

United States District Court
For the Northern District of California

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

NUVEEN MUNICIPAL HIGH INCOME
OPPORTUNITY FUND, *et al.*,

No. C 08-4575 SI; Related Case No. 09-1437 SI

Plaintiffs,

**ORDER DIRECTING FURTHER
BRIEFING ON CALIFORNIA
GOVERNMENT CODE IMMUNITY**

v.

CITY OF ALAMEDA, *et al.*,

Defendants.

Nuveen has filed a motion for leave to file a motion for reconsideration on the issue of California Government Code immunity. Nuveen asserts, for the first time, that California Government Code § 814 provides an express waiver of government immunity for any breach of contract by a governmental entity, and thus that its state law claims against Alameda are not barred. Osher has joined in Nuveen’s motion. Alameda opposes both motions on numerous grounds.

Although the Court has serious questions about Nuveen’s diligence in raising this issue, the Court nevertheless finds it prudent to order further briefing on whether Nuveen can invoke California Government Code § 814 and proceed on its state law claims against Alameda. Alameda correctly notes that the Court granted summary judgment on Osher’s state law claims against Alameda on both immunity and claims presentment grounds, and thus there is no basis to reconsider the Court’s ruling with respect to Osher.

Accordingly, the Court sets the following briefing schedule: Nuveen shall file a brief of no more than 15 pages by **noon on August 23, 2011**; Alameda shall file an opposition of no more than 15 pages by **noon on August 29, 2011**; and Nuveen may file a reply of no more than 5 pages by **noon on August**

1 **31, 2011.** The Court will hold a hearing on the matter at **9 am on September 2, 2011.**

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3 **IT IS SO ORDERED.**

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5 Dated: August 17, 2011

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SUSAN ILLSTON
United States District Judge