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7 **UNITED STATES DISTRICT COURT**
8 **CENTRIAL DISTRICT OF CALIFORNIA**
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10 CARROLL SHELBY LICENSING,
11 INC., a California Corporation, and the
CARROLL HALL SHELBY TRUST,

12 Plaintiffs,

13 vs.

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

18 Defendants.
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20 DENICE SHAKARIAN HALICKI, an
21 individual, ELEANOR LICENSING,
22 LLC, a Delaware limited liability
23 company, GONE IN 60 SECONDS
MOTORSPORTS, LLC, a Delaware
limited liability company

24 Counter-claimants,

25 vs.

26 CARROLL SHELBY LICENSING,
27 INC., a California Corporation, and the
CARROLL HALL SHELBY TRUST, a
trust organized under Texas law,
28 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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6 Counter-defendants.
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8 Pursuant to 28 U.S.C. § 1292(b), the Court GRANTS defendants and
9 counterclaimants Denice Shakarian Halicki, Eleanor Licensing, LLC, and Gone in 60
10 Seconds Motorsports, LLC's (collectively "the Halicki Parties") motion for certification
11 interlocutory appeal and stay of proceedings pending appeal.

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

- 15 (1) Whether the District Court correctly interpreted the *Halicki Films*, *DC*
16 *Comics*, and *Daniels* test regarding copyrightability of a character by
17 requiring under prong 2 of that test an analysis of the character "whenever
18 it appears" and a comparison for consistency based on every instance a
19 character appears in media.
- 20 (2) Whether the District Court correctly interpreted the *Halicki Films*, *DC*
21 *Comics*, and *Daniels* test regarding copyrightability of a character by
22 denying copyrightability to a character based on its repeated appearance in
23 one work, regardless of how sufficiently delineated the character appears
24 in that work.
- 25 (3) Whether the District Court correctly interpreted the *Halicki Films*, *DC*
26 *Comics*, and *Daniels* test regarding copyrightability of a character by
27 determining that an otherwise copyrightable character becomes
28

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.

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10 IT IS SO ORDERED.

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12 Dated: _____

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