

Equitable Life Assurance Soc. of U.S., 406 F.3d 867, 875 (7th Cir. 2005); *Hill v. Potter*, 352 F.3d 1142, 1144 (7th Cir. 2003) (“The test for finality is not whether the suit is dismissed with prejudice or without prejudice, on the merits or on a jurisdictional ground or on a procedural ground The test is whether the district court has finished with the case.”). The Court’s April 29, 2016 Order dismissing this cause of action is a judgment under the Federal Rules.

Stephens filed his petition for fees after time to do so allowed by Rule 54(d) expired. Stephens asserts that the delay in filing the petition is partly due to discussions with counsel for Defendant Afzal Malik in an attempt to reach an agreement about the fee amount. Stephens also argues that the missed deadline is a result of excusable neglect due to his counsel’s good faith belief that Rule 54 and the associated local rule do not apply to the facts of this case.

The Court finds that the delay was brief, in good faith, and did not prejudice Defendant. *See McCarty v. Astrue*, 528 F.3d 541, 544 (7th Cir. 2008) (citing *Pioneer Inv. Serv. Co. v. Brunswick Assocs.*, 507 U.S. 380, 395 (1993)).

Because the missed deadline is the result of excusable neglect, the Court hereby **DENIES** the Motion to Strike [DE 109]. The Court **SETS** the deadline for Defendants to respond to the Motion for Attorney Fees and Expenses for **July 19, 2016**, and the deadline for Stephens to reply for **July 26, 2016**.

SO ORDERED this 5th day of July, 2016.

s/ Paul R. Cherry _____
MAGISTRATE JUDGE PAUL R. CHERRY
UNITED STATES DISTRICT COURT