

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION**

WINSTON HOLLOWAY, ADC # 67507  
and JOSEPH BREault, ADC # 79659

PLAINTIFFS

v.

NO. 5:07CV00088 JLH/BD

BENNY MAGNESS, et al.

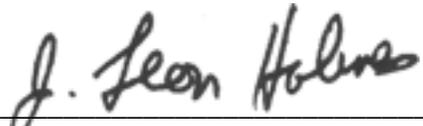
DEFENDANTS

**ORDER**

Plaintiffs Holloway and Breault, through their court-appointed attorney, have filed a motion to dismiss certain claims without prejudice. In the motion, plaintiffs explain that, at this time, they seek to pursue only their First Amendment claim regarding the Arkansas Department of Correction's collection of a "commission" under the contract with defendant Global Tel\*Link for inmate telephone services. Plaintiffs request that their remaining claims be dismissed without prejudice. The defendants do not object to the dismissal of these claims without prejudice. They do request, however, that the Court enter an order requiring the plaintiffs to reimburse the fees and costs incurred by the defendants in defending those claims in the present case prior to refileing the complaint containing those claims. The Court notes, however, that the plaintiffs are inmates in the Arkansas Department of Correction and that attorneys have been appointed to represent them. That appointment was based upon evidence that the plaintiffs cannot afford to hire attorneys to represent them. If they cannot afford to hire attorneys to represent them, they could not afford to pay the attorneys' fees for the defendants.

Plaintiffs' motion is GRANTED. Document #193. Plaintiffs' Federal Telecommunications Act claim, Sherman Antitrust Act claim, fiduciary duty claim, remaining First Amendment claim, and plaintiff Holloway's procedural due process claim are all DISMISSED without prejudice.

IT IS SO ORDERED this 27th day of May, 2010.

  
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J. LEON HOLMES  
UNITED STATES DISTRICT JUDGE