

ISHAN K. BHABHA, Partner

Named in 2021 by Bloomberg Law as one of the 40 best lawyers nationwide under 40, and by the National Law Journal as a Rising Star, Partner Ishan K. Bhabha is co-chair of the firm's Education Practice and a member of the Appellate and Supreme Court Practice. Since joining the firm in 2012, his practice has focused on complex issues of regulatory, constitutional and commercial law. His recent [TED Talk](#), on how private organizations can foster productive and responsible debate while protecting free speech, has been viewed more than a million times.

Mr. Bhabha's practice has spanned a wide variety of substantive areas of law with a particular focus on education, technology, hospitality, media and entertainment. Mr. Bhabha has extensive experience in helping organizations navigate complex regulatory structures, both through internal counseling and in representation before courts and administrative agencies. He has served as an outside general counsel for Shift Technologies, Inc. (NASDAQ: SFT) and has substantial experience counseling senior executives and boards of directors on key issues of legal, regulatory, and ethical risk.

Mr. Bhabha has tried cases both in federal court and arbitration and has represented clients in all stages of litigation from the filing of an initial complaint through the appeal of a verdict. In addition, Mr. Bhabha has significant experience in the United States Supreme Court including presenting oral argument on behalf of the petitioner in *Biestek v. Berryhill* and serving as merits and amicus counsel in multiple other cases.

Mr. Bhabha has substantial experience representing and counseling institutions of higher education. Representative engagements include:

- Defense of an Ivy League institution and an ACC institution in putative class actions seeking tuition and fee refunds in light of the universities' responses to COVID-19.
- Counseling numerous institutions on COVID-19 issues including testing and contact tracing protocols, re-opening considerations, and CARES Act issues.
- Defense of an Ivy League institution in a Title IX and breach of contract lawsuit brought by a terminated professor.
- Successful representation, from the district court through to the Supreme Court, of an Ivy League institution in defense of the Deferred Action for Childhood Arrivals ("DACA") program. Mr. Bhabha discussed that engagement in a [webinar](#) hosted by the Presidents' Alliance on Higher Education and Immigration.
- Successful defense of a Big Ten institution, in the district court and court of appeals, in a First Amendment challenge to the university's bias response policies.
- Representation of a Big Ten institution in a Title IX lawsuit and counseling on multiple other matters including tort liability and student loans.



ISHAN K. BHABHA Partner

WASHINGTON, DC

Office: 202 637-6327

Email: ibhabha@jenner.com

PRACTICE GROUPS

Appellate and Supreme Court Practice

Education

Litigation

INDUSTRY GROUPS

COVID-19 / Coronavirus Resource Center

FinTech

EDUCATION

Harvard Law School, JD, 2009; *magna cum laude*; Articles Editor, *Harvard Law Review*

Harvard College, AB, 2004; *magna cum laude*

ADMISSIONS

District of Columbia, 2013

New York, 2010

COURT ADMISSIONS

US Supreme Court, 2015

US Court of Appeals, First Circuit, 2020

US Court of Appeals, Second Circuit, 2011

US Court of Appeals, Third Circuit, 2020

US Court of Appeals, Fourth Circuit, 2019

US Court of Appeals, Fifth Circuit, 2010

US Court of Appeals, Sixth Circuit, 2019

US Court of Appeals, Seventh Circuit, 2013

US Court of Appeals, Ninth Circuit, 2014

US Court of Appeals, Tenth Circuit, 2010

US Court of Appeals, Eleventh Circuit, 2019

- Successful defense of a Big 12 institution in a First Amendment challenge to the university's campus climate policies.
- Multiple representations for an ACC institution in Title IX lawsuits, representation before the NCAA Committee on Infractions, and counseling on various matters including regarding single-sex social clubs.
- Representation of over 100 institutions in amicus briefs regarding various immigration-related issues including the termination of DACA and the Optional Practical Training visa program.
- Representation of all Ivy League institutions and other universities in an amicus brief concerning affirmative action.

US Court of Appeals, DC Circuit, 2010

US District Court, Eastern District of Michigan, 2018

US District Court, District of Columbia, 2014

US Bankruptcy Court, District of Columbia, 2014

Supreme Court of the State of New York, Appellate Division, First Judicial Department, 2010

US Tax Court, 2019

JUDICIAL CLERKSHIPS

Hon. Anthony M. Kennedy, US Supreme Court, 2011 - 2012

Hon. Merrick B. Garland, US Court of Appeals, DC Circuit, 2009 - 2010

Mr. Bhabha also advises large companies on their most critical business transactions. For example, he recently led a multi-member firm team that executed Shift Technologies, Inc.'s business combination with Insurance Acquisition Corporation, a Special Purpose Acquisition Company (SPAC) resulting in Shift's listing on NASDAQ with a combined market capitalization of over \$700 million. In that matter, and others, Mr. Bhabha has advised board members and senior executives on numerous strategic and legal issues central to the successful operation of their business.

Mr. Bhabha also has an active pro bono practice in both criminal and immigration law. He has presented oral argument on behalf of criminal defendants three times in the US Court of Appeals for the Seventh Circuit and once in both the US Court of Appeals for the District of Columbia Circuit and the District of Columbia Superior Court. He has also represented clients in immigration law matters in the US Courts of Appeals for the Second and Tenth Circuit, as well as in various district courts.

Mr. Bhabha also represents Sarah Collins Rudolph, the "fifth little girl" who was grievously injured in the 16th Street Church bombing in Birmingham, Alabama in 1963, that took life of her sister and three other girls. His work on the matter, including his [letter](#) to Governor Kaye Ivey and the Governor's [response](#) apologizing to Ms. Rudolph, have been featured in numerous news reports including in [The New York Times](#), [The Washington Post](#), and on [CNN](#).

Mr. Bhabha was [interviewed](#) by C-SPAN concerning the retirement of Justice Kennedy and recently [discussed](#) significant moments in the 2018 Term. He has also discussed his work in this [special report](#) in *The National Law Journal*, when the practice was named to *The NLJ* Appellate Hot List for the 11th consecutive year. Mr. Bhabha was also named in 2019 by Law360 as an Appellate Rising Star.

Recordings of Mr. Bhabha's oral arguments are available [here](#).

Mr. Bhabha is a member of the National Association of College and University Attorneys (NACUA). In addition, he is a member of the Edward Coke Appellate Inn of Court, the Legal Advisory Counsel for the Presidents' Alliance on Higher Education and Immigration, and the Supreme Court and Appellate Advisory Board of the MacArthur Justice Center.

Mr. Bhabha received his AB, *magna cum laude*, from Harvard College in 2004. He received his JD in 2009, *magna cum laude*, from Harvard Law School, where he served as an articles editor on the *Harvard Law Review* and was a member of the winning team of the Ames Moot Court competition. Mr. Bhabha clerked for Judge Merrick B. Garland of the United States Court of Appeals for the DC Circuit and Justice Anthony M. Kennedy of the United States Supreme Court. Mr. Bhabha previously worked in the Criminal Appellate section of the Department of Justice, where he presented three oral arguments in the United States Courts of Appeals and filed numerous briefs and oppositions to petitions for certiorari. Mr. Bhabha was also previously an associate at the Boston Consulting Group.

At Jenner and Block

In the United States Supreme Court:

- [Argued](#) for the petitioner in *Biestek v. Commissioner of Social Security*

In the United States Court of Appeals for the Seventh Circuit

- [Argued](#) for the appellee in *Speech First Inc. v. University of Illinois*
- [Argued](#) for the petitioner in *Clark v. Lashbrook*
- [Argued](#) for the appellant in *Isby v. Brown*
- [Argued](#) for the petitioner in *Duncan v. Owens*
- [Argued](#) for the appellant in *Bryant v. United States*

In the United States Court of Appeals for the D.C. Circuit

- [Argued](#) for the appellant in *Murphy v. Executive Office for United States Attorneys*

At the U.S. Department of Justice

In the United States Court of Appeals for the Fifth Circuit

- [Argued](#) for the United States in *United States v. Petty*
- [Argued](#) for the United States in *United States v. Royce*

In the United States Court of Appeals for the Tenth Circuit

- [Argued](#) for the United States in *United States v. Murphy*

Publications

- Co-Author, Client Alert: Update on Proposed Changes to the NCAA Constitution, November 19, 2021
- Client Alert: From Student-Athletes to Employees?: The NLRB General Counsel Deems Student Athletes Employees under the National Labor Relations Act, September 30, 2021
- Co-Author, Client Alert: Challenges and Opportunities: The NCAA Suspends Its Name, Image, and Likeness Amateurism Rules, August 2, 2021
- Co-Author, Client Alert: Campus Bias Response Teams: Lessons from Litigation and Practical Guidance, NACUANOTE Vol 19 No. 10, July 28, 2021

- Co-Author, Client Alert: NCAA v. Alston: The Dawn of a New Era for US College Sports?, June 23, 2021
- Co-Author, Client Alert: Congress Targets Foreign Funding within American Colleges and Universities, June 22, 2021
- Co-Author, Client Alert: College COVID-19 Vaccine Requirements: Legal Issues to Consider, May 10, 2021
- Co-Author, Client Alert: What Colleges and Universities Can Expect from the American Rescue Plan, March 15, 2021
- Co-Author, Client Alert: Careful Choices: Title IX and the Selective Return of College Athletics, June 11, 2020
- Co-Author, Client Alert: Analysis of the Department of Education's New Title IX Regulations, May 8, 2020
- Co-Author, Client Alert: Litigation Strategies For Colleges and Universities Sued Over COVID-19 Campus Closures, April 8, 2020
- Client Alert: Co-Author, The Indiana Supreme Court's Decision in *Daniels v. FanDuel, Inc.*: What it Means for Right of Publicity Law and the Future of Online Sports Betting, October 30, 2018
- "What Happens in the Jury Room," *Los Angeles Daily Journal*, October 31, 2014
- "Strict Scrutiny in the Middle Forum," *Harvard Law Review*, Vol. 122, No. 2140, 2009
- Co-Author, "Rating Agencies: A New Front in Subprime Litigation," *Securities Law 360; Financial Services Law 360*, August 12, 2008
- "Recent Case, *Beaupre v. Pierce County*," *Harvard Law Review*, Vol. 121, No. 1644, 2008
- "Case Comment, *Giles v. California*," *Harvard Law Review*, Vol. 122, No. 336, 2008

Speaking Engagements

- Presenter, "DOL's Emergency Temporary Standard and the Federal Contractor EO - What Now?" National Association of College and University Attorneys, November 15, 2021
- Speaker, "Striking a Balance: Preventing Discrimination and Creating a More Inclusive Campus Climate While Navigating Free Expression," NACUA Spring 2021 CLE Workshop, April 14, 2021
- Ishan Bhabha Delivers Ted Talk on Navigating Disagreements and Controversial Speech, October 29, 2020
- Panelist, "Understanding and Responding to Racial Justice Protests: Students, Free Speech, and University Police," NACUA CLE Mini Workshop, September 16, 2020
- Panelist, "Preview of Argument – Students for Fair Admissions v. Harvard College," The Appellate Project, September 14, 2020
- Panelist, "ICE's SEVP Guidance for International Students and Higher Education," Presidents' Alliance on Higher Education and Immigration, July 10, 2020
- Panelist, "Rapid Response Briefing: Implications of Supreme Court's Decision on DACA," Presidents' Alliance on Higher Education and Immigration, June 22, 2020
- Speaker, "Free Speech and Bias Issues on Campus: Law, Policy, and Practice," NACUA, Webinar, March 05, 2020
- "Supreme Court – 2018 Term," Association of Corporate Counsel of New York, October 02, 2018
- Panelist, "Clerkships, Diversity, and Judicial Decision Making," South Asian Bar Association's 15th annual convention, June 30, 2018

- “Current Issues in Asset Seizure under US Law,” The Commercial Bar Association’s North American Meeting, June 01, 2017
- Panelist, “Supreme Court Series: *Kirtsaeng v. John Wiley & Sons, Inc.*,” DC Chapter of the Copyright Society of the USA, April 25, 2016