

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:07-CV-275-D

SILICON KNIGHTS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
EPIC GAMES, INC.,	)	
	)	
Defendant.	)	

On July 8, 2011, Silicon Knights (“SK” or “plaintiff”) filed a motion in limine to preclude experts from rendering opinions not already given in their reports or deposition testimony [D.E. 618]. On July 15, 2011, Epic Games, Inc. (“Epic” or “defendant”) responded [D.E. 628]. On July 22, 2011, SK replied [D.E. 659]. As explained below, the court denies SK’s motion.

Essentially, SK’s motion requests that this court enforce Federal Rules of Civil Procedure 26 and 37, and issue an order preventing experts from rendering any new opinions. However, SK’s motion does not allege that any expert has actually rendered new opinions since the close of discovery.<sup>1</sup> Moreover, SK concedes that neither party has attempted to supplement any expert report in over a year. Mot. to Preclude 2. Instead, SK’s motion is based on the speculative assertion that “experts could have completed significantly more work and formed several more opinions” since the close of discovery. *Id.* 3.

The court will enforce Federal Rules of Civil Procedure 26 and 37, which govern the timing and disclosure of expert opinions. *See, e.g., Carr v. Deeds*, 453 F.3d 594, 601–05 (4th Cir. 2006); *S. States Rack & Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592, 595–98 (4th Cir. 2003). At

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<sup>1</sup> All expert discovery was to be completed by June 4, 2010. *See* [D.E. 492] (“Scheduling Order”).

this juncture, neither party alleges that any expert witness has attempted to render previously undisclosed opinions in violation of Rule 26. Accordingly, SK's motion is premature.

SK's motion in limine to preclude experts from rendering opinions not already given in their reports or deposition testimony [D.E. 618] is DENIED WITHOUT PREJUDICE.

SO ORDERED. This 27 day of October 2011.

  
JAMES C. DEVER III  
Chief United States District Judge