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# The Fifth Witness

Written by Michael Connelly

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# THE FIFTH WITNESS

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# PART ONE

## The Magic Words

# One

Mrs. Pena looked across the seat at me and held her hands up in a beseeching manner. She spoke in a heavy accent, choosing English to make her final pitch directly to me.

"Please, you help me, Mr. Mickey?"

I looked at Rojas, who was turned around in the front seat even though I didn't need him to translate. I then looked past Mrs. Pena, over her shoulder and through the car window, to the home she desperately wanted to hold on to. It was a bleached pink, two-bedroom house with a hardscrabble yard behind a wire fence. The concrete step to the front stoop had graffiti sprayed across it, indecipherable except for the number 13. It wasn't the address. It was a pledge of allegiance.

My eyes finally came back to her. She was forty-four years old and attractive in a worn sort of way. She was the single mother of three teenage boys and had not paid her mortgage in nine months. Now the bank had foreclosed and was moving in to sell the house out from under her.

The auction would take place in three days. It didn't matter that the house was worth little or that it sat in a gang-infested neighborhood in South L.A. Somebody would buy it, and Mrs. Pena would become a renter instead of an owner—that is, if the new owner didn't evict her. For years she had relied on the protection of the Florencia 13. But times were different. No gang allegiance could help her now. She needed a lawyer. She needed me.

"Tell her I will try my best," I said. "Tell her I am pretty certain I

will be able to stop the auction and challenge the validity of the foreclosure. It will at least slow things down. It will give us time to work up a long-range plan. Maybe get her back on her feet."

I nodded and waited while Rojas translated. I had been using Rojas as my driver and interpreter ever since I had bought the advertising package on the Spanish radio stations.

I felt the cell phone in my pocket vibrate. My upper thigh read this as a text message as opposed to an actual phone call, which had a longer vibration. Either way I ignored it. When Rojas completed the translation, I jumped in before Mrs. Pena could respond.

"Tell her that she has to understand that this isn't a solution to her problems. I can delay things and we can negotiate with her bank. But I am not promising that she won't lose the house. In fact, she's already lost the house. I'm going to get it back but then she'll still have to face the bank."

Rojas translated, making hand gestures where I had not. The truth was that Mrs. Pena would have to leave eventually. It was just a question of how far she wanted me to take it. Personal bankruptcy would tack another year onto foreclosure defense. But she didn't have to decide that now.

"Now tell her that I also need to be paid for my work. Give her the schedule. A thousand up front and the monthly payment plan."

"How much on the monthly and how long?"

I looked out at the house again. Mrs. Pena had invited me inside but I preferred meeting in the car. This was drive-by territory and I was in my Lincoln Town Car BPS. That stood for Ballistic Protection Series. I bought it used from the widow of a murdered enforcer with the Sinaloa cartel. There was armored plating in the doors, and the windows were constructed of three layers of laminated glass. They were bulletproof. The windows in Mrs. Pena's pink house were not. The lesson learned from the Sinaloa man was that you don't leave the car unless you have to.

Mrs. Pena had explained earlier that the mortgage payments she had stopped making nine months ago had been seven hundred a month. She would continue to withhold any payments to the bank while I worked the case. She would have a free ride for as long as I kept the bank at bay, so there was money to be made here.

"Make it two-fifty a month. I'll give her the cut-rate plan. Make sure

she knows she's getting a deal and that she can never be late with the payments. We can take a credit card if she has one with any juice on it. Just make sure it doesn't expire until at least twenty twelve."

Rojas translated, with more gestures and many more words than I had used, while I pulled my phone. The text had come from Lorna Taylor.

CALL ME ASAP.

I'd have to get back to her after the client conference. A typical law practice would have an office manager and receptionist. But I didn't have an office other than the backseat of my Lincoln, so Lorna ran the business end of things and answered the phones at the West Hollywood condo she shared with my chief investigator.

My mother was Mexican born and I understood her native language better than I ever let on. When Mrs. Pena responded, I knew what she said — the gist of it, at least. But I let Rojas translate it all back to me anyway. She promised to go inside the house to get the thousand-dollar cash retainer and to dutifully make the monthly payments. To me, not the bank. I figured that if I could extend her stay in the house to a year my take would be four grand total. Not bad for what was entailed. I would probably never see Mrs. Pena again. I would file a suit challenging the foreclosure and stretch things out. The chances were I wouldn't even make a court appearance. My young associate would do the courthouse legwork. Mrs. Pena would be happy and so would I. Eventually, though, the hammer would come down. It always does.

I thought I had a workable case even though Mrs. Pena would not be a sympathetic client. Most of my clients stop making payments to the bank after losing a job or experiencing a medical catastrophe. Mrs. Pena stopped when her three sons went to jail for selling drugs and their weekly financial support abruptly ended. Not a lot of goodwill to be had with that story. But the bank had played dirty. I had looked up her file on my laptop. It was all there: a record of her being served with notices involving demands for payment and then foreclosure. Only Mrs. Pena said she had never received these notices. And I believed her. It wasn't the kind of neighborhood where process servers were known to roam freely. I suspected that the notifications had ended up in the trash and

the server had simply lied about it. If I could make that case, then I could back the bank off Mrs. Pena with the leverage it would give me.

That would be my defense. That the poor woman was never given proper notice of the peril she was in. The bank took advantage of her, foreclosed on her without allowing her the opportunity to make up the arrears, and should be rebuked by the court for doing so.

"Okay, we have a deal," I said. "Tell her to go in and get her money while I print out a contract and receipt. We'll get going on this today."

I smiled and nodded at Mrs. Pena. Rojas translated and then jumped out of the car to go around and open her door.

Once Mrs. Pena left the car I opened the Spanish contract template on my laptop and typed in the necessary names and numbers. I sent it to the printer that sat on an electronics platform on the front passenger seat. I then went to work on the receipt for funds to be deposited into my client trust account. Everything was aboveboard. Always. It was the best way to keep the California Bar off my ass. I might have a bulletproof car but it was the bar I most often checked for over my shoulder.

It had been a rough year for Michael Haller and Associates, Attorneys-at-Law. Criminal defense had virtually dried up in the down economy. Of course crime wasn't down. In Los Angeles, crime marched on through any economy. But the paying customers were few and far between. It seemed as though nobody had money to pay a lawyer. Consequently, the public defender's office was busting at the seams with cases and clients while guys like me were left starving.

I had expenses and a fourteen-year-old kid in private school who talked about USC whenever the subject of colleges came up. I had to do something and so I did what I had once held as unthinkable. I went civil. The only growth industry in the law business was foreclosure defense. I attended a few bar seminars, got up to speed on it and started running new ads in two languages. I built a few websites and started buying the lists of foreclosure filings from the county clerk's office. That's how I got Mrs. Pena as a client. Direct mail. Her name was on the list and I had sent her a letter — in Spanish — offering my services. She told me that my letter happened to be the first indication she had ever received that she was in foreclosure.

The saying goes that if you build it, they will come. It was true. I was getting more work than I could handle — six more appointments after

Mrs. Pena today—and had even hired an actual associate to Michael Haller and Associates for the first time ever. The national epidemic of real estate foreclosure was slowing but by no means abating. In Los Angeles County I could be feeding at the trough for years to come.

The cases went for only four or five grand a pop but this was a quantity-over-quality period in my professional life. I currently had more than ninety foreclosure clients on my docket. No doubt my kid could start planning on USC. Hell, she could start thinking about staying for a master's degree.

There were those who believed I was part of the problem, that I was merely helping the deadbeats game the system while delaying the economic recovery of the whole. That description fit some of my clients for sure. But I viewed most of them as repeat victims. Initially scammed with the American dream of home ownership when lured into mortgages they had no business even qualifying for. And then victimized again when the bubble burst and unscrupulous lenders ran roughshod over them in the subsequent foreclosure frenzy. Most of these once-proud home owners didn't stand a chance under California's streamlined foreclosure regulations. A bank didn't even need a judge's approval to take away someone's house. The great financial minds thought this was the way to go. Just keep it moving. The sooner the crisis hit bottom, the sooner the recovery would begin. I say, Tell that to Mrs. Pena.

There was a theory out there that this was all part of a conspiracy among the top banks in the country to undermine property laws, sabotage the judicial system and create a perpetually cycling foreclosure industry that had them profiting from both ends of the process. Me, I wasn't exactly buying into that. But during my short time in this area of the law, I had seen enough predatory and unethical acts by so-called legitimate businessmen to make me miss good old-fashioned criminal law.

Rojas was waiting outside the car for Mrs. Pena to return with the money. I checked my watch and noted we were running late on my next appointment—a commercial foreclosure over in Compton. I tried to bunch my new client consultations geographically to save time and gas and mileage on the car. Today I worked the south end. Tomorrow I would hit East L.A. Two days a week I was in the car, signing up new clients. The rest of the time I worked the cases.

"Let's go, Mrs. Pena," I said. "We gotta roll."

I decided to use the waiting time to call Lorna. Three months earlier I had started blocking the ID on my phone. I never did that when I practiced criminal, but in my brave new world of foreclosure defense, I usually didn't want people having my direct number. And that included the lender attorneys as well as my own clients.

"Law offices of Michael Haller and Associates," Lorna said when she picked up. "How can I—"

"It's me. What's up?"

"Mickey, you have to get over to Van Nuys Division right away."

There was a strong urgency in her voice. Van Nuys Division was the LAPD's central command for operations in the sprawling San Fernando Valley, on the north side of the city.

"I'm working the south end today. What's going on?"

"They have Lisa Trammel there. She called."

Lisa Trammel was a client. In fact, my very first foreclosure client. I had kept her in her home for going on eight months and was confident I could take it at least another year further before we dropped the bankruptcy bomb. But she was consumed by the frustrations and inequities of her life and could not be calmed or controlled. She'd taken to marching in front of the bank with a placard decrying its fraudulent practices and heartless actions. That is, until the bank got a temporary restraining order against her.

"Did she violate the TRO? Are they holding her?"

"Mickey, they're holding her for murder."

That wasn't what I was expecting to hear.

"Murder? Who's the victim?"

"She said they're charging her with killing Mitchell Bondurant."

That gave me another great big pause. I looked out the window and saw Mrs. Pena coming out through her front door. She held a wad of cash in her hand.

"All right, get on the phone and reschedule the rest of today's appointments. And tell Cisco to head up to Van Nuys. I'll meet him there."

"You got it. Do you want Bullocks to take the afternoon appointments?"

"Bullocks" was what we called Jennifer Aronson, the associate I had

hired out of Southwestern, a law school housed in the old Bullocks department store building on Wilshire.

"No, I don't want her doing intake. Just reschedule them. And listen, I think I have the Trammel file with me, but you have the call list. Track down her sister. Lisa's got a kid. He's probably in school and somebody's going to have to take him if Lisa can't."

We made every client fill out an extensive contact list because sometimes it was hard to find them for court hearings—and to get them to pay for my work.

"I'll start on that," Lorna said. "Good luck, Mickey."

"Same to you."

I closed the phone and thought about Lisa Trammel. Somehow I wasn't surprised that she had been arrested for killing the man who was trying to take her home away from her. It's not that I had thought it would come to this. Not even close. But deep down, I had known it was going to come to something.