
PARTICIPANTS IN BRAWL CAN BE HELD JOINTLY AND SEVERALLY LIABLE

March 3, 2011 | Law Alerts, News

Chappell v. Wenzholz

Ct. Appeals, Div. One, February 8, 2011

Authored By The [JSH Appellate Team](#)

Defendants, a group of friends, were drinking at a hotel bar. They encountered plaintiffs standing outside. An argument ensued, plaintiffs were "sucker punched," and fell to the ground. Without exchanging any words, defendants proceeded to hit and kick the plaintiffs after plaintiffs were on the ground. The trial court granted summary judgment for defendants.

The court of appeals reversed, finding sufficient evidence that defendants acted in concert to inflict injuries on the plaintiffs. Under Arizona law, liability is several only and not joint, unless both tortfeasors were acting in concert. Acting in concert means "entering into a conscious agreement to pursue a common plan or design to commit an intentional tort and actively taking part in that intentional tort." One must act intentionally to act in concert with another. In addition, one who provides substantial assistance to another committing an intentional tort does not act in concert unless he consciously agrees with the other to commit the intentional tort.

Here, there was evidence from which a jury could conclude that defendants implicitly formed a conscious agreement to commit battery on plaintiffs when they collectively joined in the fight in full sight of each other.