



# The Fourword

Volume 41 Number 8

August 2013

## Retiree Health Care Subsidy Case

### **Baltimore County Fraternal Order of Police Lodge #4 prevails in the Circuit Court against the County's attempt to disregard the decision of the Maryland Court of Appeals**

On August 14, 2013 Baltimore County Circuit Court Judge Finifter issued a decision in the favor of the FOP's "Motion to Enforce" in the retiree health care subsidy case. The Judge stated that the County's arguments were precluded from consideration by the Law of the Case Doctrine. That doctrine states that

"Once a decision is established as the controlling legal rule of decision between two parties in the same case, it continues to be the law of the case. The purpose of this doctrine is to prevent 'piecemeal' litigation, and also, to prevent successive appeals that involve the same questions that were previously decided or could have been decided by the court."

In Judge Finifter's review of the record of this case he stated "it appears the plaintiff (Baltimore County) is presenting the same arguments that were either presented in its Complaint, Motion for Summary Judgment, to the Court of Special Appeals in its appeal or to the Court of Appeals in its Motion for Reconsideration. As such, the Court does not find it necessary to delve into the merits of these arguments."

The court ordered that within twenty (20) days from the date of the order, the Plaintiff shall provide each affected retiree (February 1992 to June 2007) with the health care subsidy in place at the time of his retirement and that within twenty (20) days, the court will issue a sum certain judgment to which they are entitled, including any appropriate pre and post judgment interest.

- Class Action Grievance Hearing and Award - 07/15/2008 (FOP prevails)
- Baltimore County Circuit Court Motion to Vacate Arbitration Decision - 08/10/2010 (FOP prevails)
- Baltimore County Appeal to the Court of Special Appeals - 12/08/2011 (Baltimore County prevails)
- F.O.P. Lodge #4 Appeals to the Maryland Court of Appeals - 11/19/2012 (FOP prevails)
- Baltimore County files a motion to the Court of Appeals to reconsider their decision – 12/07/2012, the Court of Appeals denies the motion to reconsider - 01/18/2013 (FOP prevails)
- Court of Special Appeals reversed their decision as directed by the Court of Appeals - 02/26/2013
- F.O.P. Lodge #4 files Motion to Enforce the Court of Appeals Decision – 08/14/2013 (FOP prevails)





**MEETING MINUTES  
July 2013**

- The July, 2013 General Business Meeting was held on July 22, 2013 at FOP Lodge 4. President Weston called the meeting to order at 7:30 p.m. Chairman Schubert gave the invocation. and led the Pledge of Allegiance.

**ROLL CALL OF OFFICERS**

- Brothers Rommel and Joe Caskey were working. Chaplain Merkle, Brother Mike DiCara and Brother Tony DiCara were on vacation. Brother Don Patterson and Sister Donna Patterson were excused. All other elected officers and Board members were present. Legal advisor Mike Marshall was excused.

**APPROVAL OF THE MINUTES OF THE PREVIOUS MEETING**

- A motion was made by Brother King to accept the minutes of the June, 2013 General Membership Meeting. A second was made by Brother Lagna. There was no discussion. The motion passed.

**REPORTS OF OFFICERS**

**~ PRESIDENT WESTON ~**

- June 25 Attended a meeting with Councilman Marks.
- June 26 Attended a fundraiser

for Delegate Kathy Szeliga from the 7<sup>th</sup> legislative district.

- June 27 Attended a fundraiser for Delegate Adrienne Jones from the 10<sup>th</sup> legislative district, and met with Councilman Quirk.
- July 1 Met with workers compensation attorney, Mark Grasso.
- July 3 Met with a member concerning a grievance over the Lieutenant's position at the training academy.
- July 8 Met with representatives from the American Addiction Centers concerning local programs that may be helpful to the families of our membership.
- July 10 Attended a Legal Advisory Committee meeting.
- July 16 Attended a fundraiser for Delegate John Olszewski Jr. from the 6<sup>th</sup> legislative district.
- July 19 Attended the scheduling conference in Baltimore County Circuit Court for the lawsuit that was filed concerning the 25 million dollar loan that was taken from the pension system.
- July 22 Met with Orlando Lilly, the president of the Blue Guardians, and attended the Political Action Committee, the Executive Board of Directors, and General Membership meetings.

**~ 1<sup>st</sup> V. P. COMEGNA ~**

- July 10 Attended a meeting of the Legal Advisory Committee.
- July 19 Met with President Weston, Secretary Folderauer and Second Vice President Rose to discuss current Lodge issues.
- July 22 Worked at the Lodge office, attended a meeting of the Political Action Committee, at-

**LODGE 4 OFFICE**

9304 Harford Road  
Baltimore, Maryland 21234  
Phone (410) 668-0004  
FAX (410) 668-8126  
Toll Free (888) 313-3501  
www.foplodge4.org

**ELECTED OFFICERS**

Cole B. Weston  
**President**  
(443) 956-2679

Steven G. Comegna <b>1<sup>st</sup> Vice President</b> <i>PC3 - Traffic</i> (410) 409-0293	David M. Rose <b>2<sup>nd</sup> Vice President</b> <i>F.O.P Lodge 4</i> (443) 956-2643
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David J. Folderauer, Sr. <b>Lodge Secretary</b> <i>PC 4 - IST</i> (410) 382-2075	Robert W. Caskey <b>Treasurer</b> <i>CID-Robbery</i> (443) 956-2615
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W. Donald Patterson <b>State Trustee</b> <i>PC12</i>	Anthony DiCara <b>Sergeant at Arms</b> <i>PC12</i>
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Paul A. Merkle <b>Chaplain</b> <i>Retired</i>	L. Timothy Caslin <b>Past President</b> <i>Retired</i>
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**EXECUTIVE BOARD of DIRECTORS**

Kenneth F. Schubert <b>Chairman</b> <i>Retired</i> (410) 416-2800	Mike DiCara <b>Vice Chairman</b> <i>PC 4</i>
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Thomas G. Scally <i>CID - Arson</i>	Lou Lagna <i>Retired</i>
Donna Patterson <i>PC12</i>	Patrick Zito <i>Retired</i>
James P. Rommel, Jr. <i>K9</i>	Ryan Massey <i>CID - Homicide</i>
Joe Caskey <i>CID - Homicide</i>	Kathy Kraemer <i>PC 6</i>

**LODGE STAFF**

Juanita Bouthner—Administrative Assistant  
Nancy Skinner—Administrative Assistant

**LEGAL ADVISORS**

Schlachman, Belsky & Weiner, P.A.  
Phone (410) 685-2022  
IAS Cases Michael Marshall

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*The Fourword* is the official monthly publication of Baltimore County Fraternal Order of Police Lodge 4.

**Fourword Editor**  
Kathryn Greenbeck  
*Precinct 8*



tended the Executive Board of Directors Meeting and the General Business Meeting.

**~2nd V.P. ROSE~**

- June 25 Met with Colonel Burris regarding James Laboard, met with Councilman Marks and Councilwoman Almond.
- June 26 Addressed in-service training, met with the Director of the Office of Human Resources, George Gay.
- June 27 Attended phase 1 of range training.
- July 1 Met with Mark Grasso, attended a fundraiser for Dana Stein.
- July 8 Attended Circuit Court for a Show Cause Petition in the Damon White case.
- July 9 Attended a Pension Board of Trustees meeting.
- July 10 Chaired a Legal Advisory Committee meeting.
- July 11 Met with a member to discuss retirement options.
- July 16 Attended a fundraiser for John Olszewski Jr.
- July 17 Met with our accountant for IRS compliance.
- July 19 Attended Circuit Court for a scheduling hearing for the case against the Pension Board of Trustees regarding the pension

- loan.
- July 22 Attended the Executive Board of Directors meeting and the General Membership meeting.

**~SECRETARY FOLDERAUER~**

- July 10 Attended a meeting of the Legal Advisory Committee.
- July 19 Met with President Weston, First Vice President Comegna and Second Vice President Rose to discuss current Lodge issues.
- July 22 Worked at the Lodge office, attended a meeting of the Political Action Committee, attended the Executive Board of Directors meeting and the General Business Meeting.

**~TRESURER CASKEY~**

- July 3 Worked at the Lodge.
- July 4 Prepared a cookout at PC12, which was sponsored by Lodge 4, for our members who worked 3-11 shift and those who were detailed to the North Point fireworks display.
- July 7 Worked at the Lodge.

- July 22 Worked at the Lodge, attended the PAC meeting, talked with the person the Lodge hired for compliance review items, attended the EBOD meeting and the General Membership meeting, where I reported on the financial status of the Lodge.

**EXECUTIVE BOARD  
OF DIRECTORS REPORT**

**~ Kenny Schubert~**

- An Executive Board of Directors meeting was held on July 22, 2013. The meeting was called to order at 5:30 p.m. Brothers Rommel and Joe Caskey were working. Chaplain Merkle, Brother Mike DiCara and Brother Tony DiCara were on vacation. Brother Don Patterson, Sister Donna Patterson, and Past President Caslin were excused. All other elected officers and Board members were present. Legal counsel Mike Marshall was excused.
- Motions that were made, after



receiving a proper second, were discussed, voted upon, and appear in this issue under the appropriate committee reports.

**REPORTS OF COMMITTEES**

**ATHLETIC COMMITTEE**

~Don Patterson~

- The 2013 FOP Lodge 4 Golf Tournament was held Friday, August 23 at Rocky Point Golf Course. Shotgun start was at 0800 hours. The cost was \$360 per foursome and included continental breakfast, golf cart, beverages on the course, lunch and prizes.

**DONATION REVIEW COMMITTEE**

~Paul Merkle~

- The Donation Review Committee met on June 24, 2013 and the following requests were approved to be brought to the Board:
- Motion to donate \$400.00 toward the entry fee for a team of Lodge 4 members to participate in the 2013 RAGNAR relay, a benefit for homeless persons.
- Motion to donate \$250.00 for the Chrome City Ride July 27,

2013 to benefit kids with disabilities at the Benedictine School.

**GRIEVANCE COMMITTEE**

~Dave Rose~

- There were no grievances filed in July.
- The Phil Crumbacker grievance at step #3 has been scheduled for August 20, 2013 at 1:30 pm at the Office of Administrative Hearings.

**LEGAL ADVISORY COMMITTEE**

~Dave Rose~

- A Petition to Show Cause in the Damon White case was heard on July 8, 2013 in Circuit Court in front of Judge Ballou-Watts. At the conclusion of the hearing, she ruled that his rights under the LEOBR were violated and would not allow statements to support two sustained charges to be allowed. The Chief and the Legal Division are reviewing their options.
- The Legal Advisory committee met on July 10, 2013. Two items were on the agenda. The first was a request from Brother Massey for funding for a lawsuit against Baltimore County for a denial of

his promotion to Corporal after being found not guilty at his trial board. The board members listened to his attorney, explain his strategy and legal argument and were able to ask several questions. After considerable discussion, there was a motion to not fund the law suit. There was a proper second and the motion passed.

- The second item on the agenda was the Baltimore County modified duty policy. On January 14, 2013 the County made changes to the policy by expanding it to include modified duty for Correctional Officers and sworn members of the Police and Fire Departments. The FOP sent a letter dated February 7, 2013 to the Director of Human Resources, George Gay, requesting to bargain over those changes. On February 12, 2013 he verbally communicated that the County has no intention to bargain over the policy. During that time, the police department drafted a modified duty policy. A letter was given to Chief Johnson on March 12, 2013 asking him to address several issues. That letter was deliv-



ered to the County with no response. On June 5, 2013 a letter was again drafted and delivered to George Gay requesting to bargain over the modified duty policy. The letter had a deadline of July 1, 2013 for a response. On June 26, 2013 he verbally communicated that the County had no intention to bargain over the issue. A motion was made to file an Unfair Labor Practice against Baltimore County Executive Kamenetz for refusing to negotiate over the modified duty policy. There was a proper second and the motion passed unanimously.

- The Complaint and Petition to Show Cause in the Megan Childress case for violations of several sections of the LEOBR is scheduled for September 12, 2013.
- The Brandt Bradford case was argued on April 4, 2013 at the Board of Appeals. Closing briefs have been submitted.
- The FOP case against the Employees Retirement System has been assigned to Judge Souder in Baltimore County Circuit Court. On July 1, 2013 she denied the County's motion to dismiss. A scheduling conference was held on July 19, 2013. A hearing date is set for January 3, 2014.
- The Employee Relations Act (County Executive Jim Smith, Binding Arbitration) case was heard on September 9, 2011 at the Court of Special Appeals. We are still waiting for a decision.

**PENSION COMMITTEE**

~Dave Rose~

- At the Baltimore County Employees' Retirement System

Board of Trustees' meeting on July 12, 2013 we approved 50 total retirements (4 police).

**POLICY REVIEW COMMITTEE**

~Dave Rose~

- The committee received two (2) policies to review this month. There were no issues.
- The Integrity committee meeting scheduled for July 19, 2013 was cancelled by Colonel Evans.

**POLITICAL ACTION COMMITTEE**

~Steve Comegna~

- The PAC Committee met on Monday July 22, 2013. We presented one motion to the Executive Board. That motion was as follows:
  - To purchase one (1) ticket to a fundraiser for State Senator Bobby Zirkin (District # 11) on Wednesday July 31, 2013. The ticket cost was \$500.00.
  - The committee also began a preliminary conversation about our endorsement process and an endorsement timetable for the

**Bereavements**

**Charles W. Spears  
Father-in Law of Brother  
Kevin Doyle**  
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**Joan Mersinger  
Sister-In-Law of  
Retired Brother  
Roland Broadfoot**  
\*\*\*\*\*

2014 primary election.

- Each motion was approved by the Executive Board of Directors. Each motion was also approved by the general membership at the June 2013 General Business Meeting.

**GOOD OF THE ORDER**

- During the month of July, FOP Lodge #4 sent two (2) cards and one (1) flower arrangement to bereaving members. Three (3) donations were sent in lieu of flowers at the family's request. The meeting was adjourned at 7:55 pm.



**AMENDMENT TO THE CONSTITUTION AND BYLAWS OF THE BALTIMORE  
COUNTY FRATERNAL ORDER OF POLICE, LODGE #4**

WHEREAS: F.O.P Lodge #4 has a several year history participating in the local, state, and national political process.

WHEREAS: F.O.P. Lodge #4 has an established Political Action Committee which is registered with the Maryland State Board of Elections.

WHEREAS: F.O.P. Lodge #4 interviews candidates for political office and makes endorsements of individuals who understand the concerns of law enforcement officers and their families.

WHEREAS: F.O.P. Lodge #4 encourages its membership to participate in the political process.

NOW THEREFORE BE IT RESOLVED:

Article 5, Duties of Committees; add the proposed language in a new - Section 9:

Article V

Duties of Committees

SECTION 9:

POLITICAL ACTION COMMITTEE: The chairperson and treasurer of the BALTIMORE COUNTY LODGE #4, FOP PAC FUND, will be a member of the executive board of directors.

If any member of the executive board of directors wishes to serve as a chairperson or treasurer on any political action committee or slate they must disclose this information to the executive board of directors prior to filing for the position.

If the executive board identifies that their participation is in conflict with the goals of F.O.P. Lodge #4, the member will be asked not to participate. If the member insists on participating they will be asked to resign from their executive board position. If the member insists on participation and refuses to resign from their executive board position they will be subject to removal from office by a majority vote of the executive board of directors.

Submitted by:

Cole B. Weston

President

July 22, 2013

PLEASE JOIN US FOR OUR FUNDRAISING  
BULL ROAST TO BENEFIT  
DAN & KRISTIN KOHNLE

Sponsored by the Baltimore County Police Community Relations Councils



Date: Sunday, November 3<sup>rd</sup>, 2013

Time: 1:00-6:00

Place: Tall Cedars

2501 Putty Hill Avenue

Parkville, Md 21234

Price: Ages 13 & up - \$45, 8-12 - \$20, 7 & under – FREE!

Menu: Pit beef, turkey & ham, oysters on the half shell, Maryland crab soup,  
BBQ pulled chicken, buffalo wings,  
BEER, soda, dessert and more!!!

To help you with your Christmas shopping, there will be representatives from  
Stella & Dot, Thirty-One and Scentsy available for purchases.  
(A portion of sales will be donated to the Kohnle's)

There will also be a silent auction, raffles and a DJ!

Anyone interested in tickets please contact  
Cpl. Paul Borowski (WATF) 410-365-1145  
Ofc. Becky Borowski (Pct 4) 410-887-6786 or 410-707-6186

The September

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
September 23, 2013  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road

The October

**FOP Lodge 4  
GENERAL  
BUSINESS  
MEETING**

will be held on

**Monday,  
October 28, 2013  
7:30 p.m.**

at  
FOP Lodge 4  
9304 Harford Road