

COURT OF CHANCERY OF THE STATE OF DELAWARE

PXP Producing Company LLC v. MitEnergy Upstream LLC

C.A. No. 2024-0668-MTZ (Del. Ch. June 23, 2026) · No. C.A. No. 2024-0668-MTZ · Decided June 23, 2026

SUMMARY

The Delaware Court of Chancery grants an intervenor’s motion for judgment on the pleadings and denies PXP Producing Company LLC’s cross-motion in a dispute concerning the cancellation and dissolution of MitEnergy Upstream LLC. The court holds that the intervenor preserved its failure-to-state-a-claim defense in its answer and could assert it through a Rule 12(c) motion. The court declines to consider unpled factual assertions concerning the company’s cash and dissolution timing and concludes that the pleadings do not establish a violation of 6 Del. C. § 18-804.

CASE DETAILS

COURT	Court of Chancery of the State of Delaware
WRITING FOR THE COURT	Morgan T. Zurn
JURISDICTION	Delaware Court of Chancery
DECIDED	June 23, 2026
DOCKET	C.A. No. 2024-0668-MTZ
DISPOSITION	other
PROCEDURAL POSTURE	Cross-motions for judgment on the pleadings under Court of Chancery Rule 12(c) concerning a claim seeking nullification of a limited liability company's cancellation and appointment of a receiver.
STANDARD OF REVIEW	On a Rule 12(c) motion, the court considers well-pleaded facts in the operative pleadings and views those facts and reasonable inferences in the light most favorable to the nonmoving party. The court may consider documents integral to the pleadings and facts subject to judicial notice, but may exclude matters outside the pleadings or convert the motion to summary judgment under Rule 12(d).
PRECEDENTIAL VALUE	published
PARTIES	PXP Producing Company LLC v. MitEnergy Upstream LLC, MEPUS Holdings LLC, intervenor

TOPICS

motion for judgment on the pleadings

pleadings

civil procedure

dissolution

limited liability companies

PRACTICE AREAS

civil procedure

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QUESTIONS PRESENTED

1. Whether MEPUS could bring a Rule 12(c) motion asserting failure to state a claim after previously moving under Rule 12(b)(6), where it preserved that defense in its answer.
2. Whether the court could consider PXP's unpleaded assertions regarding the timing of dissolution, cash on hand, and distributions in deciding the Rule 12(c) motion.
3. Whether PXP's pleaded allegations established a violation of 6 Del. C. § 18-804 warranting nullification of MitEnergy's cancellation.

HOLDINGS

1. A party that preserves the failure-to-state-a-claim defense in an answer may later assert that defense through a Rule 12(c) motion, even if the defense was available when the party made an earlier Rule 12(b)(6) motion.
2. The court may exclude unpleaded assertions and related factual disputes rather than convert a Rule 12(c) motion into a summary-judgment proceeding.
3. PXP failed to plead a violation of § 18-804, so its claim seeking nullification of MitEnergy's cancellation could not proceed.

KEY QUOTATIONS

“I read Rule 12(h)(3) to permit, but not require, a motion to dismiss for failure to state a claim before an answer; and to provide that if a defendant includes the defense of failure to state a claim in its answer, the defendant has preserved that defense.” (at 4-5)

“In effect, if a defendant moves to dismiss, that motion is denied, and the defendant then answers the complaint and includes a defense of failure to state a claim, the defendant may file a Rule 12(c) motion on that defense.” (at 5)

“It would be unfair to give Petitioner a third bite at the apple.” (at 9)

FACTUAL BACKGROUND

PXP alleged that MitEnergy Upstream LLC was cancelled after dissolution without making adequate provision for known decommissioning obligations. PXP relied in part on assertions that the company had \$2.58 million on hand in 2018 and made a \$580,000 distribution in 2019, but those assertions were not pleaded in the operative complaint. The court also noted a factual dispute concerning whether the company reasonably believed that its decommissioning obligations would be handled by a buyer's buyer.

PROCEDURAL HISTORY

PXP brought claims alleging that MitEnergy violated 6 Del. C. § 18-804 by dissolving without making provision for known decommissioning obligations and seeking appointment of a receiver under § 18-805. The court previously denied a timeliness-based motion to dismiss but dismissed the receiver claim for failure to state a claim, holding that PXP had not adequately pleaded a § 18-804 violation. After PXP answered, MEPUS moved for judgment on the pleadings on the remaining nullification claim, and PXP cross-moved for judgment in its favor. The court granted MEPUS's motion and denied PXP's cross-motion.

DISPOSITION

other

CASES CITED

- PXP Producing Co. LLC v. MitEnergy Upstream LLC, 342 A.3d 402 (Del. Ch. 2025)
- Germaninvestments AG v. Allomet Corp., 2020 WL 6870459 (Del. Ch. Nov. 20, 2020)
- Council of Civic Orgs. of Brandywine Hundred, Inc. v. New Castle Cty., 1991 WL 279374 (Del. Ch. Dec. 26, 1991)
- Lewis v. Straetz, 1986 WL 2252 (Del. Ch. Feb. 12, 1986)
- Mack v. Rev Worldwide, Inc., 2020 WL 7774604 (Del. Ch. Dec. 30, 2020)
- Plummer v. Sherman, 861 A.2d 1238, 1243 (Del. 2004)
- Jones v. Peek, 2009 WL 3334913 (Del. Super. Oct. 14, 2009)
- Tuckman v. Aerosonic Corp., 394 A.2d 226, 232 (Del. Ch. 1978)
- Myers v. Am. Dental Ass'n, 695 F.2d 716, 720-21 (3d Cir. 1982)
- BAE Sys. N. Am. Inc. v. Lockheed Martin Corp., 2004 WL 1739522 (Del. Ch. Aug. 3, 2004)
- Bakotic v. Bako Pathology LP, 2018 WL 6601172 (Del. Super. Dec. 10, 2018)
- ITG Brands, LLC v. Reynolds Am., Inc., 2017 WL 5903355 (Del. Ch. Nov. 30, 2017)
- Johnson v. Student Funding Grp, LLC, 2015 WL 351979 (Del. Super. Jan. 26, 2015)