

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

THE OWEN BUILDING LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 20-266 WES
)	
VICTORY HEATING & AIR)	
CONDITIONING CO., INC.,)	
et al.,)	
)	
Defendants.)	

ORDER

On January 20, 2021, Magistrate Judge Lincoln D. Almond issued a Report and Recommendations ("R. & R."), ECF No. 24, regarding Defendant Johnson Control Inc.'s Motion to Dismiss Counts II and III for Failure to State a Claim, ECF No. 5. Judge Almond recommended that this Court grant the Motion as to Count II (negligence) because the negligence claim is barred by the economic loss doctrine. R. & R. 3-6. Judge Almond further recommended that this Court deny the Motion as to Count III (breach of implied warranties) because the Motion relies on a contract that falls outside the scope of Rule 12(b)(6) of the Federal Rules of Civil Procedure. R. & R. 6-7. These

recommendations apply to the Second Amended Complaint, ECF No. 22. R. & R. 2.

After having carefully reviewed the relevant papers, and having heard no objections, the Court ACCEPTS the report and ADOPTS the recommendations and reasoning set forth therein, pursuant to 28 U.S.C. § 636(b)(1)(C). Defendant Johnson Control Inc.'s Motion to Dismiss, ECF No. 5, is GRANTED as to Count II and DENIED as to Count III.

IT IS SO ORDERED.



William E. Smith
District Judge

Date: February 5, 2021