

1 would begin by conducting a Rule 11 analysis, per FRCP #11, to determine which claims are meritorious & which potential defendants to name. Rule 11 says that I may not sign & advance an action that is not based either on good law or a good faith belief in reversal of existing law, and that is interposed for improper purpose such as delay or harassment. In this case Richardson & the 8 other disabled ~~of~~ members appear to have meritorious claims against Bliss Golf & Country Club, Inc. & Robert Henegan, golf chair of the Club, for breach of the golf membership contracts, discrimination & if the events take place in Massachusetts, a 93A claim for unfair & deceptive business practices. I would not sue any other Club members because it appears that Mr Henegan made the decisions on behalf of the Club. My final determination as to the named parties, claims & prayers ~~for~~ for relief would be based on my reasonable inquiry into the facts & law at issue.

Next I would prepare a complaint, following Rule 8 of the FRCP. My complaint would contain brief & concise statements of facts constituting my client's claims & prayers for relief & not legal conclusions. It would put the other side on notice of the claims against them & ~~my~~ ^{the} prayers for relief. I would be sure to name all indispensable parties so that the complaint would not be vulnerable to a motion to dismiss under FRCP 19. I would also make sure to include all claims & issues arising from the facts so as not to preclude recovery by either res judicata (claim preclusion) or collateral estoppel (issue preclusion). In my complaint I would pray for the court to enjoin Mr Henegan & the Golf Club from excluding those with disabilities from the tournament and to order the tournament to proceed as planned. I would also pray for monetary

damages for breach of the Golf membership contract and perhaps ask that the court award punitive damages as well so as to discourage discrimination by this and other Golf clubs. ~~What~~

✓ If this golf club is in MA, I would also include a claim under 93A section 9 and ask the court to award up to treble damages & attorney fees because it appears that Mr Hanagan & the Golf club willingly & knowingly unfairly discriminated against my clients. While 9 people may not be large enough, I may consider filing the action as a class action. In order to be certified as a class action per PRCP 23 my claim must satisfy the "4 4s" of numerosity, a group too large for joinder; commonality, a group injured by common question of law or fact; typicality, the class representative's injury must be typical of the class; and adequacy, the class representative must adequately represent the class. Because 9 people is probably not a group too large for joinder, I will probably advise against a class action.

✓ I will probably initially seek a temporary restraining order because the tournament is only 8 days away.

✓ Temporary restraining orders may be granted without notice to the other side in emergency situations. Since they are good for 10 days, this will probably be my first move.

✓ I will next seek a preliminary injunction to make sure that further discrimination does not occur during the pendency of the action. I will need to show that my clients have

no adequate remedy at law, they are likely to succeed on the merits, they have an immediate irreparable injury, &

✓ the balance of harms favors the injunction & public policy favors the injunction. Because no amount of money

can compensate someone for the pain of being discriminated against ~~on~~ on the basis of a physical disability, my clients have no adequate remedy at law. Based on Mr. Henayan's statements & the Club's unreasonable membership category structure, my clients are likely to succeed on their discrimination & 93A claims. ~~The~~ My clients are currently being discriminated against by the Club & Henayan and thus there is an immediate, irreparable injury. ~~It is not reasonable for~~ The discrimination is clearly a greater burden on my clients than greater inclusion would pose on the Club. And public policy frowns on discrimination. Therefore, it is likely my clients will likely succeed in securing injunctive relief.

Next I would need to determine where to ~~serve~~ file the complaint. I would need to analyze the principle place of business of Golf Club, looking at its muscle & nerve centers, to determine where the court considers it to be domiciled. I would look at where Mr. Henayan resides & is domiciled as well. If my clients and the Golf Club & Mr. Henayan are citizens of different states (no plaintiff is from the same state as any defendant) I would have the option of filing a diversity action ^{in Federal court} if the amount of damages is also likely to exceed \$75,000. Because each of my clients paid a \$2,500 membership fee, this amounts to \$22,500 per year. If we could show that Golf Club & Henayan had been unfairly discriminatory against them for years, willingly & knowingly, their damages may add up to over \$75,000. If appears that my clients may be able to make a federal discrimination claim, in which case they could also file in federal court on this basis & bring in

The breach of contract § 93A claims supplementally.

I also need to analyze personal jurisdiction over the defendants and venue before deciding where to file.

Personal jurisdiction is the court's power to bind defendants to the judgment based on defendants minimum contacts, or if defendants are served in the jurisdiction, or choose not to contest it. Venue is a convenient place to try the action based on the location of the parties, the evidence, the forum's interest in resolving the matter.

If I choose to file in state court I will need to craft my complaint in such a way as to not invoke any federal claims so as not to risk removal to federal courts ~~upon motion made~~ by the defendants.

Assuming all the parties reside in Massachusetts § the Golf club is in Mass* I will probably advise that we file in MA state court. Next I will need to serve the defendants in accordance with Rule 4. If any defendants do reside outside of Mass I will need to make sure that I comply with applicable long arm statutes.

for have sufficient minimum contacts in Mass,

Expectancy and Reliance Damages are legal remedies available to a party injured by breach of contract. Expectatory damages are designed to put the party he would have been in had the contemplated contract been performed. Reliance damages are designed to put the party in he was in prior to making the contract.

Would be applicable if my clients decide to plead breach of the golf agreement contracts. Disabled plaintiffs may argue that they are entitled to repayment of their membership fees under the reliance damages theory.

Bond Per PRCP 65 a party seeking a restraining order or injunction must give security in the event the equitable relief was improperly given. Courts have discretion to set the amount of the bond, so the party opposing the injunction should make an argument as to valuation of harm that would be caused by granting the requested equitable relief. A party found to have been wrongfully restrained or enjoined may file a claim against the bond to recover costs & damages.

Would be applicable in that Honayan & Golf Club ~~may~~ would argue that the disabled plaintiffs need to post a bond

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93A and 176D actions MA actions that punish unfair methods of competition & unfair & deceptive acts & practices in the conduct of trade and commerce.
176D deals specifically with the insurance business. In 93A actions, consumers may file per sec. 9, the attorney general per sec. 4 & businesses may sue other businesses under sec. 11. Under 93A, consumers need only show an "injury", whereas businesses must show loss of money or property. Prior to filing a 93A action, a demand letter must be delivered identifying the claimant, the injury suffered & the unfair or deceptive act. A response must be served within 30 days w/ a reasonable offer of settlement. ILP to the benefit may be awarded under 93A for willful and knowing violations & a successful plaintiff may also be awarded attorney fees. What may be considered unfair to a consumer may not be considered as such in the business context, therefore a business suing under ~~176D~~ 93A must show that the defendant business's conduct rose to the level of "vascularity" (see Anthony's Pier 4 v. HBC)

Wang Test Name is taken from MA SJC case Wang Labs v. Business Incentives. When an employee acts out of personally ~~pure~~ selfish motivation his employer ~~for his acts~~ may not be liable for said employee's tortious acts. But when an employee acts (1) within the time & scope of his employment, (2) the acts are substantially similar to those he was employed to perform, and (3) was motivated to act, at least in part, by a desire to serve his employer then the court may hold that the employer is liable for ~~the~~ the employee's tortious acts.
Not applicable to fact pattern

Evidentiary Hearing is a hearing held to resolve a material factual dispute or when credibility of witnesses are at stake. It is not an indispensable requirement of a motion for preliminary injunction, and is held at the court's discretion where there is a stip factual dispute.

Would be applicable ~~to~~ in that the Court may decide that it needs to hold an evidentiary hearing to resolve factual dispute over difference between primary & limited memberships & what was said by Mr. Hanayan.

311 176D cont. - UNFAIR 1511, unfair & deceptive acts are defined by the Federal Trade Commission Act. Examples of unfair acts under 176D include misrepresenting policies, bullying to restrain competition & unfair claims & settlement procedures. A violation of 176D is a per se violation of 93A. Insurers are thus intimidated by 93A's threat of multiple damages. Violators of 176D may be forced to cease & desist, pay fines, pay restitution to the consumer & sometimes pay punitive damages.

93A would be applicable to the fact pattern in that the disabled plaintiffs would likely bring a claim under this Act if MA law applies.