

EXHIBIT S2 TO DECLARATION OF
STEPHEN G. SCHWARZ IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION



JOHN T. McDONALD III
Assemblymember 108th District

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ALBANY

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Mental Health and
Developmental Disabilities
Real Property Taxation

July 20, 2016

The Honorable Andrew M. Cuomo
Governor of New York State
State Capitol Building
Albany, New York 12224

Dear Governor Cuomo:

I am writing today to ask for your consideration in signing into law A.9568-A/S.6824-A, which has passed both houses of the Legislature. This bill, which is sponsored by Senator Kathy Marchione in the Senate, will provide equitable legal recourse to New York State residents who are negatively affected by hazardous toxins within certain areas of the state. The bill passed unanimously in the Senate and with an overwhelming majority in the Assembly.

Under existing state law, the three-year statute of limitations for personal injury actions related to the latent effects of chemical exposure begins to run when an injury is discovered or reasonably should have been discovered, whichever is sooner. This is problematic because it may take years before water contamination in a given community is discovered and identified. As a result, members of such a community who had previously suffered from unexplained illnesses are often unable to bring a personal injury action for exposure to hazardous toxins, as three years may have elapsed between the date they discovered an injury and the date water contamination is discovered. This bill seeks to remedy that problem by ensuring that all New Yorkers impacted by harmful contamination are given equitable legal recourse.

This legislation strengthens state law in relation to the tolling of the statute of limitations for personal injury caused by contact with or exposure to any substance or combination of substances found within an area designated as a Superfund site. Specifically, the bill adds a new section to the Civil Practice Law and Rules to allow for any personal injury actions arising from exposure to commence within three years of a site's designation as a state or federal Superfund site.

This legislation comes in the wake of the public health crisis in Hoosick Falls, a community which closely neighbors my legislative district. Many Hoosick Falls residents raised concerns regarding their exposure to the toxic substance perfluorooctanoic acid (PFOA) and the lack of agreement on what the appropriate levels of PFOA should be in municipal water systems. The ambiguity on the issue continues to this day, as there has been no federal determination or requirement for local water districts to test for PFOA detection. As this disagreement and gridlock persist, it is the residents of the Hoosick Falls community who continue to suffer.

I would like to commend you for your leadership in designating the Saint-Gobain Performance Plastics plant in Hoosick Falls a state Superfund site. As a result, the Town of Hoosick and the Village of Hoosick Falls have witnessed a full and broad response from the state, and that support and responsiveness remain today. However, the Superfund designation occurred approximately six months ago, which means that the clock is ticking on the three-year period for residents potentially impacted by the water contamination to bring a personal injury action. To continue the efforts the state has made to protect the public health of its residents and provide equal treatment under the law, it is especially prudent at this time to enact this legislation. This will bring fair and resolute legal recourses to members of the Hoosick Falls community and to New Yorkers across the state who have suffered or may suffer from undetected toxins in their water supply.

For the abovementioned reasons, I respectfully request your earliest consideration of this bill. Please do not hesitate to contact me if you should have any questions regarding this legislation. I am more than willing to discuss the bill if any concerns are raised.

Sincerely,

A handwritten signature in black ink, appearing to read "J. T. McDonald III", with a long horizontal flourish extending to the right.

John T. McDonald III
Member of Assembly

cc: Alphonso David, Counsel to the Governor
Denise Gagnon, Legislative Secretary to the Governor