

**REMEDIES MIDTERM EXAM
PROFESSOR COYNE
SPRING 2010**

He who seeks equity must do so with equity.

Use your ID number on the blue book (which is the last six digits of your Social Security number plus the numbers "59"). Write legibly and coherently.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed double spaced pages. I will not read anything that exceeds the page limitation.

PART 1

Question One

Nine handicapped members of the Bliss Golf and Country Club, Inc. consult you regarding what they think are claims involving discrimination, and breach of contract claims. They allege that the Club, a place of public accommodation, discriminated unfairly against them because of their disabilities and breached their contractual agreements.

There were two major membership categories at the Club: primary and limited. Primary members had the broadest range of access to the golf course and facilities. The access of limited members was, well, limited. In 2009, there were 325 primary members, of who seven were handicapped. Among the ninety limited members, twenty-four had some form of disability. As those with disabilities lobbied to change their memberships to primary, the Club rules for making such a change, such as what payment needed to be made with an application, underwent frequent revision, and places on the waiting list for primary membership fluctuated without explanation. For example, one limited member with disabilities seeking primary status began the process as number nine on the waiting list but after some additional months had fallen to number eighteen. Some candidates unaccountably disappeared altogether from the waiting list for primary membership. The

able-bodied leapfrogged to primary membership while those with disabilities waited forever.

For limited members, starting time on the golf course-referred to in the record generally as “tee time”-was restricted. On Wednesdays, limited members could not tee off from 10 A.M. to 2 P.M.; on Saturdays and Sundays limited members could not play until after 1:30 P.M.; limited members could book tee times only twenty-four hours in advance and, as a practical matter, were, therefore, often frozen out. They often received far less in value from their \$2,500 per year memberships because of the limited tee times.

In the spring of 2010, Karen Richardson organized a “Civil Rights for the Disabled” tournament. The tournament quickly enrolled a field of 40 people with 72 people being the full complement of players. Robert Hanagan, the golf chair of the Club, told Richardson to fill out the field with “anyone you can get, forget those people they slow the course down anyway”. For failure to comply with Hanagan's edict, Richardson was summoned to appear before the Club rules committee. When the committee met in judgment of Richardson, Scott Gleason, a member of the committee, referred to Hanagan as “God when it came to golf at the Bliss Country Club and we do not defy God.” Punishment meted out to Richardson, an avid golfer preparing for the tournament, was biblically stern: she was suspended from play for twenty-one days and the tournament was threatened with cancelation. Richardson and Gleason are now scheduling another golf tournament for the same date.

On the other hand, when two long-term primary membership male members, one of whom was a member of the board of governors, cavorted in the buff with two servers in the Club swimming pool-an infraction of the rules-the response was indulgent. Volker Wrampe, the general manager was, upon inquiry, told by the Club president, “Not to worry about it. We do it all the time.”

Richardson and the 8 others are now in your office requesting your help. The tournament is 8 days away. How would you proceed and why?

PART 2

Define the following terms and then, if applicable, apply the terms to the fact pattern on the first page.

93A and 176D actions _____

Wang Test _____

Evidentiary Hearing _____

Expectancy and Reliance Damages _____

Bond _____

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