

**ELECTION LAW (Law 867C)**  
**PROF. NUSSBAUMER**  
**FINAL EXAMINATION**  
**APRIL 30, 2007**

**INSTRUCTIONS**

1. This examination is scheduled for **three (3) hours**. It consists of **three essays** to which you should give roughly equal attention.
2. This is an **open-book exam**. You may consult books, cases, articles, and other course materials as well as course outlines and notes. You may not however consult any online resources during the exam, and you may not simply copy or cut-and-paste materials into your own essays.
3. For each essay question, **remember to take ample time to read, think, analyze and organize your answer before beginning to write**. You must use **double-spacing** in your essays, and use only one side of each bluebook page. You must **write legibly** enough to be graded.
4. Write your student exam number on your exam envelope, and on each blue book that you use. **DO NOT** use your name, student ID number or Social Security number on any exam materials. Students who put their names on their exam materials will receive a small grade penalty for doing so.
5. At the conclusion of the examination, return all test materials (including scrap paper) to the envelope and submit the envelope (unsealed) to the proctor. Students who fail to return all exam materials at the end of the exam may not be graded.

**BEST WISHES!**

## Question 2

(60 minutes)

You are legal counsel to Governor Eliot Spitzer of New York. Your boss is pushing campaign finance reform as one of his top legislative priorities because he says the Republicans are “addicted to the free flow of money.” Currently, New York’s campaign finance laws are among the least restrictive in the nation. Spitzer is asking the legislature to support legislation that does the following:

- Reduces the contribution limits for individual gifts to candidates for state office from 25 to 80%, including a reduction in the ceiling on all contributions to candidates for statewide offices. The new maximums would range (depending on the office) from \$15,000 to \$55,800 for each contribution from an individual donor to a single candidate. (Currently, New York law allows candidates for statewide office to receive donations from individuals that total more than \$50,000 per donor--that is, the very highest level among the 37 states that have laws that limit contributions.)
- Limits the total contributions of a political action committee (“PAC”) to all candidates for state office to \$350,000 per PAC (that is, a ceiling that applies regardless of the number of candidates supported by the PAC).
- Includes a “millionaires’ amendment” that provides that, if a candidate gives more than 20 times the contribution limit to his or her own campaign, then that candidate’s opponents would be allowed to receive donations of twice the ordinary limit from each of their contributors.
- Requires significantly more disclosure of all contributions and expenditures, including a requirement that each person contributing \$25 or more to a candidate or a PAC must file a disclosure within 30 days of the contribution (providing the donor’s name, county of residence, amount of contribution, name of recipient) that will be posted on an on-line searchable database available to the general public. (An individual donor’s filing to satisfy this requirement need not be onerous. Options for complying with the new reporting requirement are to include an efficient and user-friendly system for online reporting.)

Governor Spitzer has tasked you to write him a memo explaining whether you think his plan (whether in whole or in part) would survive a constitutional challenge in the courts under the First Amendment of the U.S. Constitution.

### **Question 3**

*(60 minutes)*

You serve as senior legislative counsel to the majority leader in the U.S. House of Representatives (Congressman Steny Hoyer). Rep. Hoyer has remarked to you that he believes it is time for partisan election administration in this country to be brought to an end. He wants you to advise him on the legal, policy and political implications of a landmark bill that would take election administration decisions around the country out of the hands of the partisans. (Regardless of whether you decide to counsel him to proceed with the endeavor or not), Rep. Hoyer wants your recommendations to include detailed advice as to which provisions should be put in the bill in the event he does decide to go forward with the effort.