

Fordham OUTLaws *present*

**Road to Rebuilding: The Equality Act and
LGBTQI Rights Under the Biden-Harris
Administration**



Friday, March 26, 2021
4:00 p.m. – 7:30 p.m.
Fordham Law School *via Zoom Webinar*

CLE COURSE MATERIALS



FORDHAM UNIVERSITY
THE SCHOOL OF LAW

AGENDA

3:50 - 4:00 p.m. | **CHECK IN**

4:00 - 4:10 p.m. | **WELCOME REMARKS & INTRODUCTION**

- **Matthew Diller**, Dean and Paul Fuller Professor of Law, Fordham Law School
 - **Maria Chrysanthem**, OUTLaws Chair
 - **Jay Brodska**, OUTLaws Speakers & Symposium Chair
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4:10 - 5:40 p.m. | **Panel 1 - EQUALITY ACT, *BOSTOCK*, AND EXECUTIVE ORDERS**

Moderated by **Professor Joseph Landau**, Fordham Law School

Panelists:

- **Zsea Bowmani**, Lecturer in Environmental Law & Policy, Santa Clara University
 - **Jess Braverman**, Legal Director, Gender Justice
 - **Hayley Gorenberg**, Legal Director, New York Lawyers for the Public Interest
 - **Taissa Morimoto, Esq.**, Senior Policy Counsel, The National LGBTQ Task Force
 - **Elizabeth F. Schwartz, Esq.**, Elizabeth F. Schwartz, PA; Co-Chair, SAGE Board of Directors
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5:40 - 5:50 p.m. | **SHORT BREAK**

5:50 p.m. - 7:20 p.m. | **Panel 2 - NAVIGATING CONSERVATIVE COURTS & RHETORIC**

Moderated by **Professor Joseph Landau**, Fordham Law School

Panelists:

- **Paul D. Castillo**, Counsel, Students' Rights Strategist, Lambda Legal
 - **Iván Espinoza-Madrigal**, Executive Director, Lawyers for Civil Rights
 - **Praveen Fernandes**, Vice President, Constitutional Accountability Center
 - **Virginia M. Goggin**, Director of Legal Services, New York City Anti-Violence Project
 - **Richard Saenz, FLS '10**, Senior Attorney, Criminal Justice & Police Misconduct Strategist, Lambda Legal
 - **Ezra Young Esq.**, Law Office of Ezra Young
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7:20 p.m. - 7:30 p.m. | **CLOSING REMARKS**



PANEL 1 – 4:10 – 5:40 p.m.
EQUALITY ACT, BOSTOCK, AND EXECUTIVE ORDERS

(1.5 professional practice CLE)

President Biden has promised enactment of the Equality Act as a top legislative priority during his first 100 days in order to reverse the discriminatory actions of the Trump-Pence Administration. The Equality Act would solidify federal discrimination protections for LGBTQ people in key areas such as employment, housing, and education. This panel will explore what the future holds for LGBTQ equality, advocacy, and legislation.

Moderator



Joseph Landau (he/him) is a Professor of Law at Fordham Law School, where he teaches and writes at the intersection of constitutional law and civil procedure. He received Fordham Law’s Teacher of the Year Award in 2012-2013 and 2019-2020, and in 2012 the National LGBT Bar Association named him one of the Best LGBT Lawyers Under 40. He is a recipient of the Fordham Law Dean’s Distinguished Research Award for the 2020-2021 academic year.

Professor Landau graduated from Yale Law School in 2002 and clerked for the Hon. David Trager of the U.S. District Court for the Eastern District of New York and the Hon. Betty Binns Fletcher of the U.S. Court of Appeals for the Ninth Circuit. Prior to joining the Fordham faculty, he was an associate at Cleary Gottlieb Steen & Hamilton LLP, where in addition to specializing in securities litigation he co-directed the Firm’s pro bono practice group in immigration and international human rights (including Guantánamo Bay litigation). From 2010 to 2013, he was Board Chairman of Immigration Equality and the Immigration Equality Action Fund. Prior to law school, Professor Landau was the Assistant Managing Editor at The New Republic magazine in Washington, D.C.

Speakers



Zsea Bowmani, Lecturer in Environmental Law & Policy, Santa Clara University (he/him)

Zsea Bowmani (Twitter: @LiberationGreen) is a civil rights attorney and legal scholar with a focus on race, gender, environmental justice, reproductive justice, and the law. He teaches environmental law at Santa Clara University and co-leads the Law & Advocacy Project of a new environmental justice initiative at the university. Zsea received his BA in History from Stanford University and his JD from Santa Clara Law with certificates in Public International Law with honors, and Public Interest and Social Justice Law.

Prior to his return to SCU, Zsea worked at the ACLU and National LGBTQ Task Force to defend the rights of LGBTQ people in employment, schools, and healthcare settings, challenge the criminalization of transgender and gender nonconforming people, and expand access to health care. At the ACLU of Illinois, Zsea worked on impact litigation and policies in support of transgender and GNC people throughout the Midwest. During his time at the Task Force in Washington DC, Zsea developed the organization's Reproductive Justice and LGBTQ work across state, federal, and training program areas. This includes his contributions to the organization's joint amicus briefs for US Supreme Court cases *Whole Woman's Health v. Hellerstedt* and *Zubik v. Burwell*, and comments on Section 1157, the nondiscrimination provision of the Affordable Care Act.

Reflecting his commitment to community service, Zsea sits on several boards, including the National Trans Bar Association, where he contributes to the organization's advocacy efforts, most notably its joint amicus briefs for *Bostock*, *Zarda*, and *Harris*, and the California Appellate case *Minton v. Dignity Health*. His writing has been published in the Georgetown Journal of Gender, Seattle Journal for Social Justice, and Tulane Journal of Law & Sexuality (forthcoming). Zsea has been honored with multiple awards for his scholarship and activism, including awards from the Charles Houston Bar Association, Asian Pacific American Bar Association-Silicon Valley, and the Bay Area Lawyers for Individual Freedom.



Jess Braverman, Legal Director, Gender Justice (she/her)

Jess Braverman is the Legal Director at Gender Justice, where she ensures that their litigation strategy not only promotes the dignity of their clients, but also advances their mission of removing barriers to gender equity. Jess came to Gender Justice from the Hennepin County Public Defender's office. After representing hundreds of clients in felony matters in the Fourth District, she spearheaded the office's Special Litigation Unit, where she focused on racial profiling in policing. Jess developed litigation that challenged racially discriminatory undercover marijuana sting operations, which ultimately led to the end of the sting operations and the dismissal of dozens of wrongful charges. Jess attended NYU Law School, where she was an Arthur Garfield Hays Civil Liberties Fellow with a focus on LGBTQ rights. After graduating, Jess worked at the Legal Aid Society's Juvenile Rights Project, representing young people in delinquency and child protection cases in Brooklyn, New York.



Hayley Gorenberg, Legal Director, New York Lawyers for the Public Interest (she/her)

Hayley Gorenberg is the Legal Director of NYLPI, where she guides the organization’s litigation and advocacy. She also teaches the LGBTQ Rights Externship and Seminar at New York University School of Law, as the law school's first Marc and Julie Platt LGBTQ Rights Externship Instructor. Before joining NYLPI in 2018, Hayley was General Counsel and Deputy Legal Director of the national civil rights organization Lambda Legal, where she litigated landmark cases advancing the rights of LGBTQ people, including a range of pathbreaking matters involving disability rights, health access and discrimination against marginalized communities. Prior to that she ran a citywide task force at Legal Services for New York City, creating legal advocacy campaigns and training other lawyers and advocates to achieve high-impact results for low-income New Yorkers living with HIV. Hayley was named 2017 OUTLaw Alumna of the Year by New

York University School of Law and received a 2018 Forger Award from the American Bar Association for “sustained excellence” advocating for the rights of people living with HIV. She has served as a Wasserstein Public Interest Fellow at Harvard and sits on Princeton University’s Gender and Sexuality Studies Advisory Council. She was selected to serve on the inaugural New York State Council on Women and Girls. Hayley earned her undergraduate degree from Princeton University, her law degree from New York University School of Law, and a certificate in change leadership from Cornell University.



Taissa Morimoto, Esq., Senior Policy Counsel, The National LGBTQ Task Force (they/she)

Taissa Morimoto currently works on reproductive justice, economic justice, and sex ed advocacy as the Senior Policy Counsel – Equity at the National LGBTQ Task Force. They lead the Sex Ed Leadership Project at the Task Force, working with young LGBTQ people to build movement and advocacy around sex ed that centers LGBTQ people. She received her bachelor’s degrees and J.D. from the University of Florida, where she represented survivors of intimate partner violence and led workshops on civil rights restoration.



Elizabeth F. Schwartz, Esq., Principal of Elizabeth F. Schwartz, P.A. (she/her)

Elizabeth Schwartz has been practicing law and advocating for the legal rights of the LGBTQ+ community for almost 25 years. While her Miami-based firm works with all clients in matters of family formation (adoption and surrogacy) and dissolution, estate planning and probate, she has been on the forefront of providing crucial legal protections for LGBT+ families before and since the arrival of nationwide marriage equality.

She is board certified by the Florida Bar in Adoption Law, an elected fellow of the Academy of Adoption & Assisted Reproduction Attorneys, and she handled the first divorce for a same-sex couple in Florida. Schwartz is the co-chair of the national board of SAGE (Advocacy & Services for LGBT Elders) and a member of the National Family Law Advisory Council of National Center for Lesbian Rights (NCLR) as well as its National Leadership Council. She is the author of *Before I Do: A Legal Guide to Marriage, Gay & Otherwise* (The New Press, 2016) and “LGBT Issues in Surrogacy” in the *Handbook of Gestational Surrogacy*, ed. E. Scott Sills (Cambridge University Press, 2016).

Elizabeth served as counsel on the victorious cases challenging Florida's marriage ban brought by the NCLR on behalf of six same-sex couples and members of the Equality Florida Institute seeking the right to marry and for fair issuance of birth certificates to same-sex married couples. She also served as counsel in several cases that helped overturn Florida's bigoted 1977 ban forbidding LGBT+ people from adopting children. A Miami Beach native, Schwartz received her B.A. from the University of Pennsylvania in 1993 and her J.D. cum laude from the University of Miami School of Law.

A lefty and a Scorpio, Elizabeth lives with her wife, writer Lydia Martín, and their rescued Havanese, Gracie Kenisha de la Caridad, in Miami's urban core.

PANEL 2 - 5:50 p.m. - 7:20 p.m.
NAVIGATING CONSERVATIVE COURTS & RHETORIC

(1.5 professional practice CLE)

Over the past four years, the Trump-Pence administration enabled anti-LGBTQ rhetoric and stacked the courts with lifetime appointments of ideologically-driven judges. These appointments have a demonstrated history of hostility toward the LGBTQ community, and threaten not only the legal rights, health, and safety of LGBTQ people, but also pose a threat to all those who rely on fair and impartial courts to vindicate their rights. This panel will explore the challenges facing LGBTQ people in the federal court system.

Moderator



Joseph Landau (he/him) is a Professor of Law at Fordham Law School, where he teaches and writes at the intersection of constitutional law and civil procedure. He received Fordham Law's Teacher of the Year Award in 2012-2013 and 2019-2020, and in 2012 the National LGBT Bar Association named him one of the Best LGBT Lawyers Under 40. He is a recipient of the Fordham Law Dean's Distinguished Research Award for the 2020-2021 academic year.

Professor Landau graduated from Yale Law School in 2002 and clerked for the Hon. David Trager of the U.S. District Court for the Eastern District of New York and the Hon. Betty Binns Fletcher of the U.S. Court of Appeals for the Ninth Circuit. Prior to joining the Fordham faculty, he was an associate at Cleary Gottlieb Steen & Hamilton LLP, where in addition to specializing in securities litigation he co-directed the Firm's pro bono practice group in immigration and international human rights (including Guantánamo Bay litigation). From 2010 to 2013, he was Board Chairman of Immigration Equality and the Immigration Equality Action Fund. Prior to law school, Professor Landau was the Assistant Managing Editor at The New Republic magazine in Washington, D.C.

Speakers



Paul D. Castillo, Counsel and Students' Rights Strategist, Lambda Legal (he/him)

Paul Castillo is Counsel and the Students' Rights Strategist for Lambda Legal, the oldest and largest national legal organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education, and public policy work. He is based at Lambda Legal's South Central Regional Office located in Dallas, Texas.

Castillo has served as counsel on several important and precedent setting cases. His current litigation docket includes representing a nonbinary intersex person seeking an accurate passport from the U.S. Department of State in *Zzyym v. Blinken*; representing a transgender high school student to ensure nondiscriminatory access to facilities matching his gender identity in *Adams v. St. Johns County School Board*; and representing transgender individuals who are barred from open military service in *Karnoski v. Trump*. Castillo served as co-counsel in *Star v. Livingston*, a case against the Texas

Department of Criminal Justice arguing state officials were deliberately indifferent to sexual assault and violence directed at a transgender female housed in male correctional facilities. He also played a significant role in securing the freedom to marry nationwide, including representing Ohio same-sex couples in the landmark case *Obergefell v. Hodges*.

Prior to joining Lambda Legal in 2013, Castillo enforced federal civil rights statutes for the U.S. Department of Education, Office for Civil Rights (OCR) and served as private practice litigator. He received his undergraduate degree from the University of Texas at Austin, and graduated *cum laude* from Cleveland-Marshall College of Law. He is a member of the state bars of Texas and Ohio.



Iván Espinoza-Madrigal, Executive Director, Lawyers for Civil Rights (he/him)

Iván Espinoza-Madrigal is the Executive Director of Lawyers for Civil Rights (LCR), an organization founded at the request of President John F. Kennedy in the 1960s at the height of the civil rights movement. Iván has filed and won dozens of life-changing and law-changing cases on a wide range of civil rights issues, including LGBT/HIV equality and immigrants' rights. His work is regularly featured in publications such as the New York Times. Previously, he worked at Lambda Legal and Fried Frank LLP. Iván clerked in the U.S. Court of Appeals for the Sixth Circuit, and the U.S. District Court, SDNY. The National LGBT Bar Association has recognized him as one of the Best LGBT Lawyers Under 40. He has received the Boston Bar Association's Beacon Award (2017) and President's Award (2020), and the University of Pennsylvania's Martin Luther King Award in Social Justice. A summa cum laude and Phi Beta Kappa graduate of the University of Pennsylvania, he received a Juris Doctor from NYU School of Law. Iván serves on the Board of

the New England Foundation for the Arts (NEFA) and Eastern Bank.



Praveen Fernandes, Vice President, Constitutional Accountability Center (he/him)

Praveen Fernandes serves as Vice President at the Constitutional Accountability Center, a public interest law firm, think tank, and action center dedicated for fulfilling the progressive promise of the United States Constitution. He has worked on issues pertaining to LGBTQ+ equality, civil rights, fair courts, and judicial nominations for over 15 years in various positions, including as a Principal at the Raben Group, a Director of Programs at the American Constitution Society, and a Director of Federal Affairs at Justice at Stake. His stints in the federal government include serving as a political appointee within the Obama Administration (where he served as Senior Counsel and Advisor to the General Counsel at the Office of Personnel Management), a research analyst at the President’s Advisory Committee on Human Radiation Experiments (a bioethics advisory committee tasked with preparing and presenting a report to President Clinton), and a member of Senator Edward M. Kennedy’s Labor Committee staff.

He has been published in a variety of outlets, including The New York Times and Take Care. He received his J.D. from the University of North Carolina School of Law, his M.P.H. from the University of North Carolina Gillings School of Public Health, and his B.A. with honors from Brown University. In 2010, Praveen was named to the National LGBT Bar Association’s inaugural “Top 40 Under 40” list.

- **Virginia M. Goggin, Director of Legal Services, New York City Anti-Violence Project (she/her)**



Richard Saenz, FLS '10, Senior Attorney, Criminal Justice & Police Misconduct Strategist, Lambda Legal (he/him)

Richard Saenz (he/him) is a Senior Attorney and the Criminal Justice and Police Misconduct Strategist at Lambda Legal, the oldest and largest national legal organization committed to achieving full recognition of the civil rights of LGBTQ people and those living with HIV. He focuses his work on the criminal justice system, coordinating litigation and policy work on behalf of incarcerated people and against the criminalization of LGBTQ people.

Currently, Richard serves as a Board Member of the Anti-Violence Project (AVP) and is the Programming Chair of the LGBTQ Law Section of the New York State Bar Association. Richard has been named a Hispanic National Bar Association's Top Lawyers Under 40 and a National LGBT Bar Association's Best LGBT Lawyers Under 40. He was awarded the Michael B. Davis-Elyse Hilton Alumni Award from the Fordham Law School OutLaws and the Alumni Award from the Fordham Law Latin American Law Students Association. He received his Juris Doctor from Fordham University School of Law, where he was a Stein Scholar for Public Interest Law and Ethics. He holds a Bachelor of Arts from Georgetown University.



Ezra Young Esq., Law Office of Ezra Young (he/him)

Ezra Young is a nationally recognized civil rights attorney in New York City. He currently maintains a boutique private practice. Starting in July 2021, Ezra will serve as a visiting assistant professor at Cornell Law School. Ezra's litigation and scholarship centers on trans rights and focuses on rights of recognition, employment protections, and health care and insurance coverage issues. His academic writing has appeared in or is forthcoming in books and articles published by Routledge, Oxford University Press, the New Press, *California Law Review Online*, *Cleveland State Law Review*, and *Plastic and Reconstructive Surgery*. Ezra has litigated trans rights cases in courts and agencies throughout the nation. Highlights include winning an order from the Medicare

Appeals Council directing a health plan to cover vaginal reconstruction surgery for a transgender woman; winning an Equal Employment Opportunity Commission precedent finding transgender exclusions in FEHB plans violate federal EEO laws; and three pathbreaking co-litigations with the Equal Employment Opportunity Commission and U.S. Department of Justice vindicating transgender worker's rights under Title VII and the Americans with Disabilities Act. Ezra currently serves as vice president of the board of the [Jim Collins Foundation](#). He is a founding board member and past co-chair of the [National Trans Bar Association](#). He previously served as legal director of the [African American Policy Forum](#), research director of the Columbia Center for Intersectionality and Social Policy Studies, and director of impact litigation of the [Transgender Legal Defense and Education Fund, Inc.](#) From 2012 to 2014, Ezra was a postdoctoral scholar at Columbia Law School. His post doctoral studies focused on trans rights, Critical Race Theory, and intersectionality and were supervised by renowned scholar Kimberlé Crenshaw. Ezra received his BA in Philosophy from Cornell University and his JD from Columbia Law School.

CLE MATERIALS

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Freedom For All Americans, *Legislative Tracker: Anti-Transgender Legislation*, <https://freedomforallamericans.org/legislative-tracker/anti-transgender-legislation/>.

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Facing Foster Care in Alaska v. HHS, LAMBDA LEGAL (Feb. 10, 2021), <https://www.lambdalegal.org/in-court/cases/facing-foster-care-in-alaska-v-hhs>

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