

Jianlin (“Wang”); Silver Lake Group, L.L.C.; Silver Lake Alpine, L.P.;² Adam Aron (“Aron”), Howard W. Koch, Jr. (“Koch”), Gary Locke (“Locke”), and Anthony Saich (“Saich”).³

Plaintiff brings suit individually and on behalf of a class of similarly situated stockholders and also derivatively on behalf of Nominal Defendant AMC Entertainment Holdings, Inc. (“AMC” or the “Company”). Plaintiff asserts claims against the Wanda Entities, Wang, and the Director Defendants for breaches of fiduciary duty and against the Silver Lake Entities for aiding-and-abetting those breaches of fiduciary duty.

NATURE OF THE ACTION

1. This action arises from a conflicted three-part transaction involving AMC, the Company’s majority stockholder (Wanda), and Silver Lake. On September 14, 2018, the Company announced three linked transactions (collectively, the “Transactions”):

- a. *The Convertible Notes Issuance.* AMC entered into an agreement with Silver Lake to issue and sell to Silver Lake \$600 million senior unsecured convertible notes due 2024, bearing interest at 2.95% and convertible into AMC Class A common shares at \$20.50 per share, before giving effect to the Special Dividend described below (the “Convertible Notes,” and the “Convertible Notes Issuance”). After giving effect to the Special Dividend, the

² Silver Lake Group, L.L.C. and Silver Lake Alpine, L.P. are, collectively, “Silver Lake” or the “Silver Lake Entities.”

³ Aron, Koch, Saich, and Locke are, collectively, the “Director Defendants.”

effective conversion price for the Convertible Notes was \$18.95 per share.

The Convertible Notes include a provision (the “Reset Provision”), providing that if the then-applicable conversion price⁴ is greater than 120% of the average of the volume-weighted average price (“VWAP”) of AMC’s common stock for the ten days prior to the second anniversary of issuance (the “Reset Conversion Price”), the conversion price for the Convertible Notes would be adjusted downward to such Reset Conversion Price.⁵

Wanda ratified the necessary share issuances by written consent.

- b. *The Wanda Share Repurchase.* The Company used \$421 million of the cash raised by the Convertible Notes Issuance to buy more than 24 million AMC Class B common shares held by Wanda at a price of \$17.50 per share—reducing Wanda’s economic ownership of AMC to 50.01% (with Wanda still retaining majority voting control) (the “Wanda Share Repurchase”).
- c. *The Special Dividend.* The Company used an additional \$160 million of the cash raised by the Convertible Notes Issuance to pay a \$1.55 per share special dividend on September 28, 2018 to all AMC Class A Common and Class B Common shareholders of record as of September 25, 2018 (the “Special Dividend”).

⁴ *i.e.*, The conversion price after standard anti-dilution adjustments.

⁵ This Reset Provision is subject to a floor such that the shares of AMC’s common stock issuable upon conversion would not exceed 30% of the Company’s then outstanding fully-diluted share capital.

A trigger of the Reset Provision would result in certain shares of the Class B Common Stock held by Wanda and its affiliates becoming subject to forfeiture and cancellation by the Company.

Additionally, the conversion rate will be adjusted if any cash dividend or distribution is made to all or substantially all holders of the Company’s common stock (other than the Special Dividend and a regular, quarterly cash dividend that does not exceed \$0.20 per share until the second anniversary of issuance and \$0.10 per share thereafter).

2. The Transactions were not driven by the needs of the Company or its public stockholders. Rather, they were designed to solve a problem for AMC's controller, Wanda, and Wanda's controller, Wang. Starting in the spring of 2017, Chinese regulators began a crackdown on highly leveraged Chinese companies, including Wanda. Responding to the regulatory shift required Wanda to significantly reduce its outstanding debt. Wanda also [REDACTED]

[REDACTED]

3. In short, Wanda needed cash—quickly—and hoped to raise that cash through a sale of some of its equity stake in AMC. But if Wanda had simply sold its shares in the open market, [REDACTED]

[REDACTED]

[REDACTED]⁶ Instead, through the Wanda Share Repurchase, Wanda was able to sell over 24 million shares for \$17.50 per share, which represented a slight *premium*

⁶ In response to a pre-litigation books-and-records demand, AMC produced board minutes, banker books and director-independence questionnaires.

to the Company's unaffected 30-day volume-weighted average price ("VWAP"), as of September 4, 2018,⁷ which was \$17.41 per share.

4. Because of Wanda and Wang's non-ratable interest, the Transactions were subject to the entire fairness standard. Yet neither the process nor the price were entirely fair.

5. **The Process Was Unfair.** Despite the obvious conflicts inherent in this related-party transaction, the Company's Board of Directors (the "Board") failed to impose appropriate safeguards to protect the interests of Plaintiff and other public stockholders.

6. *First*, the Company's public stockholders were not asked to—and did not—vote to approve the Transactions; as the majority stockholder, Wanda simply gave written consent for the necessary share issuances. Because Defendants “deviat[ed] from the detailed road map laid out by the court [in *MFW*], ... the path to pleadings-stage deference ... closed and the default standard of review, entire fairness, will govern any motion to dismiss the complaint.”⁸

⁷ On September 5, 2018, Reuters reported on the talks between Wanda, Silver Lake, and AMC.

⁸ *In re Martha Stewart Living Omnimedia, Inc. S'holder Litig.*, 2017 WL 3568089, at *1 (Del. Ch. Aug. 18, 2017).

[REDACTED]

9. *Fourth*, the Special Committee’s independence was compromised because one of its three members was Anthony Saich, a professor at Harvard University’s Kennedy School, who depends on director fees from AMC for more than half his annual income. According to a former Kennedy School employee, Saich was so eager to be selected by Wanda for the AMC director role that he agreed to pay the former employee a finder’s fee and enter into a romantic relationship with her in exchange for the former employee’s assistance in influencing the decisionmakers at Wanda. That former employee has now sued Saich for breach of their agreement and Saich is, presumably, dependent on Wanda to either appear at

(“Our common law of corporations has rightly emphasized the need for independent directors to be willing to say no to interested transactions proposed by controlling stockholders.”) (collecting cases).

trial to give favorable testimony or decline to appear to avoid giving unfavorable testimony.

10. **The Price Was Unfair.** The unfair process resulted in an unfair price.

11. *First*, as noted above, the \$17.50 price of the Wanda Share Repurchase represented a premium to the Company's unaffected 30-day VWAP, even though

[REDACTED]

12. *Second*, the terms of the Convertible Notes Issuance were highly favorable to Silver Lake (and unfavorable to the Company and its public stockholders). The effective conversion price of \$18.95¹⁰ represented a discount to AMC's last unaffected trading price (\$19.25 on September 4, 2018) and a premium of less than 9% to AMC's 30-day VWAP. [REDACTED]

[REDACTED]

13. *Third*, the Special Committee's advisor, Moelis, [REDACTED]

¹⁰ *i.e.*, the conversion price after giving effect to the Special Dividend.

¹¹ A "PIPE" transaction is a private investment in public equity.

██████████.

14. The market's reaction confirms the unfairness of the Transactions' terms. On September 5, 2018, AMC shares fell 3% after Reuters reported that "Wanda is exploring a deal in which AMC would borrow hundreds of millions of dollars through a convertible bond, and then use that money to buy back some of Wanda's 60 percent stake[.]" When the final terms of the Transactions were announced on September 14, 2018, AMC's stock price dropped approximately 1.5% on the news, closing at \$19.80 per share, down from \$20.10 at the close of trading on September 13.

PARTIES

15. Plaintiff Linda Lao is a beneficial owner of AMC common stock and has continuously been a stockholder of the Company since at least March 2017.

16. Defendant Dalian Wanda Group Co., Ltd. (Wanda Parent) is a privately held Chinese company. At all relevant times, Wanda Parent has controlled a majority of the voting power of AMC through shares held by its wholly owned subsidiaries, WAE and WAI.

17. Defendant Wanda America Entertainment, Inc. (WAE) is a Delaware corporation and a wholly owned subsidiary of Wanda Parent. . Wanda Parent created WAE, its Delaware subsidiary, on November 30, 2015, for the purpose of facilitating investments in the United States, including its investment in AMC, a Delaware

corporation, and operated WAE in a manner intended to avail itself of the benefits and protections of the laws of the State of Delaware. The Transactions challenged here are the type of transaction contemplated by Wanda Parent when it created and operated WAE under the benefits and protections of Delaware law. On September 7, 2018, WAI, another wholly owned subsidiary of Wanda Parent, transferred 75,826,927 of AMC's Class B Shares to WAE. On September 14, 2018, WAE sold 24,057,143 Class B Shares to AMC for \$421,000,002.50 pursuant to the terms of the Wanda Share Repurchase.

18. Defendant Wanda America Investment Holding Co. Ltd. (WAI) is a Delaware corporation and a wholly owned subsidiary of Wanda Parent. WAI was formed by Wanda Parent on August 8, 2012 to hold the AMC shares that Wanda acquired through a merger that closed on August 30, 2012. Thereafter, Wanda Parent operated WAI for the purpose of facilitating investments in the United States, including its investment in AMC, a Delaware corporation. The Transactions challenged here are the type of transaction contemplated by Wanda Parent when it created and operated WAI under the benefits and protections of Delaware law. On September 7, 2018, WAI transferred 75,826,927 of AMC's Class B Shares to WAE. On September 14, 2018, WAE sold 24,057,143 Class B Shares to AMC for \$421,000,002.50 pursuant to the terms of the Wanda Share Repurchase.

19. Defendant Wang Jianlin (Wang) is the Chairman of Wanda Parent. Wang is the controlling shareholder of Wanda Parent and, on information and belief, owns a majority of its shares. AMC's Form 10-K filed on March 1, 2019 states "Wanda is controlled by its chairman, Mr. Jianlin Wang [*sic*]." ¹² The same statement appeared in AMC's Form 10-K filed on March 1, 2018. State-owned media outlets in China regularly describe Wanda Parent as being controlled by Wang and when Wanda Parent's subsidiary Dalian Wanda Commercial Properties was publicly listed on the Hong Kong exchange in 2016, it stated that Wang controlled 54% of its shares.

20. Defendant Silver Lake Group, L.L.C. is a Delaware limited liability company.

21. Defendant Silver Lake Alpine, L.P. is a Delaware limited partnership. Its general partner is an entity called Silver Lake Alpine Associates, L.P. In turn, the general partner of Silver Lake Alpine Associates, L.P. is an entity called SLAA (GP), L.L.C. In turn, the managing member of SLAA (GP), L.L.C. is Silver Lake Group, L.L.C.

22. Defendant Adam Aron has been AMC's Chief Executive Officer, President and a director of the Company since January 2016.

¹² In China, the family name comes first followed by the given name. AMC appears to have inverted Wang's names in its public filings.

23. Defendant Howard W. Koch, Jr. has been a director of the Company since October 2014.

24. Defendant Gary Locke has been a director of the Company since February 2016.

25. Defendant Anthony Saich has been a director of the Company since August 2012.

26. Nominal Defendant AMC Entertainment Holdings, Inc. is a Delaware corporation, headquartered in Leawood, Kansas. AMC is the largest theatre operator in the world, with 1,006 theatres and 11,091 screens in 15 countries as of December 31, 2018.

OTHER RELEVANT INDIVIDUALS

27. Mao Jun (John) Zeng has been a director of the Company since February 2016.

28. Lee Wittlinger has been a director of the Company since September 17, 2018.

29. Kathleen Pawlus has been a director of the Company since December 2013.

30. Lloyd Hill has been a director of the Company since December 2013.

FACTUAL ALLEGATIONS

A. Wanda Is AMC's Controlling Stockholder

31. Before the Transactions were announced, Wanda was AMC's controlling stockholder. The Company's annual proxy, filed on April 13, 2018, stated that as of March 12, 2018, AMC had 52,244,412 shares of Class A common stock and 75,826,927 shares of Class B common stock outstanding. Wanda owned all 75,826,927 of the Company's Class B shares, each of which was entitled to three votes. The Class A shares were each entitled to one vote. Thus, as the annual proxy acknowledged, "[b]ecause of the three-to-one voting ratio between [the] Class B and Class A common stock, Wanda control[led] a majority of the combined voting power of [the] Common Stock at the record date and therefore [was] able to control all matters submitted to ... stockholders for approval at the Annual Meeting."

32. Wanda remains AMC's controlling stockholder today. The Company's annual proxy filed on April 2, 2019, stated that as of March 13, 2019, there were 52,073,316 shares of Class A common stock and 51,769,784 shares of Class B common stock outstanding. Wanda owns all of the Class B shares. As the annual proxy acknowledges, "[b]ecause of the three-to-one voting ratio between [the] Class B and Class A common stock, Wanda controls a majority of the combined voting power of [the] Common Stock ... and therefore will be able to control all matters submitted to ... stockholders for approval at the Annual Meeting."

B. Wanda Imposed A Forum Selection Bylaw On The Company

33. On August 30, 2012, Wanda Parent acquired the Company from a group of private equity owners that included Apollo Global Management, Bain Capital, Carlyle Group, CCMP Capital Advisors and Spectrum Equity Investors through a merger of the Company with a wholly owned subsidiary of Wanda Parent. In late 2013, Wanda caused the Company to go public and issue common stock to public investors (the “IPO”). Prior to the IPO, Wanda caused the Company to adopt its Third Amended and Restated Bylaws (the “Bylaws”). Article IX of the Bylaws (the “Forum-Selection Bylaw”) provides that:

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation’s stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or the Certificate of Incorporation or Bylaws, or (iv) any action asserting a claim against the Corporation governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article IX.

34. Wanda consented implicitly to the existence of personal jurisdiction in Delaware in this matter by causing the Company to adopt the Forum-Selection Bylaw. This is a case governed by Delaware law in which the State of Delaware has a substantial interest. As Wanda necessarily recognized when it caused the Company

to adopt the Forum-Selection Bylaw, a case of this nature should be heard in a Delaware Court. That includes the dimension of this case that relates to Wanda's involvement as the self-interested controller.

C. At All Relevant Times, A Majority Of The Board Was Conflicted

35. At the time the Transactions were announced, the Company's Board consisted of seven members: Aron, Locke, Saich, Hill, Koch, Pawlus, and Zeng. Today, the Board consists of eight members: Aron, Locke, Saich, Hill, Koch, Pawlus, Zeng, and Wittlinger. At all relevant times, the Board lacked a majority of disinterested and independent directors.

36. **Zeng** has been President of Wanda Cinema Line Co., Ltd, a subsidiary of Wanda Parent since March 27, 2014, and has served as a member of its Board of Directors since July 30, 2013. Upon information and belief, Zeng derives his principal income from his employment with Wanda and owes fiduciary duties to Wanda.¹³

37. **Aron** has been AMC's Chief Executive Officer and President since January 2016. Upon information and belief, Aron derives his principal income from

¹³ China's Company Law was amended in 2005 to impose a framework of fiduciary duties that resemble common law fiduciary duties. *See* Wang, J. (2017). *Enforcing Fiduciary Duties as Tort Liability in Chinese Courts*. In R. Huang & N. Howson (Eds.), *ENFORCEMENT OF CORPORATE AND SECURITIES LAW: CHINA AND THE WORLD* 185-206 (Cambridge: Cambridge University Press).

his employment with AMC. Aron received approximately \$9.5 million in total compensation in 2018, approximately \$7.5 million in total compensation in 2017, and approximately \$10.9 million in total compensation in 2016.

38. According to a questionnaire that **Koch** completed on January 22, 2019,

[REDACTED]

[REDACTED]

[REDACTED]. According to an October 4, 2017 story

in the Wall Street Journal, Koch is “drawing a salary of between \$300,000 and

\$500,000 a year—to promote Wanda Studios in Hollywood, according to people

familiar with the matter.” [REDACTED]

[REDACTED].¹⁴

39. According to a questionnaire that **Locke** completed on January 22, 2019, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED].

¹⁴ NASDAQ Stock Market Rule 5605(a)(2)(B) provides that the receipt of \$120,000 or more in consulting fees in the previous year prevents a director from being considered independent. NYSE Corporate Governance Rule 303A.02(b)(ii) says the same thing.

40. **Saich** is a professor at the John F. Kennedy School of Government at Harvard University. In 2018, Saich’s total compensation for serving as a director of AMC was \$279,681.¹⁵ According to an April 10, 2013 story in the Harvard Crimson, the average salary for a full professor in 2012 was \$198,400.

41. On September 27, 2016, a former Kennedy School employee filed a lawsuit against Saich¹⁶ which included a statement of facts stating that Saich—who is married to someone else—agreed to pay the former employee “50% of all his future income from Wanda/AMC as well as a relationship¹⁷ if [she] could successfully help him gain the board position [at] AMC.” By entering into this agreement with a subordinate employee, Saich put his job (and, presumably, his marriage) at risk. The former employee states that Saich viewed the AMC directorship as a “very lucrative position both financially and for personal

¹⁵ Saich does not serve as a director or officer of any other for-profit companies. He is an unpaid director of two non-profit entities.

¹⁶ *Yang v. Saich*, No. 16-2787 (Middlesex Superior Court, Massachusetts). A copy of the complaint is attached as Exhibit A and incorporated by reference as though fully alleged herein.

¹⁷ The reference to a “relationship” is, plainly, a reference to romantic and/or sexual relationship based on the former employee’s subsequent statement that “[i]n December 2012, [she] found out that [Saich] actually had been deceiving [her] in those months and in past years, maintaining multiple sex relationships with numerous women in both US and overseas for many years. When [she] challenged him about [this] deceiving act ... in December 2012 and January 2013, [Saich became] upset, and said that he [would] only pay [her] 50% for the first year, and 20% for the subsequent years. [She] did not agree.”

recognition,”¹⁸ and that Saich’s “lack of business background was a weakness and challenge compared with other candidates,” meaning the former employee “had to work very hard to convince the decision makers” at Wanda. She states that “multiple Harvard professors as well as some other business leaders were on the list of candidates” and she had to “use all [her] skills and capacity to polish [Saich’s] qualifications ... to convince the Chinese decision makers that he [was] a better candidate than the other more distinguished faculty members.”

42. According to the complaint, Saich paid the former Kennedy School employee “\$30,000 for the AMC/Wanda matter in March 2013, but has defaulted on payment ever since then.” The plaintiff’s breach of contract claim survived Saich’s motion to dismiss.¹⁹

43. **Wittlinger** is a managing director of Silver Lake which he joined in 2007. Upon information and belief, Wittlinger derives his principal income from his employment with Silver Lake and owes fiduciary duties to Silver Lake.

¹⁸ In a pleading filed in a related action against Saich and others, *Yang v. Mauzy, et al.*, No. 15-6668 (Middlesex Superior Court, Massachusetts), the former employee states that “Saich is enjoying an earning of over half a million annual income since 2013, half of which were purely due to Plaintiff’s help” (*i.e.*, the income earned from his directorship at AMC). A copy of that pleading is attached as Exhibit B and incorporated by reference as though fully alleged herein.

¹⁹ Saich’s deadline to move for summary judgment was March 15, 2019. As of April 2, 2019, no motion for summary judgment appeared on the docket. The final pre-trial conference is scheduled for May 15, 2019.

D. Wanda Needed To Deleverage

44. Wanda is China's largest private property developer. In recent years, it has been forced into an aggressive deleveraging campaign.

45. In June 2017, a senior official of the China Banking Regulatory Commission issued a statement warning that some of China's largest companies may pose a "systemic risk" to China's banks. In response to this news, shares of Dalian Wanda's publicly listed unit, Wanda Film Holdings, fell 10% triggering a suspension of trading. According to a report by Bloomberg, the China Banking Regulatory Commission asked some banks to provide information on loans made to Wanda.

46. In July 2017, the New York Times published a story, headlined "China's Wanda Signals Retreat in Debt-Fueled Acquisition Binge," reporting on a transaction in which Wanda agreed to sell 76 hotels and "a major chunk of 13 tourism projects" to Sunac China in a \$9.3 billion deal. The Times wrote that Wanda "appears to be caught in a political and financial downdraft that has hit many big Chinese deal makers" and noted that Standard & Poors ("S&P") had recently "downgraded the long-term corporate credit rating for Dalian Wanda Commercial Properties and Wanda Commercial Properties, both listed in Hong Kong, citing high leverage and capital expenditures."

47. The Journal’s analysis of the transaction echoed the Times’ analysis. The WSJ cited analysts who said the sale “reflects the need for Wanda to cut its debt, which could improve the chances of relisting its main property subsidiary, Dalian Wanda Commercial Properties Co., on a Chinese stock exchange.” The Journal noted that “Wanda’s property unit accounted for about 55% of its almost \$20 billion revenue in the first half of 2017. However, the unit was saddled with about \$33 billion of debt as of 2016, up 20% from the previous year,” and that “[e]arlier this year, Moody’s Investors Service downgraded the company’s commercial-property units to just above junk status, noting rising leverage as Wanda attempts to build and sell more malls.”

48. In early September 2017, Bloomberg reported that the price of Wanda’s debt securities had “plunged since mid-June when people familiar with the matter said the Chinese banking regulator asked some banks to provide information on overseas loans made to top dealmakers including Wanda Group.” Bloomberg reported that “the yield on [Wanda’s] dollar bonds due November 2018 climbed 34 basis points since Aug 25 to 5.93 per cent, that on its yuan notes due September 2019 surged 40 basis points to 9.73 per cent.”

49. In October 2017, China’s Fusong County published an order requiring Wanda’s Changbaishan International Tourism Resort to shut down its golf courses.

50. In December 2017, a Chinese online media outlet posted a story titled “Wang Jianlin’s Waterloo.” The story claimed that Wanda was facing a cash crunch and was being punished by the Chinese government. Wanda responded furiously, reporting the writer to police and claiming that the article was defamatory.

51. In January 2018, The Straits Times published a story titled “Wanda selling global assets amid cash crunch risk,” reporting that “three out of five global Wanda projects under development - in London, Sydney and on Australia’s Gold Coast - have reached agreement to be sold or are nearing sale.”

52. In February 2018, Wanda sold a 17 percent stake in Atletico Madrid, the Spanish soccer club for approximately 50 million Euros. Reuters’ report on the sale noted that the month before, “Wang Jianlin, Wanda’s chairman, said the company had greatly reduced its debt and would use its ‘limited cash’ in developing Wanda Plazas, the group’s core business. He also pledged to reduce Wanda’s corporate debt through all available means to ‘absolute safe’ levels within two or three years.”

E. Wanda Seeks AMC’s Help

53. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (the “Special Committee”).

54. According to the Information Statement filed by AMC on October 18, 2018, “[s]tarting in the early part of 2018, Wanda indicated that it was considering the possibility of monetizing a portion of its investment in the Company, and the Company began exploring various alternatives concerning such a monetization. In this regard, during 2018, the Company considered a number of potential transactions ... including a potential new investment in the Company by one or more financing sources and use of all or a substantial part of such investment proceeds to return capital to all stockholders, including Wanda. In connection with a possible strategic investment transaction, the Company entered into confidentiality agreements with several private equity firms, including Silver Lake, to facilitate the exchange of confidential information and participated in discussions with these firms about potential investments in the Company.”

55. Board minutes produced by the Company in response to Plaintiff’s books-and-record demand shed additional light on this process. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

F. The Special Committee Becomes Involved

56. As set forth in the minutes of the Special Committee [REDACTED]

[REDACTED]

[REDACTED]

57. [REDACTED]

[REDACTED]

58. [REDACTED]

[REDACTED]

[REDACTED]

59. [REDACTED]

[REDACTED]

60. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

61. [REDACTED]

G. The Special Committee Hires Moelis

62. [REDACTED]

[REDACTED]

[REDACTED] the Special

Committee resolved to engage Moelis.

H. Further Negotiations Ensur

63. The next day, [REDACTED]

[REDACTED]

64. Moelis relayed that [REDACTED]

[REDACTED]

65. During that meeting, [REDACTED]

[REDACTED]

[REDACTED]

66. Later that day, the Special Committee held another telephonic meeting.

At that meeting, Moelis [REDACTED]

I. [REDACTED]

67. On July 23-24, 2018, [REDACTED]

[REDACTED]

68. [REDACTED]

[REDACTED]

²⁰ It appears that Zeng did not attend this meeting.

²¹ The then-seven-member board included Zeng (an employee of a Wanda subsidiary); Aron (who depended on Wanda's good graces for his livelihood); Koch (who had a lucrative consulting contract with Wanda); Locke (who had a lucrative consulting contract with Wanda); and Saich (who relied on his AMC director fees to provide more than half his annual income and who endangered his job and marriage to obtain the role).

J. Negotiations Continue

69. The Special Committee met telephonically with Moelis [REDACTED]

[REDACTED]

70. Thereafter, [REDACTED]

[REDACTED]

[REDACTED]

71. The Special Committee had another call [REDACTED]

[REDACTED].

72. On August 1, 2018, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

73. The Special Committee and Moelis had additional phone calls [REDACTED]

[REDACTED]

74. On August 8, 2018, [REDACTED]

[REDACTED]

[REDACTED]

75. On that same call, Moelis [REDACTED]

[REDACTED]

76. The Special Committee and Moelis held another telephone call on

[REDACTED]

[REDACTED]

77. The Special Committee and Moelis held another call [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

78. [REDACTED]

[REDACTED].

79. The Special Committee had another call with Moelis [REDACTED]

[REDACTED] The final conversion price was just \$20.50 per share.

[REDACTED]

[REDACTED]

82. The next day, [REDACTED]

83. Following [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

84. [REDACTED]

K. The Special Committee Accepts Wanda's Construct

85. On August 25, 2018, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]”

86. Moelis conveyed its analysis of [REDACTED]

87. During the August 25 call, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]”

88. The Special Committee asked [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

89. The Special Committee also asked [REDACTED]

[REDACTED]

90. The Special Committee held another call [REDACTED]

[REDACTED]

91. After discussion, [REDACTED]

[REDACTED]

L. [REDACTED]

92. The Special Committee had a telephone call with Moelis [REDACTED]

[REDACTED]

[REDACTED]

93. On September 5, 2018, Reuters published a story reporting on the talks, causing AMC's stock price to drop by as much as 3%:

Chinese billionaire Wang Jianlin's real estate-to-media conglomerate Dalian Wanda Group is exploring a deal to cut its stake in AMC Entertainment Holdings Inc (AMC.N), the world's largest cinema operator, people familiar with the matter said.

The move is the latest sign of how Wanda, like many of its Chinese peers, is under pressure from the country's regulators to reduce overseas holdings after embarking on a major acquisition spree in the United States and Europe.

Wanda is exploring a deal in which AMC would borrow hundreds of millions of dollars through a convertible bond, and then use that money to buy back some of Wanda's 60 percent stake, the sources said on Wednesday. Wanda controls AMC through its ownership of Class B shares, and aims to retain control after any deal, the sources added.

Private equity firms, including Silver Lake Partners and Apollo Global Management LLC (APO.N), are in talks with AMC about making the debt investment, the sources said. They could obtain board representation at AMC as part of any deal, the sources added.

...
AMC shares fell from their highest level this year following the news, dropping as much as 3 percent and trading down 1 percent at \$19.05 on Wednesday afternoon in New York, giving the company a market capitalization of \$2.4 billion.

94. The Special Committee met with Moelis, by phone. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

95. Moelis and the Special Committee had another phone call [REDACTED]

[REDACTED]

[REDACTED]

96. The Special Committee held additional telephone calls with Moelis [REDACTED]

[REDACTED]

97. [REDACTED]

[REDACTED]

98. At the conclusion of the meeting, the Special Committee voted to

recommend that the full Board approve the Transactions. Later that day, the full Board met (with Zeng abstaining) and voted to approve the Transactions. On September 14, 2018, Wanda executed a written consent approving the issuance of Class A common stock upon conversion of the convertible notes issued to Silver Lake.

M. AMC Announces The Transactions

99. On September 14, 2018, AMC issued a Form 8-K announcing the final terms of the Transactions, which closed that day. The key terms are as follows:

- a. *Convertible Notes Issuance.* Pursuant to an investment agreement (the “Investment Agreement”), AMC issued to Silver Lake \$600 million senior unsecured convertible notes due 2024, bearing interest at 2.95% and convertible into AMC Class A common shares at \$20.50 per share, before giving effect to the special dividend.
 - i. Upon conversion, the Company shall deliver at its election, either cash, shares of the Company’s Class A common stock (the “Class A Common Stock”) or a combination of cash and shares of the Company’s Class A Common Stock at a conversion rate of 52.7704 per \$1,000 principal amount of the Notes (which represents an initial

conversion price of \$20.50 per share minus the amount of the Special Dividend), in each case subject to customary anti-dilution adjustments.

- ii. In addition to typical anti-dilution adjustments, in the event that the then-applicable conversion price is greater than 120% of the average of the VWAP of the Company's Class A Common Stock for the ten days prior to the second anniversary of issuance (the "Reset Conversion Price"), the conversion price for the Notes is subject to a reset provision that would adjust the conversion price downward to such Reset Conversion Price. The Reset Provision is subject to a conversion price floor such that the shares of the Company's Class A Common Stock issuable upon conversion would not exceed 30% of the Company's then outstanding fully-diluted share capital.
- iii. Wanda bears the initial reset risk up to a cap of 5.666 million Wanda shares.
- iv. The Company has the option to redeem the Notes for cash on or after the fifth anniversary of issuance at par if the price for the Company's Class A Common Stock is equal

to or greater than 150% of the then applicable conversion price for 20 or more trading days out of a consecutive 30 day trading period (including the final three trading days) and also may have the option to redeem the Notes if the reset provision described above is triggered at a redemption price in cash that would result in the noteholders realizing a 15% IRR from the date of issuance regardless of when any particular noteholder acquired its Notes.

- v. Pursuant to the Investment Agreement, as long as Silver Lake and its affiliates beneficially own at least 20% ... of the outstanding common stock of the Company beneficially owned by them immediately following the closing contemplated by the Investment Agreement ... assuming the conversion of the Notes into the Company's Class A Common Stock and excluding any shares beneficially owned other than as a result of the Notes or the conversion thereof or pursuant to the exercise of any Participation Rights under the Investment Agreement, Silver Lake will have the right to nominate a

Silver Lake managing director as a Class III director on the Company's Board of Directors (the "Board") who will serve on all committees of the Board (to the extent permitted pursuant to the independence requirements under applicable laws). In connection with the foregoing, Wittlinger was appointed to the Board.

- vi. Silver Lake and Wanda entered into a Right of First Refusal Agreement (the "ROFR Agreement"), which provides Silver Lake certain rights to purchase shares of the Company's common stock that Wanda proposes to sell during a period of two years from the date of execution of the ROFR Agreement or, if earlier, until such time that Wanda and its affiliates cease to beneficially own at least 50.1% of the total voting power of the Company's voting stock. The right of first refusal applies to both registered and unregistered transfers of shares. Under the ROFR Agreement, in the event that Wanda and its affiliates cease to beneficially own at least 50.1% of the total voting power of the Company's voting stock, then the Company will have the same right of first refusal over sales of the

Company's common stock by Wanda as described above until the expiration of the two-year period beginning on the date of execution of the ROFR Agreement. In such event, the Company may exercise such right to purchase shares from Wanda from time to time pursuant to the ROFR Agreement in its sole discretion, subject to approval by the disinterested directors of the Board. If the Company determines to exercise its right to purchase shares from Wanda pursuant to the ROFR Agreement, it will have the obligation under the Investment Agreement to offer to sell to Silver Lake a like number of shares of the Company's Class A Common Stock, at the same per share price at which it purchased the Wanda shares.

- b. *Wanda Share Repurchase.* The Company entered into a Stock Repurchase and Cancellation Agreement (the "Stock Repurchase Agreement") with Wanda pursuant to which the Company repurchased 24,057,143 shares of the Company's Class B Common Stock held by Wanda at a price of \$17.50 per share. The Stock Repurchase Agreement prohibits the Company from, and Wanda from causing the Company to, declare any cash

dividend (other than regular quarterly cash dividends in an amount not to exceed \$0.20 per share) to holders of the Company's common stock prior to March 14, 2019, subject to extension to December 31, 2019 upon the occurrence of a ratings downgrade from each of Moody's and S&P with respect to the Company's senior unsecured debt, unless an independent committee of the Board approves such dividend.

- c. *Special Dividend.* On September 14, 2018, the Board declared a special cash dividend of \$1.55 per share of Class A Common Stock and Class B Common Stock payable on September 28, 2018 to its shareholders of record as of September 25, 2018.

100. The agreements are all interrelated. The Investment Agreement states that "the Company intends to use the proceeds from the issuance of the Notes to finance a share repurchase from certain stockholders of the Company and to fund a special dividend to holders of Company Common Stock and for general corporate purposes" and includes provisions that depend on the operation of the Stock Repurchase Agreement. Similarly, the Stock Repurchase Agreement provides that "the Company is financing the Wanda Repurchase Transaction with a portion of the proceeds received by the Company from the issuance and sale of \$600,000,000 aggregate principal amount of the Company's 2.95% Convertible Notes due 2024,"

and includes provisions that depend on the operation of the Investment Agreement. Among other things, the Stock Repurchase Agreement provides that Wanda is “agree[ing] ... that a portion of its Wanda Shares will be forfeited to the Company and canceled for no consideration in the event that any such additional shares are required to be issued to the Company upon conversion of the [Convertible] Notes,” in order “to induce the Company to ... effectuate the Wanda Repurchase Transaction[.]”

N. The Unfair Process Resulted In An Unfair Price

101. The final terms of the Transactions were unfair to Plaintiff, other public stockholders and the Company.

102. The \$17.50 price of the Wanda Share Repurchase represented a premium to the Company’s unaffected 30-day VWAP, even though [REDACTED]

[REDACTED]

[REDACTED] And the terms of the Convertible Notes Issuance were highly favorable to Silver Lake (and unfavorable to the Company and its public stockholders). The effective conversion price of \$18.95²² represented a discount to AMC’s last unaffected trading price (\$19.25 on September 4, 2018) and a premium of less than 9% to AMC’s 30-day VWAP. [REDACTED]

²² *i.e.*, the conversion price after giving effect to the Special Dividend.

[REDACTED]

103. [REDACTED]

[REDACTED]

104. [REDACTED]

105. Assuming Silver Lake converts all of its shares—and, as highlighted on the September 14, 2018 analyst call announcing the Transaction, the Company’s dividend yield is higher than the coupon rate, so it would be irrational for Silver Lake not to convert²⁴—an additional 37.1 million shares of Class A common stock will be issued. Netting out the 24.1 million shares of Wanda’s stock that are being retired results in a 6% increase in the total outstanding shares.

106. In a call following the announcement of the Transaction, Kannan

²³ A “PIPE” transaction is a private investment in public equity.

²⁴ Jason B Bazinet (Citigroup): Isn’t your div yield higher than the cash coupon? I mean, why wouldn’t I convert if I was Silver Lake if I’m going to get more money in the door?

Adam M. Aron (AMC CEO): I think you should ask that question to Silver Lake rather than ask that question to us.

Venkateshwar of Barclays noted that the collar provision of the Convertible Notes means that public stockholders risk additional dilution if the stock price declines:

Kannan Venkateshwar: Just a couple of questions from me. First is, when we think about—I think, there’s a ratchet on the convert where the strike gets reset if the stock was to drop by 20%. And I think Wanda provides the shares for that until a particular threshold. But is it fair to say that when it goes down below that, public shareholders essentially get diluted more when the stock’s down. I mean is that a fair way to look at it? Or if there’s something else on the structure which protects the shareholders?

Adam M. Aron: Wanda—first of all, it’s not our expectation that our share price is going to drop. So we—this is a hypothetical that we hope does not come into play. But Wanda has essentially set aside 5,666,000 shares to cover the vast majority of the reset risk. But most the important provision is that all of Wanda’s 5,666,000 shares have to be exhausted before the public shareholders lose even 1 share. And—so the price of our stock has to fall really low. It has to fall down to \$12, \$13 a share for the public shareholders to see any sizable risk here. And as I said, we think it’s a hypothetical that is probably not going to come in to play. And that’s—this is not a permanent feature of this convert. It’s a onetime look at the 24-month mark and if it’s not triggered at the 24-month mark, it’s gone.

107. The Transaction was announced before the start of trading on September 14, 2018. AMC’s stock price dropped approximately 1.5% on the news, closing at \$19.80 per share, down from \$20.10 at the close of trading on September 13. This represented a loss of approximately \$38.3 million of market capitalization. The drop was likely attributable to the market’s recognition that the Transaction would increase AMC’s leverage and interest expense, potentially negatively impacting the Company’s already near-junk-status credit ratings and potentially

diluting the Company's existing stockholders due to the Convertible Notes.

108. Immediately after the Transaction was announced, MKM Partners analyst Eric Handler downgraded his rating of AMC from buy to neutral, writing that “the half-turn increase in the company’s already above average net leverage and the eventual 6% share dilution gives us some cause for concern[.]”

109. In sum, there was never any need for the Company to engage in the Transactions: if Wanda had sold in the open market there would likely have been

[REDACTED]

[REDACTED] The Transactions were fundamentally an accommodation to AMC’s ultimate controlling stockholders, Wanda Parent and Wang, to enable Wanda to deleverage by causing AMC to overleverage. The Transactions could only be effectuated with the Company’s participation and approval by its Board. Yet neither the Special Committee—which was, ultimately, powerless to prevent the Transaction from occurring—nor the full AMC Board used that leverage to ensure that the Transactions were effectuated on terms that were fair to the Company or its minority stockholders. Instead, they approved a sweetheart deal for the Silver Lake Entities to ensure that Wanda Parent and Wang would be able to satisfy their own parochial needs.

CLASS ACTION ALLEGATIONS

110. Plaintiff, a stockholder in the Company, brings this action individually and as a class action pursuant to Rule 23 of the Rules of the Court of Chancery of the State of Delaware on behalf of herself and all stockholders of the Company (except the Defendants herein, and any person, firm, trust, corporation or other entity related to or affiliated with any of the Defendants) to redress the Defendants' breaches of fiduciary duties and other violations of law.

111. This action is properly maintainable as a class action.

112. A class action is superior to other available methods of fair and efficient adjudication of this controversy.

113. The Class is so numerous that joinder of all members is impracticable. The number of Class members is believed to be in the thousands and are likely scattered across the United States. Moreover, damages suffered by individual Class members may be small, making it overly expensive and burdensome for individual Class members to pursue redress on their own.

114. There are questions of law and fact which are common to all Class members and which predominate over any questions affecting only individuals, including, without limitation:

- a. whether the Defendants owed fiduciary duties to the Plaintiff and the Class;

- b. whether the Defendants breached and continue to breach their fiduciary duties to Plaintiff and the Class;
- c. Whether the Silver Lake Entities aided-and-abetting those breaches of fiduciary duty; and
- d. the extent of the Class' damages.

115. Plaintiff's claims and defenses are typical of the claims and defenses of other class members and Plaintiff has no interests antagonistic or adverse to the interests of other class members. Plaintiff will fairly and adequately protect the interest of the Class.

116. Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature.

117. Defendants have acted in a manner that affects Plaintiff and all members of the Class alike, thereby making appropriate injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

118. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, which would establish incompatible standards of conduct for Defendants; or adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members or substantially impair or impede their ability to protect their interests.

DERIVATIVE/DEMAND-FUTILITY ALLEGATIONS

119. “The same set of facts c[an] give rise to both” direct and derivative claims (so-called “dual-natured” claims).²⁵ Dual-natured claims frequently arise in the context of issuances, such as the Convertible Notes Issuance, that extract and transfer value from public stockholders for the benefit of a controlling stockholder. As the Court explained in *Carsanaro*: “[b]ecause the rights that stock carries are relative, the effects of issuing additional stock necessarily will be felt at the stockholder level.”²⁶ And transactions like the Convertible Notes Issuance, which reallocate rights among stockholders, create “horizontal conflicts among people at the equity level or other people in the capital structure.”²⁷

120. Nonetheless, to the extent Plaintiff’s claims are derivative and subject to a demand requirement, demand would be futile because the Board is incapable of making an independent and disinterested decision to prosecute this action. As set

²⁵ *El Paso Pipeline GP Co., L.L.C. v. Brinckerhoff*, 152 A.3d 1248, 1260 (Del. 2016).

²⁶ *Carsanaro v. Bloodhound Techs., Inc.*, 65 A.3d 618, 656 (Del. Ch. 2013).

²⁷ *Montgomery v. Erickson Air-Crane, Inc.*, No. 8784-VCL (TRANSCRIPT) (Del. Ch. Apr. 15, 2014) at 58:11-21; *see also Gentile v. Rossette*, 906 A.2d 91, 100 (Del. 2006) (“the public (or minority) stockholders also have a separate, and direct, claim arising out of that same transaction. Because the shares representing the ‘overpayment’ embody both economic value and voting power, the end result of this type of transaction is an improper transfer—or expropriation—of economic value and voting power from the public shareholders to the majority or controlling stockholder.”).

forth above, a majority of the eight members of the Board are conflicted and are therefore not capable of disinterested evaluation of claims arising from the Transactions:

- a. **Aron** cannot be independent of Wanda because he is a full-time employee of the Company who derives his principal income from his employment with the Company and Wanda is the Company's controlling stockholder.
- b. **Zeng** cannot be independent of Wanda because he is a full-time employee of a Wanda subsidiary who derives his principal income from that role and owes fiduciary duties to Wanda.
- c. **Koch** and **Locke** cannot be independent of Wanda because they

- d. **Saich** cannot be independent of Wanda because his AMC director fees represent more than half of his annual income. Indeed, Saich's AMC directorship position was apparently so material to him that he was willing to endanger his marriage and his job by agreeing to pay a finder's fee to *and enter into a romantic relationship with* a subordinate employee in order to obtain her help in swaying Wanda to put him on the Board. Moreover, now that this arrangement has led to litigation that is

headed to trial, Saich is, presumably, dependent on Wanda employees to either appear and give favorable testimony or decline to appear and, thus, avoid giving unfavorable testimony.

- e. **Wittlinger** cannot be independent of Silver Lake because he is a Silver Lake managing director who derives his principal income from that role.

121. Moreover, this action challenges actions taken by sitting board members—*i.e.*, Aron, Locke, Koch, and Saich—for which they face a substantial risk of liability.

COUNT I

Individual and Class Claim for Breach of Fiduciary Duty Against The Director Defendants

122. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

123. The Director Defendants owed Plaintiff and the Class the utmost fiduciary duties of care and loyalty.

124. By reason of the foregoing, the Director Defendants breached their fiduciary duties. In particular, the Director Defendants violated their fiduciary duties of loyalty and care by agreeing to and entering into the Transactions through an unfair process on terms that were not entirely fair to Plaintiff and other public

stockholders. These breaches include actions taken by Aron in his capacity as an officer of the Company.

125. As a result of the foregoing, Plaintiff and the Class have been harmed.

COUNT II
**Individual and Class Claim for Breach of Fiduciary
Duty Against The Wanda Entities and Wang**

126. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

127. At the time the Transactions were agreed to, the Wanda Entities and Wang were controlling stockholders and, as such, owed fiduciary duties to Plaintiff, and the Class.

128. The Wanda Entities and Wang violated those duties by entering into the Transactions through an unfair process on terms that were not entirely fair to Plaintiff and other public stockholders.

129. As a result of the foregoing, Plaintiff and the Class have been harmed.

COUNT III
**Individual and Class Claim for Aiding-and-Abetting Breaches
of Fiduciary Duty Against The Silver Lake Entities**

130. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

131. The Silver Lake Entities aided-and-abetted breaches of fiduciary duty by the other Defendants.

132. The Silver Lake Entities were aware of the fiduciary duties of each of the other Defendants.

133. The Silver Lake Entities acted with knowledge of the Other Defendants' breaches of their fiduciary duties to Plaintiff and the public stockholders of the Company and actively participated in those breaches of fiduciary duties.

134. The Silver Lake Entities knowingly aided and abetted the other Defendants' wrongdoing alleged herein and rendered substantial assistance to them.

135. As a result of this conduct, Plaintiff and the other members of the Class have been harmed.

COUNT IV

Derivative Claim for Breach of Fiduciary Duty Against The Director Defendants

136. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

137. The Director Defendants owed the Company the utmost fiduciary duties of care and loyalty.

138. By reason of the foregoing, the Director Defendants breached their fiduciary duties. In particular, the Individual Defendants violated their fiduciary

duties of loyalty and care by agreeing to and entering into the Transactions through an unfair process on terms that were not entirely fair to the Company. These breaches include actions taken by Aron in his capacity as an officer of the Company.

139. As a result of the foregoing, the Company has been harmed.

COUNT V

Derivative Claim for Breach of Fiduciary Duty Against The Wanda Entities and Wang

140. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

141. At the time the Transactions were agreed to, the Wanda Entities and Wang were controlling stockholders and, as such, owed fiduciary duties to the Company.

142. The Wanda Entities and Wang violated those duties by entering into the Transactions through an unfair process on terms that were not entirely fair to the Company.

143. As a result of the foregoing, the Company has been harmed.

COUNT VI

Derivative Claim for Aiding-and-Abetting Breaches of Fiduciary Duty Against The Silver Lake Entities

144. Plaintiff repeats and realleges each and every allegation above as if set forth in full herein.

145. The Silver Lake Entities aided-and-abetted breaches of fiduciary duty by the other Defendants.

146. The Silver Lake Entities were aware of the fiduciary duties of each of the other Defendants.

147. The Silver Lake Entities acted with knowledge of the Other Defendants' breaches of their fiduciary duties to the Company and actively participated in those breaches of fiduciary duties.

148. The Silver Lake Entities knowingly aided and abetted the other Defendants' wrongdoing alleged herein and rendered substantial assistance to them.

149. As a result of this conduct, the Company has been harmed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment and preliminary and permanent relief, including injunctive relief, in her favor, in favor of the Class, and/or in favor of the Company and against all Defendants as follows:

A. Declaring that this action is properly maintainable as a class action and certifying Plaintiff as Class Representative;

B. Declaring that the Director Defendants, the Wanda Entities, and Wang breached their fiduciary duties in connection with the Transactions;

C. Declaring that the Silver Lake Entities aided and abetted such breaches of fiduciary duty;

D. Awarding monetary damages to the Class and/or the Company, including pre- and post-judgment interest;

E. Awarding Plaintiff the costs and disbursements of this action, including attorneys' and experts' fees;

F. Granting the Company and/or Plaintiff and the other members of the Class such further relief as the Court deems just and proper.

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