Oral History # 2

An Interview With
Mitchell Katine

Place of Interview: Houston, TX
Interviewer: Ann Pinchak
Terms of use: open
Approved: MK (Initials)
Date: 10/29/16
AN INTERVIEW WITH MITCHELL KATINE

ANN PINCHAK: This is Ann Pinchak interviewing Mitchell Katine on October 29th, 2016 for The oH Project about his recollections of the legal and social landscape in the early years of the AIDS crisis in Houston, Harris County, and Southeast Texas.

Please give me your full name.

MITCHELL KATINE: My name is Mitchell Katine.

ANN PINCHAK: Where were you born?

MITCHELL KATINE: I was born in Miami Beach, Florida in 1960.

ANN PINCHAK: What are your parents’ names?

MITCHELL KATINE: My mother’s name is Loni Tonis now, because she’s remarried. My father, who passed away maybe five or six years ago, was named Allan Michael Katine, but he went by Michael.

ANN PINCHAK: Do you have siblings?

MITCHELL KATINE: I do. I have two sisters: April Rael Katine, who lives in Tallahassee, and Lara Ann Katine, who lives in Hawaii, and they’re both younger than me. I’m the oldest child.

ANN PINCHAK: Did you grow up in Florida?

MITCHELL KATINE: I did. I grew up in Miami, Florida.

ANN PINCHAK: When did you have an idea about your orientation? How old were you?

MITCHELL KATINE: Well, probably high school. Probably high school, I consciously
was aware that I was attracted to boys and girls. I had a lot of girlfriends. I didn’t have any boyfriends. I guess in my mind I would think about boys from time to time, but I had girlfriends. At the time I graduated high school and went to college at the University of South Florida, it was my intention to marry my girlfriend that I had at the time, named Leslie Bird, but she was one year younger than me, so she stayed back to finish high school, and I went off to college, and that was where I was able to explore the gay side of me, and then I decided not to get married to Leslie Bird and started dating guys and girls. I dated guys and girls in college.

PINCHAK: You told me once a funny story about bringing home different people and that you finally decided on one.

KATINE: Well, I don’t know if it was a funny story. It was a true story. I think for parents, or at least parents at that time, which was in the 1970s, late 1970s, early 1980s, not all parents can deal with I guess what I would call fluid children. My parents were somewhat liberal. They certainly weren’t excited if they were to have a gay child. They thought that would be hard for the child, they said, but it was even harder for them for me to put them on a roller coaster of well, now I have a girlfriend, now I have a boyfriend, and those type of things. I guess I need to be prepared, because my partner and I have two children, to be prepared for this.

But college was a time for experimentation for me, which it’s supposed to be, and so I did everything from participate in Orthodox Judaism for a period of time where I wore a yarmulke and I wore what’s called tzitzit, things there, and so I did that for a while. I was in student government and was very involved with
handicapped students at the time, and so I spent a week in a wheelchair at school to experience what being in a wheelchair was like, to better serve the handicapped students.

I really was never interested in drugs or alcohol. I don’t know why, but I just didn’t do that as an experimentation. I guess other people did. I knew my friends did, but I think for me, I didn’t want to lose control, and using drugs and alcohol was a way to lose control, and I really didn’t want that or need that.

Quite frankly, and it relates to this, I was pretty nonadventurous from a sexual perspective, because I went to college from 1978 to 1982. Those four years are very dangerous years because those four years, we didn’t know that AIDS was on the horizon. Those four years are when my friends and other gay people were in their sexual liberation stage. Those were my college years. Yes, I had boyfriends and girlfriends, and condoms were really — I actually in student government was responsible for getting condoms put in the bookstore at the University of South Florida, but it was to prevent pregnancy. It was not a thing that gay people used because there was no reason to use condoms. It was to stop pregnancy. It’s really funny that I was able to get condoms in the school, but it was for heterosexual sex.

Regarding gay sex, people didn’t use condoms. “Safe sex” was not a term between 1978 and 1982. People were using — at that time it was 976 numbers where people would call and have sex with anonymous people on the telephone. That was a real popular thing, a dollar a minute. I had friends who were in that business, and I knew people who were in that business both being the actors who were speaking to people as well as who had that business. It was really a big
business at the time.

I knew my friends were out at sex clubs and doing things really wild sexually, and they tried to encourage me to do that, and I just — again, part of this not wanting to lose control. Drugs, alcohol, blackout rooms where you didn’t know who you were having sex with and couldn’t see who you were having sex with and you really didn’t care, that didn’t interest me.

I guess the other thing, and I’ll be a little candid here, is my friends who were more on the receptive end of sexuality, and I’m certainly not a judgmental person at all, but that was not what I enjoyed. That’s just happenstance. That was not a decision to make from a health or safety perspective.

[END OF AUDIO PART 1]

PINCHAK: When you came out, were your parents supportive?

KATINE: My first boyfriend was named Ron, and he lived in New York, but we went to school in Tampa. His family was in New York; my family was in Miami. There are two incidents I want to recall. The first one is that at some point, he did come to meet my family in Miami, and my mother and father told me that when they met Ron, they knew he was gay and they presumed I was gay, because he was a little more flamboyant than me, and I guess it’s easier to see somebody else and think that they’re gay than your own child as being gay because you know your child forever.

At my very first relationship, Ron and I didn’t identify as gay. We were 17, 18 years old, and we did not identify as gay. In fact, Ron had a girlfriend when I met him. We just said we liked each other. We just like each other; we’re not gay. That’s what we said, and we believed it.
I probably told my parents that too, and I don’t know what they thought, but I do remember with my parents at some particular point, I remember a scene in their bedroom, because my parents supported me fully through college. They paid for my school, and they gave me a monthly allowance for expenses at school. I guess because it’s just the type of person I am, I would give them a written report each month as to how I spent their money in detail, and that would include going to car washes, going to gay bars, going bowling. Whatever I did, I put it on the list and I gave it to them. Well, that was the wrong thing to do, because then they would look at how I spent their money and decide is this an appropriate thing to spend money on or not?

In that regard, when Ron and I were roommates in the dorms — and you have to remember, this was the time of nylon shorts and flip flops in the 1970s and 1980s. I went to college from 1982 to 1985. No, that was law school. I went to college from 1978 to 1982. I graduated high school in 1978, went to college the next four years, and then law school was 1982 to 1985. My parents were in this dilemma of basically funding my homosexuality, and so they had to make a decision, and they saw their funding my homosexuality as encouraging it, so they were at this crossroads of do we encourage a lifestyle that we don’t think is good for our child, or do we stop funding it?

Kind of like right now my kids are curious about marijuana. Put in that same scenario, if my child was in college and I was giving them $250 a month, and they gave me a report and they said they were spending $50 a month on marijuana, would I continue to send them $250 a month?

Now, equating drug use with homosexuality, I think, is a different thing,
so I don’t know that I would want my children to spend my money on marijuana or other drugs. But that was the point in 1978: My parents’ seeing that I was using their money to go to gay bars, they had to decide do they want me to use their money for a purpose that they were not thrilled with?

At 17 or 18 years old, this was a moment where if they made the wrong decision, it could have been devastating for them and for me and for us, and thank goodness they made the right decision of, “We’re going to continue to give you the money. You’re going to spend it the way you want to spend it.” I remember them telling me, “The reason we’re doing this is that if we don’t, we’re going to push you into elements that we don’t want to push you into.” They verbalized that to me.

PINCHAK: You had friends whose parents —

KATINE: Well, not friends. Ron, my partner. What happened there was, I think on another visit he was supposed to be coming to see me, and on the day his flight was going to leave — you know, at that age we would write love letters to each other and things as kids do. No emails. No email controversies. We would write letters.

He saved them, and they were in his luggage, and his parents found my letters to him. His parents had that same — at that moment was, “Do we let you go on your visit to Mitchell?” I think we were going on a ski trip. I don’t remember what we were doing.

His parents canceled the trip and gave him an ultimatum of, “You can stay here in New York, go to counseling, go to a New York university. But if you return to be with Mitchell, we’re not going to have anything more to do with you.
We’re not going to support you. You’re on your own.”

When you give a young person that type of ultimatum, they often don’t realize the ramifications of it and they’re more fighting for their independence.

So Ron chose to return to Tampa, to continue to live with me, to try to continue to go to school, and his relationship with his parents was forever damaged.

So what happened was, he returned to school. He tried to continue school for a while. We tried to continue our relationship for a while, but I was 17, 18 years old. I couldn’t support him and help him with school, so at some point — and he did like to drink more than me. In fact, what we would do is, he would get a vodka and 7 Up, drink it all, and then give me the ice when it was over. That’s what we would do.

We eventually broke up. He dropped out of school. He got a job. Ron was very attractive. He got a job as a bartender at a local gay bar. He ultimately turned to prostitution to survive. He ultimately got HIV, and we continued to stay friends.

In the last few years of his life, his parents realized the situation and were very accepting and very loving and took him home, where he passed away.

PINCHAK: So you had parental support. You also —

KATINE: I did. Oh, there was one more thing on parental support.

When I finally explained this to my parents, I remember also my parents telling me that they were concerned what I was about to tell them was that I decided to be an Orthodox rabbi. Although my parents are Jewish, they actually saw that as a more extreme path than being gay. My mom also said, and she doesn’t remember things the way I remember them, but I recall or at least felt at a
time where all this back and forth, boys and girls, she said, “Just tell us what you are, and we’ll accept you, as opposed to this driving us crazy so we don’t know what to do.”

Quite frankly, I feel like I’m still the same person today that I was then. If I see a female person that’s attractive, I’m attracted to them; and a male person, I’m attracted to them. In my world, you are just attracted to whomever you’re attracted to. I’m not a great labeler.

PINCHAK: That’s lovely. So you had parental support, and you said it wasn’t a thing to you to be receptive, which —

KATINE: Do you mean sexually?

PINCHAK: Sexually.

KATINE: Yeah.

PINCHAK: To be kind of graphic, that’s you were more a top than a bottom; is that —

KATINE: I guess you could put it like that.

PINCHAK: Yeah. And I suppose with AIDS, it was more those that were receptive tended to be more likely to get AIDS because —

KATINE: Just of the biology, just of the medical things. Many of my friends who participated in sex in a more diverse way than I did got HIV, and I believe most if not all of them passed away eventually because there were no drugs. There was nothing in those early days. I was just lucky. It was not a conscious choice of nowadays. Do I practice safe sex? Do I use drugs or alcohol?

It was just luck that I’m here. Okay? That’s just how it is. It was not a conscious decision.

PINCHAK: How did you happen to come to Houston from Florida?
KATINE: When I graduated with a public relations degree from the University of South Florida, my parents told me that they would continue to support me and support my education. My father was a court reporter his whole life, so I was familiar with the legal process from observing my father as a court reporter. So they said, “If you want to go to law school, we’ll pay for it.”

I said, “Great. I’m not ready to go to work. I like school. I enjoy learning, and so I’ll continue on.”

I took the LSAT [Law School Admission Test], and unfortunately at the time, the LSAT had math on it, and I was not very good in math. That’s why I had a public relations degree. So I did very poorly on the LSAT, and I applied throughout the United States to all different types of law schools and I got rejected from every school I applied to. I was going to become a guidance counselor in a master’s program, guidance counseling, and stay at the University of South Florida in Tampa.

On the day I was supposed to sign all my graduate school papers and my lease for the housing and all of those things, I get this very innocent postcard from this law school out in Houston, Texas that I had forgotten that I had applied to, and it said I got accepted. I had never been to Texas. A friend of mine had suggested I apply to this school in Texas, and I got accepted. It’s really odd because when all these negative rejections were coming in, you then psychologically think well then, that’s not for me and my life should go in this direction, and I’ll be a happy counselor and help kids and all that, because I’ve always loved kids.

And then when this card came in, I remember talking to my father and
saying, “Okay. Well, now what do we do?” All of us had decided on going to graduate school, and I’m going to be a guidance counselor, and all of those things.

My father said, “Well, it’s up to you.”

I made it very clear to them that I did not necessarily want to be a lawyer. They understood that for many years. So I said, “I’ll go to law school to learn and study, but I can’t tell you that I want to be a lawyer.”

They said okay.

I packed up my little Ford Maverick automobile, and my little lovebird was my pet, and drove from Tampa to Tallahassee, where my sister lived, and then I stopped over in New Orleans, and then I drove to Houston. What’s significant about that is, because I was 21, 22, I was terrified about being in New Orleans. I had never been in New Orleans before, and I heard of all of these stories about the decadence and craziness of New Orleans, and so I just share this with you because it demonstrates my thinking at the time. I locked my door and stayed in my hotel room and was just bunkered in so nobody would come and get me in New Orleans.

Now, 21- and 22-year-olds who spend a night in New Orleans, other than Mitchell Katine, would be out doing whatever crazy things people do in New Orleans, but not me. This was 1981, 1982, when I was going to law school. Again, we didn’t know about HIV or AIDS, and what was going on in New Orleans and all the major cities was very dangerous, but I stayed in my little hotel room and drove on to Houston. I mean, it’s true. I was terrified to be by myself in New Orleans.

PINCHAK: Then you came to Houston, went to law school. How did you decide what
to do after that?

KATINE: First of all, because my parents were paying for everything, and at the time there was no mandatory number of classes, what I did was, I took a reduced load and went to school in the summer. I was a very good student. I would record my classes. Then I would transcribe my recordings by hand. Then I would make notes and flash cards, and I did very, very, well in law school. I was on the dean’s list every semester of law school. I think I graduated No. 3 or 4 in my class. I made A’s every semester. It was great because I enjoyed it. I was into the learning. I wasn’t thinking, “Oh, I need this as a lawyer,” because I wasn’t going to be a lawyer. I was just learning for the sake of learning, and my parents were paying for it, and I’ve always been grateful for that. I’m going to pay for my kids’ college and all that stuff.

Mitchell Katine in his first suit as a young attorney, Houston, 1985.

When you do very well in law school, the employers are interested in you. I had a lot of the top law firms want to interview me. The problem was, I was very naïve and very innocent and very honest. When I would go into an interview
with Vinson & Elkins or Fulbright & Jaworski or whatever, and they would say to me, “What would you like to do? You’ve got these great grades in all these classes. What do you want to do?” I would very innocently smile and say, “I don’t know. I don’t know. I want to try everything. I don’t know what I want to be. I don’t know what I want to do. I want to try this. I want to try that. I want to try this. I hope your firm can help me explore the different areas and find the place that’s best for me.”

Well, that’s not what they want to hear. I wasn’t thinking, and I tell people this now. They’re not there to help you. Okay? They’re not there to help you figure out what you want. You need to go into an interview and either pretend, or if you have somehow as a young person figured out that you want to be a litigator in intellectual property or oil and gas or all of those things, even though you’ve never been a lawyer before, that’s the way you get a job. You don’t go in and you say, “Oh, I’m ready. I’m going to do great, but send me around to your different departments so I can figure out what I want to do.”

So I didn’t get any offers from any of the big firms. There was a firm. My first law firm was Levin, Roth & Kasner, and they took me out to lunch, da da da da, and they offered me a job. Honestly what had happened is, I had planned in my mind when I get a first job offer what I’m going to say. I’m going to say, “Thank you very much. I’ll consider this and I’ll get back with you,” and all those things.

Well, I got the offer. I had my response prepared, and I told them my response, but I wasn’t expecting what I got back from them.

They said, “What? We just offered you a job, and you’re going to think
about it?” They said, “Do you understand the importance?” The three partners were there. They were offended, and they said, “No, you’re not going to think about it. You’re going to either accept it or not accept it right now.”

I didn’t know what to do, so I accepted it. It depends how you want to evaluate it, because my first job of my first year was really, really tough. Just like that interview, the managing partner was very controlling, very micromanaging. He reviewed all the mail. You had to come and go each day at the hours that he said. You worked Saturday and Sunday and holidays. It was a really tough first year, and that first year we’re talking about is 1985. In 1985 was when HIV and AIDS was coming to the surface too, so as I was dealing with my first year of being a lawyer, I was also dealing with HIV and AIDS, which in 1985 we knew at that point something was going on.

Eventually I quit that job, which I was the first lawyer to actually have the guts to quit, and I went to work at a second law firm. At this time, I was volunteering with the AIDS Foundation. I was part of the hospital team. What I could do for people was, I would bring people with HIV and AIDS into the office and do their estate planning, and that’s how I helped people. I was also starting to handle discrimination matters: discrimination in employment, discrimination in insurance. We really didn’t have any laws yet, but people were still being discriminated against, so both in the medical field and the legal field, we were all trying to figure out about this new disease what we were going to do.

At my second law firm, what I could do was, I was the chairperson or head, whatever you want to call it, of the hospital team program for the AIDS Foundation. This is important to remember, that in the mid-1980s hospitals were
full of gay people and straight people who had HIV and AIDS, and everybody was terrified, including the medical personnel, because you didn’t know how you got it, and the patients’ immune systems were almost nonexistent and there was no medicine to bring them up. Both for the patients’ protection and the healthcare and volunteers’, they would have to fully gown in a surgical suit, latex gloves, and a mask to visit the patients with HIV and AIDS. Hospitals like Memorial Southwest, Park Plaza, LBJ — there was another public hospital; it might have been LBJ but a different one at the time — had entire floors that were HIV floors. Only people with HIV would be on those floors, and they were full. There were red signs. Protection needed before you enter, blah blah blah.

What happened was, you had these sick people who were dying and were going to die and were terrified of dying, alone without any physical contact, without family or friends willing to come visit them, and they were feeling really bad. They had lots of opportunistic infections, whether it’s Kaposi’s lesion, or pneumonia where they couldn’t breathe, and diarrhea, and fevers, and night sweats, and wasting syndrome. You had all of these things coming together at one point.

The hospital team was made up of people who were willing to go and visit the patients, and I was one of them, and I was in charge of them, and we would schedule it, and we would have training sessions. That’s another important thing, is that we would have training for the volunteers at least once a year at the hospitals, where we would have medical personnel come in and explain about transmission as best we knew then and precautions to take, et cetera.

We would go in, and we would visit the patients. I remember, we would
have our gloves on, but we would touch them. We would massage them. We
would bring them teddy bears and books and visit and make sure that anything we
could do to make their final days comfortable, we would do, including their estate
planning documents. I felt this was really important. I was not afraid. I was
never afraid. I’m not sure why, but I was never afraid.

PINCHAK: How did your law firm feel about it?

KATINE: One morning, I came in and everybody was in a big meeting in the main
conference room, and I went in the meeting, and I said, “Oh, I’m sorry. I didn’t
know. Nobody told me we had a meeting. I’m sorry that I missed it.”

They said, “No, Mitchell, this meeting is about you. Would you please
step out, go to your office, and when we’re done, I’ll come and talk to you,” the
owner of the law firm said to me. It was a small firm of about three lawyers and
three or four staff people and me.

I remember calling my roommate at the time, Andy Klein, and telling him
that, “They’re having a meeting about me. I don’t know what it’s about.” I didn’t
know what it was about.

He said, “All right. Well, call me back later.”

A little while later, the owner of the law firm came in, and he said, “Well,
Mitchell, we have decided that we’re concerned about you and your volunteer
work with the AIDS Foundation and people with AIDS, and we have decided that
you need to stop that because we are afraid that you’re going to get HIV or AIDS
on you in some way, bring it into the office, transmit it to us, and we’re going to
take it home and give it to our children.” It was very, very serious. This was not
a fear that was unrealistic to them.
They said, “You can continue working here, and we have no problem with your homosexuality. Your being gay is not a problem to us. It’s all this HIV stuff that we’re worried about.”

I remember the owner telling me, “I don’t even go to the dentist; that I’m so afraid that I might get HIV, I’ve stopped going to the dentist.”

It’s important for people to understand that at that time, people were still wondering, do you get it by saliva? Do you get it by the air? Even when health professionals were telling people you don’t, at those very early years — even, I guess, some people might even believe it today; they don’t know how they’re sure to get HIV — that certainly in the mid-1980s it was not decided, at least in these people’s minds.

So I told them that I couldn’t stop; that this was important to me.

And they said things to me like, “Well, why are you throwing your legal career away for people that are dying anyways?” Things like that.

I told them that I would stop [until I got another job], and they said, “Okay. Until you get another job, we don’t want you to see anybody. We certainly don’t want anybody coming in the office,” et cetera.

I’ll tell you too, to my — I don’t know if I want to use the word “shame” or whatever — but I agreed to that. I said, “Okay. As long as I’m working here, I’ll stop helping people who are HIV positive.” I don’t know that I really did that, but at least I told them that.

Then I went to my third law firm, and I met Gerry Birnberg at Williams, Birnberg & Anderson, and he offered me a job. I had talked with him earlier, but I went back to him, and he offered me a job, and it was a totally different
environment at that time, not in the world from HIV and AIDS, but at that law firm. My secretary, whose name was Terry Credell, was very helpful and supportive, and we started helping people with HIV and AIDS in doing estate planning and other legal matters in discrimination cases.

I remember one day when Terry, at the early days, came in and said, “Mitchell, I can’t handle this anymore.”

I said oh, no, what’s going to go on here? Is this the same thing that I experienced recently?

And she said — she was a very emotional person, and still is, I guess — said, “I want to do more. What else can we do to help these people? I’m happy to help them with their wills and powers of attorney, but I want to do more.”

That was just such a breath of fresh air. I remember specifically, because it was odd to me, because I had been living with HIV and AIDS in my life, not personally but in my life, I felt, for a long time, she got so upset when Magic Johnson announced that he had HIV, I mean crying and hysterically upset. That was so odd to me that she would be so upset about this kind of movie star/athlete-type person whom we don’t really know but she felt she knew. It was a really big deal for her, and it was just curious to me that we have all these people coming in and out of our offices who we know are sick, and Magic Johnson pressed her buttons.

PINCHAK: Isn’t that funny? I guess, whatever it takes.

Now, did you see anyone from the old law firm again? Did you, yourself?

KATINE: I did. I did, because when I talked to my friends, Andy Klein and other friends who got very angry that the firm basically fired me for my volunteer work
and my support of people with HIV and AIDS — and I’ll tell you. I was never angry. I disagreed with them, and I thought it was the wrong decision. It ended up being the right decision for me because it got me to a great law firm of Williams, Birnberg & Anderson, and I continued on with my career.

Probably 20 years later, I saw my old boss, who was 20 years older and had some medical problems, serious medical problems, and he said, “Mitchell, I need you to come into my office. I need to talk to you.”

I remember going into his office, and he said, “I want you to know that what happened when you were working for me was wrong and that I apologize, and it should never have happened.” He said, “The ladies in the office were really scared, and that’s why we did this.”

I wanted him to know, because I didn’t want him to carry this around, because I never thought that it was an intentional bad act. I thought it was being ignorant and scared, and I wanted him to know that, as he was experiencing his own medical crisis in the end of his life, that I was okay; that he didn’t need to worry about that anymore.

PINCHAK: That’s lovely.

KATINE: I appreciated it. I appreciated him taking the time because I always wondered, “Do you remember this? Is it something? Because I remember it. Was it something in your life that you remembered?”

For him to do that as opposed to pretending it didn’t happen and pretending it wasn’t a big deal, it’s not like I said, “Do you want to talk about this? Do you want to resolve it?” I was not bringing it up. He brought me into his office, and he brought it up 20 years later as something that he wanted to clear
up, and we did.

PINCHAK: That’s lovely. How many friends did you have who died of AIDS?

KATINE: Well, you know, I was going to print that off for you today because I have a list. Over a hundred. Over a hundred friends/clients that passed away from HIV and AIDS. I remember talking with my mother and father, who obviously are older than me, and they would have occasional people pass away, that during these years, probably about a 10-year period from 1985 to 1995 was probably the worst time where I was having friends pass away and die, and former partners and things like that.

What people need to understand is that these are not sudden deaths. These were not unexpected deaths. These are people whose medical condition slowly was deteriorating; that they were taking very toxic drugs that made them sick, nauseous and diarrhea and all that stuff, and they really weren’t working. People were helping to prolong life a little bit, but they weren’t saving lives. All the drugs we have today, of undetectable [HIV status], and all that, that wasn’t heard of at the time. People were dying.

I had a former partner named Carlos who was in that process. Again, we were friends after we were no longer partners, and I remember him coming into my office, and he returned the jewelry that I had given him. He didn’t obviously have to do that, and I still have it today, but that’s a really emotional and sad thing to do because it’s the conscious acknowledgment of I’m not going to be here much longer, and I want you to have this. I reluctantly took it because it was something to remember him by and our former relationship and friendship.

With regards to Carlos, the thing that also stands out in my mind with him
is that people would go into these hospital wings, and they would be there for
weeks and months until they died. Carlos was in the hospital for a long period of
time. Again, it’s not like today, where someone might have a heart attack and be
in the hospital for a week and then die. They were there for weeks and months on
respirators, on medicine and all that, and sometimes they would get a little better
and get released and then go back in the hospital. This was a big business for
hospitals because they didn’t have cures and it was just a prolongation of death.

Carlos was in, I think it was, Memorial Southwest Hospital for a long
time. When you’re not sick and you have a job to do and your life to live, you
can’t spend months in the hospital with people, so I felt bad that I hadn’t spent a
whole lot of time with Carlos as he was in the hospital in his final weeks. I was in
a different relationship with a different person at the time, and so I said, “Look, I
haven’t spent any time with Carlos. I’m going to go spend the night with him.”
At the time, because of how things were, and things were better now as far as no
gowns and masks, people were okay with that, but people were still sick and
dying, the hospitals were set up in these, and they may still be there today, these
chairs that open up into a bed where family or friends can sleep overnight with the
patient.

Before that, on another visit, it was very interesting because for some
people who might be listening to this or reading this who have never seen
someone who’s dead or had a friend or family die, they may not really realize
what that’s about. But having gone through this, and I’m going to come back to
the Carlos story, but I think I need to say this because this is a little odd, but when
someone dies and you see them and you’re with them, the stillness of their body
of not breathing, not moving, not speaking is tremendous because it’s so different. We’re so used to seeing the body expand and contract without us realizing it, but when they’re dead, they aren’t moving. That’s the first point.

The second point that is just as astonishing, and I want to say it because it’s so profound, it’s obvious but profound, and that is, when someone dies, they are never coming back and you will never see them again, ever. That is it. Someone listening to this might think, “Well, of course, of course,” but when it happens to you, not dying but knowing someone that dies in their twenties or their thirties and you’re never, ever going to talk to them or see them again, it is astonishing. It is astonishing. I can’t impress this upon you enough that your friend that you’ve known for 10 years, you will never speak to them again and never see them again. It’s just an astonishing thing.

Because this was an experience that we were all going through, before Carlos went into the hospital I remember him being in his bed at home and me visiting him and him not feeling well and me telling him, saying something like, “I need to tell you this while everything is okay,” because I knew what was coming, and I knew that when he died, I would never see him again, so I had to tell him while we could talk that I would miss him and that I was very sorry that he was dying. And he acknowledged that and understood that, and we had that talk. I think a lot of people did.

People who were dying would have events where people would come over, and they would say good-bye to people and they would say thank you to their doctors who had done everything they could to help them because before it got too late when they couldn’t speak and they couldn’t move and they were out
of it, they wanted to let people know. It was more of this acceptance of I know it’s coming, and so I want to do the right things now.

Back to the hospital visit that I stayed overnight with Carlos, because I had regretted that I hadn’t been there all week and he was still in the hospital and hanging on and doing all that, so I went and I spent the night there. He was not in really good shape. I think I could communicate with him when I got there so he knew I was there, and then he went to sleep and I slept in the chair. I was going to spend the night, which I did.

I remember at 3:00 o’clock in the morning the nurse coming in and waking me up and telling me that he was gone. You can interpret that any way you want; that he was waiting for me to come there, whatever.

That’s a true story, and I called his sisters and had them all come over. I spoke at his funeral. He’s buried in Wharton. I spoke at his funeral and talked all about our travels and his life and all that, but he must have been in his late twenties or early thirties. That’s just one person.

PINCHAK: How good that you were able to —

KATINE: Well, good for me. Good for me that I could be there.

PINCHAK: Now, you were the attorney on the Lawrence case, which overturned the Texas sodomy law.

KATINE: In 13 states.

PINCHAK: And stated marriage is a fundamental right and set the stage —

KATINE: No, no, no. Lawrence didn’t state marriage was a fundamental right.

PINCHAK: But it set the stage.

KATINE: It set the stage for marriage equality; that’s correct.
PINCHAK: And then the final Obergefell case legalized gay marriage, which you sort of set the stage for.

KATINE: Yes.

PINCHAK: You said something about how you felt that your work in the early years of the AIDS crisis — how did you —

KATINE: I guess thinking about it now in talking with you, what I’m going to say is, and this might seem a little strange, with regards to the Lawrence v. Texas case, there were many lawyers on the case. I was just a helper. I helped on that. Quite frankly, I think anybody could have done what I did in the Lawrence case. During these years of the AIDS crisis, I kind of felt like there was nobody else doing this; that the need for me to help people was greater at that time than with Lawrence v. Texas. There were lots of people that wanted to help and would help and blah blah blah. That wasn’t the case during 1985 to 1995.

PINCHAK: You felt in your career the cases that were the most important for you were —

KATINE: The work that I did with people with HIV and AIDS was more personally rewarding to me than winning a United States Supreme Court case that changed the laws of this country, and that’s because the individual connections that I had with people who were in crisis, who would come to me and they would say, “Mitchell, I’ve looked. I’ve been all over town. Nobody can help me with this, and you’re my last stop. If you can’t help me save my life insurance for my son who’s sleeping on your floor” in my office — they would bring their children, and they would say, “Look, I’m dying. I have this life insurance policy that they’re not going to pay. They’ve already canceled it because of my HIV and
AIDS, and I’m not going to have anything to leave for my son, and you’re my last stop. If you don’t save this, he’s going to get nothing when I die soon.” That to me was much more valuable work than my Supreme Court work.

The other thing I think, I’m not a shy person, and so I don’t mind going on TV and I don’t mind going on radio and speaking to groups, I think it was important — and I’m going to use this term; I hope it’s not that — to be a role model for other lawyers to say, “Hey, it’s okay. You don’t have to be afraid. You can get out there and do this.”

I remember I’ve been on TV talk shows during this time where people would say to me, “Why are you doing this? You don’t have AIDS. You don’t have HIV. Why is this” — I think that’s a pretty stupid question, because it was a time of crisis in that people that I knew and loved were dying, and I wasn’t a doctor. I was a lawyer, and I could just do what I knew how to do, both personally as a person with my volunteer work and then as a lawyer with estate planning, with fighting discrimination, things like that.

I remember I was on a talk show with a client of mine, and the talk show host said to me, “Mitchell, have you ever read Dante’s *Inferno*?”

I hadn’t.

He says, “Well, I want to tell you a line from Dante’s *Inferno.*” He said, “In Dante’s *Inferno,* it says the hottest place in hell is reserved for those people during a time of crisis who do nothing.”

That was a nice thing, because I had many friends who were making money and being a lawyer and doing their stuff. If they didn’t have it, then they really didn’t care about it.
PINCHAK: That’s so great. I suppose back then, a lot of things we take for granted now in the law were not there.

KATINE: Correct. The ADA [Americans with Disabilities Act] wasn’t even in effect.

PINCHAK: The ADA, just to explain, tell me what it provides that was not there back then.

KATINE: Before I do that, I want to tell you one other thing, and that is that I always wanted to have children. I would tell people who asked me why am I doing this, I would tell them that I hope to have children one day, and I hope for there to be a cure for HIV and AIDS one day and all this mess be in history, kind of like the prohibition of gay marriage. That’s now historical. In the years ahead, people are going to wonder, oh, did that really happen? Was that really there?

I believe they’re going to find a cure for HIV and AIDS during my lifetime and it’s going to be over. My kids, who are now 14, who were born in 2002, are going to read about this when they get to college, and they’re going to read about the AIDS crisis and people dying and nobody knowing what to do. I used to always say that if they asked me, knowing that I’m a gay person, “What did you do during this time of crisis?” I would be so embarrassed if I said I did nothing, I made money, or I was working.

I didn’t really know I was going to have kids back in those days, but I hoped I would, and I would tell them that I did everything I could. That’s what I did. I did everything I could.

PINCHAK: And you did, and now you can.

KATINE: And I did have kids, and now I can. It was interesting the other day on a gay bachelor show, you know, where they pick a date or whatever, one of the
contestants came out as HIV positive on the show, and I was watching it with my daughter, and the bachelor who had to pick people was spending some time with the HIV positive person and he kissed him on the lips. My daughter said, “Is that how you get HIV? Why did he kiss him? He has HIV.”

I was able to explain to her about that; that that’s not how you get HIV and things like that.

The Americans with Disabilities Act was enacted, I believe, in 1990, and it took effect in 1992. Again, when you have a new law, people don’t really know what it is or how it works and those type of things. Before 1992, there were literally no laws dealing with discrimination protection for people with a disability. There’s still no law specifically on HIV or AIDS in federal antidiscrimination laws, or state. The only way people with HIV or AIDS get protection from discrimination is because of the definition of a disability under the ADA, which is a physical or mental impairment which substantially limits one or more of your major life activities.

There is one United States Supreme Court case called Abbott v. Bragdon. I’m not really sure what year that came out, but it was a dental case. It was also written by Justice Kennedy. The Abbott v. Bragdon case said that having HIV is a disability; therefore, you have protection from discrimination and that dentists cannot use their subjective fears to deny treatment for people with HIV or AIDS. This was actually under Title III, Public Accommodations, of the ADA, which prohibits discrimination in public accommodations. Title I is dealing with private employment, but it’s all still interpreting what the ADA protects, et cetera.

In the early years of the ADA, we were able to argue that the ADA
protected people from discrimination. But as time went on, as medicines started to come out in the late 1990s, early 2000s, people with HIV and AIDS started to have their symptoms controlled. They were no longer dying. Maybe in the late 1990s, they were no longer having diarrhea and fevers and wasting and all that; they just had HIV. There were still some serious things in those early days. They’re weren’t undetectable yet, but the symptoms of HIV had gone away.

There were many court decisions that were finding that people with medical conditions were not a person with a disability because using medications or it was in remission, dealing with other diseases, and so cases were being thrown out of court on summary judgment because they didn’t even get to the discrimination question. They found that the person with whatever problem it was wasn’t a person with a disability, and that was the trend. The ADA had lost its teeth, had lost its power, et cetera.

Then President George Bush, the son, I believe, signed and Congress passed the Amendment to the Americans with Disabilities Act. The Amendment said that you determine whether a person is a person with a disability — you determine whether a person has a disability under the ADA prior to the use of medication, prior to it going into remission. You judge whether they’re a person with a disability — and I forget the exact term — in their unmitigated state.

Boom, immediately all these people with various diseases and illnesses are now automatically considered a person with a disability. The Amendment to the Americans with Disabilities Act fixed the problem so now anybody who has any serious medical condition is a person with a disability and cannot be discriminated against because of that disability. They still have to be able to do the essential
functions of the job to be protected, but we’re no longer fighting about who’s a person with a disability or not. We’re now focusing on were they discriminated against because of that disability or not?

[END OF AUDIO PART 2]

PINCHAK: That’s great. Before the ADA, were people fired because they had AIDS?

KATINE: Of course. People are probably still fired today because they have HIV or AIDS.

PINCHAK: In Houston, specific cases that you might be aware of people you knew, were you aware of the Bradley case?

KATINE: Yes. Brian Bradley was a friend of mine, and he and I had appeared on a New York talk show together called Rolonda. That’s a very difficult situation because there are specific laws in the Health and Safety Code dealing with HIV positive healthcare workers, and Brian Bradley was a surgical technician at M.D. Anderson Hospital, and he came out in the Houston Chronicle as an HIV positive surgical technician. As soon as that happened, he was relieved of his duties. They convened a committee of healthcare professionals to determine whether or not Brian Bradley was a direct threat, which is a defense to the discrimination, to continue serving in the surgical suite as an HIV positive healthcare worker. They decided that he was not qualified to continue as an HIV positive technician and was reassigned to a different job, which he refused and was therefore fired.

That case is called M.D. Anderson v. Brian Bradley, and it is still good law today. That case went to the Fifth Circuit, and the Fifth Circuit affirmed it.

Quite frankly, people who are HIV positive need to be concerned or careful in the areas of surgery, dentistry, and obstetrics. Those are the three areas
that if you’re HIV positive, you need to give some thought to whether or not you should actually be doing the hands-on patient treatment.

Now, the world is a different place now based upon [HIV] being undetectable and whether or not someone who is undetectable is infectious. There is a line of medical thought that if you’re undetectable, you may not be infectious either sexually or performing medical procedures. The world may have changed, and if a new case comes in with an HIV positive surgical tech who’s compliant with his or her medication and is undetectable, it may be a different story today, but that’s a recent development as opposed to the years in the past.

I also had another employment case dealing with a client of mine who was a machine shop operator operating machines cutting metal and wood and other things like that. He was a heterosexual who had gotten HIV through intravenous drug use, and I actually learned a lot about how intravenous drug use occurs because I wasn’t really exposed to that.

Let me just mention this because there was a whole group of heterosexual people who got HIV. The way that IV drug use transmits HIV is, you have a syringe and you have some liquid drug that you put into the syringe, and then you take the syringe and you stick it into your arm. The way that you ingest the drugs, in case you’re not familiar, is you have it in your arm, and you actually let the syringe fill up with blood. Your blood goes into the syringe, mixes with the drug, and then what you do is — and this is told to me by my friend/client who did this — is you actually go back and forth with it. You pump it in. You let it fill up. You go back and forth, and that’s how you get the drug in. It’s called jacking the syringe. The problem is, you take the syringe out and you give it to your
friend, and then they do the same thing, but there’s some of your blood that’s left in the syringe when it goes from person to person. It’s not like they throw it away and they get a new syringe. It’s not even the needle, it’s the syringe, the little airtight container that has remnants of your infected blood.

My friend was HIV positive. He learned he was HIV positive and went to his boss, who was the owner, whom he felt very close to, and disclosed his HIV status and that he was going to need to be going to doctors’ appointments and things like that. To his shock and dismay, the boss said, “Well, you know, I feel sorry for you, but I don’t know that this is the best place for you to work, but I’m not going to decide it. We’re going to take a vote.”

So the owner of the shop prepared a written ballot that said: “John Johnson is HIV positive. Do you want to continue working with him here at Joe’s Machine Shop? Answer yes or no.” And that ballot was distributed to the 35 employees at lunch.

Everybody voted and they turned in their ballots, and my friend lost the vote by a few votes. Some people voted for him. I mean, they knew him, they were friends with him, but he lost the vote. And so the owner said, “Sorry, Bud, you lost, and so we’re going to fire you.”

Well, he went to me, and I went to the EEOC [Equal Employment Opportunity Commission], and we pursued this. The owner was very candid. He had saved the ballots. So when the EEOC came to do an on-site investigation, he turned the ballots over to the EEOC as legitimizing what he did. He said, “I didn’t fire him. We took a vote. Here’s the vote. You count the ballots.”

That was not legal. It was a violation of the ADA. He claims that his
lawyer advised him to do that. I recall reading in a magazine that he had sued his lawyer for malpractice.

We settled that case for $65,000, and that was the end of that case, and I remained friends with that person for years and years and years until he passed away.

PINCHAK: You also did a lot of work getting disability for people.

KATINE: Private disability, that’s correct.

PINCHAK: Can you tell me about that?

KATINE: Sure. There was the funeral home where I did assist someone whose partner had died, and the local funeral home, and I have the newspaper clipping from that, would not accept his body because of HIV and AIDS. This was a problem at the time, and I filed an administrative complaint with the Funeral Commission, and he and I went to Austin and presented our complaint to the Funeral Commission. I don’t really remember the outcome, but I think it was a positive outcome for us.

It was just people were just terrified at the time, and they didn’t want to — there were also medical people who refused to medically treat people, whether it was the *Abbott v. Bragdon* case of the dentist who refused to clean a woman’s teeth unless she went into the hospital and he cleaned her teeth in the hospital and she would have to pay for it, to people who needed brain surgery and other surgical procedures.

When I was talking, I would go around and give speeches on HIV and AIDS, and one of the things I talked to was, I’d go to hospitals and I would talk to doctors. Many doctors think they know everything about everything. That’s kind of just the profession. When I would give them a little 30-minute talk at
lunchtime in their lunchroom and I would tell them that it was against the law for them to refuse to treat someone because they were HIV or AIDS, they weren’t having it. They weren’t listening to me. They thought I was wrong. They didn’t believe it. Nobody can force them to treat a patient they don’t want to treat for whatever reason.

I said, “Fine.” I said, “You can take that position, and I’ll sue you. This is the law. It’s Title III of the ADA. You can’t refuse to treat someone because you’re afraid of getting HIV. You can stop practicing medicine. That will be fine. But you can’t pick and choose your patients, if you’re qualified to treat them, because they have HIV. That’s against the law.”

They would argue with me. It was a nonwinning argument. “Well, you can’t tell us what to do. This is America.” They were very serious.

I would get calls from time to time about doctors who would refuse to do that or refuse to deliver babies or refuse to do whatever.

You had another question. What was the question you wanted me to answer?

PINCHAK: When someone had AIDS —

KATINE: Disability. Okay. It wasn’t so hard at that time, because people were really, really sick. They were dying. They would go on private disability through employers and get their disability. The change came when the medications started helping people get better. The other thing, don’t let me forget, is the viatical settlements. I want to talk about viatical settlements too because that was a unique situation during the early days. But I would help people fill out their disability forms and help them get their disability, and they would get Social
Security and other disability.

The other thing I would also help people do is — people who had life insurance, even through work, because they were probably going to die, a whole industry came up called the viatical settlement industry. It doesn’t really exist anymore for people with HIV or AIDS, and I’ll explain why, but it was a big industry at that time. Gay people were in the industry. They were salespeople. They would go to an HIV positive person who had a $100,000 life insurance policy and say, “Look, I have investors who have given me money, and if you will assign your life insurance policy for $100,000 to us, we’ll buy it. We’ll give you $70,000. What we need to do in order to see if you qualify is, we need to review your medical records and have your doctor sign a statement that in his or her opinion your life expectancy is 12 months or less.”

This was common. This was very common. The viatical settlement company would also pay for the patient to have a lawyer review the contract, and so they would come to me and they would want the money. They’re going to lose their job anyways. The job has a $100,000 policy. They’re probably going to die. They don’t have any money, and they want to have a fun end of life. So it really was a win-win for everybody except the insurance companies. You had these young people, and some people had huge policies. Some people had $1 million policies where they would get a check, tax-free, for $700,000.

I remember friends who had all this money. They would buy huge amounts of lottery tickets, huge amounts of lottery tickets. They would go on cruises. They would buy houses. They would come into this huge amount of money quickly, and the companies would make $30,000, $40,000. It depends.
The sicker the person was, the more money they got because their life was going to be over sooner. If they weren’t that sick, they might get 40 or 50 percent of their policy because the investors would have to hold off and wait longer to get their money. This was happening all the time. It was a big business for everybody.

Then came antiviral drugs. People stopped dying. What would happen that was really strange, because what would go on is, these investment companies would call the patients to see if they were still alive and how they were doing. I have people who are clients and friends today who did this back then who have never died. So these investors who paid to have these life insurance policies — and not only that, some of them had to continue to pay the premiums on the policies to keep them in force or it would lapse.

And part of the deal was, we’re going to give you $70,000. Well, they got their money. They don’t care about paying a premium anymore. The investment companies had to pay the premiums.

Now you have people who are not going to die until they’re 60 or 70 years old. They had this bunch of money. Most people would spend their money because they thought they were going to die too, and then we had this — and I have newspaper articles about this, because there was this phenomenon that occurred where people stopped working, sold their life insurance policy, had their estate planning documents done, planned their funerals, and then they didn’t die.

It’s kind of like when I told you I was going to be a guidance counselor for junior high school and then I got this postcard that changed my life; that now I’m going to go to law school in Texas. It takes a little while to shift gears. That
experience has a name for it — I can’t remember the name for it, but it’s in some of the articles — where you think you’re going to die, and suddenly something happens and you’re reborn; you have a new life. That is what was happening to many, many people, and they were worried. Could they be sued for this money they got? The answer is no. This was a risk that they took. Everything that was filled out on the forms to get the money was true. They thought they were going to die, their doctors thought they were going to die, and then there were breakthroughs in medicine. It was an unusual time.

PINCHAK: That’s amazing. That was a great opportunity there.

You talked about once the drugs came into play. What about in the very beginning? When you were practicing law, someone would come to you, and you would be involved in planning.

KATINE: That’s true.

Can you put a hold on that for a second?

[END OF AUDIO PART 3]

[BREAK]

KATINE: During the time that there was little hope and little medicine, we were managing the crisis, making people feel as comfortable as they could and trying to take care of their needs. We all knew that death was imminent; that they were going to die. It’s odd to talk to people who know that that are your friends or family, and it’s probably odd for the person who realizes that they’re going to die, and there’s probably a process of going through denial and anger and fear and then acceptance. Memorial services and funeral services every weekend.

There was a local gay publication called the *TWT, This Week in Texas*, and
every week that it came out, the first thing you would do is turn to the back of it and read the obituaries. We don’t have obituaries anymore. In *OutSmart Magazine*, we don’t have obituaries very often. But it was every week, and there were lots of people dying, and their obituaries were there. There wasn’t anything we could do.

The one thing we could do, I guess — we couldn’t do anything about them dying. What we could do is, we could try to carry out their wishes legally through wills and powers of attorney, but also for their memorial services. Memorial services were more common than funerals. There were so many people that most people got cremated. What we would do, what I would do with my friends, is that I would at the appropriate time meet with them. And just like you plan a wedding or a quinceañera or a bar mitzvah or whatever, we would plan their memorial service, literally from whom we want to invite, where it was going to be held, what the service at the memorial service was going to include. And the individual would select their own music, their poems, who was going to read the poems. They would pick out what picture they wanted on the program. We would do all of that. And then they would pass away, and then we would carry out the plans. We wouldn’t make a reservation, but we would have it all worked out, because I felt like that was something that I could do for them.

And then when we had the memorial service, we would say this is what Harry wanted. He planned this. It was a little, like, *Twilight Zone*-y, where you would plan it with the person, and then they would die, and then you would carry out what they asked you to do. It was surreal, unusual, but unfortunately it was pretty common.
PINCHAK: Back then, would people come to you as an attorney for all of the —

because there was a lot involved with letting people come to the hospital, seeing
them.

KATINE: Oh, yeah, regarding their whole estate planning needs? Yes, we would do
their powers of attorney, their declaration of guardians, their directive to
physicians, all of those things.

PINCHAK: And they needed more back then than people now?

KATINE: Well, we actually do the same documents now.

PINCHAK: You do the same documents now?

KATINE: We do the same documents now. But what we would do is, we would often
do them for free, because people weren’t working, people didn’t have any money,
and so we often did them for free. We would have gatherings where we would
get everybody — you know, let’s go to Bering Memorial, and let’s all do our
documents, and let’s get it done all at once.

Of course, there wasn’t any gay marriage back then, so you had people
who were in long-term relationships, often both people had HIV, or one person
had HIV, and their relationships were not honored, and so if they didn’t have
these documents, families would come in when somebody goes into a coma or are
very sick and can’t express their wishes anymore, and take them away, literally
take them away.

There is a story that I like to tell clients, and that is that two guys came in,
probably about 10 years ago, to see me. One of them had HIV, and one of them
didn’t. They were in a relationship. They came in, and they said they were there
for me to make all of the estate planning documents for the person who got
diagnosed with HIV. The other person was an athlete. He was a professional dancer. He was fine.

I said, “Are you sure? I really think we need to do everybody.”

They said, “No, no, no. We’ll do the other one later. The HIV positive person, he may die. Let’s get him done right away.”

I said, “Okay.” We did all of the person’s documents who was HIV positive.

Well, as you might imagine, a few years later, the professional dancer, while he was on stage in New York on Broadway, had an aneurysm, and it went to his brain, and he had a heart attack. He was in a coma for about three years. His family took him and put him up in Dallas in a nursing home facility and prohibited his partner from even visiting him. Eventually the person died, but for three years he couldn’t go visit his partner, and that was all because we didn’t do his documents. We did the HIV positive one, who is still with us today and who is fine.

So you never know that’s going to happen.

PINCHAK: You never know.

One of the big issues with employment was that it provided insurance.

KATINE: Oh, my God, let’s talk about that for a moment. There’s another historical change in the world, and that is that before the Affordable Care Act, pre-existing conditions were a big problem, both sometimes at employers but absolutely for private policies.

Let me explain what a pre-existing exclusion is because people may not know what it is, depending on when they hear or read this, because they’ve gone
away, and that is, when you get insurance, when you got insurance, if you had a medical problem or were treated for a medical problem within a period of time, six months, nine months, a year before you got the insurance, that insurance would not cover that condition. That’s a pre-existing exclusion. That was common, very common in insurance policies. Let alone if you had a medical condition, you often wouldn’t get the insurance either, but even if you did, almost all policies had a pre-existing exclusion policy. And so if you had HIV, you would get the insurance, but the insurance would cover everything except the HIV, which is what you needed the insurance for, and so people wouldn’t have insurance for medicine, for treatment, for hospitals.

I mean, you’ve got to remember this was a constant thing. All different medications were coming out. People were going to their doctor, they were getting transfusions, they were getting different experimental drugs too where things were new, so insurance companies wouldn’t pay for something that was experimental. So you had this huge financial burden on someone who’s very sick, the insurance wouldn’t cover it, the medicine might or might not work because it was all new, and it was a terrible time.

And the side effects were terrible. Nowadays you can take one pill a day for your HIV medication. Soon there’s going to be a shot that you can take every other month and you don’t have to take a pill a day. Right now, in 2016, most HIV positive people take a pill a day.

In the 1980s and the 1990s, it was a handful of pills. We’re talking 10 to 20 pills a day, each pill having its own side effects of nausea, diarrhea, vomiting, headaches, insomnia, sweating, physical deformities of a big belly, of a big hump
on your shoulders, of skin problems, but they were trying all types of things to save people’s lives, and most of it wasn’t working.

PINCHAK: Could employers require a test for AIDS before?

KATINE: Well, there is a law now, and the law came into effect pretty early. The only way an employer could test someone for HIV is if it was related to their job, like a surgeon or a medical professional. But most employment insurance had a healthcare questionnaire that you had to answer, so you had this dilemma. You have to fill out the questionnaire, and if you lie on it, then they can cancel your insurance. If you tell the truth and you turn it back in to the employer, you’ve now disclosed your HIV status, which they can now use to find some reason to try to get rid of you, so it was a catch-22.

PINCHAK: Were there limits on what insurance companies would pay for AIDS? Could they limit payment on insurance for different diseases?

KATINE: I don’t really recall that being a problem. The problem was the pre-existing exclusion and the denial of coverage if you had a medical condition and then canceling it if you lie and they get your medical records and discover you did.

So what people would do, not based on legal advice, but what people would do is, they would change doctors. The other thing that doctors would do is, they would create medical files under pseudo names so if I was HIV positive and I was going to a doctor, I would ask the doctor to create a fictitional file for me so that my insurance company and the whatever, computerized Internet, would never know that Mitchell Katine was being treated for that. And often a lot of people paid out of pocket. They didn’t use their insurance because they were terrified that the insurance company would tell the employer or that they’d be blacklisted
or whatever.

You had all of these schemes, and quite frankly, the doctors were participating in them. They would have a real file and a fake file.

Then the other thing would be, if I was starting a new job and I was identifying as no health problems, I would go to my employer, I’d start my job, I’d get the insurance in place, and then I would go to a new doctor who never met me before, who didn’t know anything about my medical condition, and I would go in and I would say, “I’m feeling a little tired. How about if we have an HIV test?”

They would do an HIV test, and lo and behold, they’d become positive. Their insurance is in effect. They would have that covered. It would be like a new medical problem. People had to do these things in order to get coverage.

PINCHAK: Would underwriters, in examining whether to cover people and what to charge, would they look at certain lifestyles?

KATINE: From time to time, you would hear — that’s why they’re under the antidiscrimination laws that took effect. You cannot be discriminated against because of your disability status or because of a perceived disability, or under the HIV what’s protected is that you’re HIV positive, you’re HIV negative, or you’re at risk for HIV. Yes, you would see that somewhat, but I don’t think it was really as rampant as one might think.

PINCHAK: You mention insurance companies telling employers. What about confidentiality? What was it like in the early days?

KATINE: Well, I will tell you that having practiced in this area for over 30 years, I’ve actually never had an insurance company tell an employer someone’s HIV status.
It was a fear. I think even to this day, people with HIV, many people have this paranoia that they can’t tell anybody because of the stigma and the fear of what might happen.

I have a lot of clients where their doctor and I are the only ones who know that they’re positive. They haven’t told their families. They haven’t told their parents. Some of them haven’t told their partners. They are afraid. A lot of the fear comes from the whole stigma of how HIV started and that it’s a sexually transmitted disease and bad people get it and those type of things.

People are still very concerned. It’s better nowadays, but there’s still a very concerning feeling from people, and some of it’s not warranted, some of it’s not necessary, but they think it is.

PINCHAK: What about in the early days or even not so early with AIDS and family law and judges deciding custody?

KATINE: Well, certainly during the early days when people were not sure how HIV was transmitted, I know that custody decisions were based upon HIV as well; that it was a transmissible disease that could be transmitted through using cooking utensils and spitting or saliva and sleeping arrangements. And things along those lines were a concern; not as much today.

The other thing, I don’t really practice in family law, but what I do realize because our firm does family law and we have a family lawyer named Ashley Scott, is that sexual abuse and allegations of sexual abuse are not that uncommon in divorces and child custody cases, and so certainly if you have people — and also drugs and alcohol are common in other families. It’s not in my world, but it’s in the bigger world, and so when you have drugs and alcohol and you have
allegations of abuse of children and/or sexual abuse of children, then I think to some degree HIV and other medical problems, other medical diseases, I think may be relevant. It depends on the situation. There are people who are accused of having sex with their children, and if they’re not compliant with their medication because of their drug and alcohol abuse, the children can be infected.

PINCHAK: Was there a case in Houston about a court terminating access to a child because of the partner?

KATINE: The roommate, yes. There was a case in Houston involving a person whose roommate had AIDS. When you’re divorcing and fighting over children, no holds barred. You use anything you can to try to win. What this spouse tried to do, the spouse who was fighting the other spouse over the children, is they submitted an affidavit about the roommate, who wasn’t even a party to the case, saying that this roommate had HIV or AIDS and named the roommate and put it in the public records and outing the roommate.

That was a violation of the confidentiality laws, and the person who did the affidavit was sued, but the case was resolved on summary judgment, saying that the confidentiality laws were not designed to protect this type of disclosure and that this was allowed and all that. I don’t agree with the decision, but that’s how it got resolved.

PINCHAK: Is there anything else that you would want people to know about the legal landscape in the early years or anything else in Houston about the early years or anything in general?

KATINE: Well, the only thing that comes to mind immediately is that there were big financial implications dealing with HIV and AIDS in Houston to the insurance
industry, to the healthcare industry, to the funeral home industry. This was a major event, and also to the individuals. It had a huge financial impact. People were stopping work. People were going on public assistance. People were dying. They were filing insurance claims. It had a huge array of financial implications, and there were some people who were trying to take advantage of a financial opportunity, and there were others who were trying to fend off the financial loss associated with this, particularly insurance companies.

Politically, you had legislators who had constituents, and they were trying to deal with this as well, as well as the drug companies trying to come up with medications and what to charge for those medications and who was going to pay for them. If you didn’t have insurance, then that goes on the county and people.

It was a troubling time. It was a time of imagination and trying to figure things out where there wasn’t a landscape. The easiest thing to do as a lawyer is to study a law and see whether it applies to the facts or not. The more often you do that, lawyers do things over and over again. This was like my case last year or the year before. I have the pleadings. I don’t have to come up with anything unique. During this time, doctors and lawyers and judges and insurance companies were dealing with something for the first time that they had never had to deal with before, and they had to figure it out from scratch.

That is the best way to describe what was going on, and that’s not always a good thing because you come up with wrong answers and people die or people don’t get their benefits or you don’t win whatever it is you’re trying to win. It was stressful for everybody, and it was sad for everybody. We just needed to get through it and see who was left, and not everybody made it through it.
It’s an important time because many people, men and women, did the best they could during that time. In fact, there was a large women’s movement. The safest people from HIV and AIDS were lesbians because they weren’t exposed to HIV and AIDS generally unless they used IV drugs. Heterosexual people were, homosexual people were, but not lesbians. There were certainly, like on these hospitals teams that I was telling you about that would go visit people, there were certainly many women who volunteered.

That’s the most emotional thing for me is just remembering back to those days where people were sick and dying and were alone, and people were afraid. For people who stepped up during that period, to whatever degree that they put themselves at risk, which they really weren’t, but they didn’t know that, it was very much appreciated, and hopefully their lives will always be better for the fact that they did what they could during that difficult time.

PINCHAK: You were a big one of them.

KATINE: I was certainly one of them.

I guess I also need to tell you — this is an interesting little tidbit — I carried double insurance. That’s just a little aside, but where I worked, I had insurance, but I actually paid for a private insurance policy for myself because of my fear that I was going to get HIV and how would I change jobs? That was the problem. For a lot of people who had HIV and had insurance, they were locked into that job. They could not change jobs because of the pre-existing exclusion. The way I handled that, because I was a single person and had a lot of money from being a lawyer, I would pay $500 a month to carry my own health insurance policy that I never used. It was a just-in-case policy that if I ever got HIV.
And I thought that I might or could. I would go on a date and be sexual with someone, and then I’d run off to the Montrose Clinic at the time and get tested, and I would be a regular. I would literally be a regular, and I would go in and I would talk to the counselor and I would tell them what I did and I would say, “Now, was that risky? Did I put myself at risk if I did this or I did that?”

They would often say no, that a lot of people — and I also taught HIV and the Law during this period. I taught HIV and the Law at University of Houston and South Texas College of Law to law students, and it was a very popular class.

I would get calls from students who did the same thing. They would say, “You know, I went to a strip club, and I kissed the woman’s breast. Should I go get tested? I’m afraid I got HIV from touching her breast.”

People during this time, and I know people who have affairs, it was a lot of internal guilt and shame that connected with the HIV fear, where they would do something, whether it’s have sex with a prostitute or anything, and they would feel bad about what they did, and then that would translate into, “Now maybe I’m going to get HIV,” and they would go get tested, and they would have counseling.

And they would call me, some of these law students, and I would say, “No, I think you’re going to be okay.”

But I experienced the same thing. I got test after test after test, because there was this three-month window where after you had an experience where you could have been infected, you had three months to wait for your antibodies to develop to see if you got HIV. People would be afraid and I would be afraid.

Eventually after 20 or 30 times of being tested, you would understand that HIV is actually not that easy to get, and if you don’t do certain things, you’re not
going to get it, and if you use condoms, you’re not going to get it. Then I decided this was too much, and I’ll just get tested once a year and that was enough, and so I kind of calmed down, and I’m still here today and still HIV negative.

PINCHAK: Now you have your own practice with a partner.

KATINE: I do.

PINCHAK: Are married and have children.

KATINE: Well, we’re not married.

PINCHAK: Oh, you’re not married.

KATINE: We’re not married. That’s okay. We’re not married, but we’ve been together 17 years and have a great relationship, and we have two children, who are 14 years old. My law partner is not my personal partner. My personal partner is Walter Avila. My law partner is John Nechman. We still have an HIV clinic day here at the law firm, where one day a month we’ll provide free legal counseling to anyone with HIV. I will tell you it’s not used very much; that thank goodness, this is not a big legal problem anymore. But we’re here for the occasional matter by someone who feels they’ve been discriminated against or there’s a transmission issue. Of course, we still do estate planning documents for everybody. I am still hoping for the day when HIV and AIDS is obliterated by a cure and we put this in the history books. We’re just not there yet, but I feel like it is coming in the future.

PINCHAK: That’s great. Thank you for all you do and for all you have done.
KATINE: It’s my pleasure. Thank you.

[END OF AUDIO PART 4]

[INTERVIEW CONCLUDED]

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