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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

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G & G Closed Circuit Events, LLC,) CV 12-1282-PHX-PGR

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Plaintiff,

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v.

ORDER

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Nadir Soofi, et al.,

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Defendants.

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Before the Court is Plaintiff’s Motion to Alter or Amend Judgment. (Doc. 20.) For the reasons set forth herein, the motion is denied.

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On June 14, 2012, Plaintiff filed a complaint alleging that Defendants exhibited a closed circuit boxing match without obtaining a commercial license from Plaintiff, in violation of the Federal Communications Act, 47 U.S.C. § 605. Defendants failed to appear or respond. On January 16, 2013, the Court granted Plaintiff’s application for default judgment and entered judgment against Defendants in the amount of \$2,001. (Docs. 18, 19.) That figure represented the minimum in statutory and enhanced damages under 47 U.S.C. §§ 605(e)(3)(C)(i)(II) and 605(e)(3)(C)(ii), plus nominal damages for Plaintiff’s conversion claim. (Doc. 18.) Plaintiff now asks the Court to alter or amend its judgment with respect to statutory and enhanced damages.

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DISCUSSION

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A court may alter or amend a judgment pursuant to Federal Rule of Civil Procedure 59(e). Rule 59(e) is “an extraordinary remedy, to be used sparingly” at the discretion of the

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1 court. *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003); *see McQuillion v. Duncan*, 342
2 F.3d 1012, 1014 (9th Cir. 2003). The motion “should not be granted, absent highly unusual
3 circumstances, unless the district court is presented with newly discovered evidence,
4 committed clear error, or if there is an intervening change in the controlling law.” *McDowell*
5 *v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted). To succeed on a motion
6 to alter or amend, “a party must set forth facts or law of a strongly convincing nature to induce
7 the court to reverse its prior decision.” *United States v. Westlands Water Dist.*, 134 F.Supp.2d
8 1111, 1131 (E.D.Cal. 2001). A Rule 59(e) motion is not a forum to ask the court to “rethink
9 what it has already thought through.” *United States v. Rezzonico*, 32 F.Supp.2d 1112, 1116
10 (D.Ariz. 1998) (quotation omitted).

11 Plaintiff’s motion to alter or amend judgment alleges that the Court committed clear
12 error. Specifically, Defendant argues that damages the Court awarded are inconsistent with
13 the amounts other district courts have awarded and insufficient to deter future violations.

14 Section 605(e)(C)(i)(II) provides for statutory damages “of not less than \$1,000 or
15 more than \$10,000, as the court considers just,” while § 605(e)(3)(C)(ii) permits an additional
16 discretionary award of enhanced damages of up to \$100,000. The Court awarded minimum
17 damages based on the facts of this case, which indicated that the program in question was
18 shown on one television while three patrons were present in Defendants’ restaurant. The
19 restaurant had a seating capacity of approximately 15. It did not impose a cover charge or a
20 premium for food and drinks. Plaintiff submitted evidence that Defendants have committed
21 a subsequent violation (*see* Doc. 15, Ex. 4), but there is no evidence of prior infringements.

22 In support of his assertion that the Court committed clear error, Plaintiff relies on
23 decisions by other district courts awarding greater statutory and enhanced damages. The Court
24 is not bound by the decisions of fellow district courts, and therefore it did not commit clear
25 error by awarding minimum damages in this case. *See, e.g., G & G Closed Circuit Events,*
26 *LLC v. Duc Minh Dinh*, No. 10-CV-5717-LHK, 2012 WL 4006471, at *2–3 (N.D.Cal. Sept.
27 12, 2012); *Joe Hand Promotions, Inc. v. Croce*, No. 5:10-CV-04177-JW, 2011 WL 2581419,
28 at *3 (N.D.Cal. June 29, 2011).

