

## **Texas Workforce Commission Unemployment Claims & Appeal Hearings Dos & Don'ts**

### **Before a claim arises:**

- If an employee is about to be fired, go through a termination checklist; at the very least, ensure that the employee has been given the benefit of whatever termination procedures are outlined in the company policies and in whatever warnings they may have received.
- If an employee is quitting, do not have the person sign a boilerplate resignation form; have the person do their own letter, in their own handwriting if possible.
- If an employee is quitting, do not let the person quit until and unless you are satisfied that the company has done everything appropriate to address any legitimate grievances they may have.

### **After a claim arises:**

- Respond on time to any claim notice, ruling, or appeal decision.
- Be as specific as possible.
- Be consistent in your responses, appeals, and testimony.
- Avoid name-calling or gratuitous derogatory comments toward the claimant.
- In discharge cases, avoid certain terminology such as "inability", "incompetence", "disloyal", "accumulation of things", "bad attitude", and "mutual agreement".
- In discharge cases, try to show four main things:
  - specific incident of misconduct close in time to the discharge;
  - that the claimant either knew or should have known that discharge could occur for the reason given;
  - that the employer followed whatever policies it has and whatever warnings were given; and
  - that the claimant was not singled out for discharge, but rather was treated the same as anyone else would have been under those circumstances.
- In voluntary leaving cases, avoid references to how bad the ex-employee might have been, and concentrate on the fact that the claimant left while continued work was still available.
- In voluntary leaving cases, avoid comments on how glad the company is that the claimant resigned. Instead, focus on how a reasonable employee otherwise interested in remaining employed would not have left for the reason given.
- In all cases, have all your evidence and firsthand witnesses ready for the hearing.
- Make your testimony brief, factual, and concise. Hearing officers like that!

