

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MARGUERITE MACQUEEN,)
Individually and as the Surviving Spouse)
of David MacQueen, Deceased,)
)
Plaintiff,)
)
v.)
)
UNION CARBIDE CORPORATION,)
et al.,)
)
Defendants.)

Civil Action No. 13-831-SLR-CJB
Consolidated

REPORT AND RECOMMENDATION

The Court, having reviewed Defendant Huntington Ingalls Industries, Inc.’s (“HI Industries”) Motion to Dismiss for Failure to State a Claim, filed pursuant to Federal Rule of Civil Procedure 12(b)(6) (the “motion to dismiss”), (D.I. 197), and Plaintiff Marguerite MacQueen’s Response and Sur-reply, in which she concedes that she mistakenly sued HI Industries and that HI Industries is not the proper defendant and should therefore be dismissed, (D.I. 201 at ¶¶ 1-2; D.I. 205 at 1), the Court recommends that HI Industries’ motion to dismiss be GRANTED and that all claims and cross-claims by any party against HI Industries be dismissed with prejudice.

This Report and Recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b)(1), and D. Del. LR 72.1. The parties may serve and file specific written objections within fourteen (14) days after being served with a copy of this Report and Recommendation. Fed. R. Civ. P. 72(b)(2). The failure of a party to object to legal conclusions may result in the loss of the right to *de novo* review in the district court. *See Henderson v. Carlson*, 812 F.2d 874, 878–79 (3d Cir. 1987); *Sincavage v. Barnhart*, 171 F. App’x 924, 925 n.1 (3d Cir. 2006).

The parties are directed to the Court's Standing Order for Objections Filed Under Fed. R. Civ. P. 72, dated October 9, 2013, a copy of which is available on the District Court's website, located at <http://www.ded.uscourts.gov>.

Dated: April 1, 2014



Christopher J. Burke
UNITED STATES MAGISTRATE JUDGE