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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

**BZ**

10 RONNIE MONTROSE, an individual,

**CV 09 2146**

11 Plaintiff,

12 vs.

No.

13 GARY MOORE, an individual,

14 **RONNIE MONTROSE**  
15 **COMPLAINT FOR DAMAGES AND**  
16 **DECLARATORY RELIEF**

17 Defendant.

**JURY TRIAL DEMANDED**

Courthouse News Service

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1 Plaintiff, Ronnie Montrose (Plaintiff or Mr. Montrose), complains pursuant to  
2 Federal Rule of Civil Procedure, Rule 13 as follows:

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4 1. This Complaint arises from of the theft of a 1959 Gibson Les Paul  
5 Standard, serial number 92227 ('59 Gibson), on October 20, 1972, from a stage in Dudley  
6 Massachusetts, during an Edgar Winter concert. The '59 Gibson is owned by Ronnie Montrose  
7 who has searched for it over the past 37 years and, despite false leads, misinformation and  
8 diversions, has finally located it in the possession of Defendant Gary Moore (Defendant or Mr.  
9 Moore).

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11 **PARTIES TO THE ACTION**

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13 2. Ronnie Montrose is an individual residing in San Francisco County  
14 California.

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16 3. Gary Moore, is an individual residing in Sussex County United Kingdom.  
17 Mr. Moore has substantial and continuous contacts with the United States and this Judicial  
18 District through his business partnership with the Gibson Guitar Corporation and continual sales  
19 of his music within this judicial district featuring recordings of him playing the '59 Gibson,  
20 including a contemporary recording of the iconic song, *Still got the Blues*.

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22 **JURISDICTION AND VENUE**

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24 4. The Court has subject matter jurisdiction over the claims alleged below  
25 under 28 U.S.C. 1332.



1           10.     During the subsequent 37 years Mr. Montrose gave numerous interviews  
2 detailing the theft of the guitar. He publicly pleaded for its return. Despite a series of false leads,  
3 misinformation and diversions, Mr. Montrose never gave up his search for the '59 Gibson.  
4

5           11.     In January 1977, a person in Baltimore contacted one of Mr. Montrose's  
6 band mates, claiming that he knew the whereabouts of the stolen guitar. Mr. Montrose  
7 immediately hired a private investigator. The witness disappeared. Over a period of months and  
8 thousands of dollars in fees and expenses, the private investigator attempted to locate the stolen  
9 guitar without success.  
10

11           12.     In 1980, Mr. Montrose met guitar collector Michael Indelicato and told  
12 him the story of the stolen guitar. Mr. Montrose gave a vivid description of the instrument and  
13 Mr. Indelicato promised to look for it.  
14

15           13.     Although Mr. Montrose never located the guitar during the next three  
16 decades, he did compile several photographs of his '59 Gibson, including one taken by Francesco  
17 Scavullo, an internationally renowned photographer. Attached hereto as Exhibit B. Mr. Scavullo  
18 was Cosmopolitan Magazine Cover Photographer for 30 years and his photographs are now in  
19 the permanent collection of the Metropolitan Museum of Art. With these photographs Mr.  
20 Montrose had a clear image of the '59 Gibson "fingerprint" and could easily identify it if located.  
21

22           14.     Sometime in early 2000s, Mr. Indelicato was given a picture by another  
23 guitar dealer at a guitar show in Texas of a guitar that was a match. This man told Mr. Indelicato  
24 that the guitar was in the collection of an English guitar player. Mr. Indelicato gave the dealer  
25 his contact information but the man never called.  
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1           15.     In 2007, Mr. Indelicato located an identical picture with the serial number  
2 9-2227. Attached hereto as Exhibit C. Mr. Indelicato Googled this serial number and was  
3 directed to a Gibson website where the following posted:

4  
5           On another note, Billy [lpnv59] tried to trade me the Perry Burst  
6 for the one Gary Moore plays most [#9-2227], but I didn't like the  
7 Perry Burst [very little flame] and Billy wasn't able to sell it for  
8 cash to buy mine, before it went to England, and, eventually, Gary.  
9 Billy has mentioned several times how much he loved the tone of  
10 #9-2227, and .apparently, Gary Moore feels the same. Believe me,  
11 Billy knows Bursts tone!:dude.

12  
13           16.     With that posting, Mr. Indelicato finally had a name: Gary Moore. In  
14 November, 2007, Mr. Indelicato found a British guitar magazine, *Guitar Buyer*, with  
15 photographs of Gary Moore's guitar collection, including the '59 Gibson. Attached hereto as  
16 Exhibit D. Those photographs show significant wear and tear damage to the '59 Gibson which  
17 substantiates a risk of future damage so long as the '59 Gibson remains in Mr. Moore's  
18 possession.

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20           17.     Following unrequited efforts to contact Mr. Moore, in March 2009, Mr.  
21 Montrose wrote to Mr. Moore and told this story. Attached hereto as Exhibit E. There has been  
22 no reply to that letter.

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24           18.     When left with no other alternative, Mr. Montrose filed this action seeking  
25 immediate relief from this court.

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**FIRST CLAIM FOR RELIEF**

**Conversion**

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19. Mr. Montrose incorporates the allegations contained in Paragraphs 1 through 18 as though set forth in full here.

20. Mr. Montrose is the actual owner of the '59 Gibson with the right to its immediate possession.

21. Mr. Moore was informed that the '59 Gibson was stolen from Mr. Montrose and has failed to return Mr. Montrose's property.

22. Mr. Moore's ongoing possession and failure to return the '59 Gibson, despite a demand for its return, constitutes a substantial interference with Mr. Montrose's right of possession.

23. Mr. Moore has no superior right to possess the '59 Gibson than that of Mr. Montrose.

24. As the result of Mr. Moore's actions, Mr. Montrose has been damaged in an amount to be proven at trial.

THEREFORE, Mr. Montrose prays for judgment against Mr. Moore as set forth below.

**SECOND CLAIM FOR RELIEF**

**Trespass to Chattel**

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25. Mr. Montrose incorporates the allegations contained in Paragraphs 1 through 25 as though set forth in full here.

26. Mr. Montrose is the actual owner of the '59 Gibson with the right to its immediate possession.

27. Mr. Moore was informed that the '59 Gibson was stolen from Mr. Montrose and has failed to return Mr. Montrose's property.

28. Mr. Moore's ongoing possession and failure to return the '59 Gibson, despite a demand for its return, constitutes a substantial interference with Mr. Montrose's right of possession.

29. Mr. Moore has no superior right to possess the '59 Gibson than that of Mr. Montrose.

30. As the result of Mr. Moore's actions, Mr. Montrose has been damaged in an amount to be proven at trial.

THEREFORE, Mr. Montrose prays for judgment against Mr. Moore as set forth below.

**THIRD CLAIM FOR RELIEF**

**Declaratory And Injunctive Relief**

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31. Mr. Montrose incorporates the allegations in paragraphs 1 through 31, above, as though fully set forth here.

32. Mr. Montrose purchased the '59 Gibson from J. Geils in 1972.

33. The '59 Gibson was stolen from Mr. Montrose during a concert on October 20, 1972.

34. Mr. Montrose first learned that Mr. Moore was in possession of the stolen '59 Gibson in November 2007.

35. Mr. Montrose has demanded the return of his '59 Gibson from Mr. Moore to no avail.

36. Mr. Montrose is entitled to and seeks a declaration that the '59 Gibson is lawfully his property and he has a right to possess the '59 Gibson superior to Mr. Moore's and all others.

37. Mr. Montrose is entitled to an immediate injunction prohibiting Mr. Moore from using, further damaging, selling, transferring title or possession of the '59 Gibson.

38. Unless and until Mr. Moore is enjoined and restrained by order of this Court, it will cause irreparable injury to Mr. Montrose. Mr. Moore will continue to use and possess the '59 Gibson and violate California and common law, unless specifically ordered to



1 comply with the same. Mr. Montrose has no other adequate remedy at law to ensure compliance  
2 with the laws alleged to have been violated here.

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4 THEREFORE, Mr. Montrose prays for judgment against Mr. Moore as set forth below.

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**FOURTH CLAIM FOR RELIEF**

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**Specific Recovery of Property**

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9 39. Mr. Montrose incorporates the allegations contained in Paragraphs 1  
10 through 39 as though set forth in full here.

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12 40. Mr. Montrose is the actual owner of the '59 Gibson with the right to its  
13 immediate possession.

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15 41. Mr. Moore was informed that the '59 Gibson was stolen from Mr.  
16 Montrose and has failed to return Mr. Montrose's property.

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18 42. Mr. Moore's ongoing possession and failure to return the '59 Gibson,  
19 despite a demand for its return, constitutes a substantial interference with Mr. Montrose's right of  
20 possession.

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22 43. Mr. Moore has no superior right to possess the '59 Gibson than that of Mr.  
23 Montrose.

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25 44. As the result of Mr. Moore's actions, Mr. Montrose has been damaged in  
26 an amount to be proven at trial.

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1                    THEREFORE, Mr. Montrose prays for judgment against Mr. Moore as set forth  
2 below.

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4                    **JURY DEMAND**

5                    Mr. Montrose demands a jury on all claims so triable.

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7                    **PRAYER FOR RELIEF**

8                    THEREFORE, Plaintiff prays judgment against Defendant as follows:

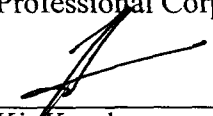
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- 10            1.        For a declaration that the '59 Gibson, Serial # 9-2227 is Mr. Montrose's guitar  
11            that was stolen on October 20, 1972,
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  - 13            2.        For an order requiring the immediate return of the '59 Gibson, Serial # 9-2227 to  
14            Mr. Montrose,
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  - 16            3.        For general damages according to proof;
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  - 18            4.        For special damages according to proof;
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  - 20            5.        For exemplary and punitive damages according to proof;
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  - 22            6.        For prejudgment interest at the legal rate according to proof;
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  - 24            7.        For a preliminary and/or permanent injunction from using or transferring  
25            possession of the '59 Gibson,
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8. For such other and further relief as the Court may deem just and proper.

DATED: May 15, 2009.

COMMINS & KNUDSEN  
Professional Corporation

By:   
\_\_\_\_\_  
Kip Knudsen  
Attorneys for Defendants