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**UNITED STATES DISTRICT COURT
CENTRIAL DISTRICT OF CALIFORNIA**

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

Plaintiffs,

vs.

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

Defendants.

DENICE SHAKARIAN HALICKI, an individual, ELEANOR LICENSING, LLC, a Delaware limited liability company, GONE IN 60 SECONDS MOTORSPORTS, LLC, a Delaware limited liability company

Counter-claimants,

vs.

CARROLL SHELBY LICENSING, INC., a California Corporation, and the CARROLL HALL SHELBY TRUST, a trust organized under Texas law, CLASSIC RECREATIONS, LLC, an Oklahoma limited liability company, JASON ENGEL, an individual. TONY

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

**[PROPOSED] ORDER GRANTING
THE HALICKI PARTIES' MOTION
TO CERTIFY ORDER FOR
INTERLOCUTORY APPEAL AND
STAY OF PROCEEDINGS**

1 ENGEL, an individual, SPEEDKORE
2 PERFORMANCE GROUP, LLC, a
3 Wisconsin limited liability company, and
4 Roes 1 to 10,

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Counter-defendants.

Pursuant to 28 U.S.C. § 1292(b), the Court GRANTS defendants and counterclaimants Denice Shakarian Halicki, Eleanor Licensing, LLC, and Gone in 60 Seconds Motorsports, LLC’s (collectively “the Halicki Parties”) motion for certification interlocutory appeal and stay of proceedings pending appeal.

The Halicki Parties have demonstrated that there are compelling reasons certify the Court’s November 29, 2022 Order (ECF No. 350) for interlocutory appeal on three issues:

- (1) Whether the District Court correctly interpreted the *Halicki Films, DC Comics*, and *Daniels* test regarding copyrightability of a character by requiring under prong 2 of that test an analysis of the character “whenever it appears” and a comparison for consistency based on every instance a 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 denying copyrightability to a character based on its repeated appearance in one work, regardless of how sufficiently delineated the character appears in that work.
- (3) Whether the District Court correctly interpreted the *Halicki Films, DC Comics*, and *Daniels* test regarding copyrightability of a character by determining that an otherwise copyrightable character becomes

1 uncopyrightable if a new iteration of the same character has traits and
2 attributes varied with prior iterations.

3 The Court hereby modifies its November 29, 2022 Order to certify all three of
4 these issues for interlocutory appeal as each is a (1) controlling question of law; (2) for
5 which there are substantial grounds for difference of opinion; and (3) where an
6 immediate appeal may materially advance the ultimate termination of the litigation.

7 The Court further hereby vacates the trial set for March 21-21, 2023 and stays all
8 further proceedings pending the resolution of the Halicki Parties' interlocutory appeal.

9
10 IT IS SO ORDERED.

11
12 Dated: _____

13 The Honorable Mark C. Scarsi
14 U.S. District Court Judge