



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE AMC ENTERTAINMENT)
HOLDINGS, INC. STOCKHOLDER) Consol. C.A. No. 2023-0215-MTZ
LITIGATION)

**REPORT AND RECOMMENDATION OF SPECIAL MASTER
REGARDING A. MATHEW'S MOTION TO INTERVENE**

PRICKETT, JONES & ELLIOTT, P.A.
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Special Master

Dated: May 15, 2023

PRELIMINARY STATEMENT

The Court has issued two opinions in this matter, and I have issued a report and recommendation.¹ I incorporate the factual recitation from my prior report herein and presume familiarity with the general nature of this dispute.

BACKGROUND

On April 25, 2023, A. Mathew (“Mr. Mathew”) filed a motion to intervene pursuant to Court of Chancery Rule 24 (“Motion to Intervene”).²

On April 27, 2023, the parties filed a Stipulation and Agreement of Compromise, Settlement, and Release (“Stipulation”).³ The following day, the Court asked the parties to advise as to their position on how entering into the Stipulation and entry of the agreed-upon stay of further litigation applied to pending motions to intervene.⁴ The parties responded, on May 3, 2023, proposing that any motions to intervene pending prior to entry of the Scheduling Order With Respect to Notice and Settlement Hearing (the “Scheduling Order”)⁵ be resolved notwithstanding the stay.⁶

¹ Trans. ID 69924744.

² Trans. ID 69887700.

³ Trans. ID 69906464.

⁴ Trans. ID 69917463.

⁵ Trans. ID 69929995.

⁶ Trans. ID 69948706.

Also, on May 3, 2023, plaintiffs filed their Opposition to Proposed Intervenor A. Mathew's Motion to Intervene (the "Opposition")⁷ and Mr. Mathew filed his Response to Opposition to Proposed Intervenor A. Mathew's Motion to Intervene (the "Response").⁸

According to his Motion to Intervene and Response, Mr. Mathew claims an interest in this litigation because (i) he will be affected by the proposed settlement, which he does not believe is in the best interests of AMC Entertainment Holdings, Inc. ("AMC") stockholders, (ii) he wants to present additional evidence of wrongdoing by defendants, and (iii) AMC stockholders may have differing priorities or interests in settling this litigation.⁹

A settlement hearing is scheduled to occur on June 29-30, 2023 (the "Settlement Hearing").¹⁰ At or after the Settlement Hearing, the Court will, among other things:

determine whether to finally certify the Settlement Class for settlement purposes only, pursuant to Court of Chancery Rules 23(a), 23(b)(1), and 23(b)(2);

determine whether Plaintiffs and Class Counsel have adequately represented the Settlement Class, and whether Plaintiffs should be finally appointed as representatives for the Settlement Class and Class

⁷ Trans. ID 69948416.

⁸ Trans. ID 69949003.

⁹ See generally Motion to Intervene ¶¶ 2-4, 7, 10; Response ¶¶ 3, 7-9.

¹⁰ See Scheduling Order ¶ 6.

Counsel should be finally appointed as counsel for the Settlement Class;

determine whether the proposed Settlement should be approved as fair, reasonable, and adequate to the Settlement Class and in the best interests of the Settlement Class;

determine whether the Action should be dismissed with prejudice and the Releases provided under the Stipulation should be granted[.]¹¹

* * *

The Court appointed me as a Special Master in this action, which charge includes making recommendations on motions to intervene.¹² I have reviewed the Motion to Intervene, the Opposition, the Response, and the parties' May 3, 2023 correspondence. I recommend that the Court deny the Motion to Intervene.

ANALYSIS AND RECOMMENDATION

Mr. Mathew seeks to intervene pursuant to Court of Chancery Rules 24(a) and (b).¹³ Rule 24(a) provides:

Intervention of right. Upon timely application anyone shall be permitted to intervene in an action: (1) When a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

¹¹ *Id.*

¹² *See* Order Appointing Special Master ¶ 1 (Trans. ID 69885808).

¹³ Response ¶ 6. Mr. Mathew does not assert that he has a statutory right to intervene.

Rule 24(b) provides:

Permissive intervention. Upon timely application anyone may be permitted to intervene in an action: (1) When a statute confers a conditional right to intervene; or (2) when an applicant’s claim or defense and the main action have a question of law or fact in common. In exercising its discretion the Court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

Rule 24(c) provides further that motions to intervene must be accompanied by a “pleading setting forth the claim or defense for which intervention is sought.”¹⁴

A. Mr. Mathew Did Not Comply with Rule 24(c)

Mr. Mathew did not serve the requisite pleading under Rule 24(c). This “requirement is not merely a procedural formality. Rather, it provides a basis on which the Court may assess the request to intervene.”¹⁵ This deficiency alone provides a basis to deny the Motion to Intervene, particularly here, where Mr. Mathew’s stated concerns address the fairness of the settlement, rather than the prosecution of additional claims.

¹⁴ Ct. Ch. R. 24(c) (“A person desiring to intervene shall serve a motion to intervene . . . [which] *shall* be accompanied by a pleading setting forth the claim or defense for which intervention is sought.”) (emphasis added).

¹⁵ *Southpaw Credit Opportunity Master Fund LP v. Advanced Battery Techs., Inc.*, 2015 WL 915486, at *12 (Del. Ch. Feb. 26, 2015) (Master’s Report).

B. Mr. Mathew Did Not Satisfy Rules 24(a) or (b)

Mr. Mathew fails to satisfy Rules 24(a) and (b). His stated concerns address the fairness of the settlement, not the prosecution of additional claims. He seeks, among other things, to submit evidence as to the fairness, reasonableness, and adequacy of the proposed settlement and opt out of the settlement.¹⁶ The Court will address these issues at or after the Settlement Hearing.¹⁷ Accordingly, the upcoming Settlement Hearing is a more appropriate forum for Mr. Mathew to voice his concerns.

Mr. Mathew will not be unduly prejudiced if his Motion to Intervene is denied.¹⁸ He may serve a formal, written objection to the terms of the settlement in advance of the Settlement Hearing.¹⁹ If Mr. Mathew serves a written objection to the settlement, he may submit evidence in support of his objection, and no claims will be released unless and until the Court approves the settlement. Thus, the more

¹⁶ See Response ¶ 9 (Mr. Mathew is seeking to intervene to present “new evidence [that] may change the landscape of the case and potentially impact the settlement terms”); Motion to Intervene ¶¶ 7, 12.

¹⁷ See *In re Activision Blizzard, Inc. Stockholder Litig.*, 124 A.3d 1025, 1042-43 (Del. Ch. 2015).

¹⁸ Permitting Mr. Mathew to intervene might delay adjudication of the settlement, unduly prejudicing the parties’ interests in resolving the litigation.

¹⁹ Scheduling Order ¶ 16. In any objection, Mr. Mathew may also request to opt out of the settlement, which is an issue the Court will address in determining whether or not to approve the settlement.

efficient approach is to deny the Motion to Intervene and for Mr. Mathew to serve an objection to the settlement, if he so chooses.²⁰

CONCLUSION

For the reasons set forth herein, I recommend that the Court DENY the Motion to Intervene.

Dated: May 15, 2023

PRICKETT, JONES & ELLIOTT, P.A.

/s/ Corinne Elise Amato

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Special Master

²⁰ See *In re TD Banknorth*, 938 A.2d 654, 662 (Del. Ch. 2007) (noting the “orderly procedure of requiring an intervenor to voice its concerns at the settlement hearing”); see also *In re Home Shopping Network, Inc. S’holder Litig.*, 1994 WL 560801, at *1 (Del. Ch. Oct. 4, 1994) (denying a motion to intervene until the settlement hearing).

CERTIFICATE OF SERVICE

I, Corinne Elise Amato, certify on this 15th day of May, 2023, that I caused a copy of the foregoing *Report and Recommendation of Special Master Regarding A. Mathew's Motion to Intervene* to be served via File & ServeXpress on the following counsel of record:

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I further certify that, on May 15, 2023, I caused a true and correct copy of the *Report and Recommendation of Special Master Regarding A. Mathew's Motion to Intervene* to be served via email upon the following Pro Se party:

Via Email by File and ServeExpress:
A. Mathew
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/s/ Corinne Elise Amato
Corinne Elise Amato (#4982)