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9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**  
11 **EASTERN DIVISION**

12 DANIELLE GAMINO, )  
individually and on behalf of all )  
13 others similarly situated, )

14 *Plaintiff,* )

15 v. )

16 )  
17 KPC HEALTHCARE HOLDINGS, )  
18 INC., *et al.*, )

19 *Defendants,* )

20 and )

21 )  
22 KPC HEALTHCARE, INC. )  
EMPLOYEE STOCK )  
23 OWNERSHIP PLAN, )

24 *Nominal Defendant* )  
25 )

Case No.: 5:20-cv-01126-SB-SHK  
[Consolidated with Case No.: 5:21-cv-01466-SB-SHK]

**PLAINTIFF’S MEMORANDUM OF  
LAW IN SUPPORT OF MOTION  
FOR LITIGATION COSTS AND  
EXPENSES**

Date: October 20, 2023  
Time: 8:30 a.m.  
Courtroom: 6C

1 **INTRODUCTION**

2 Plaintiff Danielle Gamino (“Plaintiff”) seeks an award of \$6,732.17 for  
3 litigation expenses and costs that have been incurred by Class Counsel since final  
4 approval of the settlement with Alerus Financial, N.A. (“Alerus”) and the KPC  
5 Defendants<sup>1</sup>, or are expected to be incurred in connection with the Final Fairness  
6 Hearing. Plaintiff’s Settlement Agreement with SPCP Group, LLC (“SPCP”)  
7 provides for reimbursement of expenses from the Settlement Fund. For the reasons  
8 described herein, Plaintiff’s request is reasonable and should be granted.

9 **BACKGROUND**

10 On March 12, 2023, the Court approved Plaintiff’s settlements with Alerus  
11 and the KPC Defendants. ECF No. 418. On June 3, 2023, Class Counsel and SPCP  
12 executed a Settlement Agreement (“the Settlement”). ECF No. 441-03. The  
13 Settlement provides: “Pursuant to any deadline set by the Court, Class Counsel  
14 may file any motion with the Court requesting the reimbursement of litigation  
15 expenses and costs out of the Settlement Fund.” *Id.* § IV.2. The Court granted  
16 preliminary approval of the Settlement on July 10, 2023, and set a Final Fairness  
17 Hearing for October 20, 2023. ECF No. 446. The Court also directed Class  
18 Counsel to file the present motion on or before August 21, 2023. *Id.*

19 **ARGUMENT**

20 “The Court may award reasonable litigation expenses as authorized by law  
21 and the parties’ settlement agreement.” *Marshall v. Northrop Grumman Corp.*, No.  
22 16-CV-6794 AB, 2020 WL 5668935, at \*9 (C.D. Cal. Sept. 18, 2020). “Under  
23

24 \_\_\_\_\_  
25 <sup>1</sup> The term “KPC Defendants” refers to KPC Healthcare Holdings, Inc., the  
26 Administrative Committee of the KPC Healthcare, Inc. Employee Stock  
27 Ownership Plan, Kali Pradip Chaudhuri, William E. Thomas, Kali Priyo  
28 Chaudhuri, Amelia Hippert, and Lori Van Arsdale. Alerus and KPC Defendants  
are no longer parties to this action. *See* ECF No. 419.

1 Ninth Circuit law, counsel can recover ‘out-of-pocket expenses that ‘would  
2 normally be charged to a fee paying client[.]’” *Moreno v. Pretium Packaging,*  
3 *L.L.C.*, No. 8:19-CV-02500 SB, 2021 WL 3673845, at \*3 (C.D. Cal. Aug. 6, 2021)  
4 (quoting *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994)). “There is no doubt  
5 that an attorney who has created a common fund for the benefit of the class is  
6 entitled to reimbursement of reasonable litigation expenses from that fund.”  
7 *Marshall*, 2020 WL 5668935, at \*9 (citing *In re Heritage Bond Litig.*, No. 02-ML-  
8 1475 DT, 2005 WL 1594403, at \*23 (C.D. Cal. June 10, 2005)).

9 Class Counsel requests reimbursement for a total of \$6,732.17 in litigation  
10 expenses. Feinberg Decl. ¶ 3; Barton Decl. ¶ 2. Counsel’s expenses include the  
11 following charges, all of which are recoverable in this Circuit: appeal filing fee,  
12 PACER fees, printing and copying charges, Westlaw charges, expenses related to  
13 electronic discovery, and travel expenses for court hearing associated with the  
14 settlement. Feinberg Decl. ¶ 3; Barton Decl. ¶ 2. These expenses have either been  
15 incurred since final approval of the settlements with Alerus and the KPC  
16 Defendants (March 12, 2023) or are expected to be incurred in connection with the  
17 Final Fairness Hearing regarding the SPCP Settlement.

18 Each type of expense for which Class Counsel seek reimbursement are  
19 recoverable. *E.g.*, *Harris*, 24 F.3d at 19-20 (holding that “copying[], hotel bills,  
20 meals” and “expenses related to discovery” are recoverable expenses); *Moreno*,  
21 2021 WL 3673845, at \*3 (reimbursing \$14,053.28 for “expert witness fees, legal  
22 research charges, service fees, and costs for meals during mediation[.]”); *Marshall*,  
23 2020 WL 5668935, at \*9 (“Expenses such as reimbursement for travel, meals,  
24 lodging, photocopying, long-distance telephone calls, computer legal research,  
25 postage, courier service, mediation, exhibits, documents scanning, and visual  
26 equipment are typically recoverable.” (citation omitted)); *Thomas More L. Ctr. v.*  
27 *Bonta*, No. 2:15-CV-03048 CAS, 2022 WL 971946, at \*7 (C.D. Cal. Mar. 28,

1 2022) (awarding \$76,811.27 for travel expenses); *Raffin v. Medicredit, Inc.*, No.  
2 15-CV-4912 MWF, 2018 WL 8621204, at \*6 (C.D. Cal. Nov. 30, 2018)  
3 (permitting recovery of \$33,137.97 for costs related to “necessary travel, filing and  
4 service fees, document storage and maintenance fees, and printing fees” from the  
5 settlement fund).

6 Further, Class Members have been notified that Class Counsel would seek  
7 reimbursement of litigation expenses up to \$10,000. Feinberg Decl. ¶ 6; ECF No.  
8 441-5. To date, no Class Member has objected to the Settlement or the requested  
9 expenses. Feinberg Decl. ¶ 6. This provides further support for the reasonableness  
10 of Class Counsel’s. *Raffin*, 2018 WL 8621204, at \*7 (holding that counsel’s  
11 request for litigation expenses was fair and reasonable where class members were  
12 notified that counsel would seek reimbursement and no class members objected to  
13 the requested expenses).

14 The requested costs are thus reasonable and appropriate for reimbursement.

### 15 CONCLUSION

16 For the forgoing reasons, the Court should grant Plaintiff’s motion for  
17 expenses in the amount of \$6,732.17.

1 DATED: August 21, 2023

Respectfully submitted,

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3  
4 /s/Daniel Feinberg

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