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U.S. COURT OF APPEALS

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| JOHN DAVID HAGADORN,<br><br>Plaintiff - Appellant,<br><br>v.<br><br>CALIFORNIA FIELD IRONWORKERS TRUST FUNDS,<br><br>Defendant - Appellee. | No. 12-55682<br><br>D.C. No. 2:11-cv-04590-SVW-MAN<br><br>MEMORANDUM* |

Appeal from the United States District Court
for the Central District of California
Stephen V. Wilson, District Judge, Presiding

Submitted December 5, 2013**
Pasadena, California

Before: CANBY, WATFORD, and HURWITZ, Circuit Judges.

John Hagadorn appeals a summary judgment in favor of the California Field Ironworkers Trust Funds (Funds). We have jurisdiction under 28 U.S.C. § 1291 and affirm.

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

**1**. Hagadorn failed to exhaust the available administrative remedies under a pension trust fund governed by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§ 1001–1461, and did not demonstrate that doing so would have been futile. Hagadorn's allegation that an employee of the Funds forged his disability certificate is not supported by evidence in the record. And, the numerous communications between Hagadorn and the Funds concerning benefits contradict his claim that it would have been futile for him to file an administrative appeal.

**2**. Because there was no evidence supporting Hagadorn's fraud claim, the district court did not err in concluding that equitable tolling did not preserve Hagadorn's untimely claims for benefits. Nor did Hagadorn's asserted forgetfulness, confusion, and anxiety toll the statute of limitations.

**3**. Hagadorn's argument that the district court abused its discretion in denying his Rule 60(b) motion is also without merit. The district court did not abuse its discretion in concluding that information about Hagadorn's asserted mental conditions was not newly discovered.

**AFFIRMED**