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The Rights of the Living Dead

By Fred Motson

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Robert Charleston, attorney at law, had become expert in interpreting the tread of visitors to his second-floor office. Like stories of Wild West trackers listening for hoof beats, Robert would sit in his second-hand chair and listen closely to what approached. Some visitors were easier than others. The postal worker's boots clanged off the metal treads of the external staircase just so, while his intern Jennifer's court shoes beat out a reliable clacking rhythm. There were general rules too. The slap of sandals or the shuffle of sneakers usually meant family business, while hesitant tread in rarely-worn formal shoes was a reliable indicator of criminal defence work. Yet there was one tread that Robert had grown to begrudge, despite the fact that there were never enough potential clients to pay the bills. As soon as he heard the distinctive shambling stumble of a zomb- (he corrected himself mentally) an undead, Robert's heart sank.

"Jen, get the pamphlet," Robert said, carefully keeping his voice at a murmur. The office walls were paper thin after all. That was one of the many disadvantages of running a law practice above a burger restaurant in a suburban strip mall. One of the others was the number of undead who thought he might be desperate enough, or stupid enough, to represent them.

"No sir, you will see it is all explained in the pamphlet and..." Jennifer's voice grew louder as the door to his office suddenly opened. Robert looked up to see a large and surprisingly well-preserved undead man lurch through the doorframe. For just a second, he felt the old fear as the creature stumbled towards him. He might have only been a teenager during the Contagion but the old instincts were still there. *Zombie. Shambler. Aim for the head.*

Robert suppressed the inner voice telling him to pull out his gun from his desk drawer and stood to greet his visitor.

"Well good afternoon sir. As my intern has, ah, tried to tell you, there is unfortunately little I can do for a man in your, ah, particular state of health. The law is clear Mr, uh..." he trailed off and looked at the walking corpse inquisitively.

"Mr Williams. Cornelius Williams," rumbled the undead man. His voice was deep and thick and guttural, although clearer than most of his kind that Robert had met. "And I am fully aware of the information in your little pamphlet."

"Well Mr Williams, given your undoubted learning, you must know that there is nothing I can do in relation to any property that you may, or may not, have owned, occupied or had legal rights in relation to, as per clause 3 of the Undead Persons Property Reorganisation Act 2034. Further to clause 7 of that Act no legal action may be begun or continued in relation to said property and no legal professional or advisor may charge a fee in relation to such an action."

The words tripped easily off Robert's tongue. He was well used to saying them, as it was rare that more than a week went by without an undead visitor, still desperately trying to find a lawyer willing to take on an unassailable law for an unachievable reward.

“Look, friend. I’ve sat in this office for three decades and I’ve never once said yes to anyone who’s asked me to go after their property after death. The UPPRA is clear. For the law, you ceased to own anything the day that you got bit, and this far down the track that’s never going to change.”

“I know” said the undead man simply.

“Then, if you’ll excuse the question, why are you standing in my office?”

“I don’t want my property back. Let my grandkids fight over that, I don’t much like most of them anyway.” What could have been a wry smile crossed Cornelius’ face, although it was hard to tell given thirty years of decay. The big man sighed and furrowed his brow.

“I guess what I really want is my name back. I can tell you I’m Cornelius, and if you’re polite you might call me that, and when I go to collect my ELP the lady smiles and asks me what I’d like to be called and then she’s ever so careful to say Mr Wilson this and Mr Wilson that. But on the forms in front of her I’m 2407CHI3008. I’m 2407CHI3008 to my landlord and I’m 2407CHI3008 to my employer and I’m 2407CHI3008 to the government and if I ever die, I’m sure they’ll put 2407CHI3008 on my gravestone. I don’t need any of my belongings from my old life. I don’t need a house and I can’t drive a car and what good would my money do even if there was any of it left? All I want is my name back.”

Robert sat and digested this. His clients weren’t usually the talkative type, even the ones who hadn’t been dead for three decades. It was a strange request and it sounded like time and effort and legal research, all resources Robert did not usually expend without suitable compensation. At least the guy was on ELP, so there was perhaps some money. And he had mentioned an employer. Robert sat forward. He had decided.

“Mr Wilson, I think we can take your case. And when I say we, I will obviously uh, supervise, your claim but young Jennifer here is the real legal mastermind so why don’t you sit down with her and she can get us started?”

Jen wearily climbed the fourth and final flight of stairs to her apartment. She could smell that Marcus had cooked, or at least done what he considered cooking and had stuck some frozen pizzas in the oven. Still, after the day she’d had she would be glad of anything, even barbeque chicken. Jen let herself in, kicked her shoes off and went to investigate dinner. She usually hated how small the apartment was but tonight she was glad enough that it was only a few steps to the kitchen, then a stretch to the left to grab a plate and then to the right for a beer from the refrigerator, then back across the narrow hallway to slump on the living room couch.

Marcus looked up from his battered laptop. Three decades on from the Contagion and finally they were making new technology that was as good as the old stuff, although it was still well outside of Jen and Marcus’ price range. Then again, so was just about everything except store-brand frozen pizza and cheap domestic beer.

“Rough day?”

“I’ve had better”

“Another shoplifter?” Robert had an unfortunate habit of agreeing to represent shoplifters and other petty thieves. Jen had no problem with giving these people legal representation, but she

wished Robert would stop finding these clients from quite so close to home. Mr Mukahjee at the grocery store three units down would no longer take her coupons since they successfully defended the last three teenagers stealing bottles of liquor and she had dark suspicions about what Maria at the deli was doing to her sandwiches now Robert had agreed to defend the young punk who'd held her up with a knife last month.

"No, new problem this time," Jen said, between bites of pizza. "An undead."

"A zombie? What the hell?" Marcus was many things, quite a few of which Jen liked, but politically correct was not one of them. Having met his parents, Jen was just glad that he wasn't any worse.

"An undead," she corrected him. "And an interesting one. I shouldn't tell you his name because of client confidentiality but it's actually a really complicated legal problem. He wants to get his name back."

"What good's a name going to do him? Most of them have got their hands full stopping limbs dropping off, now they want fancy names? Jen, you're wasting your time if those are the kind of clients Robert's taking on. You know I think the guy's a crook and if he's reduced to representing zombos then he's really hit rock bottom."

"Firstly, I'm the one representing him. And please don't use that word, you know it's offensive."

"Zombos? *That's* offensive? What's offensive is what one of those bastards did to my grandad."

Jen winced. Marcus' grandad had been one of the first local victims during the Contagion. He'd been bitten by a neighbour and then when he'd turned he'd got his wife and two of his nephews before he was euthanised. If Marcus' mother hadn't been away at university he would never have been born, and she never let him forget it.

"I don't want a fight," Jen said softly, hoping to stop things escalating. "I just think that this actually is an interesting legal point. Why don't we let the undead sue? It's the kind of thing that would look great on a job application."

"Oh yeah I bet the big firms are queuing up to hire zombie-lovers! Jen you're three years out of law school already and you're still interning. This kind of dead end crusade is exactly why. You can't seriously expect a judge to take this kind of thing seriously and you'll end up wasting even more time until you realise it."

"Oh and you'll be so busy while I do, will you Marcus? How is that thesis coming along, still stuck on Chapter 2? My dead-end crusades at least pay the rent here!"

Marcus deflated. "Jen, I know things are tough. I'm sorry. It's just, you know, my grandad and all. Listen, you know I'm trying to be supportive. I think you'll make a kick-ass lawyer. I think you're already a kick-ass lawyer. I just think you need to be doing that kick-ass lawyering somewhere better than a strip mall above a Denny's."

"Thanks Marcus." Jen took a deep pull of her beer. "I know what you mean, but if I'm going to get in the front door of anywhere better I need a high-profile case that I can point to and say "I did that". This could be that case."

"But doesn't that law, that 'UPPAR', mean they can't? They get their ELP, and they don't complain about what happened?"

“Well, that’s the thing. UPPRA only says that the undead can’t sue for property rights. There’s lots of laws like it actually, they can’t sue for family rights, they can’t sue for personal injury, they can’t sue for employment rights et cetera et cetera.”

“So how does that help? If the law says they can’t sue, they can’t sue.”

“Well that’s just it. If the law says they can’t sue for *this* and they can’t sue for *that*, then surely it’s saying they *could* sue for anything else.”

“Sort of...everything which is not forbidden is allowed. I think I see what you mean.” Marcus was clearly interested now and Jen felt her anger disappearing. This was one of the things she did love about him. He might have his prejudices but give him an intellectual exercise and he would throw himself into it wholeheartedly.

“Exactly. Why pass all these laws to stop the undead suing if they don’t otherwise have the right? That’s what the case is about.”

Marcus frowned. “But what are you trying to achieve here Jen? Even if this zomb-, this undead, gets a hearing. What then? What’s the point of all this? Just to have his day in court?”

“Perhaps that’s all he needs.”

As the historic courtroom clock tolled the hour, Rachma Disandi grabbed her laptop and mobile phone from the X-ray tray and hurried up to the clerk’s desk.

“Anything good today Bill?” she asked, trying to simultaneously put her laptop away and take a bite of her “lighter life” cereal bar. Diets were hell at the best of times but after one too many glasses, well, bottles, of red last night Rachma was really regretting having nothing more substantial to eat.

“Couple of burglaries over on the criminal side, bankruptcy petition in Three and His Honour Collins has a real doozy of a car crash suit. You’ll be able to hear his displeasure whatever court you choose.”

“Yeah me and the rest of the city,” Rachma replied. “Come on though Bill, there must be something worth more of a story than breaking and entering?”

“Oh I forgot. Big fella, courtroom Six. Not the usual type we see around here, could be interesting. No idea what the case is about though.”

“Thanks Bill,” Rachma called over her shoulder, already on her way to the door of courtroom six. Bill had been here for decades, so when he said something was out of the ordinary it was usually worth listening. Hell, Rachma had even heard from her predecessor on the local news desk that Bill had held off a horde of undead on the first day of the Contagion armed with nothing more than a judge’s gavel.

As she crept into the back row of the viewing gallery, Rachma scanned the room for what had caught Bill’s eye. The jury box and dock were empty, so it was a civil trial. In fact, there weren’t more than ten people in the courtroom. The judge, Gloria Martinez, she was firm but fair and usually good for a quotable line or two in her judgments. The court clerk, the bailiff, the stenographer, no one else in the viewing gallery. Who were the lawyers? On the defendant’s side, well, that was odd. Charles

Hanson, the state's attorney. Usually to be found driving tough plea bargains and charming the great and the good; or if the office rumour mill was to be believed, more often found driving the fairways of the local Country Club and charming the wives and girlfriends of the great and the good. What was he doing on the defendant's side in a barely attended civil suit?

Rachma didn't know the woman opposing him although she seemed vaguely familiar. Brownish hair, shiny shoes and suit with the store creases still in it, she must be new. Perhaps she'd been working for someone...no, it was gone. Anyway, Rachma was more interested in her client. Sat behind her, his large grey hands on his briefcase, the man must have been six six at least. Sat down he was still about as tall as his attorney on her feet and...wait. Grey hands? Was he...?

Trying not to be obtrusive, Rachma craned forwards. Yes, the man was undead alright. Wearing a thousand dollar suit and not missing any notable limbs but still as dead as a doornail.

"Curiouser and curiouser," Rachma muttered to herself, earning a stern glare from Judge Martinez.

"Sorry," Rachma mouthed as she dug in her bag for a pen and a notepad. Bill was right, as usual. This could be a very interesting trial indeed.

"Gloria darling, how wonderful it is to see you tonight. Doesn't Gloria look fabulous Henry? Her and Martina both of course."

"Yes dear," replied Henry Butterstock III, retired prosecutor and lynchpin of the local social scene. He had long ago learned that agreeing with his distinguished bride was quicker and easier for all involved. Of course, Martha had already moved on, grabbing Judge Gloria Martinez's wife Martina and disappearing into the throng.

"It is a surprise to see you though Gloria," allowed Henry, signalling to a waiter for two glasses of the welcoming champagne. "That trial of yours has been all over the news all week. I'd laid Betsy over there three to one odds that you'd maintain the cloak of dignified privacy while that was going on."

"Come on Henry," Gloria smiled, gratefully accepting the proffered champagne. "An old lawyer like you knows full well it's not *my* trial, I'm just the one sat in the middle of it watching. And I couldn't possibly miss your birthday soiree."

"Well, I'm damn glad you did make it. Confidentiality and all that, but surely you can tell us if the rumours are true. Is that undead fella really trying to throw over all the statutes?"

Gloria took a moment to respond, aware that her audience had grown to all of the other guests nearby.

"What gave you the idea he's overthrowing any statutes? Why, that little terrier of a lawyer he's got has made it very clear that he's doing no such thing!"

"Now then Gloria," intervened a new voice from behind her. "I read all the reports and I know for a fact that he's saying the dead have rights. That's the same damn thing." The speaker, a large and florid man, moved to join their group. This gave a gaggle of other guests an excuse to also turn and listen more openly.

“Well Grayson,” Gloria replied, her careful smile unwavering, “that’s just what your friend Mr Hanson is saying too.”

The group laughed, but Grayson Templeton did not laugh with them. One of the wealthiest men in the area, Grayson had always been known for his conservative views and his dislike of anyone, dead or alive, who “stole a living from the state”. In fact, Gloria realised, he was warming up to just that theme.

“I mean Gloria I understand you have to stay neutral, but you must see the ELP is just another way for the lazy to prosper at the expense of those of us who work for a living. Never mind welfare queens, you might as well call them welfare Zs!”

It wasn’t an outright slur and Henry was far too well-bred to dampen a party, but the evening chill was back in the air.

“Listen Grayson, there’s no need to stoop so low as to bring politics into a good clean court case,” he jested, diffusing the tension.

“But isn’t that exactly what he wants?” Gloria was far from the only guest to look around in surprise that someone had objected to Grayson Templeton’s latest diatribe. She was even more surprised when she realised it was her own wife. Martina must have returned to the reception and heard at least the end of the conversation.

“Oh, I mean the claimant, Cornelius, not Grayson,” she said, blushing as she realised she had caused the sudden silence.

“And what does this *Cornelius* want from our fair lady Justice?” Grayson was clearly in no mood to accept the clarification as an olive branch.

Martina was not to be deterred so easily. “I think, well, I think that what he wants is to be treated the same as everyone else. He wants a name, just like I have a name and you have a name and yes, my wife, who has a name too!”

“Nonsense! What he wants is more. More handouts. More rights. More from us, the victims if anyone still remembers thirty years ago. Look, we give them the Extended Living Payments, we let them live in society like anyone else. Hell, I employ about two-thirds of them hereabouts, and damn good workers they are too. Why do we need to rock the boat and have them in court demanding rights as well?”

“I just think that if you’re not a person in the eyes of the law, you aren’t treated like a person anywhere else either. Look around you,” Martina’s voice rose as she gestured to include the marble-floored lobby, filled with guests in their finest dinner dress. “How many undead are here tonight?”

This time, no one seemed inclined to break the silence. Slowly, the group dissolved as guests turned with a sudden interest in their neighbours conversations, until just Martina, Gloria and Henry were left standing together.

“So, what will you decide?” Henry asked quietly.

“To be frank Henry,” Judge Gloria Martinez replied, “I haven’t the first idea.”

State's attorney Jeremy Hanson had been accused of many things during his long and not always illustrious career, but not knowing how to draw the limelight was not one of them. Rachma grimaced with her fellow journalists as they waited a fashionably late twenty minutes before Hanson entered the small conference room, lit by camera flashes as he made his way to his seat on the small platform at one end of the room.

"Gentlemen. Ladies." Was it just Rachma or did he emphasise that second word, his wandering eye roaming the room? She was suddenly glad that she hadn't bothered to put on makeup this morning.

"My esteemed colleagues and members of the press. I will begin with a short statement, and will then take questions."

Rachma sighed. Hanson's short statements were notorious for being anything but, and she had a deadline in an hour. She already had most of the piece written, her natural cynicism meaning that she completed most of it last night before the verdict was ever aired. Still, she needed a quote or two from Hanson to round the piece out so she forced herself to listen.

"...and the sterling efforts of my ADA colleagues in the state office, justice has today been done. The state's argument was simple, effective and right. There has to be a limitation on legal standing, or otherwise the courts would be full of all sorts of people and others bringing all kinds of dirty laundry to the judges and clogging up our fine and fair justice system for those who really need it. Today's result affirms that only a living person has the right to bring a legal action and I for one believe that this was the right result, not just for our county but for our nation too."

Rachma rolled her eyes, but it was the kind of quote that sold newspapers. Then again, so did controversy and Tom Gilpin of the *Post* looked in the mood for blood.

"Mr Hanson," he broke in, despite the press officer's attempts to shush him. "That's just not true is it?"

Hanson bestowed one of his million-watt smiles on Gilpin and the press officer both. "Now then Tom. I don't mind you asking me a question but how can I answer if I don't know what you mean?"

"What I mean is that companies and corporations and charitable trusts and who knows what else are legal persons, aren't they? There's no law that only living persons can go in front of the courts."

"I'm still not sure that's a question Tom, but I'll answer nonetheless." Hanson paused, once again making sure every person's attention was focused on him. "Yes, for good legal reasons sometimes organisations need legal personality. But there are still human beings running those organisations. Thinking, conscious human minds directing their actions."

"So you're saying the undead can't think? Or are they just unconscious?" Romina joined most of the rest of the press corps in smiling at that one. Tom was drunk more often than he was sober but he still knew how to bring someone down a peg or two.

"I'm saying nothing of the sort". Hanson refused to rise to the bait. "I'm saying that there's a very clear distinction between human beings and the undead. That's a distinction at the biological level. Some of the undead, like Mr Wilson, have remarkable abilities. But we all know there are many of his, ah, species, who are little more than mindless killing machines. Surely you're not proposing that those predators get human rights to life, liberty and all the brains they can eat?"

That was the quote Rachma needed and so she wasn't sure why she found herself taking up the argument.

"But we have managed to grant human rights without giving serial killers free reign to murder whoever they please. So is that really a problem?"

"Rachma." Hanson's smile was increasingly strained. "I'm not here to debate ethics and morals with you. That's a job for our politicians in Congress. For me, this is simple. The undead aren't being sued for biting people. So why should they get to sue anyone else? This country was founded on an idea of no taxation without representation. Well, that works both ways. You can't have rights without responsibilities."

Jen really hoped that she was pulling off the confident stride that she was aiming for as she was shown to the table.

"I'm glad you came" said Cornelius, lurching to his feet as she drew near. The waitress took the opportunity to stare openly at her dinner companion. Not that Jen could blame her. Six foot seven, grey skinned and with the strange although not unpleasant odour of long forgotten rooms in a shut up house.

"Did they...you know...were they OK with you?" Jen asked after their server had left to fetch the wine Cornelius ordered.

His slow smile cracked across his lips.

"Unlike in the courtroom, my name is still recognised to book a restaurant table" he replied in his slow and methodical drone. Jen had been frustrated when first speaking to Cornelius but now she was used to the way he needed to take time to enunciate his words.

It was strange. A month ago Jen would never have expected to be speaking to, never mind having dinner with, a man who had, medically speaking, died more than three decades ago. She would of course have passionately resisted any accusations of prejudice but the fact remained. She wouldn't have refused to have dinner with someone undead. But still, she wouldn't have had dinner with someone undead - because she wouldn't have considered having dinner with someone undead.

"Are you angry?" Jen asked over starters. "About the case?"

Cornelius took even longer than usual to answer, speaking slowly and haltingly as he brought what remained of his brain to bear on the question.

"It sounds like something my mother would say. But I'm not angry, I'm disappointed. Frustrated. But not surprised."

"If you weren't surprised to lose, why did you bring the case in the first place?"

This was a big question for Jen. As Robert was fond of telling his drinking buddies, much to Jen's chagrin as she sat and sipped one of the dreadful cocktails in Roberts usual bar, "Jen's still new enough to law to believe her client is always right." She didn't think that was true, but she had believed in Cornelius' cause. For that matter, she still believed in Cornelius' cause.

"Do you not think it's ironic?" Cornelius took up the conversation. "That in order to decide if I had the right to be heard by a court, the court could not choose to hear from me?"

"Would not, more like" said Jen, still fighting the battle with Judge Martinez in her mind.

"No, I think could not. Judge Martinez had a very difficult decision to make when I asked to speak. The common law works on precedent. Letting me speak in my own name would set a precedent and, you might ask, where would we end up? If they let me speak, then they have to let others speak. What about if my fellow undead of more limited cognition bring suit demanding fresh brains to eat?"

"But that's what Hanson argued. And I still think prophesising doom if the floodgates are opened is a pretty desperate legal argument. Judge Martinez could see you were a conscious, thinking person. She just couldn't get over her prejudice."

"I don't blame Judge Martinez. I think she gave the right answer. The problem was that she was asked the wrong question. A wise man once said freedom for the pike is death for the minnows. We asked for freedom for me and others like. She couldn't give that freedom without putting humans at risk. It was the wrong argument."

"So it was my fault?" Jen hated the flush that came to her cheeks. She forced her voice to remain level. "I'm very sorry if my tactics lost the case."

"I'm sorry" said Cornelius, as quickly as he was able. "I'm not criticising your tactics. I'm not saying you were to blame. I was, if anyone was. The thing is, I was so focused on having a right I used to have that I lost sight of what it was I was arguing for."

"But that was what we were arguing for. That you were just as deserving of rights as a living person."

"I know and that is why we lost. We asked Judge Martinez whether the undead should have rights like living people. Judge Martinez heard the question as whether the undead should have the same kind of rights that living people have. And I think she was quite right to say they shouldn't."

"So what you're saying is that focusing on equality was a mistake."

"Yes. No. I'm not a philosopher, more's the pity. I think what I'm saying is that we asked for too much, too fast. You can't go from ceasing to exist to demanding equality in every way. Even if that's fair, even if that's right, you can't do that in the real world. Partly that's because of prejudice, partly that's because people need time to change how they think about something that's been "how it is" for their lifetimes and their ancestors' lifetimes."

"So we have to ask for less than you deserve because people can't handle it?" Jen was once more ready to wade into battle.

"No, that's not it. Or not all of it. That was what I thought when I started this case. That's why I said all along that I had no interest in property. I thought if I limited what I asked for the I'd be more likely to succeed. But it didn't help. Because it was still the same question. Should the undead have rights? Should they have rights like us?"

When you ask the group who have all the power whether another group should get that power too, they are always going to be looking for a reason to say no. And we gave them that reason. We said we want rights because I'm like you. An undead is like a human. Correct me if I'm wrong but the burden of proof is pretty important in your line of work?"

Jen smiled. "You could say that'.

"So it was on them to disprove what we argued. And they did. Of course they did. Because while I might be enough like you that you and me can sit at this table and eat this, frankly, slightly

overcooked calves liver, in the end we aren't the same. You're alive. I'm dead. You are one thing and I am another. So if we're not the same kind of being, why should we have the same kind of rights?"

"So what you're saying is that we shouldn't have focused on how you're the same. We should have accepted that you were different."

"Exactly. We tried to bring this case as if I was just another person. Judge Martinez had to decide if I had rights like a human. Human rights. But that was never what I wanted. What I wanted was to be heard. To be recognised as a living being. To have a name, not a number."

"You didn't care about the right to property. You just wanted to stop being considered as property."

"Perhaps you can use that line in our next case."

"That's what I don't get though. We lost. How do you bring a case and not face the same problem?"

Cornelius sat back in his chair.

"I don't know if you can. I think separating legal standing and legal rights is part of the answer. For Judge Martinez and everyone else in the law, the law is what they've been taught. And the law says there are people, and there are things. You are in the category of people. I am in the category of things. What we need to do is show that maybe I shouldn't be in that category. That even though I'm not the same as you, I'm also not the same as this wineglass."

"Would that be enough though? The right to be considered a, I don't know, a "non-thing". Is that any better? I don't like it but you know what people say – you're protected as things stand. The law might treat you like an object but it also protects you. You get your ELP. People aren't allowed to harm you. Even, like Hanson said, well, you know..."

"...we're not getting sued for biting someone? It's a fair point, we're not. But ask yourself what would happen if I did bite you. Yes, I wouldn't be put on trial for it. Your family couldn't sue me for compensation. But that's because I'd be euthanised, no questions asked. It's not like I'm somehow above the law, I'm just treated differently by it. So if the law still applies to me, why can't I bring a court case in my own name?"

"OK, you're on." Jen smiled. "Marcus will be furious, but let's do it. We can bring another case in another state, or find someone else who wants to sue. It's not like we're short of potential undead clients coming to the office, it's just Robert normally fobs them off with his stupid pamphlet. And we focus on differences not similarities. After all, you can be a person without being human."