Environmental Liability/Corporate Structure: Federal Bankruptcy Court Addresses Derivative Standing to Pierce Corporate Veil

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The United States Bankruptcy Court for the Eastern District of Louisiana ("Court") recently addressed issues arising under Louisiana environmental protection laws and federal bankruptcy law involving an unpermitted landfill creating ongoing environmental contamination. *See In re Tidewater Landfill LLC*, No. 20-11646, 2025 WL 2013686 (Bankr. E.D. La. July 16, 2025).

The Louisiana Department of Environmental Quality ("LDEQ") sought derivative standing to pursue alter-ego and single-business-enterprise claims against certain defendants on behalf of bankrupt landfill operators Tidewater Landfill LLC ("Tidewater") and Environmental Operators, LLC ("Environmental Operators").

LDEQ originally filed suit in Louisiana state court seeking to close an unpermitted landfill operated by Tidewater and Environmental Operators on property owned by The Louisiana Fruit Company. The landfill was alleged to be causing ongoing environmental harm through leachate migration onto public lands and waterways. This was alleged to violate Louisiana solid waste laws and regulations.

The landfill operators filed for Chapter 7 bankruptcy protection subsequent to the filing of the enforcement action. The bankruptcy trustees initially declared that no assets were available for distribution to creditors. However, the trustees later discovered that the estates held insurance policies that could potentially provide LDEQ and other creditors then filed multimillion-dollar claims.

LDEQ subsequently amended its Petition to add Paul Guidry, Kevin Guidry, and multiple LLCs that they controlled as defendants. State-law single-business-enterprise and alter-ego claims were alleged. The added defendants included Industrial Management Group LLC, AGPG LLC, Waste Disposal Services of South Louisiana LLC, Gulf Coast Water & Beverage LLC, Industrial Services Group LLC, Personnel Providers LLC, Diesel Maintenance LLC, and Pintail Equipment Rental LLC (collectively, the "Guidry Defendants").

The Guidry Defendants moved to dismiss. They argued that the claims belonged to the bankruptcy estates, and LDEQ lacked derivative standing to assert them.

Corporate Structure Allegations

LDEQ's Petition detailed allegations it argued supported piercing the corporate veil of the Guidry-controlled entities. The Court noted LDEQ's allegations that:

…Based on the paltry discovery received thus far, and the filings with the Louisiana Secretary of State, and the administrative filings on record with LDEQ, Kevin Guidry and Paul Guidry ("The Guidrys") are both the owners and the managers of [Tidewater and Envtl. Operators]. Additionally, the Guidrys are the owners and managers of the Industrial Management Group, LLC; AGPG, LLC, Waste Disposal Services of South West Louisiana, LLC; Gulf Costs Water and Beverage, LLC; Industrial Services Group, LLC; Personnel Providers, LLC; and Pintail Equipment Rental, LLC and Diesel Maintenance, LLC.

The Petition alleged that , despite Tidewater having no bank account and no employees, it was permitted to operate the facility for over a decade. LDEQ further alleged that equipment and employees used to operate the facility came from the other Guidry-controlled entities, concluding that:

…When the totality of the circumstances are taken into account, it is exceedingly reasonable to conclude that this array of LLCs were run as a single business enterprise.

Modified Standard for Derivative Standing

The Court applied a modified standard when the bankruptcy trustee consents to derivative standing. As the Court explained:

…In consent to derivative standing cases, according to the Eighth Circuit, the question of whether the trustee has unjustifiably refused to initiate suit is replaced by the question whether the claims are 'colorable.'

The Court found that the trustee's consent was significant:

...In filing the Motion jointly with LDEQ, the Trustee unequivocally consents to LDEQ's derivative standing to assert the state law single-business-enterprise and alter-ego claims against the Guidry Defendants.

Court's Analysis

The Court concluded that LDEQ's claims were "colorable" under the standard applicable to motions to dismiss. Taking the allegations as true, the Court found that LDEQ had sufficiently pleaded single-business-enterprise and alter-ego theories under Louisiana law.

More significantly, the Court emphasized the public policy considerations supporting LDEQ's prosecution of the claims:

…Of serious concern to the Court are LDEQ's allegations in its Petition and in open court that, if true, implicates others' complicity and liability with the Debtors in causing and failing to remediate significant environmental harm. Allowing LDEQ, an entity charged with enforcing environmental statutes intended to protect the public from the effects of hazardous waste and pollution, to prosecute and liquidate these its claims along side the estates' claims is not only necessary and beneficial to the fair and efficient resolution of the bankruptcy proceedings and in the best interests of the estates, but is also in the best interests of the public and public policy.

The Court also noted practical considerations supporting derivative standing. This included the fact that the estate lacked funding to pursue the claims. Therefore. LDEQ's prosecution would serve to increase recovery for all creditors at no cost to the estate.

Retroactive Grant of Standing

Although LDEQ filed its amended Petition before seeking court approval, the Court granted derivative standing retroactively to the filing date. The Court noted that no per se rule bars filing estate claims without prior permission, and that automatic dismissal would "waste time and resources only to wind up in the same procedural posture."

The Court granted LDEQ's motion for derivative standing and denied the Guidry Defendants' motion to dismiss. It allowed the environmental enforcement action to proceed against the individual defendants and their network of related entities.

This decision illustrates how courts may facilitate environmental enforcement even in the bankruptcy context when public health concerns are at stake, particularly where complex corporate structures may have been used to avoid environmental liability.

A copy of the decision can be downloaded here.