

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

<b>David Spurlock,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>V.</b>	)	<b>Case No. 09-3392-CV-S-JTM</b>
	)	
<b>Michael J. Astrue,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER**

Pending before the Court is plaintiff’s *Application For Attorney Fees Under the Equal Access To Justice Act*, filed December 17, 2010 [Doc. 25]. 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.<sup>1</sup> 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 so, the Court also finds that principles of equity dictate that a denial of fees in the amount of \$2,670.24 simply because they were requested a single day outside of an admittedly non-jurisdictional time requirement is far too harsh, particularly since the defendant 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.

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<sup>1</sup> Defendant also makes specific requests for reduction in fees and costs to which the plaintiff has agreed.

Accordingly, it is

**ORDERED** that plaintiff's *Application For Attorney Fees Under the Equal Access To Justice Act*, filed December 17, 2010 [Doc. 25] is **GRANTED**. Plaintiff is awarded \$2,670.24 in EAJA fees.

*/s/ John T. Maughmer*

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**JOHN T. MAUGHMER**  
**U. S. MAGISTRATE JUDGE**