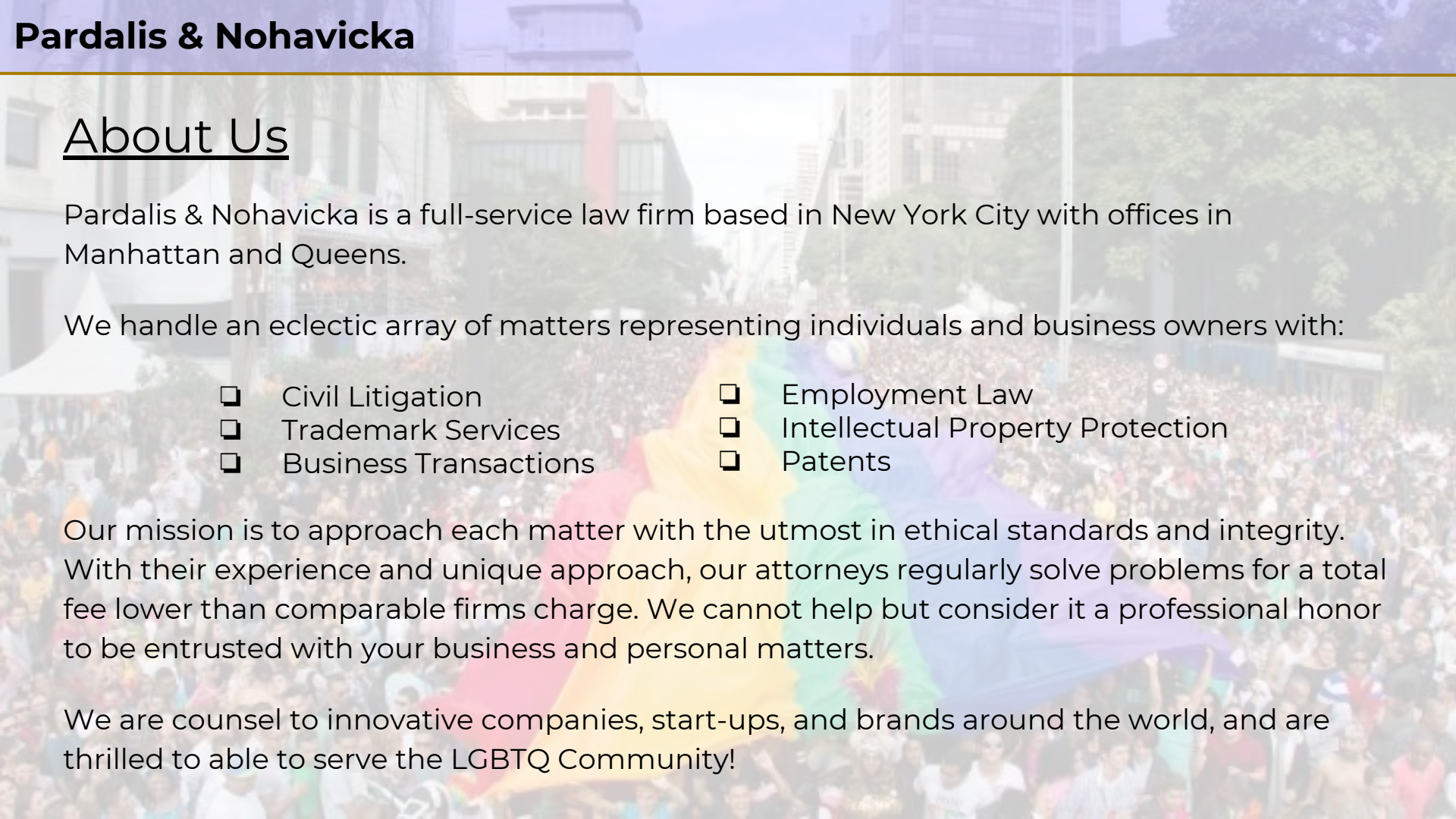




PARDALIS & NOHAVICKA, LLP  
ATTORNEYS

# *Brown Bag Lunch & Learn*

Hosted by PN Lawyers & LeGal



## About Us

Pardalis & Nohavicka is a full-service law firm based in New York City with offices in Manhattan and Queens.

We handle an eclectic array of matters representing individuals and business owners with:

- ❑ Civil Litigation
- ❑ Trademark Services
- ❑ Business Transactions
- ❑ Employment Law
- ❑ Intellectual Property Protection
- ❑ Patents

Our mission is to approach each matter with the utmost in ethical standards and integrity. With their experience and unique approach, our attorneys regularly solve problems for a total fee lower than comparable firms charge. We cannot help but consider it a professional honor to be entrusted with your business and personal matters.

We are counsel to innovative companies, start-ups, and brands around the world, and are thrilled to be able to serve the LGBTQ Community!





## Ariadne Papagopoulou, Esq. Attorney

Ariadne is responsible for managing all of the firm's employment cases (including wage and hour, discrimination, harassment, hostile work environment, family and medical leave, restrictive covenants, retaliation and whistleblower violations) from the commencement of litigation up until trial and/or settlement. She has successfully represented both employers and employees in federal and state courts as well as federal and state agencies including the NLRB, the EEOC, the OSHA, the NYC Commission on Human Rights, the NYS Division of Human Rights and the NY Department of Labor.

Prior to joining the firm, Ariadne served as a research assistant in microeconomics at Harvard Law School and also taught Law School courses at the University of Edinburgh for which she received a teaching award. She was awarded First Prize in persuasive speaking in an international debate contest.

**Languages:** Greek, Italian

## **Joseph D. Nohavicka, Esq.** **Partner**

With over 25 years of experience in the law, Joe is fully-qualified to take on any kind of case at any given moment. Joe's areas of practice range widely and include: employment law, insurance, ethics, criminal and general appellate, and trial litigation.

Although Joe is acknowledged in the profession for his performance in the courtroom, he is also a prolific legal commentator with multiple publications in the prestigious

New York Law Journal and the New York State Bar Journal. His love for the law transcends normal business hours making Joe easily accessible to his clients on any given day and time.

His experience in the business arena has made him sensitive to the time and efficiency needs of all the firm's commercial clients and has a deep personal understanding that the marketplace will sustain neither the fear of risk nor the disrespect for time.





# Discrimination in the Workplace

There are federal, state and city laws that protect employees, including homosexual employees from discrimination in the workplace.

## What is discrimination?

- An adverse employment action such as discharging, suspending or failing to hire an individual on the basis of a protected characteristic.
- Hostile work environment.
- Sexual harassment.



# Federal Law - Title VII of the Civil Rights Act 1964

"It shall be an unlawful employment practice for an employer--

**(1)** to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin...."

42 USCA § 2000e-2

*What is missing?*



# Case Study Number 1:

1998: Male employee brought action against former employer and against male supervisors alleging that he was sexually harassed by them.

**Question:** Can an employee bring claims of sexual harassment under Title VII when the victim and the alleged harasser are of the same gender?

**Result:** Unanimous yes!

"Title VII prohibits "discrimination because of sex" in the "terms" or "conditions" of employment. Our holding that this includes sexual harassment must extend to sexual harassment of any kind that meets the statutory requirements."

*Oncale v Sundowner Offshore Services, Inc.*, 523 US 75, 79–80, 118 S Ct 998, 1002, 140 L Ed 2d 201 [1998]

## Case Study Number 2

2008: Lesbian employee sued employer claiming that she was suspended from her employment due to being gay.

**Result:** Case was dismissed because it failed to state a cause of action; congress did not include protections for people of the same sex.

*Kiley v Am. Soc. for Prevention of Cruelty to Animals*, 296 Fed Appx 107 [2d Cir 2008].





## Case Study Number 3

February 2018: Employee claimed he was fired after telling a company customer that he was gay. He brought a claim under Title VII for discrimination based on sexual orientation.

**Result:** The US Court of Appeals for the Second Circuit (covering New York, Connecticut, Vermont, Indiana, Illinois, or Wisconsin) explicitly held for the first time that Title VII covers discrimination on the basis of sexual orientation.



## Case Study Number 3 (*continued*)

"We now conclude that sexual orientation discrimination is motivated, at least in part, by sex and is thus a subset of sex discrimination."

"Because one cannot fully define a person's sexual orientation without identifying his or her sex, sexual orientation is a function of sex. Indeed sexual orientation is doubly delineated by sex because it is a function of both a person's sex and the sex of those to whom he or she is attracted. Logically, because sexual orientation is a function of sex and sex is a protected characteristic under Title VII, it follows that sexual orientation is also protected."

*Zarda v Altitude Express, Inc.*, 883 F3d 100, 113 [2d Cir 2018]

**Case is currently being appealed to the US Supreme Court**



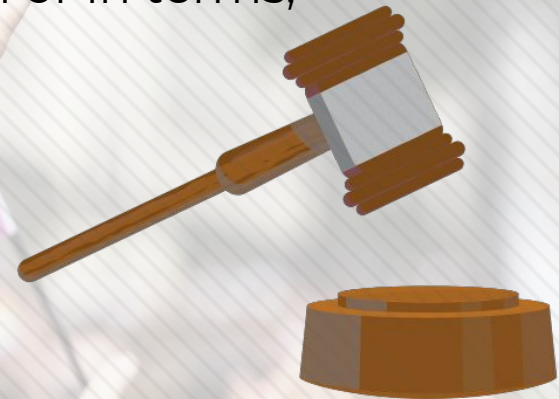
# New York State Human Rights Law

**Enacted in 1945, amended in 2002, to include a prohibition of discrimination on the basis of sexual orientation.**

"1. It shall be an unlawful discriminatory practice:

(a) For an employer or licensing agency, because of an individual's age, race, creed, color, national origin, sexual orientation....to refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment."

New York State Executive Law § 296





# New York City Human Rights Law

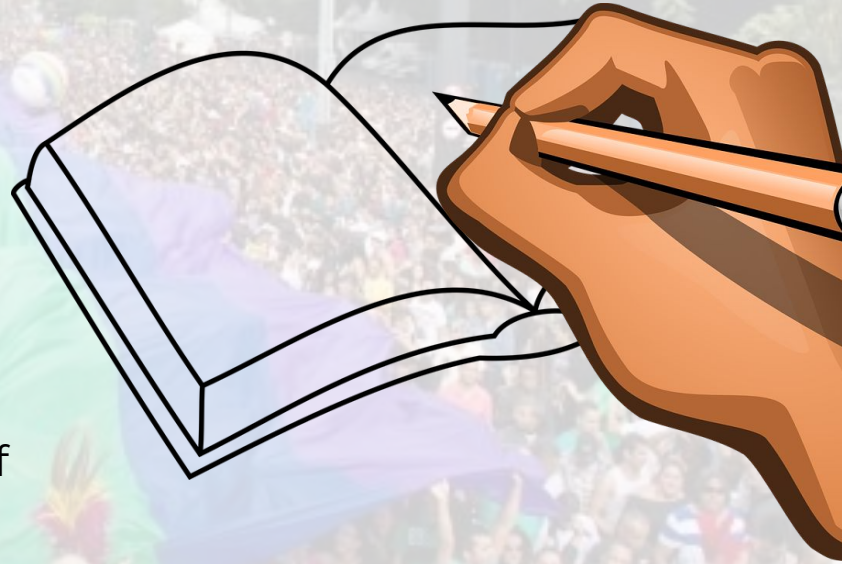
## § 8-107. Unlawful discriminatory practices.

- "1. Employment. It shall be an unlawful discriminatory practice:
- (a) For an employer or an employee or agent thereof, because of the actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, caregiver status, sexual orientation, uniformed service, or alienage or citizenship status of any person:
  - To represent that any employment or position is not available when in fact it is available;
  - To refuse to hire or employ or to bar or to discharge from employment such person; or
  - To discriminate against such person in compensation or in terms, conditions or privileges of employment."



# If you are an employer, what should you do?

- ❑ Ensure that your employee handbook or manual clearly states that discrimination and sexual harassment in the workplace are unlawful.
- ❑ Also ensure that you contain internal complaint procedures.
- ❑ Plan and engage in annual training sessions for your employees and supervisory staff.
- ❑ Encourage employees to come forward if they witness discrimination.



# As an employee what should you do if you are a victim of discrimination?

1. As a first step, follow the company's policy and submit a written complaint.
2. File a complaint of discrimination with the EEOC (federal claims), NYS Division of Human Rights (state law claims) or the NYC Commission on Human Rights (city claims).

**MAIN ADVANTAGE:** A lawyer is helpful, but not necessary.

**MAIN DISADVANTAGE:** You do not get the right to a jury trial

3. Bring a lawsuit in state or federal court

**You have the right to a jury trial and it can be a quicker process, BUT it will not be advisable to proceed without an attorney.**



# Contact Us

If you have any additional questions or concerns, feel free to reach out to us!

We also offer 100% free legal consultations on any matter you may have. Contact us to schedule a time & we're happy to meet with you to discuss your matter.

## Manhattan

950 Third Ave., 25th Fl.  
New York, NY 10022

212.213.8511

## Queens

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Astoria, NY 11106

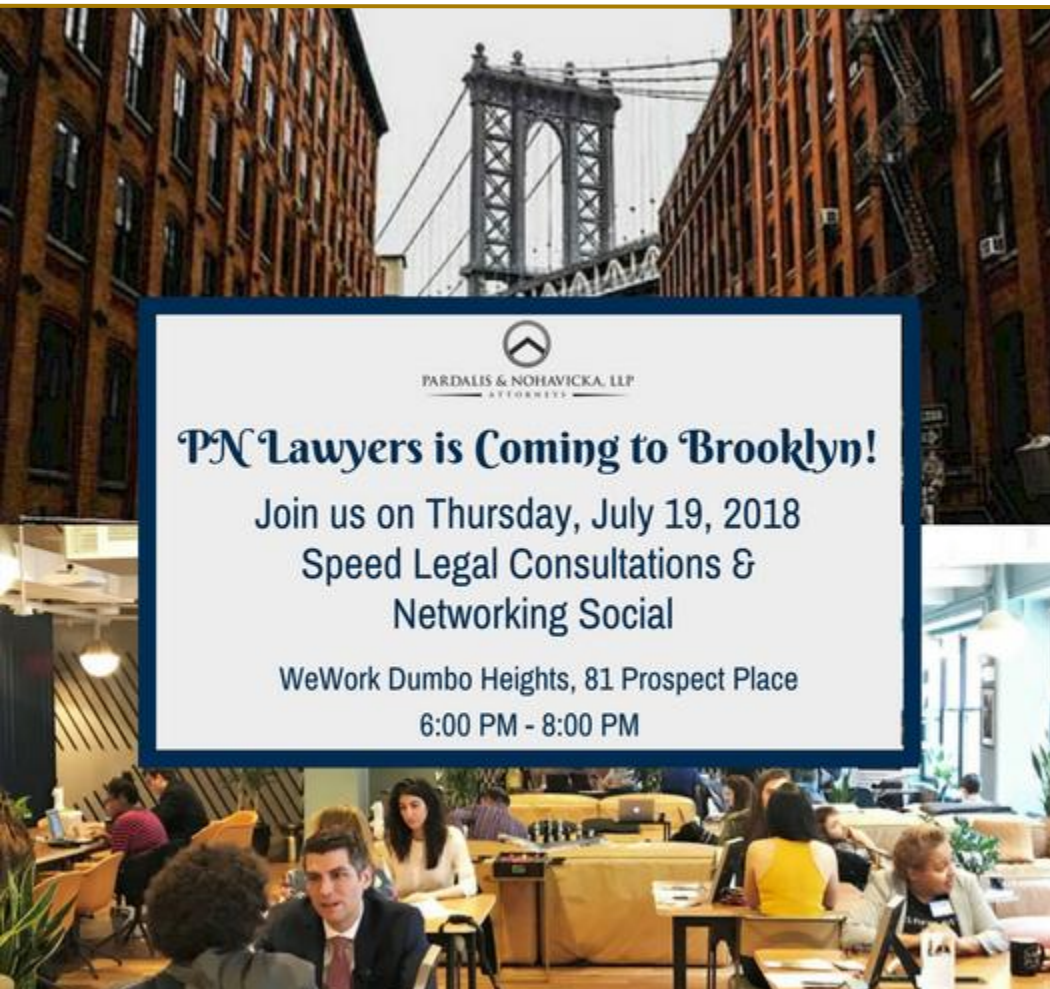
718.777.0400

## WeWork

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## **PN Lawyers is Coming to Brooklyn!**

Join us on Thursday, July 19, 2018  
Speed Legal Consultations &  
Networking Social

WeWork Dumbo Heights, 81 Prospect Place  
6:00 PM - 8:00 PM

*Save the date!*

Our next event, “Speed Legal Consultations & Networking Social” is taking place in July!

*Join us to have all of your legal questions answered - plus complimentary food & drinks!*



**Save The  
Date  
&  
Share with  
your friends  
in Bogotá**



*WE'RE GOING  
TO COLOMBIA!*

Join Us For An Interactive Legal  
Workshop, Food, Drinks, &  
Networking ...

June 27th: WeWork Usaquén

June 28th: WeWork La 93

Learn how to legally protect your intellectual property, business and brand.