

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals**

**For the Seventh Circuit  
Chicago, Illinois 60604**

Argued March 3, 2026  
Decided August 27, 2026

**Before**

DORIS L. PRYOR, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 25-1353

PAUL DIMON,  
*Plaintiff-Appellant,*

*v.*

CITY OF WAUKEGAN,  
*Defendant-Appellee.*

Appeal from the United States District  
Court for the Northern District of  
Illinois, Eastern Division.

No. 1:23-CV-17080

Georgia N. Alexakis,  
*Judge.*

**ORDER**

Paul Dimon sued his former employer, the City of Waukegan, alleging a violation of the Americans with Disabilities Act. *See* 42 U.S.C. § 12112(a). The district court dismissed his complaint as time-barred. Because the complaint was filed after the statute of limitations passed and equitable tolling does not apply, we affirm the judgment.

We accept the factual allegations in Dimon's complaint as true, drawing all reasonable inferences in his favor. *Williamson v. Curran*, 714 F.3d 432, 435 (7th Cir. 2013). And because Dimon attached several documents to his complaint, we consider those

documents as part of the complaint. *Id.* at 435–36. Dimon was employed by the City as a maintenance worker in its Public Works Department. One day at work while shoveling asphalt, he injured his back. He could no longer complete tasks that required shoveling, lifting, and twisting. When Dimon informed the City of these restrictions, the City fired him.

Dimon filed a charge of discrimination based on disability with the Illinois Department of Human Rights and the Equal Employment Opportunity Commission (“EEOC”). After the agencies considered his claims, the EEOC sent Dimon a notice of his right to sue. He received the letter on October 3, 2023. The parties agreed that Dimon had until January 2, 2024, to file his complaint. *See* 42 U.S.C. §§ 12117(a), 2000e-5(f)(1).

According to an exhibit attached to the complaint, on December 26, 2023, Dimon’s attorney, Adeena Weiss Ortiz, began the e-filing process in the Northern District of Illinois by opening the case and paying the filing fee in the Case Management / Electronic Case Filing system (“CM/ECF”). The next day, Weiss Ortiz e-filed an attorney appearance form and the civil cover sheet that a party files with a complaint. Weiss Ortiz, however, did not file a complaint at that time.

She did file a complaint on January 3, 2024. In a footnote to the amended complaint, Weiss Ortiz blamed an unspecified “clerical error” for the delay. Later, in Dimon’s response to the City’s motion to dismiss, Weiss Ortiz elaborated that she “only learned after the new year holiday and after contacting the clerk’s office that the action was opened but the complaint was not uploaded.”

The district judge, treating January 3, 2024, as the filing date of the complaint, dismissed it as time-barred. Under Federal Rule of Civil Procedure 3, the judge wrote, a civil action is commenced by the filing of the complaint, not the payment of the filing fee or the filing of a civil cover sheet. The judge added that Dimon did not explain the “clerical error” that prevented the complaint from being timely filed. According to the judge, Dimon “says nothing more ... describing the nature of any such error and why it was only uncovered three business days later [and] there is no accompanying affidavit or other document shedding additional light on these issues.” The judge then noted that “something like counsel’s failure to upload the correct electronic document is the sort of ‘garden variety’ neglect that would not implicate equitable tolling.”

On appeal, Dimon challenges the district judge’s conclusion that his complaint was time-barred. While his argument is difficult to follow, he first asserts that the judge should have concluded that the complaint was filed on December 27 because the cover

sheet was filed that day. He relies on *Farley v. Koepp*, 788 F.3d 681, 683, 685 (7th Cir. 2015), where this court vacated the dismissal of a time-barred civil action because the plaintiff's attorney encountered a delay in the uploading of the complaint. There, we pointed out that "requirements of form" in the delivery of the document were "insufficient to disqualify a filing." *Id.* *Farley* is distinguishable, however, because Dimon did not deliver a complaint in any form on December 27. What he filed was merely a civil cover sheet. Indeed, the cover sheet states at the top of the page that it "neither replace[s] nor supplement[s] the filing and service of pleadings or other papers as required by law."

Dimon next contends that the judge gave short shrift to his allegation that a "clerical ECF error" caused the system to reject the complaint when he attempted to file it on December 27. He cites *Justice v. Town of Cicero*, 682 F.3d 662, 664 (7th Cir. 2012), in which we stated that a "document tendered to an e-filing system is deemed filed on the day of the tender," even if the system rejects the filing. But Dimon's allegations do not hint at how the electronic system rejected the complaint and thus fail to give rise to a plausible inference that a system error prevented him from filing the complaint on December 27. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Dimon urges that if his complaint was untimely, the district judge should have tolled the statute of limitations because the delay was caused by an "inadvertent technical oversight" and he promptly corrected the filing error despite it being the holiday season. But equitable tolling is an extraordinary remedy, requiring Dimon to show that he pursued his rights diligently and that some extraordinary circumstance prevented his timely filing. *Menominee Indian Tribe of Wis. v. United States*, 577 U.S. 250, 257–58 (2016); *Dent v. Charles Schwab & Co.*, 121 F.4th 1352, 1353 (7th Cir. 2024). The circumstances identified by Dimon hardly meet this standard. Here, his attorney filed a civil cover sheet which expressly included language specifying that the cover sheet "neither replace[s] nor supplement[s] the filing and service of pleadings." The district judge was well within her discretion to treat Dimon's vague allegations about e-filing difficulties as "garden variety" neglect that does not warrant equitable tolling, particularly when the cover sheet is no substitute for a timely complaint. *Dent*, 121 F.4th at 1354. Other remedies exist for attorney neglect. *See Martinez v. City of Chicago*, 499 F.3d 721, 728 (7th Cir. 2007) (discussing remedy through malpractice action where the dismissal of "what may have been a meritorious action" occurred because of an "attorney's neglect").

Lastly, to excuse his untimely filing, Dimon raises two new arguments on appeal. But by not raising these arguments in the district court, he waived them. *Lukaszczyk v. Cook County*, 137 F. 4th 671, 674 (7th Cir. 2025). Regardless, both fail on the merits. The first argument concerns application of the relation-back doctrine, but this doctrine is

irrelevant because Rule 15 of the Federal Rules of Civil Procedure applies only to amended and supplemental pleadings, and not the filing of a cover sheet. The second argument is that the City was on notice from the agency proceedings that he would file a lawsuit. But an action commences when the complaint is filed, *Farley*, 788 F.3d at 685; notice alone does not satisfy this requirement.

We AFFIRM.