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May 20, 2023

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RE: ***In re AMC Entertainment Holdings, Inc. Stockholder Litigation,***  
Consol. Civil Action No. 2023-0215-MTZ

Dear Counsel and Interested Parties:

Yesterday, Special Master Amato filed her report and recommendation regarding class member access to the discovery record (the "Report").<sup>1</sup> The Report read Delaware law to afford class members considering settlement terms access to the discovery record, unconditioned by any gating analysis; read the pending requests to be aimed at access to the record to determine whether to object or to support a full and fair objection; and concluded the movants should have access to

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<sup>1</sup> Docket Item ("D.I.") 307.

the discovery record. The Report acknowledged the parties' confidentiality concerns, and recommended adopting a more restrictive confidentiality order and requiring stockholders seeking access to sign a confidentiality agreement and provide proof of beneficial ownership. The Special Master deferred the mechanics of inspection to the exceptions process.

In view of the May 31, 2023, objection deadline, I imposed an expedited exceptions deadline.<sup>2</sup> Neither the movants nor the parties took timely exception to the Report, so no teleconference was held to adjudicate exceptions. Mr. Kittila entered his appearance on behalf of a purported AMC stockholder to take issue with the terms of the confidentiality agreement the parties and Special Master have offered, and the concept of an in-person inspection.

I write to chart a path forward. I agree with the Report's reading of Delaware law and its application to the pending requests: subject to some measures designed to protect confidentiality, the parties must make the discovery record available to the movants.<sup>3</sup> In the interests of time and clarity, I will not repeat the Report's analysis here: I have reviewed it de novo and adopt it. I also adopt the Report's suggested requirement and procedure for objectors to submit proof of beneficial ownership as a condition of accessing the discovery record.

Before diving into the details, I pause on the Special Master's observation that the parties filed the exhibits to their settlement briefs confidentially, contrary to my instructions.<sup>4</sup> Public versions of those exhibits must be filed and posted today. More fundamentally, I insist that counsel and AMC update their websites

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<sup>2</sup> D.I. 308.

<sup>3</sup> I also agree with the Report's recitation that the parties insisted on an expedited settlement schedule, yet did not respond to any of the requests for access to the discovery record or contact the Court, thereby contributing to leaving class members "in limbo without access to the discovery record" until the Special Master noticed and took up the issue. D.I. 307 at 1–2; *id.* at 1 n.5. This passivity also contributed to the need to expedite the exceptions period and the tight deadlines this letter imposes. The Court is grateful to the Special Master for her diligence.

<sup>4</sup> *Id.* at 8 n.25.

today to post the materials promised in paragraph 72 of the notice sent to stockholders.<sup>5</sup>

From there, I adopt the amended confidentiality order, subject to the email address alteration pointed out in footnote 28 of the Report.<sup>6</sup> I also adopt the requirement that objectors sign a confidentiality agreement. Mr. Kittila points out that the terms of this agreement are more stringent than in previous cases allowing objectors access to discovery. But this case is unprecedented in many ways, including, as far as I can tell, the provision of the discovery file to multiple unrepresented individual stockholders. More stringent protections are warranted.<sup>7</sup> Finally, the Court adopts the requirement that the movants provide proof of beneficial ownership. Counsel for plaintiffs shall work with the movants to facilitate submitting an executed confidentiality agreement and proof of beneficial ownership, and make Special Master Amato promptly aware of any issues.

Finally, I offer my thoughts on the mechanics of inspection. Defendants requested in-person inspection; Mr. Kittila seeks electronic inspection. In these unprecedented circumstances, in order to protect the confidentiality of the documents, I believe in-person stockholder inspection is necessary and can be adequate. The stockholder must be able to access the materials promptly, starting on Monday, May 22, 2023, at 9:00 a.m. ET. The parties must provide a terminal offering access to the documents as stored on Relativity or a similar platform within 100 miles of the address on the movant's request. The stockholder must be able to access the materials freely during business hours. The stockholder must be able to take notes. Certain conditions may be warranted, such as requiring the stockholder to make an appointment; requiring the stockholder to be supervised; requiring the stockholder to leave all personal electronic devices outside of the room with the terminal; precluding, limiting, or redacting printing; and reserving the right to shut off access if the stockholder behaves inappropriately. Counsel

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<sup>5</sup> D.I. 185, Notice of Pendency of Stockholder Class Action and Proposed Settlement Hearing, and Right to Appear ¶ 72.

<sup>6</sup> D.I. 307 at 9 n.28.

<sup>7</sup> E.g., *Steinhardt v. Howard-Anderson*, 2012 WL 29340, at \*8-11 (Del. Ch. Jan. 6, 2012) (citing *In re Netsmart Techs., Inc. S'holders Litig.*, Consol. C.A. No. 2563-VCS (Del. Ch. July 16, 2007) (ORDER), and *Sample v. Morgan*, C.A. No. 1214-VCS, at 8 (Del. Ch. May 14, 2008) (TRANSCRIPT)).

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must work with the movants over the weekend to facilitate execution of the confidentiality agreement, submission of proof of ownership, and provision of access.

The retention of counsel, and in particular Delaware counsel, provides significant confidentiality protections. If a stockholder retains Delaware counsel, as Ms. Izzo has, Delaware counsel may inspect the documents electronically. I will leave it to counsel to negotiate those mechanics.

I expect prompt compliance and transparent communication.

Sincerely,

*/s/ Morgan T. Zurn*

Vice Chancellor

MTZ/ms

cc: All Counsel of Record, via *File & ServeXpress*