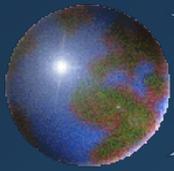


Alabama UC Bootcamp

Alabama Unemployment Bootcamp for Employers – *Getting Fit to Win* – Part 2



**Presented by: Alabama Cooperative Extension System
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Rosemary Elebash, National Federation of Independent Business
Joey Ammons, Alabama Department of Labor General Counsel**

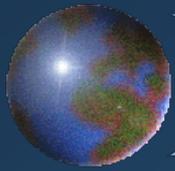


Legal Disclaimer

❖ This presentation is for educational purposes only and is not intended as a substitute for the legal advice of an attorney knowledgeable of the issues covered as they relate to a user's individual circumstances or a medical practitioner. The presenter makes no assurances regarding the accuracy or completeness of the following information. Legislative, regulatory, case law and medical developments regularly impact on general research and medical information.

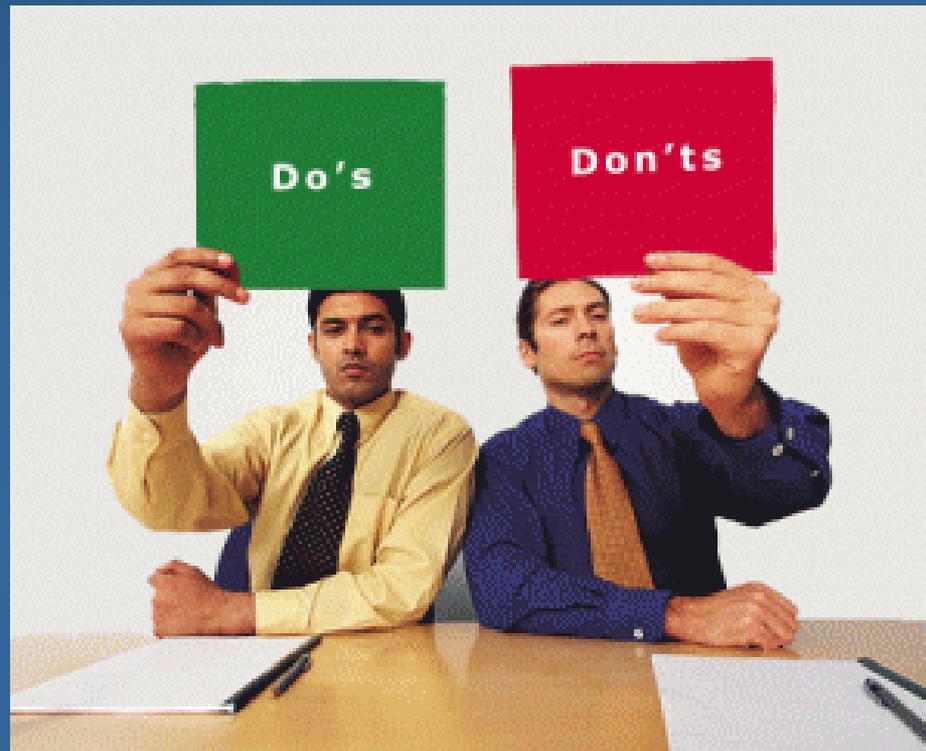


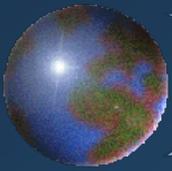
"No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers."



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25 Do's and Don'ts of Winning an Unemployment Compensation Claim

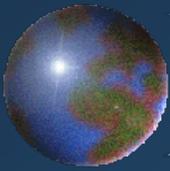




#1 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO document any and all performance issues
 - Be objective and respectful: Describe conduct do not characterize
 - Give examples of deficiencies or unmet objectives

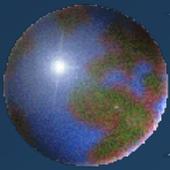




#2 - *Do's and Don'ts of Winning UC Cases*

- ❁ DO know your policies/handbook – and update on a regular basis

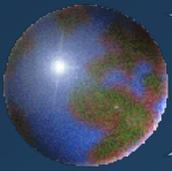




#3 - Do's and Don'ts of Winning UC Cases

- ❖ DO make a copy for employee of “evidence” (don't give original to employee) and share

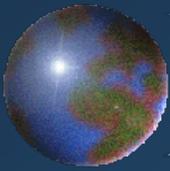




#4 - *Do's and Don'ts of Winning UC Cases*

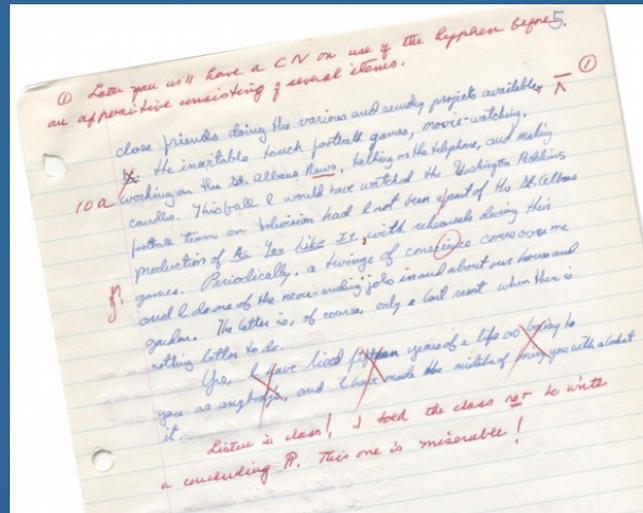
- ❖ DO recognize evidence as “evidence” to begin with

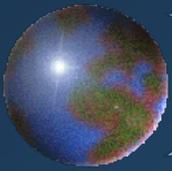




#5 - Do's and Don'ts of Winning UC Cases

- ❖ DO use “evidence” as a teaching tool to turn employee around

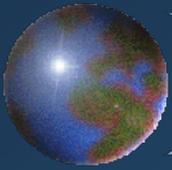




#6 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO make employees acknowledge in writing disciplinary actions

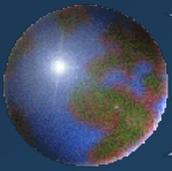




#7 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO, if they refuse, document refusal and have 2 witnesses verify and sign document

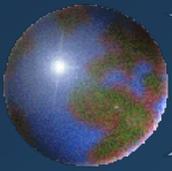




#8 - *Do's and Don'ts of Winning UC Cases*

- DON'T forget your ABC's (Always Be Consistent)
 - Be objective in evaluation of situation
 - Treat like situations alike
 - Justify exceptions if different treatment

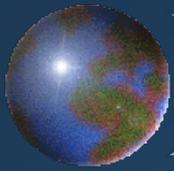




#9 - *Do's and Don'ts of Winning UC Cases*

- ❖ DON'T forget to develop a termination checklist

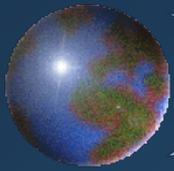




#10 - *Do's and Don'ts of Winning UC Cases*

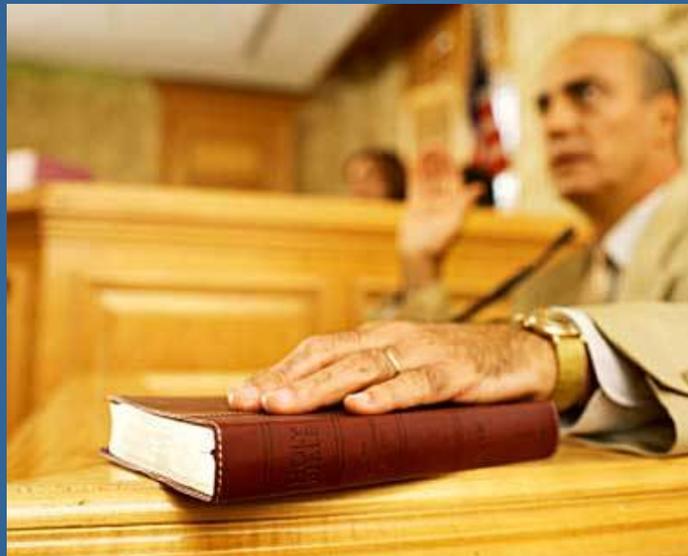
- ❖ DO Consult your employment attorney if it is a high risk termination

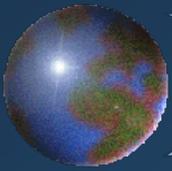




#11 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO have a witness attend termination meeting

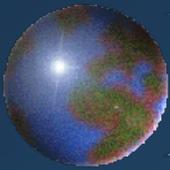




#12 - *Do's and Don'ts of Winning UC Cases*

- DO follow handbook policy on oral & written post termination references
 - Teach supervisors they speak for the Company
 - Assume remarks are public or recorded

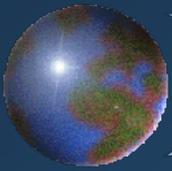




#13 - *Do's and Don'ts of Winning UC Cases*

- ❖ DON'T get hung up on trying to cast a termination as though the employee “fired him or herself.” If you fired the employee, take ownership of it and truthfully explain why

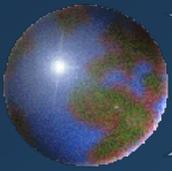




#14 - *Do's and Don'ts of Winning UC Cases*

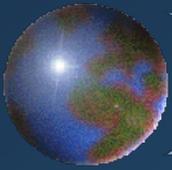
- ❖ DO timely respond to ALDOL claim examiner's request to information

timey response



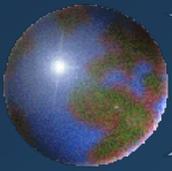
#15 - *Do's and Don'ts of Winning UC Cases*

- DO prior to completing the UC Employer Response BEN241:
 - Locate signature for Employee Handbook receipt
 - Determine policy violated in Handbook
 - Gather all prior written discipline
 - Collect witness statements
 - Decide exactly which AL UC Disqualification section applies



#16 - *Do's and Don'ts of Winning UC Cases*

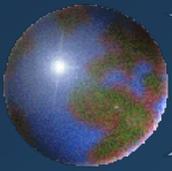
- DO prior to telephone hearing:
 - Make a list of all witnesses to event leading to termination and witnesses to prior misconduct
 - Mail or fax in advance all documents to hearing officer and claimant
 - Have witnesses available who can testify from personal knowledge



#17 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO consider using employment counsel for must win cases

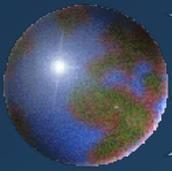




#18 - *Do's and Don'ts of Winning UC Cases*

- DO tell the truth in the hearing process!

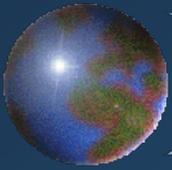




#19 - *Do's and Don'ts of Winning UC Cases*

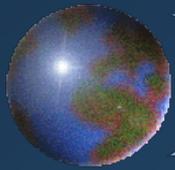
- ❖ DO use only reliable witnesses at the hearing





#20 - *Do's and Don'ts of Winning UC Cases*

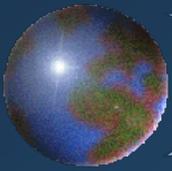
- DO during the telephone hearing:
 - Be respectful
 - Clearly state the UC disqualification section you believe applies
 - Make an attorney like, well supported argument at the end



#21 - *Do's and Don'ts of Winning UC Cases*

❖ DO cross examine the claimant



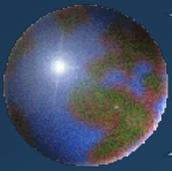


#22 - Do's and Don'ts of Winning UC Cases

- DO appeal to Board if you lose:
 - Timely fax Notice of Appeal
 - Make a well supported written argument why the appeal should be granted (only 5% are)



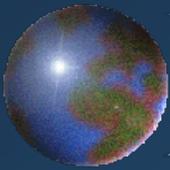
Alabama
Department of Labor



#23 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO be well prepared for Board hearing with live witnesses and documents

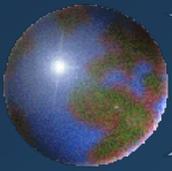




#24 - Do's and Don'ts of Winning UC Cases

- DO appeal to Circuit Court if you believe decision not correctly decided under the facts or the law:
 - Must appeal within 30 days of final decision
 - Most likely will need legal counsel to have chance of success
 - Consider collateral estoppel effect of final UC decision

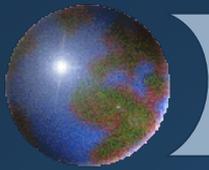




#25 - *Do's and Don'ts of Winning UC Cases*

- ❖ DO understand how the new Alabama Act will cost your experience rating if you do not timely respond



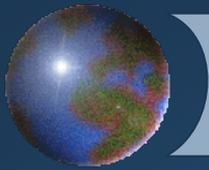


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Bonus for Winning the UC Case

Potential effect of collateral estoppel. Wal-Mart Stores, Inc. v. Smitherman, 743 So.2d 442 (Alabama Supreme Court 1999)

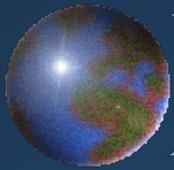
- ❖ Wal-Mart won UC Hearing based on discharge of employee for misconduct connected with work
- ❖ Employee filed Workers' Compensation retaliatory discharge case in Circuit Court



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Wal-Mart Stores, Inc. v. Smitherman, 743 So.2d 442
(Alabama Supreme Court 1999)

- ❖ Wal-Mart filed Motion for Summary Judgment based on UC misconduct disqualification
- ❖ Employee was collaterally estopped from re-litigating the reasons for her discharge

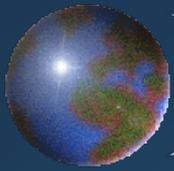


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5 Step Bootcamp Fitness Plan

- 1. Use This Webinar To Train Supervisors**
- 2. Adopt Legally Complaint Employee Handbook**
- 3. Adopt Alabama Drug Free Workplace Policy**
- 4. Timely Respond to ALDOL request & prepare to win UC Hearing**
- 5. Be diligent to protect your experience rating**

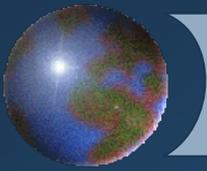




Success:

Because you can own this face of pure accomplishment

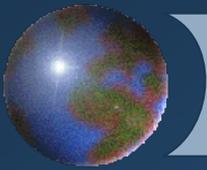




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