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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BARBARA MIDDLE RIDER for GARY
MIDDLE RIDER, et al.,

Plaintiffs,

v.

MOVING SOLUTIONS, INC, et al.,

Defendants.

Case No. 17-CV-04015-LHK

**ORDER MODIFYING ORDER
GRANTING FINAL APPROVAL**

Re: Dkt. Nos. 163, 165, 173

On May 1, 2020, the Court granted final approval of the parties' class action settlement, dismissed this case with prejudice, and entered final judgment. ECF No. 163, 164. Yet on January 20, 2021, Plaintiffs notified the Court that one of the three Defendants—Moving Solutions, Inc. (“Moving Solutions”)—has failed to pay its \$20,000 portion of the \$470,000 that was due to the settlement administrator on December 28, 2020. ECF No. 165 at 1–2. To ensure a timely disbursement of settlement funds to the class, Plaintiffs' counsel proposed two alternatives. *Id.* at 2–3.

On January 31, 2021, the Court ordered Moving Solutions and Moving Solutions' principal, Rick Philpott, to show cause and to respond to Plaintiffs' proposals. ECF No. 166. In response, Moving Solutions and Mr. Philpott filed a declaration under penalty of perjury on

1 February 3, 2021. ECF No. 168-1. Mr. Philpott conceded that “th[e] [C]ourt has the authority to
2 issue sanctions for Moving Solutions[]’s non-payment” and represented that “Moving Solutions
3 fully intends to contribute the funds necessary” if and when funds are available. *Id.* ¶ 12.

4 On February 5, 2021, the Court held a hearing with all parties and Mr. Philpott. The parties
5 and Mr. Philpott were unable to reach agreement at the hearing. Thus, the Court referred the
6 parties and Mr. Philpott to a settlement conference with United States Magistrate Judge Nathanael
7 Cousins.

8 On February 17, 2021, Plaintiffs’ counsel filed a status report, which stated that the parties
9 and Mr. Philpott did not settle, and which proposed the below solution to ensure a timely
10 disbursement of all \$470,000 to the settlement class. ECF No. 172. The Court adopts Plaintiffs’
11 counsel’s solution and MODIFIES the Order Granting Final Approval, ECF No. 163, as follows:

12 Plaintiffs’ counsel’s fees will cover Moving Solutions’ \$20,000 shortfall. Plaintiffs’
13 counsel will receive only \$97,500 from the funds deposited with the Class Administrator.
14 However, Plaintiffs’ counsel retains the right to pursue collection of \$20,000 in fees from Moving
15 Solutions and/or its principals.

16 None of the class members nor the class administrator will be affected by Moving
17 Solutions’ failure to timely contribute funds. All other terms and conditions of the Order Granting
18 Final Approval remain in effect. “Because this modification of the Order [Granting Final
19 Approval] does not affect the rights and benefits of class members, no further notice is required.”
20 *Marsh v. Zaazoom Sols., LLC*, No. 11-CV-05226-WHO, 2014 WL 4793034, at *4 (N.D. Cal.
21 Sept. 25, 2014) (collecting cases).

22 **IT IS SO ORDERED.**

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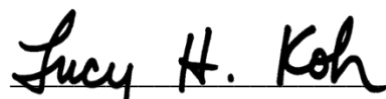
24 Dated: February 22, 2021

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LUCY H. KOH
United States District Judge