

STATE OF NORTH CAROLINA

File No.

Wake

FILED

In The General Court Of Justice
District Superior Court Division

Name And Address Of Plaintiff 1
State of North Carolina ex rel. Dept. of Transportation, General
114 West Edenton St.
Raleigh, NC 27602 WAKE CO., C.S.C.

GENERAL

CIVIL ACTION COVER SHEET
INITIAL FILING SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Plaintiff 2

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)
Torrey Dixon
Assistant Attorney General
114 West Edenton St.
Raleigh, NC 27602

VERSUS

Name Of Defendant 1
Fat Sound Guitar and Music Company, Inc.
8316 Chapel Hill Road
Cary, NC 27513

Telephone No. 919-716-6030 Cell Telephone No. 919-282-6437

NC Attorney Bar No. 36176 Attorney E-Mail Address tdixon@ncdaj.gov

Summons Submitted Yes No

Initial Appearance in Case Change of Address

Name Of Defendant 2
Stuart Vries Carter, Jr.
240 Tally Ho Drive
Selma, NC 27576

Name Of Firm
NC Department of Justice

FAX No. 919-716-6050

Counsel for All Plaintiffs All Defendants Only (List party(ies) represented)

Summons Submitted Yes No

Jury Demanded In Pleading
Complex Litigation

Amount in controversy does not exceed \$15,000
Stipulate to arbitration

TYPE OF PLEADING

- (check all that apply)
Amend (AMND) Assess Motions Fee (SEE NOTE)
Amended Answer/Reply (AMND-Response) Assess Motions Fee (SEE NOTE)
Amended Complaint (AMND) Assess Motions Fee
Answer/Reply (ANSW-Response) (SEE NOTE)
Change Venue (CHVN) Assess Motions Fee
Complaint (COMP)
Confession Of Judgment (CNFJ)
Consent Order (CONS)
Consolidate (CNSL) Assess Motions Fee
Contempt (CNTP) Assess Motions Fee
Continue (CNTN) Assess Motions Fee
Compel (CMPL) Assess Motions Fee
Counterclaim (CTCL) Assess Court Costs
Crossclaim (List On Back) (CRSS) Assess Court Costs
Dismiss (DISM) Assess Court Costs
Exempt/Waive Mediation (EXMD) Assess Motions Fee
Extend Statute Of Limitations, Rule 9 (ESOL) Assess Motions Fee
Extend Time For Complaint (EXCO) Assess Motions Fee

- (check all that apply)
Failure To Join Necessary Party (FJNP) Assess Motions Fee
Failure To State A Claim (FASC)
Improper Venue/Division (IMVN) Assess Motions Fee
Intervene (INTR) Assess Motions Fee
Interplead (OTHR) Assess Motions Fee
Lack Of Jurisdiction (Person) (LJPN) Assess Motions Fee
Lack Of Jurisdiction (Subject Matter) (LJSM) Assess Motions Fee
Rule 12 Motion In Lieu of Answer (MDLA) Assess Motions Fee
Sanctions (SANC) Assess Motions Fee
Set Aside (OTHR) Assess Motions Fee
Show Cause (SHOW) Assess Motions Fee
Transfer (TRFR) Assess Motions Fee
Third Party Complaint (List Third Party Defendants on Back) (TPCL)
Vacate/Modify Judgment (VCMD) Assess Motions Fee
Withdraw as Counsel (WDCN) Assess Motions Fee
Other (specify and list each separately)

NOTE: See Side Two for a list of motions not subject to the motions fee.

NOTE: Assess fee only if court permission is required to amend.

CLAIMS FOR RELIEF

- Administrative Appeal (ADMA)
Appointment Of Receiver (APRC)
Attachment/Garnishment (ATTC)
Claim And Delivery (CLMD)
Collection On Account (ACCT)
Condemnation (CNDM)
Contract (CNTR)
Discovery Scheduling Order (DSCH)
Injunction (INJU)
Medical Malpractice (MDML)
Minor Settlement (MSTL)
Money Owed (MNYO)
Negligence - Motor Vehicle (MVNG)
Negligence - Other (NEGO)
Motor Vehicle Lien G.S. 44A (MVLN)
Limited Driving Privilege - Out-Of-State Convictions (PLDP)
Possession Of Personal Property (POPP)
Product Liability (PROD)
Real Property (RLPR)
Specific Performance (SPPR)
Other (specify and list separately)

Date 2/26/13

Signature Of Attorney/Party Torrey Dixon

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752) or Court Action (AOC-CV-753) cover sheet.

FILED

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
13 CVS \_\_\_\_\_

2013 FEB 27 AM 11:02

WAKE CO., C.S.C.  
BY \_\_\_\_\_

STATE OF NORTH CAROLINA *ex rel.*  
ROY COOPER, Attorney General,  
  
Plaintiff,

v.

FAT SOUND GUITAR AND MUSIC  
COMPANY, INC. and STUART VRIES  
CARTER, JR.,  
  
Defendants.

COMPLAINT

INTRODUCTION

1. This action is brought by the State of North Carolina, by and through its Attorney General Roy Cooper, to obtain permanent injunctive relief prohibiting defendants from engaging in unfair and deceptive trade practices in the sale of musical equipment and to obtain restitution for consumers, civil penalties and attorney fees, pursuant to N.C.G.S. §§ 75-14, 75-15.1, 75-15.2, and 75-16.1.

PARTIES

2. Plaintiff is the State of North Carolina acting by and through its Attorney General, Roy Cooper, pursuant to authority granted by Chapters 75 and 114 of the North Carolina General Statutes.

3. Defendant Fat Sound Guitar and Music Company, Inc. ("Fat Sound") is a North Carolina corporation.

4. At all times relevant to this complaint, Fat Sound was a retail distributor of musical equipment with its principal place of business in Cary, North Carolina.

5. Defendant Stuart Vries Carter, Jr. is a North Carolina resident and the owner and president of Fat Sound. At all times relevant to this complaint, defendant Stuart Carter has managed and controlled the operations of defendant Fat Sound.

#### FACTUAL ALLEGATIONS

6. At all times relevant to this complaint, Fat Sound has offered to sell musical equipment to consumers nationwide on its website, [www.fatsoundguitars.com](http://www.fatsoundguitars.com), and at its principal place of business at 8316 Chapel Hill Road, Cary, North Carolina 27513.

7. At all times relevant to this complaint, defendants took equipment orders from consumers over the internet. Defendants accepted credit card payments, including payments for purchases made online through PayPal.com.

8. Defendants accepted deposits as well as full payment for the purchase price of equipment at the time the consumer placed the order.

9. Defendants routinely failed to notify consumers of delivery delays, and although required to do so by the Federal Trade Commission's Mail and Telephone Order Rule, 16 CFR 435.2, failed to offer consumers the option of cancelling their contract and receiving a full and prompt refund when their equipment was not delivered within the estimated time.

10. Upon information and belief, in numerous instances, defendants accepted customer orders and either a deposit or full payment for the orders but never placed those orders

with the manufacturers. Defendants still, however, told these consumers that their equipment was either already being delivered, would be delivered within the next week, or soon thereafter.

11. Upon information and belief, some customer orders have been cancelled by manufacturers because of non-payment by Fat Sound.

12. Upon information and belief, a number of equipment manufacturers have ended their relationship with Fat Sound.

13. Many consumers have written and emailed defendants in an attempt to resolve their disputes or have repeatedly attempted to reach defendants by telephone to check on the status of their order or a refund, but have not been able to get any information from Fat Sound sales representatives and/or have not been able to get through to speak with anyone. Often messages have been left at the number listed on Fat Sound's website, but have not been returned.

14. Defendants have failed to deliver any equipment to at least eleven consumers who have paid either a deposit or the full amount for the purchase.

15. Defendants have accepted equipment from consumers by entering into consignment contractual arrangements in which defendants have agreed to sell the equipment and pay the consumers a portion of the proceeds. In many instances, however, defendants have failed to either return this equipment to the consumer or pay the consumer a portion of the proceeds for the sale of the equipment as agreed.

16. Consumers from many states across the nation have filed complaints with the Consumer Protection Division of the Attorney General's Office. Approximately eighteen consumers have filed a complaint with the Attorney General's Office since November 27, 2012. The Attorney General has mailed fifteen of the consumer complaints to the defendants' principal

place of business and requested a response from defendants. Defendants have failed to resolve or respond to any complaints. Eleven of the complaints have been returned by the United States Post Office.

17. In support of plaintiff's motion for permanent injunctive relief prohibiting defendants from engaging in unfair and deceptive trade practices in the sale of musical equipment and to obtain restitution for consumers, civil penalties and attorney fees, the affidavits of North Carolina Department of Justice Consumer Protection Specialist Julie Daniel, of Paul Cochrane (a manufacturer), and of consumers Travis Hice, Austin Oltman, and Michael Shamel are attached hereto and incorporated herein by reference.

CLAIM FOR RELIEF  
UNFAIR OR DECEPTIVE PRACTICES

18. Plaintiffs reallege and incorporate herein the allegations in paragraphs 1 through 17.

19. Defendants' sale of musical equipment is, and at all relevant times has been, in or affecting commerce in North Carolina.

20. In the course of selling musical equipment, defendants have engaged in unfair and deceptive acts in violation of N.C.G.S. § 75-1.1.

21. Defendants' unfair and deceptive business practices include, but have not been limited to:

- (a) Soliciting orders in person and over the internet and providing consumers with an estimated delivery date when, at the time of those orders, defendants had no reasonable basis to expect to be able to ship the ordered equipment to the

consumer within the estimated time of delivery, in violation of the Federal Trade Commission's Mail and Telephone Order Rule, 16 CFR 435.2 (a)(1);

- (b) Failing to notify consumers of delivery delays;
- (c) Failing to place orders with manufacturers within a reasonable period of time after the consumer ordered and paid either a deposit or in full for the equipment;
- (d) Failing to offer consumers the opportunity to consent to a delay in shipping or to cancel the order and receive a prompt refund when defendants were unable to deliver the consumer's ordered equipment by the estimated delivery date, in violation of 16 CFR 435.2 (b)(1); and
- (f) Failing to either return equipment to the consumer or pay the consumer a portion of the proceeds for the sale of the equipment as agreed in consignment contractual arrangements.

22. Pursuant to N.C.G.S. § 75-14, the Attorney General is authorized to seek permanent injunctive relief to restrain defendants' violations of N.C.G.S. § 75-1.1.

23. Pursuant to N.C.G.S. § 75-15.1, the Attorney General is authorized to seek and obtain cancellation of all contracts and the restoration of all moneys obtained by defendants as a result of defendants' violations of N.C.G.S. § 75-1.1.

24. Pursuant to N.C.G.S. § 75-15.2, the Attorney General is authorized to seek and obtain civil penalties for each and every knowing violation of a statute, including but not limited to N.C.G.S. § 75-1.1.

25. Pursuant to N.C.G.S. § 75-16.1, the Attorney General is authorized to seek and obtain a reasonable attorney fee for the prosecution of this action.

PRAAYER FOR RELIEF

WHEREFORE, plaintiff prays the Court for the following relief:

1. That the Court issue a permanent injunction prohibiting defendants, their agents, employees, and persons acting in concert with them from:

- (a) unfair or deceptive acts or practices in violation of N.C.G.S. § 75-1.1, including but not limited to the acts and practices listed in paragraph 21 of plaintiff's Claim for Relief;
- (b) soliciting advance deposits or payment for equipment from consumers, unless:
  - (i) defendants place the entire amount of each deposit or payment in an escrow account specifically identified to the customer from whom it was received and the order for which it represents payment, and, until that customer accepts delivery of the equipment ordered, use the funds in that account only to pay the necessary amount to the appropriate manufacturer(s) for that particular customer's order;
  - (ii) defendants place the customer's order with the specified manufacturer(s) within five days of receiving the order from the customer;
  - (iii) defendants provide only realistic delivery dates based on actual current experience, and within five days of the order confirm to each customer in writing the same delivery date given orally; and
  - (iv) defendants abide by the Mail and Telephone Order Rule, 16 CFR 435.2, by delivering equipment when promised or notifying purchasers of delays

and giving them an opportunity to cancel their orders for a full and prompt refund, and make the refund if requested;

- (c) destroying, transferring, concealing, altering or removing from the possession and control of defendants, their agents, employees, and persons acting in concert with them any financial records, customer contracts, correspondence, business records, and other documents of defendants;
- (d) transferring, withdrawing, concealing, or encumbering any of defendant Fat Sound's assets without permission of the court; provided, that permission shall not be required if the plaintiff agrees in writing to the expenditures; and
- (e) engaging in the business of consignment.

2. That, pursuant to N.C.G.S. § 75-15.1, the Court cancel all contracts entered into by any of the defendants in violation of N.C.G.S. § 75-1.1 and order all amounts consumers have paid to any defendants pursuant to such contracts to be refunded;

3. That, pursuant to N.C.G.S. § 75-14, a permanent injunction be entered upon final adjudication of this case to prevent defendants and their officers, agents, employees, successors, and assigns from resuming any unfair or deceptive practices.

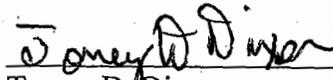
4. That defendants be required to pay civil penalties to the State in the amount of \$5,000.00 per violation of the Unfair and Deceptive Trade Practices Act, pursuant to N.C.G.S. § 75-15.2;

5. That costs and reasonable attorney's fees be awarded the Attorney General pursuant to N.C.G.S. § 75-16.1; and

7. That the Court award such other and further relief as may be just and proper.

Respectfully submitted this 27<sup>th</sup> day of February, 2013.

ROY COOPER  
Attorney General

  
\_\_\_\_\_  
Torrey D. Dixon  
Assistant Attorney General  
N.C. Department of Justice  
Consumer Protection Division  
P.O. Box 629  
Raleigh, NC 27602  
Phone: (919) 716-6030  
Fax: (919) 716-6050  
Tdixon@ncdoj.gov

**CERTIFICATE OF SERVICE**

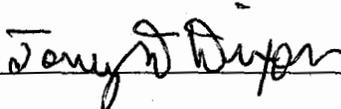
I HEREBY CERTIFY that I have this day served the foregoing COMPLAINT upon the DEFENDANTS by sending it by certified United States Mail addressed as follows:

Stuart Vries Carter, Jr.  
8316 Chapel Hill Road  
Cary, NC 27513

Stuart Vries Carter, Jr.  
240 Tally Ho Drive  
Selma, NC 27576

Stuart Vries Carter, Jr.  
333 Island Creek Drive 44R  
Wilmington, NC 28411

This the 27th day of February, 2013.



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Torrey D. Dixon  
Assistant Attorney General

**Exhibit A**

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

**AFFIDAVIT OF JULIE D. DANIEL**

I, Julie D. Daniel, being first sworn, do hereby depose and say:

1. I have been employed by the North Carolina Department of Justice in the Consumer Protection Division of the Attorney General's Office since April 1997. I have held the position of Consumer Protection Specialist since April 2003. My routine job responsibilities include maintaining records of a portion of the written consumer complaints filed with the Consumer Protection Division, conducting investigations of these complaints, and attempting to mediate them by corresponding with the businesses and consumers involved in the controversy. I am the custodian of all the records, correspondence and other documents maintained in our office regarding Fat Sound Guitars. I am assisting in the investigation of Fat Sound Guitars and Stuart V. Carter Jr.

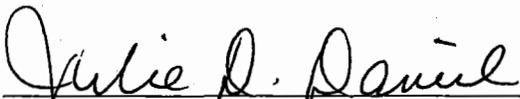
2. In late November 2012 the Consumer Protection Division began receiving complaints from consumers who reported that they had paid a required deposit to order musical equipment from Fat Sound Guitars, had waited until the estimated delivery date, had not received their equipment, and when they called to try to get information about their order, they were not given satisfactory answers. We also received complaints from consumers who had placed their own musical equipment on consignment with Fat Sound Guitars, with the understanding that Fat Sound Guitars would sell the equipment, keep a percentage of the money from the sale, and would either pay the remainder of the sales proceeds to the consumer or would use that money as a payment toward new equipment that the consumer wished to purchase. The majority of the consumers report that they made multiple attempts to find out about their orders. They report that representatives of the company have been unable to tell them when their equipment would arrive, have not returned calls or email

inquiries, or have repeatedly given them dates that were false promises. Some consumers also report that the telephone number for Fat Sound Guitars is now disconnected.

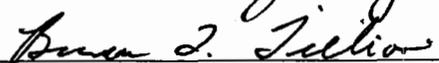
3. I called the phone number for Fat Sound Guitars that consumers had provided in their complaints (919-467-1003) on January 30, 2013 two times. On both occasions, the phone rang once, then went to a busy signal. I also called the number that is now listed on the Fat Sound Guitars website (919-208-5950) and reached a voice mailbox that was full. In addition, I called the toll-free number listed on the website (888-328-7686) and received a message that the number was no longer in service.

4. Our office has received 17 consumer complaints against Fat Sound Guitars from November 2012 through the present. All of those remain unresolved.

5. When our office received consumer complaints about Fat Sound Guitars, we forwarded them to the company for their response. On January 2, 2013, eleven letters that we had sent to Fat Sound Guitars were returned by the US Postal Service as being undeliverable.

  
JULIE D. DANIEL

Sworn to and subscribed before me  
this the 31st day of January, 2013.

  
\_\_\_\_\_  
(Notary Public)

My Commission Expires: 3/31/2015



## **Exhibit B**

**STATE OF TENNESSEE**

**COUNTY OF RUTHERFORD**

**AFFIDAVIT OF PAUL COCHRANE**

I, Paul Cochrane, being first sworn, do hereby depose and say:

1. I live in Murfreesboro, Tennessee. I have personal knowledge of the facts in this affidavit.

2. I own and operate a business called Paul C Audio. My business builds guitar effects pedals.

3. For approximately two years I have been supplying Stuart Carter with product to sell in his store, Fat Sound Guitars, in Cary, North Carolina. I would ship my product to him on his promise to pay. Shipments averaged around 25-30 units per month.

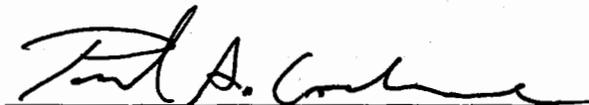
4. Mr. Carter was at first prompt in sending payment for product that I had shipped to him, typically remitting payment as soon as product was received. However, since early this year, payments were slower coming in, sometimes taking as long as 30-45 days.

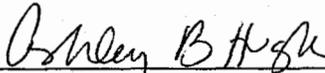
5. On September 27, 2012, I shipped 37 units, worth approximately \$3,700, to Mr. Carter. Since it typically takes about two months between an order being placed and being shipped, these units would have been for orders placed with Fat Sound in July.

6. I have not yet been paid for that shipment and I can no longer get in touch with Mr. Carter. I last spoke with him before Thanksgiving. An ex-employee did find four of my units in the store as it was closing down and returned those to me, so the amount owed to me for that shipment is now approximately \$3,300.

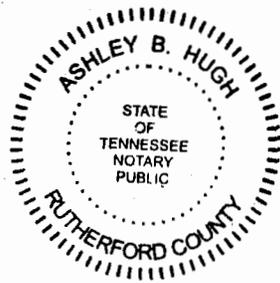
7. I have recently begun receiving calls from customers who had placed orders with Fat Sound Guitars for my product. Some of the orders date back as far as July, and the customers are trying to find out why they have not received their merchandise. I have not been able to help them because they paid their money to Fat Sound. I have not been paid for these orders.

8. I am a small business owner and cannot afford to ship products for which I am not paid. Furthermore, I feel it hurts the reputation of my business when customers pay to purchase one of my products but they never receive it.

  
Paul Cochran

Sworn to and subscribed before me  
this the 4 day of January, 2013  
  
\_\_\_\_\_  
(Notary Public)

My Commission Expires: 11-22-14



# Exhibit C

STATE OF ARIZONA

COUNTY OF YUMA

JAN 15 2016

**AFFIDAVIT OF TRAVIS HICE**

I, Travis Hice, being first sworn, do hereby depose and say:

1. I live in Yuma County, Arizona. I have personal knowledge of the facts in this affidavit.

2. I contacted Fat Sound Guitars in Cary, North Carolina, on September 28, 2012, to purchase an amplifier. The total purchase price was \$1,949.00. Their employee, Mike Gallo, instructed me to send a deposit of \$400 via PayPal so the order could be placed. A true and accurate copy of my PayPal receipt is attached as Exhibit 1. I had ordered several items from Mike in the past so I was familiar with the company and their process for ordering. I ordered a custom Tolex covering on the amp so it required an 8 week build period.

3. Mike Gallo called me back later that day once the deposit was received and said he was putting the order in that day.

4. A month later, on October 24, 2012, I received a call from Shawn at Mesa (the manufacturer) asking me what size cabinet I wanted. I asked why that wasn't put in on the day of the order, and he notified me that the order had just been placed that day. He instructed me to contact Mike at Fat Sound to resolve the problem.

5. When I called Fat Sound a man named Roger answered the phone and said Mike Gallo no longer worked there and my other contact, Mike Ayers, was no longer there either. I figured something was up because they were both long-time employees.

6. I voiced my concern about the amp being ordered late and asked why was that the case. Roger assured me that the company was not closing and that the amp was now ordered and on its way.

7. I let about a month go by and called again for a status update as I needed the amp soon. After at least 10 calls over a period of a week, Roger finally answered again, and I told him I was concerned that the company was going under and I wanted my deposit back. He once again assured me that everything was fine and the amp would be here within a few weeks.

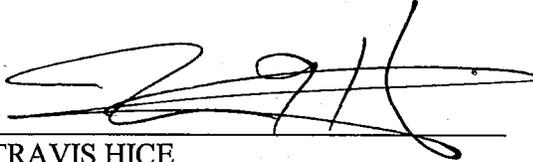
8. A few more weeks passed and I once again called and discovered the phones had been disconnected. I then sent an email trying to find out what was going on. I never received a response.

9. I filed a dispute with PayPal in an attempt to recover my \$400. However, PayPal has denied the claim on two counts: 1) it is past the 45-day limit for filing a dispute; and 2) they do not refund for deposits, only for purchases paid in full.

10. Because Fat Sound took my money and has not provided me with an amp, I have had to borrow gear from other musicians.

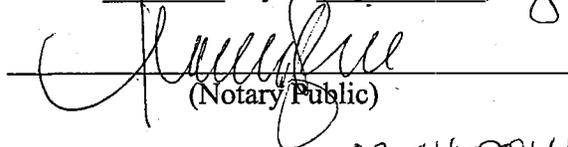
11. Shawn from Mesa called me on November 27 to transfer my purchase to another dealer because no one at Fat Sound is answering his calls or emails either.

12. Fat Sound has my \$400 deposit and knew they were going out of business when they took it. I want my \$400 back so I may apply it to the purchase through a reputable dealer.

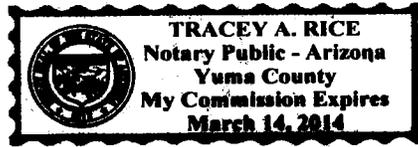
  
\_\_\_\_\_  
TRAVIS HICE

Sworn to and subscribed before me

this the 10<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
(Notary Public)

My Commission Expires: 03-14-2014



## Travis Hice

---

**From:** service@paypal.com  
**Sent:** Friday, September 28, 2012 3:19 PM  
**To:** Travis Hice  
**Subject:** You sent a payment



You sent a payment

Transaction ID: [SN5176494Y1096944](#)

Dear Travis Hice,

You sent a payment for \$400.00 USD to Fat Sound Guitars.

Please note that it may take a little while for this payment to appear in the Recent Activity list on your Account Overview.

[View the details of this transaction online](#)

Your monthly account statement is available anytime; just log in to your account at <https://www.paypal.com/us/cgi-bin/webscr?cmd=history>. To correct any errors, please contact us through our Help Center at [https://www.paypal.com/us/cgi-bin/webscr?cmd=contact\\_us](https://www.paypal.com/us/cgi-bin/webscr?cmd=contact_us).

Amount: \$400.00 USD

Sent on: September 28, 2012

Message in your payment email: Deposit of \$400 for the total purchase price of \$1,949.00 plus shipping. Remaining balance of \$1,549.00 due upon completion. order info Mesa Boogie Lonestar Classic 1x12 combo with Black Shadow (C90) speaker British Tan Bronco Tolex Tan Grille Cloth Brown Handle, Piping and corner protector

Sincerely,  
PayPal

[Help Center](#) [Resolution Center](#) [Security Center](#)

This email was sent by an automated system, so if you reply, nobody will see it. To get in touch with us, log in to your account and click "Contact Us" at the bottom of any page.

Copyright © 2012 PayPal, Inc. All rights reserved. PayPal is located at 2211 N. First St., San Jose, CA 95131.

PayPal Email ID PP118



# Exhibit D

STATE OF WASHINGTON

COUNTY OF WHATCOM

AFFIDAVIT OF AUSTIN OLTMAN

I, Austin Oltman, being first sworn, do hereby depose and say:

1. I live in Whatcom County, Washington. I have personal knowledge of the facts in this affidavit.
2. In July 2012 I ordered a Paul Cochrane Timmy Overdrive Pedal off the Fat Sound Guitars website (fatsoundguitars.com). Due to the nature of the product, Paul Cochrane hand-makes each pedal, then uses outside companies to sell his product. There is typically a three-month waiting period to get the pedal since it is hand-made. I paid \$139.00 with my credit card through PayPal.
3. I received a PayPal receipt as well as a receipt from Fat Sound Guitars, stating that the pedal would ship the last week of October. A true and accurate copy of my PayPal receipt is attached as Exhibit 1. A true and accurate copy of my receipt from Fat Sound Guitars is attached as Exhibit 2.
4. When November came and I still had not received my pedal, I never thought anything about it because the pedal is in incredibly high demand and there's only one man hand-making each of them. However, I contacted Fat Sound Guitars and they said that I should expect it in the next week or so.
5. Another week went by and I still did not receive my pedal. I tried contacting Fat Sound Guitars again, and their number had been disconnected.

6. After a month and a half of desperately seeking and contacting everyone I could, I found out that the company is out of business. I contacted Paul Cochrane, but he said he couldn't reimburse me because he never received payment for the shipment of pedals he sent to Fat Sound Guitars.

7. I tried filing a claim through both PayPal and my credit card company, but I was told by each that I had passed the time allowed for making a claim. I had not filed claims earlier because I was being told the product was being shipped to me.

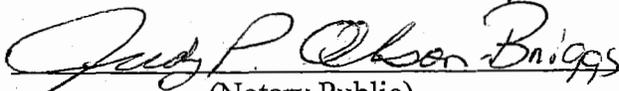
8. I just want either my \$139 back or my Timmy Overdrive Pedal.



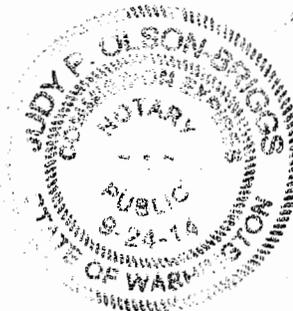
AUSTIN OLTMAN

Sworn to and subscribed before me

this the 24<sup>th</sup> day of January, 2013.

  
(Notary Public)

My Commission Expires: 9/24/14





You sent a payment of \$139.00 USD to Fat Sound Guitars.

Jul 26, 2012 17:39:40 PDT  
Receipt No:0581-2585-0314-2854

Hello Austin Oltman,

This charge will appear on your credit card statement as payment to PAYPAL \*FATSOUNDGUI.

**Save time with a PayPal account**

Create a PayPal account and save your payment information. You won't need to enter your payment information every time you shop online.

[Sign Up Now](#)

**DID YOU KNOW?**

When you're a PayPal member, all you need is your email address and password to make purchases.

[Open a PayPal account today](#)

**Merchant information:**

Fat Sound Guitars  
stu@fatsoundguitars.com  
http://www.fatsoundguitars.com

**Instructions to merchant:**

None provided

**Shipping information**

Austin Oltman  
6753 La Monte Dr.  
Lynden, WA 98264  
United States

**Shipping method**

Not specified

Description	Unit price	Qty	Amount
PaulCaudio Timmy Pedal Oct 2012 Reservation Item #: PCATIMMYOCT	\$129.00 USD	1	\$129.00 USD

Shipping and handling: \$10.00 USD  
Total: \$139.00 USD

**Receipt No: 0581-2585-0314-2854**

Please keep this receipt number for future reference. You'll need it if you contact customer service at Fat Sound Guitars or PayPal.

[Help Center](#) | [Security Center](#)

Please don't reply to this email. It'll just confuse the computer that sent it and you won't get a response.

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PayPal Email ID PP1469



Hi Austin,

Thanks for the order. I have you down for a Timmy pedal, paid-in-full, from our October 2012 shipment.

These are pedals that Paul Cochran will actually be building for my shop throughout the month of October and then shipping in one large batch towards the end of the month.

We repackage for individual shipment and turn all pedals back around within 24 hours of their arrival at my shop, but this occasionally means actually shipping pedals back out to our customers during the first week of the following month.....in this case November.

I'll email you the Priority Mail shipping confirmation when your pedal leaves my shop and is headed your way.

If you have any questions please feel free to drop me a line or call the shop at any time.

Again for the order This is a fantastic, incredibly in-demand pedal; the wait is a bit lengthy , but now that you've pulled the trigger you'll have it before you know it!

I appreciate the business.....thanks for the support!

Best Regards,  
Stu Carter owner, Fat Sound Guitars  
Tone Consultants Since 1993

919-467-1003 (domestic)  
+011-1-919-467-1003 (international)

<http://www.fatsoundguitars.com>

Check out our video gear demos on YouTube in HD!:  
<http://www.youtube.com/user/FatSoundGuitar>



# Exhibit E

**STATE OF NORTH CAROLINA**

**COUNTY OF CATAWBA**

**AFFIDAVIT OF MICHAEL SHAMEL**

I, Michael Shamel, being first sworn, do hereby depose and say:

1. I live in Catawba County, North Carolina. I have personal knowledge of the facts in this affidavit.

2. Around the first of April, 2012, I left a Paul Reed Smith DC3 guitar with Fat Sound Guitars at 8316 Chapel Hill Road, Cary, NC, to sell on consignment. We agreed that Fat Sound Guitars would list the guitar for \$1,599 on their website (fatsoundguitars.com), and when it was sold, they would keep 25% of the sales price as a commission and I would be paid the remainder. At the time I left the guitar, I was talking with an employee, Mike Ayers. Mike said he would need to talk to the owner, but they would send me a copy of the consignment agreement. I never received a copy of that agreement. The guitar was subsequently listed on their website. A true and accurate copy of the listing as it appeared on their website is attached as Exhibit 1.

3. Around the first part of October, I began trying to contact the owner, Stuart Carter, by email but I never received any responses from him.

4. On November 10, 2012, my daughter, Angela Shamel, went by the store to pick up the guitar since it was not selling as far as I knew. Angela told me that Roger told her that the guitar had just shipped out to a buyer.

5. I still never heard a word from Fat Sound about payment for the sale of my guitar, so on November 27, I called the store but the number was out of service. I then tried to call Stu Carter on his cell phone, and it has also been disconnected.

6. I want either my guitar returned or the money owed me for its sale, which is \$1,199 (\$1,599 less 25%).

  
\_\_\_\_\_  
Michael Shamel

Sworn to and subscribed before me

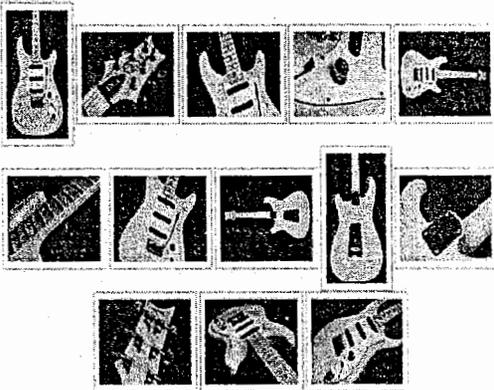
this the 10 day of Jan, 2013.

  
\_\_\_\_\_  
(Notary Public)

My Commission Expires: 6-1-2016

PRS DC3 [Add to Cart](#)

FAT PRICE: \$1599.00 AVAILABILITY: In Stock  
ADDITIONAL INFO: Fast, Free Domestic Shipping... Securely Packed and Fully Insured!



VITAL STATS

- Serial Number: 10 167791
- Weight: 7.8 Pounds
- Year of Production: 2010
- Condition: Excellent

PRS ON THE DC3

Featuring a flat alder body, bolt-on neck, steel bridge components, and three proprietary PRS single coil pickups based on PRS's award-winning 513 model platform, the DC3 has a warm, vintage tone and loads of modern appeal. The steel components in the bridge retain the balanced resonance of the alder and provide a clear, but expansive tone, and the three-pickup configuration combined with a 5-way blade pickup selector offers ample switching possibilities. You've got to hear this guitar.

FEATURES AND SPECIFICATION

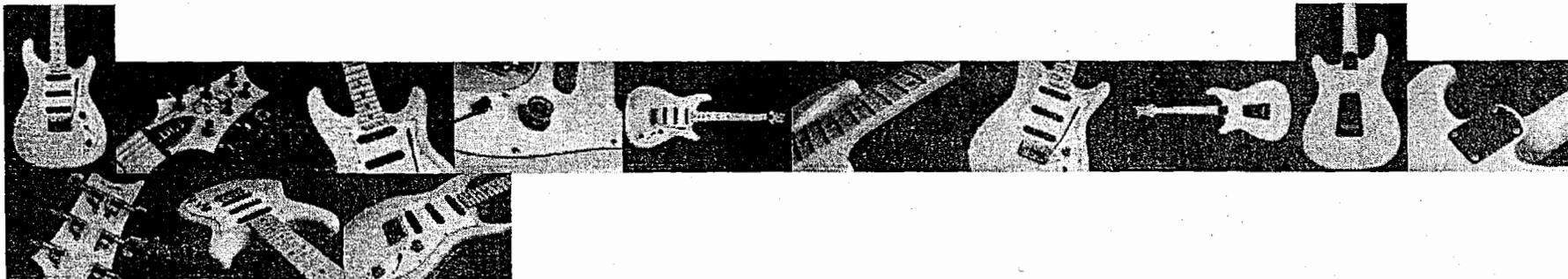
- Body: Alder
- Finish: V12 Powder Blue
- Neck: Maple

tabbies  
EXHIBIT  
1

FAT PRICE: \$1599.00

AVAILABILITY: In Stock

ADDITIONAL INFO: Fast, Free Domestic Shipping.....Securely Packed and Fully Insured!



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### Features and Specification

- Body: Alder
- Finish: V12 Powder Blue
- Neck: Maple
- Neck Carve: Pattern Regular
- Frets: 22 Medium Jumbo (PRS Standard)
- Position Markers: Ring Dots
- Scale Length: 25.25"
- Pickups: PRS Single Coil
- Controls: Volume & Tone Controls with 5-Way Pickup Selector (Blade Style)
- Bridge: PRS Tremolo with steel components

- Tuners: PRS Phase III Locking
- Includes Original Hardshell Case

### **V12 Finish**

“V12” is a very thin, hard, and clear finish that will not crack or react with thinners. After roughly 12 years in development, it is halfway between acrylic and nitro but with a classic feel all its own. “PRS models with this new finish feel like old instruments,” said Paul Reed Smith.

### **Pattern Regular Neck Carve**

The new “Pattern Regular” neck shape is similar to the traditional PRS regular neck found on guitars made in the late 80’s at PRS’s former Virginia Avenue location.