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JS-6

13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15 DC COMICS,

16 Plaintiff,

17 v.

18 PACIFIC PICTURES
 CORPORATION, IP WORLDWIDE,
 19 LLC, IPW, LLC, MARC TOBEROFF,
 an individual, MARK WARREN
 20 PEARY, as personal representative of
 the ESTATE OF JOSEPH SHUSTER,
 21 JEAN ADELE PEAVY, an individual,
 LAURA SIEGEL LARSON, an
 22 individual and as personal
 representative of the ESTATE OF
 23 JOANNE SIEGEL, and DOES 1-10,
 inclusive,
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25 Defendants.

Case No. CV 10-3633 ODW (RZx)

**FINAL JUDGMENT ON
 REMAINING CLAIMS**

Hon. Otis D. Wright II

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FINAL JUDGMENT

1. Background. Plaintiff DC Comics asserted six Claims for Relief in this case (Dkt. 49):

a. *DC's First and Third Claims.* On December 11, 2012, and following the Court's October 17, 2012, summary judgment order (Dkt. 507), the Court entered partial final judgment, pursuant to FED. R. CIV. P. 54(b), in favor of DC on its First and Third Claims for Relief (Dkt. 540), from which defendants appealed (Dkt. 541). On November 21, 2013, the U.S. Court of Appeals for the Ninth Circuit affirmed (Dkt. 618), and on January 21, 2014, denied defendants' petition for rehearing and rehearing en banc (Dkt. 617). On January 31, 2014, the Ninth Circuit issued its formal mandate (Dkt. 618). Defendants filed a petition for writ of certiorari in the U.S. Supreme Court on DC's First Claim, and on October 6, 2014, the Supreme Court denied the petition for a writ. *See Peary v. DC Comics*, Case No. 13-1523.

b. *DC's Second Claim.* DC pled its Second Claim for Relief solely in the alternative to its First Claim for Relief (Dkt. 49 ¶ 136). Because DC has prevailed on its First Claim, its Second Claim is moot.

c. *DC's Fourth, Fifth, and Sixth Claims.* On April 4, 2013, the Court granted defendants' motion for summary judgment with respect to DC's Fourth and Fifth Claims (Dkt. 613), but deferred ruling on DC's Sixth Claim because it overlapped with DC's First and Third Claims and "an affirmance by the Ninth Circuit [on DC's First and Third Claims] would obviate the need to reach" DC's Sixth Claim, as DC's Sixth Claim would be "moot," *id.* at 19:14-20:7.

2. Final Judgment on Remaining Claims. Based on the foregoing, the Court hereby enters judgment on the remaining claims in this case as follows:

IT IS HEREBY ORDERED AND ADJUDGED that DC's Second Claim for Relief is DISMISSED, WITHOUT PREJUDICE, as moot.

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IT IS HEREBY ORDERED AND ADJUDGED that DC's Fourth Claim for Relief is DISMISSED, WITH PREJUDICE.

IT IS FURTHER ORDERED AND ADJUDGED that DC's Fifth Claim for Relief is DISMISSED, WITH PREJUDICE.

IT IS FURTHER ORDERED AND ADJUDGED that DC's Sixth Claim for Relief is DISMISSED, WITHOUT PREJUDICE, as moot.

The parties shall each bear their own fees and costs.

IT IS SO ORDERED.



Dated: _November 26, 2014

Honorable Otis D. Wright, II
Judge, United States District Court

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