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Winning the Battle and the War But Without Honor

By Steve Block, Esq.

Litigation is sometimes described as a war wherein the trial lawyers scratch, skirmish, struggle, and parry counter attacks in what can seem like a violent struggle to prevail over the enemy.

The distinguishing factor between true battle and litigation is that the trial lawyer will surely live another day to undertake another battle, and another, with each case handled. And thus we often speak of the importance of civility, professionalism and adherence to the customs and rules that make the practice of law special and fair. These customs and ideals contribute to our profession's health and stature.

History teaches us that virtues common to all great warriors, whether they be lawyers, politicians or actual combatants, include a fidelity to civility, chivalry and professionalism. Consider the chance meeting of Second Lieutenant Charlie Brown of the United States Army Air Corps and Lieutenant Franz Stigler of the Luftwaffe over the skies of Germany on December 20, 1943.

Charlie Brown Meets Franz Stigler

On December 20, 1953, Lt. Charles "Charlie" Brown flew his first B-17 Flying Fortress combat mission over Bremen, Germany as part of the 379th Bomb Group. He piloted a B-17 Flying Fortress with a crew of 10 and over 4500 pounds of bombs. During the bomb run, the aircraft was hit by very heavy flak damaging the left wing. Two other bombers were damaged at the time including the flight leader. As he watched the flight leader fall out of the formation towards the ground, multiple enemy fighters appeared in front of him, in back of him and eventually all around him.

The bomber was severely damaged with one dead and four crewmen injured including Lt. Brown who took shrapnel in the shoulder. Brown lost altitude but maintained control of the wounded aircraft headed back toward England. That's when he met Lt. Stigler.

Lt. Franz Stigler was a German Ace who piloted the vaunted Messerschmitt Bf-109 fighter. He was refueling his fighter when Lt. Brown flew over at about 200 feet. Stigler jumped in his fighter and quickly pursued the damaged B-17. He approached the bomber's tail looking at the barrels of the 50-caliber machine gun. They never came up. On closer examination, he observed extensive damage to the tail section and realized that the tail gunner was injured if not dead. He couldn't bring himself to open up with his 20 mm cannon. He then flew to a position alongside the cockpit where his eyes met those of Lt. Brown.

Stigler's tried to coax Brown into flying to Sweden but Brown didn't seem to understand. Stigler escorted Brown out over the English Channel to deter anti-aircraft fire or other German fighters. Shortly later, Brown landed safely in England. Before peeling away from the B-17, Stigler saluted Brown in a gesture of solidarity and good luck.

Aftermath

Years after the war, now Lieutenant Colonel Charlie Brown, located Lt. Stigler in Canada where they reunited and became "brothers". Stigler explained his decision that day by referencing something he had learned from a mentor when he was a young pilot:

"You are fighter pilots first, last, always. If I ever hear of any of you shooting at someone in a parachute, I'll shoot you myself. To me, it was just like they were in a parachute. I saw them and I couldn't shoot them down."

Lt. Colonel Brown and Lt. Stigler stayed in contact for many years and both died in 2008. Brown was 86 years of age and Stigler was 92.

Conclusion

While the encounter between these two warriors is heartwarming, what most of us cannot appreciate is how dangerous and emotional the context was in which Franz Stigler exhibited a significant measure of humanity on that day. After all, the Allies were well into the area bombing campaign of German cities and Brown had just bombed an aircraft facility in Bremen. In stepping back from the heat of battle, the German Ace opted to assist and salute his fellow airmen, rather than take the easy shot.

It serves as a good reminder to us all, that when engaged in battle, whether as a fighter pilot, a football star, or trial lawyer, late hits and unsportsmanlike conduct are never useful.