

## Habinsky in XpertHR on Civil Rights Protections for Sexual Orientation

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By Jason Habinsky | March 8, 2018

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*XpertHR* quoted Haynes Boone Partner [Jason Habinsky](#) on a 2nd U.S. Circuit Court of Appeals ruling that held Title VII of the Civil Rights Act bans discrimination on the basis of sexual orientation.

*XpertHR* [reported](#) that, in the 10-3 decision in *Zarda v. Altitude Express*, the full appellate court found that Title VII has "evolved substantially" and should be read to include sexual orientation discrimination as a subset of sex discrimination. Writing for the 2nd Circuit, Chief Judge Robert Katzmann noted that the Supreme Court has held that Title VII prohibits discrimination based not just on sex itself but also on traits that are a function of sex, including non-conformity with gender norms.

The case involved a skydiving instructor, Donald Zarda, who told a female client with whom he was preparing for a tandem skydive that he was gay. The client told her boyfriend about the reference, who in turn told the instructor's boss. Altitude Express fired Zarda shortly thereafter, which he insisted was solely because of his sexual orientation. ...

New York City employment attorney Jason Habinsky, of Haynes & Boone, says the ruling reiterates sexual orientation bias prohibitions already afforded by many states, cities and municipalities. ...

Speaking of the 2nd Circuit's ruling, Habinsky calls it "an optimal opportunity for HR professionals to ensure that their employers' discrimination and harassment policies specifically identify sexual orientation, as well as gender identity."

Excerpted from *XpertHR*. To read the full article, click [here](#).