



PEDAL POWER: Schwartz can bike from her nearby residence to her office in downtown Miami, home to a practice that focuses on family formation law, estate planning and probate, surrogacy, gender marker changes and other legal needs for her LGBTQ+ clients.

SHE HAS THEIR BACKS

FOR MORE THAN TWO DECADES, ELIZABETH SCHWARTZ HAS BEEN A LEGAL WARRIOR FOR THE LGBTQ+ COMMUNITY ON ISSUES RANGING FROM ESTATE AND FAMILY MATTERS TO LIFE-CHANGING LEGISLATION

By Kevin Kaminski / Photography by Eduardo Schneider

Elizabeth Schwartz is the first to admit that many would-be attorneys of her era probably had their epiphany to *leave* law school while listening to the Allman Brothers at the famed New Orleans Jazz and Heritage Festival. But the South Florida native never has been one to play by everyone else's rules.

During her 1994 trip to Jazz Fest, a shopkeeper in the French Quarter randomly called out to her group of friends and asked, "Which of you is going to be the first [female] president?"

All my friends gestured at me, because I'd always been political and always been an organizer," says Schwartz, who was wrapping up her communications degree from the University of Pennsylvania at the time. "Up until then, my whole frame of reference was protesting the establishment from outside the edifice. It occurred to me, listening to the Allman Brothers jam, that wouldn't it be more effective if I were *inside* the edifice, working within the system?"

"That's when I decided to go to law school. I applied to the University of Miami late in the cycle. I was admitted off the waitlist the day before classes started."

It marked the beginning of a prolific legal career, one that continues to inspire, empower—and effect change for—members of the LGBTQ+ community. The nationally renowned attorney, principal of her eponymous Miami Beach-based firm since 2001, specializes in estate planning and probate, family formation (including adoption and surrogacy), name and gender marker changes, and counsel/services related to relationships and divorce.

Over the past two-plus decades, she's also been on the front lines of countless battles involving legal protections for LGBTQ+ individuals and families. She worked tirelessly against the 1977 amendment that prohibited gays and lesbians from adopting children in Florida (it was finally overturned in 2010). And before marriage equality became the law of the land in 2015, Schwartz was counsel on successful cases that challenged Florida's same-sex marriage ban. She even handled the first divorce for a same-sex couple in Florida.

Schwartz reflects on her journey—and weighs in on what the future holds for the LGBTQ+ community.

RECOGNITION: Over the years, Schwartz has been honored by organizations including the National LGBT Bar Association, the Greater Miami Jewish Federation and the Anti-Defamation League.



BORN INTO IT: Schwartz, the youngest of six children in a blended family, grew up in an activist Jewish household. Both parents were mindful of the injustices perpetuated against people of their own faith, against women and against the Black population. Her late father was so outspoken that he even made Richard Nixon’s “enemies list.”

“I always had this keen sense of outrage at social injustice,” says Schwartz, who marched in gay pride parades before even identifying as LGBT. “My parents both taught me that, as Martin Luther King Jr. said, a threat to justice anywhere is a threat to justice everywhere.”

COMING OUT: After dating both women and men during her college years, Schwartz decided that “I prefer relationships with women.” (She married her partner of some 20 years, Lydia Martin, the former *Miami Herald* writer, in 2013 in Vermont.) Though her mother always dreamed of seeing her daughter under the Jewish wedding canopy with a man, she “came around quickly.”

As for the reaction of her father, who passed away nearly a decade ago,

Schwartz shares that he was woke before that was even a thing. “He told me, ‘If you think I loved you a lot before, wait until you see how much I’m going to love you now.’”

FIRST IMPRESSIONS: Crockett & Chasen was a small Miami Beach firm representing mostly gay men when Schwartz boldly pitched her services before graduating from UM’s School of Law. “If you think you’re representing the gay community, and you don’t have a woman on your staff, then you’re really not,” she told them. “You can’t afford not to hire me.”

By fall 1997, after she passed the bar that September, they did. The firm quickly charged Schwartz with working to amend Miami Dade-County’s antidiscrimination law. In 1977, Anita Bryant’s anti-LGBTQ rhetoric, cloaked in a “Save the Children” campaign, led to the repeal of an ordinance that protected the gay community from discrimination in employment and housing. Twenty-one years later, a county commission vote reestablished the ban on discrimination based on sexual orientation.

SHE’S THE BOSS: Realizing that

she knew best how to balance the nonprofit and for-profit work that she most enjoyed, Schwartz launched her own practice in 2001. Estate planning became (and remains) the anchor of her business. “Before [the LGBTQ+ community] could marry, it was important to state our intentions with respect to what we want to have happen to our possessions and to ourselves in the event we couldn’t communicate our wishes in a medical context,” she says.

As states around the country opened the doors to same-sex marriage, Schwartz saw more and more couples marrying simply because they could—without understanding the legal implications. Ultimately, that led her to pen *Before I Do: A Legal Guide to Marriage, Gay and Otherwise*—a guide that, six years after being published, continues to be an invaluable resource for same-sex couples.

GENDER MARKERS: It’s a years-long struggle for individuals come to terms with their gender identity. The path, Schwartz notes, involves psychological and medical treatment, hormone treatment, and, eventually, a required

letter from a medical doctor stating that you’ve had treatment consistent with affirming your gender identity.

Then there’s the issue of legally changing your gender marker—another realm where Schwartz has gained renown for her expertise.

“Some people think that, after going through this process, they just have to change their name,” Schwartz says. “But if you go from Keith to Kate, you still have a male gender marker. And that can create issues, not only in your ID and presenting consistently with your gender expression but also in terms of safety. What happens if you become incarcerated, and they put you in a male prison—but you identify and present as a woman? It’s important to educate the LGBTQ community—and also educate our judges that they have the authority to do this.”

BACK AND TO THE RIGHT: While the recently passed “Don’t Say Gay” law grabs the spotlight in Florida, Schwartz sees rulings around the country that threaten the most vulnerable individuals in the LGBTQ+ community.

“In retrospect, it was easy with marriage equality to feature these lovely, happy same-sex couples that everyone has as their neighbors and doctors and friends and family members,” she says. “But there are fewer numbers of transgender and gender nonbinary people; so [laws like this] are able to cynically capitalize on people’s lack of knowledge—and parlay that into fear.

“You’re seeing these awful laws passed disallowing gender-affirming care—which has a direct effect on someone’s survival. These sports bans against transgender athletes, which are directed at just one or two cases. It’s not even an issue; it’s a solution in search of a problem. But that’s where resources—and people’s attention—are going. And it translates to real-life harm for transgender and nonbinary kids and adults.

“We’re also seeing judges making harmful decisions that take kids away from transgender or gender nonbinary [TGNB] parents, or take a TGNB child away from a supportive parent because of the judge’s own bias. [In the latter instance], this so-called

‘grooming’ idea is so prevalent, especially among less-informed members of the bench and bar. Rather than allowing the child to be in space where the child thrives, they put that child in a space where, in the judge’s mind, there’s less opportunity for that person to explore their sexual orientation or their gender identity in a way that’s ‘threatening’ to societal norms.”

CHURCH AND STATE: The elevation of religious liberty, in particular conservative Christianity, when it comes to decisions on the highest courts in the land continues to leave Schwartz and other legal experts speechless.

“As a Jew, I’m a person of faith. My religion teaches me not to discriminate against anyone, to do unto my neighbor as I want my neighbor to do unto me,” Schwartz says. “So, I don’t know how people can decide that *their* religious liberty means that LGBTQ people shouldn’t get married; that TGNB people shouldn’t receive gender-affirming health care; that trans athletes shouldn’t be able to compete like anyone else—and the Constitution be damned.

“How many of our ancestors came to this country for religious freedom? For [someone] to step outside of their home, wag their finger and tell people how they should live, how they should love, how they should identify, all in the name of their religion? It’s the height of hubris and hypocrisy.”

EQUALITY FOR ALL: The Equality Act, passed by the U.S. House of Representatives in 2021, would enshrine in law protections against discrimination based on sex, sexual orientation and gender identity in a variety of areas, including public accommodations, employment, education, housing, credit, jury service and federal funding. Though the act doesn’t appear to have enough votes to pass in the Senate, Schwartz remains hopeful.

“I’m forever an optimist. I also know that we’re not going to give up. And that we’re on the right side of history. There are enough people on all sides of the political spectrum who know in their hearts that discrimination is wrong. And it doesn’t cost them anything to pass a law saying so.”

DON’T SAY GAY

Lifestyle asked Elizabeth Schwartz to weigh in on the legal and social ramifications of the “Parental Rights in Education” measure—Florida House Bill 1557, dubbed “Don’t Say Gay” by critics—that Gov. Ron DeSantis signed into law in late March. Schwartz is local counsel in a court case attempting to repeal the law.

“There has not been a law passed taking Florida’s LGBTQ community backward in more than 20 years.

This isn’t the kind of law that passes in a democracy; it’s the kind of law that passes in an autocracy. And it’s scary, especially during this time, as we continue to navigate the COVID pandemic, when kids already are struggling with their mental health, seeking greater understanding and support. To pass a law that makes children more fearful and self-conscious of their own identities, of their families ... It’s so craven and cynical.

“I get that people are freaked out about change. I understand that for many people who have not met an LGBTQ person, it feels like the sands are shifting underneath them. When you don’t understand something, you feel afraid. But I would hope that instead of passing laws to outlaw humans, to outlaw the existence and discussion of whole families, that folks would ask questions and choose to educate themselves instead of attacking children and families.

“The fact that a child can’t go to school and discuss their family—that their family would be censored—it pushes us back into the shadows. We thought that those days were over. It feels unnecessary and cruel.

“[Don’t Say Gay] should be bounced, and it will be bounced. It’s a blatantly unconstitutional law. It’s overbroad. It’s vague. It’s a violation of equal protection. It’s going to create a mountain of lawsuits on all sides of the political spectrum. And there’s no problem that it’s solving.”