

After Albert and Barbara were married, they lived in Buffalo, New York. Barbara became pregnant and sought the advice of Dr. Denise Denning, whom she met in the local outing club. Albert and Barbara were avid environmentalists and were deeply concerned about the detrimental effects of pollutants on humans. Dr. Denning was not a specialist obstetrician, but a general practitioner. She had recently graduated from medical school. Dr. Denning saw Barbara periodically and checked her general health. She gave her no advice about exposure to external environmental elements that may have a detrimental effect on the developing fetus.

Claude was born with severe intellectual handicaps caused by heavy concentrations of lead that Barbara had absorbed while pregnant. The concentration was particularly toxic because she had breathed the lead into her lungs through water vapor. She had been exposed to this vapor while working as a guide on the tourist boat, The Maid of the Mist, that plies the waters beneath Niagara Falls. Barbara had selected this employment because of her love of the outdoors and its apparent healthful aspect. The lead had been introduced into the river by three battery manufacturing plants along the river. They were Mallory, Ever Ready, and Coppertop. Evidence will show that lead was also present in the Buffalo water supply because the lead pipes had not been replaced by the city since their installation in the 1920s.

Albert had deep fundamentalist religious beliefs. After the birth of Claude, he sought counseling from his minister, Xuanda Xerxis. Xuanda advised Albert that the birth of Claude with his handicaps was a judgment of God and that in order to expiate his sins, he needed to forsake his lucrative employment with a large Buffalo engineering firm, join the church's flock, and devote himself to a life of sacrifice within the physical confines of the church. This demanded Albert's departure from the family and left Barbara and Claude destitute.

Barbara approaches you for advice. She asks what redress may be available. She also has retained the services of Rhonda Rescue, who, for a fee, will "free" Albert from the church by "de-programming" him and bring him back into the normal stream of life. Rhonda has "freed" other members of the church in Albert's circumstances. The contract that Rhonda proposes to enter with Barbara will indemnify Rhonda for any loss or liability arising from the de-programming endeavor.

Advise Barbara in the circumstances.