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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 TOM BELLOMO, Individually and on Behalf) No.
15 of All Others Similarly Situated,)
16 Plaintiff,) CLASS ACTION
17 vs.) COMPLAINT FOR VIOLATION OF THE
FEDERAL SECURITIES LAWS
18 XENOPORT, INC., RONALD W. BARRETT,)
WILLIAM J. RIEFLIN, DAVID A.)
19 STAMLER, MARK A. GALLOP and DAVID)
R. SAVELLO,)
20 Defendants.)
21 DEMAND FOR JURY TRIAL

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1 **NATURE OF THE ACTION**

2 1. This is a securities fraud class action on behalf of all purchasers of the common stock
3 of XenoPort, Inc. (“XenoPort” or the “Company”) between May 5, 2009 and February 17, 2010,
4 inclusive (the “Class Period”), against XenoPort and certain of its officers and directors for
5 violations of the Securities Exchange Act of 1934 (the “1934 Act”).

6 2. XenoPort is a biopharmaceutical company. The Company is focused on developing a
7 portfolio of internally discovered product candidates that utilize the body’s natural nutrient transport
8 mechanisms to improve the therapeutic benefits of existing drugs. During the Class Period,
9 XenoPort co-partnered with GlaxoSmithKline (“Glaxo”) in the United States and several other
10 countries outside of Asia on a new drug application (“NDA”) for an extended-release tablet and
11 development stage drug called Horizant (gabapentin enacarbil), also known as XP13512 (“512”), as
12 a potential treatment for moderate-to-severe primary Restless Legs Syndrome (“RLS”). However,
13 the Company did not succeed in obtaining approval for the drug from the U.S. Food and Drug
14 Administration (“FDA”), causing millions of dollars in market capitalization losses.

15 **SUMMARY AND OVERVIEW**

16 3. During the Class Period, defendants publicized misleading and incomplete
17 information about XenoPort’s Phase 3 clinical program for 512 as a treatment for RLS, including
18 that there was strong evidence of safety and indicating that it remained on track, creating an
19 opportunity for the Company to raise money. However, defendants omitted critical information as to
20 results which had shown a risk of pancreatic cancer. This lack of disclosure made it impossible for
21 the public to gain a meaningful understanding of the drug’s potential for FDA approval.

22 4. In February 2007, XenoPort had entered into an exclusive agreement to co-develop
23 and commercialize 512 with Glaxo. Glaxo was responsible for filing the NDA for 512 for the
24 treatment of RLS in order to obtain FDA approval of the drug. Glaxo would lead development and
25 registration of 512 for all other indications, including neuropathic pain, being solely responsible for
26 the manufacture of 512 to support its development and commercialization within the licensed
27 territories. Repeatedly, defendants peppered their press releases with this Glaxo “collaboration” as a
28 tool to support the legitimacy of their 512 claims.

1 **THE PARTIES**

2 14. Plaintiff Tom Bellomo purchased XenoPort common stock as described in the
3 attached certification and was damaged thereby.

4 15. Defendant XenoPort is a biopharmaceutical company. The Company is focused on
5 developing a portfolio of internally discovered product candidates that utilize the body’s natural
6 nutrient transport mechanisms to improve the therapeutic benefits of existing drugs.

7 16. Defendant Ronald W. Barrett (“Barrett”) is co-founder of XenoPort. Defendant
8 Barrett is, and at relevant times was, Chief Executive Officer (“CEO”) and a director of the
9 Company.

10 17. Defendant William J. Rieflin (“Rieflin”) is, and at relevant times was, President of the
11 Company.

12 18. Defendant David A. Stamler (“Stamler”) is, and at relevant times was, Senior Vice
13 President and Chief Medical Officer for the Company.

14 19. Defendant Mark A. Gallop (“Gallop”) is, and at relevant times was, Senior Vice
15 President of Research for the Company.

16 20. Defendant David R. Savello (“Savello”) is, and at relevant times was, Senior Vice
17 President of Development for the Company.

18 21. The individuals named as defendants in ¶¶16-20 are referred to herein as the
19 “Individual Defendants.” The Individual Defendants, because of their positions with the Company,
20 possessed the power and authority to control the contents of XenoPort’s quarterly reports, press
21 releases and presentations to securities analysts, money and portfolio managers and institutional
22 investors, *i.e.*, the market. Each defendant was provided with copies of the Company’s reports and
23 press releases alleged herein to be misleading prior to or shortly after their issuance and had the
24 ability and opportunity to prevent their issuance or cause them to be corrected. Because of their
25 positions and access to material non-public information available to them but not to the public, each
26 of these defendants knew that the adverse facts specified herein had not been disclosed to and were
27 being concealed from the public and that the positive representations which were being made were
28 then materially false and misleading. The Individual Defendants are liable for the false statements

1 pleaded herein, as those statements were each “group-published” information, the result of the
2 collective actions of the Individual Defendants.

3 **FRAUDULENT SCHEME AND COURSE OF BUSINESS**

4 22. In addition to the above-described involvement, each Individual Defendant had
5 knowledge of XenoPort’s problems and was motivated to conceal such problems. Defendant
6 Barrett, as CEO, was responsible for the financial results and press releases issued by the Company.
7 Defendant Stamler, as the Chief Medical Officer, was a key person responsible for the summary of
8 the efficacy and findings of clinical trials released to the public about Horizant. Defendants Gallop
9 and Savello, as the heads of Research and Development, respectively, were key links to the public
10 regarding the efficacy of Horizant. Each Individual Defendant sought to demonstrate that he could
11 lead the Company successfully and commercialize the RLS drug.

12 23. Each defendant is liable for (i) making false statements, *or* (ii) failing to disclose
13 adverse facts known to him about XenoPort. Defendants’ fraudulent scheme and course of business
14 that operated as a fraud or deceit on purchasers of XenoPort common stock was a success, as it (i)
15 deceived the investing public regarding XenoPort’s prospects and business; (ii) artificially inflated
16 the price of XenoPort common stock; (iii) permitted defendants to complete a secondary offering of
17 XenoPort stock at \$19 per share; and (iv) caused plaintiff and other members of the Class to
18 purchase XenoPort common stock at inflated prices.

19 **CLASS ACTION ALLEGATIONS**

20 24. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules
21 of Civil Procedure on behalf of all persons who purchased or otherwise acquired XenoPort common
22 stock during the Class Period (the “Class”). Excluded from the Class are defendants and their
23 families, the officers and directors of the Company, at all relevant times, members of their
24 immediate families and their legal representatives, heirs, successors or assigns and any entity in
25 which defendants have or had a controlling interest.
26

27 25. The members of the Class are so numerous that joinder of all members is
28 impracticable. The disposition of their claims in a class action will provide substantial benefits to

1 referred to as parent drugs, and are designed to correct deficiencies in the oral absorption,
2 distribution and/or metabolism of the parent drug. Incorporated in 1999 and based in Santa Clara,
3 California, XenoPort holds 27 U.S. patents and had 85 patent applications pending. XenoPort's
4 most important drug in 2009 and 2010 was 512, which it intended to give the brand name Horizant
5 (previously, the drug was named Solzira™ in the U.S.), designed to treat RLS, as well as other
6 maladies. Indeed, a large amount of XenoPort's reported revenue in 2009 was attributable to
7 milestone payments under collaboration agreements for the development of 512, such that
8 XenoPort's revenues from 512 were important even before the FDA approved it.

9 30. During the Class Period, XenoPort claimed its results for a Phase IIb clinical trial
10 provided strong evidence of the safety of its most important drug, 512, used to treat RLS. XenoPort
11 claimed it had the safety and efficacy to support NDAs for the formulations, which were initially
12 expected in the first half of 2010 for 512 for RLS. With each phase (and press release), the
13 Company claimed unbridled success.

14 31. On March 16, 2009, XenoPort issued a press release entitled "XenoPort to Receive
15 \$23 Million in Milestone Payments Associated with FDA Acceptance of Solzira NDA," which
16 stated in part:

17 XenoPort, Inc. announced today that the U.S. Food and Drug Administration (FDA)
18 has accepted for review the new drug application (NDA) filed by GlaxoSmithKline
19 (GSK) for *Solzira*™ (gabapentin enacarbil) Extended Release Tablets in the United
20 States as a potential treatment for moderate-to-severe primary Restless Legs
21 Syndrome (RLS). In accordance with XenoPort's collaboration agreements with
22 GSK and Astellas Pharma Inc., the FDA's acceptance of the NDA triggers milestone
23 payments to XenoPort of \$23 million in the aggregate.

24 **About *Solzira***

25 *Solzira* is a new chemical entity that is designed to improve upon the
26 pharmacokinetics of gabapentin by taking advantage of high-capacity transport
27 mechanisms in the gastrointestinal tract to improve absorption.

28 **About RLS**

RLS is a common neurological condition that affects an estimated 12 million
people in the United States across a range of severity from mild to severe. The
syndrome is characterized by unpleasant and sometimes painful sensations in the legs
that result in a compelling urge to move and can result in distressing symptoms that
disrupt sleep and significantly impact daily activities. These RLS-related symptoms
typically begin or worsen during periods of rest or inactivity, particularly when lying
down or sitting, and may be temporarily relieved by movement.

1 32. Subsequently, on April 13, 2009, XenoPort issued a press release entitled “XenoPort
2 Announces Election of Co-Promotion Option for Solzira™ – Shares Profits and Losses with GSK,”
3 which stated in part:

4 XenoPort, Inc. announced today that it has exercised the option contained in its
5 Development and Commercialization Agreement with GlaxoSmithKline (GSK) to
6 co-promote and share profits and losses from the potential future sales of *Solzira*™
7 (gabapentin enacarbil) Extended Release Tablets in the United States. *Solzira* is the
8 subject of a new drug application (NDA) that is under review by the U.S. Food and
9 Drug Administration (FDA) as a potential treatment for moderate-to-severe primary
10 Restless Legs Syndrome (RLS).

11 “We have carefully analyzed this choice from both the economic and
12 strategic perspectives,” said Ronald W. Barrett, chief executive officer of XenoPort.
13 “We believe this decision positions us as one of the few biotechs with the potential to
14 become an integrated biopharmaceutical company, capable of discovering,
15 developing and commercializing innovative products that will benefit both patients
16 and our stockholders.”

17 **Co-Promotion Election**

18 Assuming FDA approval of the *Solzira* NDA for RLS, XenoPort will field a
19 U.S. sales force of between 50 and 100 representatives to promote *Solzira*. This sales
20 force will be geographically distributed across the U.S. and will call on prescribers of
21 drugs that treat neurological diseases.

22 XenoPort also announced changes to the terms of its right to co-detail in the
23 U.S. Requip® XL™, GSK’s product for Parkinson’s disease. Previously, XenoPort
24 was entitled to detail Requip XL commencing upon its exercise of the co-promotion
25 option and ending upon the launch of *Solzira*. Under the revised terms, XenoPort has
26 the right to commence the detailing of Requip XL around the time of the *Solzira*
27 launch. XenoPort would be entitled to continue these detailing activities until the
28 earlier of the launch of a generic form of Requip XL or July 1, 2011. XenoPort
would be compensated for each detail of Requip XL completed by its sales
representatives through a fee that is separate from the *Solzira* joint profit and loss
(P&L) statement.

 “As originally constructed, the GSK collaboration agreement gave XenoPort
the right to detail Requip XL for a relatively short period of time prior to the launch
of *Solzira*,” said Vincent J. Angotti, XenoPort’s senior vice president, chief
commercialization officer. “We determined that it would be better to postpone the
expense of building this sales force until *Solzira* is approved, while extending the
period of time that our sales force would be able to detail a second product in concert
with *Solzira*. We look forward to working with our GSK colleagues to launch *Solzira*
successfully following its anticipated approval by the FDA and to provide
information to healthcare providers about Requip XL.”

 33. On April 27, 2009, XenoPort issued a press release entitled “Phase II Results for
GSK1838262 (XP13512) Reported for Neuropathic Pain Associated with Diabetic Peripheral
Neuropathy,” which stated in part:

1 GlaxoSmithKline and XenoPort, Inc. today announced results from a Phase II
2 clinical trial of GSK1838262/XP13512 (gabapentin enacarbil) for neuropathic pain
3 associated with diabetic peripheral neuropathy (DPN) in adults. GSK1838262 did not
4 demonstrate a statistically significant improvement on the primary endpoint when
5 compared to placebo, based on the change from baseline to end of treatment on the
Pain Intensity-Numerical Rating Scale (PI-NRS). The pregabalin active control arm
also did not differentiate from placebo on this same endpoint. The failure of the study
to demonstrate a statistically significant benefit on the primary endpoint may be a
consequence of the unexpectedly high placebo response rate observed in the study.

6 This 14-week, double-blind, placebo-controlled study enrolled 421 patients
7 who were diagnosed with either Type 1 or Type 2 diabetes mellitus with signs and
8 symptoms of DPN. Patients were randomized to receive either 1200 mg/day, 2400
9 mg/day or 3600 mg/day of GSK1838262 administered in divided doses twice daily,
300 mg/day of pregabalin as an active control, administered in divided doses three
times daily, or placebo.

* * *

10 Ronald W. Barrett, Ph.D., chief executive officer of XenoPort, stated, “A
11 high placebo response is not uncommon in DPN studies, and this has been a
12 contributing factor to several failed studies testing different drugs in this patient
13 population. The failure of pregabalin in this study makes it difficult to draw
14 definitive conclusions about the efficacy of GSK1838262. We are encouraged by the
observation that all doses of GSK1838262 were generally well tolerated, particularly
since the 3600 mg dose represents the highest dose tested in a study of this length.”

15 34. XenoPort’s stock price declined on this news. However, it would soon shoot up as
16 defendants emphasized the strength of 512 for RLS.

17 35. The Class Period begins on May 5, 2009, with the announcement of first quarter 2009
18 financial results and a discussion of Phase II results for 512. Although defendants were aware of
19 pancreatic cancer findings in lab rats given doses of 512, they chose not to mention this issue in
20 statements and other disclosures with respect to the potential of 512. Prior to this announcement,
21 XenoPort’s stock was trading below \$14.70 per share.

22 **DEFENDANTS’ FALSE AND MISLEADING STATEMENTS ISSUED
DURING THE CLASS PERIOD**

23 36. On May 5, 2009, XenoPort reported its first quarter 2009 financial results in a release
24 which stated in part:

25 XenoPort, Inc. announced today its financial results for the first quarter ended March
26 31, 2009. Revenues for the quarter were \$26.3 million, compared to \$15.0 million for
27 the same period in 2008. Net loss for the first quarter was \$2.7 million, compared to
a net loss of \$7.3 million for the same period in 2008. At March 31, 2009, XenoPort
had cash and cash equivalents and short-term investments of \$143.3 million.

1 **XenoPort Highlights**

2 Since the start of 2009, XenoPort has:

- 3 • Announced that the U.S. Food and Drug Administration (FDA)
4 accepted for review a new drug application (NDA) for XP13512
5 (gabapentin enacarbil) as a potential treatment for moderate-to-severe
6 primary restless legs syndrome (RLS). The NDA was filed by
7 GlaxoSmithKline (GSK). The acceptance triggered \$23.0 million in
8 milestone payments to XenoPort from GSK and Astellas Pharma Inc.
- 9 • Announced that it has exercised the option contained in its
10 Development and Commercialization Agreement with GSK to co-
11 promote and share profits and losses from the potential future sales of
12 XP13512 in the United States.
- 13 • Reported that a Phase 2 clinical trial of XP13512 conducted by GSK
14 in patients with painful diabetic neuropathy (PDN) failed to show a
15 statistically significant benefit for XP13512 or pregabalin, an active
16 control, over placebo on the primary endpoint of the study. The
17 failure of the trial may have been a consequence of the high placebo
18 response that was observed. XP13512 was generally well tolerated in
19 this trial.
- 20 • Reported positive results from a Phase 2 clinical trial of XP13512
21 conducted by Astellas in Japanese patients with RLS. XP13512 dosed
22 as 1200 mg given once per day demonstrated statistically significant
23 improvements compared to placebo on the primary endpoint of the
24 trial and was well tolerated.
- 25 • Published data from the PIVOT RLS I (Patient Improvements in Vital
26 Outcomes following Treatment for RLS) clinical trial of XP13512 in
27 the February 3, 2009 edition of *Neurology* and published the results
28 from a Phase 2 polysomnography study of XP13512 in RLS patients
in the February 1, 2009 edition of *Sleep*.
- Presented new data from the PIVOT RLS I, II and Maintenance
clinical trials at the American Academy of Neurology conference
demonstrating that XP13512 was effective in treating RLS symptoms
and was well tolerated.
- Announced completion of enrollment in two GSK-sponsored Phase 2
clinical trials of XP13512 in patients with post-herpetic neuralgia.
- Announced completion of enrollment in a Phase 2 clinical trial of
XP19986 in spinal cord injury patients with spasticity.

* * *

25 Ronald W. Barrett, Ph.D., chief executive officer of XenoPort, stated, “We
26 were pleased with the positive results from the Astellas RLS study, and we look
27 forward to further progress towards the approval of XP13512 for the treatment of
28 RLS patients in Japan. While we are disappointed that there likely will be a delay in
the advancement of GSK’s XP13512 PDN program into Phase 3, we remain
encouraged by the efficacy trends and the safety of XP13512 observed in the study.

1 We have also made progress with both XP19986 and XP21279 during the first
2 quarter. With respect to XP19986, we believe that we are still on track to report
3 results of the spasticity clinical trial by mid year and the acute back spasms clinical
4 trial by year end. We also intend to initiate our second multiple-dose
5 gastroesophageal reflux disease clinical trial of XP19986 in patients who respond
6 incompletely to proton pump inhibitors in the second half of the year. Finally, we
7 plan to commence a pharmacokinetic study of XP21279 in Parkinson's disease
8 patients later this year."

9 Dr. Barrett concluded, "With the election of the co-promote option for
10 XP13512 in April, we look forward to working with GSK to maximize the potential
11 of this product candidate."

12 37. Subsequent to the release of the Company's financial results on May 5, 2009,
13 XenoPort hosted a conference call for analysts, media representatives and investors, during which
14 defendant Barrett stated the following:

15 We remain optimistic *that the safety and efficacy data generated for the 512 RLS*
16 *program will result in a favorable action by the FDA.*

17 38. Within days of this announcement, XenoPort's stock was trading above \$17 per
18 share.

19 39. On July 8, 2009, XenoPort announced the pricing of a secondary public offering,
20 selling 2.5 million shares of its common stock at \$19 per share, additionally granting the
21 underwriters a 30-day option to purchase up to an additional 375,000 shares of common stock to
22 cover over-allotments, generating nearly \$45 million in proceeds for the Company. The Prospectus
23 for the offering stated in part:

24 We are developing our lead product candidate, XP13512, in partnership with
25 Astellas Pharma Inc. and Glaxo Group Limited, or GSK. The U.S. Food and Drug
26 Administration, or FDA, has accepted for review a new drug application, or NDA,
27 that was submitted by GSK for approval to market XP13512, also known as
28 GSK1838262 (gabapentin enacarbil), in the United States for the treatment of
moderate-to-severe primary restless legs syndrome, or RLS.

* * *

A key component of our strategy is to reduce the risks and time associated
with drug development by capitalizing on the known safety, efficacy and established
drug development history of the parent drugs. Our product candidates are designed to
be metabolized to release the parent drugs and natural substances with favorable
safety characteristics. We believe that these features will increase the probability of
successfully developing our product candidates.

40. The offering was successful and the overallotment was fully subscribed.

1 41. On August 3, 2009, XenoPort issued a press release entitled “XenoPort Announces
2 Astellas' Plans to File an NDA for XP13512 in Japan,” which stated in part:

3 XenoPort, Inc. announced today that Astellas Pharma Inc. plans to file a new drug
4 application (NDA) in Japan for XP13512 (known as ASP8825 by Astellas) as a
5 potential treatment for moderate-to-severe primary restless legs syndrome (RLS) in
6 the second half of its 2009 fiscal year, which ends on March 31, 2010. The evidence
7 of efficacy for the NDA filing will be based on data from Astellas’ successful Phase
8 2 study in RLS patients conducted in Japan and XenoPort’s clinical program
9 conducted in the United States. Based on the outcome of a Pharmaceutical and
10 Medical Devices Agency (PMDA) consultation meeting, Astellas has concluded that
11 Phase 3 clinical studies in Japan will not be required for the NDA filing.

12 “With no approved drugs in Japan for the treatment of RLS, we are pleased
13 that Astellas is pursuing what is known as a “bridging strategy” to potentially
14 accelerate the availability of a treatment for RLS patients in Japan,” said Ronald W.
15 Barrett, Ph.D., XenoPort’s chief executive officer. “We are working diligently with
16 Astellas to permit them to move aggressively to file the NDA in Japan by the end of
17 March 2010. We thank our Astellas colleagues for their creative development
18 strategy on this project.”

19 XenoPort also announced today that Astellas does not intend to continue the
20 development of XP13512 in Japan as a potential treatment for painful diabetic
21 neuropathy under the current circumstances. As reported previously, a planned
22 interim analysis of a Phase 2 clinical trial of XP13512 in Japanese patients with
23 painful diabetic neuropathy indicated that continuation of the study was not likely to
24 demonstrate a statistically significant advantage of XP13512 over placebo on the
25 primary endpoint of the study. There were no safety concerns identified in the
26 interim analysis.

27 **Astellas Collaboration**

28 Astellas holds exclusive rights to develop and commercialize XP13512 in
Japan, Korea, the Philippines, Indonesia, Thailand and Taiwan. Under the terms of
the Astellas collaboration agreement, XenoPort received an initial license payment of
\$25 million in December 2005 and has received milestone payments of \$18 million
to date. XenoPort is eligible to receive potential clinical and regulatory milestone
payments totaling up to an additional \$42 million. In addition, assuming regulatory
approval, XenoPort is entitled to receive royalties on any sales of XP13512 in the
Astellas territory.

42. On August 5, 2009, XenoPort reported its second quarter 2009 financial results in a
release which stated in part:

XenoPort, Inc. announced today financial results for the second quarter and six
months ended June 30, 2009. Revenues for the second quarter were \$1.8 million,
compared to \$11.5 million for the same period in 2008. Net loss for the second
quarter was \$20.9 million, compared to a net loss of \$12.4 million for the same
period in 2008. At June 30, 2009, XenoPort had cash, cash equivalents and short-
term investments of \$123.5 million.

1 **XenoPort Business Updates**

2 Since the start of the second quarter, XenoPort has:

- 3 • Completed a one-year, open-label, safety study (XP055) in which 573
4 restless legs syndrome (RLS) patients received XP13512 (gabapentin
5 enacarbil). Of those patients, 386 subjects completed the study. The target
6 dose in the study was 1200 mg once daily; subjects were allowed to decrease
7 to 600 mg or increase to 1800 mg based on tolerability and efficacy. Eleven
8 percent of subjects withdrew due to adverse events. Somnolence (19.7%) and
9 dizziness (11.5%) were the most frequently reported treatment-emergent
10 adverse events. There was one serious adverse event (mental status change)
11 that was deemed to be possibly treatment related.
- 12 • Announced that Astellas Pharma Inc. plans to file a new drug application
13 (NDA) in Japan for XP13512 as a potential treatment for moderate-to-severe
14 primary RLS in the second half of its 2009 fiscal year, which ends on March
15 31, 2010.
- 16 • Exercised the option contained in the Development and Commercialization
17 Agreement with GlaxoSmithKline (GSK) to co-promote and share profits
18 and losses from the potential future sales of XP13512 in the United States.

19 * * *

20 Ronald W. Barrett, Ph.D., chief executive officer of XenoPort, stated,
21 “During the second quarter, we continued to make solid progress in our development
22 programs. We are particularly pleased with the advancement of our AP development
23 program and look forward to the results of the acute back spasms trial and to
24 initiating a Phase 2b trial in GERD patients later this year. We also expect to report
25 top-line data later this year from GSK’s Phase 2 trials of XP13512 in post-herpetic
26 neuralgia patients and Phase 3b polysomnography trial in RLS patients.”

27 Dr. Barrett concluded, “We are also pleased with Astellas’ actions to
28 accelerate the development of XP13512 for RLS in Japan, one of the world’s largest
pharmaceutical markets. Finally, we expect feedback in November from the FDA on
the RLS NDA filing made by GSK. We are hopeful that our and our partner’s efforts
will result in the availability of the first approved non-dopaminergic therapy for
RLS.”

29 **XenoPort Second Quarter and Six-Month Financial Results**

30 As a result of XenoPort’s election of the co-promotion option under its
31 Development and Commercialization Agreement with GSK, this agreement now falls
32 within the scope of the Financial Accounting Standards Board’s Emerging Issues
33 Task Force (EITF) 07-1, “Accounting for Collaborative Arrangements.” As such,
34 XenoPort’s revenue from the GSK collaboration agreement has been reclassified
35 within the statements of operations for all periods presented. The statements of
36 operations now include the line item “Net revenue from unconsolidated joint
37 operating activities,” which includes all revenue resulting from its GSK collaboration
38 agreement. Revenues that resulted from XenoPort’s collaboration agreements with
Astellas and Xanodyne Pharmaceuticals, Inc. continue to be presented within the
“Collaboration revenue” line item. This new presentation has no impact on net loss
or net loss per share for any period presented.

1 * * *

2 Net revenue from unconsolidated joint operating activities was \$1.5 million
3 for the second quarter of 2009, compared to \$10.2 million for the same period in
4 2008. The decrease in net revenue from unconsolidated joint operating activities in
5 the three months ended June 30, 2009 compared to the same period in 2008 was the
6 result of a decrease in revenue recognized from up-front license and milestone
7 payments under the GSK agreement and the recognition of XenoPort's share of pre-
8 launch operating losses of XP13512 as a result of XenoPort's election of the co-
9 promotion option.

10 Net revenue from unconsolidated joint operating activities was \$24.4 million
11 for the six months ended June 30, 2009, compared to \$20.3 million for the same
12 period in 2008. The increase in net revenue from unconsolidated joint operating
13 activities in the six months ended June 30, 2009 compared to the same period in 2008
14 was the result of an increase in revenue recognized from up-front license and
15 milestone payments under the GSK agreement, partially offset by the recognition of
16 XenoPort's share of pre-launch operating losses of XP13512 as a result of
17 XenoPort's election of the co-promotion option.

18 43. Subsequent to the release of the Company's financial results on August 5, 2009,
19 XenoPort hosted a conference call for analysts, media representatives and investors, during which
20 defendants stated the following:

21 [BARRETT:] [W]e continue to believe that our NDA is complete and provides
22 *strong evidence of the safety and efficacy of 512* for treating moderate to severe
23 primary RLS.

24 * * *

25 Another important event in Q2 was our election of the co-promote option in
26 our agreement with GSK. Since the election, we've been working closely with GSK,
27 planning for the launch of 512 RLS, assuming it receives FDA approval. We've
28 made good progress going in the organizational foundation to create a 50- to 100-
29 person sales force that we will put in place following the approval of 512.

30 * * *

31 [ANALYST:] Ron, has the FDA received the open label extension data for 512?

32 [BARRETT:] So at the time of the data cut, or the 120-day safety update,
33 we had about 376 subjects who had completed nine months, and 269 who had
34 completed a full 52 weeks of treatment in the study. So that more than exceeds the
35 IPH guidelines. As we think that, again, it provides sufficient evidence of the long-
36 term safety of the drug to support the NDA.

37 44. On September 17, 2009, XenoPort issued a press release entitled "Positive Phase IIb
38 Results for GSK1838262 (XP13512) Reported for Neuropathic Pain Associated with Post-Herpetic
39 Neuralgia," which stated in part:

1 GlaxoSmithKline and XenoPort, Inc. today announced top-line results from a Phase
2 IIB clinical trial evaluating the safety and efficacy of GSK1838262/XP13512
3 (gabapentin enacarbil) for neuropathic pain associated with post-herpetic neuralgia
4 (PHN) in adults. In this study, subjects were randomized to receive placebo, 1200,
5 2400 or 3600 mg/day of GSK1838262 dosed twice a day. All doses of GSK1838262
6 demonstrated statistically significant improvements over placebo on the primary
7 endpoint, which was the change from baseline to the end of maintenance treatment in
8 the 24-hour average pain intensity score.

9 This 14-week, double-blind, placebo-controlled study enrolled 376 subjects
10 with PHN who had been experiencing pain for at least three months following
11 healing of the herpes zoster skin rash. The pre-specified statistical analysis included
12 adjustment for comparisons of multiple GSK1838262 doses to placebo. The adjusted
13 p-values for comparison of 1200, 2400 and 3600 mg/day doses to placebo were
14 0.013, 0.029 and 0.002, respectively.

15 GSK1838262 was generally well tolerated at all doses in this study. The most
16 common adverse events were dizziness (placebo 15%, 1200 mg/day 17%, 2400
17 mg/day 26% and 3600 mg/day 30%) and somnolence (8%, 10%, 11% and 14%,
18 respectively). Most of these adverse events were mild or moderate in intensity.
19 Withdrawals due to adverse events were 13%, 6%, 15% and 18%, respectively.

20 * * *

21 Ronald W. Barrett, Ph.D., chief executive officer of XenoPort said, “We are
22 pleased with the efficacy and tolerability results observed across all doses in this
23 study. These results build upon the positive Phase IIa study in PHN patients we
24 previously conducted with this product candidate. We look forward to continuing to
25 work with GSK to advance the development of this compound in neuropathic pain.”

26 45. Subsequent to the Company’s release of Phase IIB clinical trial results on September
27 17, 2009, XenoPort hosted a conference call with analysts and media representatives. Defendant
28 Stamler represented the following:

29 We are pleased to report that all doses of 512 demonstrated a statistically
30 significant reduction in pain compared to placebo on the primary endpoint. The P
31 values can be found in the press release. These treatment effects were observed
32 despite a placebo effect that was in the high range of historical data from gabapentin
33 and pregabalin post-herpetic neuralgia studies.

34 Known statistical comparisons between doses was conducted, but the
35 treatment affect for the 3600 mg per kilogram – I’m sorry, 3600 mg dose group was
36 numerically greater than the other two groups. Analyses of the secondary efficacy
37 measures supported efficacies seen on the primary endpoint.

38 The most commonly reported adverse events were dizziness and somnolence,
39 and the incidents rates are given in the press release. Most notable were the results in
40 the 1200 mg dose group, where the rates of dizziness and somnolence were similar to
41 placebo.

42 These adverse events were generally mild to moderate in severity.
43 Withdrawals due to adverse events in the 512 dose groups were not substantially
44 different from placebo. One subject experienced a serious adverse event that was

1 considered by the investigator to be related to study medication. This was a case of
2 gastritis in a subject receiving 3600 mg per day.

3 46. Following these statements, XenoPort's stock increased to above \$24 per share.

4 47. On September 22, 2009, defendant Barrett joined as a speaker in a conference call
5 hosted by Bank of America-Merrill Lynch for Bank of America-Merrill Lynch Smid Cap
6 Conference, representing in part:

7 Now, XP13512 is a transported prodrug of a drug called gabapentin. This is a
8 drug that was approved in the early '90s, initially for the treatment of epilepsy and
9 later for the treatment of neuropathic pain, postherpetic neuralgia. It is a drug that is
extensively used. Currently it is generic, more than 20 million annual scripts in the
US. It is unique among CNS agents in having a very good safety record in these
millions of patients that have been treated.

10 We chose to apply our technology to this product because it has some unusual
11 pharmacokinetic deficiencies. It is absorbed by a saturable mechanism that is only
12 found in the upper GI tract. Individuals vary highly in their ability to absorb
gabapentin itself, so if you can't absorb it, you're not going to get the benefit of the
drug. It has a short half-life, and it requires three or four times a day dosing.

13 48. On October 5, 2009, XenoPort issued a press release entitled "Positive Phase II
14 Results for GSK1838262 (XP13512) Reported for Subjects with Post-Herpetic Neuralgia and a
15 History of Inadequate Response to Gabapentin," which stated in part:

16 GlaxoSmithKline and XenoPort, Inc. today announced top-line results from a Phase
17 II clinical trial evaluating GSK1838262/XP13512 (gabapentin enacarbil) in adult
18 patients with neuropathic pain associated with post-herpetic neuralgia (PHN) who
19 have had a history of inadequate response to gabapentin doses of 1800 mg/day or
20 higher. In this double-blind, two-period cross-over study, 3600 mg/day of
GSK1838262 demonstrated a statistically significant improvement over 1200 mg/day
of GSK1838262 on the primary endpoint, which was the change from baseline to the
end of the treatment period in the 24-hour average pain intensity score. A greater
reduction in the 24-hour average pain score was observed for the 3600 mg/day dose
than for the 1200 mg/day dose (adjusted difference of -0.29; p=0.013).

21 This study enrolled 138 subjects diagnosed with PHN who had been
22 experiencing pain for at least three months following healing of the herpes zoster
23 skin rash. Subjects with a history of inadequate response to gabapentin entered a
24 baseline period where they received a dose of 1800 mg/day of gabapentin for two
25 weeks. Subjects (N=96) who had a 24-hour average pain score of at least four on the
26 11-point pain intensity rating scale were then randomized to receive either 1200
mg/day of GSK1838262 for the first 28-day treatment period followed by 3600
mg/day for the second 28-day treatment period, or 3600 mg/day followed by 1200
mg/day. Subjects received 2400 mg/day of GSK1838262 for four days in between
the two treatment periods.

27 The only treatment-emergent adverse event occurring in greater than or equal
28 to 5% of subjects taking GSK1838262 was nasopharyngitis (5%). Among the other
adverse events noted in this study, dizziness and somnolence occurred at rates of 4%

1 and 3%, respectively, and were mild in intensity. Withdrawals due to adverse events
2 during GSK1838262 treatment occurred in 3% of subjects.

3 * * *

4 “Clinical trial experience has shown that there are PHN patients who do not
5 experience adequate pain relief,” said Ronald W. Barrett, Ph.D., chief executive
6 officer of XenoPort. “We are encouraged by these Phase II results and plan to share
7 further details about the study at a future medical meeting.”

8 49. Subsequent to release of positive Phase II results, XenoPort hosted a Clinical Trials
9 Results Conference Call with analysts and the media. Defendant Stamler represented the following:

10 Regarding safety, the only treatment emergent adverse event occurring in
11 greater than or equal to 5% of subjects taking 512 was nasopharyngitis at 5%.
12 Among other adverse events noted in subject receiving 512, dizziness and
13 somnolence occurred at rates 4% and 3%, respectively, and all were mild in intensity.
14 Withdrawals due to adverse events during 512 treatment were infrequent and
15 occurred in 3% of subjects. There were not drug relates SAEs.

16 50. On November 3, 2009, XenoPort reported the Company’s third quarter 2009 financial
17 results, in a release which stated in part:

18 XenoPort, Inc. announced today financial results for the third quarter and nine
19 months ended September 30, 2009. Revenues for the third quarter were \$0.4 million,
20 compared to \$4.9 million for the same period in 2008. Net loss for the third quarter
21 was \$24.4 million, compared to a net loss of \$24.1 million for the same period in
22 2008. At September 30, 2009, XenoPort had cash, cash equivalents and short-term
23 investments of \$156.6 million.

24 **Development Pipeline Update**

25 Since the start of the third quarter, XenoPort or its partners have advanced the
26 development of XenoPort’s product candidates as follows:

- 27 • XenoPort initiated a multi-center, double-blind, placebo-controlled
28 Phase 2b clinical trial of arbaclofen placarbil (AP), also known as
XP19986, in patients with gastroesophageal reflux disease (GERD)
who remain symptomatic despite treatment with proton pump
inhibitors (PPIs). This trial is designed to assess the efficacy and
safety of AP as adjunctive therapy to PPIs and is expected to enroll
approximately 425 patients. Subjects with a history of incomplete
response to a PPI will undergo a four-week baseline treatment on PPI
therapy followed by a six-week treatment period on PPI therapy plus
either 20 mg or 40 mg of AP dosed once daily, 20 mg or 30 mg of AP
dosed twice daily or placebo. The primary endpoint of the trial will
examine heartburn. Regurgitation will be assessed as a key secondary
endpoint.
- XenoPort’s partner, GlaxoSmithKline (GSK), completed a double-
blind, placebo-controlled, cross-over Phase 3b polysomnography
(PSG) clinical trial of XP13512 to evaluate the potential sleep
benefits of XP13512 in patients with moderate-to-severe primary

1 restless legs syndrome (RLS). XP13512 demonstrated statistically
2 significant improvement compared to placebo on the primary
3 endpoint of the trial, which was Wake Time During Sleep measured
4 by PSG ($p < 0.0001$). XP13512 was generally well tolerated, with
5 dizziness and somnolence being the most frequently reported
6 treatment-emergent adverse events.

- 7 • GSK completed a fourteen-week, double-blind, placebo-controlled
8 Phase 2b clinical trial of XP13512 that enrolled 376 subjects with
9 post-herpetic neuralgia (PHN) who had been experiencing pain for at
10 least three months following healing of the herpes zoster skin rash.
11 Subjects were randomized to receive placebo, 1200, 2400 or 3600
12 mg/day of XP13512 dosed twice a day. All doses of XP13512
13 demonstrated statistically significant improvements over placebo on
14 the primary endpoint, which was the change from baseline to the end
15 of maintenance treatment in the 24-hour average pain intensity score.
16 XP13512 was generally well tolerated at all doses in this study. The
17 most common adverse events were dizziness and somnolence, and
18 most of these adverse events were mild or moderate in intensity.
- 19 • GSK completed a double-blind, two-period cross-over Phase 2
20 clinical trial of XP13512 in subjects diagnosed with PHN who had
21 been experiencing pain for at least three months following healing of
22 the herpes zoster skin rash. Subjects with a history of inadequate
23 response to gabapentin (N=138) entered a baseline period where they
24 received a dose of 1800 mg/day of gabapentin for two weeks.
25 Subjects (N=96) who had a 24-hour average pain score of at least
26 four on the 11-point pain intensity rating scale were then randomized
27 to receive either 1200 mg/day of XP13512 for the first 28-day
28 treatment period followed by 3600 mg/day for the second 28-day
treatment period, or 3600 mg/day followed by 1200 mg/day. In this
trial, 3600 mg/day of XP13512 demonstrated a statistically
significant improvement over 1200 mg/day of XP13512 on the
primary endpoint, which was the change from baseline to the end of
the treatment period in the 24-hour average pain intensity score. The
only treatment-emergent adverse event occurring in greater than or
equal to 5% of subjects taking XP13512 was nasopharyngitis. Among
the other adverse events noted in this study, dizziness and
somnolence occurred at rates of 4% and 3%, respectively, and were
mild in intensity.
- Astellas Pharma Inc., XenoPort's partner in Japan and five other
Asian countries, announced that it plans to file a new drug application
(NDA) with the Pharmaceutical and Medical Devices Agency in
Japan for XP13512 as a potential treatment for RLS in the second
half of its 2009 fiscal year, which ends on March 31, 2010.

“In the third quarter, we have made significant progress with our key
development programs, XP13512 and AP,” said Ronald W. Barrett, Ph.D., chief
executive officer of XenoPort. “We are encouraged by the results from the XP13512
neuropathic pain and RLS PSG studies, and look forward to the data from the
migraine prevention study. We expect a response from the FDA on GSK's XP13512
NDA for RLS by November 9, 2009, and further expect Astellas to file an NDA for
RLS in Japan prior to March 31, 2009. Finally, we advanced the AP GERD program

1 with the initiation of our Phase 2b clinical trial of AP as adjunctive therapy to PPIs in
2 patients with GERD.”

3 **XenoPort Third Quarter and Nine-Month Financial Results**

4 Collaboration revenues were \$0.4 million and \$4.1 million for the three and
5 nine months ended September 30, 2009, compared to \$0.4 million and \$6.6 million
6 for the same periods in 2008. The decrease in collaboration revenue for the nine
7 months ended September 30, 2009 compared to the same period in 2008 was the
8 result of a decrease in revenue recognized under XenoPort’s collaboration agreement
9 with Xanodyne Pharmaceuticals, Inc., which terminated in July 2009, partially offset
10 by an increase in revenue recognized under the Astellas agreement related to the
11 acceptance for review by the U.S. Food and Drug Administration (FDA) of the NDA
12 for XP13512.

13 Net revenue from unconsolidated joint operating activities was \$24,000 for
14 the third quarter of 2009, compared to \$4.5 million for the same period in 2008. Net
15 revenue from unconsolidated joint operating activities was \$24.4 million for the nine
16 months ended September 30, 2009, compared to \$24.7 million for the same period in
17 2008. The decrease in net revenue from unconsolidated joint operating activities in
18 the three months ended September 30, 2009 compared to the same period in 2008
19 was the result of a decrease in revenue recognized from up-front license and
20 milestone payments under the GSK agreement and the recognition of XenoPort’s
21 share of pre-launch operating losses of XP13512. The decrease in net revenue from
22 unconsolidated joint operating activities in the nine months ended September 30,
23 2009 compared to the same period in 2008 was the result of the recognition of
24 XenoPort’s share of pre-launch operating losses of XP13512, partially offset by an
25 increase in revenue recognized from up-front license and milestone payments under
26 the GSK agreement.

27 51. Subsequent to the release of the Company’s financial results on November 3, 2009,
28 XenoPort hosted a conference call for analysts, media representatives and investors, during which
defendant Barrett stated the following:

19 We continue to work closely with GSK regarding the NDA for 512 as a
20 potential treatment for moderate to severe primary Restless Leg Syndrome, or RLS.
21 We believe this filing provides strong support for 512’s efficacy and safety in
22 treating RLS. Given the proximity to the PDUFA date, we won’t be answering
23 questions on this topic today, but we will obviously update you when we have news
24 to report.

25 We are also working with our partner Astellas to file the NDA in Japan for
26 512 as a treatment for RLS. Astellas had indicated that it expects the filing to occur
27 by the end of Q1 next year.

28 We were pleased to report positive results from three clinical trials that were
conducted by GSK. The first two trials evaluated the efficacy and safety of 512 in
treating patients with post-herpetic neuralgia, or PHN. One of the PHN trials was a
14-week placebo-controlled parallel-designed trial of three doses of 512. All three
doses of 512 met the primary endpoint and 512 was generally well tolerated in all
doses with dizziness and somnolence being the most common adverse events
reported. A noteworthy finding of the study was that 1200 mg a day of 512 provided

1 statistically significant reduction in pain over placebo with an incidence of dizziness
2 and somnolence that was similar to placebo.

3 The second clinical trial evaluated the efficacy of two different doses, 3600
4 and 1200 mg of 512 PHN subjects who had an inadequate response to gabapentin.
5 The higher dose of 512 provided statistically significant decreased pain scores
6 compared to the lower dose. 512 was well tolerated at both doses with
7 nasopharyngitis the only treatment emergent adverse event occurring in greater than
8 5% of subjects taking 512. It's worth noting that the 1200 mg dose was active in the
9 parallel-designed trial mentioned previously. So one could conclude that the bar was
10 set high for this trial, but we were attempting to discriminate two active doses. Since
11 the crossover trial demonstrated that 3600 was superior to 1200 across a number of
12 pain and other endpoints within the same subject, we believe the trial reinforces our
13 thesis that high gabapentin exposure provided by 512 can lead to clinical benefit.

14 The third trial that GSK conducted was a Phase IIIb polysomnography trial of
15 512 that evaluated the potential sleep benefits of 512 in patients with RLS. 512
16 demonstrated statistically significant improvements compared to placebo on the
17 primary endpoint of the trial, which was wake time during sleep measured by
18 polysomnography. The P value was less than 0.0001. Statistically significant
19 improvements over placebo were also observed on many other sleep parameters
20 evaluated in this study. 512 was generally well tolerated with dizziness and
21 somnolence as the frequently-reported treatment emergent adverse events.

22 52. On November 6, 2009, XenoPort announced that the FDA's goal date for review of
23 the NDA for 512, originally November 9, 2009, was extended to February 9, 2010.

24 53. On November 10, 2009, XenoPort issued a press release entitled "CORRECTING
25 and REPLACING GlaxoSmithKline and XenoPort Announce Extension of GSK1838262
26 (XP13512) FDA Review Date to February 9, 2010," which stated in part:

27 In BW 5972 issued November 6, 2009: First graph, second sentence of release (dated
28 November 6, 2009) should read: The NDA currently under review by the FDA is for
the treatment of moderate-to-severe primary Restless Legs Syndrome (RLS).

The corrected release reads:

GLAXOSMITHKLINE AND XENOPORT ANNOUNCE EXTENSION OF
GSK1838262 (XP13512) FDA REVIEW DATE TO FEBRUARY 9, 2010

GlaxoSmithKline and XenoPort, Inc. today announced that *the U.S. Food
and Drug Administration (FDA) has extended the original Prescription Drug User
Fee Act (PDUFA) goal date for its review of the New Drug Application (NDA) for
GSK1838262/XP13512 (gabapentin enacarbil) to February 9, 2010. The NDA
currently under review by the FDA is for the treatment of moderate-to-severe
primary Restless Legs Syndrome (RLS).* The original PDUFA date for this NDA
review was November 9, 2009.

The FDA determined that a Risk Evaluation and Mitigation Strategy (REMS)
was necessary for GSK1838262. In response to FDA's request, GSK submitted a
proposed REMS. The FDA accepted this submission as a solicited major amendment
to the GSK1838262 NDA. The FDA has the option to extend the PDUFA goal date

1 when a sponsor submits a major amendment that provides a substantial amount of
2 new data not previously reviewed by the FDA.

3 54. On February 4, 2010, XenoPort issued a press release entitled “XenoPort Announces
4 Horizant™ as Brand Name for XP13512,” which stated in part

5 XenoPort, Inc. announced today that, subject to the approval of the U.S. Food and
6 Drug Administration (FDA), the brand name for GSK1838262/XP13512 (gabapentin
7 enacarbil) in the United States will be Horizant. The Prescription Drug User Fee Act
8 (PDUFA) goal date for the New Drug Application (NDA) for Horizant for the
9 treatment of moderate-to-severe primary restless legs syndrome (RLS) is February 9,
10 2010. Horizant is licensed to GlaxoSmithKline in the United States and several other
11 countries.

12 Separately, GSK announced today that it is proposing to cease discovery
13 research in certain neuroscience areas, including depression and pain. XP13512 is in
14 development for the management of post-herpetic neuralgia and painful diabetic
15 neuropathy. GSK and XenoPort are discussing the next steps in the development plan
16 for XP13512 in the neuropathic pain area and will disclose this development plan at a
17 future date.

18 55. On February 9, 2010, XenoPort issued a press release entitled “XenoPort Announces
19 Extension of the Horizant™ PDUFA Date to February 11, 2010,” which stated in part:

20 XenoPort, Inc. announced today that the U.S. Food and Drug Administration (FDA)
21 will not be taking an action today on the Horizant (gabapentin enacarbil) new drug
22 application (NDA) for moderate-to-severe primary Restless Legs Syndrome (RLS),
23 due to the fact that the federal government has been closed for the past two days. The
24 FDA has indicated that the new Prescription Drug User Fee Act (PDUFA) goal date
25 is Thursday, February 11, 2010, assuming that there are no further federal
26 government closings this week. The FDA indicated that if there are additional federal
27 government closings this week, the goal date for this NDA will likely be extended
28 further. This NDA was filed by GlaxoSmithKline (GSK), XenoPort’s partner in the
United States and several other countries outside of Asia. *Horizant* is also known as
XP13512.

29 56. On February 17, 2010, XenoPort’s stock closed at \$19.60 per share.

30 57. Then, on February 17, 2010, after the market closed, XenoPort issued a press release
31 entitled “GlaxoSmithKline and XenoPort Receive FDA Complete Response Letter for Horizant
32 (GSK1838262/XP13512) for RLS,” which stated in part:

33 GlaxoSmithKline and XenoPort, Inc. Wednesday received a Complete Response
34 letter from the U.S. Food and Drug Administration (FDA) regarding the New Drug
35 Application (NDA) for Horizant™ (gabapentin enacarbil) Extended-Release Tablets,
36 an investigational non-dopaminergic treatment for moderate-to-severe primary
Restless Legs Syndrome (RLS).

37 A Complete Response letter is issued by the FDA’s Center of Drug
38 Evaluation and Research when the review of a file is completed and questions remain
that preclude the approval of the NDA in its current form. GSK and XenoPort are

1 currently evaluating the Complete Response letter, in which the *FDA indicated that*
2 *a preclinical finding of pancreatic acinar cell tumors in rats was of sufficient*
3 *concern to preclude approval of Horizant for RLS at this time.* FDA acknowledged
4 that similar findings were known for gabapentin at the time of its approval for
refractory epilepsy, but concluded that the seriousness and severity of refractory
epilepsy justified the potential risks. The companies are assessing the appropriate
next steps and will be communicating with FDA.

5 58. On this news, XenoPort's shares plummeted \$12.93 per share, to close at \$6.67 per
6 share on February 18, 2010 – a one-day decline of nearly 65% on volume of 36.5 million shares,
7 following the delayed approval of the Company's RLS drug, Horizant, by the FDA. In total, the
8 Company's shares had tumbled 73% from the Company's Class Period high of \$24.75 per share.

9 59. Defendants violated Rule 10b-5 by misrepresenting, obfuscating, and concealing
10 critical information about the modified release formulation of Horizant so as to keep the public from
11 obtaining a meaningful understanding of the drug's prospects for FDA approval and market success.
12 A key item the defendants concealed was a finding on increased incidences of pancreatic cancer in
13 lab rats. While the FDA had approved 512's predecessor for more serious conditions, there was a
14 risk that treatment of less a serious condition (RLS) might not justify the risk of pancreatic cancer,
15 no matter how small the risk.

16 60. As a result of defendants' false statements, XenoPort's stock traded at inflated levels
17 during the Class Period. However, after the above revelations seeped into the market, the
18 Company's shares were hammered by massive sales, sending them down more than 73% from their
19 Class Period high.

20 **LOSS CAUSATION/ECONOMIC LOSS**

21 61. During the Class Period, as detailed herein, defendants engaged in a scheme to
22 deceive the market and a course of conduct that artificially inflated XenoPort's stock price and
23 operated as a fraud or deceit on Class Period purchasers of XenoPort stock by misrepresenting the
24 Company's key product and the implications of the findings from earlier studies on 512. Later,
25 however, when defendants' prior misrepresentations and fraudulent conduct were disclosed and
26 became apparent to the market, XenoPort stock fell precipitously as the prior artificial inflation came
27 out of XenoPort's stock price. As a result of their purchases of XenoPort stock during the Class
28

1 Period, plaintiff and other members of the Class suffered economic loss, *i.e.*, damages under the
2 federal securities laws.

3 62. Defendants' false and misleading statements had the intended effect and caused
4 Xenoport stock to trade at artificially inflated levels throughout the Class Period, reaching as high as
5 \$24.75 per share.

6 63. On February 17, 2010, defendants were forced to publicly disclose that the FDA had
7 issued a complete response letter regarding 512 such that it had denied approval of the Company's
8 RLS drug, Horizant, with concerns about laboratory study results showing pancreatic cell tumors in
9 rats as a result of the drug. These public revelations indicated that the prior representations about
10 512 for RLS had been false. As investors and the market became aware that Xenoport's statements
11 had been false and misleading and that Xenoport's actual business prospects, which had long been
12 obfuscated by the scheme to distort the study results and interactions with the FDA, were, in fact,
13 poor, the prior artificial inflation came out of Xenoport's stock price, damaging investors.

14 64. As a direct result of defendants' admissions and the public revelations regarding the
15 truth about Xenoport's key drug and its actual business prospects going forward, Xenoport's stock
16 price plummeted 73%, on unusually high volume, falling from \$24.75 on September 17, 2009, to
17 \$6.67 per share on February 18, 2010. This drop removed the inflation from Xenoport's stock price,
18 causing real economic loss to investors who had purchased the stock during the Class Period.

19 65. The 73% decline in Xenoport's stock price at the end of the Class Period was a direct
20 result of the nature and extent of defendants' fraud finally being revealed to investors and the
21 market. The timing and magnitude of Xenoport's stock price declines negate any inference that the
22 loss suffered by plaintiff and other Class members was caused by changed market conditions,
23 macroeconomic or industry factors or Company-specific facts unrelated to the defendants' fraudulent
24 conduct. During the same period in which Xenoport's stock fell 73% from \$24.75 per share as a
25 result of defendants' fraud being revealed, the Standard & Poor's 500 securities index was flat. The
26 economic loss, *i.e.*, damages, suffered by plaintiff and other members of the Class was a direct result
27 of defendants' fraudulent scheme to artificially inflate Xenoport's stock price and the subsequent
28

1 significant decline in the value of XenoPort’s stock when defendants’ prior misrepresentations and
2 other fraudulent conduct was revealed.

3 **COUNT I**

4 **For Violation of §10(b) of the 1934 Act**
5 **and Rule 10b-5 Against All Defendants**

6 66. Plaintiff incorporates ¶¶1-65 by reference.

7 67. During the Class Period, defendants disseminated or approved the false statements
8 specified above, which they knew or deliberately disregarded were misleading in that they contained
9 misrepresentations and failed to disclose material facts necessary in order to make the statements
10 made, in light of the circumstances under which they were made, not misleading.

11 68. Defendants violated §10(b) of the 1934 Act and Rule 10b-5 in that they:

12 (a) Employed devices, schemes, and artifices to defraud;

13 (b) Made untrue statements of material facts or omitted to state material facts
14 necessary in order to make the statements made, in light of the circumstances under which they were
15 made, not misleading; or

16 (c) Engaged in acts, practices, and a course of business that operated as a fraud or
17 deceit upon plaintiff and others similarly situated in connection with their purchases of XenoPort
18 common stock during the Class Period.

19 69. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of
20 the market, they paid artificially inflated prices for XenoPort common stock. Plaintiff and the Class
21 would not have purchased XenoPort common stock at the prices they paid, or at all, if they had been
22 aware that the market prices had been artificially and falsely inflated by defendants’ misleading
23 statements.

24 70. As a direct and proximate result of these defendants’ wrongful conduct, plaintiff and
25 the other members of the Class suffered damages in connection with their purchases of XenoPort
26 common stock during the Class Period.

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COUNT II

**For Violation of §20(a) of the 1934 Act
Against All Defendants**

71. Plaintiff incorporates ¶¶1-70 by reference.

72. The Individual Defendants acted as controlling persons of XenoPort within the meaning of §20(a) of the 1934 Act. By reason of their positions as officers and/or directors of XenoPort and their ownership of XenoPort stock, the Individual Defendants had the power and authority to cause XenoPort to engage in the wrongful conduct complained of herein. XenoPort controlled each of the Individual Defendants and all of its employees. By reason of such conduct, the Individual Defendants and XenoPort are liable pursuant to §20(a) of the 1934 Act.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows:

- A. Declaring this action to be a proper class action pursuant to Fed. R. Civ. P. 23;
- B. Awarding plaintiff and the members of the Class damages, including interest;
- C. Awarding plaintiff reasonable costs and attorneys' fees; and
- D. Awarding such equitable/injunctive or other relief as the Court may deem just and

proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: July ____, 2010

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