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

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KITSAP RIFLE AND REVOLVER CLUB, Plaintiff - Appellant, v. NORTHLAND INSURANCE COMPANY, Defendant - Appellee.	No. 24-3064 D.C. No. 3:11-cv-05021-BHS MEMORANDUM*

Appeal from the United States District Court
for the Western District of Washington
Benjamin H. Settle, District Judge, Presiding

Argued and Submitted July 8, 2025
Seattle, Washington

Before: McKEOWN, PAEZ, and SANCHEZ, Circuit Judges.

Kitsap Rifle and Revolver Club ("KRRC") appeals the district court's grant of summary judgment for Northland Insurance Company ("Northland") in this insurance coverage dispute. We have jurisdiction pursuant to 28 U.S.C. § 1291. Reviewing de novo the district court's grant of summary judgment and considering the record in the light most favorable to the non-moving party, we affirm. *Trunk v.*

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

City of San Diego, 629 F.3d 1099, 1105 (9th Cir. 2011). Because the parties are familiar with the facts, we need not recount them here.

The district court properly granted summary judgment for Northland on KRRC's coverage claims. Northland's comprehensive general liability ("CGL") policies issued to KRRC cover damages caused by an "occurrence," defined as "an accident, including continuous or repeated exposure to substantially the same general harmful conditions." Washington state law defines accidents in the insurance context as "unintended, unexpected event[s]." *Nationwide Mut. Ins. Co. v. Hayles*, 150 P.3d 589, 593 (Wash. App. 2007); *see also Evans v. Metro. Life Ins. Co.*, 174 P.2d 961, 976 (Wash. 1946) (noting accidents occur where "results are unusual, unexpected, or unforeseen" (citation and internal quotations omitted)). "[W]hether an event is an accident does not depend on the view of the insured." *Safeco Ins. Co. of Am. v. Butler*, 823 P.2d 499, 510 (Wash. 1992). Rather, the question is whether "a reasonable person under these circumstances would have been aware that [the damage to wetlands and surface waters] was possible and foreseeable." *Hayles*, 150 P.3d at 593.

On appeal, KRRC does not dispute that any potential environmental cleanup costs—the money damages for which KRRC seeks coverage—are the result of KRRC's deliberate actions. KRRC does not offer any evidence suggesting that a reasonable person would not have foreseen these damages. Nor has KRRC offered

evidence of "some additional unexpected, independent and unforeseen happening" that could have caused potential harms. *Butler*, 823 P.2d at 509 (quoting *Detweiler v. J.C. Penney Cas. Ins. Co.*, 751 P.2d 282, 284 (Wash. 1988)). Consequently, whatever money damages KRRC faces are not attributable to an "occurrence" and are therefore not covered by Northland's CGL policies.

The district court properly granted summary judgment on KRRC's remaining extra-contractual claims for the breach of the duty of good faith and fair dealing and violations of Washington's Insurance Fair Conduct Act and Consumer Protection Act. These claims are based on Northland's alleged failure to pay approximately $400,000 in permitting costs and $48,000 in legal defense costs. However, KRRC offers no authority to support that the cost of obtaining site development permits—a discretionary cost KRRC must pay only because it elected to develop its property—is a defense cost or that it otherwise falls within the scope of the CGL policies. For the $48,000 in legal fees, KRRC has not rebutted Northland's assertion that it will review and pay any outstanding invoices from KRRC's counsel in the normal course of business. Nor, as the district court noted, has KRRC further substantiated its claim for the additional $48,000 in fees. KRRC has submitted only a ledger which records an aggregate balance on payments to KRRC's counsel from 2013 to 2022, but the ledger does not document what the payments are for or whether Northland has refused to pay any itemized bills it has

received. Consequently, KRRC has not met its burden to defeat summary judgment on claims related to these fees. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 256 (1986) (requiring the non-movant to offer "concrete evidence from which a reasonable juror could return a verdict in [its] favor").

Finally, *Olympic Steamship* fees are awarded only to "a party who *successfully* litigates in order to obtain the benefit of" their insurance contract. *McGreevy v. Or. Mut. Ins. Co.*, 904 P.2d 731, 734–35 (Wash. 1995) (emphasis added). Because KRRC has not prevailed on its insurance coverage claims, it is not entitled to fees under *Olympic Steamship*.

AFFIRMED.