

THE ARK



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Yema owners sue Belvedere in profiling claim

\$2 mil civil-rights suit says city's officer knew merchants during 2020 incident but stayed quiet with hand on gun

By **KEVIN HESSEL**
 editor@thearknewspaper.com

The owners of downtown Tiburon boutique Yema have filed a \$2 million federal lawsuit against Belvedere over its role in a 2020 incident between police and the Black merchants at their store, during which a city

officer repeatedly placed his hand on his holstered gun.

The lawsuit, filed July 13 in the U.S. District Court in San Francisco by the attorney for Yema Khalif and Hawi Awash — who own the shop at the corner of Tiburon Boulevard and Main Street — includes 12 federal and four state claims, mostly allegations of

civil-rights violations they say were driven by racial bias, as well as assault claims.

The suit asserts that Belvedere police Officer Jeremy Clark already knew Khalif from previously stopping him, yet remained silent with his hand on his weapon during the 1 a.m. Aug. 21, 2020, incident as Tiburon police interrogated Khalif about his identity.

The attorney, David Anderson of Mill Valley, asserts Clark can be seen in the video unlatching the strap on his gun.

When it was over, the suit says, it sunk in amid ongoing Black Lives Matter protests sparked by the murder of George Floyd by

See **LAWSUIT, PAGE 21**

Richardson Bay agency abandons plans for a mooring field

Officials say just six boats qualify for costly temporary solution

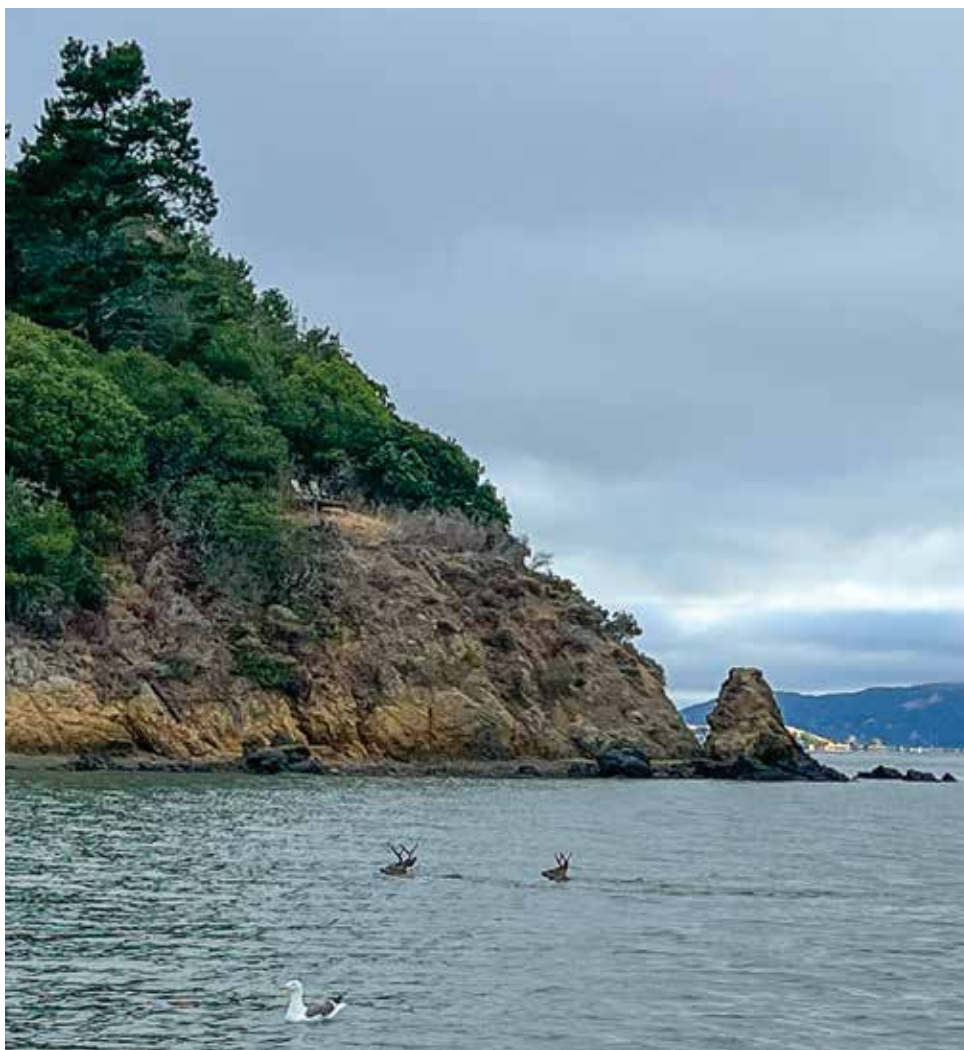
By **DEIRDRE McCROHAN**
 dmccrohan@thearknewspaper.com

The Richardson Bay Regional Agency is dropping plans to create a temporary mooring field off the Sausalito shoreline, with officials saying the effort is not an effective use of taxpayer money and that the agency should focus on bolstering other efforts to manage the troubled anchorage.

The agency's board of directors earlier this month voted unanimously to scrap the plan from a settlement agreement reached with the San Francisco Bay Conservation and Development Commission earlier this year.

The change is contingent on the bay commission's formal approval; at the Richardson Bay board meeting, agency Executive Director Steve McGrath said the two groups had

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VIA JONNY MOSELEY

Future Tiburon Milers

Two young adult male deer approach the shore at Keil Cove off Paradise Drive in Tiburon after making the swim across Raccoon Strait from Angel Island — a trip at least three-quarters of a mile long. Tiburon resident Jonny Moseley said he was headed out fishing from Paradise Cay about 7 a.m. July 7 with his son and spotted the bucks when they rounded Bluff Point. 'They just looked at us casually and kept going towards shore,' he said.

All-Stars down but not out in sectional tournament

First loss means boys must climb from elimination bracket

By **KEVIN HESSEL**
 editor@thearknewspaper.com

The Tiburon Peninsula Little League All-Stars suffered their first loss in the NorCal Section 1 tournament, a walk-off heartbreaker after the boys had battled back against Rincon Valley to send the game into extra innings.

The loss now puts the 12-and-under boys in the elimination bracket, meaning they still have a shot at the sectional title and to advance to the NorCal State championship on the road to the Little League World Series.

The boys entered sectionals as the undefeated District 3 champions, easily handling Napa American in a 7-0 victory on July 14 before holding on to edge out Alameda 9-8 on July 16, setting up the meeting with Rincon Valley the next day.

Tiburon started things off with a two-out single from **Nick Davis**,

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Anchorage, *from previous page*

staff and other initiatives needed to help the agency comply with its agreement with the bay commission. Tiburon's share rose to \$160,329 from \$90,270 and Belvedere's increased to \$119,726 from \$67,409 as part of the agency's \$1.8 million fiscal 2023 budget.

With the elimination of the mooring field, the \$165,000 previously allocated to that effort would be redirected to programs that meet the goals of the two agencies, as well as those of the city of Sausalito and Marin's environmental organizations.

This could include:

- Fattening the budget for the agency's vessel buy-back program, which offers up to \$5,200 to owners who agree to remove their vessels from the anchorage or turn them in for demolition.
- Hiring a dedicated part-time or full-time case manager to work toward getting anchor-outs permanent on-land housing and support services.
- Subsidizing slip or insurance costs if vessels move into a marina and/or reserving dedicated space in the existing marina for

impounded vehicles.

Sausalito City Councilmember Jill James Hoffman and former Councilmember Joan Cox spoke during the public-comment portion of the meeting in support of scrapping the mooring field.

"I and many others in Sausalito totally endorse the better use of funds outlined in the revised agreement that will serve the ongoing efforts to transition of those living on Richardson Bay to land-based housing," Cox said.

The Marin Conservation League also voiced support.

"We're glad to see the movement toward more protection and restoration of eelgrass and to more environmentally sound solutions such as the (buy-back) program," said Terry Thomas, the league's vice president.

But Louis Tenwinkle, president of the Richardson Bay Special Anchorage Association, an anchor-out advocacy group, criticized putting more resources into the buy-back program, saying the relatively small amount of money isn't going to be very helpful to someone currently living aboard their vessel anchored in the bay.

"What's that going to buy them?"

Tenwinkle said. "Where are they going to bed tonight? How long do you think that would last out in the street ... a month maybe? Then they're going to be living in one of your towns, living under one of your bridges."

However, vessel owners must show proof of alternative accommodation on land or a berth in a marina to qualify for the incentive.

Chris Carr, speaking for the San Francisco Bay Stewardship Alliance, said the organization was pleased to see the bay agency ditch the mooring field and bolster other initiatives like the buy-back program, which Carr called "very innovative, very creative (and) very humane."

The Richardson Bay agency has struggled in recent years to enforce rules on the anchorage, as efforts to move boats off the bay have been met with complaints and, at times, threats and acts of violence.

Former Harbor Administrator Curtis Havel was attacked with pepper spray and boat hooks, and several anchor-outs were arrested when they allegedly interfered with him as he tried to tow derelict vessels off the bay. In April 2021, deputies from the Marin County Sheriff's Office engaged

in a four-hour standoff with an anchor-out who refused to leave his vehicle so it could be towed and allegedly fired a flare gun at Havel.

The agency recently began partnering with Marin County social-service providers to find housing for anchor-outs who wish to move off their boats. However, that has proved challenging because the county has an affordable-housing shortage even for those who already live on land, and many of the waiting lists for affordable housing complexes in the county, both publicly and privately owned and managed, are closed.

Many anchor-outs have ended up in the city-sanctioned homeless encampment at Marinship Park in Sausalito, though police have barred new people from entering it in recent months and the city has indicated it may file a motion in federal court to close the camp entirely. That could pose a new problem for the city, as courts have ruled cities must let unhoused people sleep on public property unless they can provide alternative shelter.

Reach Tiburon reporter Deirdre McCrohan at 415-944-4634.

Lawsuit, *continued from page 1*

Minneapolis police three months earlier that other Black Americans had been shot, killed or physically attacked by police after reaching into a pocket for ID, keys, a cellphone or other object that wasn't a weapon.

During the incident, Tiburon police had given Khalif conflicting instructions, first telling him to keep his hands out of his pockets while also demanding he show identity or put his keys in the door to prove he belonged. Just after Khalif retrieved his keys from his pocket, a resident called out "that's his store," and the officers left without the proof they'd said was required. The suit says Khalif and Awash fear what may have happened if the resident hadn't yelled out.

The lawsuit names the city and Clark, as well as the Belvedere Police Department, Police Chief Jason Wu, councilmember and then-Mayor Nancy Kemnitzer and then-City Manager Craig Middleton. It alleges unlawful search, detainment and arrest under the Fourth Amendment and denial of equal protection and deprivation of liberty and property under the Fourteenth Amendment.

Kemnitzer and new City Manager Robert Zadnik declined to comment on the allegations, and Wu and Clark could not be reached by press time.

Khalif also declined to comment. His attorney, Anderson, said the primary objective is to obtain reform concessions from Belvedere, ideally through dialog and consensus, but that the city has declined to participate.

He said the couple "would like finality to this entire unfortunate situation."

The suit asserts Khalif and Awash, who are Tiburon residents, were known in the business community and by police. They opened the prominently located downtown store in February 2020, with a March grand opening drawing celebrities including Golden State Warriors star Klay Thompson and Khalif's adopted mom, actress Connie Nielsen, who years earlier met Khalif on set in his native Kenya and sponsored his move to the U.S. and his Road to Freedom Scholarship to Dominican University of California in San Rafael, where he made

Bay Area media headlines as valedictorian and keynote speaker. There Khalif also met Awash, a refugee from Ethiopia, and they started the Yema fashion brand in 2016, giving 20 percent of proceeds to the scholarship program for the education of orphaned children in Ethiopia and Kenya. For those efforts, Khalif had been a guest speaker for a Belvedere-Tiburon Library pop-up fundraiser in 2018 and at local schools.

The couple made headlines again later in March 2020 for fundraising and their own donations toward a trip to Ethiopia to provide food to orphaned children amid the pandemic. Their shop was also named business of the month in the Tiburon Peninsula Chamber of Commerce newsletter.

However Khalif, at the time a resident for more than 10 years, and Awash say they were also frequently stopped or followed by police when driving and walking in town, which they assert was racially motivated but meaning police knew who they were in a town with just 0.5 percent Black population — or about 45 people. Khalif says Clark was among those officers.

Details of the encounter at Yema

The August 2020 incident at the shop began when Khalif, Awash and a friend were inside after midnight, talking at the checkout counter after restocking ahead of the weekend. They say Tiburon Officer Isaac Madfes, who'd only recently joined the department, circled the block three or four times then parked out front and observed for nearly 15 minutes before getting out of his patrol car and calling in the activity, which automatically summoned his supervising sergeant, Michael Blasi, as well as Clark from Belvedere under mutual-aid practices.

The couple and their attorneys have noted no one had reported suspicious activity, there were no alarms, the store was fully lighted, there were no signs of forced entry, there was no evidence it had been ransacked, no one inside attempted to flee and, as the designer-models of their own clothing, large posters of Khalif and Awash were visible on the walls through the store's large windows; when Khalif answered Madfes' knock at the door, he was wearing the same distinctive,

Africa-inspired athleticwear as the mannequin in the window just feet away.

Video footage from the officer bodycams and the friend's cellphone from inside the store show the remainder of the incident. The bodycam footage shows Madfes begin by asking, in a friendly tone, "Hey guys, I've never seen you open this late — you just restocking?" Khalif replies, "No, just doing our thing" and asks if there's a problem. Madfes says there isn't, but that he's never seen anyone in the store so late.

In a later interview, Khalif said he'd been restocking until 2 or 3 a.m. just the previous morning.

The two engage, mostly in circles, for the next minute as Madfes repeatedly asks why the three are there so late, and Khalif, at times visibly showing frustration, repeatedly asks why it matters if there's no problem. About 2½ minutes into the bodycam footage, Khalif says that if Madfes has a problem, "call your chief of police, call whoever you wanna call" — at which point Madfes acknowledges his supervisor, Blasi, is already on his way. Madfes asks if Khalif owns the store.

"It does not matter. I'm not going to answer your question. If you have a problem, you tell me," Khalif says.

"I have a problem with you guys being here so late and you not telling me why," Madfes says.

Tensions escalate further when Madfes tells Khalif, "This town is my duty to protect."

"I f—ing live here, do not tell me about whatever," Khalif responds.

"OK, that's fine. Where do you live?" Madfes says. Again, Khalif says he'll speak to the supervisor, but Madfes insists Khalif is required to "give me a lawful reason why you're here."

While police may ask, Khalif was not legally required to give such a reason or even to speak with police at all under the Fifth Amendment. Had police chosen to arrest him, they would have been required to notify him of that right.

About 5½ minutes into the footage, Blasi arrives on the scene, though Khalif notes that a third officer has also arrived — Clark, who is off screen in the bodycam footage but

can be seen through the window in the separate video taken from inside the store and posted by Khalif to social media.

Blasi begins asking the same questions as Madfes, including what the three were doing there so late. The video from inside the store pans to Clark, who clearly has his right hand atop his holstered gun, which Awash in a later interview called "terrifying." A review of the available footage does not clearly appear to show Clark unlatching the strap or hand movement suggesting he's doing so.

Blasi continues: "This street closes at 9 o'clock at night, and there's never anybody in here. This isn't regular business hours, there's no customers in there. Is it your store? That's all we want to know." After Khalif asks four times what happens next if he acknowledges it is, Blasi says Khalif "should be grateful" the officers are looking out for his shop.

"OK, it's my store," Khalif responds, seeming to provide an answer to Blasi's only request. But he becomes increasingly frustrated as Blasi then continues questioning: "Did you identify yourself? ... Can you prove that it's your store?"

Khalif: "I do not have to prove anything to you, it's my store."

Blasi: "Actually you do."

Khalif: "No I don't. To who? Why?"

Blasi: "Oh my God, yes you do have to prove who you are."

Khalif: "I do not have to prove my existence to you."

Again, while police may ask, California is not a stop-and-identify state, meaning a person is not required to identify themselves to police unless they're already lawfully arrested or are driving a car, a state-licensed activity, and pulled over. However, Khalif also never asserted a right to silence or asked if he was free to go, continuing to voluntarily engage with the officers.

Further, while police have the right to engage anyone in a consensual stop, or temporarily detain someone in an effort to gather evidence on suspicion of a crime, the couple's attorneys assert that because Khalif had already stated he was the owner, that there was no evidence to conclude he was

See **LAWSUIT, PAGE 22**

Lawsuit, continued from page 21

lying, that the officers repeatedly declined to articulate a reasonable suspicion that the activity was related to crime and that they refused to leave unless Khalif waived his right to not prove his identity, that he and Awash were unlawfully detained.

The argument continued for a few more minutes, with both Blasi and Khalif raising their voices. At the 10-minute mark, Madfes chimes in again: “Prove to us you have keys or —”

“There you go, that’s the perfect thing,” Blasi says as Khalif removes something from his pocket. “You know what, put the key in the door and we’re outta here.”

Khalif is seen picking through his keys as he tells Blasi to stand back and not raise his voice at him: “Just chill and I’ll put my key in the door.”

Before he can, a part-time resident of a Main Street apartment twice yells down, “That’s his store.”

“Thank you sir, that’s all I needed to know,” Blasi responds. “Thank you, see ya,” he then says to Khalif as he turns and walks away toward Fountain Plaza. Madfes, however, again asks Khalif to put the key in the door, but this time Khalif declines: “That’s your supervisor. He says you walk away, walk away.”

In subsequent interviews, Khalif called the fact that the situation was diffused by a white neighbor yelling down to vouch for him “the icing on the cake.”

“A Black man cannot be in this space in this particular hour and say, ‘I’m OK, no need to be talking to you, move along.’ A Black man can not say that, but a white man can.”

Tiburon officials have said the officers didn’t know the neighbor’s race but acknowledged the statistical likelihood in a town that’s 80-percent white, while noting the neighbor’s comment did provide value in corroborating Khalif’s assertions.

Khalif said he had no doubt the officers confronted him due to his race. “I could have been another statistic, I could have been another George Floyd, Trayvon Martin, but I did not take the bait. The next day when I woke up, I was like, ‘Holy s—, what just happened?’”

Town residents respond, call for action

As the friend’s footage went viral online,

Tiburon Mayor Alice Fredericks issued a public apology, and she and Kemnitzer reportedly visited the shop on separate occasions to apologize personally. A four-hour joint Town Hall-style meeting held online the week following the incident drew more than 400 observers and showed residents were deeply divided on the issue, with many calling the officers’ acts racist and demanding their resignations; several shared personal experiences of being racially profiled and harassed by local police. Others faulted Khalif for withholding information and said the officers should be commended.

Tiburon officials immediately announced the town would commission an outside investigation into the conduct of Blasi, Madfes and Clark. However, within days Blasi resigned and then Tiburon Police Chief Michael Cronin retired, with officials saying Cronin had already been planning the move for some time. As now-former employees, neither were reportedly included in the investigation, while the remaining officers refused to allow the results be made public under their employee-privacy rights when the report was finalized in April 2021. Tiburon officials repeatedly said they legally could not comment on the results, but Town Manager Greg Chanis has since noted the new chief hired that same month, Ryan Monaghan, insisted that related allegations by Awash that she’d previously been harassed by police, which were also investigated in the sealed file, be publicly listed as “unfounded” in the department’s complaint records.

The incident had also in late 2020 led to a protest by more than 200 people in front of the Tiburon Police Department in support of the Yema owners and the Black Lives Matter movement, calls for increased transparency and accountability in the department and resulted in the formation of a 10-member Diversity Inclusion Task Force to examine town policies. Some of that local sentiment had carried over from an earlier Tiburon incident, in which the former chief, Cronin, had warned residents in June 2020 of potential violence and looting in connection with a coming Black Lives Matter protest in predominantly Black Marin City, when no such warnings had been issued for other protests in closer predominantly white towns. That incident led to calls for Cronin’s resignation and Black Lives Matter protests in town, as well as several changes to Tiburon’s and Belvedere’s police use-of-force

policies amid concurrent nationwide calls for police reform.

Months after the Yema incident and the town’s shift toward addressing diversity issues and reform, a resident in December 2020 complained that a Tiburon police officer was wearing a Thin Blue Line face mask on the job, which led to an unwritten ban by the department. The symbol had already been officially banned at departments in Sausalito, San Francisco and elsewhere across the nation for its increasing appearance at white-supremacist rallies, as a direct protest to the Black Lives Matter movement and for perceptions it sends a divisive “us vs. them” message to citizens and those seeking the type of meaningful police reform being actively called for in Tiburon.

That same month, Khalif and Awash filed \$2 million administrative claims each against Tiburon and Belvedere, a precursor to a lawsuit. Tiburon initially rejected the claim but eventually agreed to negotiate and settle under threat of the suit. The federal suit filed last week against Belvedere says the city was invited to participate in the mediation efforts with Tiburon, but “they declined and refused efforts to resolve significant disagreements.”

Settlement with Tiburon includes cash, reforms

Khalif and Awash reached a \$150,000 settlement with Tiburon in late March that was announced in April, with the couple pledging to donate a portion to the scholarship program. The settlement garnered national media attention that focused on the additional police-reform concessions under the terms of the settlement, though several of the most significant measures were previously announced steps taken by the department and by Monaghan and attributed to other origins or were already required under state law.

One of Monaghan’s early on-the-ground reforms was to step up foot patrols to ensure officers engage and connect with residents and business owners. The department’s also working with the Chamber of Commerce to put important business information — such as identifying store owners — into a mobile app. And it’s established a community-liason program, dividing the town into three sections with contacts for each.

The settlement says police agreed to create a citizen advisory panel, but Monaghan, as part of a presentation with

the Transformative Justice Institute, had announced at a March 9 meeting of the Diversity Inclusion Task Force that he was forming the panel in direct response to feedback at the five “Living & Growing Together” community circles they hosted in late 2021. Those public circles were held with different segments of the community in what Monaghan described as an effort to “recalibrate” the department’s relationship with residents, business owners and other groups. He said he wanted the new citizen panel up and running by November.

The settlement does, however, require that either Khalif and Awash serve a term on the new panel. While it’s been described as having teeth and a mandate, Monaghan made clear at the March task-force meeting the panel would be advisory and providing feedback and not an oversight committee, which he said tends to be “adversarial” with police.

The other two goals stemming from the community circles were to expand a police database of community members with special needs who may need additional police care, and to establish enhanced officer-wellness programs.

At that same March task-force meeting, Monaghan also said officers would soon begin handing out business cards with a link to a third-party website for residents to report interactions, including to file complaints, which was also included in the settlement terms of the town’s reform concessions. Tiburon officers will also get anti-bias training every two years versus the state’s five-year requirement.

The settlement further states Tiburon agreed to create a policy that requires compliance with California’s Reporting and Identity Profiling Act of 2015, though as a small department included in the final tier of the law’s multiyear rollout, Tiburon was legally required by the state to be in compliance as of Jan. 1. The department’s first annual report, for 2022, is required by April 1, 2023. The town had already voluntarily began collecting and reporting the data in December 2020 under interim Chief Jamie Scardina, the county undersheriff who temporarily stepped in after Cronin’s retirement.

Belvedere is also now required to collect that data but began doing so voluntarily last year.

Katherine Martine contributed to this report. Reach Executive Editor Kevin Hessel at 415-435-2652.

Legal Notices

LEGAL NOTICE ADVERTISING RATES

Fictitious business name statements are \$65 for one business and one registrant, \$5 each additional name, for four weeks; name changes are \$120. Trustee sales start at \$170. **The deadline for the next issue is 3 p.m. Thursday.**

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NO. 2022153433

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The following person is doing business as:
MARINFURBABYLOVERS
10 CIRCLE DRIVE, STE. C
TIBURON, CA 94920
MEREDITH BROWNING GRIFFIN
10 CIRCLE DRIVE, STE. C
TIBURON, CA 94920
This business is conducted by an individual
/s/Meredith Browning Griffin
10 Circle Drive, Str. C
Tiburon, CA 94920
FILED: June 14, 2022
Shelly Scott
Marin County Clerk
By: L. Vawter

Ark Legal 4045 Jun 29, Jul 6, 13, 20, 2022

FICTITIOUS BUSINESS NAME STATEMENT

NO. 2022153449

NOTICE: THIS STATEMENT EXPIRES ON 6/16/2027. A NEW FBN STATEMENT MUST BE FILED NO MORE THAN 40 DAYS FROM EXPIRATION.

The following person is doing business as:
ADVANCED MOTION & PERFORMANCE, INC.
300 TAMAL PLAZA STE. 100
CORTE MADERA, CA 94925
ADVANCED MOTION & PERFORMANCE, INC.
136 UPLAND RD.
KENTFIELD, CA 94904
This business is conducted by a corporation
/s/Tammara Moore, President

136 Upland Rd.
Kentfield, CA 94904
FILED: June 16, 2022
Shelly Scott
Marin County Clerk
By: J. Gilardi

Ark Legal 4046 Jun 29, Jul 6, 13, 20, 2022

SUPERIOR COURT OF CALIFORNIA COUNTY OF MARIN

NO. CIV2200507

ORDER TO SHOW CAUSE FOR CHANGE OF NAME PETITION OF BROOK STEVENS SOWER TO ALL INTERESTED PERSONS:
1. Petitioner BROOK STEVENS SOWER filed a petition with this court for a decree changing names as follows: Present name BROOK STEVENS SOWER to KI-EL that all persons interested in this matter appear before this court at the hearing indicated below to

show cause, if any, why the petition for change of name should not be granted. Any person objecting to the name changes described above must file a written objection that includes the reasons for the objection at least two court days before the matter is scheduled to be heard and must appear at the hearing to show cause why the petition should not be granted. If no written objection is timely filed, the court may grant the petition without a hearing.

NOTICE OF HEARING

a. Date: August 23, 2022. Time: 9:00 a.m. Dept: A Room: A
b. The address of the court is 3501 Civic Center Drive, Room 113, San Rafael, CA 94903.
A copy of this Order to Show Cause shall be published once a week for four successive weeks prior to the date set for hearing on the petition in the following newspaper of general circulation printed in this county (The Ark newspaper).

FILED: May 3, 2022
s/s ANDREW E. SWEET
JUDGE OF THE SUPERIOR COURT
James M. Kim, Court Executive Officer,
MARIN COUNTY SUPERIOR COURT
By: J. Miller, Deputy
Ark Legal 4053 Jul 13, 20, 27, Aug 3, 2022

FICTITIOUS BUSINESS NAME STATEMENT

NO. 2022153539

NOTICE: THIS STATEMENT EXPIRES ON 7/7/2027. A NEW FBN STATEMENT MUST BE FILED NO MORE THAN 40 DAYS FROM EXPIRATION.

The following person is doing business as:
MARIN COUNTY TAXI
714 SOMOA LANE
NOVATO, CA 94947
CHAUDRY SAFDAR ALI
714 SOMOA LANE
NOVATO, CA 94947

This business is conducted by an individual
/s/Chaudry Safdar Ali
714 Somoa Lane
Novato, CA 94947
FILED: July 7, 2022
Shelly Scott
Marin County Clerk
By: J. Gilardi
Ark Legal 4054 Jul 13, 20, 27, Aug 3, 2022

CERTIFICATE OF ABANDONMENT OF FICTITIOUS BUSINESS NAME

NO. 304984

As of July 1, 2021 the following person: CAR TOWN SANTA CLARA, LLC 461 CHESLEY AVE. MOUNTAIN VIEW, CA 94040 is no longer doing business as: CREEKSIDE APARTMENTS

See **LEGALS, PAGE 25**