Balancing Equity and Empathy: Resolving ADA Disputes in the Era of Return-to-Office

By MyKhanh Shelton, Esq., Mediator

July 2025 marked a turning point in the workplace. According to Placer.ai, office attendance hit a post-pandemic high, and most Fortune 100 employees are now subject to full-time return-to-office (RTO) mandates. While in-office work hasn't yet reached pre-pandemic levels, the tide has clearly shifted and RTO is becoming the norm again rather than the exception.

That shift is colliding head-on with disability accommodation law. More employees are requesting continued remote work as a reasonable accommodation under the ADA, pointing to years of proven success at home. Employers, meanwhile, are under pressure to enforce RTO policies in the name of equity and collaboration. The result is a steady stream of disputes— many of which increasingly appear in mediation— where litigation looms over claims that employers failed to engage in the interactive process in "good faith."

These disputes highlight a central post-pandemic tension: employers balancing the need for in-person collaboration against their obligation to provide individualized accommodations, and employees asserting that years of successful remote work prove the feasibility of their requests. Employers often believe they've done everything right— documenting conversations, consulting with counsel, offering alternatives— yet still face claims that it wasn't enough.

In mediation, the breakdown usually isn't about the law or the paperwork. It's about the people. Employees often describe feeling doubted, stigmatized, or even guilty for asking for accommodations when others were required to return. That sense of being disbelieved or treated as opportunistic can make meaningful dialogue difficult.

Employers, meanwhile, express frustration that despite following protocols, consulting medical professionals, and making good-faith efforts, they are still accused of failing to comply with the law. They are trying to maintain fairness across the workforce while addressing individual accommodation requests— often feeling caught in an impossible position.

Breakthroughs in mediation tend to happen when both sides can acknowledge these emotional undercurrents. Employees may have felt isolated or mistrusted, while employers were genuinely trying to balance accommodation obligations with business needs. Recognizing these experiences often reveals that the real failure was not in the legal process itself, but in how the human dynamics were handled.

By the time these matters reach mediation, the employment relationship has usually ended, and the focus shifts to how the process was handled. Especially then, the conversation has

value. For employees, it can mean having their experiences acknowledged in a way the legal process alone often doesn't provide. For employers, it can mean resolving the dispute in a forum that allows for nuance—where efforts and intentions are weighed alongside outcomes. In that way, mediation offers something beyond resolution: a space where each side can leave with clarity about what happened and closure that makes moving forward possible.

MyKhanh Shelton, Esq. is a full-time mediator with over 25 years of legal experience specializing in employment law, discrimination, harassment, whistleblower retaliation, and workplace disputes available through ADR Services, Inc.