

**LOUISIANA STATE BAR EXAMINATION  
CONSTITUTIONAL LAW  
JULY 2022**

**QUESTION 1 (40 POINTS)**

The 2<sup>nd</sup> District Fire Station driveway faces Main Street. On July 3<sup>rd</sup> of last year, a water main broke in the middle of Main Street in front of the fire station driveway. The road, the water system and the fire station are all owned and maintained by the Parish government. The Parish ordered an emergency repair of the water main break, which was expected to take at least 48 hours. To accomplish the repair, the road and part of the sidewalk in front of the fire station had to be torn apart. Once the water main was repaired, it was estimated that it would take another 3 weeks at least to repair the road.

July 4<sup>th</sup> is always a busy day for fire departments due to fireworks displays and cookouts that increase the risk of fires. With July 4<sup>th</sup> the next day, the fire department needed immediate access to get its fire truck in and out of the station during the road repair. The neighboring property to the left of the fire station was a thickly wooded vacant lot that sloped steeply down to a stream. The neighboring property to the right was a parking lot for Living Waters church. The fire chief and parish president agreed that the best solution would be to temporarily block off the church parking lot to make an exit for the fire truck that avoided the construction. Emergency barricades were set up in the church parking lot to create the exit lane and ensure that pedestrians could safely access the church building as they approached from the surrounding street parking.

Even though the Parish worked as quickly as possible, the repairs took longer than planned. There were several unanticipated delays in the road repair for rain, a hurricane that came close to the area (requiring evacuation but ultimately doing little damage), and supply chain issues. The road was not fully repaired, and use of the church parking lot was not restored to Living Waters, until November 3<sup>rd</sup>.

Living Waters church lost attendance while its parking lot was being used by the fire department, and donations dropped by 30% in those four months compared to previous years. It also had to significantly scale back the annual fundraiser Summer Celebration it holds at the end of its vacation bible school in the first week of August. The Summer Celebration usually featured a talent show and live music on an outdoor stage, but without the parking lot space available, the party was held entirely indoors and was much smaller, making only 25% of its typical revenue. Living Waters asked the Parish to compensate it for the use of the parking lot during the repair, but the Parish refused. The Parish President believed that it was everyone's civic duty to help out in an emergency. A friend of the Parish President who attended another church also said that he would be concerned about the Parish giving money to Living Waters, as that might be seen as the Parish endorsing one church over another.

***Please answer the following three subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit. In answering these questions, do not address any prescription/limitations defenses.***

- 1.1 What arguments can Living Waters reasonably raise, if any, for compensation under the takings clause of the U.S. Constitution, and is it likely to succeed? Explain fully. (20 points)**
- 1.2 Would providing compensation to Living Waters violate the Establishment Clause of the U.S. Constitution? Explain fully. (10 points)**
- 1.3 Is Living Waters likely to be successful in challenging the Parish's actions under the First Amendment of the U.S. Constitution as an invalid restriction on the exercise of religion? Explain fully. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 2 (40 POINTS)**

To raise awareness of environmental concerns and land loss issues due to coastal erosion, the State of Louisiana established the Earth Awareness Center (“EAC”) in Baton Rouge, Louisiana last fall. The EAC provided information and education on land loss issues in Louisiana and resources on how citizens could spread the EAC’s message in their home communities. On its expansive lawn facing a busy street, the EAC also provided a “First Amendment Zone” dedicated to encouraging and supporting peaceful environmentally-friendly demonstrations and free expression. At least three times a week, environmentalist groups were invited to stage demonstrations on the EAC lawn.

Not everyone was happy with the establishment of the EAC. The EAC brought more congestion, pollution, and noise to the neighborhood, disrupting the previously tranquil area. Property owners in the surrounding neighborhood organized a counter-protest staged on the EAC lawn in the First Amendment Zone, calling themselves the “Neighbors Reducing Noise” or NRN. The Executive Director of the EAC called the police and had the NRN protestors removed from the property. The Executive Director then sent the NRN’s leader, Nancy Rodgers, a letter stating that the EAC’s lawn could be used only for demonstrations consistent with the EAC’s mission, and no NRN protests would be permitted.

The Louisiana Owl Alliance knew its purpose to support owl habitat was consistent with the EAC’s mission to prevent further land loss in Louisiana, so it decided to use the EAC lawn for its “Hoot the Night” demonstration. Supporters gathered on the EAC lawn at 10:00 p.m. to make hooting sounds as loudly as they could until midnight. The Executive Director of the EAC received so many complaints about the noise overnight, that the next morning she decided that no further demonstrations would be permitted before 8:00 a.m. or after sunset, consistent with the local noise ordinance. The Executive Director sent the Owl Alliance’s president, Otto Snow, a letter stating the new time restriction policy. The Owl Alliance members were upset because their “Hoot the Night” demonstration wouldn’t be nearly as impactful during the day.

When the Stargazers Society learned that the EAC lawn would not be used for demonstrations at night, they began holding weekly meetings on the lawn to gather and look at the stars from 8 p.m. until midnight on Friday nights. The Stargazers society typically only had 8-10 attendees, and their meetings were relatively quiet. Still, Otto Snow thought it wasn’t fair that the Stargazers Society could use the EAC lawn at night but that his group could not.

Both the NRN and the Owl Alliance would like to file suit to challenge the restrictions imposed by the EAC’s executive director on use of the First Amendment Zone.

*Please answer the following four subquestions. Explain each answer; an answer without explanation will receive no credit.*

- 2.1 What arguments might the NRN reasonably raise under the First Amendment to the U.S. Constitution against the EAC’s prohibition on its protest, and are they likely to be successful? Explain fully. (10 points)**
- 2.2 What arguments might the Owl Alliance reasonably raise under the First Amendment to the U.S. Constitution against the EAC’s time restriction policy, and are they likely to be successful? Explain fully. (10 points)**
- 2.3 What arguments might the Owl Alliance reasonably raise under the Equal Protection clause of the U.S. Constitution against the EAC’s time restriction policy, and are they likely to be successful? Explain fully. (10 points)**
- 2.4 Do the NRN and the Owl Alliance have standing to seek an injunction against the EAC’s restrictions based on the First Amendment and Equal Protection claims discussed in Questions 2.1-2.3? Explain fully. (10 points)**

[End of Question 2]

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**QUESTION 3 (20 POINTS)**

*Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.*

- 3.1 State action
- 3.2 Eleventh Amendment
- 3.3 First Amendment; campaign contributions
- 3.4 Commerce clause
- 3.5 Free speech in schools
- 3.6 Due process of law
- 3.7 Contracts clause; legislative authority
- 3.8 Privileges and immunities
- 3.9 Standing; equal protection
- 3.10 Establishment of religion; public displays

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION  
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FEBURARY 2022**

**QUESTION 1 (40 POINTS)**

For many years, each morning before the weekly town council meeting, Mary has fed birds on the sidewalk directly in front of town hall and passed out bird seed packets to others passing by. Each packet of bird seed she distributes contains a two-inch by one inch strip of paper stating, “You’ve fed the birds, now feed God’s children. Support increased funding for the town food pantry.” For several years, the town council has provided funding for 30% of the food pantry’s operational cost, with the remaining 70% funded through private donations.

Carol was recently elected to the town council. Carol has noticed that the leftover bird seed from Mary’s activities has led to a rodent problem in town hall. The sidewalk where Mary distributes the bird seed also has become dangerously slick from excess bird droppings and the cars parked adjacent to the sidewalk often need a car wash after visiting town hall on meeting days. Carol proposed ordinance 22-37 (the “ordinance”) to the town council prohibiting the feeding of birds within 500 feet of a public building. Persons violating the proposed ordinance shall be fined \$500 for each offense. The ordinance passed the town council unanimously.

After the ordinance went into effect, Mary was issued a citation and fined \$500 for feeding birds in front of town hall. Carol received several angry letters from parents who enjoyed feeding the birds with their children from Mary’s seed packets. Carol also received a complaint letter from the director of the local food pantry, Patrick. Patrick is concerned that stopping Mary’s bird seed campaign will result in a decrease of both private donations and the town council’s funding for the food pantry. Patrick supports Mary’s efforts, but never personally assisted her in the bird seed campaign.

After being fined, Mary tried to pass out flyers with the same message instead of bird seed packets, but no one took the flyers or paid attention to her. Mary is now considering filing a lawsuit challenging the ordinance. Mary’s deeply held religious and political beliefs compel her to do everything she can to help feed the hungry in her community and she would like to resume her campaign. Shortly after she was fined, Mary visited the public library and noticed that Linda, the town’s children’s librarian, has placed a hummingbird feeder filled with sugar water just outside the window of the library’s children’s section on the side of the building next to a forested lot and away from the building entrance and any parking lot. The hummingbird feeder was placed for the children’s enjoyment and has no religious or political message. Linda has never been cited or fined under the ordinance. Mary thinks she was targeted for enforcement of the ordinance because of her message. Mary believes the town’s enactment and selective enforcement of the ordinance violates her constitutional rights.

- 1.1. What arguments should Mary raise to challenge the ordinance under the First Amendment of the United States Constitution, and is she likely to succeed? Explain fully. (20 points)**
- 1.2. What arguments should Mary raise to challenge the ordinance under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and is she likely to succeed? Explain fully. (10 points)**
- 1.3. If Mary does not file suit, does Patrick have standing to file a federal lawsuit challenging the ordinance on federal constitutional grounds? Explain fully. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION  
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FEBURARY 2022**

**QUESTION 2 (40 POINTS)**

The Louisiana legislature recently passed a law requiring that individuals applying for a new permit to operate a restaurant in Louisiana must establish that they have resided in Louisiana for at least five years and that corporations and other business entities applying for such a permit must establish that all their shareholders or owners are Louisiana residents. The legislative history reflects that the legislature was concerned with preserving Louisiana's unique culinary traditions and ensuring that profits from those traditions benefit Louisiana's economy. Out of concern for potential lost jobs for those currently employed in existing restaurants, the legislature did not make the residency requirement applicable to existing restaurants seeking to renew their permits.

Michael moved from Missouri to Louisiana four years ago and had been planning to open a new sandwich restaurant, but his application was denied because he has not been a Louisiana resident for five years.

Allison is a chef and a resident of Alabama whose mother was born in Louisiana and taught her all their family recipes. Allison was trained to cook in Louisiana restaurants early in her career. Allison's restaurants, Chez Allison, have been very successful in Alabama and Mississippi, and she is looking to expand to Louisiana. Allison applied for a new permit to operate a restaurant in Louisiana and was denied because of the new residency requirement.

Nacho Heaven is a New Hampshire corporation that also applied for and was denied a new permit to operate a restaurant because its shareholders are New Hampshire and Vermont residents.

- 2.1. What arguments should Michael, Allison, and Nacho Heaven make to challenge the residency requirement under the Commerce Clause of the United States Constitution? Explain fully. (20 points)**
- 2.2. Are Michael, Allison, or Nacho Heaven likely to succeed in a challenge to the residency requirement under the Privileges and Immunities Clause of the United States Constitution? Explain fully. (10 points)**
- 2.3. Michael filed a lawsuit in federal district court against the proper state defendants to enjoin enforcement of the residency requirement. While the lawsuit was pending, Michael reached five years of residency and was then granted the permit. Michael promptly opened his sandwich shop. The defendants filed a motion to dismiss Michael's lawsuit arguing that an injunction is no longer necessary because Michael has a permit. Should the motion be granted? Explain fully. (10 points)**

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION  
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FEBURARY 2022**

**QUESTION 3 (20 POINTS)**

*Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.*

- 3.1. Commerce clause
- 3.2. First Amendment; campaign contributions
- 3.3. State action
- 3.4. Time, place and manner restrictions; free speech
- 3.5. Standing for corporations
- 3.6. Takings clause
- 3.7. Equal protection; rational basis scrutiny
- 3.8. Adequate and independent state grounds; justiciability
- 3.9. Due process of law
- 3.10. Contracts clause; legislative authority

[End of Question 3]

[END OF CONSTITUTIONAL LAW TEST]

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 — 40 POINTS**

Women for Justice in America (“WJA”) hosts regular meetings to provide a space for members of the organization to come together to discuss issues related to their written mission regarding family and political issues. During their meetings, they pray about those issues and seek to apply biblical principles to the issues discussed. Their meetings often include guest lectures on various topics, such as early childhood education and women’s health initiatives. Paula, President of WJA, recently requested use of the auditorium in the city-owned public library to discuss concerns related to safety of students in public schools, decline in the education system, and the need to increase teacher pay and to strategize on how to lobby candidates for office to take positions supported by WJA on various issues. The intended guest lecturer was Betty, whose ultra conservative viewpoints and vast knowledge of biblical principles made her a popular figure amongst members of WJA. Any group desiring access to the auditorium must first obtain permission from Cynthia, a city employee who is the director of the library. Cynthia denied Paula’s request with a letter, stating that such a meeting would violate library policy because WJA was a group with religious purpose. The library’s published policy states:

The auditorium in our library is open for use of public groups or organizations of a civic, cultural, or educational character, but not for social gatherings, entertaining, dramatic productions, money-raising, or commercial purposes. It is also not available for meetings for social, political, partisan, or religious purposes or when, in the judgment of the director of the library, any disorder is likely to occur.

Cynthia emphasized that in accordance with its policy the auditorium was open only to group meetings for artistic or educational purposes and that, once she determined that a group would not be meeting for a religious or political purpose, she would then grant the group permission to use the auditorium. Cynthia further explained that, because WJA’s request was denied, Paula could approach the mayor and city council for further review of the request.

Paula, on her own behalf, had previously requested permission to use the auditorium for a “family gathering,” which Cynthia had granted. On the night of that event, 75 residents who learned of the event through social media attended the meeting, which lasted more than three hours and consisted of singing songs, praying for the local community, and discussing issues such as the condition of schools, the safety of students, and encouraging individuals to be role models in the community. Further, Paula was aware that her Kiwanis Club had used the auditorium for meetings that were for non-artistic or non-educational purposes, such as a fundraiser for the United Way, a potluck luncheon for retirees, and local swim club meetings.

Immediately upon receiving Cynthia’s letter, Paula sent a letter on behalf of WJA to the mayor and city council, requesting they reverse Cynthia’s denial of WJA’s request to use the auditorium; she cited among other things the prior permission granted to these other groups to use the auditorium. The mayor sent WJA a formal letter denying the request and stating that the auditorium is not available for any type of meetings for a religious purpose. Thereafter the city council, after consulting with the city attorney, unanimously passed a motion to exclude meetings with a religious purpose from the auditorium at the library.

*Please answer the two subquestions which follow on the next page.*

- 1.1 What claims, if any, might WJA have against the city under the Free Speech Clause of the First Amendment of the U.S. Constitution? Explain fully. (20 points)**
- 1.2 What claims, if any, might WJA have against the city under the Free Exercise Clause of the First Amendment? Explain fully. Include in your discussion whether the city might assert any valid defenses under the Establishment Clause of the First Amendment of the Constitution? (20 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 2 – 40 POINTS**

Several years ago, a new species of frogs was discovered in the bayous of a handful of southern states in the United States, including Louisiana. It was discovered that this new species of frog was the source of a substance that acts to combat diabetes more effectively than any medication on the market and at a much lower cost. Because of these benefits, the species was named sugarfrog. Medication derived from the sugarfrog substance was recently approved by the Federal Drug Administration (FDA) and was found to produce the effects it was purported to produce. A few companies in some of the states where the sugarfrogs were found to be living began to catch the sugarfrogs and produce diabetes medication that was available to consumers nationwide by direct shipping from the processing lab via phone or internet orders.

Individuals from around the country began sharing the news of this newly available medication and its success in treating diabetes on social media, and news of success stories were also shared on both local and national news stations. After hearing of the growing interest in the medication from the sugarfrogs, Charles decided he would break into the market and formed Froggy, Inc., a processing lab for the sugarfrog substance, in Louisiana. Froggy, Inc. purchased three acres of land near a bayou where the sugarfrog was found to be in great supply and built a processing lab and distribution factory on the land. Froggy, Inc. used the same process for producing diabetes medication from sugarfrogs as the other processing labs in other states. Froggy, Inc. packaged and sold its product as “Sugar Be Gone.”

Charles then contacted his local state representative, and together the two persuaded the Louisiana State Legislature to enact a law prohibiting the import of sugarfrogs or any medications derived from sugarfrogs into Louisiana. The Act is called the Sugarfrog Reservation Act (Act), and the stated purpose of the Act is, given the state of the economy in Louisiana, to encourage Louisiana consumers to buy Louisiana products.

Josie is a resident of a small town in Louisiana. She was diagnosed with diabetes and has had a difficult time controlling her blood sugar due to the recent substantial increase in the cost of insulin. She has limited funds, and thus decided to purchase and try the sugarfrog medication. She found Froggy’s Sugar Be Gone online, but it was too expensive for her budget. After spending several days researching other sugarfrog medications online, Josie discovered a similar product with discounted prices from a company by the name of “Low A1C” out of South Carolina. Josie placed an online order with Low A1C only to be told that Louisiana state law precluded direct shipment of out-of-state sugarfrog related products.

- 2.1 Might Josie and/or Low A1C reasonably raise a Commerce Clause challenge to the Act, and is either likely to succeed? Discuss fully. (15 points)**
- 2.2 Might Josie and/or Low A1C reasonably raise a challenge under the Equal Protection Clause, and is either likely to succeed? Discuss fully. (15 points)**
- 2.3 Might Josie and/or Low A1C reasonably raise a Due Process challenge to the Act, and is either likely to succeed? Discuss fully. (5 points)**
- 2.4 Might Josie reasonably raise a Privileges and Immunities challenge, and is she likely to succeed? Discuss fully. (5 points)**

[End of Question 2]

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**QUESTION 3 – 20 POINTS**

*The following subject matters were tested in this multiple choice section:*

Adequate and Independent State Grounds; Justiciability  
Anti-commandeering; Federalism  
Establishment of religion; public displays  
Free Speech; Time, Place and Manner Restrictions  
Free Speech in Schools  
Freedom of Religion (Free Exercise Clause)  
Standing (2 questions)  
State action  
Takings Clause

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 – 40 POINTS**

Columbia Parish is a sparsely populated parish in rural Louisiana and is adjacent to Mississippi. Historically, collection of trash has been a *private* function in this parish. Most local governments in the parish have never assumed responsibility for trash collection, and residents and businesses in most parts of the parish must contract with private haulers for the removal of their waste.

At the request of Columbia Parish, the Louisiana State Legislature created the Columbia Solid Waste Management Authority (the “*Authority*”). The Authority entered into contracts with Columbia Parish that required the Authority to purchase, operate, construct, and develop facilities for the processing and/or disposal of solid waste and recyclables generated in the parish. For its part, the parish agreed to ensure the delivery of all solid waste generated within its borders to facilities designated by the Authority.

Shortly after the Authority was created, Columbia Parish passed Flow Control Ordinance 201 (“*Ordinance 201*”) requiring that all solid waste and recyclables left at curbside must “be delivered to the appropriate facility, entity or person responsible for disposition designated by the parish or by the Authority.” Under Ordinance 201, any hauler handling waste generated in the parish must have a valid permit issued by the parish or the Authority and must deliver all waste of any kind to facilities designated by the Authority. Waste haulers who violate Ordinance 201 are subject to a fine of \$1000 for each violation.

The Authority owns and operates two landfills that it developed to serve Columbia Parish. These two facilities are the only landfills classified as “designated facilities” by the Authority. The Authority-owned landfills charge haulers who use its landfills a tipping (disposal) fee of \$80 per ton of trash deposited. The fees provide revenue to fund Authority operations. The provisions of Ordinance 201 effectively direct more than 200,000 tons of solid waste per year to the Authority’s two landfills, generating revenues of more than \$16 million for the Authority annually.

George owns a private landfill in Mississippi two miles outside of Columbia Parish and charges a tipping fee of only \$50 per ton. After the enactment of Ordinance 201, George noticed a significant decrease in his business because the haulers of waste from Columbia Parish are now required to deliver such waste only to one of the two landfills operated by the Authority. His business has struggled financially because of its inability to replace the revenue stream lost as a result of Ordinance 201.

Clarence, owner of Bayou Waste, LLC, a waste hauling service for Columbia Parish transported waste to George’s landfill to obtain the benefits of the lower tipping fees. Clarence’s company has been cited fourteen times for violations of Ordinance 201 and ordered to pay \$1,000 for each violation.

- 1.1. What arguments can George and Clarence each raise in challenge to Ordinance 201 under the Commerce Clause of the U.S. Constitution, and are they likely to succeed? (25 points)**
- 1.2. What arguments can George and Clarence each raise in challenge to Ordinance 201 under the Equal Protection Clause of the U.S. Constitution, and are they likely to succeed? (15 points)**

[End of Question 1]

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**QUESTION 2 – 40 POINTS**

During a recent period of increased attacks on law enforcement by persons wearing masks and other head coverings that obscured their identity, the Louisiana Legislature passed the Protect Our Police Act (the “*Act*”) making it a felony for anyone to appear in public with their head covered, except during Halloween and Mardi Gras. The Act reads in full as follows:

The Legislature of Louisiana finds that wearing head coverings in public poses a safety risk for our law enforcement officers and the public. So that law enforcement officials can properly enforce public order, it is essential that they be able to identify members of the public and not be deceived by someone’s appearance.

Whatever person uses or wears in any public place of any character whatsoever a covering that conceals the head of the person shall be imprisoned for not more than two years. Nonetheless, the prior sentence shall not apply to activities of children on Halloween or to persons participating in Mardi Gras activities.

After the Act was passed, the Governor, out of respect for those whose religions require heads to be covered, issued an Executive Order that no one will be discriminated against for covering their head for religious reasons. The Executive Order specifies that all charges under the Act must be dropped upon a showing that the person charged is a member of a religion that requires the person’s head to be covered.

Zander, the President of Xanadu, is now planning a visit to Louisiana, where there is a sizeable population of persons born in Xanadu. For many years Xanadu had a government-supported religion, Xanadism, which requires men (but not women) to wear full head coverings at all times. But President Zander recently ended all government support for Xanadism, banned the practice of all religions in Xanadu, including Xanadism, and has imprisoned those who practice their faith publicly.

People Against Zander (PAZ) plan a demonstration in New Orleans to protest President Zander’s repressive policies. PAZ leadership encourages all protesters to cover their head and faces both to show support for Xanadism and its practitioners and to avoid being recognized by Xanadu officials, who may know some of the New Orleans residents from Xanadu. PAZ offers to supply hats, wigs, and other disguises to anyone who may need them for the protest. It also plans to sell shirts that say “Zander Sucks.”

PAZ applied with the City of New Orleans for a demonstration permit; the application explains that participants will be covering their heads and faces as part of a political protest. Citing the Act, the City denied the permit, but the City advised PAZ that it will issue the permit if PAZ instructs its demonstrators to forgo the head and face coverings.

Alpha, a woman from Xanadu and a practitioner of Xanadism, plans to attend the demonstration with her head covered in support of Xanadism and its practitioners and to wear a cap supplied by PAZ, on which is printed the phrase “Pray for Xanadism.”

Beta, a practicing member of the Church of Bilbo, plans to attend the demonstration as a counter-protester because he believes that Xanadism is a cult that should not be protected. He plans to wear a hat as protection from the sun and as a sign of support for men from Xanadu, on which he has printed the phrase “Free Xanadu.”

*Please answer the four subquestions which follow on the next page.*

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- 2.1. What challenges based on the First Amendment should PAZ assert to obtain the permit as requested? Explain. (15 points)
- 2.2. Did the Governor have the authority to issue the Executive Order? Explain. Assume that Louisiana's constitution is the same as the federal constitution on these issues. (5 points)

*Solely for Questions 2.3. - 2.4. below, assume that the Governor had the authority to issue the Executive Order, that the demonstration took place, that Alpha and Beta each attended as planned and that Alpha and Beta were both arrested under the Act.*

- 2.3. What rights, if any, does Alpha have to challenge her arrest (i) under the religion clauses of the First Amendment and (ii) under the Executive Order? Explain. (10 points)
- 2.4. What rights, if any, does Beta have to challenge his arrest (i) under the religion or other clauses of the First Amendment and (ii) under the Executive Order? Explain. (10 points)

[End of Question 2]

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**QUESTION 3 – 20 POINTS**

*For each of the following ten multiple choice items, select the letter that corresponds to the correct answer.*

- 3.1. Establishment Clause and schools
- 3.2. Takings Clause
- 3.3. State action
- 3.4. Standing for corporations
- 3.5. Time, place and manner restrictions; Free speech
- 3.6. Free speech in schools
- 3.7. Equal Protection; rational basis scrutiny
- 3.8. Anti-commandeering; federalism
- 3.9. Adequate and independent state grounds; justiciability
- 3.10. First Amendment; campaign contributions

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION  
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**QUESTION 1 - 40 POINTS**

Tyler Sims lives in a town in Louisiana where he is a football coach for one of the local recreational football teams at a town-owned playground in a low-income neighborhood. His four-year old daughter is a cheerleader at the playground and his wife, Tiffany, coaches the cheer squad.

Tiffany works for Mallard Clothing U.S. Sales. She had been instrumental in getting Mallard Clothing to sponsor several youth teams in town. Mallard Clothing donated uniforms for all of the teams at the playground where Tyler coaches and for Tiffany's cheerleader squad. Each uniform has a small mallard duck on the jerseys and shorts. Mallard Clothing also donated a van that has a decal of a duck on both sides. The van allows the teams to travel to other playgrounds. Mallard Clothing also donated funds for a state-of-the-art gymnasium and football fields. Although the gymnasium and football fields did not display a mallard duck emblem, they each had plaques indicating that Mallard Clothing supplied the funding for the gymnasium and football fields.

Danny Golden, who owns a competing clothing company, is a prominent sponsor of youth activities and sports teams in town and is a member of an animal rights group, Friends of Animals (FOA). He and his group frequently attend city council meetings in town to urge pro-animal rights legislation. FOA believes use of names and likenesses of innocent animals degrades the respect due to living creatures.

Danny and other members of FOA are sponsors of town-owned playgrounds in high income neighborhoods where the playgrounds are state of the art and are well maintained. Each FOA member donates and raises more than \$50,000 annually for each playground in these high-income neighborhoods

At the urging of Danny and other FOA members, the town's City Council recently passed an ordinance that prohibits teams using town-owned playgrounds from wearing uniforms that feature animals. The ordinance also prohibits town-owned playgrounds from receiving equipment and donations from any companies or organizations affiliated with "anything" in which an animal is prominent. Any playground or team that has received donations prohibited by the ordinance, and any coach for any such team, would be fined and prohibited from participating in sports activities at town-owned playgrounds. The ordinance includes a finding that the population of mallard ducks and other animals featured on the various area team uniforms has noticeably decreased in the area in recent years.

Tyler's football team traveled to one of the playgrounds in a high-income neighborhood where Danny was in attendance. As a prominent booster at the playground, Danny urged the athletic director of the playground to prohibit Tyler's football team and the cheerleading squad from participating because their uniforms had a duck on them. He gathered several members of FOA and they protested the presence of both the football team and cheerleading squad. After several "Go Team, Go, Fight Ducks, Fight On" cheers, the athletic director ended the game in the middle of the first quarter and forced Tyler's football team to forfeit the game.

TEST CONTINUES ON NEXT PAGE

The next day, Tyler received official notice from the town's Director of Sports Activities, who advised that Tyler's team could not participate in any activities at town-owned playgrounds and that Tyler and several coaches at his playground were prohibited from participating in sports at any town-owned playground. The Director also fined each team that wore Mallard Clothing uniforms, and fined Tyler personally \$50. The following day, Tyler sent a letter to the Director:

Dear Director,

I am shocked that you fined me and won't let my team play. This seems like an unfair vendetta orchestrated by Danny Golden and his rich friends, who don't like poor kids in their neighborhood and don't like the fact that Danny's competitors at Mallard Clothing are trying to do something nice. I'd like a chance to present my side of the story.

The Director sent Tyler a terse reply: "I received your letter. But the law is clear, and you violated it. So, the sanctions stand."

- 1.1. What challenges, if any, might Tyler reasonably assert against the town under the First Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (15 Points)**
- 1.2. What due process claims, if any, might Tyler reasonably assert against the town under the Fourteenth Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (10 Points)**
- 1.3. Does Mallard Clothing have standing to assert due process claims against the town under the Fourteenth Amendment of the U.S. Constitution? Explain fully. (5 Points)**
- 1.4. What equal protection claims, if any, might Tyler reasonably assert against the town under the Fourteenth Amendment of the U.S. Constitution, and is he likely to prevail? Explain fully. (10 Points)**

[End of Question 1]

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**QUESTION 2 - 40 POINTS**

In response to pressure by several local environmental groups the Louisiana Legislature enacted the Chemical Emissions Act, which bans certain chemical emissions above specified levels (although the statute does have exceptions for acts of God). The federal Environmental Protection Agency (EPA) bans these same emissions, but only when such emissions are above specified levels much higher than the levels under the Chemical Emissions Act. The act includes legislative finding that the lower emissions are necessary for the health and safety of citizens of the State and will help prevent coastal erosion caused by climate change. The first violation of the act is to result in a \$1 million fine, and subsequent violations are to result in a fine of \$25 million and closure of the facility.

Also, in response to pressure by environmental groups, the Louisiana Legislature enacted the Truck Transportation Act, which prohibits the transportation of goods in trucks with diesel engines that are older than five years, unless they are retrofitted with certain pollution-mitigation components purchased and installed in Louisiana. The trucks are required to be certified by Louisiana mechanics to certify compliance with the act. As an incentive to improve economic development in the State of Louisiana, the act further provides that companies with a principal place of business in Louisiana are exempted from the act. A violation of the act could result in fines of \$20,000 per truck.

Global United owns several industrial facilities in Louisiana, Texas and Mississippi; each facility has been in existence for over 25 years. Global United's principal place of business is located in Houston, Texas. Global United owns and operates twenty trucks that transport goods throughout Louisiana, Texas and Mississippi; all of these trucks are older than five years, and only two of the trucks have been certified by a Louisiana mechanic as retrofitted with the necessary pollution-mitigation components under the Truck Transportation Act. Global United's other trucks that transport goods through Louisiana are not retrofitted.

Before these two statutes were enacted, Global United's facilities were within the permissible chemical emissions established by the EPA. The present emissions from Global United's facilities, however, are not within the limits allowable under the Chemical Emissions Act. The State of Louisiana has fined Global United \$1 million under the Chemical Emissions Act for one of its four facilities in Louisiana. Although not in violation of the EPA's emissions limits, Global United fears its other three Louisiana facilities will also be fined under the Chemical Emissions Act. In order to meet the stringent standards established by the Chemical Emissions Act, Global United would have to spend over \$100 million for its four facilities in Louisiana.

Louisiana United, which is not affiliated with Global United, is a Louisiana owned business that recently constructed a state-of-the-art industrial facility near Baton Rouge; this facility competes with Global United's facilities. Louisiana United is also involved only in the transportation of goods by truck. It has a fleet of ten trucks. Eight of its trucks were built in 2017 and are in full compliance with the Truck Transportation Act. Its two other trucks, however, are older than five years and are not retrofitted with the pollution-mitigation components under the Truck Transportation Act. Louisiana United did not seek certification of these two trucks based on the exemption contained in the Truck Transportation Act.

*Please answer the three subquestions which follow on the next page.*

TEST CONTINUES ON NEXT PAGE

- 2.1. What equal protection claims under the Fourteenth Amendment of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Truck Transportation Act, and is Global United likely to prevail? Explain fully. (10 Points)**
- 2.2. What claims under the Supremacy Clause of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Chemical Emissions Act, and is Global United likely to prevail? Explain fully. (15 Points)**
- 2.3. What claims under the Commerce Clause of the U.S. Constitution, if any, might Global United reasonably assert against the State of Louisiana regarding the Chemical Emissions Act and the Truck Transportation Act? Explain fully. (15 Points)**

[End of Question 2]

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**QUESTION 3 - 20 POINTS**

*For each of the following ten multiple choice items, select the letter that corresponds with the correct answer.*

- 3.1. Standing, mootness, live controversy
- 3.2. Treaties, Supremacy Clause, executive powers
- 3.3. Establishment of religion, public displays
- 3.4. Commerce Clause, equal protection, scope of legislation
- 3.5. Time, place and manner restrictions, free speech
- 3.6. State action, citizenship, state interests
- 3.7. Taking clause, due process, Commerce Clause, First Amendment
- 3.8. Commerce Clause, due process, equal protection
- 3.9. Equal Protection Clause
- 3.10. First Amendment, campaign contributions

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST