

Rural Institute



Rapid Research Report

Is Working from the Office an Essential Job Function?

(U.S. HHS Region 8)

Submitted by:

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Introduction

The COVID-19 pandemic has had an outstanding impact on the way humanity has been operating. There have been significant changes in everyone's lives in regard to how we interact with one another as humanity tries to keep moving forward while also keeping everyone safe. Telework, or working from home, is a relatively unprecedented solution to the crisis we've been facing. Telework allows employees to continue their jobs while slowing the spread of the virus by limiting face-to-face contact in the office. Now, as the rampant spreading of the virus is receding and businesses are bringing employees back to the office, a question arises: **Is working from the office an essential job function?**

While telework was a relatively rare occurrence before the pandemic, the adaptation to telework during the pandemic certainly shows it may have viability as a permanent solution to a variety of employee needs beyond personal safety. This report seeks to explain the question in more detail along with analyzing various sources in hopes of presenting an answer, specifically for Region 8 of the Rocky Mountain ADA Center. First, the paper will look at the legal framework of the Americans with Disabilities Act (ADA) to understand the importance of classifying a job function as essential. Next, the paper will analyze how courts in the United States have ruled in regard to the question and how researchers have answered the question. Lastly, the opinions of each will be reconciled to understand why each field has reached a different conclusion.

ADA Framework & Importance

The ADA, like most legal creations, is complicated and multi-faceted and for the present paper, there is a specific need to discuss reasonable accommodations under the ADA. While certain aspects of reasonable accommodations are clear and applicable, some aspects are enigmas. For instance, it is clearly outlined that an “Employer’s failure to grant reasonable accommodation to a disabled employee falls under the ADA’s definition of discrimination.”¹

Multi-Part Accommodation Test

On the other hand, the guidelines are more complex for determining when an accommodation is proper. To do so, courts use a multi-part test whereby:

- i. [employee with a disability] bears the burden of establishing [they are] disabled;
- ii. [employee with a disability] bears the burden of establishing that [they are] otherwise qualified for the position despite [their] disability:
 - a. Without accommodation from the employer;
 - b. With an alleged essential job requirement eliminated; or
 - c. With a proposed reasonable accommodation.

¹ 42 U.S.C.S § 12112(b)(5)(a)

- iii. Employer will bear the burden of proving that a challenged job criterion is essential and therefore a business necessity or that a proposed accommodation will impose an undue hardship upon the employer.²

The above test requires the employee to satisfy each aspect to prove to a court that they should be granted an accommodation. It is specified that only “[qualified] employees are legally entitled to have their employers offer reasonable accommodations,”³ meaning the “employee can perform the essential functions of the job with or without reasonable accommodation.”⁴ In other words, if an employee is unable to complete essential functions of the job, even with an accommodation, they are not qualified for the job.

Factors of Essential Job Function

The next step in the evaluation of a reasonable accommodation claim is determining whether a particular job function is essential. Courts use the ADA’s implementing regulations as a factor test to determine whether a job function is essential in order to assess failure to accommodate claims. The relevant factors to determine if a job function is essential include:

- i. The employer’s judgment as to which functions are essential;
- ii. Written job descriptions prepared before advertising or interviewing applicants for the job;

² *Tchankpa v. Ascena Retail Grp., Inc.*, 951 F.3d 805, 811 (6th Cir. 2020); (Gender specific language replaced with gender neutral language).

³ *Cnty. Hosp. v. Fail*, 969 P.2d 667, 672 (Colo. 1998).

⁴ *Prince v. Centura Health*, 2018 Colo. (Quoting 42 U.S.C.A § 12111).

- iii. The amount of time spent on the job performing the function;
- iv. The consequences of not requiring the incumbent to perform the function;
- v. The terms of a collective bargaining agreement;
- vi. The work experience of past incumbents in the job; and/or
- vii. The current work experience of incumbents in similar jobs.⁵

It is further specified that “in determining the essential functions of a job, courts should not second guess the employer’s judgment when its description of ‘any necessary job specification is job related, uniformly enforced, and consistent with business necessity.’”⁶

Understanding the ADA framework is important for understanding what courts expect from people with disabilities. For a disabled individual to be granted an accommodation, a variety of requirements must be satisfied. A key point is “requested accommodations are reasonable only if they ‘address a key obstacle preventing [the employee] from performing a necessary function of [their job].’”⁷ Thus, the bar is set to require a showing that the accommodation is necessary for the employee to perform an essential job function. It is held “a disabled employee cannot ask to work from home for convenience and then sue under the ADA if that request is denied.”⁸ The matter is further complicated because “employers need not immediately implement or accept

⁵ 29 C.F.R. § 1630.2(n)(3).

⁶ *Grear v. Miller & Newberg, Inc.*, 2016 U.S. Dist.

⁷ 951 F.3d 805, 812 (Quoting *Jakubowski v. Christ Hosp., Inc.*, 627 F.3d 195, 202 (6th Cir. 2010).

⁸ *Ibid.*

accommodations proposed by an employee.”⁹ For instance, as noted above, an employer can reject an accommodation if the accommodation imposes an undue hardship on the employer. The key part, however, for a reasonable accommodation claim is determining *whether a job function is essential AND whether a disabled employee requires the accommodation to perform said duty.*

Legal Perspective

The issue of whether working from the office is essential is relatively newfangled. This is, of course, in part due to the fact that technological advances that allow employees to work from home are still in their infancy. For instance, the internet has only been around for a few decades and video and audio transmission software like Skype, Zoom, MS Teams, etc. have been around for even less time. The infancy of telework thus leads to a lack of precedent to answer the question. Thus, while the present paper is aimed at providing an answer for Region 8, there is not enough case law in the particular region. For this reason, cases from other jurisdictions will be analyzed where Region 8 case law is absent or minimal. However, while there is certainly a limited amount of legal decisions focused on determining what job functions should be considered “essential,” pre-pandemic case law heavily suggests that working from the office is considered an essential function for most jobs.

⁹ Ibid., 812-13 (Summarizing *Gerton v. Verizon S. Inc.*, 145 F.App’x 159, 168 (6th Cir. 2005).

Credeur v. Louisiana

One of the most recent cases on the matter is the 2017 *Credeur v. Louisiana* case which held “as an initial matter, there is a general consensus among courts, including ours, that regular work-site attendance is an essential function of most jobs.”¹⁰ That is to say, employees must show up to the work-site regularly. It is important to note, however, that *Credeur* is a 5th Circuit Court of Appeals ruling and that particular appellate court covers Louisiana, Mississippi and Texas.¹¹

Credeur was an assistant attorney general for the Department of Justice’s Litigation Division when she was granted an ADA accommodation to work from home after having surgery. After experiencing complications from the surgery, Credeur used leave from the Family and Medical Leave Act (FMLA), but once that leave expired, she requested another accommodation to work from home which the DOJ granted. After a few months of telework, issues began to arise because Credeur was not keeping up with her caseload or other tasks like completing safety training exercises that DOJ attorneys were required to do. After the set period for the DOJ accommodation expired, Credeur was granted another leave under FMLA. Once that leave expired, Credeur was told by the DOJ she could no longer work from home because “DOJ litigation attorneys ‘cannot work from home on a long-term basis’ as it ‘places considerable strain on supervisors and staff.’”¹² The court agreed with the employer and held “The EEOC’s

¹⁰ *Credeur v. Louisiana*, 860 F.3d 785, 793 (5th Cir. 2017)

¹¹ *Library guides: U.S. government : Judicial branch: Circuit courts of Appeals.*

¹² *Ibid.*, 791.

informal guidance on teleworking reinforces this point. The agency recognizes that for some jobs, the essential duties can only be performed in the workplace.”¹³

Affirming Opinions (4th, 5th, 6th, 7th Circuits)

Credeur is supported by a variety of cases from the 4th, 5th, 6th, and 7th Circuit Court of Appeals. For instance, in *E.E.O.C v. Ford Motor Co.*, the court referenced back to the ADA’s guidelines on favoring the employer’s preference and held “in most jobs, especially those involving teamwork and a high level of interaction, the employer will require regular and predictable on-site attendance from all employees.”¹⁴ In the same vein, the courts in *EEOC v. Yellow Freight Sys., Inc.* and *Tyndall v. Nat’l Educ. Ctrs.* held “an employee who does not come to work cannot perform any of his job functions.”¹⁵ In other words, these courts held that regular on-site attendance is more of a requirement to completing essential job functions. For the purpose of the current project, it still means on-site attendance is essential. Thus, the plethora of cases from the Circuit Court of Appeals clearly shows that working from the office is currently considered an essential function of most jobs.

Samper v. Providence St. Vincent Med. Ctr. (9th Circuit)

While the above cases are not direct precedents for Region 8 states, the 9th Circuit, which covers much of the west coast, has reached similar conclusions. In

¹³ *Ibid.*, 793.

¹⁴ *E.E.O.C v. Ford Motor Co.*, 782 F.3d 753, 762 (6th Cir. 2015).

¹⁵ *EEOC v. Yellow Freight Sys., Inc.*, 253 F.3d 943, 948 (7th Cir. 2001); (Quoting *Tyndall v. Nat’l Educ. Ctrs.*, 31 F.3d 209, 213 (4th Cir. 1994).

Samper v. Providence St. Vincent Med. Ctr., Samper was a neonatal nurse with fibromyalgia who alleged an ADA violation against her employer for failure to accommodate.¹⁶ Samper desired an accommodation for unlimited unplanned absences. The court ruled that “because regular attendance is an essential function of a neonatal nursing at [a hospital]” they affirmed the district court’s ruling for the employer.¹⁷ The Circuit Court went through the requirements for a successful failure to accommodate claim under the ADA whereby:

Samper must show that “(1) [s]he is disabled within the meaning of the ADA; (2) [s]he is a qualified individual able to perform the essential functions of the job with reasonable accommodation; and (3) [s]he suffered an adverse employment action because of [her] disability.”¹⁸

While it was clear that Samper was disabled, she had to prove that regular attendance is not an essential function of her position. The court explained “both before and since the passage of the ADA, a majority of circuits have endorsed the proposition that in those jobs where performance requires attendance at the job, irregular attendance compromises essential job functions,”¹⁹ and held that a neonatal nurse is the epitome of a job requiring attendance at the job. Specifically, the court explained “As a NICU nurse, Samper’s job unites the trinity of requirements that make regular on-site

¹⁶ *Samper v. Providence St. Vincent Med. Ctr.*, 675 F.3d 1233.

¹⁷ *Ibid.*, 1235.

¹⁸ *Ibid.*, 1237 (Quoting *Allen v. Pac. Bell*, 348 F.3d 1113, 1114 (9th Cir. 2003)).

¹⁹ *Ibid.*

presence necessary for regular performance: teamwork, face-to-face interaction with patients and their families, and working with medical equipment,”²⁰ and therefore working at the office is an essential job function for Samper.

Non-Legal Research Perspective

Once telework became the norm for a large portion of employees during the COVID-19 pandemic, researchers began to question how common telework would be after the pandemic. The present paper will focus on two major and a few complementary studies which help to answer the question. First, we will look towards “Why Working from Home Will Stick”²¹ from the National Bureau of Economic Research. Second, we will analyze “Surveying Business Uncertainty”²² from the Journal of Econometrics which features many of the same authors from the prior article. The latter article was written earlier in the pandemic and the study was conducted slightly differently leading to different answers from the former. However, while the answers differ slightly from each study, both strongly conclude that telework will make up a larger portion of employment than before the pandemic.

Survey of Working Arrangements and Attitudes (SWAA)

In “Why Working from Home Will Stick,” the researchers conducted field surveys, labeled the Survey of Working Arrangements and Attitudes (SWAA), about once a

²⁰ Ibid.,1238.

²¹ Barrero, Jose Maria, Nicholas Bloom, and Steven J. Davis. *Why working from home will stick*. (2020).

²² Altig et al. (2020).

month from May 2020 to March 2021 which collected upwards of 30,000 responses from working age Americans. Specifically, the surveys targeted U.S. residents who were 20-64 years old and earned at least \$20,000 in 2019.²³ One survey question simply asked what the respondents' working arrangements were for the present week. One of the first findings was “In May 2020, when stay-at-home orders covered most of the country [. . .] 40 percent of respondents worked from home, while only 26 percent worked on business premises and 34 percent were not working.”²⁴ The amount of work supplied from telework during the pandemic was significantly higher than before the pandemic. It is noted that “Americans [. . .] supplied roughly half of paid workhours from home between April and December 2020, as compared to five percent before the pandemic.”²⁵

After determining what the present working arrangements of respondents were, the surveys were used to figure out what proportion of employers were planning to keep employees working from home (WFH) after the pandemic. The data for March 2021 showed:

Employer plans imply that WFH will account for 22.2 percent of all work days in the post-pandemic economy. When averaging over survey waves from July 2020 to March 2021,

²³ Barrero et al (2021), 6.

²⁴ Ibid., 8-9.

²⁵ Ibid., 1 (Summarizing Barrero et al. (2020), Bick et al. (2020), Brynjolfsson et al. (2020), and Ozimek (2020)).

the figure is 21.3 percent, which is about four times the pre-pandemic WFH share in [American Time Use Survey] data.²⁶

The data clearly shows that employers are valuing WFH significantly more than pre-pandemic. The March 2021 data further reveals that employers expect 1/3 of their employees to work from home for at least one day per week after the pandemic.²⁷ The evidence collected clearly shows that more and more employers are continuing to offer telework.

Barrero et al. also go a step further by showing how the benefits of telework drives the companies to continue offering the option. It is important to note that before the pandemic, “working from home was often seen as a form of shirking. In line with this view, a pre-COVID analysis by Emanuel and Harrington (2021) found productivity to be 12% lower among persons who selected into WFH.”²⁸ These perceptions greatly improved through the pandemic, however, as 2/3 of respondents said their perception of WFH has improved.²⁹ Barrero et al. reference a study of patent applications which revealed “The share of new patent applications that advance WFH technologies more than doubles from January to September of 2020 [. . .] greatly surpassing its previous peak and following an upward trajectory,” which is projected to “improve remote interactivity.”³⁰ Another benefit of WFH is reducing commuting times. Barrero et al.

²⁶ Ibid., 11.

²⁷ Ibid.

²⁸ Ibid., 19 (Info from Emanuel and Harrington (2021)).

²⁹ Ibid., 20.

³⁰ Ibid., 22 (Referencing Bloom, Nicholas, Steven J. Davis, and Yulia Zhestkova, 2021. "COVID-19 Shifted Patent Applications toward Technologies that Support Working from Home.").

found that, near the peak of WFH during the pandemic, commuting time was reduced by about 1.3 billion hours per month and post-pandemic WFH projections show a reduction of about 435 million hours per month.³¹ Lastly, Barrero et al. explain:

The COVID-induced shift to WFH will boost true productivity in the post-pandemic economy by 3.6 percent on an equal weighted basis and by 4.6 percent on an earnings weighted basis. These gains are quite large, providing more support for the view that the COVID-induced shift to WFH will yield important benefits in the form of more output per unit of time devoted to working for pay, inclusive of commuting time.³²

The wide variety of evidence collected by the SWAA strongly suggests telework is overall beneficial. When the benefits are weighed together, there is clearly a strong argument as to why WFH should continue to be offered by employers.

Survey of Business Uncertainty (SBU)

The results from SWAA are also very similar to the Survey of Business Uncertainty (SBU) study which was conducted by most of the same researchers.³³ The study was posed differently, in that businesses were the primary respondents. The SBU found that companies expect 15-18 percent of full workdays will be WFH.³⁴ The SBU projections are slightly smaller than the SWAA projections, yet both sets of projections

³¹ Ibid., 25.

³² Ibid., 29.

³³ Altig et al. (2020).

³⁴ Barrero et al., 12.

are still much higher than the pre-pandemic proportions of WFH. Barrero et al. explains there are many reasons why the SBU projections are smaller. One reason is “by virtue of its focus on persons 20-64 who earned at least \$20,000 in 2019, the SWAA excludes many low-wage and part-time jobs that are unsuitable for WFH (e.g., staff at fast-food restaurants).”³⁵ Also, the SBU targeted private businesses and not government jobs which allow for more WFH. Regardless, it is clear that “multiple surveys of workers and employers support the hypothesis that WFH will be 3-4 times as common after the pandemic ends than before 2020.”³⁶ Thus, the SBU, like the SWAA shows that working from the office is becoming less essential than it was before the pandemic.

Reconciliation

The dichotomy between the legal and business fields certainly leaves the reader to ponder which conclusion is the most sensible. On one hand, the courts hold that working from the office is essential, while on the other hand, researchers are finding that more and more workers are working from home. One could argue that the shift to telework is not because working from the office is unessential, but rather because WFH is much safer in the current situation. For instance, with new variants of COVID-19 emerging, it could be said that the pandemic is still largely present and thus telework is only growing to ensure safety. While this could be the case, the present paper instead argues that the legal field and the non-legal research field have different conclusions

³⁵ Ibid.

³⁶ Ibid.

simply because of ongoing technological advancements which make WFH more effective.

In their paper, Barrero et al. conclude by explaining the rationale behind the significant shift to telework. It is explained that companies have two types of production technologies available to them: traditional technology (T) and alternative technology (R). Traditional technology involves little or no telework, while alternative technology is the opposite. The important part is:

[F]irms know their payoff distributions under T , but we allow for imperfect, possibly biased knowledge of payoff distributions under R . Each period, [the company] chooses an action a_i in $\{T, R, M\}$ to maximize the discounted sum of current plus expected future payoffs, where M stands for mothballing operations at a per-period payoff of zero.³⁷

Companies clearly prefer to stay with T because it is the safe bet, but because the pandemic hurts the payoff distribution of T , R is a more appealing option to companies, even though there is a one-time technological cost for these companies to have access to remote work. By encouraging companies to confront the cost of telework, “[the] pandemic makes R more attractive for each firm. Thus, the pandemic’s negative impact on payoffs under T and the pandemic-induced increase in remote work both drive the adoption of technology R when the pandemic hits.”³⁸ Thus, as the data shows,

³⁷ Ibid., 14.

³⁸ Ibid., 15.

companies confronted the cost for *R* and allowed telework as an option for their employees. Further, however, “Having incurred the switching costs, some firms find it optimal to continue with *R* even if all other firms switch back to *T*.”³⁹ It is also more optimal for companies with *R* when other companies are also using *R* because:

Firms may find it infeasible to learn much [about the profitability of *R*] when operating in an economy where the traditional technology dominates. This observation helps understand why many firms may have had highly imperfect, possibly biased, views about the viability of WFH before the pandemic.⁴⁰

Thus, the rationale is that companies have been hesitant to try *R* simply because of the uncertainty, but once *R* is explored and used it is much more appealing.

The explanation given by Barrero et al. also explains why the ADA factor test has encouraged courts to hold that working from the office is essential. Specifically, look back to (vi) and (vii):

(vi) The work experience of past incumbents in the job; and/or

(vii) The current work experience of incumbents in similar jobs.⁴¹

These two factors explicitly rely on what type of technology is being used by the employee and other companies. If the employee and other companies are still using *T*,

³⁹ Ibid.

⁴⁰ Ibid., 16.

⁴¹ 29 C.F.R. § 1630.2(n)(3)

courts will likely hold that the job in question should do the same. In other words, if an employee wishes to work at home, but similarly situated employees still work at the office, the court will likely find that the employee in question must work from the office too. Conversely, if the employer and other companies are using *R*, the court will hold the opposite—working from the office is not essential. Similarly, the spike in remote work during the pandemic heavily influences (i) and (iii):

(i) The employer’s judgment as to which functions are essential;

(iii) The amount of time spent on the job performing the function;⁴²

While people were certainly working from home before the pandemic, one study found “the fraction of workers who switched to working from home is about 35.2%.”⁴³ The massive shift to telework shows that employers saw working from the office as less essential and there was clearly less time spent working at the office. Thus, as more companies move to *R*, the courts will likely follow.

Lastly, while there is more recent case law on the issue which follows *Credeur*, the decisions do not directly conflict with the present paper’s analysis. For instance, in February 2021, *Weber v. BNSF Ry. Co.* upheld *Credeur*’s stance on regular work-site attendance, but the decision focused on regular attendance.⁴⁴ In the decision, the court explains “Pechal, BNSFs General Director of Transportation Support from 2014-2018, stated in his declaration that regular attendance is an essential function of the train

⁴² Ibid.

⁴³ Brynjolfsson, Erik, John J. Horton, Adam Ozimek, Daniel Rock, Garima Sharma, and Hong-Yi TuYe. *COVID-19 and remote work: an early look at US data.* (2020), 4.

⁴⁴ *Weber v. BNSF Ry. Co.*, 989 F.3d 320 (5th Cir. 2021).

dispatcher position.”⁴⁵ That is to say, regular attendance is an essential part of the position, but not necessarily regular on-site attendance. The court, however, did mention that “regular worksite attendance is an essential function,” but only because “if a train dispatcher does not show up to work, then BNSF must provide coverage to fill that vacancy.”⁴⁶ Thus, the explanation shows that regular attendance in general is the primary essential function. Unlike *Credeur*, there is no unique burden on the company due to the lack of on-site attendance; either way coverage is required. The other cases which follow *Credeur* do not conflict because they do not necessarily address the question at issue. For instance, there are plenty of cases that cite *Credeur*, but they cite points that are not directly related to whether working from the office is an essential job function. For these reasons, while there are more recent cases that follow *Credeur*, they do not prove that courts still see on-site attendance as essential.

Conclusion

Overall, like most other legal inquiries, the question of whether working from the office is an essential job function is complicated. While the legal field agrees that on-site attendance is an essential function of employment, the vast majority of the opinions were written before the pandemic and therefore before most of the technological advancements that make telework effective. Various studies have found that the pandemic has helped produce a plethora of WFH technology. These technologies allow

⁴⁵ *Ibid.*, 325.

⁴⁶ *Ibid.*, 326.

for better interactivity outside of the office and play a huge role in making WFH appealing to employers. The studies prove that employers are having good luck with telework as projections show a huge shift to offering more WFH. Further, as more companies move to telework, more will likely follow. The key point, from the research standpoint is that “When remote work becomes a bigger share of all work, it strengthens the incentives to advance technologies that support WFH.”⁴⁷ These findings show that the discrepancy between the courts and researchers is likely caused by the lack of telework pre-pandemic. However, as more companies begin to explore and implement WFH strategies, the technology becomes more viable.

References

Allen v. Pac. Bell, 348 F.3d 1113, 1114 (9th Cir. 2003)

Altig, David, Jose Maria Barrero, Nicholas Bloom, Steven J. Davis, Brent Meyer, and Nicholas Parker. "Surveying business uncertainty." *Journal of Econometrics* (2020)

Barrero, Jose Maria, Nicholas Bloom, and Steven J. Davis, 2020. "60 Million Fewer Commuting Hours per Day: How Americans Use Time Saved by Working from Home,"

Barrero, Jose Maria, Nicholas Bloom, and Steven J. Davis. *Why working from home will stick*. No.w28731. National Bureau of Economic Research, 2021.

Bick, Alexander, Adam Blandin, and Karel Mertens, 2020. "Work from Home After the COVID19 Outbreak," Federal Reserve Bank of Dallas Working Paper.

⁴⁷ Barrero et al., 22.

Bloom, Nicholas, Steven J. Davis, and Yulia Zhestkova, 2021. "COVID-19 Shifted Patent Applications toward Technologies that Support Working from Home." American Economic Association, Papers & Proceedings, May.

Brynjolfsson, Erik, John J. Horton, Adam Ozimek, Daniel Rock, Garima Sharma, and Hong-Yi TuYe. *COVID-19 and remote work: an early look at US data*. No. w27344. National Bureau of Economic Research, 2020.

Credeur v. Louisiana, 860 F.3d 785 (5th Cir. 2017).

EEOC v. Ford Motor Co., 782 F.3d 753, 762 (6th Cir. 2015).

EEOC v. Yellow Freight Sys., Inc., 253 F.3d 943(7th Cir. 2001).

Gerton v. Verizon S. Inc., 145 F.App'x 159, 168 (6th Cir. 2005).

Grear v. Miller & Newberg, Inc., 2016 U.S. Dist.

Harrington, Emma, Emanuel, Natalia. Working Paper. "'Working' Remotely? Selection, Treatment, and Market Provision of Remote Work (JMP)" (2021).

Jakubowski v. Christ Hosp., Inc., 627 F.3d 195, 202 (6th Cir. 2010).

Library guides: U.S. Government : Judicial branch: Circuit courts of Appeals. Circuit Courts of Appeals - U.S. Government : Judicial Branch - Library Guides at Penn State University. (n.d.). <https://guides.libraries.psu.edu/judicial/appeals-courts>.

Ozimek, Adam, 2020. "The future of remote work," SSRN Working Paper.

Prince v. Centura Health, 2018 Colo.

Samper v. Providence St. Vincent Med. Ctr., 675 F.3d 1233 (9th Cir. 2011).

Tchankpa v. Ascena Retail Grp., Inc., 951 F.3d 805 (6th Cir. 2020).

Tyndall v. Nat'l Educ. Ctrs., 31 F.3d 209 (4th Cir. 1994).

Weber v. BNSF Ry. Co., 989 F.3d 320 (5th Cir. 2021).