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Potential Liability of Nonpetitioners Under 11 U.S.C. § 303



Unsecured creditors may petition the court to initiate a bankruptcy case against a debtor under chapter 7 or 11 through the filing of an involuntary bankruptcy petition. There are three main requirements under § 303 for commencing an involuntary bankruptcy: (1) There must be three or more petitioning creditors; (2) each petitioning creditor must hold a claim against the debtor that is neither contingent as to liability nor the subject of a bona fide dispute as to liability or amount; and (3) the petitioners' claims must aggregate at least \$18,600 more than any liens they hold against the debtor's property. Assuming that the petition satisfies these three requirements, the petitioning creditors still must show that the "debtor is generally not paying such debtor's debts as such debts become due," which can be a fact-intensive issue.

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