

STATE OF RHODE ISLAND
PROVIDENCE, S.C.

SUPERIOR COURT
CIVIL ACTION NO. PC-2024-04526

HEARING DATE: TBD

STATE OF RHODE ISLAND,

Plaintiff,

v.

AECOM TECHNICAL SERVICES, INC.,
AETNA BRIDGE COMPANY, ARIES
SUPPORT SERVICES INC., BARLETTA
HEAVY DIVISION, INC.,
BARLETTA/AETNA I-195 WASHINGTON
BRIDGE NORTH PHASE 2 JV, COLLINS
ENGINEERS, INC., COMMONWEALTH
ENGINEERS & CONSULTANTS, INC.,
JACOBS ENGINEERING GROUP, INC.,
MICHAEL BAKER INTERNATIONAL,
INC., PRIME AE GROUP, INC., STEERE
ENGINEERING, INC., TRANSYSTEMS
CORPORATION, and VANASSE HANGEN
BRUSTLIN, INC.,

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT COMMONWEALTH
ENGINEERS & CONSULTANTS, INC.'S MOTION TO DISMISS PLAINTIFF STATE
OF RHODE ISLAND'S AMENDED COMPLAINT**

INTRODUCTION

This matter involves the unexpected closure of the I-195 westbound Washington Bridge (“the Westbound Bridge”). On February 27, 2025, this Court (Stern, J.) entered a Decision on Rule 12(b)(6) Motions in which the Court determined that the economic loss doctrine barred the State from recovering in negligence for damage relating “to the bridge itself” and “the costs

associated with repair and-or replacement of [the bridge].” (See Decision, pp. 14–15). The Court granted the State leave to amend its Complaint to add specific allegations of damage to “other property” that are not by barred by the economic loss doctrine. (See Decision, pp. 14–15). On April 14, 2025, the State filed its Amended Complaint, alleging it suffered damage to “other property” because the *Eastbound* Washington Bridge (the “Eastbound Bridge”) has suffered added “wear and tear” due to the increased traffic on the Bridge caused by the closure of the Westbound Bridge. (See Amended Complaint, ¶¶ 96–106). For multiple reasons, these new allegations are insufficient as a matter of law to constitute damage to “other property.” Accordingly, Commonwealth Engineers & Consultants, Inc. (“Commonwealth Engineers”) moves to dismiss the negligence claims against it, as they are barred by the economic loss doctrine.¹

FACTS²

The Plaintiff is the State of Rhode Island (the “State” or “Plaintiff”), which includes its Department of Transportation (“RIDOT”), an executive department established pursuant to R.I. Gen. Laws § 42-13-1. (Amended Complaint, ¶ 1). The State filed this lawsuit against thirteen defendants seeking damages following the emergency closure of the I-195 Westbound Washington Bridge, formally known as “Washington Bridge North No. 700.” The closure was necessitated by the discovery of two issues: first, that a number a steel tie-down rods critical to the stability of the Bridge had fractured, (Amended Complaint, p. 4; ¶¶ 30, 92–94), and second, extensive deterioration in the post-tensioning system in cantilever beams used throughout the Bridge,

¹ The Counts against Commonwealth Engineers are: Count III (Negligence re: 2019 and 2023 inspections), Count XVI (Negligence re: the Joint Venture Proposal), Count XIX (Declaratory Judgment re: Non-Contractual Indemnity), and Count XX (Declaratory Judgment re: Contribution). The Court has stayed Counts XIX and XX, and therefore, Commonwealth Engineers is not moving to dismiss such Counts at this time.

² The facts of this case have been articulated multiple times in various submissions. Thus, Commonwealth Engineers recites only the most relevant facts herein.

(Amended Complaint, p. 4; ¶¶ 30, 95). These two critical components—tie-down rods and post-tensioning system—are parts of the superstructure of the Bridge.

The State alleges that the various defendants should have conducted proper inspections of the Westbound Bridge, recognized the importance and significance of the tie-down rods as critical to the stability of the Bridge, performed an investigation into or evaluation of the cracking discovered along the post-tensioned cables in the post-tensioned cantilever beams, and recommended repairs to address the same. (Amended Complaint, ¶¶ 109, 171). Further, the State recharacterizes the damages caused by the failure of the Westbound Bridge to include incidental “wear and tear” that the Eastbound Bridge may suffer due to the diversion of westbound traffic onto the Eastbound Bridge while the Westbound Bridge is demolished and reconstructed. (Amended Complaint, ¶ 101). It also alleges that the expected increased traffic volume on the Eastbound Bridge will result in additional maintenance and repair costs. (See Amended Complaint, ¶¶ 102–06).

LEGAL ARGUMENT

I. THE STATE CANNOT PLEAD AROUND THE ECONOMIC LOSS DOCTRINE BY RECHARACTERIZING ITS REPLACEMENT DAMAGES AS DAMAGE TO “OTHER PROPERTY”

The Court has already decided that the economic loss doctrine bars the State from recovering in negligence those damages relating to the “bridge itself.” The only question remaining is whether the scope of the damages barred by the doctrine includes alleged costs incurred by the State due to “wear and tear” to the Eastbound Bridge. As will be shown below, such alleged costs fall within the scope of the economic loss doctrine.

The State’s new “wear and tear” theory is a clever but ultimately a flawed effort to recast unavoidable replacement costs of the Westbound Bridge as “other damage” to the Eastbound Bridge. (See Amended Complaint, ¶¶ 101–06). Any theoretical “wear and tear” to the Eastbound

Bridge does not constitute damage to “other property” for at least three reasons: (1) damage related to unavoidable diversion of traffic over the Eastbound Bridge during work on the Westbound Bridge is a cost “associated with the repair and-or replacement” of the Westbound Bridge; (2) increased traffic over the Eastbound Bridge is a direct consequence of the “loss of use” of the Westbound Bridge and therefore an economic damage related to the latter; and (3) the two bridges are an “integrated system” that work in tandem to facilitate the movement of east/west traffic over Interstate I-195.

A. Repair and Replacement Costs

The alleged harm to the Eastbound Bridge due to the unavoidable and entirely foreseeable increased traffic over the Eastbound Bridge clearly constitutes “costs associated with repair and-or replacement” of the Westbound Bridge. Put simply, the State is temporarily using the Eastbound Bridge as a “replacement” for the Westbound Bridge during reconstruction. As a party may not recover in negligence the cost to replace the defective product, the State cannot recover the cost of using the Eastbound Bridge as a replacement for the Westbound Bridge as damage.

Moreover, even if the Eastbound Bridge were not a literal “replacement” of the Westbound Bridge, the alleged “wear and tear” and increased maintenance costs are plainly costs that are “associated” with the repair and replacement of the Westbound Bridge, as these alleged (and entirely theoretical) costs are a direct result of repair work. In that regard, they are economic losses “associated with repair and-or replacement of the defective product” identified in Hart Engineering Co. v. FMC Corp., 593 F.Supp. 1471, 1481 n. 11 (D.R.I. 1984) (applying Rhode Island Law) and its progeny. The costs are not damage to “other property.” Therefore, the economic loss doctrine bars recovery for such alleged damages.

B. Loss of Use

Additionally, the alleged “wear and tear” to the Eastbound Bridge is actually damage associated with the temporary “loss of use” of the Westbound Bridge. The “loss of use” of a defective product and the alleged harm created by it is considered to be a form of economic loss. See Isla Nena Air Servs., Inc. v. Cessna Aircraft Co., 449 F.3d 85, 86–88 (1st Cir. 2006) (affirming dismissal of tort claims on economic loss doctrine grounds despite allegations of loss of use of an aircraft); Marcil v. John Deere Indus. Equipment Co., 9 Mass.App.Ct. 625, 630 (1980) (holding that “[t]he loss of use of the [defective product] is clearly ‘pecuniary,’ or economic loss”); In re Generac Solar Power Systems Marketing, Sales Practices, and Products Liability Litigation, 735 F.Supp.3d 1047, 1056 (E.D. Wisc. 2024) (holding that “‘economic losses’ refers to the costs of repairing or replacing a defective product and the consequent loss of use of the product.”).

Here, any costs associated with the alleged harm to the Eastbound Bridge are the direct result of the State’s “loss of use” of the Westbound Bridge. The Amended Complaint explicitly alleges that “emergency closure” of the Westbound Bridge caused the “increased traffic volume,” and consequent increased “wear and tear” to the Eastbound Bridge. (Amended Complaint, ¶ 103). The State claims that its “loss of use” of the Westbound Bridge resulted in harm to the Eastbound Bridge. Such “loss of use” damages constitute pure “economic loss” barred by the economic loss doctrine. Thus, for this additional reason, the State cannot recover for the alleged harm to the Eastbound Bridge.

C. Integrated System Rule

The economic loss doctrine bars damages relating to the Eastbound Bridge for a third entirely independent reason. Accepting the Amended Complaint’s allegations as true, the Westbound and Eastbound Bridges are part of an “integrated system.”

Under the “integrated system” rule, the “product itself” includes not just the specific product the defendant supplied but also the entire “finished product into which the *component is integrated.*” Sebago, Inc. v. Beazer East, Inc., 18 F.Supp.2d 70, 90 (D. Mass. 1998) (applying Massachusetts law) (holding that defective roof insulation was integrated into buildings such that economic loss doctrine barred recovery for damages caused to other areas of building) (emphasis added). The United States Supreme Court has recognized the “integrated system” rule. See East River S.S. Corp. v. Transamerica Delaval, Inc., 476 U.S. 858, 874 (1986).

In this case, the Westbound and Eastbound Bridges are part of an “integrated system.” According to the Amended Complaint, the State had originally constructed the Eastbound Bridge “for both eastbound and westbound traffic.” (Amended Complaint, ¶ 96). In the 1960s, the State constructed the *Westbound* Bridge because the “Eastbound Washington Bridge was unable to handle the traffic volume, which had grown significantly since its original construction.” (Amended Complaint, ¶ 97.) To “reduce the traffic volume and avoid structural deterioration on the Eastbound Washington Bridge, a second parallel bridge—the [Westbound Bridge]—was constructed specifically to handle westbound traffic.” (Amended Complaint, ¶ 98). Moreover, the Amended Complaint alleges that “[a]fter the completion of the Washington Bridge in 1968, the Eastbound Washington Bridge was reconfigured exclusively for eastbound traffic.” (Amended Complaint, ¶ 99). The Amended Complaint’s allegations show that the two bridges are an “integrated system” designed to work in tandem to facilitate the movement of east/west traffic over Interstate I-195. They are inseparable, functioning as a unit, and must be seen as an “integrated system” for the purposes of the economic loss doctrine.

The “integrated system” rule “conceptualizes a final product as the sum of all of its parts and therefore a single unit or system. Since it is foreseeable that a component part could damage

the finished product, *the risks associated with these foreseeable damages are contractual in nature.*” Jeffrey L. Goodman et al., A Guide to Understanding the Economic Loss Doctrine, 67 Drake L. Rev. 1, 34 (2019) (emphasis added). According to the Amended Complaint, the State constructed the Westbound Bridge for *the specific purpose of reducing traffic volume on the Eastbound Bridge generally and rerouting westbound traffic*. It is foreseeable that if the Westbound Bridge component were inoperable, westbound traffic would need to be rerouted to the Eastbound Bridge, increasing the general amount of traffic on the Eastbound Bridge. The Westbound Bridge must be considered as an “integrated” component of the system created by the State of the two bridges; the economic loss doctrine bars recovery of damages to such component of the system.

CONCLUSION

For the reasons stated above, the State’s new “wear and tear” damage theory is insufficient to allege damage to other property for the purposes of evading the economic loss doctrine. Accordingly, Commonwealth Engineers respectfully requests that this Court GRANT this Motion by dismissing Counts II and XVI as to Commonwealth Engineers.

THE DEFENDANT,
COMMONWEALTH ENGINEERS
& CONSULTANTS, INC.,

By its Attorneys,



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CERTIFICATE OF SERVICE

I, Timothy O. Egan, hereby certify this 13th of June, 2025, that the foregoing document was electronically filed and served electronically upon all parties on record.



Timothy O. Egan, Esq.

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