

1 were appropriate as to Plaintiffs’ counsel Elizabeth Tate. (Doc. 145) The Court then
2 Ordered Defendant to submit a declaration of costs and attorneys’ fees associated with the
3 filing of the motion for sanctions. (Doc. 145) On February 3, 2020, Defendant submitted
4 the declaration. (Doc. 146) On February 13, 2020, during trial, Ms. Tate filed the Motion
5 to Vacate Sanctions Order. (Doc. 172) The parties presented oral arguments on the Motion
6 the next day. (Doc. 175)

7 Ms. Tate argued that there was no factual or legal basis for the Court to impose the
8 sanctions, and that the Court should vacate the sanctions pursuant to Federal Rule of Civil
9 Procedure (“Rule”) 54(b). (Doc. 172 at 3-8) Specifically, Ms. Tate argued that, although
10 the Court has the inherent power to impose sanctions, the Court was required to make an
11 explicit finding of bad faith prior to sanctioning her. (Doc. 172 at 3-8)

12 In response, Defendant presented oral argument that the Motion was effectively a
13 motion for reconsideration of the Court’s prior order imposing sanctions, and Ms. Tate
14 failed to meet the legal standard for a motion for reconsideration. Additionally, Defendant
15 argued that Ms. Tate was repeatedly warned throughout the case that she had a
16 responsibility to learn the Federal Rules of Civil Procedure, the District of Arizona’s Local
17 Rules, and the procedural requirements outlined in this Court’s Orders. Defendant asserted
18 that the repeated violation of those rules and Orders amounted to a deliberate decision by
19 Ms. Tate to fail to meet the standards necessary to appear in federal court. Furthermore,
20 Defendant argued that all of Ms. Tate’s conduct throughout the case should be considered
21 as tantamount to bad faith, and therefore, the Court had sufficient cause to order sanctions
22 against her. After the trial, Ms. Tate filed the Plaintiffs’ Response and Objections to
23 Defendant’s Declaration of Attorneys’ Fees and Costs. (Doc. 187)

24 Here, the Defendant requested sanctions pursuant to 28 U.S.C. § 1927, not the
25 Court’s inherent sanctioning power, so the legal standard that Ms. Tate relies on is
26 improper. (Docs. 136 at 1; 172) The statute states that an attorney who causes the
27 proceedings in a case to be multiplied “unreasonably and vexatiously” may be required to
28 pay the excessive costs incurred because of such conduct. 28 U.S.C. § 1927. The Court

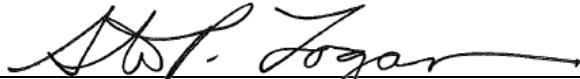
1 finds that it was within its discretion to sanction Ms. Tate under 28 U.S.C. § 1927 due to
2 the behavior alleged in Defendant’s motion and in the arguments made before the Court.
3 Therefore, the Court will not vacate the ruling. See *Pac. Harbor Capital, Inc. v. Carnival*
4 *Air Lines, Inc.*, 210 F.3d 1112, 1118 (9th Cir. 2000) (explaining that a district court is not
5 required to make an explicit finding of bad faith under 28 U.S.C. § 1927 when the record
6 supports a finding that an attorney’s conduct amounted to “knowing or reckless” conduct);
7 see also *Baldwin Hardware Corp. v. FrankSu Enterprise Corp.*, 78 F.3d 550, 562 (9th Cir.
8 1996) (stating that although the court did not use the words “bad faith” in imposing
9 sanctions under 28 U.S.C. § 1927, the record supported a finding that the court deemed the
10 attorney’s actions to be at least reckless).

11 As it relates to the declaration submitted by Defendant’s counsel (Doc. 146) and
12 Ms. Tate’s objection (Doc.187), the Court has reviewed the costs and attorneys’ fees
13 submitted by Defendant. The Court finds that a reduced award of \$2,166 for travel costs
14 and \$6,648.75 for attorneys’ fees is reasonable. See *Kerr v. Screen Extras Guild, Inc.*, 526
15 F.2d 67, 70 (9th Cir. 1975) (listing factors to consider in an award of attorneys’ fees),
16 abrogated on other grounds by *City of Burlington v. Dague*, 505 U.S. 557 (1992).
17 Accordingly,

18 **IT IS ORDERED** that Plaintiffs’ Motion to Vacate Sanctions Order (Doc. 172) is
19 **denied**.

20 **IT IS FURTHER ORDERED** that Plaintiffs’ Response and Objections to
21 Defendant’s Declaration of Attorneys’ Fees and Costs (Doc. 187) is **sustained in part**.
22 Plaintiffs’ counsel Elizabeth Tate is sanctioned in the amount of **\$8,814.75**, representing
23 the reasonable costs and attorneys’ fees incurred by Defendant when filing its Motion for
24 Sanctions (Doc. 136).

25 Dated this 19th day of February, 2020.

26
27 
28 Honorable Steven P. Logan
United States District Judge