

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

M. RANDY RICE, as Chapter 7 Trustee

PLAINTIFF

v.

Case No. 4:11-cv-00386-KGB

LUKEN COMMUNICATIONS, LLC


DEFENDANT

ORDER

Before the Court is the motion *in limine* to exclude expert report and opinion of Karen G. Nicolaou filed by Luken Communications, LLC (“Luken Communications”) (Dkt. No. 103). Plaintiff M. Randy Rice, as Chapter 7 Trustee (“Trustee Rice”), has responded (Dkt. No. 117). For the reasons that follow, the motion is denied without prejudice.

On June 3, 2013, Luken Communications filed the pending motion to exclude Ms. Nicolaou. The motion includes no citation regarding where in the record the Court can locate either Ms. Nicolaou’s report or deposition testimony. By Order dated April 10, 2013, the Court extended the deadline to file motions except motions *in limine* to May 20, 2013 (Dkt. No. 64). Luken Communications’s motion to exclude Ms. Nicolaou, though titled a motion *in limine*, is clearly a *Daubert* motion. Indeed, Luken Communications notes in its motion that “[t]he Nicolaou report must further be excluded under FRE 702 and 703 for the reasons set forth in the seminal cases of *Daubert v. Merrill Dow Pharm.* and *Kumho Tire*” (Dkt. No. 103, at 2). For these reasons, the motion is denied without prejudice as untimely.

SO ORDERED this the 11th day of June, 2013.



Kristine G. Baker
United States District Judge