

Con Law - Fall 2007 - Harpaz - Exam No. _____ Raw Score _____ Final Grade _____

Question I (Eastfield Ferry Law) (50 points)

Dormant Commerce Clause------(2)____
discriminatory on face? law applies equally to all in-state & out-of-state ferry operators-(4)____
discrim in effect?-benefits local ferries that currently operate/protects from competition-(4)____
economic protectionism - local companies & company w/ local pres are only companies(5)____
if discrim - are there nondiscrim alt means available?; is there a legit local interest?------(5)____
if non-discrim-Pike balancing-benefits (less traffic, pollution, more safety)------(4)____
vs burdens(no vehicle & high speed ferries on IS waters to E-like import ban?)------(4)____
market partic exc-dock owned/operated by town, controlling use, not downstrm activity(4)____
monopoly over dock, control thru leg, control over services provided-downstrm activity(4)____
No P & I claim - no discrim against out of state residents, FF is a corporation------(3)____
EP-discrim based on ferry type-eco classif, nonsuspect-rat'l basis S/R, applied to facts--(4)____
DP-right to engage in eco activity - nonfund'l rt, min rat. test, S/R - applied to facts----(4)____
miscellaneous_____ (3)____

Question II (Birth Certificate Change) (50 points)

DP-nature of rt - right to identity as female-personal liberty-fundamental vs. nonfund'l?-(2)____
precedents-personal identity-Lawrence, etc. or Michael H, etc.------(3)____
tradition - any tradition of altering gender identity or identity on birth certificate?------(3)____
right to personal identity-life altering decision vs. only altering legal records/legal status(4)____
minimum rationality test - applied to facts------(3)____
strict scrutiny standard of review - applied to facts------(5)____
undue burden test-applied to facts------(4)____
EP-classif-gender? distinction based on sex? but males/females treated the same------(2)____
classif-persons who change gender (transsexuals) vs. persons who keep their gender-----(2)____
suspectness traits-history of discrim, unrelated to ability, stigma, powerlessness-apply---(6)____
immutable?(argue beyond indiv's control vs. surgery evidence trait not immutable)------(4)____
nature of classif controls s/r-nonsuspect-min, semisuspect-intermediate, suspect - strict-(3)____
application of standards to facts-relationship between classif. and state's objective------(6)____
miscellaneous_____ (3)____

Question III (Federal Schoolchildren Immunization Protection Act) (50 points)

Commerce Power-category 3- reg local activity(vaccinating kids) bec of eco effect on IC(2)____
eco vs. noneco activity-vaccines are an eco activity-health service that is purchased------(3)____
noneco activity-decision by parent not based on eco factors (gov't pays if can't afford it)(3)____
if eco, congress rationally conclude local activity has sub eco effect on IC in aggregate--(5)____
if noneco, Lopez factors-no jur elemt, any findings on link to IC?, trad'al area of st reg--(5)____
relation to IC-remote/direct?-w/o vaccines, more disease, costs; less educ/productivity--(4)____
10th Amend-record keeping-keeping records/providing info not forcing states to regulate(4)____
pub schools must enforce-like gun check by sheriffs-can't enrol if no compliance rpt----(4)____
feds applying gen'l reg'y program to state schools- public & private schs must comply--(4)____
DP-fund'l vs. nonfund'l rt- to refuse medical care; fund'l rt to raise children as want---(2)____
fund'l or not?-precedents-Griswold, Roe, Casey, Moore, etc; tradition; personal identity(6)____
fund'l - strict; undue burden, nonfund'l rt - minimum scrutiny - S/R applied to facts------(5)____
miscellaneous_____ (3)____