

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

Cathie Cooper,)	
)	
Plaintiff,)	
)	
V.)	Case No. 09-3249-CV-S-JTM
)	
Michael J. Astrue,)	
)	
Defendant.)	

ORDER

Pending before the Court is *Plaintiff's Motion For Attorney Fees and Costs Under the Equal Access To Justice Act*, filed September 24, 2010. [Doc. 20]. Defendant opposes the plaintiff's motion inasmuch as the motion for fees was filed a single day outside of the 30 day deadline set out in the EAJA.¹ Inasmuch as the Court finds the single-day delay excusable in this case and most certainly would have granted a single-day extension had it been requested to do so², the Court also finds that principles of equity dictate that a denial of fees in the amount of \$8,224.75 and \$350.00 in costs simply because they were requested a single day outside of an admittedly non-jurisdictional time requirement is far too harsh, particularly since the defendant

¹ Defendant does not argue that the Commissioner's position was substantially justified or that the amount of the fee request was unreasonable.

² Defendant argues that Plaintiff did not file a motion to file her application for EAJA fees out of time. The Court notes that Defendant filed a sur-reply in this matter without seeking leave of court to do so.

cites no prejudice from the delay – other than its need to rely upon the assumption that cases can be closed on the date the 30 day time period expires.

Accordingly, it is

ORDERED that *Plaintiff's Motion For Attorney Fees and Costs Under the Equal Access To Justice Act*, filed September 24, 2010. [Doc. 20] is **GRANTED**. Plaintiff is awarded \$8,224.75 in EAJA fees and \$350 reimbursement of filing fees.

/s/ John T. Maughmer
JOHN T. MAUGHMER
U. S. MAGISTRATE JUDGE