CONSTITUTIONAL LAW I(D)

Practice Question II: General Comments

The following is a discussion of the main issues on Practice Question II. It is far longer than you could write on an exam; I have tried to discuss all the issues as thoroughly as possible in order to facilitate your understanding of them, and along the way I also give some comments on exam taking and point out some of the ways people could wrong in answering the question.

* * *

There are two basic issues here:[1]

1. Does the jurisdiction-stripping statute bar jurisdiction in lower federal courts?
2. Does Akhil have standing? Does DWI?

Since both § 666 and standing go to jurisdiction, you could address either one first. That is, you might say that the court first has to determine whether § 666 strips it of jurisdiction – the answer to which turns on the constitutionality of § 666. Then, only if § 666 is determined to be unconstitutional, would the court need to consider whether the plaintiff in each case has standing. But it's also possible that a court would reach the standing issue first – if it were to find that neither party has standing, for example, it could avoid ruling on the constitutionality of § 666. A court might want to do that because the potential limits on Congress' power to strip federal courts of jurisdiction over particular constitutional challenges are controversial and uncertain. A court might think it preferable to find a way to deal with the cases that avoided ruling on such an issue. The problem with that approach on these facts, however, is that Akhil has relatively strong arguments for standing, so it seems unlikely that the court could avoid ruling on the constitutionality of § 666 in that lawsuit. Still, either order would be fine in terms of how you structure your answer.

In writing an answer to an exam question, there's also a question of completeness. For

[1] Note that in theory there might be another jurisdiction issue, one that we have not covered: Would the Eleventh Amendment bar these suits? The Eleventh Amendment provides that "[t]he Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." Despite its text, the Supreme Court has held it to bar a suit against a state in federal court by a citizen of that same state, on the theory that the Eleventh Amendment protects state sovereign immunity. But the Court has also held that a suit against the relevant state official for injunctive or declaratory relief (here, the head of the CMVD) is not a suit against a state. If the state official is enforcing an unconstitutional statute, he or she isn't validly acting on behalf of the state. The question is written, then, to not raise any serious Eleventh Amendment issues – because we're not covering the Eleventh Amendment. In general, one important aim in writing an exam question is to focus it on subjects we have covered in the course, and not on subjects we haven't.

example, you might think of just addressing the constitutionality of § 666, and then if you found it to be constitutional, leave it at that, without addressing standing. There are two problems with that approach.

First, notice that the judge has asked you to address the jurisdictional issues. As a law clerk, you're not going to be the one making the decision about the constitutionality of § 666; the question asks you to write a memo to the judge setting out the jurisdictional issues. You can be sure the judge would want your thoughts on both § 666 and standing, even if she were inclined to reach only one of them.

Second, in terms of "examsmanship," you should be careful about excluding analysis of a whole set of issues (*e.g.*, standing), on the ground that your recommended resolution of some other issue simply obviates the need to address it. That might be the case sometimes, but where the resolution of all the issues is not easy, it's taking a big chance.

In short, if your conclusion is that § 666 is unconstitutional, the next logical issue is standing. But even if your conclusion is that § 666 is constitutional – a conclusion that would provide a sufficient basis for dismissing the complaints in both cases – you'd want to say, "but in the event the court concludes otherwise, the standing of the plaintiffs would need to be addressed."

Looking at § 666, it would appear to provide that the district court has no jurisdiction over either case. You don't want to just *say* that, though. You want to *show* it – you want to show that, in terms of the language of the statute, § 666 deprives the court of jurisdiction. You need to point out that:

- the federal district court is a "court created by Act of Congress";
- this is a case about a state law "pertaining to the use of the National Motto on license plates"; and
- because the parties are challenging the constitutionality of the CLPA under the First Amendment, this is a case "pertaining to the validity [of the statute] under . . . the U.S. Constitution."

These points would show that the statute applies. Next you would show what effect the statute has: The district court may not exercise "original . . . jurisdiction" over the case. If the statute is constitutional, the court should dismiss the two complaints for want of jurisdiction.[2]

---

[2] Note that parsing the statute like this is very different from just quoting the statute in its entirety. That's generally not a good strategy on exams. Quoting an entire statutory section at length doesn't tell me anything I don't know, since it's on the exam. What I'm looking for is how well you can *analyze* its language, which involves identifying the specific aspects that are relevant.

Note one other aspect you don't want to get tripped up on. Section 666 may, if constitutional, deprive the district court of jurisdiction to determine whether the *CLPA* is constitutional. It would be a very different thing to deprive the court of jurisdiction to determine whether *§ 666 itself* is constitutional. It's conceivable Congress might put such a provision in a statute, but it hasn't here. The language of § 666 deprives lower federal courts of jurisdiction to decide the constitutionality of statutes like the CLPA, not the constitutionality of federal statutes governing federal court jurisdiction. (In any event, as a practical matter there's no way

The next point to make is that there is a serious question whether § 666 is constitutional. Does Congress have the power to strip the federal district courts of jurisdiction to hear constitutional challenges to mandate the use of the National Motto on license plates? Notice that what is at issue is *district court* jurisdiction. In analyzing the constitutionality of stripping the federal district court of jurisdiction you may well need to say something about the effect, if any, on the U.S. Supreme Court's jurisdiction, but only if doing so helps you evaluate whether it's constitutional for Congress to deprive the *district courts* of jurisdiction over these cases. Why such a limited approach? Because the question tells you you're clerking for a federal district court judge. She's not going to want to try to decide what the Supreme Court would do about any attempt to limit the Supreme Court's original or appellate jurisdiction – judges don't analyze the constitutionality of statutes that aren't before it.

There is something else you need to make sure you notice as you begin analyzing this question. It says, about as clearly as you're likely to find on many exam questions, that you should not address the merits of the First Amendment issues. The judge tells you, "I know what I think about the merits of these suits – you can leave that to me." You don't want to try to analyze whether it would be consistent with the First Amendment to force Cania drivers to display license plates that say "In God We Trust."

I put that comment by the judge in there to make sure you would focus exclusively on the jurisdictional issues. It's important to read the question carefully to make sure that you both (a) respond to what's being asked, and (b) don't spend time analyzing questions that haven't been asked, or even worse, analyzing issues that the question has told you not to analyze. One other general check you can make on yourself when you're outlining your answer is this: If you find yourself writing extensively about issues that we haven't gone over in class or that weren't in the readings, then something has probably gone wrong. We haven't covered the First Amendment, so it wouldn't be fair for me to make a huge part of the question depend on it.[3]

Notice also that the question asks you what arguments you think the parties will make on the issues. This is a signal to do what you would typically expect to do on a law school

---

for the district court to avoid taking a position on this issue. Simply to dismiss the case without any discussion of whether § 666 is constitutional would in effect be to rule on its constitutionality.)

[3] If you're curious about the merits, see *Wooley v. Maynard*, 430 U.S. 705 (1977), and *Walker v. Texas Division, Sons of Confederate Veterans, Inc*., 135 S. Ct. 2239 (2015).

It's conceivable that Akhil or DWI would try to raise a Supremacy Clause (Art. VI) argument based on 36 U.S.C. § 302. Since that statute doesn't require anyone to display the National Motto, might the CMVD, which *does* require its display on Cania license plates, be inconsistent with § 302 and thus unconstitutional under the Supremacy Clause? The problem with this argument is that the question tells you that nothing in § 302 requires people to display the National Motto. That's not the same thing as forbidding the passage of state laws (like the CMVD) that require such a display. So while it's true that if the CMVD were inconsistent with a valid federal statute, the Supremacy Clause would mean that the federal statute would prevail, there's nothing here to suggest any inconsistency. I wouldn't expect anyone to get into this in their answer; it's too peripheral, especially given time limits.

exam – analyze the arguments on both sides. The best way to do this is to go through the issues in some logical order, and for each one consider both the arguments for and against. In this case, since it asks for your conclusions, you should also say which ones you think are stronger.

The basic argument that the head of the Cania MVD could make for the constitutionality of § 666 is that Article I § 1 provides that the judicial power is to be vested in the Supreme Court – and in such inferior courts as Congress may create from time to time. Since Congress doesn't have to create federal district courts (which are inferior courts), it could also abolish them. And since it can abolish them entirely, it can in effect abolish them in part, by stripping them of jurisdiction over particular sets of issues.

This is the basic argument, grounded partly on the text and partly on a "lesser included" logic. (That is, the power to create/abolish the district courts includes the lesser power to partially create/abolish them.) You would probably want to go on to make some additional points to lend support to this conclusion.

First, § 666 does not deprive the U.S. Supreme Court or state courts of jurisdiction over these cases. It says, "[n]o court created by Act of Congress" may have jurisdiction over them. Federal district courts, as inferior courts, are courts created by Congress. But as noted, Article I § 1 expressly creates the Supreme Court. It is a court created by the Constitution, not by Act of Congress. And Article III pertains to the *federal* judicial power, not state courts. State courts aren't created by act of Congress.

You might want to note, if you have time (which you probably wouldn't here), that the reference to "appellate jurisdiction" in § 666 can't refer to the Supreme Court's appellate jurisdiction. Once again, the Supreme Court is not a court created by Congress. Thus, the reference to appellate jurisdiction must mean appellate jurisdiction that would otherwise be exercised by courts created by Congress (*i.e.*, the federal appellate courts like the Courts of Appeals for the various circuits).[4]

It is significant that § 666 is limited to the lower federal courts – that it doesn't affect the jurisdiction of state courts or the U.S. Supreme Court. It means that people who want to challenge the CLPA as a violation of the First Amendment could challenge it in state courts. Under the Supremacy Clause, state courts would be bound to give effect to the First Amendment. If a plaintiff could persuade a state court that the CLPA violates the First Amendment, the state court would be obliged to hold the CLPA unconstitutional. And the state courts' disposition of the First Amendment issue would ultimately be reviewable by the U.S. Supreme Court. The case would present a matter within the federal judicial power under Article III, § 2, cl. 1 – *i.e.*, an issue arising under the constitution – and would fall within the Supreme Court's appellate jurisdiction under Article III, § 2, cl. 2 (since it wouldn't be one falling under the

[4] Another point to note: § 666 has the words "original or appellate jurisdiction." If you're not reading the statute carefully, you might start thinking about the Supreme Court's "original jurisdiction," given the time we spent on it when we went over *Marbury*. But as noted above the language of the statute clearly does not apply to the Supreme Court. Similarly, § 666 is not an instance of Congress making an "Exception" under Art. III § 2 cl. 2 to the Supreme Court's appellate jurisdiction – once again, § 666 strips jurisdiction only from courts created by Congress, and the Supreme Court is not such a court.

Court's original jurisdiction).

In one sense, this is an easier case than *McCardle*. The *McCardle* Court seemed to show almost unquestioning deference to Congress' repeal of the habeas statute that McCardle invoked, but as subsequently interpreted by the Supreme Court in *Ex parte Yerger*, the outcome in that case may have turned on the existence of other routes to obtaining Supreme Court review. Here, there is another route – go to state court and ultimately seek review in the U.S. Supreme Court.

Finally, you might also note that the framers seem to have intended that Congress have some kind of power over the jurisdiction of the federal courts as part of the general scheme of checks and balances. If we are worried about the "counter-majoritarian difficulty" – the power of unelected judges to override the decisions of elected officials – one way to deal with that concern is to give Congress the power to keep some issues out of the federal courts entirely.

Akhil and DWI could respond in several ways. (They have brought two separate cases, but their arguments on the effect of § 666, unlike their arguments on standing, are going to be the same.) First, they could challenge the premise: They could say that Congress doesn't have the power simply to abolish all the lower courts. The language in Article III § 1 about "such inferior Courts as the Congress may from time to time establish" could be taken to mean that the details of how the lower federal courts would be set up were to be left to Congress, but the intention was that there be some federal courts. The fact that the first Congress, which had many of the framers in it, established lower federal courts at the outset could be taken as confirmation that the understanding was that there would be lower federal courts. If the premise of the "lesser included power" argument is wrong – if it would *not* be consistent with Article III simply to abolish all federal courts except the Supreme Court – then the conclusion (that Congress can cut back on the lower federal courts however it wishes) wouldn't follow from the premise.

A different kind of argument would be to say that the premise -- that Congress has no obligation to create lower federal courts – might have been right in 1787, but is not right now. With the vast growth of federal law, not to mention individual rights as recognized in subsequent amendments, it's important to have lower federal courts as forums for the vindication of federal rights and interests. You might bolster this by pointing out that even as early as *Martin v. Hunter's Lessee*, the Supreme Court recognized that state courts might not be fully effective in or committed to protecting rights and interests guaranteed by federal law. Even if it were enough in the past for the Supreme Court to be the sole point of federal review, given the volume of cases today some lower federal court structure is essential.

You might also argue that even if the *premise* were correct – that Congress could abolish the lower federal courts – the *conclusion* still might not follow. The problem with any simple "lesser included power" argument is that it doesn't follow that *selective* uses of a greater power are necessarily unexceptionable. We wouldn't think that Congress could deprive the lower federal courts of jurisdiction over cases involving women or Asian-Americans or Republicans, for example. Perhaps where the exercise of Congress's power over Article III jurisdiction is made dependent on some criterion that violates another provision of the Constitution (like the First or Fourteenth Amendments), Congress's action is inconsistent with the Constitution. This is one way to understand the combination of *McCardle* and *Yerger*: together they

can be read to say that Congress has some control over jurisdiction to hear cases involving the fundamental right of habeas corpus (under Art. I § 9 cl. 2), but cannot entirely eliminate it.

One weakness in this argument, though, is that here, Congress has stripped the lower federal courts of jurisdiction over cases challenging state statutes relating to license plates and the National Motto, not over all cases where the First Amendment is violated. And this argument doesn't really address the point that some Congressional control over jurisdiction, even in sensitive areas, might be a useful element of an overall checks and balances system.

What I'd expect you to do in an exam answer at this point, having laid out and analyzed the arguments, is indicate which position you think is better and why. Why is that? Because in the question, the judge says, "how do you think I should resolve" the jurisdictional issues. What I'm looking for is some reasoned conclusion, whichever way you come out. Remember that the judge also says, "Don't forget to let me know why you think the jurisdictional issues should be resolved as you suggest."[5] You might, for example, relate your conclusion to your general perspective on judicial review. If you think that judicial review is essential to a meaningful constitution, for example, you would presumably approach jurisdiction-stripping bills with a great deal of skepticism. The more you worry about leaving room for elected officials to engage in their own interpretations of the constitution, on the other hand, the more amenable you might be to a decision by Congress to take an issue out of the federal courts.[6]

You would then want to move on to the standing issues. Even if § 666 is unconstitutional, in other words, there would still be a major jurisdictional question. Does Akhil have standing to challenge the constitutionality of the CLPA? Does DWI? You would need to take these up separately, because they present separate questions.[7]

---

[5] The lesson to take here is not that you should always give a conclusion, but that you should follow the specifics of what the question is asking you.

[6] Keep in mind, too, though, that while the considerations that lay behind the decision have some relevance here, § 666 isn't a sweeping rejection of judicial review. So it wouldn't be enough just to rely on *Marbury* having established judicial review.

[7] Conceivably you could raise a distinct standing issue: Would Akhil or DWI have standing to challenge the constitutionality of section 666 itself?

I wasn't particularly looking for analysis of this issue, though, because it's so straightforward. If someone has a constitutional claim they would like the courts to adjudicate, their injury from a statute like § 666 would be the deprivation of the opportunity to have their day in court; the injury would be caused by the jurisdiction-stripping provision; and the relief sought (grant jurisdiction by finding § 666 unconstitutional) would redress the injury. Standing is not going to be an issue when it comes to challenging a jurisdictional bar to presenting a claim (like the alleged inconsistency of the CMVD with the First Amendment) for which one has standing, which is why courts would be unlikely to discuss it in the first place.

Still, mentioning the issue is fine and could count in a minor way in your favor. On the other hand, taking any significant time away from analyzing the main standing question – does Akhil or DWI have standing to challenge the CMVD as unconstitutional – would be a mistake. Given the limited time you have on a question like this, there's always a judgment call how much time you spend on issues. That's part of what's being tested on the exam. You certainly want to spend more time on tougher issues and less time on the easier issues, and some

Akhil's argument is fairly straightforward. He would say that he has an injury in fact – his religious beliefs (really, his lack thereof) will be violated by the forced display of the motto. Whether you see the injury as being the violation of his First Amendment rights or as the fact of being forced to do something that is inconsistent with his religious beliefs doesn't matter, so long as you understand that the *claim* of a violation is what counts. That is, if in reaching the merits, the court were to conclude that the CLPA was consistent with the First Amendment, he would still have standing. Once again, the issue for you to analyze in this question isn't the merits – that is, whether the CLPA violates the First Amendment. It's standing.

Of course, there may be an issue over the fact that this injury is "impending." That is, the Question tells you the new license plates are to be sent to Cania residents within the coming year, so it hasn't happened yet. Unlike *Lujan*, though, there is a very strong probability that the injury will happen, and relatively soon. In fact the only way it's not a certainty is if you figure the state might repeal the statute before it gets around to sending Akhil a new license plate, or carve out an exception for those objecting on grounds of religious belief. But if that bare possibility, always present with any statute, could preclude standing, *any* future injury would automatically be speculative.[8] You might say, in terms of *Clapper*, that the injury is "certainly impeding."

Beyond injury in fact, Akhil would also need to show causation and redressability. These would be fairly straightforward. If being forced to display the National Motto is inconsistent with his religious beliefs or freedoms, then that injury is being caused by the statutory requirement that he display it on his license plate. And if the head of the CMVD is enjoined from enforcing the CLPA against him, that resolution will redress his injury.

There is a minor argument that could be made in response to the nexus (causation and redressability) issue. In theory, you could say that what causes the injury is his choice to drive a car, given the CLPA's requirements, not the CLPA itself. But Akhil could easily reformulate his injury to one of being put to the choice of respecting his religious beliefs or drive a car, and assert that the First Amendment doesn't permit the state to put him to that choice. Once again, that counts as an injury for standing; whether he'd win on the merits of that would be (as Judge Wisdom has told you) a different matter.

You could also point out that reasons for having standing requirements would seem to be amply fulfilled here. Akhil's stake in the resolution of the First Amendment issue will give

---

conceivable issues you probably don't want to address at all.

[8] On a different set of facts the injury might too speculative. Suppose Akhil were planning to move from Cania to another state in the next six months, for reasons unrelated to the CMVD. Standing is ultimately a factual matter. If the CMVD head could show that the backlog in getting the new license plates out meant that he wasn't scheduled to get a new plate sooner than 10 months from now, a court might find no standing. Of course nothing in the facts here suggests this. In general, you don't want to spend time thinking of different possible facts and their impact on the application of the statute. Possibly, at times, if there's something crucial to an issue and you think the facts are unclear, you might say, "Assuming [fact] …" or you might even articulate the different potential facts and show their legal implications. But you ought to be pretty certain, if you're going to do that, that you really need to do that to analyze the question that's being asked.

him a real stake in providing vigorous advocacy to the courts. Further, he is a real individual directly affected by the law; the court will have to decide the First Amendment issue in a concrete context, not in an abstract way. The "floodgate" concern may be somewhat assuaged by the facts of this case. His claim is that having to display the Motto violates his religious beliefs. It's not clear that everyone could claim that. And there don't seem to be any of the autonomy concerns that standing can represent. It's not as if his neighbor is saying, "I'm suing because Akhil's religious beliefs are being violated."

There is also another issue about Akhil losing sleep. Sleep deprivation is in general a problem for people and so could be an injury to an individual.[9] As we've discussed in class, an "injury" certainly doesn't have to be monetary. There are other kinds of injuries for purposes of standing, such as violations of rights, harm to dignitary interests, deprivation of pleasures (like hiking through a national forest), etc. Akhil's injury is current, not impending. The causation and redressability would be the same as above as well, though the CMVD might argue that causation and redressability aren't clear because maybe (say) the trauma of litigation, even if successful, would interfere with his sleep. The response Akhil could make to this, though, is that he has a right to the possibility of getting a good night's sleep free of the nightmares induced by an imposition on his freedom of expression and religion.

Cania might reply that this is a case of manufacturing standing, as the Court said the lawyer and researcher were doing in *Clapper* (where they took precautions such as meeting in person out of concern that their telephone or digital conversations were being monitored). Apart from the fact that there's no indication is Akhil is deliberately subjecting himself to sleep deprivation, his sleeplessness is not related to a claim of future injury that the court would deem speculative, as was the case in *Clapper*.

Finally, even if core Article III requirements are met, might there be prudential concerns? One of the general prudential concerns (*i.e.*, bases for denying standing even where Article III might permit it) is whether the injury, while real to the individual, is widespread. Notice that the question says that Akhil is an atheist. That alone might undercut the concern that his injury is widespread. But it's true that there might be a lot of people who have other religious beliefs, or other non-religious but First Amendment-protected beliefs that would be infringed by being forced to display the Motto on their license plates. The Court hasn't always been clear what "widespread" means, but it seems to focus on cases where every individual, simply by virtue of being a citizen, could say that some governmental action is harming them. In part, the reason for not taking on those cases is the view that the political process ought to be able to handle objections to the governmental policy. That's clearly not the case here. It could well be only a minority of people who strongly objected to having the Motto on their license plates, and especially insofar as it affects people of minority religions, one could worry that the political process might not fully take their concerns and perspectives into account.

DWI's case for standing is more difficult. The claimed injury to DWI is the loss of profits from possible tourist boycotts triggered by opposition from out of state to the CLPA. When it comes to nexus (causation and redressability), however, there is a major potential

[9] Whether losing (say) an hour's sleep on a single night would be substantial enough to be an injury might be an interesting question, but not one posed by these facts.

problem with this injury.

The CMVD head would argue that DWI isn't saying it has lost any business at this point *because of the boycott*. There've been a few cancellations, but what resort doesn't get cancellations? DWI is saying it *might* lose business because of boycotts. This, the CMVD head might argue, is too speculative under *Lujan*: the alleged injuries rest on a chain of speculative inferences. It assumes that many people will be riled up by the National Motto on Cania license plates; that a good portion of those people are likely DWI visitors; and that they'll express their objection to the Motto on Cania license plates by boycotting DWI. It also assumes that there won't be any offsetting extra business from people determined to show their support for the National Motto, who book visits to DWI to counter the boycott.

DWI could counter that a boycott was very likely, and that the injury was imminent. For purposes of standing, DWI would argue, "imminent" doesn't have to mean certain. It can mean simply that it's not some remote or hypothetical prospect. The Twitter storm and the cancellations give some indication that this is a real worry. DWI would argue that the court won't be facing some purely hypothetical case. And there is no reason to make it suffer an actual loss of significant tourist revenues as a prerequisite to suing.

DWI might formulate a different counter-argument, one going not to the question of speculativeness, but of how we conceive the injury. It might say that the issue isn't whether in fact overturning the CLPA would preserve its tourist base. It simply should have the opportunity to compete for tourists without being burdened by the reaction – however large or small it turns out to be – to a license plate law that violates the First Amendment (if that's how it turns out). This would be more like the standard employed in *Bakke* or *Gratz* and some other cases (*e.g.*, the *Northeast Florida Contractors* case).

A final problem might relate to the fit between the factual injury that brings DWI into court and the values underlying the legal basis of the claimed injury (the First Amendment). Since standing is in part about ensuring vigorous advocacy, one might wonder whether the kind of stake that DWI is asserting – a right to make money – will give adequate assurance of that advocacy. The right to make money off of tourists isn't something we would expect to be covered by the First Amendment. That is, there's a disjunction between the nature of the protected interest – freedom of religion or speech – and the interest that DWI has in the case – protecting its business. If we dealt with that by thinking instead of DWI as protecting the speech or religion rights of others, the case might make the court nervous about the autonomy aspect of standing. DWI itself doesn't have any free speech or religion concerns at stake, and why should it be able to assert it on behalf of others? That Akhil has brought suit highlights the fact that people whose First Amendment rights might be directly affected by the CLPA can do so; to put it another way, there wouldn't be any basis for a concern that the issue would never reach the courts if DWI were found not to have standing. And a suit that arises from DWI's concern about people's potential anger over the statute wouldn't give the court the benefit of a concrete context for evaluating the constitutional claims. I wouldn't expect, though, that you would have time to get into these issues other than perhaps by a brief mention.

As you should with the other issues, you would want to reach some kind of conclusion here since the question says the judge has asked for your recommendation. Once again, what I'm looking for is some kind of reasoned statement as to why you find one side or the other

more persuasive. You might say, for example, that in cases where businesses assert there's been some wrongful impediment to their ability to compete (like *Northeastern Florida Chapter, General Contractors v. Jacksonville*) the Court has conceptualized the injury along "opportunity to compete" lines. Or you might say that the Court has done so in cases where racial discrimination is alleged (like *Northeastern Florida Chapter* or *Bakke*).