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10 Attorneys for Defendant GUITAR CENTER, INC.
11 [Additional Parties and Counsel Appear on Signature Page]

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14 **UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 **IN RE: MUSICAL INSTRUMENTS AND** CASE NO. 3:09-md-02121-LAB-DHB
16 **EQUIPMENT ANTITRUST LITIGATION** (and related cases)

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18 This Document Relates To:
19 **ALL ACTIONS**
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MDL No. 2121
**NOTICE OF MOTION AND MOTION TO
ALTER OR AMEND THE JUDGMENT**
Date: December 3, 2012
Time: 11.15 A.M.
Place: Courtroom 9, 2nd Floor
The Hon. Larry A. Burns, District Judge
The Hon. David H. Bartick, Magistrate Judge

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on December 3, 2012 at 11:15 A.M. or as soon thereafter
3 as counsel may be heard, in Courtroom 9, defendants Fender Musical Instruments Corporation,
4 Gibson Guitar Corp., Guitar Center, Inc., Hoshino (U.S.A.), Inc., Kaman Music Corp., Yamaha
5 Corporation of America, and National Association of Music Merchants, Inc. (collectively
6 “Defendants”), shall and hereby do move this Court for an order pursuant to Rule 59(e) of the
7 Federal Rules of Civil Procedure to amend its Rule 54(b) judgment entered on August 21, 2012
8 (Dkt. 199). As explained in Defendants’ Memorandum of Points and Authorities filed herewith,
9 the Court should amend its Rule 54(b) partial judgment and dismiss plaintiffs’ state-law claims
10 along with the Sherman Act claim because the state-law claims are premised upon the federal
11 antitrust conspiracy claim and fail for the same reasons that the Court dismissed the Sherman Act
12 claim.

13
14 Dated: September 17, 2012

LATHAM & WATKINS LLP

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**Additional Signature Page To
Notice of Motion and Motion to Alter or Amend the Judgment**

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Dated: September 17, 2012

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**Additional Signature Page To
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ELECTRONIC CASE FILING ATTESTATION

I, Margaret M. Zwisler, am the ECF User whose identification and password are being used to file this **NOTICE OF MOTION AND MOTION TO ALTER OR AMEND THE JUDGMENT**. I hereby attest that the concurrence in the filing of this has been obtained from signatories to this document.

s/ Margaret M. Zwisler
Margaret M. Zwisler

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CERTIFICATE OF SERVICE

On September 17, 2012, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Southern District of California, using the electronic case filing system of the court. The electronic case filing system sent a “Notice of Electronic Filing” to the attorneys of record who have consented in writing to accept this Notice of service of this document by electronic means. Any other counsel of record will be served by electronic mail and/or first class mail on the same date.

s/ Margaret M. Zwisler
Margaret M. Zwisler