

FILED

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBYN HOLLOWAY and STERLING  
HOLLOWAY,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

v.

SECURITY NATIONAL INSURANCE  
COMPANY, Proposed Intervenor-  
Plaintiff; et al.,

Movant - Appellant.

No. 14-16079

D.C. No. 2:12-cv-02120-MCE-  
CKD

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Morrison C. England, Jr., Chief District Judge, Presiding

Submitted February 12, 2016\*\*  
San Francisco, California

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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).

Before: SILVERMAN and TALLMAN, Circuit Judges and LASNIK,<sup>\*\*\*</sup> District Judge.

Security National Insurance Company appeals the district court's denial of its motion to intervene in a Federal Tort Claim Act action filed by Robyn and Sterling Holloway. We have jurisdiction pursuant to 28 U.S.C. § 1291 and review de novo. *Vacek v. U.S. Postal Serv.*, 447 F.3d 1248, 1250 (9th Cir. 2006); *Canatella v. California*, 404 F.3d 1106, 1112 (9th Cir. 2005). We affirm.

The district court properly denied for lack of subject matter jurisdiction the insurance company's request to intervene because no party filed an administrative claim on behalf of the insurance company. *See* 28 U.S.C. § 2675(a); *McNeil v. United States*, 508 U.S. 106, 113 (1993); *Brady v. United States*, 211 F.3d 499, 502 (9th Cir. 2000). Because the filing of an administrative claim pursuant to 28 U.S.C. § 2675(a) is jurisdictional, Security National's arguments that it could intervene under the various rules of civil procedure lack merit. *See* Fed. R. Civ. P. 82; *Canatella*, 404 F.3d at 1113.

**AFFIRMED.**

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<sup>\*\*\*</sup> The Honorable Robert S. Lasnik, Senior District Judge for the U.S. District Court for the Western District of Washington, sitting by designation.