

DEC 30 2011

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

In re: ACTIMMUNE MARKETING  
LITIGATION,

No. 10-17237

D.C. No. 3:08-cv-02376-MHP

DEBORAH JANE JARRETT; NANCY  
ISENHOWER; JEFFREY H. FRANKEL;  
ZURICH AMERICAN INSURANCE  
COMPANY; LINDA K. RYBKOSKI,

MEMORANDUM\*

Plaintiffs,

and

GOVERNMENT EMPLOYEES HEALTH  
ASSOCIATION, INC.,

Plaintiff - Appellant,

v.

INTERMUNE INC.; W. SCOTT  
HARKONEN; GENENTECH INC.,

Defendants - Appellees,

and

CONNETICS CORPORATION;

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

EXPRESS SCRIPTS, INC.,

Defendants.

In re: ACTIMMUNE MARKETING  
LITIGATION,

No. 10-17239

D.C. No. 3:08-cv-02376-MHP

DEBORAH JANE JARRETT; NANCY  
ISENHOWER; LINDA K. RYBKOSKI,  
MARL PERLMUTTER; LISA  
PERLMUTTER, Trustees of the Joan M.  
Stevens Trust,

Plaintiffs - Appellants,

and

JEFFREY H. FRANKEL; ZURICH  
AMERICAN INSURANCE COMPANY;  
GOVERNMENT EMPLOYEES HEALTH  
ASSOCIATION, INC.,

Plaintiffs,

v.

INTERMUNE INC.; W. SCOTT  
HARKONEN; GENENTECH INC.,

Defendants - Appellees,

and

CONNETICS CORPORATION;  
EXPRESS SCRIPTS, INC.,

Defendants.,

Appeal from the United States District Court  
for the Northern District of California  
Marilyn H. Patel, Senior District Judge, Presiding

Argued and Submitted November 29, 2011  
San Francisco, California

Before: THOMAS and CLIFTON, Circuit Judges, and EZRA, District Judge.\*\*

Deborah Jane Jarrett et. al., along with third-party payor Government Employees Health Association, Inc., appeal the district court's dismissal of their proposed nationwide class action suit against InterMune, Inc., Dr. Scott Harkonen, and Genentech, Inc. Because the parties are familiar with the history of the case, we need not recount it here.

We affirm the judgment of the district court for the reasons set forth in the district court's orders. *See In re Actimmune Marketing Litig.*, 614 F.Supp.2d 1037 (N.D. Cal. 2009) (*Actimmune I*); *In re Actimmune Marketing Litig.*, No. C 08-02376 MHP, 2009 WL 3740648 (N.D. Cal. Nov. 6, 2009) (Patel, J.) (*Actimmune II*); *In re Actimmune Marketing Litig.*, No. C 08-02376 MHP, 2010 WL 3463491 (N.D. Cal. Sept. 1, 2010) (Patel, J.) (*Actimmune III*).

**AFFIRMED.**

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\*\* The Honorable David A. Ezra, District Judge for the U.S. District Court for Hawaii, sitting by designation.

