

2023 Offboarding! Palooza!

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Harassment in the Workplace: A Mock Hearing Based on Real Events





Offboarding! Palooza!

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To keep our lawyers happy

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Thanks for Attending Our Offboarding Palooza!



Welcome!

Thank you for joining this session. And be sure to check out all the available sessions during the Offboarding Palooza.



Questions?

Please enter your questions in the chat box on your screen at any point during the presentation.



Recording

This webinar is being recorded. You can access it on-demand after the entire Palooza concludes.



Doug Johnson
Sr. Director
Unemployment Operations



Unemployment Hearing Procedure



Can be scheduled in person or by phone, *based on state procedures*



Both parties may be represented – 6 states *require licensed attorney representative*



Burden of Proof determined by the moving party in the separation



Party with the burden of proof presents its evidence and testimony first



Cross-examination allowed



Closing statements allowed in some states

The Burden of Proof (typical discharge)

Employer must prove
a deliberate violation
or disregard of
reasonable policies





Hearing Preparation

Hearing Representatives help:

- Hold **prep sessions**
- **Explain** the hearing procedure
- Examine and **advise on the evidence** necessary to prove the employer's case
- **Advise witnesses** regarding testifying in hearings
- **Prepare witnesses** for direct examination
- Prepare for potential **cross-examination** questions
- **Submit evidence** for submission during the hearing



The Hearing

Claimant: David Wooderson
Employer: ABC Call Center

Our Cast of Characters



Josh Burrows



Dawn Gibson



Joseph Giovannoli



Amanda Lange



Kelly Marlow

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Hearing Participants



Hearing Officer
Judge Stone

Dawn Gibson



Claimant
David Wooderson

Josh Burrows



Hearing Rep
Gail Jones

Kelly Marlow



HR Generalist
Caroline Randall

Amanda Lange



Team Manager
John Pitts

Joseph Giovannoli



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts

Exhibit 1 - Work Chat Screenshot

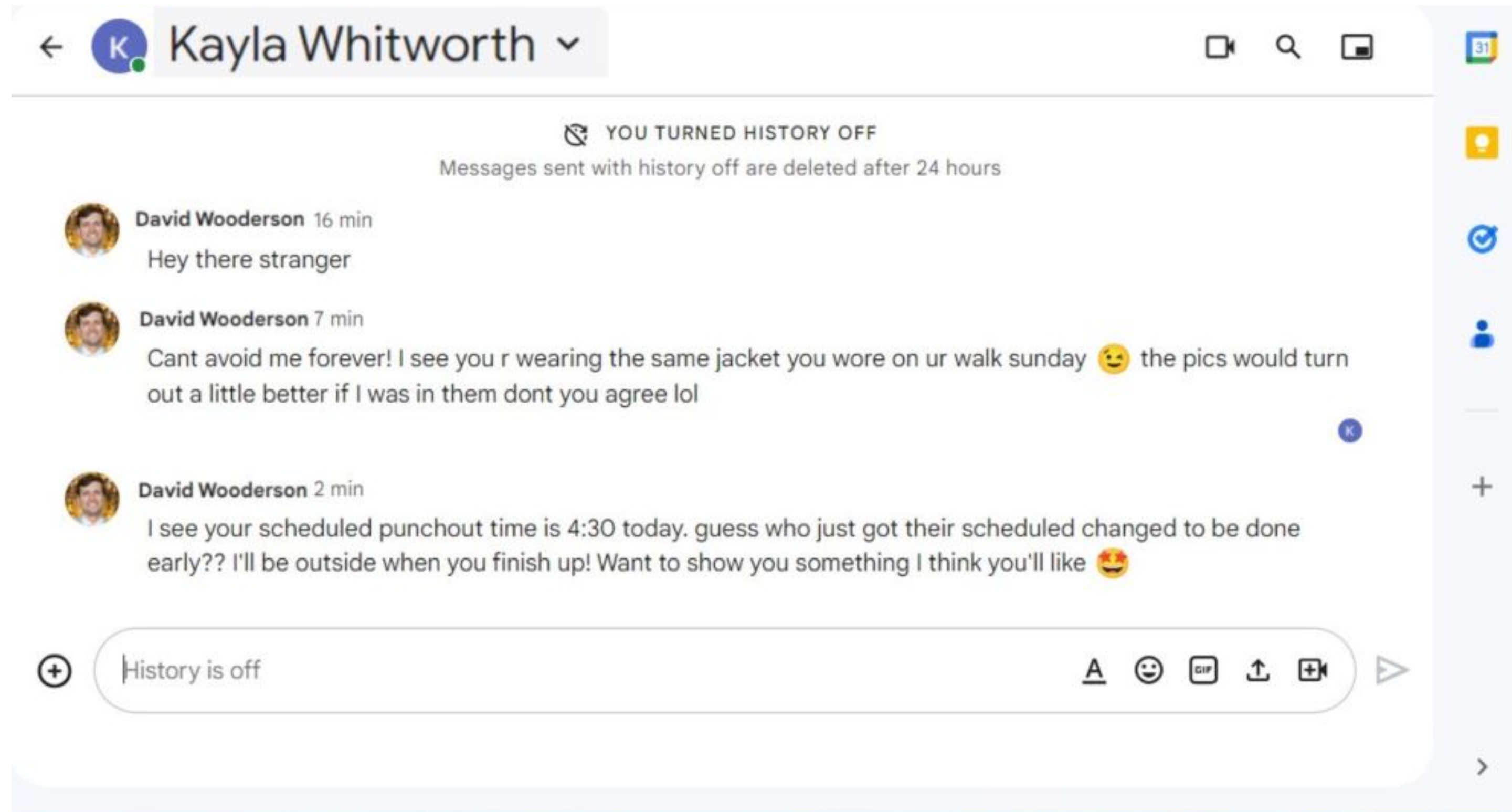


Exhibit 2 - Facebook Wall/Post







[facebook](#) [Home](#) [Profile](#) [Friends](#) [Inbox](#) [Settings](#) [Log out](#)

David Wooderson


Username: Status goes here 5 minutes ago

Wall Info Photos +

What's on your mind?

Attach:       [Share](#)


[View photos of me \(34\)](#)





Information

Relationship Status

I want my work wife for life!

 @ Kayla Whitworth Loved that top you wore today! 🔥

 Heading out to capture some pics of my favorite subject! ;-)

 @ Kayla Whitworth You need me to bring you some chocolate today?


 on the prowl today!

Exhibit 3 - Christmas Card

DEAR Jen-Jen,

I HOPE YOUR HOLIDAYS ARE FILLED WITH
LAUGHS AND SPECIAL TIMES
WITH THOSE CLOSEST TO YOU. AND I
HOPE YOU ARE ABLE TO GET LOTS OF
GREAT PICS OF YOU WITH YOUR
FAMILY SO I CAN SEE WHO YOU
SPENT YOUR BREAK WITH. I HOPE
YOU ARE ABLE TO STAY WARM THROUGH
THE WEATHER THAT'S COMING OUR
WAY, IF YOU HAVE ANY PROBLEMS WITH
THAT YOU KNOW WHERE TO REACH ME (LOL)
BUT MOST OF ALL I HOPE IN THE
NEW YEAR WE WILL BE ABLE TO GET
TO KNOW EACH OTHER EVEN BETTER.

THINKING OF YOU,

WOODY

May your season be beautiful and

Case Comment #1

Is the claimant correct that the HR Representative's testimony is hearsay, and how does that impact the Employer's case?



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts

Exhibit 4 - Employer's Policy and Signature

ABC Company

Our employees are required to act in a professional manner while on company property and otherwise representing the company. Certain behaviors are unacceptable and will result in disciplinary action up to termination. Examples of unacceptable conduct include:

- Dishonesty, lying and/or fraudulent acts.
- Rude, disruptive, abusive and bullying behavior.
- Physical conduct that is not welcome.
- Inappropriate use of company property, including work computers and work phones.
- Stalking behavior, including verbal and electronic conduct that is unwanted.

Harassing and unwelcome conduct, whether it is verbal, physical or visual is prohibited in the workplace. Unwelcome conduct can include sexual harassment, intimidating acts, use of graphic materials and the use of epithets, slurs and negative stereotyping. The policy prohibits unwelcome sexual advances and other unwelcome verbal or physical conduct. If you believe you or someone else has been the subject of workplace harassment please talk to your manager or Human Resources.

ABC Company

Acknowledgement and Receipt of Handbook

By electronically signing below, I acknowledge the receipt of the ABC Company Handbook. The Handbook is designed to provide important information about my employment and ABC Company policies. I understand that I am responsible for familiarizing myself and understanding all information contained in the Handbook.

Employee Signature: **David Wooderson**

Date: September 17, 2018

Case Comment #2

Does the lack of any prior warnings weaken the Employer's case?



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
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Case Comment #3

At least part of the claimant's conduct occurred while he was not on company time or property - Does this have any impact on the employer's case?



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones

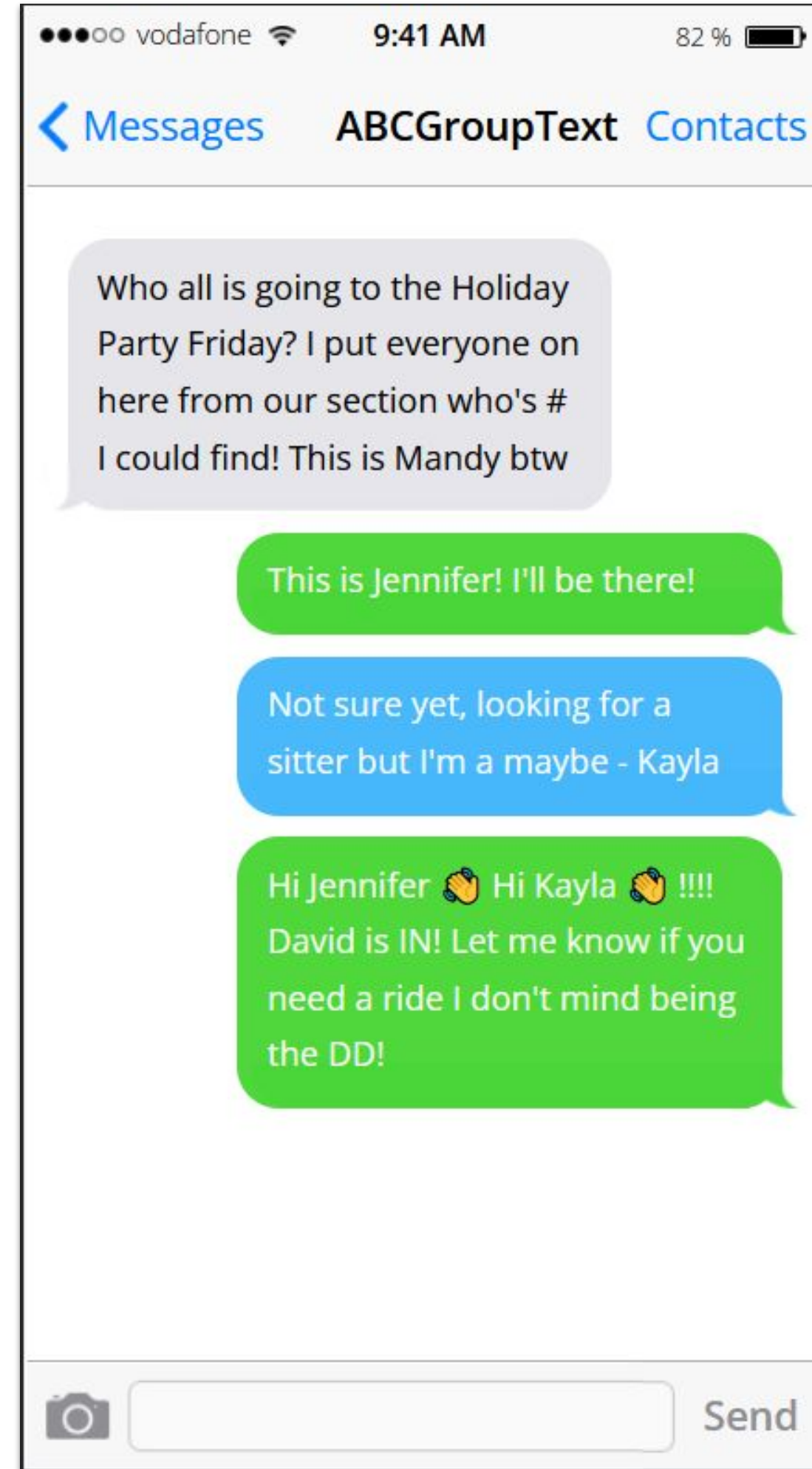


HR Generalist
Caroline Randall



Team Manager
John Pitts

Claimant's Exhibit 1



Case Comment #4

Should the employer have questioned the Claimant, or asked for a written statement, as a part of their investigation?



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts

Case Comment #5

Can the claimant refuse to answer the question? How would that affect the case?



Hearing Officer
Judge Stone



Claimant
David Wooderson



Hearing Rep
Gail Jones



HR Generalist
Caroline Randall



Team Manager
John Pitts

The Decision

The hearing officer found in favor of the claimant in this matter....

- The hearing officer found that the claimant wasn't provided a warning and therefore did not know his job was in jeopardy.
- The claimant's actions constituted lack of judgment and not intentional and willful disregard of the employer's interests.
- Some of the claimant's conduct was not sufficiently tied to the workplace.

What Happened Next?

- The Employer appealed the Hearing Officer's decision
 - Established that his actions were reasonably connected to the workplace with first hand evidence to inappropriate comments during the work day.
 - Also that the claimant admitted that the coworkers complained and he didn't stop.
- The Board agreed that there was sufficient evidence he had violated reasonable expectations and reversed the decision.

The Claimant was disqualified.



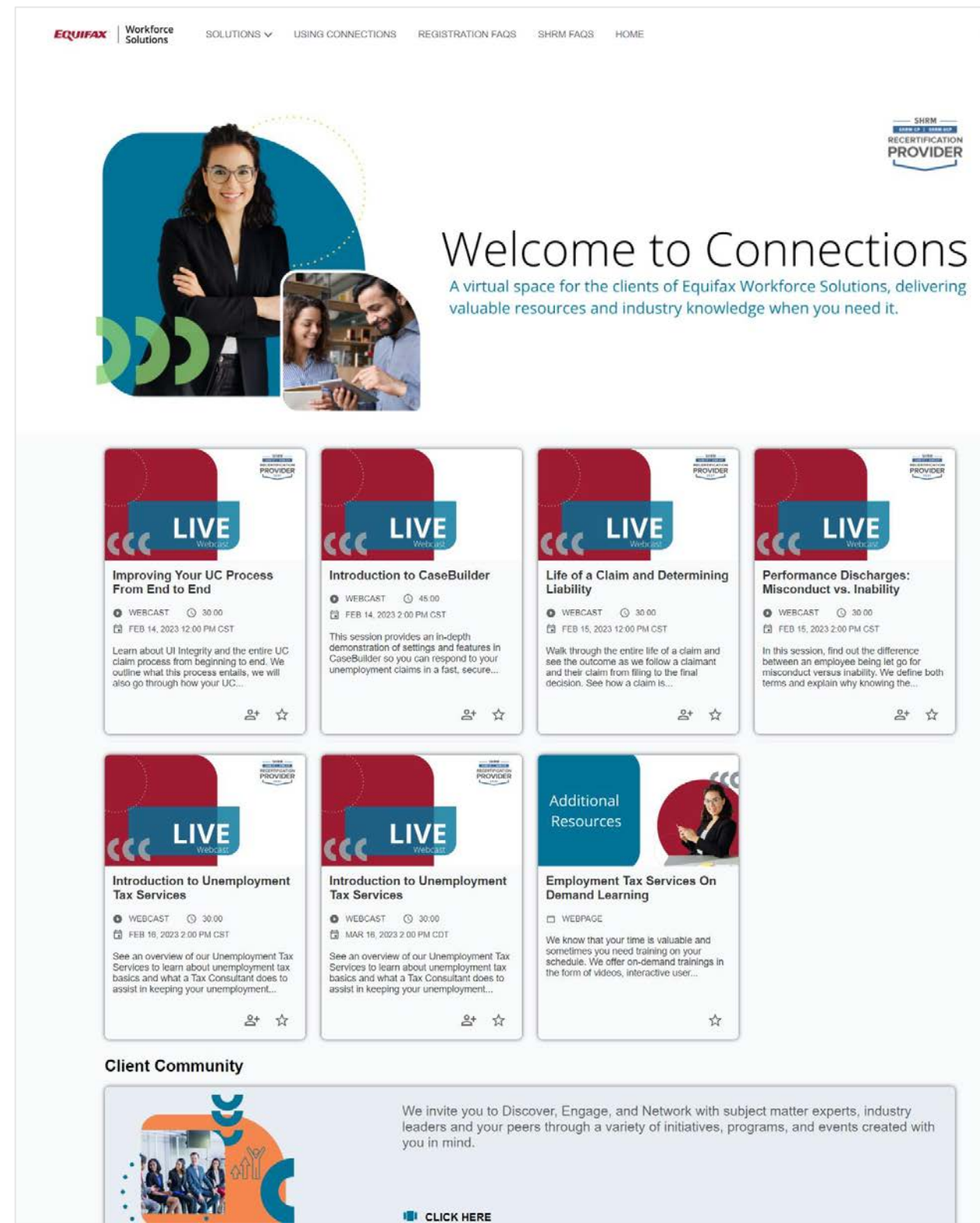


Q&A Session



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Next Steps

1. Survey

Complete the survey through the webinar console

2. Contact

Want to talk to someone about your unemployment or offboarding processes? Click on the “Want to Get In Contact” button on your webinar console or contact us at:

workforce.equifax.com/contact

3. Connect

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