

# LEGAL UPDATE

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## UNINCORPORATED ASSOCIATIONS: CAN MEMBERS SUE FOR PERSONAL INJURIES?

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“Can you sue yourself?” As silly as this question sounds, it brings up a little known point of law applying to members of unincorporated associations such as some fraternal orders, churches and firefighting associations. A member of an unincorporated association, in the eyes of the law, is engaged in a joint enterprise with other members. So, if that member sustains a personal injury as a result of negligence by another member or the association, the injured member cannot sue the association because he would, in essence, be suing himself.

This rule has been reinforced by a number of rulings in Pennsylvania:

- A member of a Methodist church fell and was injured because of the church’s negligent care of its premises. The plaintiff argued that she was a member of the general public, not a church member, when she fell on the church grounds because she was en route to a service. The court ruled that it was not her status on the property at the time of the injury, but rather her capacity to sue an unincorporated association to which she belonged.

*Zehner v. Wilkinson Mem’l United Methodist Church*, 581 A.2d 1388 (Pa. Super 1990).

- Similarly, a member of the Elks slipped and fell at one of the association’s buildings and sued for negligence. The Court held that despite the possible negligence of the club, the plaintiff was a member of an unincorporated association and, therefore, lacked the capacity to sue the group.

*Belich v. Elks*, No. 12101-2002, Court of Common Pleas of Beaver County, Pa.

- A member of the Liberty Fire Company Marching Club was injured when he and another member exchanged blows during a fistfight at a club social event. The plaintiff argued that the club was negligent because it did not protect members from the attacker’s violent propensities. The case was dismissed because any negligent act by one member of the club was assigned to all others.

*Plasterer v. Paine*, 544 A.2d 985 (Pa. Super 1988).

- Additionally, a Westmoreland County judge ruled in favor of an unincorporated Elks chapter for a claim alleging that the chapter’s club improperly sold alcohol to another member that led to an assault on the plaintiff.

*Bisher v. Elks*, No., 9407-2004, Court of Common Pleas of Westmoreland County, Pa.

Social, religious and fraternal groups, if unincorporated, should be aware of the often forgotten rule of law that precludes members from suing the group for personal injuries arising from a group’s or another member’s negligent conduct.