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

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| 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). |

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| **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)