

## **Cumberland County Fire Chief's Association**

### **Minutes of October 25, 2010 Monthly Meeting**

The meeting was hosted by EMS Base. We thank Chief Pierce and his staff for their hospitality.

**Opening Prayer:** Chaplain Cassanova provided the opening prayer.

**Roll Call:** Roll call was conducted with 17 departments and 8 associate members present.

**Members Absent:** Cumberland Rd, Hope Mills, Spring Lake, Stedman, Westarea #15, Westarea #20

**Associate Members Absent:** FTCC, Life Link, SBI, Hope Mills Police

**Approval of Minutes:** Minutes from the September 27, 2010 meeting were approved as presented.

**Guests:** The following candidates for numerous offices were present and requested our support: Clara Hill – Superior Court Judge, Diane Wheatley – County Commissioner at-large, Ed Melvin – County Commissioner at large, Jackie Warner – Representative House 45, Johnny Dawkins – Representative N.C. House, Earl Butler - C.C. Sheriff, Ronnie Mitchell – Superior Court, Jim Ammons – Superior Court, Billy West – C.C. District Attorney, Wes Meredith – Senate, Linda Devore – C.C. Commissioner, John Tyson – Superior Court, Bob Lewis – C.C. School Board.

**Vendors Present:** None.

**Treasurer's Report:** President Johnson reviewed the report with the group. He stated that we need to prioritize our purchases, and look at some financing options to enable us to purchase the required communications and technological upgrades that will be needed in the coming future.

#### **Meeting Point of interests:**

**Next Chief's Meeting** will be hosted November 22, 2010 by Vander Fire Department. Dinner will be served. The meeting will begin at 1900 hours.

- President Johnson briefly discussed the letter from Jennifer Kurkowski that was in the September's minutes.
- President Johnson handed out packets which contained; educational announcements, legal briefs, and a sheet from US Health Works.
- President Johnson thanked everyone that participated in the Memorial Service and a special thanks to the Honor Guard for their service as well as the Memorial Committee for coordinating the annual event.

- President Johnson presented Chief Kass of the Pope Air Force Base for his service to the Association and wished him well in his future assignments.
- US Health Works has given us new prices beginning November 15, 2010 for the current services we receive.
- President Johnson advised the association of some upcoming classes at Robeson Community College.

**OLD BUSINESS:**

- President Johnson and Secretary Melvin are working on an updated roster for the association.

**NEW BUSINESS:**

- President Johnson advised the association that he attended the Stedman Town Council meeting to discuss the 11/4 cent tax proposal. No action was taken.

**COMMITTEE REPORTS:**

**ID CARD COMMITTEE** Lt. Tara Whitman (Stoney Point) Chairperson

- **FYI.** Fire Chiefs are required to send a signed letter or memo with a firefighter requesting an ID Card. For any questions or an appointment contact 424-0694 or e-mail at tara@stonepointfire.com

**FIRE PREVENTION/EDUCATION COMMITTEE** Chief J. F. Hall (Bethany) Chairperson

- No report.

**COMMUNICATIONS COMMITTEE** Chief B. Bullard (Stedman) Chairperson

- Director Currie advised that Fayetteville was completing the paperwork to release the 6 channels needed to reduce the busy signals on the radio channels. The equipment has been requested and will be installed at the Cedar Creek, Solcumb and Lumber Bridge towers

**STANDARDS & POLICY COMMITTEE** Chief K. Hall (Cumberland Road) Chairperson

- No report.

**MEMORIAL COMMITTEE** Chief R. Marley (Pearce's Mill) Chairperson

- Chief Marley thanked the Memorial Committee and everyone who participated. It was deemed a success by all those that attended.

**AUTOMATIC AID/MUTUAL AID COMMITTEE** Chief Ake (Beaver Dam) Chairperson

- No report.

**FINANCE COMMITTEE** Deputy Chief Freddy Johnson Jr. (Stoney Point) Chairperson

- No report.

**RESCUE COMMITTEE** Deputy Chief Freddy Johnson Jr. (Stoney Point) Chairperson

- No report

**BULK PURCHASE COMMITTEE** Chief Pierce (EMS) Chairperson

- No report.

**ASSOCIATE MEMBERS REPORT**

**EMERGENCY SERVICES DIRECTOR/ ECC-911** Kenny Currie, Director

- Director Currie informed the membership that the he had a communication meeting at Stedman Fire Department that was very productive. He asked everyone to please report issues in a timely manner so that problems or issues can be corrected. There will be a demonstration on how to read the CAD sheets in the near future.

**EMS DIRECTOR:** Brian Pearce, Director

- Director Pearce advised that EMS would be staffing 9 units 24 hours each day with 5 additional units available during the daytime peak hours.

**HAZMAT** BC Brian Mims, FFD - POC telephone for HAZMAT is 433-1729

- No report.

**FORESTRY DISTRICT** Andrew Synder, County Ranger

- Ranger Synder advised that a Wildland class is underway at the Cotton Fire Department. Additional classes will be offered in the future.

**FTCC** Ernest Ward, Director

- No report

**SHERIFF'S OFFICE** Sheriff Butler

- Sgt. Hodges advised of several case dispositions and reminded everyone to let him know if there were arson related issues. There was discussion on the fatal fire in Godwin - Falcon

**HIGHWAY PATROL**

- No report.

**CHRISTIAN FIREFIGHTERS** Chaplain Cassanova

- No report.

**COUNTY COMMISSIONERS** Fire Commissioner Ed Melvin

- No report.

**FOR THE GOOD OF THE ASSOCIATION:**

- Director Currie expressed his satisfaction with the Memorial Service and challenged everyone to get the younger firefighters involved in these types of services to show support to our fallen brothers.
- President Johnson had several personnel to comment on the fatal fire in Godwin – Falcon. It is recommended that you utilize the grief crisis teams for all of your personnel when situations such as this occur.
- Chief Marsh requested any information about the County contracts. Chief Johnson stated that he has no information on the status of the new county contract. He stated that he had asked to be part of the discussion and formulation phase of the contract, but has not been contacted concerning any contract discussions or meetings, although he is under the impression that meetings have occurred. Director Currie also had no further information. There was nothing to report at this time on the contracts or other open items involving fire districting lines, but President Johnson will send an e-mail to the county attorney to inquire about the Grays Creek & Cotton district line completion issue.
- Deputy Chief Harris requested we look into having the County PIO to assist Fire Departments at major events in an effort to relieve some of the media burden from the local Fire Chiefs. President Johnson will look into this.
- Chief Blackburn thanked everyone for their support at the latest major fires on Fort Bragg and encouraged everyone to obtain their flu shots this year.

**ADJOURNMENT:** A motion was made to adjourn by Chief Owen Harris, seconded by Deputy Chief Hank Harris. The meeting was adjourned at 2015 hours.

Respectfully Submitted By:

*Freddy L. Johnson*

Freddy L. Johnson Sr. CFO  
Fire Chief / President

*Mark A. Melvin*

Mark Melvin, CFO  
Deputy Fire Chief / Secretary

6 Enclosures

1. US Health Works price sheet
2. Training information
3. Training information
4. Legal Briefs
5. Treasurers report
6. Roll call form



October 7, 2010

Dear Valued Client:

U.S. HealthWorks appreciates the opportunity to partner with you in managing your occupational healthcare needs.

This letter is to inform you that we are implementing a modest increase on some services to align with changes to our cost structure. These new prices will go into effect November 15, 2010.

Your new prices are as follows:

Protocol Name	New Price	Old Price
Hepatitis B Vaccine	\$70.00	\$60.00
**This increase is due to a manufacturer price increase.		
PFT	\$25.00	\$22.00
PPD	\$15.00	\$12.00

Please feel free to contact us regarding any questions you may have. We value our long-standing relationship and look forward to serving you in the coming year.

Sincerely,

Karen Revels  
Center Manager  
910-323-3184

ENC 1

# INCIDENT SAFETY OFFICER

(NATIONAL FIRE ACADEMY COURSE)

ROBESON COMMUNITY COLLEGE

WORKFORCE DEVELOPMENT CENTER

BB & T Room

**NOVEMBER 19 & 20**

Friday 6 p.m. - 10 p.m. & Saturday 8 a.m. - 5 p.m.

The students will be able to identify and analyze safety concerns as they relate to all hazards, scene evaluations, and communicate recommended solutions to the command authority. This course examines the safety officer's role at emergency response situations. A specific focus on operations within an incident command system as a safety officer is a main theme.

**INSTRUCTOR: PHILLIP BATTS  
REGIONAL FIRE/RESCUE COORDINATOR  
STATE OF NC COMMUNITY COLLEGE SYSTEM**

*Pre-registration is a must!*

*Please call (910) 738-7128 ext. 21 to reserve your seat.*

[www.rccestg.org](http://www.rccestg.org)

## ***Fireground Injury and Death:***

# **2010 FIREFIGHTERS & FIRE OFFICERS**

# **SURVIVAL PROGRAM**

## ***NOT... EVERYONE Goes Home!***

Presented By:

**Chief Billy Goldfeder, E.F.O., Deputy Chief of the Loveland-Symmes FD, Associate/Contributing Editor for FIRE ENGINEERING, FIRE RESCUE, FIREHOUSE, FIREHOUSE.COM, monthly columnist: Firehouse Magazine's "CLOSE CALLS" and co-host of [www.FireFighterCloseCalls.com](http://www.FireFighterCloseCalls.com)**

- Chief Billy Goldfeder will present to the attendees, through video, audio and "**WAKE UP**" lecture, an in-depth review of specific and **very recent and timely** fireground events and most specifically, the **LESSONS LEARNED** so that these incidents (and those involved) ***don't ever become forgotten***. This very personal, high energy DIRECT AND FRANK class (updated regularly to assure timeliness) that is professionally and respectfully presented, provides the attendees an excellent opportunity to apply the LESSONS LEARNED to their own departments...and themselves, when returning home...potentially avoiding "history tragically repeating itself.

The goal of this class is to have them leave more knowledgeable, educated and informed but most importantly THINKING HARD about their role and their department's responsibility in FIRE and RESCUE operations....to themselves and their families. These "**LESSONS LEARNED**" and related **CASE STUDIES** will help insure that similar problems are not repeated again-at YOUR DEPARTMENT.

**EVERYONE GOES HOME?** Some firefighters do and some don't...this seminar will help you understand WHY...and why it is so important to think about: **Who is in YOUR wallet?**

### **ABOUT THE INSTRUCTOR:**

Chief Billy Goldfeder, EFO, a firefighter since 1973, serves as Deputy Fire Chief of the Loveland-Symmes FD in S.W. Ohio. LSFD is an ISO Class 2, full service ALS department providing a full range of traditional and non-traditional emergency & community services. A Chief Officer since 1982, he has served as a Fire Chief in Ohio, Virginia and Florida. Chief Goldfeder also served as a Public Protection representative covering southern New York, for I.S.O. as well as a Company Officer, starting with the Manhasset-Lakeville F.D., in Long Island, N.Y. (Continued)



Chief Billy Goldfeder  
2010 Firefighter and Fire Officer Life Safety Seminar

NOVEMBER 6, 2010

Robeson Community College, Lumberton NC

Please complete pre-registration form and fax to (910) 738-5411

Social Security Number \_xxx\_\_\_\_ - \_xxx\_\_\_\_ - \_\_\_\_\_

. Last Name \_\_\_\_\_

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_

\_\_\_\_\_

Address: Street/P.O Box/Route

\_\_\_\_\_

City/ State/ Zip Code

. County of Residence \_\_\_\_\_

. Date of Birth \_\_\_\_\_

Month Day Year

. Sex: ~ Male ~ Female (circle one)

. Race: ~ White ~ Black Indian ~ Hispanic ~ Asian (Circle one)

. Home Telephone No. (\_\_\_\_) \_\_\_\_\_

. Circle highest grade completed: 0 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 (Circle one)

. Employment: ~ Full ~ Part-time ~ Unemployed (Circle one)

. Employer: \_\_\_\_\_

. Business Telephone No. (\_\_\_\_) \_\_\_\_\_ Cell Number (\_\_\_\_) \_\_\_\_\_

. Fire Department or Rescue Squad \_\_\_\_\_

. Student's Signature \_\_\_\_\_

Duplicate As Needed  
Registration fee: no charge

# Legal Briefings for Fire Chiefs

How fire chiefs, fire commissioners, and other fire service officers use the law to protect their communities... their departments... their officers... and themselves.

Vol. 23, No. 10

FireChiefLaw.com

October 2010

## In This Issue

### **Fired Probationary Firefighter Claims *Property Interest* in Employment**

The fire district extended the probationary period and terminated the firefighter as an *at will* employee. The fire chief was not pleased with his pro-union comments. Pro-union speech is *constitutionally protected*, and the fire district unlawfully extended the probationary period. .... Page 2

### **Suspension—Conduct Unbecoming—Statements Made in “Jest”**

Seemingly jocular statements were taken seriously, resulting in a disciplinary hearing and a suspension. An appeal resulted in an even longer suspension. .... Page 3

### **Volunteer Firefighter—Traffic Accident Responding to Call—Immunity**

Driving his own automobile, the volunteer firefighter collided with another vehicle, and the passenger was injured. The fire department was sued for negligence, and responded by employing the Good Samaritan rule. .... Page 5

### **\$450,000 Pension Miscalculation—Must Retired Fire Chief Repay?**

No. The court pointed to equitable principles and the fact that the retired chief would face a financial catastrophe. However, the retired chief was later hired as public safety director and did not pay enough in pension contributions. .... Page 6

### **Fatal Heart Attack—Retired Firefighter—Bid for Death Benefits**

The first heart attack was found to be *work-related*. Two doctors supported the *causation* issue of the fatal heart attack. The city's doctor, also a cardiologist, disagreed. Was there competent evidence to support the award of benefits? ..... Page 7

### **Retired Firefighter Suffers Heart and Lung Disease**

The city had the burden of rebutting the presumption that the conditions were work-related. In this instance, the retired firefighter waited several years, during which he started a different career, before applying for benefits. .... Page 8

## In The Next Issue

### **Fire Chief Demoted—Refuses to Promote Candidates—Racial Motive?**

The city charter provides that the director of public safety is superior to the fire chief in the chain of command. When the fire chief refused to carry out a lawful order, he was *insubordinate* and was lawfully demoted.

### **Hiring Procedures Challenged—Less Qualified Candidates Selected**

The appointing authority has the *discretion* to select any candidates from the eligibility list. For anyone appealing a hiring decision after being passed over, there must be established an *unlawful motive* in selecting less qualified candidates. The burden is clearly on the appellant.

Was Kodish a probationary employee at the time he was forced to resign? Was he terminated for exercising his free speech under the *First Amendment*?

**Decision: Reversed.**

The District's *Wage and Benefit Policy* is at odds with the state law. The District may *not* extend the probationary period for firefighters. The *Fire Protection District Act* ("Act") effectively granted Kodish a *property interest* in his continued employment in the absence of cause for discharge after he had held the position as a firefighter for one year, notwithstanding the medical leave period for a work-related injury. The Act clearly does not give the District the authority to extend the probationary period.

The district court improperly granted summary judgment to the District on the issue of whether Kodish was in fact terminated for his pro-union speech; a violation of the *First Amendment*. The court concluded that such speech is constitutionally protected. Further, Kodish has offered evidence that "but for the protected pro-union speech" he would not have been fired. *Gunville v. Walker*, 583 F.3d 979 (2009).

It follows that there is a triable issue as to whether "discrimination motivated the adverse employment action" (i.e. termination). *Darchak v. City of Chicago Bd. of Educ.*, 580 F.3d 622 (2009). Kodish provided evidence that Chief Sebesta was not in favor of Kodish's pro-union position. The court noted that City officials did not contest the fact that pro-union speech is constitutionally protected.

*Citation: Kodish v. Oakbrook Terrace Fire Protection District, et al., No. 08-1976, U.S. Court of Appeals, Seventh Circuit (2010).*

## Suspension— Joke or Conduct Unbecoming? When does a "joke" become misconduct warranting discipline?

*Lesson Learned: Ill attempts at humor have resulted in many a shattered firefighter's career. In this instance, the statements by a fire captain were probably made in jest, but they were not taken that way.*

Captain John Lenhardt, a twenty-two year veteran firefighter with the Hamilton Fire District #2, appealed his forty-five day suspension for conduct unbecoming of a public employee.

The disciplinary sanction was the result of a verbal confrontation between Lenhardt and volunteer firefighter Jarred Pierson on May 1, 2007. Lenhardt, along with Pierson and firefighters John Burton and Ray Krajsovics, was returning from a call when he allegedly told Pierson, who was applying for a full time paid firefighter position, that he was volunteering himself out of a paid firefighter job by responding to too many night calls. Lenhardt reasoned that Pierson would improve his chances if he kept his call response percentage up and respond to daytime calls instead.

Lenhardt and Pierson had been friends, but these statements troubled Pierson to the point that he made mention of the incident to the fire commissioner. Lenhardt heard of this and confronted Pierson and called him a "pussy" and threatened that he would not give him any sort of

*Continued on the next page* ➤

### Mission Statement

Our intention is to report legal matters and the outcomes of lawsuits to fire service officers in order that they learn from the experiences of their colleagues. We do not give legal or any other professional advice, nor do we guarantee the accuracy of our content. Rather, we strongly urge subscribers to have access to competent, experienced attorneys. We hope that this information will help you avoid needless litigation; successfully defend against legal claims that are unavoidable; and use the law to protect your community.

Laws and court decisions are frequently changed, and what you may read in this and other publications might not pertain to all jurisdictions and may have been superseded by new laws, a more current decision, or a different interpretation of the law. Case law and statutes change without notice. Thus, you should not rely on this or other services without first seeking advice from your attorney.

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## Fire Department Sued— Negligence

### Defendants argue that the “Good Samaritan” statute should apply, precluding any liability

*Lesson Learned: If a firefighter is driving a privately owned vehicle in response to an emergency, it is considered part of the act of providing emergency care.*

Jim Bauman, a volunteer firefighter for the Chester Fire Department (“Fire Department”), received an emergency call while at a Fourth of July party. When he and his wife were traveling in his privately owned truck to the fire hall, he collided with another vehicle. The passenger of the other vehicle, Mandi Gronseth (“Plaintiff”), was severely injured.

Plaintiff filed a negligence action against Bauman, the Fire Department, and its fire protection district (collectively “Defendants”) in United States District Court. Plaintiff subsequently dropped the claim against Bauman.

Defendants filed a motion for summary judgment contending that they were not liable under the “Good Samaritan” statute. *SDCL 20-9-4.1*. This statute protects persons, including firefighters and any fire department, from potential liability when providing emergency care or services, unless the actions are “. . . willful, wanton, or reckless. . .” *SDCL 20-9-4.1*.

Plaintiff argued that the statute only applies to the protection from liability for negligent services to the person receiving the care, not an innocent bystander. In addition, she claimed that when Bauman was driving to the fire hall he was not yet providing emergency care.

Since the lower court never interpreted this statute, the United States District Court asked the present court to determine whether driving a private vehicle to a fire hall is part of “any emergency care or services. . .”

**Decision:** The court held that driving a private vehicle in response to an emergency call is included within the phrase “any emergency care or services.”

“When a statute’s language is clear, certain and unambiguous, our function confines us to declare its meaning as plainly expressed.” *Wiersma v. Maple Leaf Farms, 543 NW2d 787, 789 (1996)*.

The court determined that Bauman’s actions fell under the language of the statute. In addition, it found that the Legislature intended to protect the type of act that Bauman was engaged in, since he was driving in response to the emergency and would not otherwise have been able to get to the hall.

The court further noted that if protection from liability was only limited to when services are being provided to those receiving care and not bystanders, it would “. . . violate our rule of statutory construction in which we are to declare the meaning of the statute as plainly expressed.” *Wiersma v. Maple Leaf Farms, 543 NW2d 787, 789 (1996)*.

In this instance, there was no evidence that Bauman’s actions were willful, wanton, or reckless.

Volunteer firefighters provide a vital service for many communities which cannot afford active, paid fire protection. Sadly, we have been reporting an increasing number of these types of cases.

*Citation: Gronseth v. Chester Rural Fire Protection District, et al., No. 25216, Supreme Court of South Dakota (2010).*

## Around the Nation

Stated another way, Rugens allegedly owed her a duty not to operate the fire truck in a negligent way.

Rugens filed a motion for summary judgment, claiming there are no genuine issues of material facts and that he is entitled to a judgment as a matter of law. *Heussner v. Day, Berry & Howard, LLP, 893 A.2d 486 (2006)*.

In order for Rugens to be found negligent, there must be a finding that he had a duty of care, which is a question of law.

Rugens’ defense was that there was no duty of care.

The trial court agreed and dismissed the case. Lachowicz appealed, contending that the trial court improperly determined that Rugens did not owe her a duty of care.

**Decision:** Affirmed.

The trial court properly stated, “the defendant [Rugens] was the operator of a fire rescue vehicle, which is required to respond quickly and efficiently to emergency type situations. It would not be unreasonable for such a vehicle’s engine to be turned on before responding to a routine or actual drill.

Furthermore, there is nothing alleged in the complaint that such a practice is in violation of any fire department policy or manual. In addition, there is nothing in the complaint to indicate that said vehicle was anything but a normal fire rescue vehicle that was operating in accordance with fire department policy and procedure.

Last, there is no allegation in the complaint that indicates that said vehicle was defective and/ or vibrating at an excessive or dangerous level. In fact, the defendant states in his affidavit that “there is some vibration when the fire rescue truck is turned on, which is normal, and the amount of vibration was no different on June 12, 2005 than it was on any prior occasion..”

(Continued on next page)

2002 to qualify Keenan as having forty-three years of service credit. There is no inequity in ordering him to make pension contributions for that period.

The first decision wherein Keenan was not ordered to repay the \$450,000 was equitable relief. Here, there is no equitable relief warranted.

*Citation: In re Keenan, No. A-2517-08T2, Superior Court of New Jersey, Appellate Division (2010).*

## Fatal Heart Attack— Retired Firefighter

Randall Paige was hired as a firefighter in 1974 by the City of Sterling Heights, Michigan ("City"). In 1991, Paige started to experience what were thought to be symptoms of a heart attack while at the scene of an automobile accident. He returned to the fire station where his condition worsened, and he was taken to the nearest hospital. There, it was determined that Paige had suffered his first heart attack.

In late 1991, acting on his doctor's advice, Paige ended his firefighting career. In 1993, Paige was awarded disability benefits on the basis that his work as a firefighter contributed to his heart attack.

In 2000, Paige suffered a second heart attack and underwent heart by-pass surgery. In 2001, Paige suffered a third, and this time fatal, heart attack.

Paige's survivors (Plaintiff) applied for various benefits under the Workers' Disability Compensation Act ("WDCA"), including death benefits for Paige's son, who was seventeen years old when Paige died.

The WDCA provides that death benefits will be paid to Paige's survivors if: (1) the work-related injury was the *proximate cause* of the death of Paige, and (2) Paige left his dependents who continued to be dependent on him for support.

Three medical doctors testified. Dr. Mark Goldberg, Paige's treating cardiologist testified that his heart condition, described as coronary artery disease, was present since his first heart attack in 1991. Dr. Goldberg noted that the failure of Paige's left ventricle to contract normally was related to the 1991 heart attack. Dr. Eldred Zobl, also a cardiologist, opined that Paige "probably had fatal arrhythmia caused by damage to the left ventricle from his previous heart attacks and his coronary artery disease." Dr. Gerald Levinson testified for the City and opined that Paige's heart disease came as a result of hypertension, hyperlipidemia, smoking, obesity, gender, and a family history of heart disease. Dr. Levinson testified that Paige's fatal heart attack was not caused by the 1991 heart attack.

Later, Magistrate Andrew Sloss ruled that Paige's 1991 heart attack need not have been the sole *proximate cause* of his death. Instead, a "cause was sufficient if it created a force that was in continuous operation until" Paige's death. He further ruled that all three doctors agreed that it was the cumulative damage to the heart that began with his work-related myocardial infarction in 1991 that caused the fatal attack in 2001.

The Plaintiff was awarded benefits, and the City appealed to the Workers' Compensation Appellate Commission ("WCAC"), contending that the three doctors were not in agreement on the cause of death. The WCAC affirmed with a modification of benefit payments, and the City brought this action to appeal, contending among other things that the Magistrate discounted the testimony of Dr. Levinson.

*Continued on the next page* ➤

## Around the Nation

Board's decision, and Plaintiff now appeals.

**Decision: Affirmed.**

On appeal, Plaintiff contended that the Board's refusal to appoint a medical board before denying his application for accidental disability benefits violated the terms of the System. Plaintiff also claimed the Board's decision was *arbitrary, capricious, and an abuse of discretion*.

The Board responded that it was not required to appoint a medical board in this case because Plaintiff did not meet the threshold eligibility criterion for an accidental disability pension.

The Board denied Plaintiff's claim based on its finding that he terminated his employment because the DROP period had expired, instead of an accidental disability. The court found substantial evidence in support of the Board's decision.

After Plaintiff's July 9, 2006 injury, he used his own medical insurance, and saw a physician for a medical diagnosis on August 15, 2007 and a second physician for treatment on September 10, 2007. Although he reported the injury to his employer, he did not apply for worker's compensation benefits, nor did he then seek treatment through his employer's health center.

On May 17, 2007, a physician's assistant at the Fire Department's Health Center examined Plaintiff for the first time. The physician's assistant recommended that Plaintiff continue working on full time duty status. One week later, he applied for an accidental disability pension that was to begin on May 31, 2007, "coincidentally" the last day of the DROP period. Nonetheless, Plaintiff worked as a "full time" on duty firefighter through May 31, 2007.

Therefore, the record justifies the Board's conclusion that Plaintiff did not terminate his employment because of an accidental disability.

*Citation: Hosea v. City of Phoenix Fire Pension Board, No. 1 CA-CV 09-0105, Court of Appeals of Arizona (2010).*

## CCFCA BALANCE SHEET

(Includes unrealized gains)

As of 10/25/10

10/25/10

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Account	10/25/10 Balance
<b>ASSETS</b>	
Cash and Bank Accounts	
Checking	218,355.21
Savings	0.00
TOTAL Cash and Bank Accounts	218,355.21
<b>TOTAL ASSETS</b>	<b>218,355.21</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>LIABILITIES</b>	
	0.00
<b>EQUITY</b>	
	218,355.21
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>218,355.21</b>

## CCFCA CATEGORY SUMMARY

7/1/10 Through 10/25/10

10/25/10

Page 1

Category Description	7/1/10- 10/25/10
<b>INCOME</b>	
Brick Purchase Payment To CCFCA	250.00
City Of Eastover	17,068.41
City Of Wade	1,502.77
COUNTY OF CUMBERLAND	304,328.43
Interest On Checking Account	7.80
<b>TOTAL INCOME</b>	<b>323,157.41</b>
<b>EXPENSES</b>	
3% Money	181,379.83
AIR SYSTEMS	7,072.67
ASSOC. SUPPLIES	42.02
Bank Analysis Service Charge	73.81
FIRE PREVENTION	1,500.00
GENERAL FUND	660.00
LEGAL	-182.00
Memorial Service	765.72
NETWORK SYSTEM	384.50
OSHA REQUIREMENTS	6,240.00
<b>TOTAL EXPENSES</b>	<b>197,936.55</b>
<b>OVERALL TOTAL</b>	<b>125,220.86</b>

*ENC 5*

**CUMBERLAND COUNTY FIRE CHIEF'S ASSOCIATION  
ROLL CALL**

MEMBERS PRESENT (23)	21	21	21	19	19	23	18	21	22	17		
ASSOCIATES PRESENT (12)	10	11	10	7	7	11	7	8	10	8		
<b>CC Fire Chiefs DEPARTMENT ORGANIZATION</b>  * Chief's Only Meeting	* 25-JAN-10	22-FEB-10	22-MAR-10	26-APR-10*	24-MAY-10	28-JUN-10	26-JUL-10*	23-AUG-10	27-SEP-10	25-OCT-10*	22-NOV-10	20-DEC-10
<b>MEMBERS</b>												
BEAVER DAM STA 26	P	P	P	P	P	P	P	P	P	P		
BETHANY STA 12	P	P	P	P	P	P	P	P	P	P		
CEDAR CREEK STA 8	P	P	P	P	P	P	P	P	P	P		
COTTON STA 4	P	P	P	P	P	P	A	P	P	P		
CUMBERLAND ROAD STA 5	P	A	P	P	P	P	P	P	P	A		
EASTOVER STA 1	P	P	A	A	A	P	P	P	P	P		
EMS EMERGENCY MEDICAL SERVICES	A	A	A	P	A	P	P	P	P	P		
FAYETTEVILLE FIRE DEPT	P	P	P	P	P	P	P	P	P	P		
FORT BRAGG FIRE DEPT	P	P	P	P	P	P	P	P	P	P		
GODWIN - FALCON STA 17	P	P	P	P	P	P	P	P	P	P		
GRAYS CREEK STA 18	P	P	P	P	P	P	P	P	P	P		
GRAYS CREEK STA 24	P	P	P	P	P	P	P	P	P	P		
HOPE MILLS STA 21	P	P	P	A	A	P	A	P	P	A		
PEARCE'S MILL STA 3	P	P	P	P	P	P	P	P	P	P		
POPE AIR FORCE BASE FIRE DEPT	A	A	P	P	P	P	A	A	P	P		
SPRING LAKE STA 22	P	P	A	A	P	P	A	A	P	A		
STEDMAN STA 23	P	P	P	P	P	P	P	P	P	A		
STONE POINT STA 13	P	P	P	P	P	P	P	P	P	P		
STONE POINT STA 19	P	P	P	P	P	P	P	P	P	P		
VANDER STA 2	P	P	P	P	P	P	P	P	P	P		
WADE STA 16	P	P	P	P	P	P	P	P	P	P		
WESTAREA STA 15	P	P	P	P	A	P	A	P	P	A		
WESTAREA STA 20	A	P	P	A	P	P	P	P	A	A		
<b>ASSOCIATE MEMBERS</b>												
HAZMAT	P	P	P	P	A	P	P	P	P	P		
SHERIFF'S OFFICE	P	P	P	A	A	P	P	P	P	P		
HIGHWAY PATROL	P	P	P	P	P	P	P	P	P	P		
CC EMERGENCY SERVICES	P	P	P	P	P	P	P	P	P	P		
FORESTRY	A	P	P	A	A	A	P	A	P	P		
FTCC	P	A	A	A	P	P	A	P	A	A		
COUNTY COMMISSIONERS	P	P	P	P	P	P	A	P	P	P		
CHRISTIAN FIREFIGHTERS	P	P	P	P	P	P	P	A	A	P		
LIFE LINK	P	P	A	P	A	P	P	A	P	A		
SBI	P	P	P	A	P	P	A	A	P	A		
HOPE MILLS POLICE	A	P	P	A	A	P	A	P	P	A		
FORT BRAGG EMS	P	P	P	P	P	P	A	P	P	P		

Special Notes:

CODES: (P) - Present (A)-Absent (E) - Excused