

Update: Telecommuting as a Reasonable Accommodation

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Several months ago, we wrote a blog post about telecommuting as a reasonable accommodation. (See [“Telecommuting: Is It Reasonable?”](#), published on February 28, 2017). Recently, the Fifth Circuit issued a decision regarding this issue in *Credeur v. Louisiana*. While this decision is not binding on New Jersey courts, the Fifth Circuit’s reasoning is interesting and instructive.

First, the court reaffirmed the fact that most courts across the nation agree that regular attendance at an employee’s place of employment is an essential function of the employee’s job for most jobs. The key take away for employers regarding this point is to make sure that all job descriptions are up-to-date and accurate so that the essential functions of an employee’s job are clear. Having up-to-date and accurate job descriptions will aid employers in evaluating accommodation options during the interactive process. (See [“Let’s Talk: The Interactive Process Between Employer and Employee,”](#) published on February 15, 2017).

Second, the court explained that the American with Disabilities Act does not require employers to offer their disabled employees the option of unlimited telecommuting. Indeed, the court reasoned that such a holding would have a chilling effect on telecommuting policies. This point can somewhat ease the minds of employers who fear that offering telecommuting as an accommodation locks them into allowing employees to work from home for an indefinite and unlimited period. However, if it is an employer’s position that an employee can only telecommute for a limited period, the essential functions of an employee’s job, as described in their job description, must support this conclusion. Additionally, New Jersey employers should note that they must comply with both the Americans with Disabilities Act and the New Jersey Law Against Discrimination when it comes to reasonable accommodations for disabled employees.

Ultimately, while written job descriptions may seem unimportant, they can greatly aid employers in evaluating accommodation requests and can assist employers and employees in reaching reasonable solutions regarding accommodations.

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