

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
JULY 2023**

QUESTION 1 (40 POINTS)

Carla Grant was a school security officer and crossing guard at Littleton Public Elementary School in Littleton, Louisiana. When directing traffic every morning, Ms. Grant noticed that several of the children who biked to school were not wearing helmets. Ms. Grant decided to send an editorial to the Littleton Ledger newspaper with the following message, which was published in April 2023.

Parents of Littleton, I am doing my best to keep your children safe on the way to school. But if you don't even make sure they wear a bicycle helmet, why should I bother stopping cars? The Lord has entrusted these children to you, and we must protect our little miracles. From now on, I refuse to act as a crossing guard for any child on a bicycle not wearing a helmet! I'll pray that the parents of Littleton get the message and that all children wear helmets when bicycling to school.

Carla Grant,

Littleton Elementary

While serving as a crossing guard on the morning her editorial was published in the newspaper, Ms. Grant also handed out to passing parents flyers with this same message.

The Littleton School Board members were very upset to see this message in the newspaper and the flyers. Although the School Board agreed that children should wear bicycle helmets, all school board members also agreed that Ms. Grant should act as a crossing guard for all children regardless of whether they wore helmets or not. The School Board terminated Ms. Grant's contract as a security officer and crossing guard, effective immediately. Ms. Grant thought the School Board was unfair to terminate her for expressing her opinion on an important issue and suspected that the real reason for her termination was her open display of her faith in stating that she would pray for the parents of Littleton.

The Littleton City Council also was outraged that a school security officer would refuse to protect a child. At its May 2023 meeting, the City Council passed a new ordinance that made it unlawful and a criminal misdemeanor, punishable by a fine of \$1,000, for any public school security officer to knowingly fail to protect or threaten to fail to protect a child. At the next City Council meeting in June 2023, the City Council unanimously passed a resolution that Ms. Grant be fined \$1,000 for violating this ordinance based on her admission that she would refuse to protect children who were not wearing bicycle helmets.

Please answer the following three subquestions. The subquestions in Question 1 are not weighted equally. Explain your answers; answers without explanation will receive no credit.

- 1.1 Does Ms. Grant have a basis to challenge her termination under the Free Speech Clause in the First Amendment of the U.S. Constitution, and is she likely to succeed? Explain. (20 points)**
- 1.2 Does Ms. Grant have a basis to challenge her termination under the Free Exercise Clause in the First Amendment of the U.S. Constitution, and is she likely to succeed? Explain. (10 points)**
- 1.3 Does Ms. Grant have a basis to challenge the City Council's resolution fining her \$1,000 under the Ex Post Facto clause in Article 1 of the U.S. Constitution, and is she likely to succeed? Explain. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

A recent trend on social media has people across the country releasing live butterflies with the opening of their wedding, baby shower, and birthday party invitations. The most popular species of butterfly for such a release is the Painted Lady. There is no federal permit requirement for shipping Painted Lady butterflies interstate within the continental United States.

Professor Paul Peterson, who teaches and conducts research at a prominent Louisiana university, presented evidence to the Louisiana legislature that the sudden increase in Painted Lady butterflies in Louisiana was damaging Louisiana's largest crop, the soybean crop. Soybean production in Louisiana generates over one billion dollars each year, and the crops already had been badly damaged in recent years from torrential rain. Citing the need to protect the soybean crop, the Louisiana legislature took immediate action to pass a law prohibiting the importation of all live butterflies into Louisiana without a state-issued permit establishing that such importation is necessary for research or educational purposes.

Christopher owns a company in Baton Rouge, Louisiana that supplies wedding invitations. Christopher's butterfly invitation option releases Cabbage White butterflies, which he imports from Utah. Unlike Painted Lady butterflies, Cabbage White butterflies do not damage soybeans, and Christopher stands to lose about \$10,000 a year from the new law if he is prohibited from importing the Cabbage White butterflies. Christopher thinks the law is unfair because it prohibits importing all kinds of butterflies from other states.

When the law went into effect, one of Professor Paul Peterson's graduate students, Greta, applied for and was granted a permit to import butterflies for research purposes under the new law. At the end of one winter season, after she completed one phase of her research of Painted Lady butterfly cold tolerance, she sold the remaining live butterflies to party planners in New Orleans—who paid a premium because they were so hard to get. Professor Peterson found out about the resale and reported Greta to the State permitting authorities. Her permit was promptly and permanently revoked without any opportunity for her to challenge the revocation. Because she believes her research is important to stopping the further spread of Painted Lady butterflies, Greta wants to challenge her permit revocation; she emphasizes that she sold the butterflies only in New Orleans—far from any soybean crops that could be damaged—and that the resale of butterflies within the state is not prohibited under the law.

Please answer the following three subquestions. The subquestions in Question 2 are not weighted equally. Explain your answers; answers without explanation will receive no credit.

- 2.1 What arguments might Christopher reasonably raise to challenge the law under the commerce clause of the U.S. Constitution, and is he likely to be successful? Explain. (10 points)**
- 2.2 What arguments might Christopher reasonably raise that the law violates his due process rights under the U.S. Constitution, and is he likely to be successful? Explain. (10 points)**
- 2.3 What arguments might Greta raise that her procedural due process rights under the U.S. Constitution were violated when her permit was revoked? Explain. (20 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 Free speech in schools
- 3.2 Takings Clause
- 3.3 Time, place and manner restrictions
- 3.4 Commerce Clause
- 3.5 Adequate and independent state grounds; justiciability
- 3.6 Contracts Clause; legislative authority
- 3.7 First Amendment; campaign contributions
- 3.8 Privileges and immunities
- 3.9 Standing; equal protection
- 3.10 Executive power; treaty power

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2023**

QUESTION 1 (40 POINTS)

Foret, Louisiana held a bicentennial festival in its town square. To plan the event, the town council of Foret passed a resolution establishing a twenty-person Festival Committee to be appointed by the town council. The resolution provided that the chairperson of the Committee would be elected by a vote of the committee members and would receive a \$2,000 stipend for their work, but the resolution also required that the chairperson must be a citizen of Foret and descended from an original land-owning citizen of the town 200 years ago. The council's resolution stated that the purpose of this ancestry requirement was to keep the event focused on the historical significance of the bicentennial. This ancestry requirement angered some citizens, including Henry Howard who taught history at the local high school. Mr. Howard was of Honduran descent. He was happy to serve on the Committee but felt he was being excluded from the chairperson position based on his ancestry rather than his contributions to the town. Mr. Howard's ancestors did not live in Foret 200 years ago, a time when virtually all landowners in Foret were of English or French descent.

For planning purposes, to be able to order enough tents and tables and create a map of the festival, the Festival Committee required that anyone wishing to host a booth at the festival submit a vendor application for town council approval at least two months in advance and reasonably describe the food or merchandise that would be offered for sale at the booth. The town council President, Peter Parent, had announced his intention to run for district court judge two weeks before the vendor application deadline. On the day he announced his campaign, Mr. Parent submitted a vendor application providing that his campaign would be selling bicentennial T-shirts with the slogan "Our Parent's Foret." The town council approved Mr. Parent's vendor application three days later. Mr. Parent's opponent in the judicial election, Todd Oliver, learned that Mr. Parent was planning to have a booth at the festival and submitted his own vendor application on the day of the application deadline. Mr. Oliver's application stated that his booth would be providing campaign information and accepting donations. The town council denied Mr. Oliver's application three days later, claiming that Mr. Oliver could not host a vendor booth at the festival because he was not selling food or merchandise, and the booths were for vendors only. Mr. Oliver was not permitted to submit a revised application because the deadline already had passed.

At the festival, even though he had been excluded from the booths, Mr. Oliver and his supporters showed up in great numbers wearing "Oliver for Judge" t-shirts and passing out campaign literature to festival attendees. On motion of Mr. Parent shortly after the festival, the town council passed a resolution criticizing Mr. Oliver for taking the focus away from the historic significance of the bicentennial event and prohibiting Mr. Oliver from hosting a booth at any other town-sponsored event for two years.

Please answer the following three subquestions. The subquestions in Question 1 are not weighted equally. Fully explain each answer; an answer without explanation will receive no credit.

- 1.1 What equal protection arguments under the U.S. Constitution might Mr. Howard reasonably raise, if any, to challenge the town council's resolution containing the ancestry requirement for the Festival Committee chairperson role, and is he likely to succeed? Explain fully. (20 points)**
- 1.2 What arguments under the First Amendment of the U.S. Constitution might Mr. Oliver reasonably raise, if any, to challenge the exclusion of his booth from the bicentennial festival, and is he likely to succeed? Explain fully. (10 points)**
- 1.3 What arguments under the First Amendment of the U.S. Constitution might Mr. Oliver reasonably raise, if any, to challenge the resolution excluding him from future festivals, and is he likely to succeed? Explain fully. (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2023**

QUESTION 2 (40 POINTS)

Louisiana's state insect is the honeybee. The state legislature decided to promote the sale of Louisiana honey by passing a new statute allowing only Louisiana honey producers to sell directly to consumers in Louisiana. In addition to helping local producers, the legislature hoped the new law also would ensure only the freshest local honey would be sold in Louisiana.

Under this statute, all out-of-state honey producers must sell their products through grocery stores or other food retailers or wholesalers. The law further rendered invalid any existing direct sale contracts between Louisiana consumers and out-of-state honey producers. Because out-of-state honey producers can no longer sell directly to consumers, their honey is more expensive, and consumers are more likely to choose in-state honey.

Mississippi Honey, Inc. is a Mississippi honey producer incorporated in Mississippi and located in Picayune, Mississippi. Its sales have decreased significantly since the law's passage. For example, Connie's Confections is a Covington, Louisiana bakery that previously had a contract to buy honey from Mississippi Honey, Inc. Connie's Confections had been perfectly happy doing business with Mississippi Honey, Inc. because it was close to the bakery and supplied fresh honey at a reasonable price. After the law's passage, Connie's Confections had to source honey directly from a Louisiana supplier in Alexandria, Louisiana, even though Mississippi Honey, Inc. is significantly closer to the bakery and had been able to provide fresher honey.

Please answer the following three subquestions. The subquestions in Question 2 are not weighted equally. Fully explain each answer; an answer without explanation will receive no credit.

- 2.1 What arguments under the Commerce Clause of the U.S. Constitution might Mississippi Honey, Inc. reasonably raise against the new law, and is it likely to be successful? Explain fully. (20 points)**
- 2.2 What arguments under the Contracts Clause of the U.S. Constitution might Mississippi Honey, Inc. reasonably raise against the new law, and is it likely to be successful? Explain fully. (10 points)**
- 2.3 What arguments under the Privileges & Immunities Clause of the U.S. Constitution might Mississippi Honey, Inc. reasonably raise against the new law, and is it likely to be successful? Explain fully. (10 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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FEBRUARY 2023**

QUESTION 3 (20 POINTS)

Each of the following multiple-choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 State action
- 3.2 Takings Clause
- 3.3 Anti-commandeering; federalism
- 3.4 Adequate and independent state grounds; justiciability
- 3.5 Takings Clause
- 3.6 Standing
- 3.7 Standing; mootness, live controversy
- 3.8 Standing for corporations
- 3.9 Equal protection; rational basis scrutiny
- 3.10 Eleventh Amendment

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
JULY 2022**

QUESTION 1 (40 POINTS)

The 2nd District Fire Station driveway faces Main Street. On July 3rd of last year, a water main broke in the middle of Main Street in front of the fire station driveway. The road, the water system and the fire station are all owned and maintained by the Parish government. The Parish ordered an emergency repair of the water main break, which was expected to take at least 48 hours. To accomplish the repair, the road and part of the sidewalk in front of the fire station had to be torn apart. Once the water main was repaired, it was estimated that it would take another 3 weeks at least to repair the road.

July 4th is always a busy day for fire departments due to fireworks displays and cookouts that increase the risk of fires. With July 4th the next day, the fire department needed immediate access to get its fire truck in and out of the station during the road repair. The neighboring property to the left of the fire station was a thickly wooded vacant lot that sloped steeply down to a stream. The neighboring property to the right was a parking lot for Living Waters church. The fire chief and parish president agreed that the best solution would be to temporarily block off the church parking lot to make an exit for the fire truck that avoided the construction. Emergency barricades were set up in the church parking lot to create the exit lane and ensure that pedestrians could safely access the church building as they approached from the surrounding street parking.

Even though the Parish worked as quickly as possible, the repairs took longer than planned. There were several unanticipated delays in the road repair for rain, a hurricane that came close to the area (requiring evacuation but ultimately doing little damage), and supply chain issues. The road was not fully repaired, and use of the church parking lot was not restored to Living Waters, until November 3rd.

Living Waters church lost attendance while its parking lot was being used by the fire department, and donations dropped by 30% in those four months compared to previous years. It also had to significantly scale back the annual fundraiser Summer Celebration it holds at the end of its vacation bible school in the first week of August. The Summer Celebration usually featured a talent show and live music on an outdoor stage, but without the parking lot space available, the party was held entirely indoors and was much smaller, making only 25% of its typical revenue. Living Waters asked the Parish to compensate it for the use of the parking lot during the repair, but the Parish refused. The Parish President believed that it was everyone's civic duty to help out in an emergency. A friend of the Parish President who attended another church also said that he would be concerned about the Parish giving money to Living Waters, as that might be seen as the Parish endorsing one church over another.

Please answer the following three subquestions. The subquestions in Question 1 are not weighted equally. Explain each answer; an answer without explanation will receive no credit. In answering these questions, do not address any prescription/limitations defenses.

- 1.1 What arguments can Living Waters reasonably raise, if any, for compensation under the takings clause of the U.S. Constitution, and is it likely to succeed? Explain fully. (20 points)**
- 1.2 Would providing compensation to Living Waters violate the Establishment Clause of the U.S. Constitution? Explain fully. (10 points)**
- 1.3 Is Living Waters likely to be successful in challenging the Parish's actions under the First Amendment of the U.S. Constitution as an invalid restriction on the exercise of religion? Explain fully. (10 points)**

[End of Question 1]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 2 (40 POINTS)

To raise awareness of environmental concerns and land loss issues due to coastal erosion, the State of Louisiana established the Earth Awareness Center (“EAC”) in Baton Rouge, Louisiana last fall. The EAC provided information and education on land loss issues in Louisiana and resources on how citizens could spread the EAC’s message in their home communities. On its expansive lawn facing a busy street, the EAC also provided a “First Amendment Zone” dedicated to encouraging and supporting peaceful environmentally-friendly demonstrations and free expression. At least three times a week, environmentalist groups were invited to stage demonstrations on the EAC lawn.

Not everyone was happy with the establishment of the EAC. The EAC brought more congestion, pollution, and noise to the neighborhood, disrupting the previously tranquil area. Property owners in the surrounding neighborhood organized a counter-protest staged on the EAC lawn in the First Amendment Zone, calling themselves the “Neighbors Reducing Noise” or NRN. The Executive Director of the EAC called the police and had the NRN protestors removed from the property. The Executive Director then sent the NRN’s leader, Nancy Rodgers, a letter stating that the EAC’s lawn could be used only for demonstrations consistent with the EAC’s mission, and no NRN protests would be permitted.

The Louisiana Owl Alliance knew its purpose to support owl habitat was consistent with the EAC’s mission to prevent further land loss in Louisiana, so it decided to use the EAC lawn for its “Hoot the Night” demonstration. Supporters gathered on the EAC lawn at 10:00 p.m. to make hooting sounds as loudly as they could until midnight. The Executive Director of the EAC received so many complaints about the noise overnight, that the next morning she decided that no further demonstrations would be permitted before 8:00 a.m. or after sunset, consistent with the local noise ordinance. The Executive Director sent the Owl Alliance’s president, Otto Snow, a letter stating the new time restriction policy. The Owl Alliance members were upset because their “Hoot the Night” demonstration wouldn’t be nearly as impactful during the day.

When the Stargazers Society learned that the EAC lawn would not be used for demonstrations at night, they began holding weekly meetings on the lawn to gather and look at the stars from 8 p.m. until midnight on Friday nights. The Stargazers society typically only had 8-10 attendees, and their meetings were relatively quiet. Still, Otto Snow thought it wasn’t fair that the Stargazers Society could use the EAC lawn at night but that his group could not.

Both the NRN and the Owl Alliance would like to file suit to challenge the restrictions imposed by the EAC’s executive director on use of the First Amendment Zone.

Please answer the following four subquestions. Explain each answer; an answer without explanation will receive no credit.

- 2.1 What arguments might the NRN reasonably raise under the First Amendment to the U.S. Constitution against the EAC’s prohibition on its protest, and are they likely to be successful? Explain fully. (10 points)**
- 2.2 What arguments might the Owl Alliance reasonably raise under the First Amendment to the U.S. Constitution against the EAC’s time restriction policy, and are they likely to be successful? Explain fully. (10 points)**
- 2.3 What arguments might the Owl Alliance reasonably raise under the Equal Protection clause of the U.S. Constitution against the EAC’s time restriction policy, and are they likely to be successful? Explain fully. (10 points)**
- 2.4 Do the NRN and the Owl Alliance have standing to seek an injunction against the EAC’s restrictions based on the First Amendment and Equal Protection claims discussed in Questions 2.1-2.3? Explain fully. (10 points)**

[End of Question 2]

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**LOUISIANA STATE BAR EXAMINATION
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QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1 State action
- 3.2 Eleventh Amendment
- 3.3 First Amendment; campaign contributions
- 3.4 Commerce clause
- 3.5 Free speech in schools
- 3.6 Due process of law
- 3.7 Contracts clause; legislative authority
- 3.8 Privileges and immunities
- 3.9 Standing; equal protection
- 3.10 Establishment of religion; public displays

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBURARY 2022**

QUESTION 1 (40 POINTS)

For many years, each morning before the weekly town council meeting, Mary has fed birds on the sidewalk directly in front of town hall and passed out bird seed packets to others passing by. Each packet of bird seed she distributes contains a two-inch by one inch strip of paper stating, “You’ve fed the birds, now feed God’s children. Support increased funding for the town food pantry.” For several years, the town council has provided funding for 30% of the food pantry’s operational cost, with the remaining 70% funded through private donations.

Carol was recently elected to the town council. Carol has noticed that the leftover bird seed from Mary’s activities has led to a rodent problem in town hall. The sidewalk where Mary distributes the bird seed also has become dangerously slick from excess bird droppings and the cars parked adjacent to the sidewalk often need a car wash after visiting town hall on meeting days. Carol proposed ordinance 22-37 (the “ordinance”) to the town council prohibiting the feeding of birds within 500 feet of a public building. Persons violating the proposed ordinance shall be fined \$500 for each offense. The ordinance passed the town council unanimously.

After the ordinance went into effect, Mary was issued a citation and fined \$500 for feeding birds in front of town hall. Carol received several angry letters from parents who enjoyed feeding the birds with their children from Mary’s seed packets. Carol also received a complaint letter from the director of the local food pantry, Patrick. Patrick is concerned that stopping Mary’s bird seed campaign will result in a decrease of both private donations and the town council’s funding for the food pantry. Patrick supports Mary’s efforts, but never personally assisted her in the bird seed campaign.

After being fined, Mary tried to pass out flyers with the same message instead of bird seed packets, but no one took the flyers or paid attention to her. Mary is now considering filing a lawsuit challenging the ordinance. Mary’s deeply held religious and political beliefs compel her to do everything she can to help feed the hungry in her community and she would like to resume her campaign. Shortly after she was fined, Mary visited the public library and noticed that Linda, the town’s children’s librarian, has placed a hummingbird feeder filled with sugar water just outside the window of the library’s children’s section on the side of the building next to a forested lot and away from the building entrance and any parking lot. The hummingbird feeder was placed for the children’s enjoyment and has no religious or political message. Linda has never been cited or fined under the ordinance. Mary thinks she was targeted for enforcement of the ordinance because of her message. Mary believes the town’s enactment and selective enforcement of the ordinance violates her constitutional rights.

- 1.1. What arguments should Mary raise to challenge the ordinance under the First Amendment of the United States Constitution, and is she likely to succeed? Explain fully. (20 points)**
- 1.2. What arguments should Mary raise to challenge the ordinance under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and is she likely to succeed? Explain fully. (10 points)**
- 1.3. If Mary does not file suit, does Patrick have standing to file a federal lawsuit challenging the ordinance on federal constitutional grounds? Explain fully. (10 points)**

[End of Question 1]

TEST CONTINUES ON NEXT PAGE

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBURARY 2022**

QUESTION 2 (40 POINTS)

The Louisiana legislature recently passed a law requiring that individuals applying for a new permit to operate a restaurant in Louisiana must establish that they have resided in Louisiana for at least five years and that corporations and other business entities applying for such a permit must establish that all their shareholders or owners are Louisiana residents. The legislative history reflects that the legislature was concerned with preserving Louisiana's unique culinary traditions and ensuring that profits from those traditions benefit Louisiana's economy. Out of concern for potential lost jobs for those currently employed in existing restaurants, the legislature did not make the residency requirement applicable to existing restaurants seeking to renew their permits.

Michael moved from Missouri to Louisiana four years ago and had been planning to open a new sandwich restaurant, but his application was denied because he has not been a Louisiana resident for five years.

Allison is a chef and a resident of Alabama whose mother was born in Louisiana and taught her all their family recipes. Allison was trained to cook in Louisiana restaurants early in her career. Allison's restaurants, Chez Allison, have been very successful in Alabama and Mississippi, and she is looking to expand to Louisiana. Allison applied for a new permit to operate a restaurant in Louisiana and was denied because of the new residency requirement.

Nacho Heaven is a New Hampshire corporation that also applied for and was denied a new permit to operate a restaurant because its shareholders are New Hampshire and Vermont residents.

- 2.1. What arguments should Michael, Allison, and Nacho Heaven make to challenge the residency requirement under the Commerce Clause of the United States Constitution? Explain fully. (20 points)**
- 2.2. Are Michael, Allison, or Nacho Heaven likely to succeed in a challenge to the residency requirement under the Privileges and Immunities Clause of the United States Constitution? Explain fully. (10 points)**
- 2.3. Michael filed a lawsuit in federal district court against the proper state defendants to enjoin enforcement of the residency requirement. While the lawsuit was pending, Michael reached five years of residency and was then granted the permit. Michael promptly opened his sandwich shop. The defendants filed a motion to dismiss Michael's lawsuit arguing that an injunction is no longer necessary because Michael has a permit. Should the motion be granted? Explain fully. (10 points)**

[End of Question 2]

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBURARY 2022**

QUESTION 3 (20 POINTS)

Each of the following multiple choice items counts for 2 points. Select the letter that corresponds to the correct answer.

- 3.1. Commerce clause
- 3.2. First Amendment; campaign contributions
- 3.3. State action
- 3.4. Time, place and manner restrictions; free speech
- 3.5. Standing for corporations
- 3.6. Takings clause
- 3.7. Equal protection; rational basis scrutiny
- 3.8. Adequate and independent state grounds; justiciability
- 3.9. Due process of law
- 3.10. Contracts clause; legislative authority

[End of Question 3]

[END OF CONSTITUTIONAL LAW TEST]

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2020**

WARNING:

The following are not issues on the ESSAY PORTION (Questions 1 and 2) of the Constitutional Law Examination: mootness, ripeness, political question, case or controversy, standing or justiciability. NO CREDIT WILL BE GIVEN FOR DISCUSSION OF THESE ISSUES IN EITHER OF THE TWO ESSAY QUESTIONS.

QUESTION 1 — 40 POINTS

Women for Justice in America (“WJA”) hosts regular meetings to provide a space for members of the organization to come together to discuss issues related to their written mission regarding family and political issues. During their meetings, they pray about those issues and seek to apply biblical principles to the issues discussed. Their meetings often include guest lectures on various topics, such as early childhood education and women’s health initiatives. Paula, President of WJA, recently requested use of the auditorium in the city-owned public library to discuss concerns related to safety of students in public schools, decline in the education system, and the need to increase teacher pay and to strategize on how to lobby candidates for office to take positions supported by WJA on various issues. The intended guest lecturer was Betty, whose ultra conservative viewpoints and vast knowledge of biblical principles made her a popular figure amongst members of WJA. Any group desiring access to the auditorium must first obtain permission from Cynthia, a city employee who is the director of the library. Cynthia denied Paula’s request with a letter, stating that such a meeting would violate library policy because WJA was a group with religious purpose. The library’s published policy states:

The auditorium in our library is open for use of public groups or organizations of a civic, cultural, or educational character, but not for social gatherings, entertaining, dramatic productions, money-raising, or commercial purposes. It is also not available for meetings for social, political, partisan, or religious purposes or when, in the judgment of the director of the library, any disorder is likely to occur.

Cynthia emphasized that in accordance with its policy the auditorium was open only to group meetings for artistic or educational purposes and that, once she determined that a group would not be meeting for a religious or political purpose, she would then grant the group permission to use the auditorium. Cynthia further explained that, because WJA’s request was denied, Paula could approach the mayor and city council for further review of the request.

Paula, on her own behalf, had previously requested permission to use the auditorium for a “family gathering,” which Cynthia had granted. On the night of that event, 75 residents who learned of the event through social media attended the meeting, which lasted more than three hours and consisted of singing songs, praying for the local community, and discussing issues such as the condition of schools, the safety of students, and encouraging individuals to be role models in the community. Further, Paula was aware that her Kiwanis Club had used the auditorium for meetings that were for non-artistic or non-educational purposes, such as a fundraiser for the United Way, a potluck luncheon for retirees, and local swim club meetings.

Immediately upon receiving Cynthia’s letter, Paula sent a letter on behalf of WJA to the mayor and city council, requesting they reverse Cynthia’s denial of WJA’s request to use the auditorium; she cited among other things the prior permission granted to these other groups to use the auditorium. The mayor sent WJA a formal letter denying the request and stating that the auditorium is not available for any type of meetings for a religious purpose. Thereafter the city council, after consulting with the city attorney, unanimously passed a motion to exclude meetings with a religious purpose from the auditorium at the library.

Please answer the two subquestions which follow on the next page.

- 1.1 What claims, if any, might WJA have against the city under the Free Speech Clause of the First Amendment of the U.S. Constitution? Explain fully. (20 points)**
- 1.2 What claims, if any, might WJA have against the city under the Free Exercise Clause of the First Amendment? Explain fully. Include in your discussion whether the city might assert any valid defenses under the Establishment Clause of the First Amendment of the Constitution? (20 points)**

[End of Question 1]

**LOUISIANA STATE BAR EXAMINATION
CONSTITUTIONAL LAW
FEBRUARY 2020**

QUESTION 2 – 40 POINTS

Several years ago, a new species of frogs was discovered in the bayous of a handful of southern states in the United States, including Louisiana. It was discovered that this new species of frog was the source of a substance that acts to combat diabetes more effectively than any medication on the market and at a much lower cost. Because of these benefits, the species was named sugarfrog. Medication derived from the sugarfrog substance was recently approved by the Federal Drug Administration (FDA) and was found to produce the effects it was purported to produce. A few companies in some of the states where the sugarfrogs were found to be living began to catch the sugarfrogs and produce diabetes medication that was available to consumers nationwide by direct shipping from the processing lab via phone or internet orders.

Individuals from around the country began sharing the news of this newly available medication and its success in treating diabetes on social media, and news of success stories were also shared on both local and national news stations. After hearing of the growing interest in the medication from the sugarfrogs, Charles decided he would break into the market and formed Froggy, Inc., a processing lab for the sugarfrog substance, in Louisiana. Froggy, Inc. purchased three acres of land near a bayou where the sugarfrog was found to be in great supply and built a processing lab and distribution factory on the land. Froggy, Inc. used the same process for producing diabetes medication from sugarfrogs as the other processing labs in other states. Froggy, Inc. packaged and sold its product as “Sugar Be Gone.”

Charles then contacted his local state representative, and together the two persuaded the Louisiana State Legislature to enact a law prohibiting the import of sugarfrogs or any medications derived from sugarfrogs into Louisiana. The Act is called the Sugarfrog Reservation Act (Act), and the stated purpose of the Act is, given the state of the economy in Louisiana, to encourage Louisiana consumers to buy Louisiana products.

Josie is a resident of a small town in Louisiana. She was diagnosed with diabetes and has had a difficult time controlling her blood sugar due to the recent substantial increase in the cost of insulin. She has limited funds, and thus decided to purchase and try the sugarfrog medication. She found Froggy’s Sugar Be Gone online, but it was too expensive for her budget. After spending several days researching other sugarfrog medications online, Josie discovered a similar product with discounted prices from a company by the name of “Low A1C” out of South Carolina. Josie placed an online order with Low A1C only to be told that Louisiana state law precluded direct shipment of out-of-state sugarfrog related products.

- 2.1 Might Josie and/or Low A1C reasonably raise a Commerce Clause challenge to the Act, and is either likely to succeed? Discuss fully. (15 points)**
- 2.2 Might Josie and/or Low A1C reasonably raise a challenge under the Equal Protection Clause, and is either likely to succeed? Discuss fully. (15 points)**
- 2.3 Might Josie and/or Low A1C reasonably raise a Due Process challenge to the Act, and is either likely to succeed? Discuss fully. (5 points)**
- 2.4 Might Josie reasonably raise a Privileges and Immunities challenge, and is she likely to succeed? Discuss fully. (5 points)**

[End of Question 2]

**LOUISIANA STATE BAR EXAM
CONSTITUTIONAL LAW
FEBRUARY 2020**

QUESTION 3 – 20 POINTS

The following subject matters were tested in this multiple choice section:

Adequate and Independent State Grounds; Justiciability
Anti-commandeering; Federalism
Establishment of religion; public displays
Free Speech; Time, Place and Manner Restrictions
Free Speech in Schools
Freedom of Religion (Free Exercise Clause)
Standing (2 questions)
State action
Takings Clause

[End of Question 3]

END OF CONSTITUTIONAL LAW TEST