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# Telecommuting is Recognized as an ADA Reasonable Accommodation

By Stephanie K. Rawitt / Apr 29, 2014

Whereas ten years ago working from home was an exception afforded employees only under special circumstances, working from home today is the norm for millions of Americans. In fact, many Americans work from home at least one day per week. Many companies even set up employees with home offices in order to minimize the need for office space. The feasibility of working from home has placed the issue of telecommuting as a reasonable accommodation center stage.

On April 22, 2014, the Sixth Circuit, in *Equal Employment Opportunity Commission v. Ford Motor Co.*, for the first time, recognized that modern technology has made telecommuting a realistic, reasonable accommodation option. According to the facts, Jane Harris worked as a resale buyer for Ford. Her job duties included purchasing steel and reselling it to individuals responsible for manufacturing and supplying vehicle parts to Ford's plants. Ford claimed that the position was highly interactive and required face to face meetings between resale buyers and purchasers.

Throughout her entire period of employment with Ford, Harris suffered from Irritable Bowel Syndrome (IBS), an illness that caused fecal incontinence. Over time, her symptoms worsened and, on bad days, Harris could not drive to work or stand up from her desk without soiling herself. In 2009, Harris requested to work from home as a reasonable accommodation on an as-needed basis and Ford, after engaging in an interactive process with Harris, declined the request. Ford maintained that in-person communications were an essential part of the position. Thereafter, Harris filed a Charge of Discrimination with the EEOC.

In 2011 the EEOC filed a Complaint in the United States District Court for the Eastern District of Michigan, alleging that Ford violated the ADA by failing to accommodate Harris' disability. The District Court granted Summary Judgment in favor of Ford. The EEOC appealed to the Sixth Circuit.

A central issue before the Sixth Circuit was the necessity of physical attendance at the workplace. Ford argued that physical attendance at the Ford workplace was critical to the group dynamic of the resale buyer team while Harris claimed that she could perform her job duties effectively from her home. The Court questioned whether telecommuting, which was at one time considered an unacceptable option for employees, could be considered as a reasonable accommodation under the ADA. The Court noted that communications technology has advanced to the point that it is no longer an "unusual case where an employee can effectively perform all work-related duties from home". The court ruled that in the world as it exists today, telecommuting can be a reasonable accommodation and found that there was a genuine issue of disputed material fact regarding whether Harris could perform all of her job duties from a remote location. The Sixth Circuit reversed the district court's grant of summary judgment on the accommodation claim.

While the Sixth Circuit is one of the first to rule upon the issue, there is little question that other courts will follow suit. Technology has changed our workplace, in many ways for the better, but it has also served to evaporate walls. Working from home is in many instances a reasonable and feasible option that employers must be aware of, especially when discussing ADA accommodation requests with employees. While telecommuting may be a feasible ADA accommodation option, it is not one that will work in all instances nor does the Sixth Circuit decision suggest that all employees who seek to work from home should be permitted to do so. Each ADA accommodation request should be evaluated individually, and employers must engage in a dialogue with the employee to find appropriate accommodations. If telecommuting is considered, employers must also make certain that they are abiding by all other applicable laws and regulations, including but not limited to federal, state and local wage and hour laws. Employers should also review their present policies and job descriptions with counsel to make certain that they are in compliance with all applicable federal, state and local laws.

If you have any questions about telecommuting as an ADA reasonable accommodation, you may contact Stephanie K. Rawitt, (215) 640-8515, [srawitt@clarkhill.com](mailto:srawitt@clarkhill.com), or another member of Clark Hill's Labor and Employment Practice Group.