulent merchant cash advance contracts and related conduct. 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, and allowed 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. California 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)
- M2 Tech., Inc. v. M2 Software, Inc., 589 F. App'x 671, 675 n.2 (5th Cir. 2014)
- Heiskell v. Mozie, 82 F.2d 861, 863 (D.C. Cir. 1936)
- 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)

OPINION

Andrew J. Mitchell v. Lionheart Funding LLC, et al.
PER CURIAM.
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-00096
§ LIONHEART FUNDING LLC, et al., § § Defendants. §
MEMORANDUM AND RECOMMENDATION
This case has been referred to me for all pretrial purposes. See Dkt. 10. 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 Defendants. 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 Defendants were part of a "predatory scheme spanning at least eight months involving fraudulent merchant cash advance ('MCA') contracts, wire fraud, unlawful ACH account debits, coerced wire transfers under economic duress, alter-ego liability, and illegal third-party debt collection harassment." Dkt. 1 at 1. Mitchell purports to bring this lawsuit "individually and doing business as Mitchell Adjusting International." 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. "Artificial business entities—such as limited liability companies, corporations, and partnerships—may appear in federal court only through counsel." Alt. Materials, LLC v. TCH Constr. Grp., Inc., 339 F.R.D. 322, 324 (N.D. Fla. 2021) (citing Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council, 506 U.S. 194, 201–02 (1993)). Mitchell attempts "to re-characterize claims brought on behalf of [MAI] as individual claims belonging to him—this time asserting assignment of the claims— so that he may proceed pro se." Stark v. Kohrs, No. 1:19-cv-041, 2020 WL 734480, at *3 (W.D. Tex. Feb. 12, 2020). I assume, for the sake of argument, that the purported assignment of MAI's accounts receivables and business claims to Mitchell is valid. See Dkt. 6. Even so, MAI is the real party in interest, and to prosecute MAI's claims, Mitchell must appear through counsel. Every account statement, MCA agreement, declaration, and addendum, that Mitchell attaches to his complaint shows that the document was created in the name and for the benefit of MAI, not Mitchell. See Dkt. 7. Thus, MAI is the real party in interest. MAI is free to assign its claims to Mitchell, but such assignment still does not authorize Mitchell to appear on MAI's behalf. "Courts faced with this question routinely hold that an individual who has been assigned claims from a corporation cannot proceed pro se." See Stark, 2020 WL 734480, at *3 & n.1 (collecting cases). As the Court of Appeals for the District of Columbia explained more than 90 years ago: We think the words 'the parties,' as used in [28 U.S.C. § 1654], mean the parties in interest—the real, beneficial owners of the claims asserted in the suit[], and by implication that it excludes agents and attorneys in fact and confines the representation, where the party whose rights are actually involved does not appear in person, to attorneys and counselors at law. It cannot be doubted, we think, that an assignment of a claim against another, made solely for the purpose of permitting the assignee—not an attorney—to conduct the litigation in proper person, would be colorable only and, therefore, insufficient to accomplish the purpose; and this, for the reason that such an assignment would transfer only the naked legal title or, perhaps more accurately, no more than an agency— a power without an interest;— and in such case there would be lacking that element of personal interest which alone permits the management of an action at law in a court by some one other than an attorney at law. Petitioner is not an attorney at law, nor is he the real party in interest, and hence had no standing to commence or to prosecute the action. Heiskell v. Mozie, 82 F.2d 861, 863 (D.C. Cir. 1936) (emphasis added).1 It appears that Mitchell's "sole reason for pursuing the assignment . . . was so that [MAI] could protect its [contractual] rights in federal court without retaining counsel." M2 Tech., Inc. v. M2 Software, Inc., 589 F. App'x. 671, 675 n.2 (5th Cir. 2014). This is not allowed. In sum, the claims here belong to MAI, the company with whom Defendants 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, he cannot prosecute MAI's claims on his own, even if they are validly assigned to him. "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 1 See also Palazzo v. Gulf Oil Corp., 764 F.2d 1381, 1386 (11th Cir. 1985) ("We see no reason to permit any evasion of the general rule [of corporate representation by counsel] by the simple expedient of the assignment of corporate claims to the pro se plaintiff. Nor is any injustice done to plaintiff by this holding."); Jones v. Niagara Frontier Transp. Auth., 722 F.2d 20, 23 (2d Cir. 1983) ("In light of the[] policy reasons for preventing a lay person from representing a corporation in litigation, the federal courts have, in cases governed by federal law, disapproved any circumvention of the rule by the procedural device of an assignment of the corporation's claims to the lay individual."). 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