

Live from Workplace Horizons 2025: From ADA to Title VII — Trending Issues in Accommodating Employees

By Tania J. Mistretta & Michelle E. Phillips

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Welcome to a special edition of We get work®, recorded live from Workplace Horizons 2025 in New York City, Jackson Lewis' annual Labor and Employment Law Conference. Over 500 representatives from 260 companies gathered together to share valuable insights and best practices on workplace law issues impacting their business today. Here's your personal invitation to get the insights from the conference, delivered directly to you.



Transcript

INTRO

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CONTENT

Alitia Faccone

Senior Director of Business Development

Good afternoon and welcome to We get work®, Live from Workplace Horizons 2025. This afternoon, I have the pleasure of having in the podcast studio Tania Mistretta, a principal in the New York City office of Jackson Lewis, and Michelle Phillips, a principal in the White Plains office of Jackson Lewis.

I'm first going to ask you to tell our listeners a little bit about your practice, what you do and really what clients are asking about right now. Tania?

Tania Mistretta

Principal, New York City

Sure, good afternoon. I do a little bit of everything – advice and counsel, litigation and training. A big component of my practice is in the disability leave health management space. It was such a privilege today to be able to speak to the group on Title VII, ADA and Pregnant Workers' Fairness Act accommodation issues. These are a lot of the topics we get questions on from clients, and in the current climate, a lot is changing.

A big part of our presentation today was talking about what we see on the horizon and how Title VII, disability and pregnancy accommodation issues overlap and interplay with one another. I spent a lot of time advising clients in that space, and unfortunately, sometimes I also litigate in that space. That's pretty much the long and short of it.

Faccone

All right, terrific. Michelle, how about you?

Michelle Phillips

Principal, White Plains

It was great co-presenting with you. Really, I learned a lot. I was listening to you, actually, when you were presenting, and I was like, wow, I didn't know that. So, that was very cool.

In my area, similar to Tania, I do a lot of litigation, advice and counsel and a ton of training. It's on a wide variety of issues, but if I were to subspecialize, I have been doing a lot of work in the DEI space, and that's really about to change. That's very much changed. It's not so much dismantling DEI as much as being more careful around the guardrails and being more legal and thoughtful about your efforts.

Faccone

The title of your presentation today was exactly that, “From ADA to Title VII, Trending Issues In, and here's the key word, Accommodating Employees.” I know Katharine Weber's not here to share the stage with us this afternoon, but what else did you cover this afternoon in your presentation?

Mistretta

I took the lead in terms of the Pregnant Workers Fairness Act, and I talked about what we expect from the EEOC, what we may come to expect if the administration follows Project 2025 and some of the common issues that do come up, particularly with respect to the issue of abortion and religious accommodation and objections.

This is the beauty of coming to a conference like this. I feel like I learned so much from Michelle and Katharine because Michelle deals with Title VII issues so often, and she was like the resident expert on that topic. So, I'll let Michelle speak to her experience with that. It was really covering what hot-button issues we see, what questions come up frequently, what the guardrails are, what we expect on the horizon and navigating the overlap between these types of accommodations.

Faccone

It will not be surprising if I say that a lot of people talked this afternoon and yesterday, as we've been talking to the thought leaders here at Jackson Lewis about how much change has taken place. I know it came up in your presentation as well, as you cross all those multi-disciplinary legal areas. So, how do you advise people? What are some of the key takeaways that you can share that you shared with the audience and that our podcast listeners want to know?

Phillips

It is important to balance competing interests. In the past, depending upon where you might fall, maybe an employer might favor the rights of one group over the rights of another group. When it comes to religious accommodation, you have to take it at face value. You can't have an opinion about an opinion. Someone may have a religious belief that's different from your own, but don't question the veracity or the sincerity, which is the standard of the religious belief. Take it as that is their belief, and then decide, how can I try and accommodate that belief as long as it doesn't cause a significant cost to other individuals? It might bother other individuals, but as long as the person's not, for example, forcing their beliefs on someone else, you do have to try to be more creative and think of ways as an employer to take that into account. We're going to see a rise in religious accommodation claims. It used to be a de minimis burden, so it was very easy to just not credit it, but because of the change in standard in *Groff v. DeJoy* in 2023, it's going to take more for an employer to deny a religious request. That's probably the biggest takeaway.

Faccone

What would you say, Tania, to that question?

Mistretta

Accommodations, whether it's under Title VII, the ADA or the Pregnant Workers Fairness Act, are very emotional for people. What I find that is consistent across the board is taking a commonsense approach. If you have an accommodation request from an employee and you're sitting there asking yourself, I don't understand the basis for it or why this is necessary as opposed to some alternative. Common sense should dictate here – have the follow-up conversation. You will find some employers are very eager to paper file, and everything be back and forth by email. I find that the common sense of just picking up a phone and speaking with an employee is really the best way to better understand what it is that they're seeking and avoid that tone deafness that can sometimes come across through email. To have that conversation in real time, being sensitive to the basis of the request is really the best way to approach accommodation issues.

Faccone

Tania, how are Jackson Lewis attorneys, Michelle, Katharine yourself, your colleagues, how are they helping our employers, our clients handle these really challenging issues this year?

Mistretta

It's a lot of education, prevention and being proactive. The law, particularly employment law, is constantly evolving, so we try to do our best to make sure that our clients are aware of upcoming changes. Not being reactive, but more so proactive, so we can get ahead of the bell curve and let clients know what issues they may come to expect. When they get those asks from employees, they already have the answer at their fingertips. Of course, if something new does come up, we're always happy to handle that as well.

Faccone

Michelle, you and I have sat across this table many a year now. What would you say is really special about being at Workplace Horizons? How does that also help our clients year in and year out?

Phillips

I remember going to my first Workplace Horizons. It's so long ago, I don't even remember, at least two decades. It's been a while. I remember feeling this tremendous sense of awe at all the talent that was in the room. I couldn't believe that we had an expert in almost every topic you could possibly imagine under the sun. I didn't even know there were that many topics in employment law, let alone that we had the expert on it.

Just going from that to today, where a lot of my practice is national, so I may be assisting a client in California, Indiana or Pennsylvania, and I don't see them ever other than when I'm at this conference. It's a tremendous way for a lot of us who have a national practice to connect with clients that otherwise we'd just be on the phone or by email. It's almost like coming home when we come together at these conferences.

Faccone

Michelle, Tania, thank you so much for participating today, not only here in the podcast studio, but of course through your presentation. I look forward to seeing you at our next Workplace Horizons. Enjoy the rest of the conference. Thank you.

OUTRO

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