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Attorneys for Defendant AccuraGen, Inc.

26 UNITED STATES DISTRICT COURT  
 27 NORTHERN DISTRICT OF CALIFORNIA  
 28 SAN FRANCISCO DIVISION

ASURAGEN, INC.,  
 Plaintiff,  
 v.  
 ACCURAGEN, INC.,  
 Defendant.

CASE NO. 16-CV-05440  
**STIPULATION AND ~~[PROPOSED]~~  
 ORDER OF CONDITIONAL  
 DISMISSAL, FED. R. CIV. P.  
 41(a)(1)(A)(ii)**

1 WHEREAS, the parties have reached a settlement in principle to resolve the case;

2 WHEREAS, trial in this matter is currently scheduled for trial on April 2, 2018, and, pursuant to  
3 the Guidelines for Pretrial Conference in Jury Cases Before District Judge Richard Seeborg, the parties  
4 are required to meet and confer about the joint pretrial statement, the issues to be tried, and the exchange  
5 of trial exhibits and other materials not later than March 12, 2018;

6 WHEREAS, the parties agree that, to conserve judicial resources, and so that the parties can  
7 dedicate their attention to finalizing the settlement in principle that they have reached, rather than to the  
8 preparation of the case for trial;

9 NOW, THEREFORE, the parties hereby stipulate and agree through their undersigned counsel,  
10 subject to the approval of the Court, that the trial date in this matter be vacated and that the Court enter a  
11 conditional order of dismissal, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the terms of  
12 which shall hold the final dismissal of the case in abeyance for sixty (60) days from the entry of the  
13 Court's order on this stipulation, and shall allow either party to this action to notify the Court prior to the  
14 expiration of the sixty (60) days that, due to the absence of a final and binding settlement agreement  
15 between the parties, the case should be reinstated to the Court's calendar and reset for trial.

16  
17 Respectfully submitted,

18 DATED: February 20, 2018

CONRAD & METLITZKY LLP

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20  
21 /s/ Mark R. Conrad  
22 MARK R. CONRAD  
Attorneys for Plaintiff Asuragen, Inc.

23 DATED: February 20, 2018

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

24  
25  
26 /s/ James D. Weinberger  
27 JAMES D. WEINBERGER  
28 JASON D. JONES  
Attorneys for Plaintiff Asuragen, Inc.

1 DATED: February 20, 2018

WILSON SONSINI GOODRICH & ROSATI, P.C.

2  
3 /s/ Anthony J Weibell

4 JOHN L. SLAFSKY

ANTHONY J WEIBELL

5 LENA WONG

6 Attorneys for Defendant AccuraGen, Inc.

7 ~~PROPOSED~~ ORDER OF CONDITIONAL DISMISSAL

8 Having received the parties' stipulation regarding their agreement in principle to settle the  
9 above-captioned action, the Court hereby GRANTS the stipulation of conditional dismissal filed by  
10 Plaintiff Asuragen, Inc. ("Asuragen") and Defendant AccuraGen, Inc. ("AccuraGen"). The trial date set  
11 in this matter and all other case management deadlines relating thereto are hereby VACATED. The suit  
12 and all causes of action asserted therein shall be and hereby are DISMISSED with prejudice, provided,  
13 however, that the dismissal effected by the parties' stipulation and by this Order shall be held in  
14 abeyance for sixty (60) days from the date of this Order, during which time either Asuragen or  
15 AccuraGen may notify the Court that it wishes to set aside the order of dismissal and reinstate the case  
16 to the Court's calendar for a trial setting hearing. Absent such a notification from either party, then after  
17 sixty (60) days have passed from the date of the entry of this Order, the Clerk shall enter judgment with  
18 each party to bear its own fees and costs in this action and shall close the file.

19 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

20  
21 DATED: February 26, 2018



22 HON. RICHARD SEEBORG

23 UNITED STATES DISTRICT JUDGE