

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:12-cv-00303-RBJ

EAGLE SYSTEMS & SERVICES, INC.,

Plaintiff,

v.

EXELIS SYSTEMS CORPORATION,

Defendant.

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**ORDER**

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Two motions are pending: Eagle's motion for reconsideration regarding the Smigocki supplemental expert report [ECF No. 110, filed December 31, 2014] and Eagle's motion for partial summary judgment [ECF No. 112, filed January 14, 2015]. Exelis's time to respond has not yet run. The motion for reconsideration essentially states that Mr. Smigocki did not change his basic opinions but only filled in some gaps in the supporting documents and corrected some calculations (to decrease his damages calculation slightly) in response to Exelis's expert's report. I have not reviewed the motion for partial summary judgment except to see that it is supported by 308 pages of exhibits.

There was an indication during the telephone hearing on December 29, 2014 that the parties might be able to settle the case once the Court addressed Exelis's motion for partial summary judgment, concerning the implied covenant claim. The Court has done so. ECF No. 111. Before the parties invest more time and expense in briefing the two pending motions, the Court requests that they make a good faith attempt to settle the remaining claims. The Court sua

sponte extends Exelis' deadline for responding to the motion to reconsideration to the due date for its response to the motion for partial summary judgment. Regarding the two motions, if plaintiff's characterization of the Smigocki supplement is correct the Court would be inclined to grant reconsideration. This is, after all, a bench trial case, and the Court can disregard any new opinions. Regarding the motion for partial summary judgment, if Exelis opposes it, its eventual response can be and should be very short – simply point out one genuine issue of material fact that needs to be tried. Again, because it's a bench trial, and because granting the motion would not eliminate a trial (on damages), the Court will not be inclined to look further or to write another extensive summary judgment opinion.

Dated this 20th day of January, 2015.

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping flourish extending to the right.

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R. Brooke Jackson  
United States District Judge