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

8 J & J Sports Productions Incorporated,

No. CV-13-00921-PHX-DGC

9 Plaintiff,

ORDER

10 v.

11 Ismael Ibarra Macia, et al.,

12 Defendants.

13 Plaintiff has moved for costs in the amount \$1,392.40 and attorney's fees in the
14 amount of \$2,328.75. Doc. 17. No response has been filed. The Court will grant the
15 motion in part.

16 This case was a civil action brought pursuant to the Communications Act of 1934,
17 as amended, 47 U.S.C. § 605 *et seq.*, and the Cable & Television Consumer Protection
18 and Competition Act of 1992, as amended, 47 U.S.C. § 553, *et seq.* Doc. 16. Plaintiffs
19 were awarded a default judgment on January 13, 2014. Doc. 16.

20 Under the Communications Act of 1934, the Court "shall direct the recovery of
21 full costs, including awarding reasonable attorneys' fees to an aggrieved party who
22 prevails." 47 U.S.C. § 605(e)(3)(B)(iii). Pursuant to Local Rule 54.2, a party seeking to
23 recover attorney's fees must file and serve a motion that includes a discussion of: (1) the
24 statutory or contractual authority for eligibility for attorneys' fees; (2) factors entitling the
25 party to attorneys' fees; and (3) the reasonableness of the requested award. LRCiv
26 54.2(c). The memorandum should be supported by the following documentation: (1)
27 statement of consultation; (2) fee agreement; (3) itemized statement of fees and expenses;
28 and (4) an affidavit of moving counsel. LRCiv 54.2(d).

1 With respect to costs, Local Rule 54.1(a) directs prevailing parties seeking costs to
2 “include a memorandum of the costs and necessary disbursements, so itemized that the
3 nature of each can be readily understood, and, where available, documentation of
4 requested costs in all categories must be attached.” LRCiv 54.1(a).

5 **I. Attorneys’ Fees.**

6 Rule 54.2(d) describes the requirements for supporting documentation for requests
7 for attorneys’ fees, including the statement of consultation that must be included.
8 Plaintiffs have not attached a statement of consultation to their motion here. It is,
9 therefore, unclear whether any such consultation occurred. Defendants, however, have
10 failed to appear in this case, and the Court will, therefore, consider the motion despite
11 Plaintiff’s failure to adhere to Local Rule 54.2(d).

12 There are, nevertheless, serious problems with the time-based itemized statement
13 of fees submitted by Plaintiff. The rule requires that all time entries for legal research
14 “identify the specific legal issue researched and, if appropriate, should identify the
15 pleading or document the preparation of which occasioned the conduct of the research.
16 Time entries simply stating ‘research’ or ‘legal research’ are inadequate and the court
17 may reduce the award accordingly.” LRCiv 54.2(e)(2)(B).

18 There are numerous such entries in Plaintiff’s itemized logs. Additionally,
19 Plaintiff seeks to recover \$547.50 in fees for work done by an administrative assistant.
20 Doc. 17-3 at 8. Although some of this work may have been substantive legal work under
21 a lawyer’s supervision, most of the work is secretarial in nature. Secretarial or clerical
22 work is not properly included in an award of attorneys’ fees. *See J & J Sports Prods.,*
23 *Inc. v. Mosqueda*, CV-12-00523-PHX-DGC, 2013 WL 5336848 (D. Ariz. Sept. 24,
24 2013); *Schrum v. Burlington N. Santa Fe Ry. Co.*, No. CIV 04-0619, 2008 WL 2278137,
25 at *12 (D. Ariz. May 30, 2008). The Court is particularly reluctant to award fees for this
26 work, as many of Plaintiff’s itemized time entries appear to be a lawyer’s review or
27 duplication of the administrator’s tasks. The Court has admonished Plaintiff for many of
28 these same shortcomings in motions for attorney’s fees in other cases. *See Mosqueda*,

1 2013 WL 5336848. The Court will, therefore, reduce the fees requested by the amount
2 that Plaintiff seeks for time spent by the administrative assistant. The Court, in its
3 discretion, will award attorney's fees of \$1,781.25.

4 **II. Costs.**

5 The statute entitles Plaintiff to "the recovery of full costs." 47 U.S.C.
6 § 605(e)(3)(B)(iii). That provision has been interpreted as including even non-taxable
7 investigator costs. *Kingvision Pay-Per-View Ltd. v. Autar*, 426 F. Supp. 2d 59, 67
8 (E.D.N.Y. 2006) ("the 'full costs' permitted under § 605(e)(3)(B)(iii) both differ from,
9 and can exceed, the 'taxable costs').

10 Even though the court has the power to direct the recovery of investigative fees, it
11 is not required to do so. *Id.* (citing *Int'l Cablevision, Inc. v. Noel*, 982 F. Supp. 904, 918
12 (W.D.N.Y.1997)). Rather, "[i]n order to recover investigative costs a plaintiff must make
13 a showing similar to that required to recover attorneys' fees," and the movant "must
14 document (1) the amount of time necessary for the investigation; (2) how much the
15 investigators charged per hour; [and] (3) why the investigators are qualified to demand
16 the requested rate." *Id.* (internal cites and quotes omitted).

17 Plaintiff has provided no supporting documentation for the reasonableness of the
18 \$625 in investigative fees requested, has not identified the hourly rate for the
19 investigator(s) used, and has not even identified the investigator(s), much less described
20 their qualifications. The Court will not award costs for these investigative services.

21 **IT IS ORDERED** that Plaintiff's motion for award of costs and attorneys' fees
22 (Doc. 17) is **granted in part and denied in part**. \$585.00 is awarded for costs attributed
23 to clerk's fees and fees for service of summons and subpoena, but Plaintiff may not
24 recover investigative fees. Plaintiff is awarded \$1,781.25 in attorneys' fees.

25 Dated this 29th day of July, 2014.

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David G. Campbell
United States District Judge