

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 5 2016

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RODERIC MALCOLM SCHMIDT,

Plaintiff-Appellant,

v.

COLDWELL BANKER RESIDENTIAL
BROKERAGE; et al.,

Defendants-Appellees,

MARTIN A. SCHMIDT, Successor
Trustee,

Intervenor-Defendant-
Appellee.

No. 13-17653

D.C. No. 5:13-cv-00986-EJD

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Edward J. Davila, District Judge, Presiding

Submitted September 27, 2016**

Before: TASHIMA, SILVERMAN, and M. SMITH, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

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

Roderic Malcolm Schmidt appeals pro se from the district court's order denying his motion to reopen his diversity action following the dismissal of his claims pursuant to a settlement agreement. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993). We affirm.

The district court did not abuse its discretion by denying plaintiff's motion to reopen the case because plaintiff failed to demonstrate any grounds for such relief. *See id.* at 1262-63 (listing grounds warranting relief from judgment under Fed. R. Civ. P. 59(e) and 60(b)).

We lack jurisdiction to consider the district court's order denying plaintiff's renewed motion to reopen the case because plaintiff's amended notice of appeal was untimely. *See* Fed. R. App. P. 4(a)(4)(B)(ii); *Whitaker v. Garcetti*, 486 F.3d 572, 585 (9th Cir. 2007).

All pending motions and requests are denied.

AFFIRMED.