

Accommodating Disabilities Under the ADA: Just Because You Can Doesn't Mean You Must (US)

Article By:

Daniel B. Pasternak

Court explains that “feasible” isn’t always “reasonable.”

It's widely understood that the Americans with Disabilities Act (ADA) generally requires employers to provide reasonable accommodations to individuals with disabilities to enable them to perform their essential job functions. What's not so well understood is what exactly is a “reasonable accommodation,” and when and what job functions are truly “essential.” A recent decision from the United States Court of Appeals for the Eleventh Circuit – which hears cases coming out of Alabama, Florida and Georgia – addressed these questions and provides some helpful guidance to employers.

Summary

In *Geter v. Schneider National Carriers*, Cierra Geter sued her employer, arguing that her requests that the company accommodate her disability by permitting her to work remotely and to work part-time each were reasonable in light of pandemic-motivated business changes introduced by her employer after her termination. Ms. Geter's employer took the position that working

full-time and in-person were essential functions of her job, and that adjustments it made to how employees performed work during the unique circumstances presented by the COVID-19 pandemic did not demonstrate that those functions were not essential *prior to* the pandemic.

The court agreed with Ms. Geter's employer, explaining that the fact that an employer *could* temporarily allow employees to work remotely or on a part-time basis due to an unprecedented global pandemic did not mean the employer *must* continue those practices, or offer them as accommodations, after the circumstances giving rise to them abated. Further, the court noted that temporarily removing an essential job function in response to the COVID-19 pandemic did not mean that function was not, in fact, an essential job function. The Eleventh Circuit's decision serves as a reminder that pandemic-era workplace policies are not the new normal, and employers are not perpetually bound by their response to an unprecedented emergency.

Schneider Accommodated Ms. Geter for Months Pre-Termination

Schneider – a transportation and logistics company that operates twenty-four hours a day, seven days a week – hired Ms. Geter to work as a full-time dispatch analyst on the overnight shift. That role involved providing support to drivers by coordinating dispatches, taking calls and messages from drivers and resolving any driver issues. After being diagnosed with post-traumatic stress disorder, Ms. Geter took temporary leave from Schneider.

When her period of leave ended, Ms. Geter returned to work on a temporarily revised remote, part-time schedule, which Schneider provided to accommodate Ms. Geter as she transitioned back to work. This arrangement had been in place for months when Ms.

Geter requested that she be permitted to continue to work indefinitely on a remote, part-time basis. Schneider denied her request, indicating that full-time, in-office work was an essential function of her position, and it terminated her employment.

Ms. Geter's Misplaced Reliance on Pandemic Protocols Post-Termination

Ms. Geter maintained in the lawsuit that neither her presence in the office nor working full-time was essential for her position, but she admitted that being in the office was necessary when drivers asked for help finding trucks or retrieving keys and acknowledged that she often printed paperwork for drivers in an area of the office to which drivers typically did not have access. Ms. Geter's employment ended in 2019, but during the pendency of her litigation against Schneider, the COVID-19 pandemic ensued.

During the pandemic, Schneider made numerous adjustments to continue operations, including allowing some remote work and other process changes. In March 2021, Schneider returned to a full-time, in-person work schedule and otherwise suspended these pandemic-related changes. Ms. Geter argued in the case that these COVID-19 adjustments proved that the company could have accommodated her requests for part-time and remote work.

The trial judge found, and the Eleventh Circuit agreed, that policies and practices adopted after Ms. Geter's termination, and which were implemented to respond to a global pandemic, were not illustrative of the workplace Ms. Geter worked in when she was terminated in 2019, about a year before the COVID-19 pandemic began.

Ms. Geter conceded there were no part-time employees in the

same role when she sought accommodation, and Schneider would have had to employ another employee to cover her in-office duties, like retrieving keys, when she worked reduced hours or remotely. Still, Ms. Geter argued that in-person work was not essential, pointing to Schneider's pandemic-era policy of leaving the office unlocked. The court was unpersuaded, stating that "the bare feasibility" of temporarily allowing part-time and remote work *after Ms. Geter's termination and in response to a global pandemic* did not mean that Schneider considered working full-time and in-person fundamentally unnecessary. The fact that Schneider could change how a job was performed did not undercut Schneider's determination that certain job functions are essential.

The Eleventh Circuit thus affirmed the district court's grant of summary judgment in favor of Schneider, agreeing that a full-time schedule and in-person work indeed were essential functions of Ms. Geter's role.

The Takeaway

The pandemic changed much about the way that work is performed. We learned that many companies *can* pivot to remote workplaces, slimmed-down workforces and other emergency protocols aimed at sustaining business in a crisis. But the *Geter* decision underscores that these changes, adopted during an unprecedented emergency, do not require employers to jettison their understanding of essential job functions or permit an indefinite work-from-home arrangement if that would impose an undue burden on the business. The flexibility demonstrated during the pandemic remains a consideration for whether an accommodation is feasible, but in the end, it must also be reasonable – an issue where employers' sound judgment remains critical.

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