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Judge Allows Another Lawsuit Over Hoosick Falls Contamination to Proceed

Josefa Velasquez, New York Law Journal

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A federal judge on Wednesday declined to dismiss a lawsuit against Saint-Gobain Performance Plastics and Honeywell International Inc. stemming from groundwater contamination in the village of [Hoosick Falls](#).

In a 34-page decision in [Benoit et al v. Saint-Gobain Performance Plastics](#), 1:16-cv-00930, U.S. District Senior Judge Lawrence Kahn of the Northern District of New York partially dismissed claims from lawyers for Saint-Gobain and Honeywell, who filed motions seeking the dismissal of consolidated cases stemming from groundwater contamination with perfluorooctanoic acid (PFOA) used in manufacturing in the village of Hoosick Falls. Kahn, however, allowed claims for liability and negligence to survive.

Lawyers from Quinn Emanuel Urquhart & Sullivan, Arnold & Porter Kaye Scholer, Allen & Desnoyers and Hinckley, Allen & Snyder, representing Saint-Gobain and Honeywell, filed a single motion to dismiss the consolidated lawsuits for failure to state a claim. The defendant companies argued that the plaintiffs have not suffered a legally cognizable injury to either their properties or bodies. Defendants in the small village in Rensselaer County alleged that water contaminated with [PFOA](#), a man-made chemical used to coat nonstick cookware and stain-resistant fabrics, has caused adverse health effects and declines in property values.

[kahn-lawrence-Square-201509211747.jpg]

In his decision, Kahn dismissed the claims for property damages of 11 plaintiffs who are renters in the village, noting that "a plaintiff cannot recover for damage to a property he does not own."

Lawyers for Saint-Gobain and Honeywell, which manufactured water- and stain-resistant fabrics in the village, had claimed that plaintiffs' core complaint concerns the contamination of the villages' groundwater, which the plaintiffs do not own. Since the aquifer is not property of the plaintiffs', the residents who filed the lawsuit did not suffer an injury that was sufficient to raise a negligence claim, which the companies argue requires physical injury to their property, the judge agreed.

Kahn, however, allowed the plaintiffs' claims for negligence and strict liability to go forward, stating: "Under defendant's view, a manufacturer may freely contaminate the local drinking water supply, thereby depriving neighboring properties of potable water. This position is not supported by New York law and runs counter to society's reasonable expectations, Therefore, plaintiffs have sufficiently stated a claim for negligence," he wrote.

Kahn's decision comes days after the U.S. Environmental Protection Agency on Monday [added Saint-Gobain Performance Plastics to the national priorities list for federal Superfund sites](#).

In February, Kahn [declined to dismiss federal class action lawsuit *Baker v. Saint-Gobain Performance Plastics*](#), 1:16-cv-0220/1:16-cv-0292/1:16-cv-0394/1:16-cv-0476, filed on behalf of residents of Hoosick Falls who also claimed that the PFOA in their water system decreased their property values and put them at risk for certain illnesses. Since the PFOA contamination came to light in August 2014, [several residents of the area have filed lawsuits](#) against Saint-Gobain and Honeywell.

Tate Kunkle, an associate in the environmental litigation department at Napoli Shkolnik, a national mass tort firm that is representing Hoosick Falls residents, said Kahn's decision Wednesday mirrored the *Baker* decision. Kahn's decision, Kunkle said, sets forth what the state of the law on injuries and damages are. Residents of Hoosick Falls are awaiting a decision from the U.S. Court of Appeals for the Second Circuit regarding a petition filed by Saint-Gobain seeking leave to file a motion to stay the *Baker* case in district court, Kunkle said.

As soon as a decision is made on *Baker*, Napoli Shkolnik can "proceed with our cases so we can help the residents get the compensation that they've been waiting for," Kunkle added.

In a statement, Saint-Gobain also said it was awaiting a decision from the Second Circuit on the *Baker* case.

"This decision mirrors Judge Kahn's prior ruling on Saint-Gobain and Honeywell's motion to dismiss similar allegations asserted on behalf of a putative class, which prior ruling is the subject of a pending petition for permission to appeal before the Second Circuit. Saint-Gobain is evaluating similar appellate options here, as the court also invited an opportunity for immediate appeal of the current order. The company denies the allegations asserted in these plaintiffs' complaints on the merits, and plans to continue to defend itself in these actions," Saint-Gobain said in a statement issued through one of its lawyers.

A spokeswoman for Honeywell said the company is still reviewing the order by Kahn and that "Honeywell remains focused on conducting the environmental investigations under the state's supervision and direction."

Contact Josefa Velasquez at jvelasquez@alm.com. Twitter: [@j_velasquez](https://twitter.com/j_velasquez)

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