

How far will the trustees allow LCCC to decline with Hammon before they make a move to save the college?

W.S. § 6-5-301(a) A person commits perjury if, while under a lawfully administered oath or affirmation, he knowingly testifies falsely ...

I believe LCCC President Darrel Hammon committed perjury on more than one occasion at the Dr. James Cook wrongful termination hearing.

I believe when he testified that he did not watch the streaming video of the hearing that was provided in real time by Wingspan after he had been directed not to by the hearing officer, he lied.

I believe that when he said he didn't know whether he had watched the Wingspan streaming video or read forbidden information provided by Wingspan before or after noon on that first day of the hearing, he also lied.

I believe that when he answered that he did not recall calling his cabinet members "traitors," "backstabbers," and "cowards," he was lying.

Another witness said Hammon had called the cabinet members "betrayers."

The first of the three days consumed by this Personnel Hearing (09-04), a "contested case hearing" according to hearing officer Paul Hickey, consisted of testimony by staffers in the Student Activities division and other LCCC employees who tried to help Darrel Hammon build his case for termination of Dr. James Cook.

You could tell that it was difficult for some to find the words to indict a man they had greatly respected, who had been their personal friend and who had done little to incur their wrath. But they were faced with risking their own employment because of the vindictive LCCC president or providing him some ammunition in his war against Jim Cook. Some of their testimony was borderline bizarre. But, the school's attorneys were trying to build a case and needed the most obscure and irrelevant complaints or challenges they could muster against the man who Hammon had terminated for less than important reasons.

One staffer, when asked by Hammon (through an intermediary, of course) to

The Costa Rica Report

In the next issue of the Cheyenne Herald, I will expose the mystery known as "the Costa Rica trip." Even hearing officer Paul Hickey at the Cook v. LCCC wrongful termination hearing did not know to what testimony referred when the Costa Rica trip was frequently mentioned, always shrouded in secrecy. What was the trip? What was its purpose? Who went? What happened on the trip? Why was LCCC President Hammon criticized? Why did LCCC students who made the trip demand a refund of tuition?

In the May 25th issue of the Cheyenne Herald, we will lay those questions to rest.

offer some sort of criticism to the pile, said Dr. Cook appeared to have worn the same suit two days in a row. It was not offered with any certainty, like she could tell because a button was loose or there was a stain on the lapel, etc., but it just looked to be the same suit. She wasn't asked about the shirt or tie, she just said it may have been the same suit. Would wearing the same suit two days in a row warrant termination from a job? Anyone's?

As testimony against Dr. Cook dragged on for two days, it soon became apparent that no one had considered his behavior, his supervision or his conduct to be serious enough to report it to Darrel Hammon. Not until Hammon sought to build a case to back his already-made decision to terminate Cook for reasons we still can not be certain.

In come, the reports of "odd" behavior didn't amount to a hill of beans. One morning, when he said his reaction to either prescription Lyrica or nonprescription Tylenol PM had made him drowsy, his head nodded or his eyes "rolled back." His hands shook, he was unsteady, he signed on the wrong line, he couldn't use a computer mouse. Really, the testimony was that he "had signed on the wrong line." If that is an actionable offense, most managers would be found guilty and fired.

As Hammon would later acknowledge, if Dr. Cook's "behavior" had been the result of health reasons or medication, he would not have disciplined nor terminated him. A little protection offered by law, you see.

And no staffer who considered Dr. Cook to be their friend had thought his behavior serious enough to inform his wife, who also worked on the LCCC campus. Nor did any of them even make the LCCC president (Hammon) aware of health

issues of one of LCCC's highest ranking officers. They didn't deem that behavior important until Hammon asked them to rack their brains for anything critical or demeaning they could remember about Cook when he was building a case to terminate Dr. Cook's employment. Not before.

I anticipated Darrel Hammon would ride in on his silver steed, rear it back and wrap all the loose ends into a nice bundle that would justify his decision to terminate one of LCCC's most important and highest ranking employees. Instead, Hammon had to first explain his violation of the simple edict that hearing officer Paul Hickey had set down, upon a motion from Cook's attorneys, that future witnesses would be excluded from availing themselves of the testimony put on ahead of their own appearance.

Before Hammon appeared on the second day of the hearing, his attitude of watching the streaming video or reading reports from any print media, watching or listening to the goings-ons had been said to have been, "it was a public hearing and he should be able to watch it."

Much of the testimony given on direct examination by LCCC's counsel was reversed on cross or on the third day when Dr. James Cook testified.

One issue that the college tried to put great importance on was testimony by Cook's secretary when she said, on direct, that she had entered a meeting on Dr. Cook's computer calendar with an "independent investigator" and that notation had disappeared. She had not taken it down and called Hammon's secretary to see if she knew anything about it. She didn't and we were left to wonder why Cook was not going to attend what sounded like an important meeting -

maybe a meeting with a private investigator about illegal conduct on the campus. Her testimony hung in the air like a bad smell. Then, she was asked if she had inquired of Dr. Cook why the notation was gone or had she reminded him of the meeting in case computer gremlins had erased the entry. She said no. She was asked what the meeting was about and she answered that it was actually for an investigator to present a completed report on a matter that Jim Cook had asked be investigated - slander against him and an associate. Then she was asked if Dr. Cook had attended the meeting and she said she thought he had.

Another incident was one more than than one staffer testified to - "the secret meeting." Dr. Cook had e-mailed his secretary and directed her to arrange a meeting of selected people and to tell them to keep the meeting to themselves. Nowhere was the word "secret" written or spoken by Jim Cook. Again, the accusation of holding secret meetings hung in the air. Until she was cross-examined. Then, she said nothing secretive or even confidential had been said. That the meeting was about dress code - rallying the troops, she called it. Cook explained in his testimony that he wanted to share certain thoughts and concerns with the select group he had invited but could not do that when others hung around after an earlier meeting so he changed course and did a "rah rah" session with them all. No harm. He had no secrets for the others - he just wanted those there that he thought would respond best to his concerns.

That's the way the school's testimony against Jim Cook went.

Then it became Hammon's turn under oath. But, I'm not sure he takes that oath thing that seriously. Hammon testified that there were five actionable offenses that he used against Cook - most of which he had no firsthand knowledge - he was relying on hearsay from others for his conclusions. I'll cover more of the hearing on pages 6 and 7, with Jim Cook's explanations for the most serious charges.

Finally, with Hammon: In spite of his plan to terminate Dr. Cook, he signed him to a one year contract renewal (without conditions) in the middle of this mess.

Dr. James Cook (Contestant) vs.

by *Dave Featherly*

On Saturday, May 1, 2010, the appeal of Dr. James Cook for wrongful termination by Laramie County Community College resumed.

Please refer to the March 30th issue of the Cheyenne Herald, pages 6 and 7, for earlier coverage from the first day of this hearing - held on March 26, 2010.

The college's attorney tried to deflect who was the actual defendant in this case in his opening statement. But, of course, the case is all about Darrel Hammon and his continued mismanagement of LCCC.

And this was the day Hammon was going to get his opportunity to make a case for the contested termination.

The day of testimony began with a witness who had been "executive assistant" to Jim Cook during the time he was employed at LCCC as vice president of student activities. Cook was one of five vice presidents on staff during his tenure - 2007 - 2009.

But, before testimony began, hearing officer, local attorney Paul Hickey, began the hearing by stating that he had been told that Dr. Hammon has allegedly watched, read and listened to testimony on the first day, against the admonition of Hickey. Early that first day, Hickey had made a ruling that upcoming witnesses should not avail themselves of hearing coverage - much like jurors are told not to read about the case, discuss it with anyone, etc. until after a verdict is reached - and assigned each counsel the responsibility of so informing their witnesses. He made the point that he did not know who their witnesses would be so they would be responsible for making those contacts.

The attorney for Dr. Cook said they were prepared to call witnesses who would attest to statements made by Hammon that he had violated the order. Because Hammon would follow the first witness, Paul held off making any rulings about the breach but said he would weigh the credibility of Hammon's testimony based on whether he thought Hammon benefited from knowing how previous witnesses had testified.

The first witness was among the Ides of March "friends" of Jim Cook. She testified that she had received a voice mail message from Cook on the morning of February 25, 2009 that informed her he (Cook) was ill and would not be in that day. He briefed her on what he had done about two meetings that were scheduled for that day - one being what was considered a very important student disciplinary hearing that Cook was to chair.

Conveniently, she had saved a copy of that voice mail recording and it was played as the hearing officer, board of trustees who were present this day, and others listened. Cook said he was taking a "mental health day." No one has defined what that means. The message was clear, coherent, strong, specific and professional.

Cook did not slur his words, sound confused, hesitant or unsure of himself. He also said he had to go to the chiropractor. It was obvious he was not high - on prescription medicine on other drugs and he was not intoxicated. He explained to his assistant exactly what he had done so others could cover his meetings.

While this college employee sometimes completed "leave forms" for Dr. Cook, she was not certain that Cook hadn't filled any out for himself, although she didn't think *he knew where the blanks* were kept. When college employees were asked to provide Darrel Hammon with any negative information they had on Cook, this employee made an effort, apparently on paid time, to make a listing of those leave forms in the file and compare them to other records she had (daytimer records, phone logs, etc.) that showed when Cook was late, absent or gone for any reason. She did not know whether he had worked nights, weekends or at home to cover for the time she thought he was absent - just that he was "missing" according to her efforts to reconstruct the record to aid the president of LCCC, Darrel Hammon.

It would be interesting what the current LCCC employees who have testified in this case would have to say in a closed setting - one in which Hammon had no access to their testimony. Unfortunately, employees would know that their identities and their words would be disclosed, just as the "directors" who asked for a meeting with Trustee Greg Thomas and were promised anonymity were quickly "outed" to Hammon. LCCC employees must believe that Hammon will weather this storm, as he has numerous others - and this case is about retaliation, about vindictiveness, and they are testifying accordingly. There have been placed in an unenviable position - one in which they dare not tell the truth, at least not the whole truth, for fear of losing their job or face other reprisals.

This witness also testified to a meeting she had scheduled for Cook and was posted to their computer calendar. When it was gone (deleted), she assumed Cook had removed it and called Hammon's secretary to learn whether she knew anything about the removal. The implication was that Cook had "erased" the meeting from his schedule - another example of his not being where he was supposed to be - of not being in attendance for an important meeting. That was the inference.

That is the way the college's attorney left it. That Cook had bailed on the meeting.

However, when Cook's attorney asked the witness whether she knew if Cook had attended the meeting, she had to admit that he had.

That's how this hearing has been conducted. The college's attorney has tried to plant allegations of wrongdoing as factual and Cook's attorney has repeatedly blown away the assertion. Truth is not the objective here - the college winning this wrongful termination hearing is.

A meeting with Cook's staff, in which he directed his assistant to tell attendees to keep quiet about the meeting, has been blown out of proportion in this hearing. Cook directed this assistant, by e-mail, to arrange the meeting. Nowhere in the e-mail does Cook call the meeting a "secret meeting." And, after the meeting was held, no one left it thinking anything said by Dr. Cook was secretive. He "wanted to rally the troops," this witness said. He wanted "to get a good message out."

She said that the e-mail contained the words, "there will be severe consequences" if the word got out about the meeting. Dr. Cook was known to have a good sense of humor and he often, too often, considered these employees to be his friends. Because of the content of the meeting, it is obvious he was just kidding - that he was making the point to his assistant that the meeting would not invite all subordinates and one way to keep those not invited from being hurt or upset about their exclusion was to keep the meeting low-key or quiet. It is done all the time in business and, obviously, even in academia. There was nothing sinister but when the president of the college demanded all those close to Dr. Cook present him (Hammon) with negative stories about a guy he wanted to terminate, the employees had to come up with something and this was one of the weak and lame derogatory things they concocted.

LCCC employees tried so hard to support their employer but they don't always come off looking too good. Or honest.

The meeting Cook allegedly removed from his computer calendar was described by this witness as an "independent investigator" meeting. As though Cook was supposed to give information, testimony, evidence to this independent investigator about a "student incident." And, according to this gal's earlier insinuation, Cook planned to "blow off" attendance. But, the meeting was not a continuation of an investigation, it was for the purpose of the investigator providing a report on the results of the investigation conducted. And Cook was in attendance.

A common response to a question a witness would rather not answer is, "I don't recall." Another, to try to ward off perjury charges, is "it was such a long time ago." Witnesses who can recall everything helpful to their side that goes back years all of a sudden cannot remember something damaging to their side that happened last week. They can but they know that it is hard to prove perjury if they just say, "I don't recall," "I can't remember," etc. The LCCC HR gal often responded: "I have no exact recollection of words, phrases or sentences." That's a new one.

When this witness finished, a report was given to the hearing officer about whether future witnesses had been given the admonition about watching, listening, reading, etc. ongoing testimony before they testified - and how notice was done. All college witnesses except Hammon were called. They were told or a message was

left for each on his/her voice mail or answering message. An e-mail was sent, also. Hammon was only sent the e-mail. Plausible deniability. And, even though this admonition had been made early that Friday morning, the HR director who was supposed to convey the order to witnesses chose not to phone Hammon but to e-mail him because she knew he "would be in his office over the noon hour."

At 10:00 am, the president of LCCC took the stand. Once sworn, before beginning his testimony in this hearing, Cook's attorney was allowed to question Hammon about his violation of Paul Hickey's order that future witnesses not watch, read or listen to other witnesses testimony before their own testimony.

Technically, because Hammon was not going to be called to testify for five weeks, he should not have listened, watched or read coverage of the hearing. He violated the order in every way imaginable, including, as painful as it was for him to admit, but he was under oath, reading the "story about the trustees" in the Cheyenne Herald.

Did his violation matter?

Well, at the end of his direct examination, his answer to the college's attorney was, "You've already reviewed that with other folks." Then, quickly, "perhaps you have or not." He caught himself in an admission that he knew other witnesses testimony. He probably was well aware of how they'd answer all questions put to them through copies of their depositions, meetings with them in his office before and since the hearing began, etc. So, no real damage likely occurred except for his violation of the hearing officer's order.

It became obvious from Darrel Hammon's testimony and demeanor that he does not consider anyone his superior. Except perhaps his God. But, not the hearing officer. Not the board of trustees. Not the residents of Laramie County. No committee. No board. And, sure as Hell, not LCCC staff or employees. In his mind, he is King. And, LCCC is his kingdom.

It was interesting that, in spite of accusations that Cook had taken excessive days off and hadn't reported all his sick days, when he was terminated he was paid for unused days of leave - vacation, etc.

When he (Cook) was off on approved Family Medical Leave (under FMLA), Hammon improperly (and illegally) asked him to come to work, which Cook willingly did. He also fielded telephone calls at home and received and responded to LCCC e-mails. It came out through a question asked by Cook's attorney that LCCC has been sued several times for wrongful termination and other violations.

Another unlawful act by Hammon was to prohibit Cook from contacting the LCCC Human Rights Officer to see what his rights were under the circumstances. The LCCC HRO was also the Human Resources director whom Cook had been ordered not to communicate with.

Dr. Darrel Hammon (LCCC prez)

Before getting into the specific reasons Hammon gave for issuing the termination notice to Dr. Cook, there are a few more points to be made about Hammon's odd testimony.

After being asked, on cross, whether, if the problems were medical in nature, were they grounds for termination or disciplinary action and answering no, Hammon, offered this absurd statement, "even if sick or mentally impaired, he should have chaired the student disciplinary hearing."

Digest that: the President of LCCC believed that someone "mentally impaired" should have chaired a hearing that he considered important enough to terminate a person for not being there?

In addition to availing himself of testimony at the hearing before he testified, by watching or reading the virtual transcript provided by Wingspan, Hammon's wife sat through the first day of testimony and briefed Hammon on that testimony. Without watching, reading or being present, Hammon could have asked his wife, "what did Peggi say happened or was said in the meetings in my office on May 21, on July 6, on July 7?"

In case Paul Hickey is uncertain whether Hammon "benefitted" by the briefing and other violation of the restriction Paul had placed on future witnesses relative to the testimony before them, he can consider one of Hammon's responses. To one question, Hammon said, "you've already reviewed that with the other folks." He quickly caught his faux pas and added, "perhaps you have or not."

Again, Hammon testified that there were "five reasons" for Cook's termination.

- 1.) The credit card issue;
- 2.) Missing a student hearing;
- 3.) Promising jobs that didn't exist;
- 4.) Backdating a document for a deceased student; and
- 5.) Disobeying Hammon's order not to have contact with "college personnel" when he put Cook on paid administrative leave on July 15, 2009.

Hammon made a big deal about "process" - about doing the right thing, about being professional, about not bringing dishonor on the college - all the while violating his own standards. For instance, on a hearing when Hammon had made Dr. Cook the "president's designee," Hammon tried to influence the outcome. He repeatedly stressed to Cook how important it was for the college to be upheld in his decision. Cook did uphold the ultimate decision but disagreed with components of it and Hammon never let him forget that.

Hammon also interfered with the hiring to fill one position. He wanted a girl who was a friend of one of his daughter's and a family friend "who had been to the house a number of times" to be hired. When she did not even make the top ten to be offered an interview, he intervened and pulled rank - demanding that she at least

The smoking gun

At the conclusion of three days of testimony in the Cook v. LCCC wrongful termination hearing, I reached the conclusion there had to be an unspoken link as to why Hammon had told Cook on July 7th (and put him on paid leave the following week) the next action would be a meeting with the two of them and Cook's Student Activities staff, then the precipitous termination of Cook when the two met on August 25th.



After extensive research, review of my copious notes and referring to my tape recordings of the proceedings, I believe I now know what led to a termination instead of a resolution via a meeting with those having concerns about Dr. Cook. I will share my conclusion with readers after Paul Hickey has made his recommendation and the LCCC Board of Trustees have made their determination about disposition of this wrongful termination claim.

be given an interview, citing "the president's prerogative." The girl was not hired but Hammon did not back down about his impropriety when testifying in this case - still calling her the best candidate.

And, his adherence to "process" or "policy" did not apply to his placing Jim Cook on paid administrative leave. When questioned at the hearing as to whether he had the authority to do that, he answered that he did not. The fact that a month or five weeks of paid leave costs the public some dollars does not register with Darrel Hammon. He is above rules. He can do as he pleases, how he pleases and when he pleases. In *his* mind.

There were so many examples of his not playing by the same rules that he expected others to follow. More later.

Here is my take on each of the actionable offenses Hammon offered:

1.) The credit card issue. As a preamble, Jim Cook considered the three LCCC staffers from whom he asked to borrow their credit card to be personal friends. Because of his position, which included oversight of the athletic program among others, he socialized with these people frequently. In the approximately two years he was at LCCC, he and the three he requested short term use of a credit card had gone out for one reason or another 50+ times, total. At the hearing, it was difficult emotionally for Cook to explain his urgency of need for a credit card - to get an airline ticket for a son stranded in an airport without a ticket - but he explained to each of the three. The ticket cost less than \$300 and he paid the "friend" who allowed him use of her credit card the full amount on the spot and, that same afternoon, Cook established a PayPal account so he would never again have a similar problem.

Even as a vice president, he was not issued an LCCC credit card. Only the president had such a LCCC-issued card. Jim Cook had often purchased airline tickets and paid for hotel rooms for LCCC travel - on his credit card, then waited long periods to be reimbursed.

Each of the three he asked said he was not demanding, that he thanked those who did not help him out in a time of need.

(Cook had credit cards but none on him - they were at his house in Fort Collins).

2.) On the day of the student disciplinary hearing, Cook said he woke up "burned out" and could not face more crises on that day. He arranged for a subordinate to handle the hearing and the Student Conduct Board ruled in favor of the college. The student sued the college but the litigation has been dropped. The student's attorney made no reference to Cook not chairing the meeting and Cook was within his rights as vice president of student activities to use a "designee." While staffers testified they didn't think the replacement had done "very well" chairing the meeting, LCCC attorney Lance Harmon, in his Answer to the student's claim, said all policies and procedures had been followed.

3.) When Dr. Cook was preparing his division's budget for 2009, he initially had planned to create some new positions and eliminate or merge others. He did speak to potential applicants about new positions but no promises were made. Those who wanted the jobs testified they were never promised to them, that Cook had told them they would have to go through normal hiring procedures and that, when he spoke to them about their interest, the jobs did not exist and were not funded. Cook testified that his budget had six "iterations" and as it became known that the State was going to reduce funding to the community colleges in the coming year and budget cuts would have to be made, Cook eliminated those jobs.

Note: At one point, Hammon had said that Cook "made a mess of his budget." During Cook's FMLA absence, another person from his division took the budget to Hammon and had an earlier "iteration" and it was one that was later revised - having been superseded by generations of newer budgets that were not presented to Hammon. Cook was contacted and presented the right iteration.

Again, the girls Cook had spoken to about new positions testified they were not promised the jobs - they just hoped they would get them. Or have a chance.

4.) The backdating was done to a "form" when the correct dates appeared in the

computer records for a student. The student had changed from being a full-time student to being a parttime student for her benefit and at her parents request and agreement. When that change in enrollment was recorded in the computer, no paper form was originated. When the parents wanted a record of their daughter's enrollment for their own purposes later, the appropriate paper form was lacking. Cook directed that a form be provided and the earlier date to match the computer record be used. It is a stretch to call this backdating. Dr. Cook said it wasn't uncommon to correct an error such as this one in the manner he directed it be done. His staffer did not do it as directed and Hammon got involved and he later twisted the story to suit his purposes.

The parents were going through their own trauma at the time of their request. To refuse to do for them what LCCC should have done in the first place would have been unreasonable and cruel.

5.) When Hammon met with Cook in early July to tell him some of the "concerns" voiced, the meeting ended with Hammon telling Cook to go home - to stay off campus. When Cook said that would look like a disciplinary action, Hammon told him he could work from home on the "Strategic Plan" but remain off campus. Hammon said the next action would be a meeting with those concerned about Cook's "issues," Cook and Hammon. That meeting was never scheduled. Hammon directed Cook to have no communications with "college personnel." Cook asked if he could apologize to those he had asked to borrow their credit card. Cook said Hammon approved that request. Hammon said he didn't. The head of HR said she couldn't remember. Cook did e-mail apologies as he had asked permission to do and he also sent e-mails to at least two Board of Trustees members.

Hammon testified that the e-mails to Trustees was insubordination as those elected officials are "personnel" by his definition. They aren't by anyone else's.

"Personnel" definition:

- Employees of an organization
- Human resources division of an organization

Even if the Trustees could be defined as "personnel," which they can't, the president of the college could not forbid any member of the public from making contact with them. They are public officials and that is their function - to interact with residents. LCCC staff or others.

None of the reasons given by Hammon as why he terminated the contract of Dr. James Cook rise to the level of termination. Had Hammon chose to issue a verbal warning or reprimand at the time of an infraction, that might have made sense. He did not. There was no progressive discipline as is normal - especially when the employee holds such a high level position and had just been signed to a new contract without conditions.