

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL O. JOHN,)	
)	
Plaintiff,)	
)	Case No: 10 C 4029
v.)	
)	Magistrate Judge Jeffrey Cole
CAROLYN W. COLVIN,¹)	
Commissioner of Social Security,)	
)	
Defendant.)	

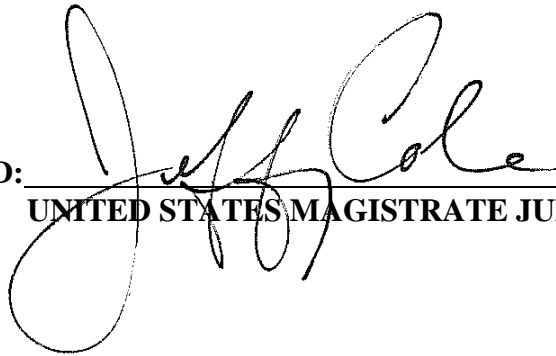
MEMORANDUM OPINION AND ORDER

The plaintiff, Michael O. John has filed a petition for fees under the Equal Access to Justice Act. [#46]. Under the Local Rules, all attorney’s fee petitions are to be accompanied by a joint statement detailing the parties’ attempts to compromise on the issue of attorney’s fees. N.D.Ill. L.R. 54.3(e). There is no such statement attached to plaintiff’s petition. Moreover, a very brief review of the plaintiff’s attorney’s hand-written billings statement reveals that counsel is seeking to recover fees for at least 2.3 hours of time spent as a result of counsel’s failure to follow Judge Conlon’s July 1, 2010 scheduling order. If the plaintiff is found entitled to fees, certainly the government cannot be held responsible for plaintiff’s counsel’s failure to either follow the order or, in the event that counsel had a problem with the schedule, file a motion for an extension of the deadlines set in that order in the three months that passed between the entering of the order and the dismissal of this case for want of prosecution. *Hensley v. Eckerhart*, 461 U.S. 424, 437 (1983)(“Hours that are not properly billed to one's client also are not properly billed to one's adversary pursuant to statutory

¹ Pursuant to Federal Rule of Civil Procedure 25(d), we have substituted Carolyn W. Colvin for Michael J. Astrue as the appellee.

authority.”); *Prak v. Chater*, 908 F.Supp. 555, 557 (N.D.Ill. 1995)(plaintiff not entitled to EAJA fees for motion for extension of time to file summary judgment motion); *Kolesar v. Shalala*, No. 93 C 3834, 1994 WL 142974 (N.D.Ill. 1994)(fees for extension of time cannot fairly be charged to government). Accordingly, the plaintiff’s petition for fees [#46] is denied without prejudice to filing a motion that complies with the local rules and does not seek recovery for fees that were occasioned by counsel’s own errors. The motion will be due 14 days after the Commissioner’s staff returns to duty.

ENTERED:


UNITED STATES MAGISTRATE JUDGE

DATE: 10/11/13