

**U.S. District Court  
Northern District of Texas (Dallas)  
CIVIL DOCKET FOR CASE #: 3:07-cv-01038**

Hewitt et al v. Leavitt et al  
Assigned to: Judge Ed Kinkeade  
Cause: 42:1395 HHS: Adverse Reimbursement Review

Date Filed: 06/12/2007  
Date Terminated: 12/02/2007  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**Gregory Hewitt**

represented by **Bradley W Howard**  
Brown & Fortunato  
PO Box 9418  
905 S Fillmore Suite 400  
Amarillo, TX 79105-9418  
806/345-6310  
Fax: 806/345-6363 FAX  
Email: bhoward@bf-law.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**

Brown & Fortunato  
905 S Fillmore  
Suite 400  
Amarillo, TX 79101  
806/345-6309  
Fax: 806/345-6363

**Plaintiff**

**Jose M Salas, Jr**

represented by **Bradley W Howard**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**

(See above for address)

**Plaintiff**

**Charles W Bell**

represented by **Bradley W Howard**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**

(See above for address)

**Plaintiff**

**Oxyonly Inc**  
*doing business as*  
Procair Inc

represented by **Bradley W Howard**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**  
(See above for address)

**Plaintiff**

**MSB Inc**

represented by **Bradley W Howard**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**  
(See above for address)

**Plaintiff**

**Cardiorespiratory Home Systems**

represented by **Bradley W Howard**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert C Vartabedian**  
(See above for address)

V.

**Defendant**

**Michael O Leavitt**  
*Secretary of the Department of Health*  
*and Human Services, in his official*  
*capacity*

represented by **Elizabeth Jay Kelhoffer**  
US Department of Justice  
20 Massachusetts Ave NW  
Room 7324  
Washington, DC 20530  
202/514-4964  
Fax: 202/616-8470  
Email: elizabeth.kelhoffer@usdoj.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Linda L Keyser**  
US Department of Health and Human  
Services

330 Independence Avenue  
SW Cohen Building Room 5344  
Washington, DC 20201  
202/205/8779  
Email: linda.keyser@hhs.gov  
*ATTORNEY TO BE NOTICED*

**Sheila Lieber**  
US Department of Justice  
Civil Division  
10th & Pennsylvania Ave NW  
Washington, DC 20530  
202/633-4907

**Defendant**

**Leslie V Norwalk**

*Acting Administrator of the Centers for  
Medicare and Medicaid Services, in her  
official capacity*

represented by **Elizabeth Jay Kelhoffer**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Linda L Keyser**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Sheila Lieber**  
(See above for address)

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
06/12/2007	1	Plaintiffs' Original COMPLAINT for Injunctive and Declaratory Relief against Michael O Leavitt, Leslie V Norwalk filed by Oxyonly Inc, MSB Inc, Cardiorespiratory Home Systems, Gregory Hewitt, Jose M Salas, Jr, Charles W Bell. (Filing fee \$350; Receipt number 12191) (axm) (Entered: 06/13/2007)
06/12/2007		***Magistrate Judge Stickney chosen by random selection to handle matters that may be referred in this case. (axm) (Entered: 06/13/2007)
06/12/2007	2	Summons Issued as to Michael O Leavitt, Leslie V Norwalk, U.S. Attorney and U.S. Attorney General. (ISS-4) (axm) (Entered: 06/13/2007)
06/12/2007	3	Plaintiffs' CERTIFICATE OF INTERESTED PERSONS by Oxyonly Inc, MSB Inc, Cardiorespiratory Home Systems, Gregory Hewitt, Jose M Salas, Jr, Charles W Bell. (axm) (Entered: 06/13/2007)
06/12/2007	4	Plaintiffs' Corporate Disclosure Statement by Oxyonly Inc, MSB Inc, Cardiorespiratory Home Systems, Gregory Hewitt, Jose M Salas, Jr, Charles W Bell. (axm) (Entered: 06/13/2007)
06/13/2007	5	Standing Order Designating Case for ECF - see order for specifics. (Signed by Judge Ed Kinkeade on 06/13/2007) (axm) (Entered: 06/13/2007)
07/23/2007	6	NOTICE of Attorney Appearance by Elizabeth Jay Kelhoffer on behalf of all defendants

		(Kelhoffer, Elizabeth) (Entered: 07/23/2007)
08/07/2007	7	Defendants' Unopposed Motion for Extension of Time to Respond to Complaint by Michael O Leavitt, Leslie V Norwalk. (Attachments: # 1 Certificate of Conference# 2 Proposed Order# 3 Certificate of Service) (Kelhoffer, Elizabeth) Modified on 8/8/2007 (axm). (Entered: 08/07/2007)
08/08/2007	8	ORDER granting 7 Motion for Extension of Time to File Answer to 1 Complaint. Michael O Leavitt answer due 9/12/2007. (Signed by Judge Ed Kinkeade on 08/08/2007) (axm) (Entered: 08/08/2007)
09/12/2007	9	MOTION to Dismiss by Michael O Leavitt, Leslie V Norwalk with Brief/Memorandum in Support. (Attachments: # 1 Memorandum in Support of Motion to Dismiss# 2 Proposed Order# 3 Certificate of Service) (Kelhoffer, Elizabeth) (Entered: 09/12/2007)
10/02/2007	10	RESPONSE filed by Oxyonly Inc, MSB Inc, Cardiorespiratory Home Systems, Gregory Hewitt, Jose M Salas, Jr, Charles W Bell re 9 MOTION to Dismiss (Attachments: # 1 Memorandum in Support of Plaintiffs' Response to Defendants' Motion to Dismiss) (Howard, Bradley) (Entered: 10/02/2007)
10/12/2007	11	Unopposed MOTION for Extension of Time to File Response/Reply as to 10 Response to Motion, by Michael O Leavitt, Leslie V Norwalk (Attachments: # 1 Certificate of Conference# 2 Proposed Order# 3 Certificate of Service) (Kelhoffer, Elizabeth) (Entered: 10/12/2007)
10/31/2007	12	Unopposed MOTION by Defendants' to Enlarge the Page Limit for Their Reply Brief by Michael O Leavitt, Leslie V Norwalk (Attachments: # 1 Certificate of Conference# 2 Proposed Reply Brief# 3 Proposed Order# 4 Certificate of Service) (Kelhoffer, Elizabeth) Modified on 11/1/2007 (jb). (Entered: 10/31/2007)
10/31/2007	13	REPLY filed by Michael O Leavitt, Leslie V Norwalk re 9 MOTION to Dismiss (Kelhoffer, Elizabeth) (Entered: 10/31/2007)
11/06/2007	15	ORDER granting 11 Motion to Extend Time to File Reply; granting 12 Unopposed Motion to Enlarge the Page Limit for Their Reply Brief. (Signed by Judge Ed Kinkeade on 11/6/07) (skt) (Entered: 11/08/2007)
11/07/2007	14	Praecipe by Linda L Keyser on behalf of all defendants. (Keyser, Linda) Modified on 11/7/2007 (tln). (Entered: 11/07/2007)
11/21/2007	16	MOTION to Withdraw as Attorney by Michael O Leavitt (Keyser, Linda) (Entered: 11/21/2007)
12/02/2007	17	ORDER granting 9 Defendants' Motion to Dismiss. Plaintiffs' claims are dismissed without prejudice. (Signed by Judge Ed Kinkeade on 12/2/07) (klm) (Entered: 12/04/2007)