

## TRANSCRIPT

From "Diatribes," with host Evelyn Vassa, National Crowdfunded Radio (ExtendCast), Monday, August 17th, 8:33 p.m.

VASSA: This is Diatribes. I'm Evelyn Vassa. My second guest tonight is former judge Robert Franco, legal advisor here on Diatribes. With the Morgan Lorenz case pending, America's attention has turned to the plight of those infected with Virally Induced Hematophagic Predation Syndrome, pronounced as either "vipps" or "vipes." Judge, we have heard a lot of speculation over the past twenty-four hours about the damage the infection can do, to Lorenz's life or potential victims. Can you tell us now what his chances are for prevailing in his lawsuit?

FRANCO: Well, the strongest argument is for medical negligence. If the virus originated at BRHI, and they failed to contain it, that could be easily provable. But it's a slap on the wrist to just make BRHI improve their safety procedures. Lorenz's team is trying for "willful, wanton conduct" and "wrongful infection." After reading the public filings, it seems the heart of the case is to punish the Health Initiative and give restitution to the less fortunate victims. It's an uphill climb—they'll have to provide evidence linking the infections to a specific outbreak from BRHI and willful intent, which can be tricky for something estimated to have started years ago.

VASSA: You see that as a difficult case to make?

FRANCO: Well, (*laughs*) the counter-argument BRHI presents, that's even more difficult. That's the precedent-setter.

VASSA: Let's cut right to it, then. They claimed that Lorenz and all the co-plaintiffs, quote, "lack standing to file a lawsuit in the USA because they are no longer human." Do you think they'll start walking that back tomorrow?

FRANCO: If they were politicians, perhaps, but the weird thing is, they didn't come to this strategy overnight. When Lorenz filed his suit, BRHI immediately moved for a dismissal based on it. At a guess, I'd say they can't stand the thought of a class action. They can't stand the idea of settling with who-knows-how-many wrongfully infected, so they're saying Lorenz has no right to sue, actually, no rights at all.

VASSA: Is this a novel idea? I mean, claiming Lorenz is not protected under the Constitution, et cetera. One is reminded of the war on—

FRANCO: —war on terror. Excuse me—

VASSA: Go ahead.

FRANCO: This, of course, differs. The rationale for Guantanamo prisoners being unable to sue was that it was a military tribunal, and this is a civil matter in federal court. But in a strange way, the Health Initiative has a legal argument based on precedents that have been around for some time. You're going to have to bear with me because I'm going to talk about the rights of chimpanzees, and I've put listeners to sleep with that before.

VASSA: I like to give our audience credit, but summing up is always good.

FRANCO: The thing about defining what "human" is, is that it's been such a self-evident category for so long that nobody really irons out a legal definition until something is close but not quite there. Then, we ask, what does "human" really mean?

VASSA: Well, a DNA test would answer the question, wouldn't it?

FRANCO: DNA, DNA, of course. The holy grail of what makes us human, DNA. Here's the problem with that. It's a case called *Cagersheim v. Simmons*, in which a custodian named Simmons set free eleven knockout-gene chimpanzees on a game preserve outside Atlanta. He was an animal-rights type and wanted them to live out their lives free, but his company, that's Cagersheim, saw the chimps as an investment worth hundreds of thousands of dollars. At first, they sued him, claiming larceny and wrongful appropriation of private property. But he had memos authorizing him to dispose of the animals if some funding didn't come through, and it hadn't. So... the interesting part... when plan A failed, they asked the authorities to charge him with criminal kidnapping.

VASSA: How did they reason that?

FRANCO: They argued the chimpanzees were nearly human. They said an ordinary chimp, genetically speaking, has ninety-four percent of the same genes that humans do, plus these had human DNA inserted into their genome before birth. Simmons was, in essence, kidnapping eleven human beings, whose only substantive difference was low IQs and inability to give consent to be transported.

VASSA: Did that argument get anywhere? DNA or not, they still look like chimps.

FRANCO: Looking like and acting like are very different things. They communicated with sign

language. They showed signs of reasoning. When they were asked about traumatic events, they hesitated as if they didn't want to talk about it. But as you might expect, the appellate court ultimately ruled against Cagersheim. They said it was too far a reach to rule something as human just because of DNA percentage.

VASSA: Okay... let me see if I follow... that would create a precedent, of course, but a VIHPS-infected individual... aren't they completely human?

FRANCO: You just found the ace up BRHI's sleeve. No. They are somewhat different. When I asked a doctor friend of mine, not BRHI-affiliated, what the word on the genetic and epigenetic changes are with this EBL-4, he didn't say, "Oh, the genome's exactly the same. Don't be ridiculous." His reaction was, and I quote, "Um." The qi-activated virus inserts itself into the DNA of host cells like it's endogenous—uh, sorry, like it evolved alongside humans. Anyway, it plugs in, and the infected, their brain changes. They interpret smells better, they heal faster, they're wired to do things normal humans just don't do.

VASSA: Wait, but to categorize a person in the same class as the monkeys—chimps, I mean—you're categorizing them as corporate property.

FRANCO: Again, not completely without precedent. Monsanto's been arguing for years that because they patented GMO pig breeding, they get to own the pig's litter. Technically, if BRHI modified European Bat Lyssavirus enough to be a truly integral part of the genome, they'd have a claim to any nonhuman organisms carrying their virus.

VASSA: Excuse me, did you just say—

FRANCO: I said technically. I can't imagine they're going there. Cagersheim already got into trouble when they had to explain how they treated their human-chimps. The last time Americans put a claim on owning other people, we had a civil war.

VASSA: Let's talk about the arguments they're more likely to use. Can't we say it's like citizenship? Say, "if you have a human mother or a human father, you're legally human?"

FRANCO: I know companies that can make a human in a dish, grow them in an artificial womb. Are the babies not human just because the method was different?

VASSA: Well, but they had to have the genetic material from—

FRANCO: You're back to DN—

VASSA: DNA! (laughing) This is trickier than I thought. What about intelligence?

FRANCO: Very thorny. Are the mentally challenged considered nonhuman? Of course not, but we've got GMO chimps and AI that can surpass some of them in standardized tests, so watch what you say there.

VASSA: Well, you can get "incompetent to stand trial." What if you rule "if they're capable of understanding charges for or against them, they can have legal rights?"

FRANCO: I mentioned AI. Legal-assistant AI could understand that, no question.

VASSA: Well, what scientific basis do we usually use? I mean, what's the line between... like, a housecat and a wildcat?

FRANCO: You *could* use subspecies indicators, as is the case with livestock, which makes the test "are the infected people still capable of breeding with human stock?" We don't know that for certain, and (*laughs*) it sure would be an interesting test.

VASSA: Okay, let's talk practicality. There's the safety issue. We've heard the word "vampire" used more than once. The name BRHI uses, VIHPS, has the words "predation syndrome" in it. Do you expect the defense to play on our emotions, play on our fears?

FRANCO: They would be stupid not to.

VASSA: But the chance of a vampire attack on an average citizen is remote, isn't it?

FRANCO: Well, your chances of being eaten by a shark are incredibly low, too, but the psychological impact is far out of proportion. We don't know how many of these infected people there really are. There could be ten, or ten thousand, and active qi scares people. You want four words that explain why this case is going to be impossible to predict, remember those: active qi scares people. Even people in the judiciary.

VASSA: I understand the judge, Param Bayat, he's known for hearing qi-related cases.

FRANCO: That's true. What I hear from the people who know him is that if you could pick your judge for this, you could do a lot worse than Bayat. He tries to keep current with technology, including stimweb technology. This makes him a sort of rare bird in the legal system, which is usually hopelessly behind the times. He had a quote we dug up, "When the laws of physics no

longer apply, the laws of man must then serve at the highest level."

VASSA: We did some digging of our own, and interestingly, we came up with video. He apparently is unafraid to have cameras in the courtroom.

FRANCO: Yes, that would be his controversial side. He's been outspoken, saying that if you can't defend your ideas in public, they must be lacking somehow.

VASSA: Do you think he'll allow the proceedings to be televised?

FRANCO: Yes, and very soon. Bayat's known for running a rocket docket, in quick and out quick. Unfortunately, with the cameras, we can probably expect theatrics on behalf of both sides.

VASSA: And can we expect the defense to play the qi card and say the infected are subject to powerful and unknown forces? To call them dangerous?

FRANCO: Again, absolutely. BRHI is going to beat the drum that these are monsters and should be locked up. They've evidently had a program in place to do so for some time. Of course, if one really wanted to lock up threats to the welfare of others, the defense might recall the case of *Kelly v. Seven Star Health and Hospice*—do we have time?

VASSA: I'm going to have to cut you off. We've run over even our ExtendCast time. My guest has been Robert Franco, Diatribe legal expert. Thank you very much, Judge Franco.

FRANCO: Pleasure to be here.