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Audra McDonald Stars in New Lawsuit



Audra McDonald and the cast of *'Shuffle Along, or, the Making of the Musical Sensation of 1921 and All That Followed'* perform onstage during the 70th Annual Tony Awards at the Beacon Theatre on June 12, 2016. (Theo Wargo/Getty Images for Tony Awards Productions)

Audra McDonald has been cast in a contentious contract dispute.

Last week, the producers of *Shuffle Along* sued insurer, Lloyd's of London, for refusing to cover their losses stemming from the pregnancy of its star actress, Audra McDonald. The Broadway show had taken out two insurance policies, totaling \$14 million, to mitigate the risk that an illness or accident would prevent her from performing, or force the entire production to be abandoned.

"The policies for non-appearance and abandonment are very prevalent these days, as there are many shows that have big name stars," confirmed Peter Shoemaker, who manages the entertainment division at insurance broker DeWitt Stern.

When 52-year-old headliner Leslie Caron fell and tore a muscle in her hip after a performance of *On Your Toes* in 1984, for example, the national tour was terminated. The producers did



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not think that another ballerina would be able to attract audiences like Caron, and the show recovered \$1,418,000 from Lloyd's of London.

However, collecting for the closure of *Shuffle Along* might be more difficult.

The insurance policy states that the producers will be reimbursed for their losses in the event that the show needs to be abandoned due to the "death, accident, or illness" of Audra McDonald. But, it is not altogether obvious that her pregnancy qualifies as an accident or illness.

Reserving some wiggle room, the insurance policy defines an accident or illness as an "accident or illness of any Insured Person which, in the opinion of an independent medical practitioner ..., entirely prevents any Insured Person from appearing or continuing to appear in any part of the Insured Production." No other examples or explanations are provided.

The lawyers for *Shuffle Along* might have considered characterizing her pregnancy as an illness. But, a New York court declared several decades ago that "[p]regnancy is, of course, a normal biological function and is not an illness."

Instead, the producers insist that her pregnancy "is an accident, and her associated medical conditions constitute an illness." The actress had agreed to perform in the show for 52 weeks, and she did not expect to become pregnant at 45-years-old.

"Who knew that tap dancing during perimenopause could lead to pregnancy?" McDonald joked on social media. "Will [Swenson, her husband,] and I completely surprised – and elated – to be expecting a new addition to our family."

Yet, the legal argument that it was all an accident might not convince the court. In order to recover under the insurance policy, the musical must have been abandoned due to a death, accident, or illness that was "beyond the control of the ... Insured Person."

McDonald and her husband obviously contributed to her condition.

In dismissing the insurance claim, Lloyd's of London also argued that the *Shuffle Along* did not need to be shut down. The show was nominated for 10 Tony Awards, and the talented cast featured several other award-winning performers.

"Ms. McDonald is also only one of a number of stars performing in the show," the insurer stated. "By virtue of the all-star cast, Ms. McDonald's temporary absence does not appear fatal to the show's continued success."

The attorneys for *Shuffle Along* responded that "the fact that ... other cast members or the scheduled replacement performer are well-known will not ensure the show's success." Theatergoers wanted to watch McDonald perform, and the six-time Tony Award winner was indispensable to the box-office.

"The need for Audra to take a prolonged and unexpected hiatus from the show has determined the unfortunate inevitability of

our running at a loss for significantly longer than the show can responsibly absorb,” [remarked](#) the lead producer, Scott Rudin, when pulling the plug on the theatrical production. “There is simply nobody like her.”

In addition, the litigators observed that Lloyd’s of London “specifically sold the policies to *Shuffle Along* expressly to protect *Shuffle Along* in the event that Ms. McDonald was unable to appear.” If the insurer believed that the show could survive without her, then it had no business issuing insurance to cover its cancellation.

Lloyd’s of London has a few weeks to file an answer to the complaint. Meanwhile, *Shuffle Along* has made the improbable transition in its after-life from a musical revival to a legal drama.

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