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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C 08-02771 WHA

JAMES L. TALADA III and MELODY  
LABELLA,

Plaintiffs,

v.

CITY OF MARTINEZ, et al.,

Defendants.

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**ORDER CLARIFYING  
FEBRUARY 12 ORDER  
GRANTING IN PART AND  
DENYING IN  
PART DEFENDANTS'  
MOTION TO DISMISS**

The Court is in receipt of the parties' letter seeking clarification of the February 12 order, and this supplemental order addresses the issues raised. The February 12 order did not address certain claims asserted against defendants based on the mistaken belief that plaintiffs had voluntarily dismissed those claims. The February 12 order applied to Guardsmark GP, LLC, Guardsmark, LLC, Charlie Parker, and Colin Manuel, as referred to as defendants Guardsmark. The false arrest claim asserted against defendants Guardsmark is dismissed with leave to amend. For the same reasons stated in the February 12 order addressing Martinez defendants' arguments, defendant Cristina Akeson's motion to dismiss plaintiffs' false arrest, conversion, trespass, and invasion of privacy claims is **DENIED**.

Regarding the seventeenth claim, plaintiffs Talada and LaBella assert a claim under Section 52.1 of the California Civil Code against all defendants (except David Akeson). This statute creates a cause of action for "any individual whose exercise or enjoyment of rights

1 secured by the Constitution or laws of the United States, or . . . of this state, has been interfered  
2 with, or attempted to be interfered with by any other person through threats, intimidation, or  
3 coercion.” Cal. Civ. Code § 52.1(a)-(b). As plaintiff Talada argues, he averred that he was  
4 falsely arrested because of defendants’ actions, including defendants allegedly obtaining an  
5 arrest warrant without probable cause and based on dubious informant information. A false  
6 arrest is enough to support a claim under Section 52.1 at the pleading stage. *See Gillan v. City of*  
7 *San Marino*, 147 Cal. App. 4th 1033, 1044 (Cal. App. 2d Dist. 2007). The Martinez defendants’  
8 and Cristina Akesson’s motion to dismiss plaintiff Talada’s seventeenth claim is **DENIED**.

9 Plaintiffs have not alleged such facts to support plaintiff LaBella’s claim against all  
10 defendants or to support plaintiff Talada’s claim against defendants Guardsmark, and  
11 accordingly plaintiff LaBella’s seventeenth claim asserted against all defendants is **DISMISSED**  
12 and plaintiff Talada’s claim against defendants Guardsmark is **DISMISSED**.

13 Within **SEVEN CALENDAR DAYS** of this order, plaintiffs may file a motion for leave to  
14 amend on a normal 35-day track seeking to cure the deficiencies in the complaint and appending  
15 to the motion a proposed amended complaint.

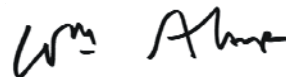
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17 **IT IS SO ORDERED.**

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19 Dated: February 25, 2009.

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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

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