Oral History # 51

An Interview With
John A. Nechman

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Interviewer: Peggy Smith
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Peggy Smith: This is Peggy Smith interviewing John A. Nechman for The oH Project, Oral Histories of HIV/AIDS in Houston, Harris County, and Southeast Texas. The interview takes place on February 13, 2019. The purpose of this interview is to document Mr. Nechman’s recollections and experiences of HIV/AIDS and the law.

Good morning, John, and thank you.

John Nechman: Good morning.

Peggy Smith: Welcome. I’m glad you’re here. Thanks for agreeing to be interviewed.

John Nechman: My pleasure.

Peggy Smith: I appreciate you, John. Let’s start at the beginning. Could you tell me a little bit about your family and your growing-up years.

John Nechman: I was born on February 12, 1965, in Seoul, Korea. My father is an American citizen of European descent, and he was serving in the Army in Korea after the War. That is where he met my mother. My mother is Korean. She was actually born in China, which is very unusual, but many Koreans had fled Korea to escape Japanese rule. She happened to be born of two Korean parents that found each other in Beijing, China, but she was Korean, and so I was born in Seoul. I was there until I was two, actually I guess a little less than two,
because my first brother, William Brad Nechman, who goes by Brad, was born after we came to the United States, so he was the first of the children born here. We lived in Detroit, Michigan, and one year later, my other brother, Michael Scott Nechman, who goes by Scott, was born, also in Michigan. That’s where most of my dad’s family lived at the time. They were of kind of Northern European, Russian descent and German, Germanic, and they lived in the Detroit area. I think probably when I was about five years old, we moved to Dallas. From Dallas, a couple of years later, we moved to Houston, so I moved to Houston in 1973.

SMITH: What are your parents’ names?

NECHMAN: My mother is Paek Hap Cha Nechman. It’s very unusual for someone to have three first names, but my mother has three first names. In Korea, at least. It’s spelled P-a-e-k, second word is H-a-p, and then the third part is C-h-a. It’s pronounced “peck hop chah,” and it basically translates into the flower lily. When she was growing up, the Japanese were in control of Korea. It included trying to eradicate the Korean language, they made Korean children take Japanese names, so my mother and her sister all had Japanese names. My mother’s name in Japanese is Uri, which is U-r-i, which also means lily in Japanese. She often uses that with people here in the U.S. [United States] because it’s a little bit easier to say Uri or remember three letters instead of Paek Hap Cha.

SMITH: Thank you very much for that. You were raised in Michigan, and then you moved to Dallas?

NECHMAN: Yeah. I don’t really remember a whole lot of Michigan. I remember my grandparents, and I remember all of our relatives up there. But at least the earliest
real memories of being a kid would have been in Dallas and then after we moved
to Houston.

SMITH: Would you call your upbringing religious? Religion, did that feature into your
culture or your background at all?

NECHMAN: We were baptized in the Episcopalian Church, and we went to church
pretty much every Sunday. My mom, this was new for her, because in Korea she
was raised Confucian. My grandfather in Korea was Confucianism. Now if you
go to Korea, most of the country has become Christian, but that wasn’t the case
back in 1965, when I was born. My mom adopted Christianity as her religion.
We certainly took Christianity and religion seriously. I went to a Baptist school
in Dallas at first, and then after, to an Episcopalian school. When we moved to
Houston, I attended public school here, and we continued to go to church most
Sundays, but I wouldn’t say that we were raised certainly in any kind of extreme
religious background. My parents were always very free with us about bringing
us up in a way to respect religion, but really to respect everyone.

SMITH: You were born in Seoul, Korea?

NECHMAN: Yes.

SMITH: Technically, legally, when you came to the United States, you came as an
immigrant?

NECHMAN: I did.

SMITH: Would that be correct?

NECHMAN: Uh-huh.

SMITH: When was it that you discovered and how did you discover you were an
immigrant?
NECHMAN: It was not even that long ago. I’d love to say when exactly, but there was a
time period that after I kind of learned more about immigration law — I mean, it
was really in my twenties, my thirties, probably — while searching through my
documents, I found a consular record of birth, and then I found my paperwork that
my father had filled out for me to be able to come to the United States, and my
mother as well, as permanent residents.

My understanding of the law back then, based on my understanding now,
is that after my mom became a citizen based on my father also being a citizen, my
citizenship became automatic at that point. But when we came in, we came in as
immigrants, as permanent residents, relatives of my father. I didn’t realize that
until one day I’m looking through, and I go, “What’s this? This is what all my
clients have.” I do immigration law now. I go, “Oh, I have one, too.” I knew I
was born overseas, but I had never thought of myself as having an immigrant
story, when really actually almost my entire family is made up of immigrants.

SMITH: It was a nonissue back then.

NECHMAN: It was much less so than now.

SMITH: It wasn’t a part of your identity, yeah. Now it’s an issue.

When did you realize you were gay? Was it growing up? Was it later in
life?

NECHMAN: Even when I was a little kid, I can remember having a feel that I had an
eye for men, that I had sort of an attraction that I just felt wasn’t an unnatural
thing, but I never thought that others had the same feeling as me. I knew
instinctively that I couldn’t just talk to my brothers about it or talk to my dad
about it, but I just kind of had a sense that there was something that reflected an
attraction for people of the same sex.

But I also had attraction for women. I mean, I grew up, I had girlfriends through school. I dated girls. I guess I probably had a realization that it was a much stronger feeling within me when I was in high school, but I just didn’t think anybody else in my high school had the same sort of an attraction for others of the same sex as I did, so I just kept it within me, because I was dating women, I played football, no one thought anything. I didn’t know anybody in my entire high school that I thought was gay. We had people who some joked might be gay and everything, but no one was out back in the 1980s when I was in school.

One day I was in Montrose, driving around in a convertible car, and I just felt the inspiration to scream out as loud as I could, “I’m gay!” while driving down Westheimer. I think I was right in front of the first bar I ever went into, which was the dreaded Chicken Coop it was called back then. It felt so wonderful to say that, but I didn’t really act out on it until later, when I came out, when I went to school, when I went to college at University of Texas. That was really the first time that I’d ever really gotten to know other gay people; that I started to date; that I started to act upon the fact that I knew who I was.

SMITH: How about your education? You mentioned the University of Texas, but backing up just a little bit, you grew up in what part of Houston? Your elementary, high school, middle school years, what were they?

NECHMAN: When we moved to Houston, we had various places we thought of living and ended up living at that time way off in the boonies in an area called Forest Cove, which is just north of Humble. In those days, Highway 59 was a two-lane road, basically, from 610 going north. The airport was brand new. 610 was in
construction stage in a lot of ways. There were no Asian restaurants anywhere from where we lived up in the Humble area all the way to downtown Houston. As a family with Asians, we had to drive downtown basically to eat Chinese food, which wasn’t grand. So we lived up in Humble. It was a small community.

Kingwood, which is now 80,000 people up there, a beautiful planned community, was just starting. It was like one village at that time. Where I lived was a much more established community near it called Forest Cove. Humble had people, but this area north of the San Jacinto River was definitely considered way, way, way out of the city at that time.

SMITH: Where did you go to school?

NECHMAN: I went to a school called Foster Elementary, which is in the first village of Kingwood that was established, called Trailwood Village. That was 1973. For about the last 12 years, Foster Elementary requests the Houston Bar Association to send me there about three times a year to read to the students because it’s pretty cool that I can go there and say, “Guess who was a student sitting in these very classes 40 years ago? It was me, the one reading to you today.” I think the school was only about two or three years old when I first started attending there, and it’s still there.

SMITH: That’s elementary. Middle and high school?

NECHMAN: Middle school? First, because there were no middle schools north of the river, I had to attend Humble Middle School, and they constructed Kingwood Middle School, so my ninth grade or 10th grade, we’ve all made the move over to Kingwood Middle School. Then when I graduated middle school, that was the very first year that Kingwood High School had opened. Kingwood High School
now is one of the biggest schools in the area, and it’s probably 4,000 students. It’s huge. But it was brand new at that time, so we were the first class. We were the freshman class going there. They actually only had freshman and sophomore class start out at the school.

We had a football team, but we had to play varsity teams, so when I played football through high school, the first year we lost every game and by a massive score because we were all freshmen and sophomores playing JV [junior varsity] or varsity teams, so we got our butts kicked every single time pretty much. But we were the very first class to make the full cycle through Kingwood High School and graduate from there in 1983.

SMITH: I want to pick up on the Asian food. You said a minute ago that to have any kind of Asian, Korean specifically but even Chinese food, you would come into town. Speak to the diversity of the area where you grew up.

NECHMAN: That’s a good question, in that it wasn’t diverse at all. I actually had come from a school in Dallas that was quite diverse, people from every background. We had African American students. We had Hispanic students. We had Asian students. We moved to Kingwood at the time, in Forest Cove, and my brothers and I, who were really only half Asian, were — and then one family that lived on the street behind us, and they were Chinese, at least Chinese American, and we were the only Asian kids in the entire school. That was unusual for us because I
had never, for example, ever heard someone call me a chink. I was coming home from the first day, and I was actually crying to my dad, going, “Oh, my God, they called me a chink.”

My dad gave me a stern, like, “Have you never heard of sticks and stones may break my bones and everything?” He literally said, “That is the stupidest thing I ever heard someone get upset about.”

It really affected me, because I was like, “Wow, I just ticked off my dad,” and it never bothered me again afterwards.

SMITH: His response bothered you more than being called a name?

NECHMAN: No. His response actually helped me in a way because, I mean, I don’t like derogatory terms, but it’s never bothered me since. I’d just never heard it before. I’d never even realized that I was Asian when we lived in Dallas. It was a nonissue with all of the amazing group of ethnically diverse students that I went to school with. So the first time I ever heard that term was like — but it’s never been a bother to me since. I can see why it bothers some, but it gave me a lot of reason to grow up. I actually disappointed myself that I was letting other people’s words bother me at that point.

SMITH: That was a beautiful gift from your father.

NECHMAN: It was. It sent me down a good path. I’m serious. I can distinctly remember coming home and how awful I felt that I had disappointed him because he thought that it was silly that I was letting this bother me. Now, I was in second grade, but I was like, “Wow, he’s right,” and ever since, I’ve never let somebody’s words upset me.

SMITH: You remember the lesson. You’ve never forgotten it.
NECHMAN: Yeah, very much, very much.

SMITH: That was a teachable moment.

NECHMAN: It probably would have been the same if I had had the courage of a Ray Hill and come out at a young age and understood myself better. I probably would have been the same with regard to being gay. I came out at a later age, and a lot of it again is because I really didn’t have a point of reference in my school to really understand things, growing older. Still to this day, it’s something that I find to be an important part of being strong and having a backbone and being ready for the ugly words of people because they usually aren’t what I’m most worried about. I’m much more worried about how people’s actions come out.

SMITH: It’s made you a strong man in many ways.

NECHMAN: Stronger.

SMITH: You graduated from Kingwood High School and went on to college at the University of Texas, and that would have been around 19- what?

NECHMAN: 1983 is when I graduated from high school, and so it was 1983 to 1986, I guess.

SMITH: What was your major?

NECHMAN: I majored in business administration and Spanish, of all things. You know, the thing is that my father grew up in Mexico, and his father, my grandfather, lived most of his adult life in Mexico and in Central America. My dad actually, even though he’s a blond-haired, blue-eyed European, grew up speaking Spanish. As a kid, I heard Spanish quite a bit, not necessarily from my dad, but it just was almost a natural for me. Even being in Houston, you use Spanish a lot.

When I went to college, I had never really had a class in Spanish of any
kind, but I was able to take placement tests that literally gave me almost a year of
credit of college that I didn’t have to take, and so I had so much credit from
having passed placement tests for my knowledge of Spanish that I just said,
“Well, why not major in that, as well?” Really, it turned into a second major as a
result of having a background of speaking Spanish growing up.

SMITH: That’s interesting.

NECHMAN: I wouldn't say I was perfectly fluent even in college, but I knew enough to
just sail through two years of courses, basically.

SMITH: Would you say you’re fluent in Spanish now?

NECHMAN: I am. Spanish is a language I speak fluently, and I use it pretty much every
day in my business and in my life.

SMITH: Growing up, you had the influence from your father. Did your family travel a
lot? Did you go back to Korea?

NECHMAN: We never went back to Korea, at least not with my dad. Yeah, we traveled
a lot. One thing I always loved about my dad was that he would take us on
business trips. He’d take one kid on one business trip, and then the next time he’d
take another. He would insist like at fancy restaurants with business people and
everything, he would bring a kid along, and he’d pour us wine and let us be a part
of the conversation and treated us like adults. He probably was way too lenient
with us, because he gave us a tremendous amount of freedom. Both my parents
did. They raised us to be very independent and to be able to handle situations to
the point that they’d probably face criminal prosecution for this now.

We’d go on trips. My parents would put my brothers and me, at age 10, 11, and 12, perhaps, in our own hotel room. Now, I’m not saying this is good. I
will say this: Viewing that as I do now, I love the fact that they put so much trust and faith in us.

Now, that’s not to say everybody should do that with their kid or give them free rein. My mom often would drop us off at The Galleria and just say, “Have a good time,” and come pick us up later on that day, seven or eight hours later. We’d run around and play tag and hide and seek in the hotels and the see-through elevators going up and down, and we knew when she’d come back to pick us up. My parents were like that, for the good or bad.

SMITH: They had a lot of trust in you.

NECHMAN: I probably would never raise my own kid that way, but they did. They gave us a lot of freedom. They treated us like adults in so many ways.

SMITH: And respect, too.

NECHMAN: They did, they did, and we didn’t always do the best job of keeping their trust, but they gave us remarkable freedom growing up.

SMITH: There were a lot of gifts from your parents, it sounds like. After you graduate from college, what did you do with your time before law school?
NECHMAN: When I graduated from college, I knew that I just wanted to — this is when I really did kind of come out, was during college years. My parents had divorced in my freshman year, and it was a very, very, very painful divorce for my mom and me, especially. I have always kind of allied more with her. My brothers always allied more with my dad.

My mom basically showed up one day to the house where my dad was living and where she would just go in and clean. They were separated, but she would go in and clean the house and make sure it was spotless for him and everything. She showed up one day, and he was gone. He had just vanished, and so had my two brothers. Basically, my dad had sold his company here and took everything and moved down to Central America, to Costa Rica, and left her with nothing, left her with a home that — this was the worst real estate market in Houston history — left her with a home with a negative property value.

SMITH: It was in the 1980s?

NECHMAN: Yeah, it was like 1983, 1984. Left her with a car that didn’t work, left her with not a penny, and just went down there with all the money from the company and everything. I was at University of Texas and for the first time feeling I had independence and was kind of coming out and everything and dealing with the tremendous sadness and anger that I felt, just bitter anger at my dad and everything, why he had done that.

My mom found a new life partner, a wonderful gentleman named Doc, who was an African-American ob/gynecologist, and they were together for many, many years afterwards. When I knew she was settled, I knew that I wanted to learn more about who I was, and I thought the best way to do that was to go out
and see this world that had always very much fascinated me.

When I was a kid, I was reading *National Geographic* at the age of three. I mean, reading it. I had memorized the capitals of every country in the world when I was living in Dallas. That was when I was five years old. You could come up and quiz me about any country. I could tell you the capital of every state. I could probably tell you every major city. I was fascinated by cities especially. I would read *National Geographic* cover to cover to read about geography of the world.

I really wanted to see the world, and so I left the country, basically. I had a Europass, went to Europe, had probably about a few hundred dollars in my pocket and that’s it, and I did not always do things the best way. I would work illegally in places. I would go and collect bottles in the morning to take them to the store to change for money, to eat. I never begged, but I would work. I’d sell things on the beach. I would go work at restaurants. I’d do whatever it took. Literally, I made my way across. I saw every country in Europe at that time, every country you could go to, at least. I had a stamp from every country in Europe, because that was before the EU [European Union], so I had stamps from every country on my passport.

I ventured from there off into the Middle East, traveled throughout the Middle East, went into northern Africa, traveled throughout there.

I guess the next year, I was in Asia. I lived in Greece every single summer, on the island of Mykonos, sleeping on the rooftop of the discotheque with various other backpackers. There was a guy who ran it that we referred to as Doctor Drachma. The drachma was the currency, and he was a nasty man, but he
would come and collect money from everyone to give them a space to put their sleeping bag on his rooftop under the stars. I lived there for three months, and I would go and work at a discotheque at night and bartend and sleep on the beach all day. There are pictures of those, by the way, that I gave you. It was a pretty amazing life in a lot of ways. It had its high points.

This was when I was really coming out very, very forcefully from the closet, you might say. I’m living a life that, again, I can’t say I’m proud of it. I’m smiling. You can see I’m almost blushing now. I used to keep a journal, and I still have it. My spouse found my journal and read through it, and he said, “Oh, my God, this should be a movie. I can’t believe this.”

When I read through it and everything, I’d go, “Oh, God, I forgot about that. Oh, I hadn’t thought about that in a long time,” and I’d go yeah, I was probably really living a life that I don’t know if anyone would say they could be proud of, but it certainly sounded like a lot of fun, a lot of excess, a lot of times that I’d probably like to forget, and times that were pretty unforgettable.

SMITH: It sounds very exciting to me and almost like romancing the world. You know, you just went for it.

NECHMAN: Yeah, and I had boyfriends in London and in Norway and in Germany and everywhere. I was living in London for almost a year. Actually, I had a work permit to work there through a program in which the British send people to the U.S., and I worked in London. London was actually probably the first place that I really had a connection to issues involving HIV.

SMITH: Let’s come back. I want to get to that. Let’s hold onto that one.

NECHMAN: Sure.
SMITH: How long did you travel? How long was this?


SMITH: Five or six years?

NECHMAN: Remember, I was really close to my mom. When I returned to the U.S., I was the height I am, which is about 6’1”, and I weighed about 150 pounds. I was skin and bones, and I had long hair like Jesus. In fact, when I was in India, they called me Jesus because I had this long, long hair. It just had grown so long. I showed up at the airport in a tank top and probably size 29 jeans. My mom showed up. I said, “Meet me at the airport.”

She just started crying like a baby, and like, “Oh, what have you done to my son?” It was very painful for her to see me, and she was waiting so long to see me.

SMITH: She hadn’t seen you for five or six years?

NECHMAN: She hadn’t seen me.

SMITH: You hadn’t been home? You went away and stayed away?

NECHMAN: I had not been home, no. It was actually very painful for her. It was the guilt I felt from that that literally made me go to law school. I actually had an around-the-world ticket, and I still had a continuing flight from Houston to go elsewhere, I think to go on to L.A. [Los Angeles] and then on to Tokyo or something. She just begged me to stay, and I was like, “I can’t live with what I’ve done to my mom. Now I think I have to make it up to her.” It was not my intent to do anything except continue to travel and everything at that point.

SMITH: You’ve picked up a number of languages along the way, haven’t you?

NECHMAN: Uh-huh.
SMITH: What languages would you say you’re proficient in?

NECHMAN: I’m fluent in Spanish. I have spoken Italian as well as I speak Spanish, but it’s been a long time and I haven’t used it as much, so I would certainly not say I’m fluent in Italian. I can understand it very well. In fact, I can understand northern Italian as well as I can Sicilian Italian. They’re really different. The dialects can be so different.

I lived in Germany for two years and taught myself German, which I never thought I’d learn German, but I taught myself German. Again, I haven’t used it in a long time, but I can watch a movie in German and not read the subtitles.

I spoke Norwegian, which I thought was a really easy language to learn. Part of that was because of a crush I had on someone who was from Norway. Another part was that it was a really easy language to learn. It’s a lot like English. Again, how often do you use Norwegian in Houston? If I see a movie in Norwegian, I probably won’t really notice the subtitles because much of it, I can still pick up.

SMITH: Those are wonderful skills.

NECHMAN: Portuguese, I’m pretty good in Portuguese, too. And Korean, horrible.

[END OF AUDIO PART 1]

SMITH: That’s ironic, isn’t it?

NECHMAN: The only one of my family who ever used Korean, of my brothers, was me. My two brothers really almost know nothing, but I stopped using it. My mom came to the U.S. and had no Korean relatives, so she had to learn English. At some point where she made that turn basically, where she wasn’t using Korean as much, it meant that she and I weren’t using Korean anymore, and so I just stopped.
using it. Again, I can kind of instinctively pick up what’s being said, but if I try to jump into a conversation, it’s going to be more Korenglish. It’s a mix of Korean and English.

SMITH: Now you’re feeling guilty, and you’re going to not continue around the world, and you’re going to go to law school. What year would that have been?


SMITH: Did you go into any special type of law? Did you specialize?

NECHMAN: I went to law school for three reasons. One is because when I came back, guilt-tripped by Mom, I took the GMAT [Graduate Management Admission Test] and I took the LSAT [Law School Admission Test]. GMAT is for entrance into business school, and LSAT is for entrance into law school. I don’t even know what I scored on the GMAT, but I scored in like the 94th percentile on the LSAT. Don’t ask me know. So I thought, “Okay. Well, it looks like law school makes more sense for me.”

I saw that the only school that would let me start in January was South Texas College of Law. None of the other Texas law schools had a winter-start program. Remember, I had an around-the-world ticket. My mom was so worried that I was going to leave again. It was a major guilt trip, and I’m glad she did it, but I basically went to law school because I literally felt guilty about saying, “But Mom, I really don’t want to go to the school now. I would rather go travel and then come back, and I promise I’ll go to law school later this year.”

She kind of pushed me to do that and start in January instead of using the rest of my ticket. The only school that would let me start was in January. If they
had not done that, I probably would have left again and may not have come back for who knows how long.

I started in January of whatever, 1993 or 1994. I was not serious about law school. I was going out and partying most nights and spending the night in my car and then making it to class in the morning. Remember, I lived way up in Humble, and so I didn’t want to have to drive home or anything. My diet consisted of usually a Mountain Dew because it had a high caffeine content.

I just didn’t take it seriously, but I didn’t do badly. I just didn’t take it seriously. I had no direction while going through law school. I met a few professors whom I grew to adore, and they were incredibly helpful to me in courses that I probably wouldn’t have passed otherwise. Even my last year of law school, I wouldn’t say that I had any kind of a craving to be a lawyer. I know that sounds terrible, but I just didn’t. I graduated from law school at probably somewhere middle of the class. I certainly wasn’t the one at the top of the class. I wasn’t anywhere near the bottom of the class. Then when I finished with law school, I left the country again.

SMITH: Surprise.

NECHMAN: Yeah. I didn’t take the bar exam.

SMITH: How long did you go this time?

NECHMAN: Not long. I went down to see my father in Costa Rica. The only reason I did that is because my mother had forgiven him, and she had actually helped him. He had by this point gone bankrupt in Costa Rica and owed everybody money, and they were possibly looking at going to jail down there because he owed employees money and everything else.
My mother bailed him out. She was doing well by this point. She had started her own pharmacy. She had done very, very well for herself, and she forgave him, and that’s kind of why I forgave him.

I went down. I stayed with him for a few months in Costa Rica and also in Mexico, in Mexico City. Then I came back and said, “Well, I think it’s time for me to become serious about what I’m doing,” and so I took the bar exam and passed it.

Actually, when I came back, I knew that I had been away from law school long enough to where I needed — first of all, I needed to learn about what the bar exam covered. I wasn’t a studious student. I had forgotten about family law and other types of law that were really heavily covered on the bar exam, so I went to work for law firm instead of taking the bar prep courses. I’m glad I did, because learning how a law firm worked and learning about law from the work angle I think gave me more of an insight for passing the bar exam. I just knew that I wasn’t going to be able to memorize all the property law concepts and everything else to do it.

Took the bar exam, passed it. It was right around that time that I had met Richi, my current spouse, and it was much of his life that directed me towards finding my finding in immigration law and the type of work I do now.

SMITH: Let’s go there now. Let’s talk about the work you do now, which is totally amazing, and so is your background. How did you become interested in immigration law? That’s so specific, when you had been so broad and global and worldly, and now you’re getting very specific, very specialized.

NECHMAN: There were no courses on immigration law in law school, but I wouldn’t
have taken them anyways because I had heard that the worst law to get into was immigration law. I heard it was the hardest law of all, made no sense to anybody, required knowing everything — federal law, state law, administrative law, everything — and that it made no sense, and that it was the lowest paying type of law there was. I was like, “Well, I’m certainly not going to go into that.” It’s not true, especially in a city like Houston with such a large immigrant community.

Back in 1996, which I guess was when I was back in the United States, is when I met Ricardo, my current spouse. Richi is from Colombia. When we first met, to me, he was a Houstonian. You could meet someone from Mexico. You could meet someone from Argentina or Spain. We’re talking Spanish-speaking countries. Virtually any country in the world, in this city, and they, to me, would have been a Houstonian. I mean, Richi was a Houstonian. I never thought of him as like a foreign individual. I knew he was from Colombia, but it didn’t strike me that he was anybody different from any other Houstonian that I would know. He was going to school at the time and here on a student visa. Again, that term “student visa” would have meant nothing to me.

SMITH: Back in 1996?

NECHMAN: In 1996, yeah. But I fell in love with him immediately, the first moment I saw him, and it took longer for him to fall in love with me, but anyways, we’ve been together since — our official anniversary date of when we committed to each other as a couple is February 21, 1996. We would, as when we were dating and actually living together very soon after we had committed to each other as a couple — you know, I have this life in which I have a father in Costa Rica who was also living in Mexico, and I have stepsisters in Mexico, and I have relatives
and friends in other parts of the world, and so I would take him on trips whenever we could do that.

We would go down to visit my dad in Costa Rica, for example, or my sisters in Mexico City, and we’d come back and never have a problem. For example, I knew he had a Colombian passport, and I knew he was supposed to go in a different line, and I would just say, “Come in the U.S. line with me. I’m a U.S. citizen. I have power here at this airport,” and so I’d just say, “Come with me.”

Every time we would come through, we would be treated like royalty. They just couldn’t be nicer. They would say, “Welcome back to the U.S.,” and never a problem until one trip. I think we were coming back from a weekend down to see my dad in Costa Rica, and we flew back in. Rich was supposed to go to school the next day. I think I was going to work the next day. This time, the officer could not have been nastier to us. It was just a very, very, very abrasive-type individual who was like angry that we were standing before him together, wanted to know who I was and why we were standing there together, then immediately said to me, “You’re not allowed to be here.”

I said, “Well, I’m a U.S. citizen.”

He goes, “It doesn’t matter. You can’t be here.” He literally made it clear that if I didn’t go through customs and leave the area, that he was going to send some armed police to remove me.

I wasn’t being nasty or anything, but I was just like, “Wow, how rude.” I had to say “friend,” because I couldn’t identify ourselves as lovers, or I felt that that would not be a very prudent thing to do in that circumstance.
SMITH: Not in that situation.

NECHMAN: Exactly, because remember, this was way before the marriage decisions or anything like that. I was like, “Okay,” and so I said, “Well, Rich, I’ll wait for you down at the baggage claim.” So I went down. I didn’t think it was going to take that long, and I was sitting there thinking in my mind how I was going report him to his supervisor and everything else.

Well, 10 minutes pass and Rich doesn’t come through. Twenty minutes pass. Thirty minutes pass. He still doesn’t come through. By this point, I’m getting really worried, and I’m going, “What the hell is going on? Why aren’t they letting him through?”

I tried calling a number, and they’re saying, “Well, we can’t give you any information about that person.”

I was like, “This is crazy.”

Well, finally — I’m going to guess it was at least an hour — he finally comes through, and he looks pale, like he’s just been through torture or something, and he literally was. I mean, they took him back to what is called secondary questioning. They had various officers quiz him unmercifully about every aspect of who I was, why I was letting him live at my house, why we had the same address, and then if I was paying him to do housework or anything like that.

Then things became much more personal, and they wanted to know about the nature of our relationship. Remember, Rich had a valid visa, a valid student visa. He was coming back to attend classes. But what the officers wanted to try to do was to get him to admit that we were in a committed, permanent
relationship, at least in his eyes, because had he done so, they literally could have canceled his visa on the spot. They could have detained him. They could have even handcuffed him and taken him off and put him on the next flight back to Colombia with a bar to return to the U.S. for at least five years.

For me, I didn’t even know that this was in the realm of possibility. To me, it was like he’s my lover, and we should be able to travel together, and I should be able to go through customs and say, “This is my friend traveling with me. Can we just come through?” I had no idea that immigration could use that sort of like trying to read his mind to separate us and to permanently separate us or at least try to keep us from being together here in this country.

When he came through and we discussed this, I realized. I go, “I’m glad they let you through. But one thing is that until we figure out what we need to do to make sure this never happens again, we’re not traveling outside the country anymore,” and he didn’t travel out of the country for about 15 more years.

SMITH: Oh, my goodness.

NECHMAN: We didn’t want to take any more chances of any kind.

SMITH: And even you didn’t?

NECHMAN: Well, I may have had to a few times, but he did not travel out until his citizenship papers came in, about 15 years later. I guess probably he traveled on his Green Card, once he got his Green Card, but that still was about a 12-year process.
When he came through, I guess I used, if we had to back then, like 1980s, I supposed we did, whatever I did, I found that there was an organization in New York that worked to assist gay and lesbian people, or LGBT [lesbian, gay, bisexual, and transgender] people, who are in a binational relationship, meaning U.S. citizen or permanent resident together with somebody from another country. I learned that, for example, there was virtually nothing that he or I could do to gain him more of a permanent status in the U.S. through our relationship, through him just filing for some kind of ability to stay; that it was likely going to involve the need for him to find an employer who was willing to sponsor him in some capacity.

SMITH: What was the name of this organization?

NECHMAN: The group was the Lesbian and Gay Immigration Rights Task Force, a New York-based organization, and they had a chapter in Houston, a local chapter. I immediately became involved with them and worked with those who were heading the chapter here and eventually became — because remember, this was right around when I was getting my law license to practice law. I was working at a law firm. That’s one of the reasons immediately I wanted to practice immigration. When I worked at the law firm, I was doing criminal law at the time, and they wanted to let me start an immigration practice. I mean, for the first time, I was really finding a passion for this, but it was very good for them to have someone doing all the criminal cases, so they didn’t want to let me start the
immigration part.

So I branched off to start my own practice. In addition to that, I’m working with LGBT immigrants in the local chapter and kind of headed up the local chapter. We grew to be the biggest local chapter in the country for the organization at the time, and so the organization invited me to be a member of the board. Because of my legal background, they asked if I would be the director for their legal department. Their legal department was one attorney in New York, so I was the person who oversaw his work.

I eventually became the chair of the organization. When I was chair of the organization, we changed the name to Immigration Equality, which was a lot easier to say than the Lesbian and Gay Immigration Rights Task Force.

SMITH: About what year is this, John? Where are we?

NECHMAN: When I started with them was probably 1998, I guess, and by the time we changed the name, I’m going to guess it was about 2002.

One clear part was obviously finding something that would work for Richi and for all of our other members of the organization, and so that work for binational couples was huge. One of the best things we found was that the HISD, Houston Independent School District, was in tremendous need of teachers back then. They used to put up billboards all over the city saying, “Will you be my teacher?” A little kid smiling. “Please be my teacher.” Houston was booming, the area was growing so fast, and they needed teachers, and so they were spending. HISD was spending millions of dollars to send recruiters to Turkey and Spain and Italy, saying, “Please come and teach in Houston. We’ll pay for half your year’s rent for your apartment. We’ll give you all these months free.”
“We’ll give you free refrigerators,” way more than they were doing for the teachers here even, but because of the desperate need of teachers.

So we were kind of like, “You’ve got a lot of teachers here.” People like us, who were in a situation where you had somebody who could do a legal change to start teaching. They had a program called the ACP program, Alternative Certification Program, in which someone could start teaching immediately. They could gain their certificate through extra courses, but they could start teaching immediately and be sponsored on a visa by HISD. That’s what we did with Rich and what we did for many other teachers, almost all of whom are still teaching with HISD even 15 years later. They’re like all top teachers and never left. Most were doctors and surgeons in their country, and now they’re kindergarten teachers and happy doing it. Anyways, that became a big focus.

Asylum cases became a huge focus because of the ability to keep people from being sent back to countries where they could be killed or harmed because of their status.

Then really a gigantic focus was our work on HIV. It was very meaningful to me to be able to work on those cases because HIV obviously was still having an enormous impact on the community, on America as a whole, and during very difficult years. I mean, this was Bush I. His administration after the Reagan years had been so unwilling to even admit that the number of people who were dying from HIV, they didn’t even have a clue as to what was really happening with regard to the disease.

They would say they were spending money. They weren’t spending money.
This was my ability to really kind of pull in and start working on issues involving people with HIV. Stories I heard back then just were just shattering to me to hear about circumstances in which immigration and HIV had this incredible connection.

SMITH: So it started with your now-spouse, Ricardo, and here you are today very active in HIV/AIDS and criminalization of HIV. You spent a lot of money getting him out of this situation.

NECHMAN: Yeah. HISD didn’t help us much. I mean, they sponsored him, so I’m happy about that, but they also had one firm and only one firm that they employed for their immigration stuff, so we had to write that firm a check all the time, and they just happened to be pretty much the most expensive law firm in town. Rich started first of all on what’s called OPT, which is Optional Practical Training, and it’s a period in which students can work for a year while maybe something can happen to let them work in some other capacity.

Then he moved to what is called an H-1 B visa. That’s six years. While that was pending, the HISD started the process for him to get a Green Card. That took, for him, probably about seven or eight years more.

Remember, we had to pay this law firm. Pretty much every term that Rich taught, there was another 5,000 bucks we had to pay that firm. They charged a dollar a page for copies, for crying out loud, and we had to send them all the copies of the same documents every year for them to file the cases. I mean, all I can tell you is, it was expensive. We estimate that in the amount of money that we had to spend, it easily came out to $100,000.

Now remember, this was all before the Obergefell decision in 2015 or the
Windsor decision in 2013, where marriage between same-sex couples was legal, because if the law had been fair, we would have married in 1996 happily, but we would have been married and I, as a U.S. citizen, could have done what I would have been able to do for a female spouse and would have sponsored Richi for his permanent residence. He would have gotten it in, well, in those days, probably a matter of months, and then three years later, he would have been eligible to apply for citizenship. Our route would have been not that costly because we probably could have done it on our own, and he would have gotten citizenship in three years.

Our route took us about 15 years. Incredible amounts of money every year to keep him on his proper work visas until eventually he got his Green Card, and then afterwards applying and getting his citizenship. He got his citizenship the year before marriage became legal. It wasn’t legal in Texas yet, but in 2013, it was legal in enough states to where if you had a marriage in one of those states, you could still use the immigration laws to gain residence for your spouse, but we didn’t have that because by then he was a citizen. I mean, look, we’re glad he got it, but it was a gigantic chunk of money.

SMITH: It was a long, long journey, and a very hard one as well.

John what would you say is the impetus for your activism in the community today?
NECHMAN: It all stemmed from my relationship with Ricardo and my sudden realization that I had to take steps to protect our ability to be together. When I suddenly saw the horrors, that my own country could separate us, that could keep me from being together with the person I was in love with, yeah, that gave me a lot of reason.

Now, this was all starting at the same time as I started as a lawyer, and I was, again, a solo practitioner. I used to work in a little closet-sized office attached to my mother’s pharmacy in what is now midtown, and I was dependent on trying to get my name out to try to earn my keep. Doing so and wanting to start to really work within the LGBT community in Houston meant that I would take on roles.

Probably around 1999, I became the president of what was then and what is still the Stonewall Law Association of Greater Houston, which is the largest organization of LGBT attorneys in Houston. I had gotten to know, and in fact started moving towards — we started actually what then was a very historic law firm between me; another attorney, named Jerry Simoneaux, who is now a newly-elected judge here in Houston; and Phyllis Randolph Frye, who is the absolute champion of transgender rights in the entire world. In my opinion, no one can top what Phyllis has done. The three of us started a law firm at that time called Nechman, Simoneaux & Frye right over at 3400 Montrose, across from Disco Kroger, and we all obviously came to this with a goal to be a firm that really worked on behalf of LGBT issues and championed issues in Houston.

One of the projects that we worked on, for example, was what then was
really a very new sort of a movement towards looking for equal rights in marriage. Even now when I teach my class at South Texas College of Law about the history of same-sex marriage in the country, I often show my students articles from the old *Montrose Voice*, for example, that show that the polls in those days, like the late 1990s, were overwhelmingly opposed same-sex marriage by members of the LGBT community. I mean, it was overwhelming. It was kind of American polls, when the polls in the U.S. were like 80 percent opposed, they were showing 60 percent of LGBT people were opposed to same-sex marriage. Why? Because it was something so dramatically new. It was something that just everyone thought, “Well, no, we could never have that.”

Remember, we had the Defense of Marriage Act signed by Clinton in 1996. We did have a case out of Hawaii that kind of challenged the idea of whether we might start to see a movement toward same-sex marriage. You had talk about a constitutional marriage amendment. Clinton ran for reelection in 1996 bragging about the fact that he had signed the Defense of Marriage Act. It was a very damaging piece of legislation from Congress. Even as a community, we weren’t prepared for this.

But we, at our law firm, at least, believed that this was achievable, and so we decided to have a commitment ceremony for same-sex couples. We didn’t call it marriage because marriage still wasn’t what legally existed on paper, but we decided to provide civil unions for couples. We put out word. We had 52 different couples who were part of this tremendous event that was held at the RMCC [Resurrection Metropolitan Community Church]. We made it a point to outreach to every single major religious group in the city to see if we could get a
pastor or a rabbi or an imam to be able to show up at the event to be part of it. We wanted this to be open to all.

In fact, Richi and I didn’t want to actually do it at first. We were like, “We want real marriage. We don’t want,” as Ruth Bader Ginsburg called it, “skim milk marriage,” right? At first, we didn’t take it seriously, but we wanted the numbers, so we said, “Yeah, we’ll be part of this too.”

Thank God we did, because to me it was one of the most important moments in recent LGBT history for the city, that event that we put on.

SMITH: What year was this, John?

NECHMAN: This was 2000, I’m going to guess. We had over 400 people in the audience, family and friends. We had all of the different couples, most of them dressed in tuxes, in an event that they never could have thought would take place. We had the late, great Ray Hill as our official officiant to be able to do the officiating. I’ve told Ray this many, many times before he passed away. I told him that that was the greatest speech he ever gave, that night at that event. It was pure magic.

In fact, when Richi and I got married a couple of years ago on our twentieth anniversary as a couple, we insisted that Ray, who was not an official officiant, be one of the two officiants at our wedding because it just was so memorable what he said that day.

It was an unbelievable event. Don Sinclair, who was a pastor from the Bering Church, and Marilyn Meeker-Williams were there.

We had a bomb threat that night. It was a called-in bomb threat. It was so serious that HPD [Houston Police Department] showed up with a bomb squad.
They had nine or 10 officers come up on stage, saying, “We need to evacuate this place,” and everything else. “We’re taking this very, very seriously.”

Nobody left except for one family, and I understand why they did. Actually, Don Sinclair went and stood before them and said, “We’re going to keep going through. We’re not going to let anybody scare us.” He’s an elderly gentleman, and he said, “My wife and I are here tonight, and if we’re going to die, we want to die here tonight with all of you people.” It was incredible. It was truly incredible.

By the time Ray had finished his speech, Richi and I, who had not taken the thing seriously, were in tears. There’s a picture of me crying, on the cover of *Houston Voice*, and I never thought I would do that because it was just so moving. We would announce each couple as they came down. One couple had only been together for like 32 days. Well, it was fine. Other couples had been together for 32 years. It was just a magnificent, magnificent day. I think it was really important for the movement in Houston. After that, it galvanized in many ways our community towards really supporting same-sex marriage.

SMITH: Thinking back to HIV and the law, as well, which is all part of the issues that we are confronted with, you teach the class at U of H [University of Houston], and you have a model, a birth-to-death model, that you talked about in our preinterview. Would you talk a bit about that?

NECHMAN: I look at HIV and the law. On the first day that I talk with my students, I explain to them that there is really almost no type of law that doesn’t have a component to HIV, and I mean it. Environmental law, the environmental law specialists whom I know have come in and shown us where even environmental
law has a component of HIV. But the way I teach my course is — first of all, I teach it at South Texas College of Law, and I have also taught it at the University of Houston Law Center. At South Texas, it’s taught as a paper seminar. Really, their grade comes from the paper they write, but I make them come to my class every week, and we actually do a class. At University of Houston, it’s a survey course, meaning it’s a class and there’s a test at the end.

I teach them both pretty much the same, even though the end result is different. I like to look at it and explain to my students that HIV affects us from birth to death. All of those are major issues that come into play as we make that long journey down the path of life. These are all issues in which HIV has an effect. Our first classes, it’s kind of like even in my LGBT Law class, which I also teach at South Texas College of Law, we start out with issues of identification of youth and factors that involve children, for example. I mean, children who are born with HIV, and issues they face. Children who have been barred from schools because of their HIV status. The types of issues that people face as they grow up dealing with HIV.

Moving on into life. Life issues such as raising children. Issues such as family life. Employment issues. We basically go right down the path of life. Immigration issues. Criminal issues, which have become huge. Right down to death and end-of-life issues.

Now, what I find really fascinating is how my course has changed over time. If I look at my syllabus from way back in 2002 or 2003, when I first started teaching the course, there was a major focus on issues such as end-of-life issues, such as viatical settlement, such as the importance of estate planning. Those are
still, especially estate planning, very important. Remember, back in 2003, people were still dying at a very, very fast rate. The issues involving people who were dying of AIDS, not just people living with HIV, but people who were dying of AIDS still, was very high. This was still predating antiretrovirals and the many, many other types of medicines that have become so effective in extending, and not just extending but providing people full and complete lives at this point.

The shift has really focused a lot, has changed. The face of HIV has changed so much. Issues dealing with people of color and communities of color. Immigration, for example, has become a much bigger issues in the immigration climate. The way in which criminal laws have changed over time has really played a big focus, as well, and so my syllabi for the classes reflect that to reflect this changing view of HIV over time.

SMITH: You have three areas of expertise: HIV and the law, and the second is immigration law. How has that developed in your practice, and how do you see it today?

NECHMAN: It’s obviously where I really put my focus as an attorney. I still do criminal law cases. Remember, my start was in criminal law. I’ve worked on trial cases, mostly misdemeanor, but even some felony cases, from the very start of my career, and I still do them. I do federal cases still. I’ve represented people on issues that have been very specific to HIV-related issues. People, for example, who are charged with cases involving HIV transmission. I’ve been involved in many different cases that have involved people who were then charged literally with — we use the common law in Texas when we look at criminalization of HIV-related activity. Some states have very specific HIV-related statutes that
name HIV by name.

By the way, this is another reason why I’ve always been very, very moved by what happens in HIV and immigration. HIV is just about the only disease you’ll ever see in any state in which criminal transmission of the disease is named specifically, the disease is named, HIV. STD statutes, for example, we don’t even have them in Texas anymore. Most states do not use STD statutes anymore, sexually transmitted disease statues, but HIV is still criminalized, and you will still see HIV-related statutes in many, many states.

Other states that don’t have a specific HIV statute do like Texas, and they use the common law. We use our assault statues in Texas. There is no reference to HIV anywhere within the penal code, at least with regard to transmission, but what happens is, we look at the assault statues we currently have. The general way in which they’ll name an HIV-related case would be aggravated assault with a deadly weapon. The deadly weapon, it gets almost comical sometimes. Usually, especially if the defendant is male, then it’s going to be the male’s semen or bodily fluids. If it’s female, if the person is female, then it could be bodily fluids. It could be many other things.

We’ve seen where they have named the deadly weapon the individual’s mouth, for example. Almost anybody who works on HIV knows that saliva is almost impossible, and saliva literally kills the HIV. To name the mouth as a deadly weapon is just insanity. Not even common knowledge would give you the idea that the mouth would be a deadly weapon. I can show you indictments in Harris County in which they have stated that they have charged someone for performing oral sex on another individual, and they’ve charged them with
aggravated assault with a deadly weapon. Usually if it’s aggravated, it’s when it involves someone under 18 years of age. If it’s just assault with a deadly weapon, then quite often it’s because they phrased the deadly weapon to be the mouth, the bodily fluids, or whatever it may be. But we’ve used that, and that’s almost ignorance to have an indictment that declares a person’s mouth to be a deadly weapon in those circumstances. It’s infinitesimally small, the possibility of transmission in that circumstance, but it still has happened.

I don’t think Texas has abused the use of the common law. Texas could technically charge practically anybody who has sex with another person, with condom or without, if they don’t disclose their HIV status to the other individual. There literally is nothing that says that Texas couldn’t file a case against the individual who does not disclose their status to the other individual. No matter what sort of medications they’re on, if they’re completely undetectable, it doesn’t matter. Texas could still do it.

The reality is, Texas has not done that. I’m not even aware of the most conservative counties where that sort of filing of cases has been common. Most of the time in Texas, the cases that have been filed have involved people who have really egregiously gone beyond what we would consider to be negligence. I mean, people when they can look to the person’s activity and literally say that this person intentionally went out to try to infect other individuals, multiple victims, and they usually are going to have to have some kind of way to have found out that the person was aware of their status at the time and something that circumstantially shows that they were going out with an intent to infect.

Some states, that’s not the case. There are states where you could wear six
condoms, be on every antiretroviral, be completely undetectable, but if you don’t
disclose your status, you could face major, major felony-type jail time based on
not disclosing your status as someone with HIV.

SMITH: Are there any well-known cases regarding HIV that you could talk about a
little?

NECHMAN: Cases of mine or cases of —

SMITH: Either way.

NECHMAN: I don’t have any that I can say like where — because of confidentiality
issues, but in general I can tell you that I’ve worked on many cases of people
who — for example, I’ve had cases of people who they were dying, for example,
their end of life was near, and they wanted justice before they die. I’ve had
judges who were willing to do what they normally would not do and expedite a
trial proceeding so that they could get their justice in court and not wait two more
months, when they probably wouldn’t be around to have gotten that justice.

I’ve had prosecutors who have given HIV issues some serious weight in
determining things such as guilt/innocence. But also, for example, probationary
terms, where someone with HIV, if they were late-stage AIDS, for example, who
would not be able to do the typical type of community supervision work expected
of a defendant, I’ve seen many times where DA’s [district attorney] were willing
to work with me or work with the judge to provide something that a person could
accomplish, for example, or maybe just reporting.

I’ve had circumstances of people who’ve been charged, obviously, as I
said, with cases involving prostitution, for example. I’ll put it to you this way: If
you were charged with prostitution during the late 1990s, the earlier part of this
millennium, and I’m not even saying it couldn’t be now, but during this time period, judges had the prerogative to require people to take an HIV test. If you were the victim of a sexual assault, for example, or you were the complaining witness, meaning the person has not been found guilty or innocent, again, you as a complaining witness have a right to insist that someone be tested for HIV status. Judges could find the status out.

Well, I’ve seen times when judges with a microphone sitting before them have read aloud the findings of those tests right in court, where anybody in the courtroom could hear it. Now, think about that, because we have laws with regard to making known the results of someone’s medical tests. I mean, about the HIPAA [Healthcare Insurance Portability and Accountability Act] laws and everything else, and it’s like here judges would sometimes just haphazardly just disclose this so the whole courtroom could hear it in circumstances.

A lot of times, even being able to train other attorneys about if you’re dealing with clients with HIV, here are some things you really need to be aware of in court to protect your client’s privacy, or perhaps filing a complaint, a judicial complaint against a judge who did something along these lines.

Now, I teach on a lot of cases that are incredibly well known for issues involving HIV. The famous Curtis Weeks case. Curtis Weeks was a prisoner within the TDC [Texas Department of Corrections] system, and he had AIDS, full-blown AIDS at the time, and he was being transported from one unit to another, and they had literally hogtied him. His legs were tied to his hands behind his back as they transported him in an incredibly hot transport vehicle between one TDC unit to another.
Well, while the cops went in to enjoy lunch, they left Curtis in a roiling hot van, basically, and came out to see him when they were finished, opened the door, and Curtis said, “I’ve got AIDS, and I want all of you motherfuckers to have AIDS too,” and he hocked up the biggest loogie in the history of the world, just spat it out in the face of the officer, and so they charged him with attempted murder.

Now, once again, attempted murder, first of all, you have to intend, want to do this. Well, he said, through his words, he said, “I want all you motherfuckers to get the same thing I have: die of AIDS,” and so they said the intent was there. He wanted it to happen.

You also have to show that what his actions were, that he took action to do it, to accomplish his goal of murder, but you also had to show that there was a tendency that what he did would lead to murder.

What happened was that the judge in the court instructed the jurors in this very, very conservative county — I think very near Huntsville — instructed the jurors that “to tend to do something” means if there is any chance whatsoever that what Curtis did could lead to the death of the officers. Now, this was back in the 1990s, but even then, there were no documented cases of saliva or spit transmitting HIV.

They had some crazy doctor who came up, and he said, “Well, if Curtis had a bunch of blood in his mouth, then it’s possible all the HIV could live within the blood, and if it weren’t affected by the saliva in his mouth, and it landed on an open sore of the officer, it could.”

Well, you know what? That could be a mosquito coming and biting
someone with HIV and then going to another one. It’s about the same chance.
There are still people who believe that’s possible.

    Curtis ended up getting a major, major [sentence]. I think he got another
50-year sentence or something. He died basically a month and a half later in jail,
based on that.

Texas is known for having a lot of cases that have made national news that
have put great shame on the state. *Lawrence v. Texas*, for example, which was
my law partner’s case, and this case, as well, was just one of the many, many
examples. I could just tell you tons of cases that have dealt with HIV in a major
capacity.

    The cases, at least in immigration, I’ve had many, many cases that have
received a lot of attention. It’s like we had the very first case in this part of the
country in which a person won their asylum claim based on having HIV. Asylum
is where a person is asking the U.S. Government not to send them back to a place
where they could be tortured, killed, or persecuted for a protected reason.
Persecution generally has to be governmental persecution. In other words, a
person who just says, “It’s really dangerous for me in my country,” is probably
not going to win asylum unless they can show that danger is coming from the
government.

    Somebody who says, “There’s no medicine for people with HIV in my
country. So if I go back there, I’ll die,” they’re not going to win their asylum case
based on that. Just saying that there’s not enough medicine doesn’t mean the
government is purposely taking that action against you.

    There are people who come from countries in which they are treated in
just a horrific way based on their HIV status. Sometimes it’s because there’s a linkage in the minds within that country to say that “A person with HIV must be a gay person if they’re a male. If they’re female, they must be loose and out having sex with lots of people. They’re breaking taboos in our country of sex out of marriage if they’re out there having sex with other people. So if you’re a female and you have HIV and you’re unmarried,” or something like that, “well, then it’s because you broke the religious taboos in the country.”

I have won cases for males and females. Many of them have been in the Middle East. Many of them have been in Latin America. Several have been in Asia.

The first case that we won was one of the earliest cases I had. I’m going to guess it was around 2000. It involved a male from Lebanon. In those days, Lebanon was still in virtual civil war in the nation. They had a line, the Green Line, which went between the mostly Christian part of the city and the mostly Muslim part of the city. If you wanted to go anywhere in the city, you constantly had to go through checkpoints.

In Lebanon, a person always has to carry an ID [identification]. That ID card, if you’re male, identifies many things, including whether you have done your required military training in the country. All males had to do military training. This is a card you use more than your driver’s license, more than a Social Security or a passport. You have to show this card for everything in the country. Every checkpoint you go through, you show it. Every time you go to the bank, you show it. I mean, it just is a critical card to be used.

Well, if you don’t do your military service, it gives the reason why you
didn’t do your military service. For this particular client, it’s because he tested positive for HIV. This person was having to show a card every single place he went, and it was so easy for anyone to read, if you read Arabic, at least, that he didn’t do his military service because of his HIV status. Many times, they arrested him. They put him in horrific circumstances to where he was beaten because of this. He was called very, very derogatory terms.

He managed to come to the United States, and we filed for asylum for him. I’m not saying it was an easy case. I think we documented it well. But we won that case. One reason I can talk about it is because the client agreed, without giving his name, to allow for that organization that I chaired at the time to do an article that explained our winning that case.

SMITH: That was for Immigration Equality?

NECHMAN: Yeah.

SMITH: That’s very interesting.

NECHMAN: So that was one of the first down here. I still talk to people who do lots of asylum work, and they don’t believe that you could win that case, because they don’t see how you can show it as governmental persecution. Well, that’s pretty easy, I think, when the police are taking you into custody and then beating the hell out of you because they see that inscription on your card. They’re not doing it because they just don’t like you. They’re doing it because they see that you are identified as one with HIV, and they’re probably making the connection, in their own minds, that you must be a gay man, which in many countries is still so taboo, as well.

We have cases of people in parts of Latin America in which we’ve been
able to show that there is such rife corruption that medicines do not get to individuals like the government claims they are supposed to, where there’s a claim, “Oh, yes, we treat everyone equally. Everyone gets treatment,” and everything else.

We’ve been able to show that based on being HIV positive, many in the medical field and everything else have treated individuals more as like, “Well, you’re also gay, and so we’re not going to treat you because we hate people who are gay, and you must be gay, because you have HIV. There’s no other way you’re going to get it.” I mean, that mind-set that comes in.

We’ve had times when we’ve been able to show — just discrimination generally will not win an asylum claim, but we show where it is so endemic within the society that a person there truly is at risk of dying because the government won’t investigate those cases. They’ll investigate a case involving a man who goes in for cancer treatment and doesn’t get treatment, but they won’t investigate the case involving someone with HIV because they say, “Well, they’re dirty people. They deserve what they get. We’re not going to touch that matter.” Well, that’s indirect persecution coming from the government. Remember, if it was just the doctors doing it against the person, no case, no persecution. We have to show it’s governmental, but indirect persecution, and we’ve won those cases, as well.

[END OF AUDIO PART 3]

SMITH: These cases probably come out of your work in your practice where you offer free legal aid.

NECHMAN: Uh-huh.
SMITH: I’m sure some of these cases have come from that. Could you talk a little bit about your clinic and what you offer, how it’s structured, who comes.

NECHMAN: I think the first week Mitchell and I were together, we discussed and talked about a desire to be able to provide help to people with HIV in a city that just doesn’t have the kind of resources a lot of cities do. In New York, there are a lot of organizations that can assist people with HIV on their legal matters.

In Houston we don’t have that many. We have the Houston Volunteer Lawyers Program, which is in operation from the Houston Bar Association, but they represent lots of people with lots of issues. They have always had excellent people who’ve worked with them, who’ve been able to really help people on HIV-related matters, but it’s just not enough. There’s just such a need. We have a very, very large community of people whose lives are affected by HIV in the city.

We saw the niche. We spoke with organizations such as AIDS Foundation Houston, Legacy Community Health Services. We’re legal counsel for both those organizations. We said, “We’d like to be able to do something,” and so we worked out with them a monthly clinic in which basically on the second Tuesday of every month, we close our firm down, to basically work exclusively on cases involving people whose lives are affected by HIV. People can call, and they can make an appointment with us from basically 8:00 in the
morning until whatever time in the evening it takes us, and we will do everything we can to assist them with their matter.

People come in with some pretty big matters, and we can’t, unfortunately, just take on every case. We don’t have the resources to do that. A lot of times, we try to resolve what we can, and sometimes we have to refer the case out. We take a lot of cases pro bono when we can, but many other times, we have to put people in connection with groups or organizations who might be able to best help them.

One thing we do is that we don’t ask people to prove that they have HIV. In fact, my rule is, if their life is affected by HIV, we’re there to help them. They do not have to bring in a matter that is HIV-related. If a mother whose child has HIV had got a traffic ticket last week and she wants to bring her case to us, well, it doesn’t have anything to do with her child with HIV, and it doesn’t really have anything to do with HIV, but we’re there to help her. We will do what we can to help her with that traffic ticket matter. People with landlord/tenant questions.

One way we know that we’re doing a good service for those whose cases really are HIV-related is because — I mean, the word of mouth and the notices are done through AIDS Foundation Houston and Legacy.

I work with all of the Latino organizations in the city to let them know of us too because there aren’t that many attorneys who speak Spanish. I mean, this is 50 percent of Houston at this point whose language, the first thing they speak in the morning, is Spanish. A lot of people whose immigration-related matters, I meet with them. I work with the Organizacion Latina de Trans en Texas, which is the largest group of transgender individuals in this part of the country, to assist
their members with cases. I’ve been a member of the Latino HIV Task Force for many years, and so I work through their organization to get the word out, as well.

A lot of times, it’s immigration-related. It could be criminal-related. We get disability questions. We get employment discrimination questions. I still have people who want to make an appointment just to talk to me about their fears of coming out at work. I talk to them about what they need to be aware of. People who have ADA questions under the Americans with Disabilities Act or who have questions about questionable practices by their doctor, bring it on.

We don’t really even do PI [personal injury] in my office, but if someone brings in that question, I’m probably going to have to refer it, but we’re there to try our best to help them out.

We’re not always full the entire day, but there are times when literally our entire day is booked with these cases and all of our attorneys are working to assist people on them. We provide that service on a monthly basis.

SMITH: I would imagine with your proficiency in a number of languages, that it wouldn’t only be Spanish speakers that would come in. You speak German and Portuguese, Italian. You can offer a lot of international help.

NECHMAN: I wouldn’t say a whole lot of people come in who speak the other languages that I can at least get by in, but we have them. Every so often, I get somebody who contacts us. I would say the vast majority of people, if they speak German, they’re here in the U.S., they probably speak English too, just because the country is a very, very bilingual nation.

When I lived in Germany, I was shocked. I thought that everyone spoke English there. No, no, no, no, no. When I lived in Frankfurt, believe me, I had to
learn German in order to survive there.

SMITH: When you started your clinic, your free clinic, and you look at it today, how have the issues changed?

NECHMAN: That’s a good question. We don’t see as many employment-related matters like we once did. There was definitely a time when people were being fired based on either their HIV status, having told their employer about their status, or because of suspicions that they had HIV. Of course, an employer is never going to admit that, but we’d train people to be prepared for circumstances like what they need to know in order to be able to make sure that they had a case, that they had something they could produce to the EEOC [Equal Employment Opportunity Commission] if necessary, or to go forward in some kind of a case against an employer.

Thankfully, I think because of people becoming much more aware of HIV, people becoming more aware that one with HIV is — the days in which people thought that a person with HIV, when a bad cough could easily infect an office, thank God those days are long past. It took way too long for those days to arrive, but I think we’ve ventured much closer to a time period where people are better educated.

The types of questions now are different. I still go out and I speak to a lot of organizations. I do speak to Project LEAP every year, and it’s very interesting to hear the feedback and questions that come, because they have really changed. I used to spend at least one class per year on end-of-life issues, where we would specifically talk about all the documents that were necessary in an estate plan, because each one of them had a focus that you really had to understand HIV and
how it affected one’s life before you drafted the document.

Guardianship papers for a child, for example. What you wanted done with your own body after you perished because of the fact that we had so many funeral homes that refused to take a body if the person died of HIV. Issues such as who could visit you in the hospital. All of this would mean that we would often do an entire estate plan execution of all the documents if I had a willing person go through it with us, and I would always ask and say, “Are you okay if we would do this with my students?” and we’d go through it piece by piece because of how important it was.

Well, those are still important issues. There’s no question. But with people living long and fulfilling lives in which they can confidently know that as long as they maintain their medicines, as long as they’re taking their medicines as they’re supposed to, they’re going to die of old age, just like many of us will. They’re not going to die of AIDS. They’re not going to die of HIV-related symptoms. That is still important, but it’s not the focus that things are now.

But people living with HIV still have fears of what could happen in employment. They still have fears of how they could be treated based on disclosure of HIV if they become intimate with other individuals, and that’s a big issue because that’s a law that changes depending on which state line you’re standing on the side of.

Someone who moves from Houston to Missouri better be aware that the laws in Missouri can be incredibly harsh for people with HIV as compared to here. We think of our laws as being pretty hard here in Texas. As I said earlier, they’re really not. You move to some states, and all of a sudden it’s like the law
could technically penalize mutual masturbation if you don’t disclose your HIV status. Think about that; that the law is so strict about disclosing your status that they would criminalize that.

Now, do they do that regularly? Well, no, but they could. The fact is, read the statute and you can see that just not disclosing to another individual could lead to criminal prosecution, depending on what state line you’re on the side of.

We still have so many laws in criminal transmission and employment and various other that reflect a time period when HIV was a very different disease, when it was having a much greater impact on communities. What the fear is for a lot of people is that the silence equals death that ACT UP [AIDS Coalition to Unleash Power] acted on so much that was their slogan in so many ways.

Well, it still is. Silence means that we have still communities, younger people for example, in which the rate of HIV is rising. It’s still increasing in many areas. It’s affecting communities of color and people from immigrant communities at a much greater rate than it ever was before.

Elderly people who never thought that they would be even within the potential group of individuals that would be affected by HIV, suddenly now with many medicines such as Viagra and things allowing people to perhaps be more sexually active at later ages than may have been the case years ago means that all of a sudden, HIV impacts elderly communities in much greater ways.

How nursing homes deal with people with HIV is a huge issue because many nursing homes have never even contemplated that as a possibility, and all of a sudden, it’s a real possibility because of people living longer lives with HIV.

It still is an ongoing issue. There is still no cure. We’ve certainly become
much better at helping people lead more fulfilling lives that are free of what many
people had to live with before, but it’s still a long way from being resolved. I
think I’ll be teaching this course for a long time.

SMITH: With some modifications as the times change, but the core issues are still the
same.

NECHMAN: But I hope one day to teach it as a historical course. “Here’s what things
were back then compared to now.”

SMITH: As an immigration attorney, do you now have clients who are considered
criminals because of their HIV?

NECHMAN: Let’s put it this way: Until 2012, the United States was one of only, in the
modern era, the dirty dozen, about 12 countries that forbid admission to
somebody to the United States if they had HIV. Now, there were waivers
available for some, but for the most part, the U.S., if you had HIV, you’re not
welcome to the United States. So if you were not a citizen or a permanent
resident in the U.S., you could not come into the U.S. if you had HIV unless you
qualified for incredibly difficult waivers.

Some people could not qualify for those waivers because they lacked a
relative who could be a [sponsor]. You had to have a certain relative to be able
[to qualify for a waver]. Most of the time, it was based on marriage to a U.S.
citizen, so we didn’t have marriage recognized under the federal law until 2013,
so prior to 2013, someone couldn’t even apply for the waiver because usually it
was a marriage that would have created a link to a relative who may have given
you some possibility of getting a waiver.

This was another thing that I worked on a lot during my years working
with Immigration Equality and as a private practitioner, was that there was a time that if you wanted to come to the U.S. as a tourist or as a student — we divide cases a lot of times between people who want to be here permanently — we call them immigrants or Green Card holders — and then people who only want to come here on a temporary basis, so people on student visas or tourist visas and things like that.

Thinking about that division, if you wanted to come here as a tourist or a student or to work here in the U.S., it meant that you had to prove you were eventually going to go back to your home country, and so immigration said in order for you to qualify for a waiver to come to the U.S., you had to generally file. If you had HIV, and if you disclosed it or if they wanted to know your [health status], they could demand that you provide an HIV test. They could demand a blood test before they’d grant you a visa, if they wanted. In countries with high HIV rates, they would do that. Especially in sub-Saharan Africa, certain Asian countries, it wasn’t uncommon at all.

Let’s say somebody went in and said, “I have HIV, but I’d like to go to Disneyworld, so can I apply for a visa?” They had to get a waiver. They had to apply for a waiver. The waivers were unbelievable, what you had to go through to get them.

We had event waivers. I helped get the waiver for the Gay Games when they were held in Chicago. John Ashcroft was the attorney general. We had to apply through him, basically, and we had to get Ashcroft to agree that individuals coming in had to prove that they were coming for that event and that event only. They couldn’t leave Chicago. They couldn’t go off to Detroit and see Motown or
go to St. Louis to see the Arch. They had to agree they were coming just to Chicago; that they were coming for a finite time period; they had return tickets.

They had to prove that they had been educated as to transmission issues of HIV and they understood fully, and they had to have doctors give them affidavits saying yes, this individual understands transmission; that they would not be putting the public at risk.

They had to show that they had medications and insurance to cover themselves while they were here. I mean, how do you get insurance if you’re from Ethiopia, for example, or a country that you’d never be able to get private insurance to cover you for your stay in the U.S. based on your HIV status?

All of this just to be able to come and attend that event. That was an event waiver.

If you wanted to come to visit family or something else, you had to go through pretty much the same exact steps and submit it to immigration. Sometimes it would take months before they would make a decision just to have that pardon, basically. It was humiliating. It was frustrating, humiliating, and just grotesque to put people through this so that they could come to make their trip to the United States. We’re one of the only countries that had any kind of a policy like that.

Now, if you wanted to come in as a permanent resident, so if you had an employer sponsoring you — like my spouse, 14 years before he got here to the U.S. — or if you were trying to come in as the spouse of a United States citizen, meaning it would have had to be a heterosexual marriage, because you could not come in under a gay case, at least prior to 2013, then you had to apply for another
waiver. This waiver required much of what I had just said before, except it also
required the standard that you had to prove that you would not become a public
charge in the United States.

Now, a public charge means that you’re not likely to go on the public dole,
you’re not likely to need assistance of any kind. So they looked at HIV, and they
said, “Well, there are studies that show that your HIV status could easily result
in [expensive medical care]. If you had an emergency operation or needed to use
emergency care, it could be several hundred thousand dollars,” so they would put
in standards and say, “So before we’re going to give you a Green Card, you have
to prove that you have insurance that would cover you for whatever eventuality
might occur to you based on your HIV status.”

I’ve had trial attorneys in court on deportation cases, say that that standard
means they require that before they would agree to a case, we had to get the
insurance companies to give us letters that said that no matter how high your
insurance bill would ever get, your insurance company was agreeing they’d cover
it. Now, what insurance company is going to give me that letter?

So what we would do is, we would have people do this long, complicated
form called an Affidavit of Support. The Affidavit of Support was basically your
promise to the U.S. Government that if this individual becomes a public charge,
you’ll repay the government if the government says you have to. If they say that
that person can’t pay it, they can come to you to pay it.

Well, one person, if they had massive amounts of wealth, could possibly
do that document. A lot of times, I had clients and they could only find maybe a
friend who had $30,000-a-year income. They’d do one of those affidavits.
Another friend with $35,000-a-year income, they’d do it.

I had one case where I had a trial attorney who went on to become an immigration judge, and when we won the case before the immigration judge, the judge says, “I’m granting this case. I’m going to give this guy a Green Card,” because he qualified for it. The judge, in his discretion, had the right to prove it and believed that this person had never been in any kind of serious medical care. This guy, I still see him on the streets. He takes Metro buses around the city. He’s the quietest, nicest guy you’ve ever met in your life. He just quietly lives by himself and has taken care of himself for years.

Well, he was in deportation proceedings, and we found a way in which we could get him a Green Card through a case his mother had filed 23 years before that he had even forgotten had been filed. We got the case, got it before an immigration judge right before the mother passed away, and the judge granted the case.

The Government appealed it and said, “We don’t believe that he’s shown that he won’t be a public charge.”

We took it to the Board of Immigration Appeals in Falls Church, Virginia. They agreed with us, sent it back to the judge, and said, “This case is a good case. We’re instructing the judge to grant the case according to our wishes,” meaning according to our decision.

The judge granted the case again.

The government again said, “No, we don’t agree.” They took a little, tiny part of the BIA decision. I’ve never seen them do this, ever. It was as if they just insisted that there was no way they were going to let this guy who’s been in the
country for 35 years or whatever get his Green Card, and I think it’s because they wanted him to die first. They wanted him to die so that they would never have to give him his Green Card.

He had eight different friends sign that horrible document, that contract with the government, all of them pledging their wealth, whatever they had, their homes or whatever. That file had to be this thick [indicating], because each one of those Affidavits of Support, you have to submit three years of tax statements with each one of those so that they can see that your income hasn’t just magically been created this year. I mean, it was this thick [indicating]. We did it every single time.

The government attorney kept appealing the damn thing, and the judge kept granting and saying, “I can’t believe you’re going to appeal it again.” It was like this was the typical type of scenario that we had.

To apply for that waiver, by the way, the only way you got that waiver, first you had to show that you had a spouse who’s a U.S. citizen. So forget it if you’re a gay guy because your relationship doesn’t count, so you wouldn’t qualify.

Or you had to show you had a parent who was a U.S. citizen. Well, if you’re an immigrant here, you probably don’t have a parent who’s already here, who’s a Green Card holder or a U.S. citizen. Maybe you do, but I’ve found that to be almost never the case. Usually if you’re an immigrant here, it’s because you came here. Maybe you came with parents, but if you didn’t have a Green Card, your parents probably didn’t have one either, so you could not even qualify for the waiver, so you’d never get your Green Card.
No way to get the Green Card until finally in 2011, Bush actually in one of his last acts — remember I was telling you about how HIV is criminalized in the criminal law by name? Well, in immigration law, we have a law that says that a communicable disease of public health significance, that bars your entry to the U.S. if you have it.

HIV was under that for the longest time. That is just a laundry list of things that they say makes a disease a public health significance.

Well, Congress, under Clinton again, 1996, same year, decided that, “Well, we can’t just rely on that law. We need to have a specific law that states unequivocally that if you have HIV, you are barred entry to the United States.”

So even though they already had a law that barred HIV, the disease of public health significance, and under the Department of Health Regulations, HIV was, along with tuberculosis and infectious syphilis, included within that, Congress decided, “We must pass a law. Even though no other disease is criminalized by name, no other disease is mentioned anywhere within the code, we must have an Immigration and Naturalization Act Code provision that makes it clear that if you have HIV, you are barred entry to the United States.”

So they passed that as a second bar.

So under Bush, Bush ended the specific law. It was part of the amfAR, passing of the laws that dealt with money going into Africa, and then they had a little provision that got rid of that. Helpful, yeah. I’ll give him that credit.

Obama finally took it off of the diseases of public health significance, so it wasn’t until 2012 that we finally got our name off the dirty dozen list with countries like Sudan and Yemen and Iran and Iraq and Russia.
Even China was on the list. China, in 2008, before the Olympics in Beijing, said, “It’s too embarrassing to be on this list of people who are barred entry, so before the Olympics, as a matter of goodwill, we will end that policy.” So even China got off the list. But then after the Olympics took place, they jumped back on the list.

SMITH: This was economics.

NECHMAN: Yeah. Sorry, I just went on a long ramble there.

SMITH: Thank you for detailing that out.

I have a final area I wanted to ask you about, and it’s a Ryan White question: Is this true? Federal law allows the use of Ryan White funding to provide care to people who are undocumented.

NECHMAN: Uh-huh.

SMITH: That’s true?

NECHMAN: Uh-huh.

SMITH: But U.S. Immigration is now saying that individuals have broken the law by accepting this care.

NECHMAN: Yea and nay. This is part of the life under Trump. There has been no final decision by the CIS [Citizenship and Immigration Services], Department of Homeland Security, stating unequivocally that receipt of public funds of some kind is a bar or illegal.

Trump and his administration have stated that they — well, I’ll put it to you this way: In the olden days, prior to Trump, there has always been a question — I had mentioned it earlier — about being a public charge in the United States. There was not really a whole lot of definition as to what that
meant, but it generally didn’t mean food stamps. It generally didn’t mean unemployment. It generally didn’t mean certainly emergency healthcare from a facility. It never meant like the Gold Card in Harris County or Harris County Hospital District funds. We always thought of it as generally meaning federal funds that are only for U.S. citizens, like Medicare, unless I think certain permanent residents, if they’ve been here long enough, might qualify for Medicare, but say Medicare, Medicaid, or Social Security, things that you have to be a U.S. citizen to get.

The factor for the most part was that if you were someone who was dependent or receiving those kinds of benefits, you could be found to be a public charge to the U.S. and barred entry.

Now, I’ve worked for 22 years, and I don’t think I’ve ever seen a finding made under that, but that’s always been the case. In fact, if you ever want to get a Green Card in the U.S., you’re required, as I said, with that one point I mentioned earlier, to have a sponsor who can show and prove that they qualify to be your sponsor, who agrees that if you do become a public charge and the government can’t get you to pay the money back that you’ve received, the sponsor has to pay it back. It’s an ongoing contract. It’s literally a contract with the government. Again, in 22 years, I’ve never even heard of one of these things being enforced. They’ve talked about it, and maybe they should, but I’ve never seen it happen.

Well, under Trump, they decided to expand that definition to virtually anything, like anybody who’s received some kind of treatment. Now, they left off emergency healthcare, like if somebody had an emergency of some kind, and I think it’s mainly because of court cases that have already dealt with that, but it
does mean that now they’re stating that if somebody has received any kind of
benefits — county, local, state, obviously federal — then there is a possibility that
they could be found to be in a public charge.

This hasn’t gone into effect yet completely. It’s put a tremendous fear in
the hearts of a lot of people. It’s not just for you the applicant, the immigrant. If
you’ve ever had children who have received this, meaning if you have a child
born in the United States, they’re a U.S. citizen from birth, under the Constitution.
They are entitled to a lot of benefits because they are citizens. They have a lot of
things. CHIP [Children’s Health Insurance Program], for example. This is now
saying that if you are an immigrant whose child has received benefits of some
kind, they will find that to be a public charge issue on you, the applicant.

Now, this is still very much up in the air. Immigration has changed the
forms that people use to apply for a Green Card and everything, and it’s now
much more expansive, the questions they ask. They do ask now whether you’ve
ever received local benefits of any kind, so I have to tell clients that they — I
can’t tell them to lie. I tell them we may need to disclose. So far I haven’t had it
be an issue at interviews, like when I go to an interview for a client.

Ryan White funds, I have not had that be an issue when clients have
admitted that they’ve received Ryan White funds or if they use the Gold Card or
anything else.

My argument to the government is: Look, as a taxpayer in Harris County,
which these people are — if you live in Harris County, you’re paying sales tax,
you’re paying taxes that fund things such as the Harris County Hospital District
that provides the Gold Card. You are paying into a system that we as inhabitants
of this county have said is important to us; that we have a healthy community. We provide that assistance to individuals, where they have to disclose who they are, they have to disclose whether they’re U.S. citizens or not, but they can still receive treatment based on it. They’re not precluded from getting that card as a result. So they’re not breaking a law. No one is lying to get it. Plus, they’re paying into it.

I’m prepared to use that argument if we have to with an immigration officer if they want to say, “Well, that shows you’re potentially a public charge.”

I’d be like, “As far as I can tell, it does not.”

Now, there are certain funds and everything from the federal angle, if somebody lies and claims they’re a U.S. citizen or something so they can get a guaranteed student loan, yeah, they’re committing a crime then, but they’re committing a crime by making a claim they’re a U.S. citizen when they’re not.

So there are benefits that are made available to even immigrants and everything, and Ryan White funds are among them. If they’re lying to get the benefit, well, they’ve got other problems, but if they’re receiving benefits that are made available to them regardless of what their immigration status is, then they’re not committing an offense at this point.

I don’t want to see how it plays out. I hope it never does. But if it ever does play out, I think we’re prepared to deal with this.

[END OF AUDIO PART 4]

SMITH: So there hasn’t been a test case yet?

NECHMAN: No.

SMITH: But your antenna is up?
NECHMAN: Our antenna is up. Right now, everything is possible with this administration, or at least efforts they’ll try to make. “Public charge,” those are the two words. Public charge, that could be so much, or it could be something very limited.

Without ever having a definition, the Trump administration, whose goal is not to open doors at all, but to close them and to push people back out, or to create walls and everything, their effort is to make that definition as expansive as possible so it could just cover more people, because there’s a certain group of immigrants that they would love not to see ever get status in the United States. People who are maybe not as wealthy as those who tend to support the current Republican administration are among those they would like to not see holding eventual voting cards in this country.

SMITH: John, as we wind to a close now, just a little reflective question here: If you were to bring on a new associate, a new attorney juststarting off in this field, what advice would you give to them? What kind of direction? What would you say to them, given all you know and what you see?

NECHMAN: I think it’s important to find what makes you happy and to go at it passionately. It took me a while to find that. I really didn’t find my niche for a long time. It took me a while. It took it by looking at my relationship, by reexamining my own life and seeing that I had a role to play.

I never thought of my Spanish-speaking abilities as that different from people either, and it’s like I’m really amazed at how few bilingual attorneys are out there. I can tell you that there are a bunch of people who grew up in Spanish-speaking households, and they don’t speak Spanish, who are now...
working as attorneys.

Being bilingual offers me opportunities that I wouldn’t have had either. This combination led to being able to find something that gave me a lot of drive and a lot of direction, and I needed it, and it’s been one that has worked well for me.

Someone may find that, working in contracts law. They may find it, working in a big firm in downtown, hoping to make partner at some point in the towers there in the center of our great city. I think someone needs to find what makes them happy to go to work. I couldn’t imagine being miserable at work. I just can’t even fathom the idea of going to work and hating it. I know a lot of people are in that situation. I’m not Oprah or someone who can give them the kind of advice they may need to find their niche, but I would tell people that.

When I speak to young attorneys — I’m very, very privileged. Twice a year, South Texas College of Law brings me out as one of maybe one or two speakers who speaks to the incoming class about what it’s like to be a lawyer, and I share with them the passions I have for what I do. I say, “My Korean mom,” coming back to her again. “My Korean mom” — hate to make a stereotype, but Korean moms do not believe their sons should be lawyers, actors, models, whatever. They believe universally, if you’re a Korean mom, your child needs to be a doctor, or at least a scientist or something, someone who has an engineering or a science or a mathematics background.

Well, I bombed in every one of those classes growing up. I had no forte for it. My mom rarely passes up an opportunity to tell me that if I were a doctor — remember, her second life partner, Doc, was an ob/gynecologist —
she’ll tell me, she’ll say, “Well, if you were a doctor, you could save lives.”

I tell her, I say, “We save lives all the time. We have saved people from being sent back to countries where I have no doubt whatsoever they would have been killed or murdered because of their being a gay or lesbian person, or because of their religious background, or because of their HIV status, or because they’re trans.”

We’ve won those cases. They are now happy, living here. Many of them are now U.S. citizens, and we saved their lives, so it’s like we get to do that. My law degree that I almost didn’t want back when I was a law school student has given me that kind of an incredible tool that I’ve been able to use to benefit people.

If someone was a lawyer, I’d say, “Hopefully you won’t take as long as I did to find your calling,” but hopefully that may give people at least an incentive to really look in their hearts and find what makes them happy in this.

SMITH: I would think, from all you’ve said, John, I would use the word “passion” for you. You certainly do display that in all of your life story. Your passion for education, for travel, for the work that you do. And for that, I thank you.

NECHMAN: It’s my thrill and pleasure.

SMITH: Thank you for the interview.

NECHMAN: No, my pleasure, my pleasure, my pleasure.

[END OF AUDIO PART 5]

[INTERVIEW CONCLUDED]

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