

Del. Supreme Court Backs AMC's \$99.3M D&O Coverage Bid

By **Jarek Rutz**

Law360 (December 10, 2025, 3:24 PM EST) -- The Delaware Supreme Court has upheld a Superior Court ruling that AMC Entertainment Holdings Inc. can seek directors and officers insurance coverage for its \$99.3 million share-based settlement of a 2023 stockholder lawsuit, rejecting Midvale Indemnity Co.'s bid to block recovery tied to the company's preferred-equity conversion and reverse stock split.

The state's justices issued an order Tuesday affirming Superior Court Judge Meghan A. Adams' Feb. 28 memorandum opinion, which held that stock issued to settle litigation can constitute a covered loss under AMC's policies, leaving only a consent-to-settle dispute for a jury.

"We find it evident that the judgment of the Superior Court should be affirmed on the basis of and for the reasons stated in the memorandum opinion," the justices said.

The high court's ruling shuts down Midvale's contentions that insurers cannot be liable where no cash changes hands and that AMC began and completed settlement discussions before seeking insurer participation.

AMC, deluged by retail "meme stock" investment during the COVID-19 downturn, created AMC preferred equity units, known as "APEs," to raise capital after running out of authorized common shares. When AMC later moved to convert APEs into common stock via a reverse split, common shareholders sued in Delaware's Court of Chancery, alleging severe dilution and coercive tactics. The litigation, consolidated before Vice Chancellor Morgan T. Zurn, settled in April 2023 with an agreement providing 6,897,018 shares of common stock to affected stockholders, an award later valued by AMC at \$99.3 million.

AMC reported the settlement as a contingent liability and sought insurance coverage under a 17-carrier D&O program. Midvale was the lone holdout after other insurers resolved or exited the dispute, arguing that issuing stock is "not money which can be 'paid'" and therefore cannot exhaust policy limits that respond to cash losses. Judge Adams rejected that textual argument, finding that stock is a form of value and that Delaware recognizes it as "a form of currency that can be exchanged for other forms of currency."

The Superior Court found coverage as a matter of law but determined that a jury must decide whether AMC satisfied, or Midvale waived, policy consent-to-settle requirements.

Representatives for the parties did not immediately respond to requests for comment Wednesday.

Midvale Indemnity Co. is represented by John C. Phillips and David A. Bilson of Phillips McLaughlin & Hall PA.

AMC Entertainment Holdings is represented by David J. Baldwin and Peter C. McGivney of Berger McDermott LLP and Robin Cohen, Adam Ziffer and Michelle Migdon of Cohen Ziffer Frenchman & McKenna LLP.

The case is Midvale Indemnity Co. v. AMC Entertainment Holdings Inc., case number 206,2025, in the Delaware Supreme Court.

The case under appeal AMC Entertainment Holdings Inc. v. XL Specialty Insurance Co. et al., case number N23C-05-045, in the Delaware Superior Court.

--Editing by Rich Mills.