

United States District Court
For the Northern District of California

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E-FILED on 05/20/2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE XENOPORT, INC. SECURITIES
LITIGATION

No. C-10-03301 RMW

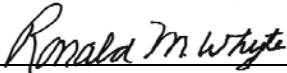
ORDER GRANTING MOTION TO DISMISS
CONSOLIDATED COMPLAINT

[Re Docket No. 24]

Defendant XenoPort, Inc. ("XenoPort") and individual defendants Ronald W. Barrett (Chief Executive Officer), William J. Rieflin (President), David A. Stamler (Chief Medical Officer), Mark A. Gallop (Senior Vice President of Research), and David R. Savello (Senior Vice President of Development) ("individual defendants" and, collectively with XenoPort, the "defendants") move to dismiss all claims asserted against them in plaintiffs' Consolidated Complaint For Violations Of The Federal Securities Laws ("Consolidated Complaint"). On May 20, 2011 the court held a hearing to consider defendants' motion. Having considered the papers submitted by the parties and the arguments of counsel, and for the reasons set forth below, the court grants the motion. Plaintiffs' Consolidated Complaint is dismissed with thirty days leave to amend. Plaintiffs' theory, as disclosed at oral argument, is based upon defendants' alleged failure to disclose XP13512 test results that showed cancer signals in female rats. In their amended complaint, plaintiffs must allege material facts that defendants knew were material, but did not disclose. Moreover, plaintiffs' amended

1 complaint should not include allegations of public statements made by defendants that are alleged to
2 be false, unless plaintiffs also include factual allegations showing why each statement was false and
3 that defendants knew it was false at the time it was made.
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8 DATED: 05/20/2011



9 RONALD M. WHYTE
10 United States District Judge
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