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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

15 MARGARET LEANN RIMES CIBRIAN  
16 (P/K/A LEANN RIMES), an individual,

17 Plaintiff,

18 vs.

19 KIMBERLY SMILEY, an individual; LEXI  
20 SMILEY, an individual; and DOES 1-50,  
21 inclusive,

22 Defendants.

Case No.

**COMPLAINT FOR:**

**(1) VIOLATION OF CALIFORNIA  
PENAL CODE SECTIONS 632 & 637.2**

**(2) INVASION OF PRIVACY  
(INTRUSION)**

**DEMAND FOR JURY TRIAL**

**CONFORMED COPY  
ORIGINAL FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES**

**AUG 30 2012**

John A. Clarke, Executive Officer/Clerk  
BY Mary Flores, Deputy

**BC 49 1366**

Case No.

COMPLAINT

1 Plaintiff Margaret LeAnn Rimes Cibrian (p/k/a Leann Rimes) ("Ms. Rimes" or "Plaintiff"),  
2 as and for her Complaint against Kimberly Smiley and Lexi Smiley (collectively, "Defendants"),  
3 hereby alleges as follows:

#### 4 INTRODUCTION

5 1. After years of defaming and harassing Ms. Rimes on the Internet, and instigating  
6 others to do so as well, Defendants and various unknown individuals acting in concert with them  
7 crossed the line. What was once an increasingly-abrasive nuisance evolved into conduct that the  
8 state of California has deemed criminal. With neither Ms. Rimes's knowledge nor consent,  
9 Defendants secretly made a recording of a private telephone conversation with Ms. Rimes. They  
10 then conspired to spitefully ensure that out-of-context excerpts of that recording would be  
11 disseminated to the public on various websites and referenced in several online articles in an effort  
12 to portray Ms. Rimes in an egregiously false and negative light and cause her emotional distress.

13 2. Until now, Ms. Rimes has patiently put up with Defendants' campaign of  
14 harassment in the hope that they would tire of posting false and defamatory statements about her on  
15 the Internet. Unfortunately, her restraint has been rewarded with only escalating outrageous  
16 conduct by Defendants and those acting in concert with them. Ms. Rimes can no longer merely  
17 hope that these individuals will stop their malicious and illegal acts. With this action, Ms. Rimes  
18 seeks remedies arising from Defendants' unlawful, malicious, and surreptitious recording of her.  
19 Ms. Rimes further seeks to set the record straight, to put an end to Defendants' illegal and  
20 harassing conduct, and to be compensated for the harm that she has endured as a result of  
21 Defendants' malicious actions. She is entitled to damages and injunctive relief resulting from  
22 Defendants' blatant violations of California law.

#### 23 THE PARTIES

24 3. Plaintiff Ms. Rimes is, and at all times relevant hereto was, an individual residing in  
25 Los Angeles County, California.

26 4. Ms. Rimes is informed and believes, and based thereon alleges, that defendant  
27 Kimberly Smiley is, and at all times relevant hereto was, an individual residing in the state of  
28 California.

Case No.

COMPLAINT

5. Ms. Rimes is informed and believes, and based thereon alleges, that defendant Lexi Smiley is, and at all times relevant hereto was, an individual residing in the state of California.

6. The true names and capacities of the defendants named herein as DOES 1 through 50, inclusive, whether individual, corporate, associate or otherwise, are presently unknown to Ms. Rimes, and therefore Ms. Rimes sues these defendants by such fictitious names. Ms. Rimes will amend her Complaint to substitute such true names and capacities when the same have been ascertained. Ms. Rimes is informed and believes, and on that basis alleges, that each of the fictitiously named defendants is responsible in some manner for the occurrences and damages alleged herein. Ms. Rimes is informed and believes, and on that basis alleges, that each of the fictitiously named defendants conspired to tape, edit, and distribute the unlawfully recorded telephone conversation referenced herein. For convenience, each reference to "Defendants" shall include the Doe defendants, and each of them.

7. Ms. Rimes is informed and believes, and based thereon alleges, that each defendant herein is now, and at all times relevant thereto was, the agent, servant or alter ego of each of the other defendants herein and, in doing the things hereinafter alleged, was acting within the scope of such employment, agency servitude or alter ego relationship.

## COMMON ALLEGATIONS

8. Plaintiff Ms. Rimes is a recording artist who has sold over 20 million albums and recently commenced an acting career. She appreciates her fans and has always sought to cultivate a direct relationship with them in variety of different ways, including Tweeting them and meeting with them in person.

9. Though she has many supporters, over the past several years, Ms. Rimes has been the target of an increasingly aggressive Internet campaign by supporters of her husband Eddie Cibrian's first wife. Defendants are among the individuals behind this campaign, which commenced around the time that Ms. Rimes began dating Mr. Cibrian.

10. In Spring 2012, Ms. Rimes was encouraged by a friend of Defendants to speak with Defendants in an attempt to stop the negative Internet activity of Defendants toward Ms. Rimes. In an effort to be conciliatory, Ms. Rimes agreed, this individual placed a telephone call to defendant



1 Kimberly Smiley, handed the phone to Ms. Rimes, and Ms. Rimes spoke to defendant Kimberly  
2 Smiley (the "Conversation"). During the Conversation, Ms. Rimes attempted to be kind and to  
3 make it clear that she wanted to smooth things over with Kimberly Smiley and for both of them to  
4 move on. However, Kimberly Smiley insisted on re-hashing the past and repeatedly insulted,  
5 taunted and provoked Ms. Rimes.

6 11. When the call took place, Ms. Rimes was in California, and she believed she and  
7 defendant Kimberly Smiley were the only persons on the telephone. At no time did Ms. Rimes  
8 consent to being recorded. Notwithstanding the absence of Ms. Rimes's informed consent, Ms.  
9 Rimes is informed and believes, and on that basis alleges, that defendants Kimberly and Lexi  
10 Smiley did, in fact, secretly record the Conversation (the "Unauthorized Recording") in furtherance  
11 of their campaign of cyber harassment of Ms. Rimes.

12 12. For months, Ms. Rimes was unaware of this egregious invasion of her privacy. In  
13 August 2012, a portion of the Conversation was posted on a hate blog at  
14 <http://lunaticleannrimes.blogspot.com>. Further truncated versions of the conversation were posted  
15 on the website Chirbit at <http://chirb.it/hPDh3E>, <http://chirb.it/M14PPL>, and  
16 <http://chirb.it/hPDh3Ea>. Shortly thereafter, blogs such as Celebitchy.com and  
17 Crazydaysandnights.net began posting and linking to the portions of the Unauthorized Recording  
18 which were initially posted on Chirbit. Stories accompanying these posts quoted some misleading  
19 out-of-context excerpts of the Unauthorized Recording and otherwise misdescribed what occurred  
20 during the Conversation. They also painted Ms. Rimes in an extremely false and negative light,  
21 saying, for example, that Ms. Rimes is "crazy and delusional" and that Ms. Rimes called Ms.  
22 Smiley to "defend herself," rather than to attempt to amicably end Kimberly Smiley's harassment  
23 of her. Defendants and others commented on these stories about the Unauthorized Recording,  
24 adding even more false and harassing statements about Ms. Rimes.

25 13. The making of the Unauthorized Recording, and the posting of it and edited excerpts  
26 of it on various websites have resulted in a public and damaging depiction of Ms. Rimes, have  
27 harmed her reputation and personal relationships, and have caused her emotional distress. Ms.  
28 Rimes intends to conduct discovery regarding the editing of the Unauthorized Recording and its

1 actual posting online and anticipates amending this Complaint to include additional allegations and  
2 defendants in connection therewith.

3 **FIRST CAUSE OF ACTION**

4 **Violation of California Penal Code Sections 632 & 637.2**

5 **(Recording of Telephonic Communication – Against Defendants)**

6 14. Ms. Rimes hereby incorporates by reference each and every allegation made in  
7 paragraphs 1 through 13, inclusive, as though fully set forth herein.

8 15. Ms. Rimes is informed and believes, and based thereon alleges, that California law  
9 requires that all parties consent to the recording of a confidential communication between or among  
10 them. Further, Ms. Rimes is informed and believes, and based thereon alleges, that California has  
11 personal jurisdiction over any individual who creates an unauthorized recording of such a  
12 communication with a California resident.

13 16. The Conversation was a confidential communication, made with a reasonable  
14 expectation of confidentiality, which took place in Spring 2012 when Ms. Rimes was in California.  
15 Ms. Rimes is informed and believes, and based thereon alleges, that Defendants were also in  
16 California when the Conversation took place.

17 17. The Conversation was recorded with an electronic device. Ms. Rimes is informed  
18 and believes, and based thereon alleges, that Defendants intentionally made the Unauthorized  
19 Recording in violation of California Penal Code Sections 632 and 637.2.

20 18. At no time did Defendants inform Ms. Rimes that the Conversation was being  
21 recorded, and at no time did Ms. Rimes consent to the recording.

22 19. Pursuant to California Penal Code Section 637.2, Ms. Rimes is entitled to statutory  
23 damages in the amount of \$5000 or three times the amount of actual damages to be proved at trial,  
24 whichever is greater. As a proximate result of Defendants' conduct, Ms. Rimes has suffered actual  
25 damages in an amount to be proved at trial, but in no event less than the minimum jurisdiction of  
26 this Court.

27 20. Unless enjoined and restrained by the Court, Defendants will republish and continue  
28 to disseminate the Unauthorized Recording, all to the continuing injury of Ms. Rimes. Such action

1 will cause irreparable harm to Ms. Rimes by placing her in a false light, damaging her reputation,  
2 and adversely affecting her business efforts as well as her personal relationships. Ms. Rimes has no  
3 adequate remedy at law insofar as damages will be very difficult to calculate for such on-going  
4 injuries. By reason of the foregoing, Ms. Rimes is entitled to a preliminary and permanent  
5 injunction enjoining and restraining Defendants, and each of them, and all persons acting in concert  
6 with them, from republishing, distributing or otherwise disseminating the Unauthorized Recording.

## 7 **SECOND CAUSE OF ACTION**

### 8 **Invasion of Privacy (Intrusion)**

#### 9 **(Against Defendants)**

10 21. Ms. Rimes hereby incorporates by reference each and every allegation made in  
11 paragraphs 1 through 20, inclusive, as though fully set forth herein.

12 22. Ms. Rimes is informed and believes, and based thereon alleges, that Defendants  
13 intentionally invaded Ms. Rimes's right to privacy by creating the Unauthorized Recording of the  
14 Conversation.

15 23. At no time did Defendants inform Ms. Rimes that the Conversation was being  
16 recorded, and at no time did Ms. Rimes consent to the recording.

17 24. Defendants' intrusion was highly offensive to a reasonable person because, among  
18 other things, the intrusion resulted in the unauthorized recording of a confidential and private  
19 conversation and the subsequent public dissemination of out-of-context excerpts of that  
20 Unauthorized Recording.

21 25. Ms. Rimes had a reasonable expectation that the Conversation was a confidential  
22 communication which would remain confidential rather than be recorded and publicly distributed.

23 26. As the proximate, direct and foreseeable result of Defendants' conduct as herein  
24 alleged, Ms. Rimes has suffered damages in an amount to be proven at trial but in excess of the  
25 minimum jurisdiction of this Court.

26 27. Defendants' conduct, including but not limited to the provocation and secret taping  
27 of Ms. Rimes, and the public distribution of the Unauthorized Recording is willful, wanton,  
28 malicious and oppressive and justifies the award of exemplary and punitive damages.



PRAYER FOR RELIEF

WHEREFORE, Ms. Rimes prays for judgment against Defendants as follows:

1. For a preliminary and permanent injunction enjoining Defendants from republishing, distributing or otherwise disseminating the Unauthorized Recording;
2. Statutory, actual and compensatory damages in an amount adequate to compensate Ms. Rimes and in excess of the minimum jurisdiction of this Court;
3. Exemplary and punitive damages for Defendants' willful and malicious actions;
4. Pre-judgment and post-judgment interest at the maximum rate allowed by law;
5. For costs of suit herein incurred; and
6. For such other and further relief as the Court may deem just and proper.

Dated: August 30, 2012

LINER GRODE STEIN YANKELEVITZ  
SUNSHINE REGENSTREIF & TAYLOR LLP

By: 

Stanton L. Stein  
Attorneys for Plaintiff  
Margaret LeAnn Rimes Cibrian

DEMAND FOR JURY TRIAL

Plaintiff Margaret LeAnn Rimes Cibrian demands trial by jury on all matters and issues so triable.

Dated: August 30, 2012

LINER GRODE STEIN YANKELEVITZ  
SUNSHINE REGENSTREIF & TAYLOR LLP

By: 

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