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

8 G & G Closed Circuit Events, LLC, ) No. CV-20-00834-PHX-SPL  
9 )  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 Marissa Altagracia Montoya, et al., )  
13 Defendants. )  
14

15 Before the Court is Plaintiff G & G Closed Circuit Events, LLC’s Motion for Award  
16 of Costs and Attorneys’ Fees (Doc. 32), filed pursuant to Fed. R. Civ. P. 54 and Local  
17 Rules 54.1 and 54.2. The Court has reviewed the Motion, Defendants’ Response in  
18 Opposition (Doc. 35), Plaintiff’s Reply (Doc. 36), and the accompanying exhibits. For the  
19 reasons set forth below, the Motion is granted in part and denied in part.

20 **I. BACKGROUND**

21 On June 5, 2020, Plaintiff filed its First Amended Complaint alleging that on two  
22 occasions, Defendant Bibiano’s Mexican Restaurant, LLC, operated by Defendants  
23 Marissa Altagracia Montoya and Jose Rascon, unlawfully intercepted the broadcasts of  
24 fights to which Plaintiff owned exclusive commercial domestic distribution rights. (Doc. 8  
25 at ¶¶ 3, 14, 30). The Complaint alleged violations of 47 U.S.C. § 605 (the Communications  
26 Act of 1934) and § 553 (the Cable Television Consumer Protection and Competition Act  
27 of 1992), which deal with unlawful interception of a satellite or cable broadcast,  
28 respectively. (Doc. 8 at 13–23).

1 Both Plaintiff and Defendants filed Motions for Summary Judgment. (Docs. 21, 22).  
2 After full briefing on both Motions, the Court denied Defendants’ Motion for Summary  
3 Judgment and granted in part and denied in part Plaintiff’s Motion for Summary Judgment.  
4 (Doc. 30). Specifically, the Court granted summary judgment to Plaintiff on its claims  
5 under § 605 while dismissing its claims under § 553. (Doc. 30 at 4–5). The Court awarded  
6 Plaintiff \$1,375 in statutory damages pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(II), as well  
7 as \$2,500 in enhanced statutory damages pursuant to 47 U.S.C. § 605(e)(3)(C)(ii). (Doc.  
8 30 at 8).

9 On August 9, 2021, Plaintiff filed its Motion for Costs and Attorneys’ Fees that is  
10 now before the Court, requesting \$11,451.10 in attorneys’ fees and \$1,300 in non-taxable  
11 investigative costs.<sup>1</sup> (Doc. 32 at 4).

## 12 II. LEGAL STANDARD

13 Aggrieved parties prevailing under § 605 are entitled to the recovery of “full costs”  
14 and “reasonable attorneys’ fees” under § 605(e)(3)(B)(iii). “The most useful starting point  
15 for determining the amount of a reasonable fee is the number of hours reasonably expended  
16 on the litigation multiplied by a reasonable hourly rate.” *Hensley v. Eckhart*, 461 U.S. 424,  
17 433 (1983). This calculation is known as the “lodestar method,” which provides an  
18 objective basis on which to make an initial estimate of the value of an attorney’s services.  
19 *Id.* The party requesting the fees must submit evidence supporting the reasonableness of  
20 the hours worked and the rates claimed. *Id.* “Where the documentation of hours is  
21 inadequate, the district court may reduce the award accordingly.” *Id.*

## 22 III. DISCUSSION

23 Plaintiff prevailed on its claims made under § 605 and is thus entitled under the  
24 statute to recovery of “full costs” and “reasonable attorneys’ fees,” provided its requests

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26 <sup>1</sup> While Defendants make an argument that Plaintiff should not be able to recover for FedEx  
27 delivery charges (Doc. 35 at 9), Plaintiff’s Motion never requests these costs. Defendants  
28 also argue that Plaintiff may not recover for its counsel’s *pro hac vice* admission fee (Doc.  
35 at 10), which was included in Plaintiff’s Bill of Costs (Doc. 33). *Pro hac vice* admission  
fees are not taxable costs under Local Rule 54.1(e)(1), and in any case, Plaintiff  
subsequently withdrew that claim. (Doc. 36 at 7 n.3).

1 are adequately supported by documentation. In support of its request for attorneys' fees  
2 and investigative costs, Plaintiff submits the declaration of its counsel, Thomas P. Riley,  
3 along with attorney time and task records and two invoices for payments to investigator  
4 Amanda Hidalgo.

5 **a. Attorneys' Fees**

6 The award of "reasonable attorneys' fees" to the prevailing party is mandatory under  
7 § 605(e)(3)(B)(iii). Thus, it is not within the Court's discretion to deny attorneys' fees in  
8 order to avoid creating a supposed "perverse incentive" for defendants to forego litigation  
9 and accept default judgments or based on Plaintiff's alleged "deliberate attempt to avoid  
10 settling," as Defendants argue. (Doc. 35 at 4). Here, Plaintiff asks for \$11,451.10 for the  
11 services of Mr. Riley (representing 4.6 hours of work at \$550 per hour), an unnamed  
12 research attorney (representing 23.5 hours at \$300 per hour), and an unnamed  
13 administrative assistant (representing 17.01 hours at \$110 per hour).

14 *i. Rates*

15 When applying the lodestar method, a reasonable hourly rate is determined by "the  
16 rate prevailing in the community for similar work performed by attorneys of comparable  
17 skill, experience, and reputation." *Schwarz v. Sec'y of Health & Hum. Servs.*, 73 F.3d 895,  
18 908 (9th Cir. 1995) (internal quotation marks and citation omitted). Defendants argue that  
19 Plaintiff has failed to provide sufficient evidence that the hourly rates charged are  
20 reasonable. (Doc. 35 at 7). The only evidence offered in support of the rates is Mr. Riley's  
21 declaration, which merely states that "[t]hese rates are comparable to rates for specialized  
22 litigation law firms nationally, as well as in this jurisdiction, and my personal rate is  
23 comparable to the rates of law firm partners who practice in specialized litigation in this  
24 district and nationwide." (Doc. 32-2 at 4). This Court has repeatedly found that this bare  
25 assertion does not suffice to meet Plaintiff's minimal burden to show that the rates claimed  
26 are reasonable. *See, e.g., G&G Closed Circuit Events LLC v. Carbajal*, No. CV-20-00838-  
27 PHX-SPL, 2020 WL 6699485, at \*2 (D. Ariz. Nov. 13, 2020); *G&G Closed Circuit Events,*  
28 *LLC v. Villanueva*, No. CV-20-00833-PHX-SPL, 2020 WL 5974936, at \*2 (D. Ariz. Oct.

1 8, 2020); *G & G Closed Circuit Events, LLC v. Garcia*, No. CV-19-05134-PHX-SPL, 2020  
2 WL 5535758, at \*3 (D. Ariz. Sept. 15, 2020); *G&G Closed Circuit Events LLC v. Espinoza*,  
3 No. CV-18-08216-PCT-JAT, 2020 WL 1703630, at \*3 (D. Ariz. Apr. 8, 2020); *J & J*  
4 *Sports Prods. Inc. v. Patel*, No. CV-16-00234-TUC-RM (BPV), 2018 WL 1609731, at \*4  
5 (D. Ariz. Apr. 3, 2018).

6 In the past, this Court has found that a reasonable rate for Mr. Riley’s services in  
7 this community is \$250. *Garcia*, 2020 WL 5535758, at \*3. That finding was based in part  
8 on “the routine nature of the cause of action filed” and that fact that the action resulted in  
9 a default judgment. *Id.* at \*3–4; see *Joe Hand Promotions, Inc. v. Be*, No. 11-CV-01333-  
10 LHK, 2011 WL 5105375, at \*6 (N.D. Cal. Oct. 26, 2011) (“[W]here the instant action is  
11 routine or substantially similar to prior actions brought by the same attorney, a court may  
12 find requests for attorney’s fees excessive.”) The instant case is slightly different from  
13 *Garcia* only in that the case was decided at the summary judgment stage. Nonetheless, this  
14 case is still routine for Mr. Riley given that other similar cases he has brought on behalf of  
15 Plaintiff have also been decided at the summary judgment stage. See, e.g., *G&G Closed*  
16 *Circuit Events LLC v. Torres*, No. CV-18-02855-PHX-DJH, 2021 WL 2530833 (D. Ariz.  
17 Jan. 21, 2021); *G&G Closed Circuit Events LLC v. Alexander*, No. CV-18-02886-PHX-  
18 MTL, 2020 WL 3574552 (D. Ariz. July 1, 2020); *G & G Closed Circuit Events, LLC v.*  
19 *Rojas*, No. ED CV 18-00438 WDK-JC, 2020 WL 7861979 (C.D. Cal. Oct. 5, 2020). Thus,  
20 the Court finds that its analysis in *Garcia* is also applicable in this case and will reduce Mr.  
21 Riley’s hourly rate to \$250.

22 The Court’s analysis in *Garcia* likewise applies to the hourly rates for the work of  
23 the unnamed research attorney and the administrative assistant in this case. This is a routine  
24 matter, and the only support for their rates is a brief description of their qualifications found  
25 in Mr. Riley’s declaration. (Doc. 32-2 at 3–4). In *Garcia*, the Court reduced the research  
26 attorney’s rate to \$100 per hour and the administrative assistant’s rate to \$65 per hour.  
27 *Garcia*, 2020 WL 5535758, at \*4. The Court will do the same here.

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1           ii. *Time*

2           Mr. Riley has “reconstructed” the billable hours for legal services rendered in this  
3 case despite having been admonished for this practice many times. (Doc. 32-2 at 4) *See*  
4 *Garcia*, 2020 WL 5535758, at \*4 (“This Court is continuously perturbed by Riley’s failure  
5 to practice contemporaneous timekeeping.”). Defendants argue that such records are  
6 “inadequate to support an award of attorney’s fees.”<sup>2</sup> (Doc. 35 at 6). Indeed, non-  
7 contemporaneous documentation is “inherently less reliable.” *G & G Closed Circuit*  
8 *Events, LLC v. Kim Hung Ho*, No. 11-CV-03096-LHK, 2012 WL 3043018, at \*2 (N.D.  
9 Cal. July 25, 2012) (striking entries that “represent unnecessary expenditures” or “overstate  
10 the amount of time reasonably attributable to the activity”). In *Garcia*, this Court struck all  
11 entries billed to the administrative assistant that were identical to entries billed to Mr. Riley  
12 except for the addition of the phrase “and Filing.” *Garcia*, 2020 WL 5535758, at \*4. The  
13 Court finds its approach to duplicative tasks in *Garcia* is also appropriate in the instant  
14 case. The Court has identified 42 such duplicative entries and will strike the 21 entries  
15 billed to the administrative assistant.

16           In addition, Defendants argue that attorneys’ fees should be reduced because  
17 Plaintiff and Mr. Riley “have filed hundreds of nearly identical cases, so the amount of  
18 time actually spent on any particular case is small.” (Doc. 35 at 5). Courts have routinely  
19 admonished Mr. Riley for billing excessive time for boilerplate documents and reduced  
20 Plaintiff’s fees accordingly. *See, e.g., Alexander*, 2020 WL 3574552, at \*4; *Kim Hung Ho*,  
21 2012 WL 3043018, at \*2; *Espinoza*, 2020 WL 1703630, at \*2 (“The Court is constrained

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23 <sup>2</sup> Defendants also make the unsupported allegations that the billing statement submitted to  
24 the Court is not the billing statement submitted by Plaintiff’s counsel to Plaintiff for  
25 payment in this case and that “[i]n all likelihood,” they have a contingency fee agreement.  
26 (Doc. 35 at 6). The Court is alarmed by these accusations of dishonesty and advises  
27 Defendants’ counsel that “common sense” is not a sufficient basis on which to accuse  
28 Plaintiff’s counsel of misconduct. (Doc. 35 at 6). The Court notes that Mr. Riley’s  
declaration avers that “[b]illable hours spent on this case are detailed in Exhibit 1,”  
implying that the hours would, in fact, be billed to his client. (Doc. 32-2 at 4). Mr. Riley  
also states in his declaration that “[c]ounsel does not have a fee agreement with Plaintiff.”  
(Doc. 32-2 at 5). While the Court finds this practice unusual, the Court trusts that Plaintiff’s  
counsel is abiding by his ethical obligation of candor to the tribunal. *See* Cal. Rule of Pro.  
Conduct 3.3.

1 to review Mr. Riley’s bill with something of a jaundiced eye because of his well-known  
2 use of boilerplate pleadings and form motions in the many hundreds of actions similar to  
3 this one that he maintains across the country.”). Here, the Court finds that the hours billed  
4 to the research attorney for two tasks were excessive or overstated.

5 First, the research attorney billed 4.0 hours for “Preparation of Plaintiff’s Motion  
6 for Partial Summary Judgment.” (Doc. 32-2 at 11). However, broad swaths of Plaintiff’s  
7 Brief in Support of its Motion for Partial Summary Judgment were identical, albeit  
8 rearranged in some places, to briefs filed in support of summary judgment in other cases  
9 where Mr. Riley served as Plaintiff’s counsel. *Compare* Doc. 22-1 with e.g., Plaintiff’s  
10 Brief in Support of Motion for Summary Judgment, *G & G Closed Circuit Events, LLC v.*  
11 *Torres*, No. 18-CV-02855-DJH (D. Ariz. May 15, 2020), ECF No. 45-1; Plaintiff’s Brief  
12 in Support of Motion for Summary Judgment, *G & G Closed Circuit Events, LLC v.*  
13 *Alexander*, No. 18-CV-02886-MTL (D. Ariz. Dec. 20, 2019), ECF No. 37-3. As such, the  
14 Court will reduce the hours billed for this task to 2.0 hours. *See Alexander*, 2020 WL  
15 3574552, at \*4 (reducing a time entry for preparation of a motion for summary judgment  
16 to 2.0 hours where the motion was “identical in all substantive regards to prior summary  
17 judgment motions filed by Plaintiff’s Counsel”).

18 Second, the research attorney billed 6.0 hours for “Preparation of Plaintiff’s  
19 Separate Statement of Facts in Support of a Motion for Partial Summary Judgment.” (Doc.  
20 32-2 at 11). But that filing was a six-page document, and much of the language is identical  
21 to language found in Plaintiff’s Complaint, with the mere addition of citations to the record.  
22 (Doc. 23). Given that the research attorney also billed 3.0 hours one week earlier to  
23 “Review Disclosures and Files in anticipation of Motion for Summary Judgment” (Doc.  
24 32-2 at 11), the Court cannot fathom how an attorney with twenty-six years of experience  
25 (Doc. 32-2 at 3) could purport to spend 6.0 hours preparing the Statement of Facts. The  
26 Court finds this entry unnecessary and excessive and will reduce the time billed for this  
27 task to 1.0 hour.

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1 In total, then, the Court will award Plaintiff \$3,769.15 in attorneys' fees for 4.6  
2 hours of work by Mr. Riley at \$250 per hour, 16.5 hours of work by the research attorney  
3 at \$100 per hour, and 14.91 hours of work by the administrative assistant at \$65 per hour.

4 **b. Investigative Costs**

5 The award of "full costs" is not discretionary under § 605(e)(3)(B)(iii). Here,  
6 Plaintiff asks for \$1,300 in investigative costs. (Doc. 32 at 4) Although courts are split as  
7 to whether investigative costs are permitted in this context, this Court has previously held  
8 that investigative costs are included in the "full costs" mandated by § 605(e)(3)(B)(iii). *See*  
9 *G&G Closed Circuit Events LLC v. Williams*, No. CV-19-05142-PHX-DWL, 2020 WL  
10 4464387, at \*2 (D. Ariz. Aug. 4, 2020). Still, even though investigative costs are permitted,  
11 "it does not alleviate a plaintiff's burden to show '(1) the amount of time necessary for the  
12 investigation; (2) how much the investigators charged per hour; and (3) why the  
13 investigators are qualified to demand the requested rate.'" *Espinoza*, 2020 WL 1703630,  
14 at \*4 (quoting *J & J Sports Prods., Inc. v. Arvizu*, No. CV-17-03130-PHX-DGC, 2018 WL  
15 1621253, at \*2 (D. Ariz. Apr. 4, 2018)).

16 Here, Defendants argue that Plaintiff has failed to provide adequate documentation  
17 for the investigative costs. (Doc. 35 at 8). Plaintiff submits two non-itemized invoices for  
18 \$650 each (Doc. 32-2 at 16–17) and a statement in Mr. Riley's declaration that the costs  
19 are "reasonable" (Doc. 32-2 at 5). This Court has routinely found that these items are  
20 insufficient to meet Plaintiff's minimal burden to recover investigative costs. *See, e.g.,*  
21 *Carbajal*, 2020 WL 6699485, at \*2; *Villanueva*, 2020 WL 5974936, at \*2; *Garcia*, 2020  
22 WL 5535758, at \*5. The Court has previously admonished Plaintiff to respect the Court's  
23 orders by "provid[ing] sufficient evidence to support its requests consistent with this  
24 Court's orders" in future motions for fees and costs. *Carbajal*, 2020 WL 6699485, at \*2  
25 n.1. Because Plaintiff continues to provide the same insufficient evidence in disrespect of  
26 the Court's orders, the Court denies Plaintiff's request for investigative costs.<sup>3</sup>

27 \_\_\_\_\_  
28 <sup>3</sup> Additionally, Plaintiff asserts that "[t]his case involved two separate events, with one  
investigator for each," with Ms. Amanda Hidalgo witnessing one violation and Mr.

