



*Employer Advocates LLC*

*Steve & Preston Van Valkenburgh*



# Who Is Employer Advocates, LLC?

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- Third-Party Unemployment Claims Specialists
  - Represents employers throughout the Unemployment process
- Began in 1999. Based in Salt Lake City, UT
  - Hearing Representatives located in other states
- Began representing IAC in 2019
- Currently represents 400 employers in 48 states
- Processed over 191,000 Claims Since 1999
  - 89.82% Win Rate





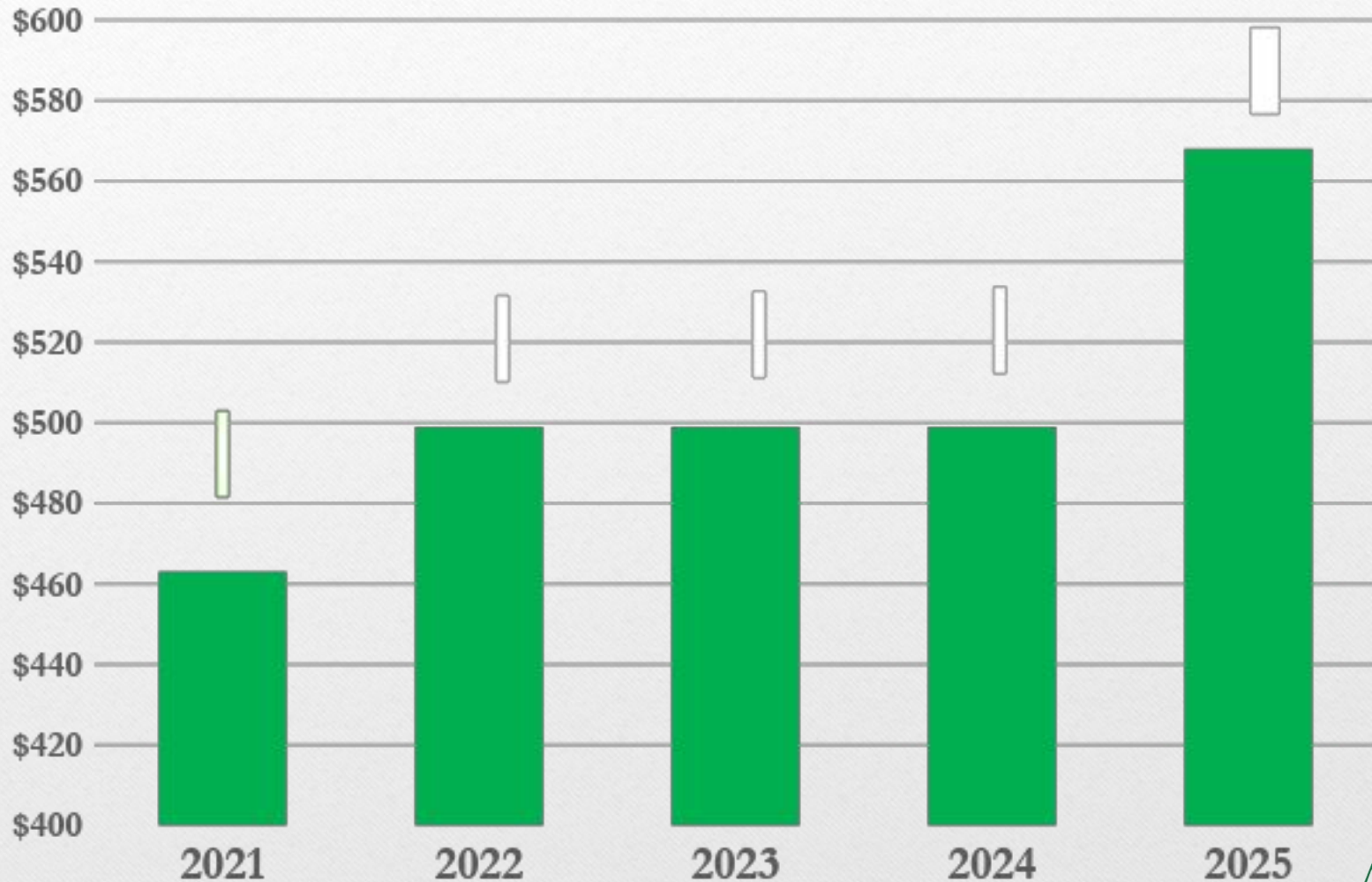
# Idaho Unemployment Insurance Stats

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- Claimants are eligible for a maximum 26 weeks of benefits
- 2024 Max Unemployment Claim = \$12,974
- 2025 Max Unemployment Claim = \$14,768
- Idaho annual Overpayment of \$8M (7.478%) in UI Benefits



# IDAHO MAX WEEKLY BENEFIT AMOUNT





# Base Period

THE SHADED CALENDAR QUARTERS REPRESENT YOUR BASE PERIOD

Oct. Nov. Dec.	Jan. Feb. Mar.	April May June	July Aug. Sept.		Jan. Feb. Mar.		
Oct. Nov. Dec.	Jan. Feb. Mar.	April May June	July Aug. Sept.	Oct. Nov. Dec.		April May June	
	Jan. Feb. Mar.	April May June	July Aug. Sept.	Oct. Nov. Dec.	Jan. Feb. Mar.		July Aug. Sept.
	Jan. Feb. Mar.	April May June	July Aug. Sept.	Oct. Nov. Dec.	Jan. Feb. Mar.	April May June	Oct. Nov. Dec.
Previous Year	← Last Year →				← This Year →		

If your initial claim begins in:

First four of the last five



# Unemployment Savings Program

## Results for IAC Participating Members

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### Summary of Unemployment Claims Activity

July 1, 2019 through June 30, 2024

Number of Participating Members	# of Claims Processed	Win Rate on Protested Claims	IAC Trust Fund Protected by
27	646	85.29%	\$583,382





# From Employee to Claimant

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# Managing the Process

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# Stages of UI Process

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## Adjudication

Claimant files claim  
Employer responds to state with reason for Separation (e.g. DOH, FI, Warnings, etc.)

## Hearing

Claimant and employer present testimony in front of ALJ (telephonically)

## Board Appeal

Written request to review the case (no new evidence or testimony)



# Tips for Winning at Initial Adjudication Level

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- **Submit Response Timely**
- **Quit-** Provide method of notification (copy of email, text, written note or Manager's notes if verbally notified)
- **Discharge**
  - **1. Provide Details of Final Incident** (what, where, when, how, why)
  - **2. Provide Policy and Acknowledgement** (if one was violated)
  - **3. Include any prior warnings** relating to final incident







## Winning Discharge Cases

Three Hurdles must be cleared: Knowledge,  
Culpability and Control



# Knowledge





# Document each step of the Employment Process



- Employee Handbook Receipt
- Training Rosters
- Counseling Notice (Warnings)
- Letter of Resignation
- Separation Notice



# How to Prove “Knowledge”

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- Verbal Warnings
  - Only “verbal” for employee...Supervisor and HR need to have documented proof of meeting.
  - Best Practices:
    - Always have two managers present during the meeting to avoid “He Said/She Said” arguments.
    - Ensure employee knows their actions can jeopardize their job.





# How to Prove “Knowledge” (Con’t)

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- Written Warnings
  - Reference prior warnings (include date and reason for prior warning, etc.) known as “Linking Documentation”
  - Inform employee their job is in jeopardy (“Further Disciplinary Action, up to and including termination”).
  - List specific reason and expected changes



# Discipline vs. Performance Improvement

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- Discipline relates to “tangible” issues:
  - Tardiness
  - Absenteeism
  - Rule Violation
  - Insubordination (refusal to follow direct instruction)

**Changes in behavior expected  
immediately!!!**





# Discipline vs. Performance Improvement

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- “Performance Improvement” relates to “Competency” issues:
  - Efficiency of work
  - Accuracy
  - Skill set (Ability to perform multiple jobs)
  - Multitasking

**Improvement Happens Over Time**



# Culpability





# Culpability

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- Defined as “Harmful to Employer’s Interest”
  - Allowing employees to “get away with it this time” makes it more challenging to prove culpability.
  - **Final Incident** of misconduct must be in close proximity to termination.



**If we delay, they will pay!**

# **SUSPEND PENDING INVESTIGATION**





# Control



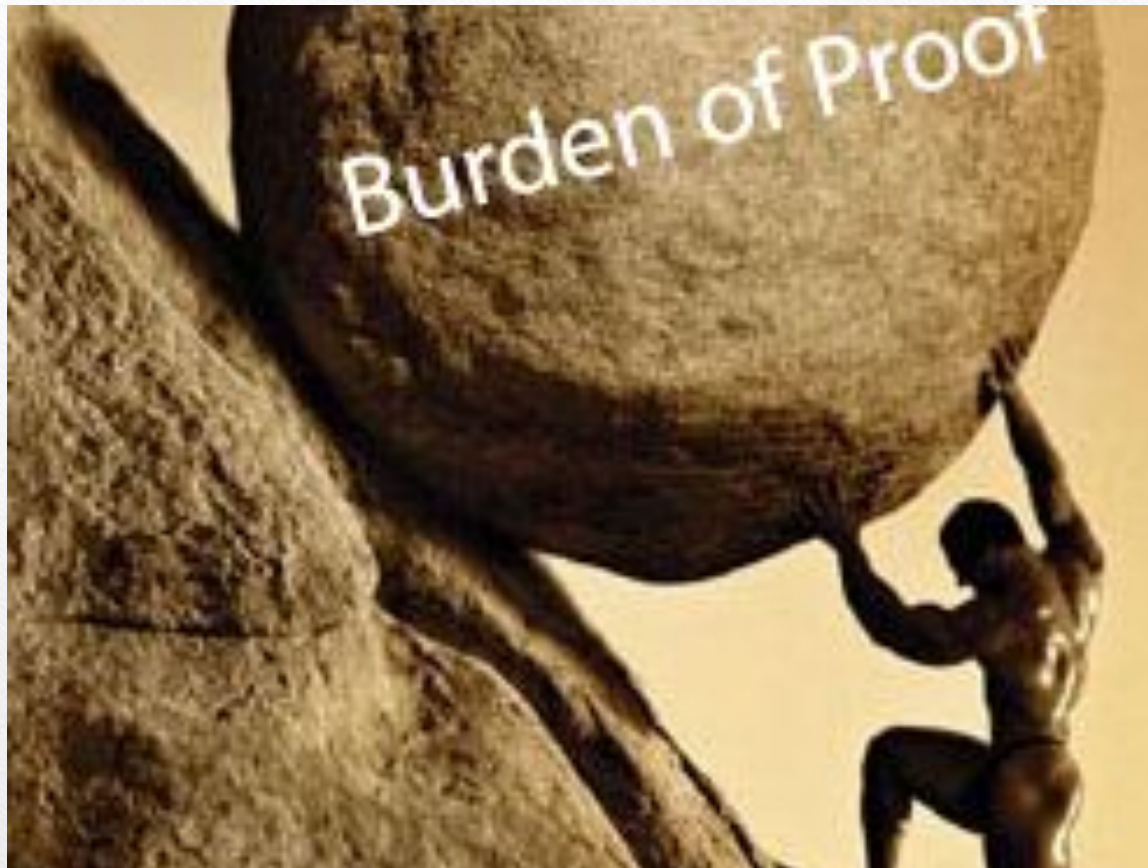
# How to Prove Control

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- Employee must be in control of their actions and have the ability to make the changes required
  - Provide proof that employee has been able to successfully do (or not do) the action causing the termination.
- Be very specific on the expectations







## Discharge Vs. Quit

“Moving Party” has burden  
Who moved to end employment?





**The Judge wants to investigate**

Reciting the results of *our* investigation will not suffice.







**Considering** whether to contest eligibility  
**Common Case Problems and Pitfalls**





**Attendance cases are difficult to win.**

**Claimants always allege situation was beyond their control.**







**Claimant wins all ties!**

**Need preponderance of evidence**



# Unemployment Case Scenarios



# Cock-A-Doodle Doo



# Cock-A-Doodle Doo

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- Pitfalls

- No formal prior warnings
  - (Heckling by Chicken not considered Formal Warning).
- Manager did not investigate the reason the Claimant was late.
- Employer did not require call-in prior to being late.
- 6 week Unpaid Suspension is viewed by state as a Discharge.





# Cock-A-Doodle Doo - Outcome

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- The Claimant was **allowed benefits** and the employers account was charged
- Reasoning of the Appeals Examiner...

*“If the Claimant hadn’t attacked the man in the rooster suit, someone else eventually would have.”*



# Kidnapped Car Buyer





# Kidnapped Car Buyer

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- Important facts
  - Claimant had prior documented warnings.
  - Final Incident was so egregious (Employer actually got sued by the Customer)
  - Final Incident was within Claimant's control



# Kidnapped Car Buyer - Outcome

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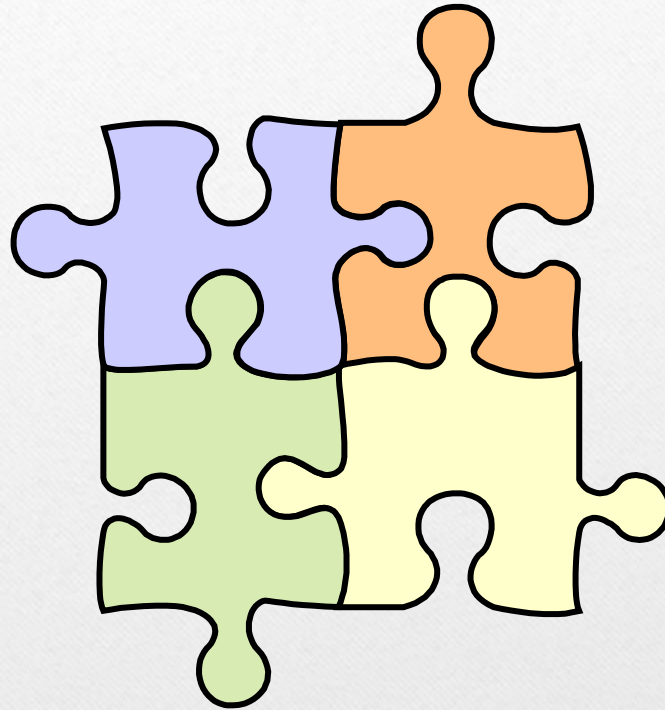
- The Claimant was denied benefits and the employers account was not charged
- Reasoning of the Appeals Examiner

*The final incident and prior warnings for “professional conduct” were sufficient to prove all three elements of knowledge, culpability and control.*





# Solving the Unemployment Insurance Puzzle



***Employer Advocates LLC***

