

1st Amend Rts Fall 2010 Harpaz Exam No. _____ Raw Score _____ Final Grade _____

Question I (in car video screens) (50 points)

Regulation 1 - placement of screens in vehicle

Time Place Manner reg- place, content neutral, sub'l int, narrowly tailored, ample alts (3) _____

Content neutral; any image; applies to location of all screens, no matter what displayed (3) _____

Apply - Sub'l int (safety); narrowly tailored; ample alts (screens elsewhere in vehicle) (4) _____

Content based exception for GPS system; apply strict scrutiny? If so, apply to facts (4) _____

Regulation 2 – content based regulation – only triggered if display speech as defined (2) _____

Strict Scrutiny-compelling int (captive aud, kids, offense), least restrictive alternative? (5) _____

Nature of speech - sexually explicit - unprotected obscenity - Miller test or indecency (4) _____

Apply test-not work as a whole or appeal to prurient int, no serious value exception etc (4) _____

Argue treat like Renton and apply TPM test, but based on primary not secondary effect (4) _____

Argue new unprotected category? Low value/harm to kids, captive audience (3) _____

Argue treat like broadcast and allow to regulate indecency even though chills adult rts (3) _____

Vagueness of definition-graphic depiction, lewd exhibitions of nudity, fleeting moment (4) _____

Overbreadth – sub'l overbreadth, compare permissible vs. impermissible applications (4) _____

Miscellaneous _____ (3) _____

Question II (display racks in park building) (50 points)

Prior restraint scheme – standardless system for selection? Based on content? (4) _____

Freedman reqs, who has burden to show denial justified? Any appeal process? (3) _____

Public Forum - Are display racks a trad'l PF? Argue trad'l PF because in park (3) _____

Designated Public Forum – policy and practice – apply to facts (5) _____

Limited (designated) Pub Forum? – is CCE brochure within limits of forum? (4) _____

Kennedy type forum – physical characteristics, open to public, compatibility? (3) _____

Nonpublic forum-commercial motive of promoting local businesses-like Lehman (4) _____

If nonpublic forum – reasonable, not based on viewpoint – excluded based on view? (4) _____

Strict scrutiny- (if PF & pol sp based on content); compelling reason for rejection? (4) _____

Selective access- still not forum (Cornelius); rev of brochures for comm'l benefit (3) _____

Immunity–Forbes - nec'y to make selection decisions, brochures like library books (5) _____

Govt Speech?–private not govt brochures, like donated monuments in Sumnum? (5) _____

Miscellaneous _____ (3) _____

Question III (sidewalk preaching) (50 points)

Nature of Speech – fully protected speech, treated as part of political speech category (2) _____

Fighting wds-personally addressed or crowd, epithets, average person react violently (7) _____

Feiner incitement-incitement to riot, crowd response, police judgment on the scene (7) _____

Brandenburg test-advocacy of imminent lawless action; likely to produce such action? (4) _____

Traditional Public Forum – streets – rt of access; can reg with TPM or if satisfy SS (4) _____

Prior Restraint - standardless permit scheme or impermissibly based on content? (3) _____

Strict Scrutiny - strong presumption ag prior restraint – comp'g int, least restrictive alt (4) _____

Permit requirement– can bring facial challenge to permit req even thought didn't apply (2) _____

Imp manner of speech – sidewalk preaching - spontaneity - Rt to engage in w/o permit (4) _____

Overbreadth of permit–no narrowing construction; applies if speaker didn't invite crowd (5) _____

Vagueness of permit requirement – large gathering having a common purpose, etc. (5) _____

Miscellaneous _____ (3) _____