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INOGEN, INC. and TODD W. ALLUM

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14 UNITED STATES DISTRICT COURT
15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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18 BREATHE TECHNOLOGIES, INC.,

19 Plaintiff,

20 v.

21 NEW AERA, INC.; SILVERBOW
DEVELOPMENT LLC; INOGEN, INC.;

22 and TODD W. ALLUM,

23 Defendants.
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Case No. 5:19-cv-07691-EJD

**STIPULATED REQUEST FOR
TEMPORARY STAY OF LAWSUIT**

1 Pursuant to Local Rules 6–2(a) and 7–12, Plaintiff Breathe Technologies, Inc. (“Breathe”),
2 Defendant Inogen, Inc. (“Inogen”), Defendant Todd W. Allum (“Allum”), and Defendant
3 Silverbow Development LLC (“Silverbow”) submit this Stipulated Request for an Order
4 Temporarily Staying this Lawsuit.

5 WHEREAS, on March 31, 2020, Breathe filed a First Amended Complaint (Dkt. No. 48);

6 WHEREAS, Defendants’ deadline to respond to Breathe’s First Amended Complaint is
7 tomorrow, April 21, 2020 (Dkt. No. 52);

8 WHEREAS, Breathe’s deadline to file briefs in response to any of Defendants’ motions
9 challenging the First Amended Complaint is May 12, 2020, and Defendants’ deadline to file reply
10 briefs in support of any such motions is May 26, 2020 (Dkt. No. 52);

11 WHEREAS, the parties’ deadline to file an updated Joint Case Management Statement is
12 June 1, 2020, and the Initial Case Management Conference is set for June 11, 2020 (Dkt. No. 40);

13 WHEREAS, Breathe and Inogen provide respiratory care products to ill patients, including
14 oxygen concentrators and ventilators, which currently are in great demand due to the COVID-19
15 pandemic;

16 WHEREAS, Breathe and Inogen have exchanged term sheets in an effort to resolve the
17 matter;

18 WHEREAS, the parties conferred and agreed, given Breathe’s and Inogen’s current focus
19 on supplying the above-mentioned medical equipment in high demand, and to allow the parties to
20 continue to discuss resolution of the matter, that discovery and the deadlines in this lawsuit should
21 be stayed for six weeks;

22 WHEREAS, the parties agree that the six-week period for a temporary stay of this lawsuit
23 will not be used against any party with respect to their claims or defenses in this action, including
24 using such time period in support of any statute of limitations defense, laches defense, estoppel
25 defense, or any other time-based doctrine or defense, rule, or statute otherwise limiting a party’s
26 right to preserve or prosecute any claim, counterclaim, or defense;

27 WHEREAS, the parties agree that this stipulation is without prejudice to any party
28 requesting or opposing a longer stay at or near the end of the six-week stipulated period;

1 WHEREAS, the requested extensions will have no effect on the schedule for the case other
2 than on the dates for which modification is requested below, and previous time modifications have
3 been limited to extending deadlines relating to Breathe's original Complaint and responses thereto,
4 the Rule 26(f) Conference and related events, and Breathe's First Amended Complaint and
5 responses thereto (Dkt. Nos. 22, 23, 35, 52).

6 NOW THEREFORE, the parties hereby stipulate to and jointly request that the Court stay
7 this lawsuit for six weeks, including discovery, and enter an order setting the following modified
8 deadlines:

Event	Current Deadline	Modified Deadline
Last day for Defendants to respond to Breathe's First Amended Complaint.	April 21, 2020	June 2, 2020
Last day for Breathe to file briefs in response to any of Defendants' motions challenging the First Amended Complaint.	May 12, 2020	June 23, 2020
Last day for Defendants to file reply briefs in support of any of Defendants' motions challenging the First Amended Complaint.	May 26, 2020	July 7, 2020
Last day for parties to file updated Joint Case Management Statement	June 1, 2020	July 13, 2020
Date of Initial Case Management Conference	June 11, 2020 at 10:00 am	July 23, 2020 10 a.m.

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Dated: April 20, 2020

RILEY SAFER HOLMES & CANCILA LLP

By: /s/ Louis A. Klapp

Louis A. Klapp

*Attorneys for Plaintiff
BREATHE TECHNOLOGIES, INC.*

Dated: April 20, 2020

KNOBBE, MARTENS, OLSON & BEAR, LLP

By: /s/ John B. Sganga, Jr.

John B. Sganga, Jr.

*Attorneys for Defendants
INOGEN, INC. and TODD W. ALLUM*

Dated: April 20, 2020

SHARTSIS FRIESE LLP

By: /s/ Kajsa M. Minor

Kajsa M. Minor

*Attorneys for Defendant
SILVERBOW DEVELOPMENT LLC*

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: April 21, 2020



Edward J. Davila
United States District Judge

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ATTESTATION OF CONCURRENCE IN FILING

I hereby attest that concurrence in the filing of the above document has been obtained from each of the document's other signatories.

Dated: April 20, 2020 /s/ John B. Sganga, Jr.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the above document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record in the above-captioned matter.

Dated: April 20, 2020 /s/ John B. Sganga, Jr.