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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH F. MARKETTE, ET AL.,

Plaintiffs,

v.

JOHN VARIAN, et al.,

Defendants.

Case No. [15-cv-03425-HSG](#)

**ORDER DIRECTING SUPPLEMENTAL  
BRIEFING ON DEFENDANTS'  
MOTION TO DISMISS**

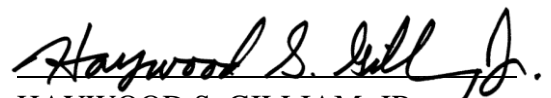
Re: Dkt. No. 94

The parties are directed to submit simultaneous supplemental briefs not to exceed 6 pages, focusing on the impact of the Ninth Circuit's recent opinion in *City of Dearborn Heights Act 345 Police & Retirement Sys. v. Align Tech., Inc.*, No. 14-16814, 2017 WL 1753276, --- F.3d --- (9th Cir. May 5, 2017). The parties should (1) discuss whether *Dearborn* affects the arguments they have made and why; and (2) include a chart listing each allegedly false or misleading statement pled in the complaint in column 1, and identifying the *Dearborn* standard for pleading falsity applicable to each statement in column 2—i.e., material misrepresentations, opinion statements with materially misleading embedded statements of fact, or statements that are false based on the omission of material facts. *See id.* at \*7. For each statement classified as an opinion statement with an embedded statement of fact, the parties should identify the embedded fact.

The briefs must be submitted by June 9, 2017. No responsive filings are permitted.

**IT IS SO ORDERED.**

Dated: May 26, 2017

  
HAYWOOD S. GILLIAM, JR.  
United States District Judge