

Question I (Stevedore Licensing Act) (DD v. Stone and MM v. Stone) (60 points)

DD - dormant Commerce Clause challenge (instate=IS vs. out of state = OOS)------(1)____
DD-discriminates in effect-9 of 10 permitted businesses IS; OOS businesses turned down(4)____
if discrim - stricter test-legit objective & cannot accomplish by alt nondiscrim means----(3)____
DD argues no legit obj-eco protection; Stone-less crime & avoid destructive competition (6)____
DD argues-alts available--end preference, make all compete on service; Stone-no alts----(6)____
If nondiscrim apply Pike balancing test - DD argues burden severe, benefits slight------(5)____
Stone argues no discrim on face; apply balancing test; benefits outweigh burdens------(6)____
Market Partic Exc-Stone operates port but not in stevedore bus-reg'g not participating----(3)____
P & I-doesn't treat res/nonres differently on face; argue based on effect? PI rt? 2-pt test?(6)____
Due Process-eco liberty, min scrut - means rationally related to legit end - apply to facts(4)____
Equal Pro-post-2000 vs. pre-2000-like New Orleans v. Dukes-apply min scrutiny to facts(3)____
Equal Pro-SAP - gender discrimination - intermediate scrutiny test (sub'l rel to imp obj)-(2)____
Is obj imp? Is adding women stevedores imp? Doesn't reinforce archaic stereotypes------(4)____
Are means sub'lly related?-plus for gender, ends when 25% are women, neutral alts?----(4)____
Miscellaneous_____ (3)____

Question II (Deadbeat Parents Act) (48 points)

Commerce Clause-category 3-local activity w/sub'l eco effect on interstate com(IC)----(2)____
Economic vs. noneconomic activity is key distinction in terms of standard to apply------(2)____
Does DPA reg an eco activity? Not paying child support so not an activity-inactivity----(3)____
Paying money is quintessential economic activity so regulates an eco activity------(3)____
Eco activity-could Congress rationally conclude local activity has subl eco effect on IC?(5)____
Noneco activity-there is a jur'l element but is it adequate to show a sub'l rel to IC?-----?(5)____
Congress made findings-do they show relationship betw reg'd activity and effect on IC?(4)____
Is relationship to IC attenuated - many links in a chain like costs of crime, etc.?------(5)____
Alt args - N & P Cl, regulating class of activities, etc. -----(2)____
Preemption - If the federal law is valid (alt argument if lose in arguing law is invalid)---(2)____
Express preemption-state laws may not impose stricter penalties-CT penalties stricter?--(5)____
Conflict - comply w/both? by paying \$; Undermine purpose or promotes same purpose?(5)____
Field - no intent to occupy field because Section III of DPA allows some state statutes---(3)____
Miscellaneous_____ (2)____

Question III (Federal Document Dignity Act) (36 points)

Spending Power - is this spending in pursuit of the general welfare (deference)?------(3)____
Is the condition unambiguously stated?------(2)____
Is there a sufficient relationship between condition and purpose for spending program---(5)____
Does condition induce violation of const (indep bar) (abortion reg that violates DP)------(3)____
Fetal death certificate req-undue burden test (purpose or effect of placing sub'l obstacle)(3)____
Fed argues-purpose-dignity, seriousness like in Gonzalez v. Carhart, persuade not hinder(2)____
Stone - purpose to hinder abortion rather than persuade women to have child------(2)____
Fed-minor burden-doesn't interfere w/access to abortion, doesn't delay, only occurs after(5)____
Stone-subst'l obstacle-fear disclosure even w/privacy protection, emotional distress, etc.(4)____
If no undue burden only needs to be rat'l, if undue burden needs to satisfy strict scrutiny(5)____
Miscellaneous_____ (2)____