

**FILED**

FEB 17 2017

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

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SAN DIEGO UNIFIED PORT  
DISTRICT,

Plaintiff-Appellant,

v.

ACE AMERICAN INSURANCE  
COMPANY,

Defendant-Appellee.

No. 14-56811

D.C. No.

3:14-cv-00070-CAB-RBB

MEMORANDUM\*

Appeal from the United States District Court  
for the Southern District of California  
Cathy Ann Bencivengo, District Judge, Presiding

Argued and Submitted February 10, 2017  
Pasadena, California

Before: GRABER, BYBEE, and CHRISTEN, Circuit Judges.

The San Diego Unified Port District appeals the district court's denial of its motion for partial summary judgment and the grant of summary judgment in favor

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

of ACE American Insurance Company.<sup>1</sup> We have jurisdiction under 28 U.S.C. § 1291. Reviewing de novo, *see Travelers Prop. Cas. Co. of Am. v. ConocoPhillips Co.*, 546 F.3d 1142, 1145 (9th Cir. 2008), we affirm.

The subject insurance policy includes a very broad exclusion that unambiguously defeats the Port's claim for coverage. We find no support for the Port's argument that the exclusion does not apply because the "gravamen" of the prior proceedings did not include consideration of the Port's conduct. There were no questions of fact that precluded entry of summary judgment, and the district court did not err by concluding, as a matter of law, that the claims against the Port fall within the policy's exclusion.

**AFFIRMED.**

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<sup>1</sup> The parties are familiar with the facts so they are not repeated here.