

# Exhibit D

**UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF WASHINGTON**

***STEPHEN J. TUTTLE, ET AL., V. AUDIOPHILE MUSIC DIRECT, INC., ET AL.,  
CASE NO: 2:22-CV-01081-JLR (the “Case”).***

**NOTICE OF CLASS ACTION SETTLEMENT (the “Notice”)**

A settlement (the “Settlement”) has been proposed in a class action lawsuit alleging that Mobile Fidelity Sound Lab, Inc. (“MoFi”) and Audiophile Music Direct, Inc. (“Music Direct”) (individually and collectively, “Defendants”) marketed and promoted certain of MoFi’s vinyl records from March 19, 2007 to July 27, 2022 using false and misleading claims that the records were “all-analog.” Defendants deny the allegations and any wrongdoing or liability. If the Settlement is approved by the Court, original retail consumer purchasers may be entitled to certain refunds or payments.

The United States District Court for the Western District of Washington authorized this Notice and will hold a hearing to decide whether to approve the Settlement before any money or other compensation is paid. Your legal rights are affected whether you act or do not act. Please read this Notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:**

<b>SUBMIT A CLAIM FORM</b>	The only way to get Settlement a Payment (as defined in Paragraph 6 below).
<b>EXCLUDE YOURSELF</b>	Get no Settlement Payment. This is the only option that allows you to ever be part of any other lawsuit against Defendants about the legal claims in this Case.
<b>OBJECT</b>	Write to the Court about why you do not like the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.
<b>DO NOTHING</b>	Get no payment. Give up rights.

- This Notice explains your rights and options and the deadlines to exercise them.
- The Court still has to decide whether to approve the Settlement and Settlement Payments will only be made if it is approved, and after any appeals are resolved. Please be patient.

**1. What is this Case about?**

Stephen J. Tuttle and Dustin Collman (individually and collectively, “Plaintiffs”), on behalf of all members of the Class (known and unknown), have asserted that Defendants violated various laws, including state consumer protection laws. Specifically, Plaintiffs allege that Defendants’ marketing and promotion of MoFi’s Original Master Recording (“OMR”) and Ultradisc One-Step (“One-Step”) series of vinyl records relied on false and misleading claims that the records were produced with “analog-only” methods, without the use of any intervening digital step. Plaintiffs allege that in reality, certain of the MoFi records, namely, the Applicable Records, used a direct stream digital (“DSD”) transfer step in the mastering chain (the “Applicable Records”), the absence of which was a material selling point of “analog-only” records. Plaintiffs allege that by misrepresenting the source and provenance of the Applicable Records, Defendants acted unfairly and deceptively, and breached their contractual obligations to original purchasers. Defendants deny all such allegations and any liability or wrongdoing.

**2. Why is this a class action?**

In a class action, one or more people, called Class Representatives (in this Case, Stephen J. Tuttle and Dustin Collman), sue on behalf of people who are similarly situated and have similar claims (the “Class”). All these people (known and unknown) are Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

**3. Why is there a Settlement?**

The Court did not decide in favor of Plaintiffs or Defendants. Plaintiffs and Defendants both think they could have prevailed at trial. But there was no trial. Instead, both sides agreed to a Settlement. That way, both sides avoid the costs of a trial and the people affected will get compensation. The Class Representatives and the attorneys think that the Settlement is best for all Class Members.

**4. How do I know if I am part of the Settlement?**

The Court decided that everyone who fits this description is a Class Member:

All original retail consumers in the United States who, from March 19, 2007, through July 27, 2022 purchased, either directly from a Defendant or other retail merchants, new and unused Mobile Fidelity Sound Lab, Inc. (“MoFi”) vinyl recordings which were marketed by Defendants using the series labeling descriptors “Original Master Recording” and/or “Ultradisc One-Step,” that were sourced from original analog master tapes and which utilized a direct stream digital transfer step in the mastering chain, and provided that said purchasers still own said recordings (the “Applicable Records”). Excluded from the Class are persons who obtained subject Applicable Recordings from other sources.

A list of the Applicable Records is attached to this Notice as Exhibit 1 and included on the settlement website (the “Settlement Website”) at: [\[insert website\]](#).

**5. I'm still not sure if I am included.**

If you still aren't sure whether you're a Class Member, you can ask for free help by contacting the Case settlement administrator (the "Settlement Administrator") either by email at: [insert email], telephone at: [insert phone number], or by visiting the Settlement Website at: [insert website].

**6. What does the Settlement provide?**

There are three options. Class Members who submit a timely and valid Settlement Claim Certification Form (the "Claim Form"), Proof of Purchase and Proof of Ownership (as defined in Paragraph 7 below) shall be entitled to receive compensation as follows:

- (i) Class Members who choose to return their Applicable Record(s) in their original covers and/or boxes, in complete and undamaged condition except for normal wear and tear shall receive a refund of their actual purchase price (not to exceed 110% of the manufacturer's suggested retail list price at the time of purchase ("MSRLP")) plus tax and shipping, in the form of a check or electronic payment (*e.g.*, PayPal, Venmo, etc.) (the "Return Refund).

Class Members who want to keep their Applicable Record(s) shall have the option of receiving, either:

- (ii) payment of five percent (5%) of the actual purchase price (not to exceed 110% of the MSRLP) in the form of a check or electronic payment (*e.g.*, PayPal, Venmo, etc.) (the "5% Payment"), or
- (iii) a coupon in the amount of ten percent (10%) of the actual purchase price (not to exceed 110% of the MSRLP), redeemable for retail purchase use at Defendant Music Direct's "musicdirect.com" retail website (the "10% Coupon" or "Coupon"). The Coupon will contain a code that may be used to redeem its full value for one or more retail purchases by the Class Member. Each Coupon, including any unused amounts will expire one hundred and eighty (180) days after issuance (the "Redemption Period") and shall not be transferable. Coupons may be redeemed in combination on one or more purchases. Any unused amounts will be placed on account for use during the Redemption Period by the Class Member. All MoFi products currently in stock and available for sale shall be available for Coupon redemption along with any and all other products offered for sale at "musicdirect.com."

Class Members are entitled to designate their preference of a Return Refund, 5% Payment, or 10% Coupon (individually and collectively, a "Settlement Payment") for each individual Applicable Record on their Claim Form. For purposes of payment security, Class Members can only make the election to receive an (i) electronic Return Refund and/or (ii) electronic 5% Payment, including the designation of form of electronic payment, by filling out the Claim Form on the Settlement Website. All Return Refunds and/or 5% Payments to Class Members will be paid by check mailed to the address designated on the Claim Form unless an election for an electronic payment is timely made by the Class Member on the Settlement Website with designation of form of electronic payment.

Class Members must cash their Return Refund and/or 5% Payment checks within one hundred and eighty (180) days after issuance.

For each Applicable Record purchased online directly from either (i) Defendant MoFi's "mofi.com" website, or (i) Defendant Music Direct's "musicdirect.com" website, the Class Member's actual purchase price will be used in calculating the amount of their Return Refund, 5% Payment, or 10% Coupon, as applicable.

For each Applicable Record purchased from retail merchants other than Defendants, the Class Member's actual purchase price not to exceed 110% of the MSLRP at time of purchase will be used in calculating the amount of their Return Refund, 5% Payment, or 10% Coupon, as applicable. A list of the MSLRPs by date is included on the Settlement Website at: [\[insert website\]](#).

## **7. How can I get a Settlement Payment?**

### A. Claim Form Submission and Review by the Settlement Administrator.

A copy of the Claim Form is attached as Exhibit 2 to this Notice. Claim Forms can also be obtained from and filled out online on the Settlement Website, or by calling [\[insert phone number\]](#).

If you want to ask for a Settlement Payment, you must completely fill out the Claim Form, which allows Class Members to select (i) a Return Refund, 5% Payment, or 10% Coupon for each Applicable Record, (ii) a check or electronic payment (e.g., Paypal, Venmo, etc.) for Return Refunds or 5% Payments, and (iii) to receive the 10% Coupons by mail or email. The Claim Form can be filled out online, and uploaded, along with your Proofs of Purchase and Ownership to the Settlement Website, or emailed, or postal mailed to the Settlement Administrator at:

[\[insert Settlement Website address\]](#); [\[insert Settlement Administrator email address\]](#); and [\[insert Settlement Administrator mailing address\]](#).

Do not mail or return Applicable Records to the Settlement Administrator with your Claim Form.

You must submit legible copies of Proof of Purchase and Proof of Ownership with your Claim Form to receive a Settlement Payment.

- "Proof of Purchase" means a document showing the amount you paid for your retail purchase of the Applicable Record, the purchase date, and who you purchased it from. Acceptable Proof of Purchase, includes, a receipt, credit card statement, or cancelled check referencing the purchase. However, if you purchased an Applicable Record online directly from either (i) Defendant MoFi's "mofi.com" website, or (ii) Defendant Music Direct's "musicdirect.com" website (individually and collectively, a "Direct Purchase") you just need to provide your name and order number as Proof of Purchase. If you do not have your order number, you will need to provide your name, email address used, and approximate purchase date, for each Applicable Record as Proof of Purchase.
- "Proof of Ownership" means proof that you still own and are in possession of the Applicable Record. Acceptable Proof of Ownership, includes, for each Applicable Record:

(i) the catalog number appearing on the spine of the record cover or box; and legible photos, photocopies, JPEGs, PDFs, or similar copies of both (ii) the individually stamped or handwritten number from the back cover, and (iii) the front cover of the Applicable Record.

If you fail to follow these procedures, you will receive no Settlement Payment, but will be nonetheless bound by any judgments, orders, and releases in this Case. It is very important that you follow these procedures. If you have questions, please contact the Claim Administrator.

Completed Claim Forms and Proof must be uploaded to the Settlement Website, emailed, or postmarked by [insert date].

Timely-submitted Claim Forms and Proofs will be reviewed by the Settlement Administrator, and all that are properly completed, executed, and timely received will be deemed a “Qualifying Claim Certification Form” entitling the Class Member to a Settlement Payment as elected for each Applicable Record, with the respective amounts calculated by the Settlement Administrator. If a Class Member submits a Claim Form that is incomplete or fails to satisfy the criteria for receiving a Settlement Payment, the Settlement Administrator will notify the Class Member that their Claim Form has been rejected and provide the reasons for rejection, and an opportunity for the Class Member to correct the Claim Form or provide additional Proof.

#### B. Returns and Settlement Payments.

Class Members who do not seek Return Refunds will be issued their 5% Payment(s) or 10% Coupon(s) for all of the Applicable Records on their validated Claim Form by the Settlement Administrator within thirty (30) days after the Settlement receives final approval and any appeals taken have been resolved.

Class Members who request Return Refunds will be mailed or emailed (based on the election on their Claim Form) a pre-paid return shipping label with tracking number and instructions for the return of Applicable Records within thirty (30) days after the Settlement receives final approval and any appeals taken have been resolved. Applicable Records must be returned in their original covers and/or boxes, in complete and undamaged condition except for normal wear and tear. Class Members will have ninety (90) days from when they receive the pre-paid return shipping label to return their Applicable Records. The Settlement Administrator will issue Return Refunds along with any 5% Payment(s) or 10% Coupon(s) also elected on the Claim Form within ten (10) days of the deadline to return Applicable Record(s).

#### **8. When would I get a Settlement Payment?**

The Court will decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It’s always uncertain whether these appeals can be resolved and resolving them can take time, perhaps more than a year. Settlement Payments to Qualifying Class Members will be issued only after Settlement approval by the Court and the resolution of any appeals. Please be patient.

#### **9. What am I giving up to get a Settlement Payment or stay in the Class?**

Unless you exclude yourself, you are staying in the Class, and that means you can’t sue, continue

to sue, or be part of any other lawsuit against Defendants or other entities released in the Settlement Agreement regarding any of the legal issues in this Case. It also means that all of the Court's orders will apply to you and legally bind you.

**10. Can I exclude myself from the Class?**

If you do not wish to participate in this Settlement, you must notify Class Counsel in writing of your intent to be excluded. Your election to opt-out must contain the following information and be signed by the Class Member opting-out: (i) the name of the Class Member, (ii) the current address of the Class Member, and (iii) the date signed. You must mail your signed exclusion request, postmarked no later than **insert date** to Class Counsel: Duncan C. Turner, Esq., Badgley Mullins Turner, PLLC, 19929 Ballinger Way NE, Suite 200, Seattle, WA 98155.

If you ask to be excluded, you will not get a Settlement Payment and you cannot object to the Settlement. You will not be legally bound by anything that happens in this Case. You may be able to sue Defendants or the other entities released in the Settlement Agreement in the future regarding the legal issues in this Case.

**11. If I don't exclude myself, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself, you give up any right to sue Defendants and the other entities released in the Settlement Agreement for the claims that this Settlement resolves. If you have a pending lawsuit involving the same claims that this Settlement resolves, speak to your lawyer in that case immediately. You must exclude yourself from *this* Class to continue your own lawsuit. If you have a pending lawsuit on matters not addressed in this Settlement, you may continue that lawsuit against Defendants.

**12. If I exclude myself, can I get Settlement relief from this Settlement?**

No. If you exclude yourself, do not send in a Claim Form to ask for a Settlement Payment.

**13. Do I have a lawyer in this Case?**

The law firm of Badgley Mullins Turner, PLLC, 19929 Ballinger Way NE, Suite 200, Seattle, WA 98155, represents you and other Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**14. How will these lawyers be paid?**

Class Counsel will ask the Court to approve payment of attorneys' fees and expenses of \$290,000. The fees would pay Class Counsel for investigating the facts, litigating the Case, and negotiating the Settlement. In addition, Class Counsel will ask for payments of \$10,000 each to Stephen J. Tuttle and Dustin Collman for their services as Class Representatives. These payments are coming directly from the Defendants and will not reduce the funds available to the Class.

**15. How can I object to the Settlement?**

If you are a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must prepare a letter stating your reasons for objecting to the Settlement, and include your name, address, telephone number, and signature, and the case caption "*Stephen J. Tuttle, et al., v. Audiophile Music Direct, Inc., et al.*, Case No. 2:22-cv-01081-JLR." You must mail copies of this letter to the Clerk of the Court and the Class Counsel, at the following addresses:

<b>Court</b>	<b>Class Counsel</b>
Clerk of the Court U.S. District Court 700 Stewart St., Suite 2310, Seattle, WA 98101	Badgley Mullins Turner, 19929 Ballinger Way NE, Ste. 200, Seattle, WA 98155

The objection must be mailed by **[Insert Date]**.

Objectors who fail to properly or timely file their objections with the Court, or mail them as provided above, shall not be heard during the Fairness Hearing, nor shall their objections be considered by the Court.

**16. What's the difference between objecting and excluding?**

Objecting is telling the Court that you do not agree with the Settlement, in whole or in part. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to object because the Case no longer affects you.

**17. When and where will the Court decide whether to approve the Settlement?**

The District Court will hold a hearing to decide whether to approve the Settlement. The Fairness Hearing will be held on **[insert date and time]** at the Court, 700 Stewart Street, Court Room #14106, Seattle, WA 98101. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. The Court may also decide the amount of attorneys' fees and costs to be paid to Plaintiffs' Class Counsel.

**18. Do I have to come to the Hearing?**

No. Class Counsel will answer questions that the Court may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.



**19. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your “Notice of Intention to Appear” in *Stephen J. Tuttle, et al., v. Audiophile Music Direct, Inc., et al.*, Case No. 22-cv-01081. Be sure to include your name, address, telephone number, and signature. Your Notice of Intention to Appear must be postmarked no later than [insert date] and sent to the Clerk of the Court and the Class Counsel, at the addresses in Paragraph 15. You cannot speak at the hearing if you have excluded yourself.

**20. What happens if I do nothing at all?**

If you do nothing, you will not get a Settlement Payment from this Settlement. But, unless you exclude yourself, you won’t be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the legal issues in this Case, ever again.

**21. How do I get more information?**

This is only a summary of the Case, the claims asserted, the Class, the Settlement, and process for getting a Settlement Payment. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the Settlement Agreement, pleadings, records, and other papers on file in this Litigation on the Settlement Website: [insert website]. If you wish to communicate with Class Counsel identified above, you may do so by writing to Duncan C. Turner, Esq., at Badgley Mullins Turner, PLLC, 19929 Ballinger Way NE, Suite 200, Seattle, WA 98155. Alternatively, you may call the offices of the firm at [insert phone number], or email the firm at [insert email].