

Question I (suppression hearing closure) (50 points)

suppression hearing closure-traditionally open & does access play signif positive role----(3)\_\_\_\_  
to justify-overriding govt int, findings closure necy to preserve int, narrow, alternatives--(6)\_\_\_\_  
interest articulated w/specific findings - to assure effective review------(4)\_\_\_\_  
prior restraint-order directed at WW telling him not to publish or tell anyone------(4)\_\_\_\_  
heavy presumption ag validity, gov't show grave and irrep injury, strict scrutiny------(4)\_\_\_\_  
no hearing on order, no findings, but govt argues evid from closure hearing applicable---(5)\_\_\_\_  
overriding int-not fair trial, but interest in safety of informants and law enforcement int--(4)\_\_\_\_  
no findings WW order essential to preserve int, alts-other ways to keep from disclosure--(4)\_\_\_\_  
info lawfully obtained? press rts less if not, closure order, but ctrm not locked------(4)\_\_\_\_  
akin to mistaken disclosure privacy cases-govt should have done better job to keep secret(4)\_\_\_\_  
scope of order, could it be narrower-like no public of identifying info, etc., time limited--(5)\_\_\_\_  
Miscellaneous \_\_\_\_\_(3)\_\_\_\_\_

Question II (former Congressman defamation case) (50 points)

intentional publication-def. made comments on air------(2)\_\_\_\_  
PI must show concerning him-named/clear in context/subj of discussion on cable shows-(3)\_\_\_\_  
Natural tendency to injure-accusing someone of murder, reputation already bad?------(3)\_\_\_\_  
Fault-Sullivan? Gertz? if pub. fig-actual malice-knowledge/reckless disregard-if believes(6)\_\_\_\_  
false-GG must prove negative-no evid to connect to vagrant, police evidence not suspect(5)\_\_\_\_  
statement of fact-JJ argues opinion, not provable as T or F, loose figurative, hyperbolic-(5)\_\_\_\_  
maybe he hired . . . just speculative, not a statement of fact------(3)\_\_\_\_  
I'm sure he's involved-opinion, doesn't describe a specific way he's involved------(3)\_\_\_\_  
blood on his hands-loose figurative, hyperbolic language common on cable talk shows--(3)\_\_\_\_  
told early on police thought involved - fact but possibly privileged------(3)\_\_\_\_  
neutral reporting-but is it reporting of what a respectable indiv or org said?,JJ concurs?-(4)\_\_\_\_  
fair & accurate report-written documentation or mtg-but doesn't say these are sources---(4)\_\_\_\_  
First Amendmt privilege?-not opinion per se- but create for editorial or news comment?(3)\_\_\_\_  
Miscellaneous \_\_\_\_\_(3)\_\_\_\_\_

Question III (cable indecency regulations) (50 points)

Compare to bdcst-basic definition same, but some differences-isolated instance, vague-(3)\_\_\_\_  
serious value exception-like obscenity-news, documentaries, perhaps all cable content---(4)\_\_\_\_  
warnings reqd - not in bdcst where say ineffective in Pacifica-but recent FCC rulings---(3)\_\_\_\_  
dif treatmt of basic & premium - attempt to single out pt of cable that is most like bdcst(3)\_\_\_\_  
const'l challenge-fully or less than fully protected?-spectrum scarcity/no licensing/65%-(3)\_\_\_\_  
special characteristics can be taken into consid-bottleneck control not relevant here------(3)\_\_\_\_  
comes into home, pervasive, accessible to children, warnings ineffective-like Pacifica?-(5)\_\_\_\_  
Subscription-harder to argue pervasive, no control, but often only means of getting TV-(3)\_\_\_\_  
exemption - premium channels - reason for dif in treatment - degree of voluntariness----(3)\_\_\_\_  
Just like Pacifica-intermediate scrutiny-imp. int, narrowly tailored?------(5)\_\_\_\_  
fully protected-content-based-strict scrutiny-compelling int, least restrictive alternatives(5)\_\_\_\_  
Parental control options-lock out channels, by rating-like filtering-less restrictive alts----(3)\_\_\_\_  
challenge to warnings-even when kids not watching-no compelling or imp. int then------(4)\_\_\_\_  
Miscellaneous \_\_\_\_\_(3)\_\_\_\_\_