

Question I (Corruption Chronicle link request) (50 points)

- Newman argues that page of links on Madison site is a public forum----- (3) \_\_\_\_\_
- city argues it is a nonforum----- (3) \_\_\_\_\_
- 1st amendmt right of access to that forum or does city have rt to control content of its site (2) \_\_\_\_\_
- are links like library books and can select but can't remove and this is a selection case?--- (4) \_\_\_\_\_
- content-based discrimination against Newman's site----- (4) \_\_\_\_\_
- strict scrutiny standard of review and application of test to facts----- (6) \_\_\_\_\_
- status of speech on site-fully protected political sp or lesser protected libel----- (2) \_\_\_\_\_
- would city be liable for libel?-section 230, distributor vs. publisher, disclaimer----- (4) \_\_\_\_\_
- protection for link itself-protected speech with communicative value or source identifier- (4) \_\_\_\_\_
- does link incorporate content of linked site----- (2) \_\_\_\_\_
- prior restraint?-requires approval of gov't to create link, but content is already on web--- (4) \_\_\_\_\_
- evaluation of standards to govern exercise of discretion in whether to create link----- (4) \_\_\_\_\_
- if prior restraint need procedural protections-no evidence there are any----- (3) \_\_\_\_\_
- does site meet standards and is city explanation a sham----- (2) \_\_\_\_\_
- miscellaneous \_\_\_\_\_ (3) \_\_\_\_\_

Question II (SOAR charitable solicitation) (50 points)

- is applic of MA law to SOAR unconst'l under dormant commerce clause-identify issue-- (1) \_\_\_\_\_
- is it unconst'l bec of extraterritorial effect of MA law-injunction nationwide or pay fee--- (3) \_\_\_\_\_
- is it unconst'l under a burden vs. benefit analysis----- (3) \_\_\_\_\_
- is it unconst'l bec of risk of conflicting state regs and need for national uniformity----- (3) \_\_\_\_\_
- does MA have jurisdiction over SOAR for civil action?-identification of issue----- (1) \_\_\_\_\_
- personal availmt-conduct directed at forum, cause of action arise out of, reasonableness-- (3) \_\_\_\_\_
- application of facts to test (max of 3 points per each part of standard)----- (9) \_\_\_\_\_
- active vs. passive website----- (4) \_\_\_\_\_
- other forum contacts----- (4) \_\_\_\_\_
- would contacts in this case subject SOAR to jurisdiction everywhere----- (2) \_\_\_\_\_
- can state make use of effects test to assert jurisdiction?----- (3) \_\_\_\_\_
- interest of MA in protecting its residents against fraud by out-of-state charities----- (2) \_\_\_\_\_
- does MA statute apply to the activities of SOAR-statutory interpretation----- (2) \_\_\_\_\_
- is there interference with the first amendment rights of SOAR to publish info on the Web (1) \_\_\_\_\_
- is it censored based on its content-state not controlling content only collecting fee, but inj (3) \_\_\_\_\_
- standard of review and application of test to facts----- (3) \_\_\_\_\_
- miscellaneous \_\_\_\_\_ (3) \_\_\_\_\_

Question III (itsahsteel vs. itsasteal) (50 points)

- trademark infringement under the Trademark Dilution Act----- (1) \_\_\_\_\_
- statutory requirements-famous mark, commercial use in commerce, dilution----- (5) \_\_\_\_\_
- application of statutory reqs to facts(max of 2 pts for 1<sup>st</sup> element & 5 pts each for others) (12) \_\_\_\_\_
- trademark infringement under the ACPA----- (1) \_\_\_\_\_
- reqs-distinctive or famous mark, identical or confusingly similar, bad faith intent to profit (6) \_\_\_\_\_
- application to facts (2 for first element, 4 for second and 8 for third)----- (14) \_\_\_\_\_
- remedy-prelim inj, FTDA-inj & dams if willful dilution, ACPA-dams & transfer of name (2) \_\_\_\_\_
- fair use defense or first amendment defense----- (3) \_\_\_\_\_
- is name only an identifier or does it have communicative content----- (3) \_\_\_\_\_
- miscellaneous \_\_\_\_\_ (3) \_\_\_\_\_