

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

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THE OBRIA GROUP, INC. and VITA  
NUOVA, INC., on behalf of themselves  
and others similarly situated,

Plaintiffs,

v.

XAVIER BECERRA,<sup>1</sup> in his official  
capacity as Secretary of Health and  
Human Services; UNITED STATES OF  
AMERICA,

Defendants.

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Case No. 4:19-cv-00532-O

**DEFENDANTS’ CROSS MOTION FOR SUMMARY JUDGMENT AND  
OPPOSITION TO PLAINTIFFS’ MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 12(b)(1) and 56, Defendants Xavier Becerra, Secretary of Health and Human Services, in his official capacity; and the United States of America respectfully move this Court to dismiss Plaintiff’s complaint for lack of subject matter jurisdiction or to enter summary judgment for Defendants, and to deny Plaintiffs’ motion for summary judgment. In accordance with the Court’s Local Rules, this motion is accompanied by a brief that sets forth Defendants’ contentions of fact and/or law, and argument and authorities, and that complies with Local Civil Rules 56.3(a) and 56.4(a).

Dated: April 23, 2021

Respectfully submitted,

BRIAN M. BOYNTON  
Acting Assistant Attorney General

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d)(1), Xavier Becerra is automatically substituted for his predecessor, Alex M. Azar II, Secretary of Health and Human Services.

MICHELLE BENNETT  
Assistant Branch Director

*/s/ Daniel Riess*  
DANIEL RIESS (Texas Bar # 24037359)  
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**CERTIFICATE OF SERVICE**

On April 23, 2020, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2) or the local rules.

*/s/ Daniel Riess*  
DANIEL RIESS

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**PROPOSED ORDER**

Came on this day Defendants’ Cross Motion for Summary Judgment, and the Court having read the motion and pleadings on file is of the opinion that the motion is meritorious and should be **GRANTED**. Summary judgment is hereby entered in favor of Defendants.

Dated: \_\_\_\_\_, 2021

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REED O’CONNOR  
UNITED STATES DISTRICT JUDGE