

	)	
<b>MAJOR JONES,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 08-2180 (RBW)</b>
	)	
<b>DENNY’S,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

By Memorandum Opinion and Order (“Mem. Op.”) of May 5, 2009, the Court deferred ruling on the defendant’s motion to dismiss the complaint as untimely to permit the plaintiff to prove otherwise. In response, the plaintiff insists that he filed the complaint on November 12, 2008, *see* Dkt. No. 14, but the Court has already found the controlling filing date to be November 19, 2008. Mem. Op. at 2. Moreover, the plaintiff has neither rebutted the presumption that he received the right-to-sue notice three days after it was mailed, *see id.*, nor provided any equitable basis for excusing what is an untimely complaint, *see id.*, n.1. The defendant’s motion to dismiss therefore is granted.<sup>1</sup>

\_\_\_\_s/  
Reggie B. Walton  
United States District Judge

<sup>1</sup> A separate Order accompanies this Memorandum.