Articles + Publications | June 29, 2026

Louisiana Bankruptcy Court Rules Cancelled Delaware LLC Cannot Be a Debtor

WRITTEN BY

David S. Kupetz | Brad C. Knapp | Hanna J. Redd | Tori Lynn Remington

KEY POINTS

- A Louisiana bankruptcy court held that a Delaware LLC that filed a certificate of cancellation ceases to exist under 6 Del. C. § 18-203(a) and therefore cannot be a debtor under 11 U.S.C. § 109(a).
- The court rejected the petitioning creditors' argument that it could nullify the cancellation to establish debtor eligibility, holding that an eligible debtor must exist before an involuntary bankruptcy case can proceed.
- The assignee for the benefit of creditors had standing to seek dismissal of the involuntary petition based on the general assignment document, applicable case law, and Delaware law.
- On reconsideration, the court reaffirmed that the question of nullifying a Delaware LLC's certificate of cancellation is distinct from the question of debtor eligibility under the Bankruptcy Code.
- The court's ruling did not foreclose the petitioning creditors from seeking nullification of the cancellation in a court of competent jurisdiction.

Under Delaware law, when a limited liability company files a certificate of cancellation with the Delaware secretary of state, it ceases to exist. 6 Del. C. § 18-203(a); 6 Del. C. § 18-201(b). This cancellation differs from the Delaware corporate dissolution process where a corporation files its certificate of dissolution before winding up begins. It then continues as a dissolved but existing legal entity for up to three years to wind up its affairs. 8 Del. C. § 278.

The Bankruptcy Court for the Middle District of Louisiana recently addressed a case where four petitioning creditors filed an involuntary bankruptcy petition under Chapter 7 of the Bankruptcy Code against a Delaware limited liability company (the LLC). *In re Deltech Monomers OpCo, LLC*, Case No. 3:26-bk-10182, Doc. 91 (Bankr. M.D. La. May 1, 2026), 2026 Bankr. LEXIS 1244, 2026 WL 136042. However, in what the bankruptcy court characterized as "a matter of first impression," the LLC had both executed an assignment for the benefit of creditors and filed a certificate of cancellation with the Delaware secretary of state almost three months prior to the filing of the involuntary petition.

In order to be eligible to be a debtor under the Bankruptcy Code (whether in a voluntary or involuntary case), the debtor must be a "person" as defined in the Bankruptcy Code. 11 U.S.C. §§ 101(14), 109(b), and 303(a). Though "person" is defined in the Bankruptcy Code to include corporations, (and, by extension, LLCs), it leaves the question of whether a canceled entity can be a "person" for the purposes of 11 U.S.C. § 109(a) to state law. *E.g.*, *Chicago Title and Trust Co. v. Forty-One-Thirty-Six Wilcox Bldg. Corp.*, 302 U.S. 120, 128–30 (1937) (discussing how a corporation's ability to be a debtor under bankruptcy laws depends on the governing state's determination of the corporation's existence).

Since the LLC had ceased to exist under Delaware law, the court held that the putative debtor was not currently a legal entity and therefore was not a person eligible to be a debtor in bankruptcy. The court rejected the petitioning creditors' argument that it could nullify the cancellation to elevate the LLC back to "person" status in order to proceed with an involuntary bankruptcy petition. An eligible debtor must exist before an involuntary bankruptcy case can move forward. The court stated that its ruling did not foreclose the petitioning creditors from seeking nullification in a court of competent jurisdiction.

The court's ruling granted a motion to dismiss filed by the assignee for the benefit of creditors of the LLC. Though the petitioning creditors contended the assignee lacked standing, the court rejected this argument, too. The court found that the general assignment document granting the assignee a power of attorney, applicable case law, and Delaware law, all aligned with the conclusion that the assignee had standing to seek dismissal of the involuntary petition.

Despite the court's direction that the question of nullification was one to be addressed by some other court, the petitioning creditors filed a motion for reconsideration pursuant to Federal Rule of Civil Procedure 59(e), made applicable to bankruptcy matters through Federal Rule of Bankruptcy Procedure 9023. The court had already pointed out in its original opinion that it lacked "the power to move down that road [of nullification] without first having an eligible debtor to legitimize the involuntary bankruptcy." In its opinion denying the reconsideration motion, the court stated that "the Petitioning Creditors blur the distinct differences between whether a lawsuit can be brought to nullify a Delaware company's cancelation in federal district court and/or bankruptcy court outside of Delaware (clearly it can be) with the only issue in play now, that is a Delaware company's eligibility to be an involuntary debtor in bankruptcy." *In re Deltech Monomers Opco, LLC*, Case No. 3:26-bk-10182, Doc. 113 (M.D. La. June 17, 2026) 2026 Bankr. LEXIS 1542, 2026 WL 1755279.

The court rejected the petitioning creditors' argument that it could "ignore the Assignee's well-founded affirmative defense, that Deltech is ineligible to be an involuntary debtor, [and] proceed with a substantive hearing on whether Deltech's Certificate of Cancellation can be nullified by this court in order to create an eligible debtor and a viable bankruptcy case." Accordingly, the petitioning creditors' attempt for a second bite at the apple was denied and the involuntary bankruptcy case remained dismissed.

RELATED INDUSTRIES + PRACTICES

- Bankruptcy + Restructuring