

CITY OF SEBASTOPOL
CITY COUNCIL
STAFF REPORT

Meeting Date: December 20, 2016
To: Honorable Mayor and City Councilmembers
From: City Manager-City Attorney Larry McLaughlin
Assistant City Manager/City Clerk Mary Gourley
Subject: Rejection of Claim for Money or Damages against the City of Sebastopol Filed by Julie Levy, ESQ on Behalf of Ruma and Peter Birnbaum
Recommendation : That the City Council Approve the Rejection of the Claim Filed and Forward to Redwood Empire Municipal Insurance Fund (REMIF) for Processing
Funding: Currently Budgeted: _____ Yes _____ No XX N/A
Net General Fund Cost:
Amount: \$

INTRODUCTION: This item is to request that the City Council approve the Rejection of the Claim Filed and Forward to Redwood Empire Municipal Insurance Fund (REMIF) for Processing.

BACKGROUND:
A claim was filed against the City of Sebastopol on December 6, 2016.

A copy of the claim is attached for the City Council's information.

DISCUSSION:
City staff and REMIF have reviewed the claim submitted and believe the claim is without merit.

RECOMMENDATION:
Staff recommends that the City Council Approve the Rejection of the Claim Filed and Forward to Redwood Empire Municipal Insurance Fund (REMIF) for Processing

Attachment:
Claim Filed December 6, 2016 (Birnbaum)

File with:
Office of the City Manager/City Clerk
City of Sebastopol
7120 Bodega Avenue
Sebastopol, CA 95472

Date Received
Received
DEC 06 2016
City of Sebastopol

**CLAIM FOR MONEY OR
DAMAGES AGAINST THE
CITY OF SEBASTOPOL**

A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.

1. Name and Address of the Claimant:

Name of Claimant: Ruma and Peter Birnbaum
Address: 208 May Ct Sebastopol, CA 95472
Mailing Address (if different than above): _____
Telephone Number: (707)823-1065

2. Address to which the person presenting the claim desires notices to be sent:

Name of Addressee: Julie Levy, Esq.
Mailing Address (if different than above): 100 Stony Point Road, Suite 265
Santa Rosa, CA 95401
Telephone Number: (707)523-1515

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: 6/11/16 Time of Occurrence: 6:08 PM
Location: Intersection of Bodega Avenue and Ragle Road, Sebastopol, CA

Circumstances giving rise to this claim:

Please see Attachment #1.

4. General Description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

Mrs. Birnbaum has incurred medical bills from Memorial Hospital, Kaiser, & Golden Living Center. Mr. Birnbaum has a claim for loss of consortium. Investigation and discovery continue as to the nature and extent of the claimant's injuries.

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Unknown

6. a. If the amount claimed totals less than \$10,000: The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of the presentation of this claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation:

- b. If the amount claimed exceeds \$10,000: If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86)

LIMITED CIVIL CASE

UNLIMITED CIVIL CASE

You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the City requests that you answer the following questions.

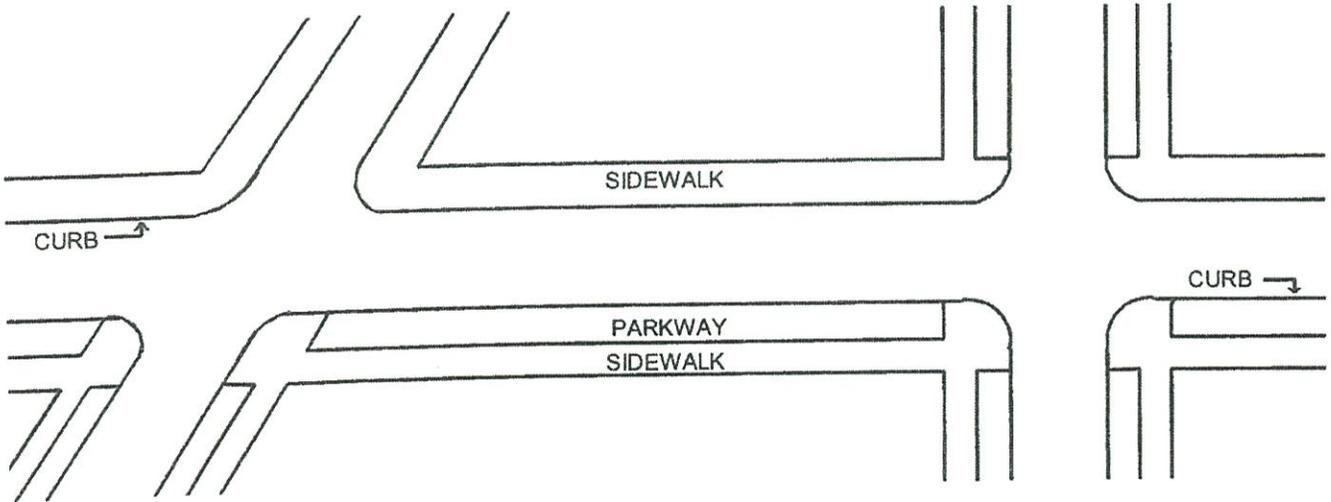
7. Claimant(s) Date(s) of Birth:
Ruma Birnbaum 02/07/1946
Peter Birnbaum 03/16/1938
8. Name, address and telephone number of any witness(es) to the occurrence or transaction which gave rise to the claim asserted:
Please see Attachment #2
9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment.
Santa Rosa Memorial Hospital 1165 Montgomery Drive Santa Rosa CA 95406
Kaiser Hospital Santa Rosa 401 Bicentennial Way Santa Rosa CA 95403
Golden Living Center 4650 Hoen Ave. Santa Rosa CA 95405
American Medical Response PO Box 742464 Los Angeles, CA 90074-2464
If applicable, please attach any medical bills or reports or similar documents supporting your claim.
10. If the claim relates to an automobile accident:
Claimant (s) Auto Insurance Company: AAA Telephone: 18009222288
Address:
PO Box 22221 Oakland CA 94623
Insurance Broker/Agent: _____ Insurance Policy Number: _____
Address: _____ Telephone: _____
Mrs. Birnbaum was a pedestrian who was hit by a car. Her AAA Policy Number is
CAA5102073235
Claimant's Vehicle License Number: n/a Vehicle Make/Year: n/a
Claimant's Driver License Number: n/a Expiration: n/a
If applicable, please attach any repair bills, estimates, or similar documents supporting your claim.

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City/Agency Vehicle; location of City/Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X".

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.

Please see Attachment #3



WARNING: Presentation of a false claim with the intent to defraud is a felony (Penal Code § Pursuant to CCP § 1038, the City/Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature: Rumabirnbaum Date: 11/11/16

Printed Name: RUMABIRNBAUM

Peter Birnbaum
Peter Birnbaum

Attachment #1

Question 3: Circumstances giving rise to this claim:

Mrs. Birnbaum was struck by a car as she was crossing Bodega Avenue at Ragle Road.

Mrs. Birnbaum was on foot. She was crossing Bodega Avenue in the marked crosswalk, walking southbound. She was struck by a car that was driving westbound on Bodega Avenue, at an estimated 30 to 35 miles per hour. **The driver of the car that hit Mrs. Birnbaum stated that she never saw Mrs. Birnbaum prior to the collision.** Since the driver of the car was traveling near the speed limit (40MPH) as she went through the intersection, it apparently did not occur to her that she was approaching a crosswalk, and thus should slow down.

While this intersection has a marked crosswalk, it has no posted signal lights or crosswalk notification lights. Since the driver of the car that hit Mrs. Birnbaum was not even aware of the presence of a pedestrian in the crosswalk, The Birnbaums contend that the City of Sebastopol is comparatively at fault in this collision because the crosswalk at this intersection does not provide adequate warning or sign to drivers that there may be a pedestrian crossing.

Investigation and discovery are continuing as to other theories of liability.

Attachment #2

Question 8: Names, phone numbers, and addresses of witnesses to incident

Driver of the car that hit Mrs. Birnbaum:

Maria Leticia Pineda

[REDACTED]

[REDACTED]

Oakland, CA 94624

Witnesses names, phone numbers, and addresses

Alicia Marque Ackerman Fasano

[REDACTED]

[REDACTED]

Santa Rosa, CA 95407

Christopher Szecsey

[REDACTED]

[REDACTED]

Occidental, CA 95465.

Sandra Forsyth Lackovic

[REDACTED]

[REDACTED]

Sebastopol, CA 95472

Samantha Lynn Hardina

[REDACTED]

[REDACTED]

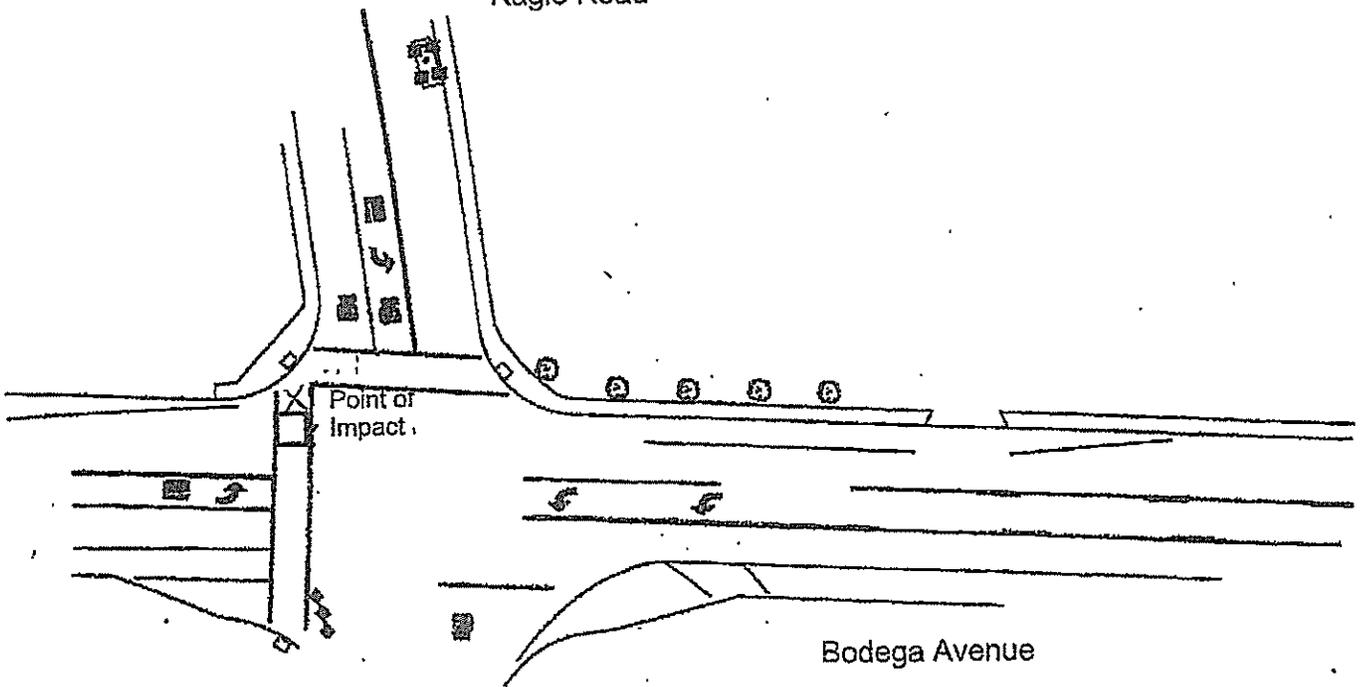
Santa Rosa, CA 95407

Investigation and discovery are continuing.

Attachment #3:

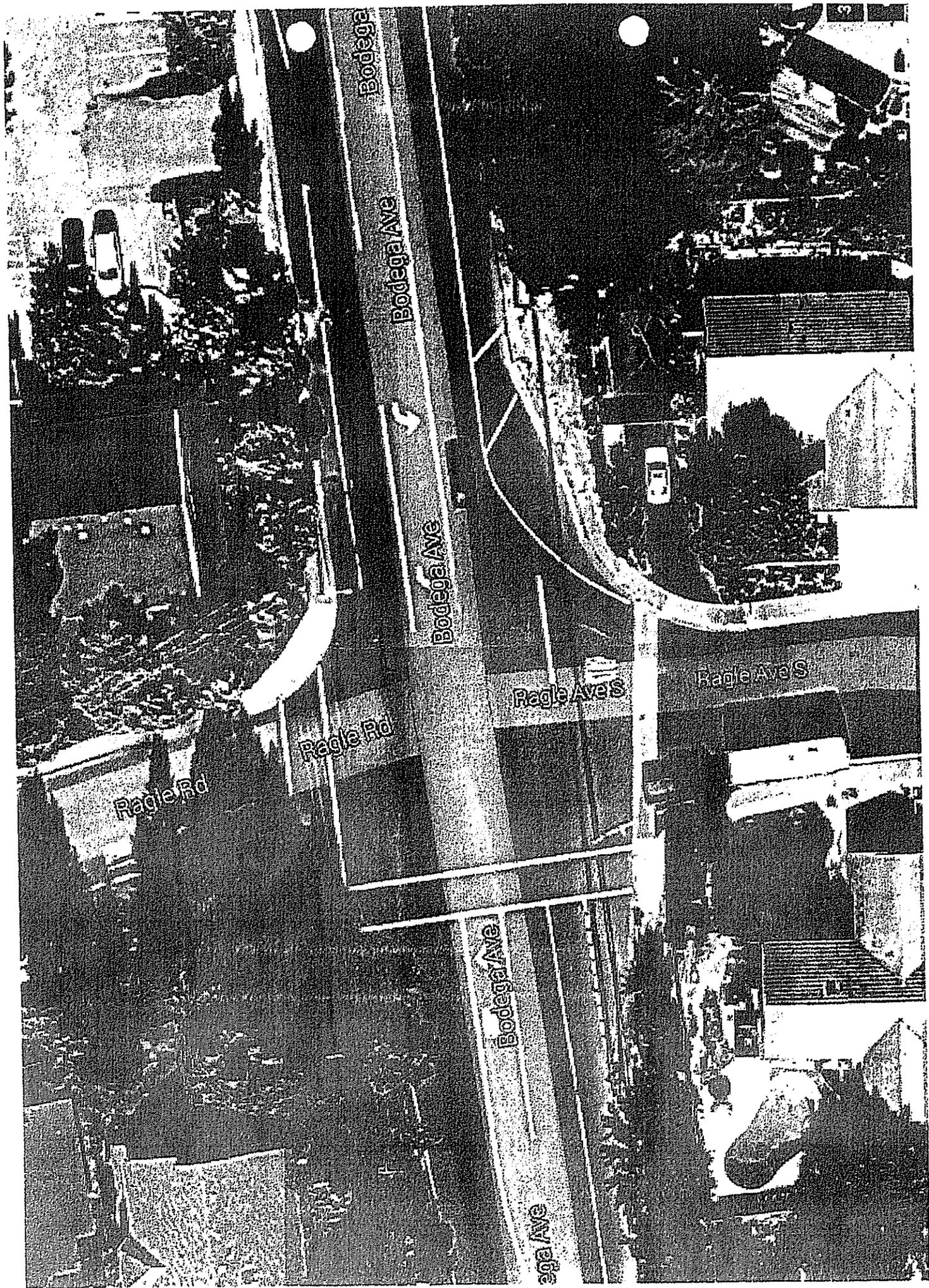
Sketch Diagram of collision site prepared by the California Highway Patrol, and a satellite photo of the intersection of Bodega Avenue and Ragle Road.

Ragle Road



Point of Impact

Bodega Avenue



Bodega

Bodega Ave

Bodega Ave

Ragle Ave S

Ragle Ave S

Ragle Rd

Ragle Rd

Bodega Ave

ega Ave

Attachment #4

- Copy of Mrs. Birnbaum's medical bill from Santa Rosa Memorial Hospital.
- We are in the process of acquiring Kaiser billing records for Mrs. Birnbaum.
- Copy of Mrs. Birnbaum's medical bill from Golden Living Center.
- Copy of the bill for Mrs. Birnbaum's ambulance ride from the collision site to Santa Rosa Memorial Hospital.

Santa Rosa Memorial Hospital
1165 Montgomery Drive
Santa Rosa, CA 95405

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FINAL

BIRNBAUM, RUMA

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BIRNBAUM, RUMA

Kaiser HMO Non Referr

208 MAY CT

SEBASTOPOL CA 95472

Santa Rosa Memorial Hospital
1165 Montgomery Drive
Santa Rosa, CA 95405

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BIRNBAUM, RUMA

SV0086356252 06/11/16 06/13/16 06/17/16

BIRNBAUM, RUMA

Kaiser HMO Non Referr

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SEBASTOPOL CA 95472

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Kaiser HMO Non Referr

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Santa Rosa Memorial Hospital
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Santa Rosa Memorial Hospital
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Santa Rosa, CA 95405

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BIRNBAUM, RUMA

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Santa Rosa Memorial Hospital
1165 Montgomery Drive
Santa Rosa, CA 95405

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Abbott
EMS

MEDICS
Ambulance
Service



MedStat
Emergency Medical Services

AMR

American Medical Response
50 S. Main St. Suite 401
Akron, OH 44308

INVOICE

- DBA AMR WEST

INVOICE #	410-60611078-00	ACCT #	
PAYMENT NAME	RUMA BIRNBAUM		
DATE OF SERVICE	06/11/2016		
INVOICE DUE	\$2,789.14	DUPLICATE	08/29/2016

RUMA BIRNBAUM
215 MAY COURT
SEBASTOPOL, CA 95472

4106061107800

REMIT PAYMENT TO:

AMERICAN MEDICAL RESPONSE
PO BOX 742464

[REDACTED] \$2,789.14

CALL RCVD: 18:09

FED TAX ID: 770324739

Send billing inquiries to: AMERICAN MEDICAL RESPONSE, 50 S. Main St., Suite 401, Akron, OH 44308
or call: 1-800-913-9106

Keep this portion for your records