Bond Case Briefs

Municipal Finance Law Since 1971

BONDS - CALIFORNIA

Nuveen Mun. High Income Opportunity Fund v. City of Alameda, Cal.

United States Court of Appeals, Ninth Circuit - September 19, 2013 - F.3d - 13 Cal. Daily Op. Serv. 10, 525

The City of Alameda offered of municipal bonds to finance the development of a cable and Internet system. Several Nuveen entities purchased about twenty million dollars worth of the bonds and then lost money on the bonds when the City sold the system several years later. Nuveen brought federal and state securities claims against the City, alleging that the City misrepresented the risks to investors.

The Court of Appeals Nuveen held that Nuveen had not shown a triable issue of fact on the issue of loss causation. For its federal claims under Section 10b–5 and Section 20(a) of the Securities Exchange Act of 1934, Nuveen's theory that it would not have purchased the securities but for the City's alleged misrepresentation of the risks went only to show reliance, or transaction causation. Missing was the necessary link between the claimed misrepresentations and the economic loss Nuveen suffered.

Although Nuveen pitched its appeal as novel because the notes were traded on an inefficient market, rather than a more familiar efficient market like one of the stock exchanges, this wrinkle did not change the result. Federal securities law requires proof of both transaction and loss causation.

The City had statutory immunity from suit on Nuveen's state claims. California courts have applied § 818.8 of California's Government Claims Act to immunize public entities from liability for misrepresentations sanctioned by those entities. The California Corporate Securities Act did not override that immunity.