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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

DONALD YORK EVANS, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 HOWARD SKOLNIK, *et al.*, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

3:08-cv-00353-RCJ-VPC

**ORDER**

Before the Court for consideration is the Report and Recommendation (#117) of Magistrate Judge Valerie P. Cooke, entered October 2, 2009, as well as Plaintiff Witherow’s Objections (#118) thereto, and Defendants' Responses (#’s 119, 120, 121) on file herein.

The Court has conducted a review of the record in this case and determines that Plaintiff John Witherow’s Objections (#118) the Report and Recommendations (#117) on file herein are **OVERRULED** as Mr. Witherow raises no new facts or legal theories to contest the Magistrate Judge’s decision. Therefore, the Court finds that the Report and Recommendations (#117) of the United States Magistrate Judge entered October 2, 2009 should be affirmed.

IT IS THEREFORE ORDERED that Magistrate Judge Cooke’s Report and Recommendation (#117) be affirmed and adopted.

IT IS FURTHER ORDERED that ICS’s Motion to Dismiss (#83) is **GRANTED**.

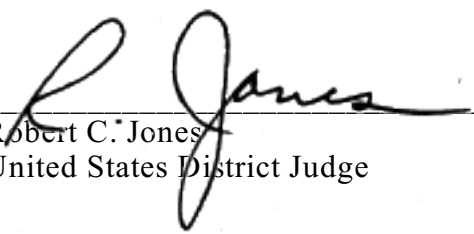
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IT IS FURTHER ORDERED that GTL's Motion to Dismiss (#99) is **GRANTED**.

IT IS FURTHER ORDERED that Embarq's combined Motion to Dismiss and Motion for Summary Judgment (#85) is **GRANTED** as to the Motion to Dismiss, and that its Motion for Summary Judgment is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff Witherow's Motion to Stay Summary Judgment (#104) is **DENIED** as **MOOT**.

DATED: November 5, 2009

  
\_\_\_\_\_  
Robert C. Jones  
United States District Judge