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14 Attorneys for Counterclaim Defendants
ALAMEDA PUBLIC FINANCING AUTHORITY, and
15 ALAMEDA PUBLIC IMPROVEMENT CORPORATION

16 **IN THE UNITED STATES DISTRICT COURT**
17 **IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

18 IN RE NUVEEN FUNDS/CITY OF
19 ALAMEDA SECURITIES LITIGATION

20 BERNARD OSHER TRUST DTD 3/8/88,
21 BERNARD A. OSHER, TRUSTEE,

22 Plaintiff,

23 vs.

24 CITY OF ALAMEDA, on behalf of itself and
ALAMEDA POWER & TELECOM, a
25 department of the City of Alameda;
ALAMEDA PUBLIC FINANCING
26 AUTHORITY; ALAMEDA PUBLIC
IMPROVEMENT CORPORATION; and
27 STONE & YOUNGBERG, LLC, a California
Limited Liability Company,

28 Defendant.

Case No. C 08-04575 SI

**[PROPOSED] ORDER RE ENTRY OF
JUDGMENT AND CCP §1038 MOTIONS**

DATE: May 18, 2011
TIME: 2:30 p.m.
COURTROOM: 10

THE HONORABLE SUSAN ILLSTON

1 On May 17, 2011, following the Court's ruling on defendants' summary judgment motions
2 in the Nuveen and Osher cases, defendant City of Alameda (Alameda) filed in each of these cases
3 a motion for defense costs under CCP §1038 and requested that the motions be set for hearing.
4 The Court desires to consider such motions at the conclusion of the Nuveen and Osher cases, after
5 the adjudication of the claims of all parties, and has requested that Alameda withdraw the motions,
6 without prejudice to their later re-filing. Alameda has agreed to withdraw the motions but has
7 asked that the Court enter an order confirming its intentions as to entry of judgment.

8 Accordingly,

9 IT IS HEREBY ORDERED that judgment in the Nuveen and Osher cases shall not be
10 entered until the claims of all parties have been adjudicated through trial or otherwise. In the event
11 judgment is entered prematurely, or before Alameda has had a reasonable opportunity to re-file its
12 motions under CCP §1038, the judgment shall not be effective and, upon application of Alameda,
13 will be vacated. Alameda shall be entitled to re-file its motions under CCP §1038 without
14 prejudice at the conclusion of the cases.

15
16 **IT IS SO ORDERED.**

17
18 Date: 6/20/11



19 Hon. Susan Illston,
20 United States District Judge