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

INNOVATION VENTURES, LLC, et al.,

No. C 12-05523 WHA

Plaintiffs,

v.

**ORDER DENYING MOTION
FOR SANCTIONS AND
VACATING HEARING**

PITTSBURG WHOLESALE GROCERS,
INC., et al.,

Defendants.

Defendants Pittsburg Wholesale Grocers, Inc. and Pacific Groservice, Inc. (“Pitco”) filed a motion for sanctions based on plaintiffs’ violation of a seizure order and a discovery order (Dkt. No. 86). Plaintiffs oppose on the merits and have also filed a motion to dismiss or stay the motion for sanctions (Dkt. 125). Plaintiffs argue that the merits of the motion for sanctions are intertwined with issues currently on appeal, and that this Court therefore lacks jurisdiction to decide the motion for sanctions.

Discovery in this action is ongoing. The equities of the motion for sanctions may be affected by the conduct of the parties and the development of the evidence as this action moves forward. Pitco’s motion is therefore **DENIED WITHOUT PREJUDICE**. Pitco is granted leave to re-file the motion after the close of evidence at trial when the factual record is complete.

Proceeding in this manner may obviate the jurisdictional issue raised in plaintiffs’ motion to dismiss or stay because the appeal may be decided in the interim. Although the court of

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appeals has not yet set a date for oral argument, plaintiffs' appeal is fully briefed. For now, plaintiffs' motion to dismiss or stay is **DENIED AS MOOT**. The April 18 hearing is **VACATED**.

IT IS SO ORDERED.

Dated: April 10, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE