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9

10 **IN THE UNITED STATES DISTRICT COURT**
11 **IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

12
13 UNITED STATES FIDELITY AND
GUARANTY COMPANY, a Maryland
14 corporation

15 Plaintiffs,

16 vs.

17 N.V. HEATHORN, EDWARD, W.
HEATHORN, NORMAN T.R. HEATHORN,
18 WENDY C. HEATHORN, and DELORES E.
HEATHORN
19

20 Defendants.

21 N.V. HEATHORN, EDWARD, W.
HEATHORN, NORMAN T.R. HEATHORN,
22 WENDY C. HEATHORN, and DELORES E.
HEATHORN
23

24 Counter-Claimants,

25 vs.

26 UNITED STATES FIDELITY AND
GUARANTY COMPANY, a Maryland
27 corporation, COUNTY OF ALAMEDA, a
public entity, and ROES 1-100,

28 Counter-Defendants.

No. C 03 2156 CW

**[PROPOSED ORDER] GRANTING
COUNTER-DEFENDANT COUNTY OF
ALAMEDA’S MOTION TO DISMISS, OR
ALTERNATIVELY TO STAY ACTION
[FRCP 12 (b) (6)]**

Date: August 15, 2003
Time: 10:00 a.m.
Dept.: Hon. Claudia Wilken
Courtroom 2, 4th Floor
Oakland, California

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1 The Motion of Counter-Defendant County of Alameda (“County”) came on regularly
2 for hearing before the Court on August 15, 2003. Kris Cox appeared on behalf of the County and
3 _____ appeared on behalf of Defendants and Counter-Complainants N.V. Heathorn,
4 Edward W. Heathorn, Wendy C. Heathorn, and Delores E. Heathorn (“Heathorn”). _____
5 appeared on behalf of Plaintiff and Counter-Defendant United States Fidelity and Guaranty
6 Company (USF&G). The Court, having considered the briefs, pleadings, and oral arguments of
7 counsel of each of the parties, and good cause appearing therefore, finds as follows:

8 Counter-Defendant County Of Alameda’s Motion To Dismiss, Or Alternatively To Stay
9 Action Motion is granted as to Counter-Complainant Heathorn’s Third and Fourth Causes of
10 Action.

11 IT IS SO ORDERED.

12
13 Date: _____

13 By _____
14 HON. CLAUDIA WILKEN
15 Judge of the United States District Court
16 Northern District of California