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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES KOTROUS,
Plaintiff,
v.
GOSS-JEWETT CO. OF NORTHERN
CALIFORNIA, INC., et al.,
Defendants.

No. 2:02-cv-1520 FCD CKD

ORDER

Pursuant to the terms of the Court-Administered Remediation Fund Account Instructions agreed to by the parties in order to implement the settlement of James Kotrous, individually and doing business as The Mattress Factory v. Goss-Jewett of Northern California, Inc., et al., case no. 2:02-cv-1520-FCD-CKD, Risk-Based Decisions, Inc., Invoice Nos. 2543 and 2549 were submitted in the amounts of \$36,434.97 and \$32,976.35 respectively, totaling \$69,411.32, for consulting services and expenses incurred at 4301 Power Inn Road through April 30, 2014. These billings were sent to the court on April 8, 2014 and May 6, 2014 with copies to counsel. On May 19, 2014, the court issued an order directing the Clerk of Court to pay to Risk-Based Decisions, Inc. the sum of \$69, 411.32 from the settlement fund established in the above-entitled case. (ECF No. 452.) The court was subsequently informed that the current balance remaining in the settlement fund is insufficient to satisfy that order in full. As of May 22, 2014, the settlement

1 fund has a principal balance of \$53,859.12 and interest of \$320.84.¹ Accordingly, the court's
2 May 19, 2014 order directing the Clerk of Court to pay to Risk-Based Decisions, Inc. the sum of
3 \$69, 411.32 from the settlement fund is vacated.

4 By the terms of the parties' settlement agreement establishing the settlement fund, the
5 court may issue an order directing the Clerk of Court to terminate the settlement fund and forward
6 the remaining funds to those designated by the settlement agreement as the "Anselmo Parties."²
7 Given the fact that the funds currently available in the settlement fund are insufficient to satisfy
8 the Risk-Based Decisions, Inc., Invoice Nos. 2543 and 2549, the court finds it appropriate to
9 exercise this power under the terms of the agreement at this time. Accordingly, the Clerk of
10 Court is directed to terminate the settlement fund established in this case and forward the
11 remaining funds, including any interest accrued up through the date of termination, to those
12 designated as the "Anselmo Parties" in conformance with the terms of the settlement agreement.³

13 Based on the foregoing, IT IS HEREBY ORDERED THAT:

14 1. The court's May 19, 2014 order (ECF No. 452) is VACATED; and

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18 ¹ Because the settlement fund's interest accrues daily, the actual amount of interest paid out will
19 be slightly more than the \$320.84 referenced above. Nevertheless, this additional amount will
20 still be insufficient to satisfy the combined total amount sought through Invoice Nos. 2543 and
21 2549.

22 ² The settlement agreement states, in pertinent part:

23 5. Termination of Settlement Fund. The Settlement Fund shall be closed and any
24 amounts remaining shall be forwarded to the Anselmo Parties upon receipt by the
25 Clerk of Court of an Order terminating the Remediation Fund from the Overseeing
26 Judge.

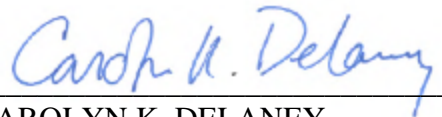
27 (ECF No. 349-1 at 19 (copy of settlement agreement).)

28 ³ By the terms of the settlement agreement: "In the event that the monies paid to the Remediation
Fund are insufficient to obtain remediation . . . such additional amounts necessary to achieve
remediation shall under no circumstances be the responsibility of the Funding Parties . . ." (ECF
No. 349-1 at 4.)

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2. The Clerk of Court is directed to terminate the settlement fund established in this case and forward the remaining funds, including any interest accrued up through the date of termination, to those designated the “Anselmo Parties” by the terms of the settlement agreement.

Dated: June 4, 2014



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE