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9 Denice Shakarian Halicki, Eleanor Licensing, LLC, and Gone in 60 Seconds  
Motorsports, LLC

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

13 CARROLL SHELBY LICENSING,  
14 INC., a California Corporation, and the  
CARROLL HALL SHELBY TRUST,

15  
16 Plaintiffs,

17 vs.

18 DENICE SHAKARIAN HALICKI, an  
19 individual, ELEANOR LICENSING,  
20 LLC, a Delaware limited liability  
company, GONE IN 60 SECONDS  
21 MOTORSPORTS, LLC, a Delaware  
22 limited liability company, and DOES 1 –  
10,

23  
24 Defendants.

25  
26 DENICE SHAKARIAN HALICKI, an  
27 individual, ELEANOR LICENSING,  
28 LLC, a Delaware limited liability  
company, GONE IN 60 SECONDS

Case No.: 8:20-cv-01344-MCS-DFMx  
Assigned to the Hon. Mark C. Scarsi,  
Courtroom 7C

**NOTICE OF MOTION AND  
MOTION OF HALICKI PARTIES  
TO CERTIFY ORDER FOR  
INTERLOCUTORY APPEAL;  
MEMORANDUM OF POINTS AND  
AUTHORITIES**

**NO HEARING WITHOUT  
FURTHER COURT ORDER PER  
COURT’S ORDER OF DECEMBER  
12, 2022 (ECF NO. 354)**

1 MOTORSPORTS, LLC, a Delaware  
2 limited liability company

3 Counter-claimants,

4 vs.

5  
6 CARROLL SHELBY LICENSING,  
7 INC., a California Corporation, and the  
8 CARROLL HALL SHELBY TRUST, a  
9 trust organized under Texas law,  
10 CLASSIC RECREATIONS, LLC, an  
11 Oklahoma limited liability company,  
12 JASON ENGEL, an individual, TONY  
13 ENGEL, an individual, SPEEDKORE  
14 PERFORMANCE GROUP, LLC, a  
15 Wisconsin limited liability company, and  
16 Roes 1 to 10,

17 Counter-defendants.

18 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

19 PLEASE TAKE NOTICE that Defendants and Counter-Claimants Denice  
20 Shakarian Halicki (“Denice Halicki”), Eleanor Licensing, LLC, and Gone in 60  
21 Seconds Motorsports, LLC (collectively “the Halicki Parties”) hereby move this Court,  
22 for certification of the Court’s November 29, 2022 Order (ECF No. 350) for  
23 interlocutory appeal on three issues:

24 (1) Whether the District Court correctly interpreted the *Halicki Films, DC*  
25 *Comics*, and *Daniels* test regarding copyrightability of a character by  
26 requiring under prong 2 of that test an analysis of the character “whenever  
27 it appears” and a comparison for consistency based on every instance a  
28 character appears in media.

(2) Whether the District Court correctly interpreted the *Halicki Films, DC*  
*Comics*, and *Daniels* test regarding copyrightability of a character by

1 denying copyrightability to a character based on its repeated appearance in  
2 one work, regardless of how sufficiently delineated the character appears  
3 in that work.

4 (3) Whether the District Court correctly interpreted the *Halicki Films, DC*  
5 *Comics*, and *Daniels* test regarding copyrightability of a character by  
6 determining that an otherwise copyrightable character becomes  
7 uncopyrightable if a new iteration of the same character has traits and  
8 attributes varied with prior iterations.

9 The Halicki Parties further request the court to stay these proceedings until  
10 disposition of the interlocutory appeal.

11 This Halicki Parties' Motion is made pursuant to 28 U.S.C. § 1292(b).

12 This Halicki Parties' Motion is based on this Notice, the attached Memorandum  
13 of Points and Authorities, and on such oral argument as the Court may permit.

14 This Motion shall be heard without the filing of a reply brief and without a  
15 hearing pursuant to the Court's order of December 12, 2022 (ECF N0. 354).

16 This Motion is made following a conference of counsel pursuant to Local Rule  
17 7-3 which took place on January 6, 2023.

18 Dated: January 13, 2023

19 By: /s/ Jason J. Keener

20 Jason J. Keener  
Irwin IP LLC

21 David L. Brandon  
Clark Hill LLP

22  
23 Attorneys for Defendants and Counter-  
24 claimants DENICE SHAKARIAN HALICKI;  
25 ELEANOR LICENSING, LLC; GONE IN 60  
26 SECONDS MOTORSPORTS, LLC  
27  
28

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