

MORITURI TE SALUTAMUS

By Christian D. Searcy

INTERNATIONAL ACADEMY OF TRIAL LAWYERS
DEAN'S ADDRESS

Ritz Carlton Hotel
Key Biscayne
Florida
March 29, 2008

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“Morituri te salutamus!”

The Gladiators delivered this salute in the Roman Coliseum moments before they fought to the death. It means “We, who are about to die, salute you!”

Imagine, if you can, the courage, the nerves of steel, and the self control necessary to speak those words not knowing if you would be alive or dead within the next hour.

“Morituri te salutamus!”

“We, who are about to die, salute you!” epitomizes the spirit of the Trial Lawyer.

Members of the Academy, it is the spirit summoned by each of you as you begin a trial in which important rights hang in the balance and the outcome is uncertain. It is the spirit essential to our rule of law.

Mr. President, Fellows of the International Academy of Trial Lawyers, esteemed spouses and special guests, it is an honor to have the opportunity to address you today. You are such good friends. So many of you have broken bread with Priscilla and me, you have been guests in our home, we have socialized together, traveled together, laughed and cried together. Thank you for the blessing of your friendship and the inspiration of your courage and accomplishments.

Many of the members of my firm are here, would you please stand and be recognized. They are wonderful partners and friends who have stood shoulder to shoulder with me through every challenge and whom I consider family.

I am very pleased and proud to be joined by my family (introduce).

My very special friends of the Academy, each of you is so splendidly unique, you come from varied backgrounds, you have faced and overcome diverse challenges with your own remarkable talent and individual style which has distinguished you as a Fellow of this Academy. Despite our many differences, not only individually, but in the type of law we practice and the orientation of clients we represent: criminal or civil, plaintiff or prosecution or defense, there is a common thread which runs through all of us which weaves its way in and out

of each unique different Fellow and binds us together despite those differences. It is the spirit of the Trial Lawyer.

In this day and time where the rights of individuals to their life, liberty and property have seemingly become too much of an inconvenience to allow or to enforce and where the Chief Executive Officer of the United States has used his Presidential Office as a bully pulpit to demonize Trial Lawyers for the past eight years, it is important to focus on what has made our system of government work - you, the Trial Lawyers who have courageously laid it on the line in the courtroom to enforce the rule of law as it pertains to your clients. Theodore Roosevelt spoke of you when he addressed an august body of scholars and world leaders at one of Europe's most venerable universities, the Sorbonne:

“It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, and comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows the great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who know neither victory nor defeat.”

You have been the men and women in the arena investing your heart and your soul and your life's effort to see that the rule of law is fairly construed as to your clients.

A famed Philosopher Rainer Maria Rilke wrote “Life is a pendulum that swings between pain and boredom.” The Fellows of this Academy have followed a calling that is much closer to the pain side. The battles you fight in the courtrooms of this country are the life's blood of the rule of law without which it cannot exist.

What are the elements or ingredients of the spirit of the Trial Lawyer which we all share and without which the rule of law cannot exist? It requires an individual who can and will go into the arena to fight for those who cannot fight for themselves, an individual who performs the

best under conditions of greatest stress. It must be a person who can undertake and tolerate great risk, someone who can face fear and not allow his or her behavior to be altered by it. It requires courage, belief and confidence in one's self. A Trial Lawyer must have the stamina and endurance to be well prepared regardless of the hours required and to answer the bell when it rings. The Trial Lawyer must be willing to face and embrace the scorn and isolation attendant to representing an unpopular cause or client. The Trial Lawyer's commitment to the representation of his or her client under the rule of law must not be subject to compromise or sale. The Trial Lawyer must have the power of belief. Henry Ford said, "If you believe you can or if you believe you can't, you're right!" In biblical times everyone in the land believed Goliath was too big to beat; except David who believed Goliath was too big to miss.

What is it that we all feel going into the courtroom, into the lions den, with the lives and rights of our clients hanging in the balance with too many variables to fully control, naked before the world but for our preparation, knowledge, skill and ability? There is a moment much like that expressed by the gladiators, the moment of the truth, where we must die unto ourselves so that we may live unto our client's cause. The moment in which we sublimate all of our fears, self interests or concerns, we sacrifice ourselves to the representation of our client. It is a terrifying leap which, once taken, results in spiritually freeing us to the complete representation of our client.

This sword hangs in my office to remind me of that sacrifice. We don't fight with swords, we fight with words and rules and procedures and persuasion. We don't bleed red blood in the courtroom, we bleed emotional, intellectual and spiritual blood, but we bleed nevertheless. We don't die a physiological death in the courtroom, we die psychological, financial, professional and political deaths, but we die nevertheless. We leave a piece of ourselves with every client and every case in which we have relinquished ourselves and truly put the interest of our client and his or her case ahead of our own. Our professionalism requires that we die unto ourselves so we may live for our client. In the lyrics of the famous song:

"It's the one who won't be taken who cannot seem to give, and the soul afraid of dying that never learns to live."

We have known the difficulty of this sacrifice, the overcoming of this fear, and the spiritual freedom that follows from it.

I draw inspiration for courage and self sacrifice not just from the Fellows of this Academy and their accomplishments, but from their spouses. In the past year, for instance, the inspiration of Lyn Parks whose spirit was too bright to be dimmed by surgery or heart problems and the inspiration of Glenna Goodacre and her husband Mike Schmidt who suffered the darkest of nights without wavering in their faith and courage. I draw inspiration from the courage and sacrifice of others.

Travel with me back in time and across the ocean to London on November 18, 1777 as the damp cold of winter was rapidly approaching. William Pitt (The Elder), Earl of Chatham and former Prime Minister of England, was still a member of parliament. He was in his sixties and in deteriorating health. He needed a crutch just to walk or stand. Parliament had been in session all night long discussing and debating the Revolutionary War which they referred to as the American Rebellion. Lord Chatham had long denounced British policy toward the American colonists but now Britain was at war with the Americas and such criticism was unpopular and resented. Pitt (The Elder) knew that to take a stand for the American colonists at that time may be the death of his political career. He held his peace all night. Should he take a stand? Should he speak out? As the pre-light of dawn was filtering into parliament, he took the leap. He died unto his political career to live unto his advocacy for a righteous cause. He gave an eloquent speech imploring parliament to insist that George III end the war and grant America its independence, boldly asserting to parliament, "You cannot conquer America." Pitt concluded his speech as dawn was breaking. Standing with the support of his crutch, as the first beam of sunlight shown upon him, he said:

"If I were an American, as I am an Englishman, while a foreign troop was landed in my country, I would never lay down my arms... (he lifted his crutch.)

Never!
Never!
Never!"

His political career and his life came to an end the following year but his words proved prophetic! In 1781 the Cornwallis's forces surrendered at Yorktown. In 1782, Lord North, King George's chief minister, resigned leading to the preliminary peace treaty in Paris later that year which was ratified and signed in 1783 officially recognizing the independence and sovereignty of the United States of America. He fought with words; he shed political blood; he knew the spirit of "Morituri te Salutamus!" "We, who are about to die, salute you."

Not so coincidentally, in 1783 the official signing of the peace treaty with America, his words had proved so prophetic and his actions so courageous, it helped catapult his son, William Pitt, the younger, into the position of Prime Minister of England at the tender age of 24 years old. He became one of England's finest Prime Ministers and its youngest throughout history.

Let's come back to the United States now, in more modern times. Go with me, if you would, in your mind's eye to a young couple and their plans and hopes and dreams for their first born son. He is a beautiful little boy – platinum blonde hair, big blue eyes, a toddler less than two years of age, well coordinated and strong. They dream of him being happy and fulfilled. They imagine him being popular with his friends, excelling on the athletic field, making all A's, going to a fine University, making important contributions to the well-being of mankind. They dream that he will find a very special woman, have a happy and fulfilling marriage and children just as beautiful as he is. The young couple invests in this dream with all their heart and soul.

Six months pass, and the young couple is sitting across from the pediatric neurologist who has examined and tested their beloved beautiful little son. Their senses are psychically numbed as they hear the words, "Your son has autistic features and will probably be retarded." They are words the young couple will never forget as long as they live. They seek the advice of their esteemed pediatrician who counsels them that they are young and have their whole lives ahead of them. Their son's problem was not genetic but from birth asphyxiation. They should place him in an institution, go on with their lives, and have other children.

The young couple are not much older than teenagers themselves. They have not had the life experiences or training of their pediatrician, but God who manifests himself most clearly in parent's love for their children causes them to stand up and say, "Not while we are still breathing. No one will ever separate us from our child."

They die unto themselves so they can live for their child. They alter their lives completely and forever to give their child the best opportunity he can have to reach his maximum potential. Their efforts to find a cure for this "autism", which they had never heard of, are energetic and exhausting – their quest for the Holy Grail.

The young mother gave up her career to devote her one-on-one attention to her beautiful little son. The young couple decided to have no other children so they could focus all of their attention on their child's special needs. They tried everything. They tried special education, allergy shots, diets, biophysical programming, cranial therapy, patterning, and secretin infusions, anything that would not hurt their son and might help him. One by one every hope for a cure was gradually tried and eliminated. Little by little each hope and each dream and each plan the young couple had for their son withered and died.

"But wait a minute," the young couple reasoned to themselves, "all of those plans and hopes and dreams for his success were just a means to an end. The end point was our son's happiness. If he can be happy, who cares how he gets there. If he can have a happy life, our dreams were just fulfilled in another way." Their greatest fear was who would love their child when they died? Who would care for him if they died?

They decide to have more children. As it turns out, their son learns more from his younger siblings than he ever did from them. As the decades go by, the not so young couple realizes more and more what a tremendous blessing has been bestowed on their lives and their family's lives by their very special first born son. From him they learned courage, tolerance, humility, faith and the miracle of unconditional love.

In the 1980's a story was written about this young mother and all the young mothers who have raised a handicapped child. It is called

The Patron Saint. “Most women become mothers by accident, some by choice, a few by social pressures and a couple by habit. This year nearly 100,000 women will become mothers of handicapped children. Did you ever wonder how mothers of handicapped children are chosen?”

Somehow I visualize God hovering over earth, selecting his instruments for propagation with great care and deliberation. As he observes, he instructs his angels to make notes on a giant ledger. “Armstrong, Ben, son, Patron Saint, Matthew, Forrest, Marjorie, daughter, Patron Saint, Cecilia. Rutledge, Carri, twins, Patron Saint – give her Gerard, he is used to profanity.”

Finally he passes a name to an angel and smiles, “Give her a handicapped child.” The angel is curious, “Why this one God? She’s so happy.” “Exactly”, smiles God, “Could I give a handicapped child a mother who does not know laughter? That would be cruel.” “But has she patience?” asked the angel. “I don’t want her to have too much patience or she will drown in a sea of self pity and despair. Once the shock and resentment wears off, she will handle it. I watched her today. She has that feeling of self and independence that is so rare and so necessary in a mother. You see, the child I am going to give her has his own world. She has to make it live in her world and that’s not going to be easy.”

“But, Lord, I don’t think she even believes in you.”

God smiles, “No matter. I can fix that. This one is perfect. She has just enough selfishness.” The angel gasps, “Selfishness,” is that a virtue?”

God nods. “If she can’t separate herself from the child occasionally, she’ll never survive. Yes, here is a woman whom I will bless with a child less than perfect. She doesn’t realize it yet, but she is to be envied. She will never take for granted a “spoken word. . .” She will never consider a “step” ordinary. When her child says “Momma” for the first time she will be present at a miracle and know it! When she describes a tree or a sunset to her blind child, she will see it as few people ever see my creations.

“I will permit her to see clearly the things I see – ignorance, cruelty, prejudice – and allow her to rise about them. She will never be alone, I will be at her side every minute of every day of her life because she is doing my work as surely as she is here by my side.”

“And what about her patron saint?” asks the angel, his pen poised in mid air. God smiles. “A mirror will suffice.”

This young mother was not a lawyer, but she knew the spirit of “*Morituri te Salutamus!*” “We, who are about to die, salute you!” She died unto her own life so she could live unto her child.

In 1975, when her child was diagnosed with autism, one out of 10,000 children were so diagnosed. Today the occurrence rate of autism is 1 in every 150 children. More than a ten fold increase in 30 years. Something very wrong is happening to our babies and young children. With the advancements in scientific and medical knowledge, the rate of autism should be declining, not increasing.

What seemingly innocuous agent in our environment has increased ten to twenty fold in the last three decades that might explain it? The mercury based preservative, thimerisol, contained in children vaccinations?

Over stimulation of uterine contractility with Oxytocin or Pitocin during labor and delivery?

Those subjects are for another day. But I will say this: “Do not allow your children or grandchildren to receive a vaccination while they are suffering from any intercurrent illness such as sniffles, cold or flu.”

Those of you who attended our meeting in Chicago last year shared in the inspirational story of Lieutenant Commander Charles Swift who was a 1984 graduate of the United States Naval Academy and a cum laude graduate of the Seattle University School of Law. After graduating cum laude he affiliated with the Navy’s Judge Advocate General Corp and returned to active service in 1994. He received orders to serve as defense counsel for Salim Ahmed Hamdan. Hamdan was a former driver for Osama Bin Laden who was captured during the invasion of Afghanistan. It became clear to Lieutenant Commander Swift that his superiors did not wish for him to zealously represent Hamdan. As Hamdan’s legal counsel, Lieutenant Commander Swift had to decide whether he was going to please his superiors or fulfill his duty in representation to his client. As we learned, Lieutenant Commander Swift chose the latter. He died unto his career so that he could live unto the representation of his client. Together with Neal Kapyal, he appealed

Hamdan's Writ of Habeas Corpus Petition to the U.S. Supreme Court. In *Hamdan v. Rumsfeld*, 125 Supreme Court, 2749, in 2006, the justices ultimately held that the military commission to try Salim Hamdan was illegal and violated the Geneva Conventions as well as the United States Code of Military Justice. After his successful appeal in the Hamdan matter, Swift was passed over for promotion and forced to end his military career. He was passed over for promotion two weeks after the Supreme Court's Hamdan decision. Lieutenant Commander Swift knew the spirit of "*Morituri te Salutamus!*" "We, who are about to die, salute you."

Those stories and many others by the great members of this Academy inspire us to fulfill this daunting task.

We are the ones in the arena. We are the ones who feel the fear of defeat, who feel the impossibility of controlling all the variables of the courtroom, and yet rise above those fears and doubts and summon the work ethic, the preparation, and the courage to control those fears and walk into the courtroom with self-confidence and tenacity with the spirit that cries "*Morituri te Salutamus!*"

Critical times are upon this country and upon our world which portend ominous challenges to the rule of law and the rights of mankind. Will world terrorism and its contempt for human life lead to some kind of 21st century version of the holocaust? Who will stand against it? I am sure all of you have heard the story of the German theologian, Dr. Martin Niemoller who was imprisoned in a Nazi concentration camp:

"Before my imprisonment", Dr. Niemoller said, "they came for the Jews and I was not a Jew, so I did not speak out. Then they came for the trade unionists and I was not a trade unionist, so I remained silent. Then they came for the Catholics and I was a Protestant so I was quiet. When finally, they came for me, there was no one left to speak."

Who will stand against the ominous unknown challenges of the future? Who will not be paralyzed by fear? Who will speak out?

I do not doubt that the people in this room, the Fellows of this great Academy will be amongst those who stand and speak out when they come for any, even the least of these.

I do not doubt, even if it means death or imprisonment, that the members of this Academy will stand for the rule of law and the rights of mankind.

We are acutely aware in the words of Martin Luther King, that “Injustice anywhere, is a threat to justice everywhere!” In the words of Sir Edmund Burk, “All that is necessary for evil to triumph is for good men to do nothing.” We know not where these troubled times may lead. We know not what challenges we may be called to face or what sacrifice may be required to face them. We do know, our profession, our calling and our spirit as trial lawyers will cause us to face them with courage and resolution, whatever the cost.

I would like to conclude my remarks with a poem in your honor. When I was in law school in 1972, I was reviewing a law journal and saw a poem entitled *The Trial Lawyer*. It was written by a lawyer from Tennessee who had spent his career primarily involved in insurance defense litigation. I do not remember his name. When I saw the poem it reminded me of my dad, Hank Searcy, who was a great trial lawyer from the Jacksonville, Florida area. In fact, it reminded me of him so much that I memorized the poem. The poem not only reminds me of my father, but it reminds me of each of you. It is called the *The Trial Lawyer*:

THE TRIAL LAWYER

(anonymous)

We have loved the romance of the court's arena!
and have answered with gusto it's every subpoena.
There were cases we lost we should never have lost,
but we packed up our papers and paid up the costs.
There were cases we won we should never have won,
though scant was the praise when the contest was done.

We've bent with the shocks that an active life bears,
and remembered delights but forgotten despairs.

And now as we near the end of our race,
how short grows our time and how tight grows our space.

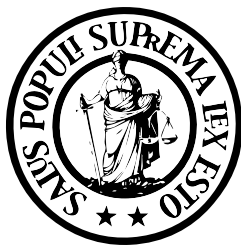
Still, we eagerly await every new day.

The unbeatable cause may be coming our way!

And when the day's over, we'll reminisce,
about Judges in error, and juries amiss.

And, at last, when the darkness is closing upon us,

"Morituri te salutamus!"



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