

Technological Advances Make Telecommuting A More Reasonable Accommodation

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On April 22, the Sixth Circuit reversed the Eastern District of Michigan in a case that may pave the way for more employees to work at home as a reasonable accommodation. Jane Harris worked as a resale steel buyer for Ford. Her job duties included interacting with steel suppliers and members of the Ford team to ensure that there is no gap in the auto maker's steel supply. Although managers believed that these interactions were best conducted face to face, Harris suffers from debilitating irritable bowel syndrome, and although her performance was otherwise satisfactory, she was frequently unable to come to work because of her condition. Ford allows employees in certain positions to telecommute up to four days a week, and even allows some resale steel buyers to work remotely one day a week. Yet, Ford rejected Harris' request to telecommute four days a week because it believed it would adversely affect her ability to work as part of the team. Consequently, Ford fired Harris because it believed she could not perform her job duties effectively. The EEOC sued Ford on Harris' behalf, arguing that Ford had denied Harris a reasonable accommodation. Ford argued that allowing Harris to work from home four days a week was unreasonable because it would undercut the teamwork needed to perform the job, citing several cases in which courts had found telecommuting to be an unreasonable accommodation. The district court granted summary judgment for Ford. The Sixth Circuit, however, reversed and remanded, holding that technology has advanced to the point where "attendance" cannot always be assumed to mean physical attendance at the employer's work site, and that several cases that previously had rejected telecommuting as a reasonable accommodation were based on outdated technology. The court determined that the proposed accommodation was not unreasonable or an undue hardship because Harris had the technology to communicate effectively with her team members and steel suppliers from home. Further, because several other team members worked at home once a week, teleconferences were already common. While the case does not pave the way for every employee to work at home, it is one of several recent cases to open the door to considering telecommuting as a reasonable accommodation for an increasing number of employees. Employers would be wise not to summarily dismiss employees' requests to work from home as a reasonable accommodation, as it is not a sure thing anymore that they will prevail on summary judgment. The case is *Equal Employment Opportunity Commission v. Ford Motor Company*, No. 12-2484.

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