

**QUESTION 12 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV**

Sara Sibling remembered that as a little girl she played in the empty lots in her hometown located in Happy Heights County. Sara Sibling's hometown and the lots she played on are situated next to a smelter company which had been in operation since at least 1970. Sara recently read blogs that made her believe that her current health issues, particularly her high blood pressure and forgetfulness, may be related to exposure to lead while playing in the lots. She also recalled that when her parents sold their home, there had been concerns regarding contaminated soil. The home, purchased before the smelter company plant was built, sold for pennies.

Sara Sibling held community meetings about the possibility of lead and other contamination in Happy Heights County. She also submitted editorials to the local newspaper claiming that the owner of the smelter operation, Smelly Smelter, had intentionally allowed lead to be released from the smelter location for years while knowing that lead was dangerous to humans.

As a result of Sara Sibling's efforts, hundreds of people who had lived in her hometown at different times from 1970 through the present, came forward with a large variety of health complaints, as well as complaints about the devaluation of their homes. Specifically, people came forward with health issues including high blood pressure, joint pain, cognitive impairment, memory and concentration problems, anemia, and kidney disease.

Sara and others hire an attorney, who had already successfully handled a class action involving asbestos exposure, to assess whether they can sue Smelly Smelter Company. The attorney investigates and concluded that there were potentially 2,000 residents who had lived in Sara Sibling's hometown in Happy Heights County from 1970 to the present.

The attorney believes that a lawsuit alleging negligence, nuisance and trespass should be filed in state court against Smelly Smelter.

**Please answer the following questions:**

- 1. In what state court would venue lie?**
- 2. Can the plaintiffs be certified as a class? Analyze what prerequisites must be shown to the court to have the class certified.**

3. If the class is certified, what is the next step the attorney would have to take?

4. Whether or not the class was certified, would a counterclaim by defendant against Sara Sibling for libel and slander be allowed procedurally?

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