

**QUESTION 11 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV OR IN
SOFTEST ANSWER SCREEN 11**

Approximately 1,000 feet away from a church where a funeral service was taking place for a soldier killed in the Iraq war, a few members of an unrelated church gathered on public land near a public sidewalk to protest about a variety of concerns. The church members, known singly as the "Members," carried placards or pickets seemingly directed at the soldier and his family attending the funeral. The pickets said:

"God Hates the USA/Thank God for 9/11," "America is Doomed," "Don't Pray for the USA," "Thank God for TEDs," "Fag Troops," "Server Fi Fags," "God Hates Fags," "Maryland Taliban," "Fags Doom Nations," "Not Blessed Just Cursed," "Thank God for Dead Soldiers," "Pope in Hell," "Priests Rape Boys," "You're Going to Hell," and "God Hates You."

The protest took place after the Members contacted local authorities to tell them of the funeral protest. The Members followed police directions as to the location for the protest. The Members did not enter church property or the cemetery for the burial, nor yell or use profanity, violence, nor try to physically disrupt the funeral service or burial.

The soldier's father, Mr. Jones, became aware of the protest, the picket signs, and to an extent, the words on the signs. Already distraught over the loss of his son, Jones' grief was exacerbated by what he learned about the pickets and the Members. Jones filed suit against the Members for intentional infliction of emotional distress.

The Members raise a single defense: that they have a constitutional right to protest if done appropriately; and, despite the caustic, mean-spirited words chosen, they cannot be held liable because of the exercise of that right.

Articulate the constitutional right involved, discuss its application, if any, to the protest in question, and render a conclusion as to the defense posited. You are to focus on the constitutional defense asserted by the Members and not discuss the Members' defense on its factual merits.

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