

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GREGORY HEWITT, et al.,

Plaintiffs,

v.

MICHAEL O. LEAVITT, Secretary of the
Department of Health and Human Services,
et al.,

Defendants.

Civil Action No. 3:07-CV-1038 (EK)

**DEFENDANTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO COMPLAINT**

Defendants Secretary Michael O. Leavitt and Acting Administrator Leslie V. Norwalk, through their undersigned counsel, hereby respectfully request an extension of time of thirty (30) days to respond to Plaintiffs' Complaint. **Counsel for Defendants has consulted with Counsel for Plaintiffs who has consented to the relief requested herein.** *See infra*, ¶ 3; Certificate of Counsel. In support of their motion, Defendants state as follows:

1. On June 12, 2007, Plaintiffs filed their Complaint in this case. See Docket Entry ("D.E.") 1. The Complaint challenges the implementation of the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) Competitive Bidding Program on the grounds that it violates the Due Process and Equal Protection Clauses of the Constitution.
2. Under the Federal Rules of Civil Procedure, Defendants' response to the Complaint would be due August 13, 2007. *See* Fed. R. Civ. P. 12(a)(3)(A).
3. On August 7, 2007, Elizabeth Jay Kelhoffer, Counsel for Defendants, conferred with Bradley W. Howard, Counsel for Plaintiffs, regarding the timing of Defendants' response to

the Complaint. **Counsel for Plaintiffs consented to Defendants' request to enlarge the time for filing the response by thirty (30) days, which would make the new deadline September 12, 2007.**

4. The relief requested herein is for good cause and will not result in undue delay in the administration of this case. The Complaint raises complex issues of law. An enlargement of time for filing Defendants' response is necessary due to Defendants' Counsel's workload and vacation schedule.

5. No other enlargements of time have been previously requested in this case. No dates have been set for a pre-trial conference or trial.

IN WITNESS WHEREOF, Defendants respectfully move that the Court extend the time for responding to Plaintiffs' Complaint to September 12, 2007.

Dated August 7, 2007
Washington, D.C.

Respectfully submitted,


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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1, I hereby certify that on August 7, 2007, I conferred with Bradley W. Howard, Counsel for Plaintiffs, regarding the timing of Defendants' response to the Complaint. Counsel for Plaintiffs consented to Defendants' request to enlarge the time for filing the response by thirty (30) days, which would make the new deadline September 12, 2007.


ELIZABETH JAY KELHOFFER

**IN THE UNITED STATES DISTRICT COURT
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PROPOSED ORDER

Upon consideration of the Defendants' Unopposed Motion For Extension Of Time To Respond To Complaint, it is hereby ORDERED that the motion is GRANTED. Defendants' response to Plaintiffs' Complaint is due September 12, 2007.

Dated this ____ day of August 2007.

ED KINKEADE
UNITED STATES DISTRICT JUDGE

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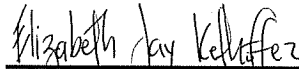
MICHAEL O. LEAVITT, Secretary of the
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Defendants.

Civil Action No. 3:07-CV-1038 (EK)

CERTIFICATE OF SERVICE

Pursuant to Local Rule 5.1(d), I hereby certify that on August 7, 2007, I served Defendants' Unopposed Motion For Extension Of Time To Respond To Complaint on Plaintiffs via the Court's Electronic Case Filing system.



ELIZABETH JAY KELHOFFER