

APR 29 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| <p>STEVEN ZACK; VICKI CRUSE; KENNETH MOORE,</p> <p style="text-align: center;">Plaintiffs - Appellants,</p> <p>v.</p> <p>ALLIED WASTE INDUSTRIES, INC.; THOMAS H. VAN WEELDEN; PETER S. HATHAWAY; THOMAS W. RYAN; JAMES E. GRAY,</p> <p style="text-align: center;">Defendants - Appellees.</p> |
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No. 06-15116

D.C. Nos. CV-04-01640-PHX-
MHM

CV-04-01805-PHX-

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CV-04-02058-PHX-

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MEMORANDUM *

Appeal from the United States District Court
for the District of Arizona
Mary H. Murguia, District Judge, Presiding

Argued and Submitted April 17, 2008
San Francisco, California

Before: KOZINSKI, Chief Judge, WALLACE and N.R. SMITH, Circuit Judges.

For the reasons given by the district court, appellants have failed to “state with particularity facts giving rise to a strong inference that [Appellees] acted

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

with” “actual knowledge” that their forward-looking statements were false, as required by the Private Securities Litigation Reform Act. 15 U.S.C.

§§ 78u-4(b)(2), 78u-5(c)(1)(B).

Because the district court correctly dismissed Appellants’ § 10(b) claims, it did not err in also dismissing Appellants’ § 20(a) claims. *See Howard v. Everex Sys., Inc.*, 228 F.3d 1057, 1065 (9th Cir. 2000).

The district court did not abuse its discretion in denying leave to amend. *See Allen v. City of Beverly Hills*, 911 F.2d 367, 373 (9th Cir. 1990). Any amendment would be futile. *See In re Vantive Corp. Sec. Litig.*, 283 F.3d 1079, 1097 (9th Cir. 2002).

AFFIRMED.