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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

THE ESTATE OF ORBIE COGGINS,  
deceased, by and through GAIL  
COGGINS BROOKS and DUANE  
COGGINS, as Personal  
Representatives,

NO: 2:13-CV-414-RMP

ORDER GRANTING MOTION FOR  
SUMMARY JUDGMENT

Plaintiffs,

v.

WAPATO POINT MANAGEMENT  
COMPANY HEALTH AND  
WELFARE PLAN; WAPATO POINT  
MANAGEMENT COMPANY, INC.,  
as Plan Administrator,

Defendants.

Before the Court is a motion for summary judgment brought by Defendants Wapato Point Management Health and Welfare Plan and Wapato Point Management Company, Inc. (collectively, "Defendants"). ECF No. 17. The Court has reviewed the briefing and all related documents. The Court is fully informed.

1 BACKGROUND

2 The Estate of Orbie Coggins (“Plaintiff”) alleges that Defendants breached  
3 their fiduciary duties by failing to notify Mr. Coggins of the termination of his life  
4 insurance benefits coverage. ECF No. 2-1 at 11. Mr. Coggins participated in a  
5 Company Health and Welfare Plan (“Company Plan”) that included life insurance  
6 coverage of two times an employee’s annual salary. ECF No. 16 at 2. On or about  
7 May 1, 2009, Mr. Coggins’s union and Defendant Wapato Point Company reached  
8 a Collective Bargaining Agreement (“CBA”) that required employees to participate  
9 in the Northwest Laborers-Employees Health and Security Trust Fund (“Union  
10 Plan”). ECF Nos. 16 at 4; 16-6 at 31-32. Defendants state that life insurance  
11 benefits under the Union Plan were limited to \$5,000. ECF No. 3 at 6. Plaintiff  
12 claims, however, that Mr. Coggins received a 2010 benefits statement from  
13 Defendant Wapato Point Company indicating that he was still paying into the  
14 Company Plan for life insurance. ECF Nos. 22 at 15; 20-2.

15 Mr. Coggins died on December 16, 2011, and the beneficiaries of his estate  
16 sought his life insurance benefits under the Company Plan. ECF Nos. 2-1 at 10; 16  
17 at 5. The life insurance provider indicated that Defendant Wapato Point Company  
18 had terminated coverage on May 31, 2009. ECF No. 2-1 at 10, *see also* ECF No.  
19 16 at 5. The union filed a grievance, which was subject to mediation and resulted  
20 in a settlement check for Plaintiff in the amount of \$10,000. ECF No. 16 at 5, 7.

1 The parties also agreed that union-represented employees would be re-enrolled in  
2 the Company Plan’s life insurance. ECF No. 16 at 7. The agreement purports to  
3 resolve all claims regarding the “payment of benefits to any deceased employee  
4 based on an alleged failure to maintain life insurance benefits.” ECF No. 16-11 at  
5 44.

6 In this case, Plaintiff claims that Defendants breached their fiduciary duties  
7 by failing to provide complete and accurate information regarding the status and  
8 termination of Mr. Coggins’s insurance coverage. ECF No. 2-1 at 11. The action  
9 was removed to this Court from Chelan County Superior Court based on federal  
10 question jurisdiction, 28 U.S.C. § 1331. ECF No. 1 at 2.

#### 11 ANALYSIS

12 Summary judgment is appropriate when there are no genuine issues of  
13 material fact and the moving party is entitled to judgment as a matter of law. Fed.  
14 R. Civ. P. 56(a). A “material” fact is one that is relevant to an element of a claim  
15 or defense and whose existence might affect the outcome of the suit. *T.W. Elec.*  
16 *Serv. v. Pacific Elec. Contractors Ass’n*, 809 F.2d 626, 630 (9th Cir. 1987). The  
17 moving party bears the initial burden of demonstrating the absence of a genuine  
18 issue of material fact. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

19 The party asserting the existence of a material fact must show “sufficient  
20 evidence supporting the claimed factual dispute . . . to require a jury or judge to

1 resolve the parties' differing versions of the truth at trial.'" *T.W. Elec. Serv.*, 809  
2 F.2d at 630 (quoting *First Nat'l Bank v. Cities Serv. Co.*, 391 U.S. 253, 288-89  
3 (1968)). The nonmoving party "may not rely on denials in the pleadings, but must  
4 produce specific evidence, through affidavits or admissible discovery material, to  
5 show that the dispute exists." *Bhan v. NME Hosps., Inc.*, 929 F.2d 1404, 1409 (9th  
6 Cir. 1991).

7         The mere existence of a scintilla of evidence is insufficient to establish a  
8 genuine issue of material fact. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252  
9 (1986). However, the judge's function is not to "weigh the evidence and determine  
10 the truth of the matter but to determine whether there is a genuine issue for trial. . .  
11 . Credibility determinations, the weighing of the evidence, and the drawing of  
12 legitimate inferences from the facts are jury functions, not those of a judge . . . ."  
13 *Id.* at 249, 255. In deciding a motion for summary judgment, a court must construe  
14 the evidence and draw all reasonable inferences in the light most favorable to the  
15 nonmoving party. *T.W. Elec. Serv.*, 809 F.2d at 631-32.

16         Defendants move for summary judgment on seven grounds. *See* ECF No.  
17 17 at 6-17. First, Defendants assert that the Court lacks subject matter jurisdiction  
18 because Plaintiff failed to exhaust the grievance procedure provided in the  
19 Collective Bargaining Agreement ("CBA"). Second, Defendants argue that  
20 summary judgment is appropriate because Plaintiff's action is preempted by the

1 CBA and by § 301 of the Labor Management Relations Act. Third, Defendants  
2 claim that Plaintiff's cause of action is barred by the statute of limitations that  
3 applies to "hybrid" claims against an employer and a union. Fourth, in the  
4 alternative, Defendants state that Plaintiff's claim is barred by the statute of  
5 limitations that applies to vacating an arbitration award. Fifth, Defendants propose  
6 that no fiduciary obligation should extend to them because they are prohibited  
7 from dealing directly with union employees. Sixth, Defendants aver that they  
8 satisfied any duty to notify Mr. Coggins of the change in death benefits. Seventh,  
9 Defendants contend that even if notice were required and not provided, Plaintiff  
10 lacks a remedy.

11 *Exhaustion of grievance procedure*

12 Defendants argue that Plaintiff was required to exhaust the grievance  
13 procedure under the CBA and that Plaintiff's failure to do so is fatal to its claim.  
14 ECF No. 17 at 6-8. Defendants claim that Plaintiff is limited to the \$10,000  
15 settlement that resulted from the prior mediation. ECF No. 17 at 8. Plaintiff  
16 responds that it cannot be bound to the grievance procedure because the Estate of  
17 Orbie Coggins was not a party to the CBA or an employee in the plan. ECF No.  
18 22 at 4-9.

19 Generally, "an ERISA claimant must exhaust available administrative  
20 remedies before bringing a claim in federal court." *Barboza v. California Ass'n of*

1 *Prof'l Firefighters*, 651 F.3d 1073, 1076 (9th Cir. 2011). Here, the CBA provides  
2 a detailed procedure for addressing employee grievances. *See* ECF No. 16-6 at 33-  
3 34.

4 Plaintiff does not contend that the grievance procedure would not have  
5 applied to a claim brought by Mr. Coggins himself, or that the grievance procedure  
6 does not cover disputes regarding the life insurance benefits that are at issue in this  
7 case. Rather, Plaintiff claims that “the Estate of Coggins cannot be bound to a  
8 collective bargaining agreement that it was not a party to[,]” ECF No. 22 at 4,  
9 referring to the general rule that a third-party beneficiary is not constrained by a  
10 contract that it did not sign, ECF No. 22 at 4-9 (discussing *Comer v. Micor, Inc.*,  
11 436 F.3d 1098 (9th Cir. 2006) and *Mundi v. Union Sec. Life Ins. Co.*, 555 F.3d  
12 1042 (9th Cir. 2009)).

13 Neither of the cases that Plaintiff discusses in detail concerns whether a  
14 decedent’s estate is bound by contractual administrative remedies that applied to  
15 the decedent. In *Comer*, an investment advisor attempted to compel an ERISA-  
16 plan participant to arbitrate his claim. 436 F.3d at 1099-1100. The plan trustees  
17 had entered into agreements with the investment advisor that contained arbitration  
18 clauses, but *Comer*, the participant, had not signed an arbitration agreement. *Id.*  
19 The court considered whether the arbitration agreements applied to *Comer*’s  
20 ERISA claim either under contract or agency principles or through *Comer*’s status

1 as a third-party beneficiary. *Id.* at 1101. The court held that Comer was not  
2 required to arbitrate his claim because of the general rule that a nonsignatory is not  
3 bound by an arbitration clause. *Id.* at 1103-04.

4 In *Mundi*, a widow's husband had obtained a home equity line of credit from  
5 a bank and memorialized the agreement in a document that included an arbitration  
6 procedure. 555 F.3d at 1043. In conjunction with the line of credit, the husband  
7 had purchased credit insurance to cover the amount of the loan. *Id.* at 1044.  
8 Mundi, the widow, filed a claim with the insurer upon her husband's death. *Id.*  
9 The insurer, which was not a party to the arbitration agreement, attempted to  
10 compel Mundi to arbitrate her claims because of the arbitration agreement with the  
11 bank. *Id.* The insurer contended that Mundi's claims were subject to the  
12 arbitration agreement because they arose from and related to the line of credit and  
13 that equitable estoppel should be applied to compel arbitration. *Id.* at 1044. The  
14 court declined to compel arbitration, finding that the face of the credit agreement  
15 indicated that the dispute was not within the scope of the arbitration provision and  
16 that equitable estoppel was inappropriate because Mundi's claim was not  
17 sufficiently related to the credit agreement. *Id.* at 1045, 1047.

18 To summarize, *Comer* concerned a *signatory's* attempt to require a  
19 *nonsignatory* to arbitrate its claim, and *Mundi* involves a *nonsignatory's* motion to  
20 compel a *signatory* to arbitrate. *Comer*, 436 F.3d at 1101-02; *Mundi*, 555 F.3d at

1 1046. Neither *Comer* nor *Mundi* is directly on point because Plaintiff does not  
2 dispute that the grievance procedure would have applied to a claim brought by Mr.  
3 Coggins himself, if he were alive. Although the parties do not discuss whether an  
4 estate's legal actions are constrained by agreements that the decedent made, it is a  
5 significant issue.

6 Mr. Coggins's estate is bound to the same arbitration agreement that applied  
7 directly to Mr. Coggins. The Federal Rules of Civil Procedure provide that the  
8 capacity to sue in a representative capacity is determined "by the law of the state  
9 where the court is located." Fed. R. Civ. P. 17(b). Although courts have primarily  
10 looked to Rule 17(b) when determining whether a party is qualified to act as a  
11 personal representative under state law, *see, e.g., Pantano v. United Med. Labs.,*  
12 *Inc.*, 456 F.2d 1248, 1249 (9th Cir. 1972), it is logical that state law would also  
13 affect a personal representative's claims on behalf of the estate.

14 State law would not allow Mr. Coggins's estate to pursue a claim if Mr.  
15 Coggins himself would have been barred. Under Washington law, "[a]ctions for  
16 the recovery of any property or for the possession thereof, and all actions founded  
17 upon contracts, may be maintained by and against personal representatives in all  
18 cases *in which the same might have been maintained by and against their*  
19 *respective testators or intestates.*" RCW 11.48.090 (emphasis added). *See also* 31  
20 AM. JUR. 2D *Executors and Administrators* § 1091 ("As a rule, the personal



1 representative of the decedent has no more right than the decedent would have in  
2 bringing a cause of action or risk in being named in one.”) (footnotes omitted);  
3 *Park v. Trustees of 1199 SEIU Health Care Emps. Pension Fund*, 418 F. Supp.2d  
4 343, 354 (S.D.N.Y. 2005) (finding that an estate’s ERISA claim failed in part  
5 because the estate failed to exhaust administrative remedies provided for under the  
6 plan). Plaintiff does not dispute that the grievance procedure would have applied  
7 to a claim brought by Mr. Coggins, and the Court will not allow Mr. Coggins’s  
8 estate to circumvent that procedure.

9       Even if the grievance procedure did not apply directly to Plaintiff’s claim,  
10 however, Plaintiff would be estopped from evading the requirement to exhaust  
11 administrative remedies. “Equitable estoppel ‘precludes a party from claiming the  
12 benefits of a contract while simultaneously attempting to avoid the burdens that  
13 contract imposes.’” *Comer*, 436 F.3d at 1101 (quoting *Wash. Mut. Fin. Group,*  
14 *LLC v. Bailey*, 364 F.3d 260, 267 (5th Cir. 2004)). In *Comer*, the Ninth Circuit  
15 held that equitable estoppel did not obligate Comer to arbitrate his claim because  
16 there was no evidence that he had knowingly exploited the investment  
17 management agreements that contained the arbitration clauses. *Id.* at 1102. Comer  
18 had not sought to enforce the terms of the agreements, “[n]or did he do so by  
19 bringing [the] lawsuit, which he base[d] entirely on ERISA, and not on the  
20 investment management agreements.” *Id.*

1 Here, the CBA includes a grievance procedure that “constitute[s] the sole  
2 and exclusive method of adjusting all complaints or disputes which the employees  
3 may have, which relate to, or concern the provisions of this Labor Agreement, and  
4 impact the employees and the Employer.” ECF No. 16-6 at 33. Unlike in *Comer*,  
5 Plaintiff seeks benefits that it argues remained in place at the conclusion of the  
6 negotiations, which were memorialized in the CBA. *See* ECF No. 22 at 14. Thus,  
7 Plaintiff is estopped from claiming the benefits of the CBA without carrying the  
8 burden of exhausting the contract’s administrative remedies.

9 *Availability of a remedy*

10 Defendants argue that even if they failed to provide necessary notice,  
11 Plaintiff lacks a remedy. ECF No. 17 at 16-17. Plaintiff did not address this  
12 argument in its response. *See* ECF No. 24 at 1-2.

13 The Ninth Circuit has found that an employee lacked a remedy in a similar  
14 case, even though the employer had violated its fiduciary duties under ERISA. In  
15 *Peralta v. Hispanic Business, Inc.*, 419 F.3d 1064 (9th Cir. 2009), an employee  
16 suffered serious injuries in an automobile accident and then learned from her  
17 employer that, months earlier, her ERISA benefit plan for long-term disability had  
18 been “cancelled inadvertently[.]” 419 F.3d at 1066-68. The court found that the  
19 employer’s “notification, three months after the plan’s cancellation, [did] not  
20 constitute timely notification.” *Id.* at 1072.

1           Although the Ninth Circuit concluded that the employer had violated its  
2 fiduciary duty under ERISA, the court found that no remedy was available. One of  
3 ERISA’s civil enforcement provisions states that a participant or beneficiary may  
4 bring an action “to recover benefits due to him under the terms of his plan, to  
5 enforce his rights under the terms of the plan, or to clarify his rights to future  
6 benefits under the terms of the plan . . . .” 29 U.S.C. § 1132(a)(1)(B). Section  
7 1132(a)(1)(B) provided no relief to Peralta because the plan was never reinstated  
8 after it had been canceled. 419 F.3d at 1073.

9           The court also considered whether relief was available under § 1132(a)(3),  
10 which authorizes a participant “(A) to enjoin any act or practice which violates any  
11 provision of this subchapter or the terms of the plan, or (B) to obtain other  
12 appropriate equitable relief (i) to redress such violations or (ii) to enforce any  
13 provisions of this subchapter or the terms of the plan.” 29 U.S.C. § 1132(a)(3).  
14 The court stated that “[t]here seems to be little problem in providing an avenue for  
15 the payment of benefits if serious procedural errors result in the denial of benefits;  
16 and in a case . . . where fraud is involved, the courts will go to great lengths to find  
17 a vehicle for reinstatement of benefits via a § 1132(a)(3) equitable remedy.” 419  
18 F.3d at 1074-75. *Peralta* also notes that the Supreme Court has “distinguished  
19 between equitable claims that seek to prevent future losses, which are permissible  
20 under ERISA, and those that seek past due sums, which are not.” *Id.* at 1075

1 (discussing *Great-West Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204, 211-12  
2 (2002)). The *Peralta* court affirmed the grant of summary judgment against the  
3 employee, finding that she was not entitled to relief under § 1132(a)(3) because  
4 there was no evidence that the employer engaged in egregious behavior, such as  
5 deliberately misleading its employees, and because the only remedy sought was  
6 money damages for past harm. *Id.* at 1075-76.

7 Here, Plaintiff has no remedy under ERISA for similar reasons. Although  
8 Defendants reinstated the life insurance benefit plan under which Plaintiff seeks to  
9 recover, ECF No. 16 at 7, it is undisputed that Mr. Coggins was not covered by the  
10 life insurance at the time of his death. Like the employee in *Peralta*, Plaintiff  
11 “actually seeks a monetary recovery from [Defendants] equal to the . . . benefits  
12 that would have been available had the plan not been cancelled.” 419 F.3d at  
13 1073. Relief is not available under § 1132(a)(1)(B).

14 Plaintiff also is not able to recover under § 1132(a)(3). Although the parties  
15 dispute whether the CBA allowed Defendants to cancel the life insurance benefits  
16 included in the Company Plan, there is no evidence that the employer defrauded  
17 Mr. Coggins or engaged in other egregious conduct that might justify reinstatement  
18 of benefits through a § 1132(a)(3) equitable remedy. Also, Plaintiff seeks damages  
19 for only past harm, which does not support a valid equitable claim under ERISA.  
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CONCLUSION

Plaintiff has not exhausted the CBA’s administrative remedies, which apply to Mr. Coggins’s estate just as they would have constrained Mr. Coggins himself. If the administrative remedies did not directly bind Plaintiff, the doctrine of equitable estoppel would prevent Plaintiff from seeking to enforce the terms of the CBA without complying with the CBA’s administrative remedies. Even if Plaintiff had a viable claim and Defendants had breached their fiduciary duties under ERISA, however, Plaintiff lacks a remedy as a matter of law.

Because Defendants are entitled to summary judgment on these grounds, the Court does not address Defendants’ remaining arguments.

Accordingly, **IT IS HEREBY ORDERED** that Defendants’ Motion for Summary Judgment, **ECF No. 17**, is **GRANTED**.

The District Court Clerk is hereby directed to enter this Order, enter Judgment accordingly, provide copies of this Order to counsel, and **close** this case.

**DATED** this 23rd day of May 2014.

s/ Rosanna Malouf Peterson  
ROSANNA MALOUF PETERSON  
Chief United States District Court Judge