

Mass Disasters Their Strong Suit

ANGELA M. CARLL

Two local attorneys, although virtually unknown in New Orleans outside of legal circles, have blazed to national prominence as the foremost authorities on mass disaster lawsuits.

Wendell Gauthier and John Cummings have been requested by their legal colleagues throughout the country to represent clients involved in the two latest mass disaster cases—the MGM Grand Hotel fire in Las Vegas, Nevada, and the collapse of the sky bridges in the Hyatt Regency hotel in Kansas City, Missouri.

Cummings has been chosen liaison counsel and Gauthier is chairman of the damage portion of both lawsuits.

"This is a new concept in handling mass disaster cases," explained Gauthier, a stocky man who enjoys wearing jeans when not in the courtroom. Attorneys from all over the country are now pooling our store of knowledge as to how these cases should be handled."

Cummings, a solid frame of a man with salt and pepper hair and beard, added that in mass disaster cases, there are likely to be literally hundreds of lawyers from all sections of the country representing the hundreds of clients affected by the calamity.

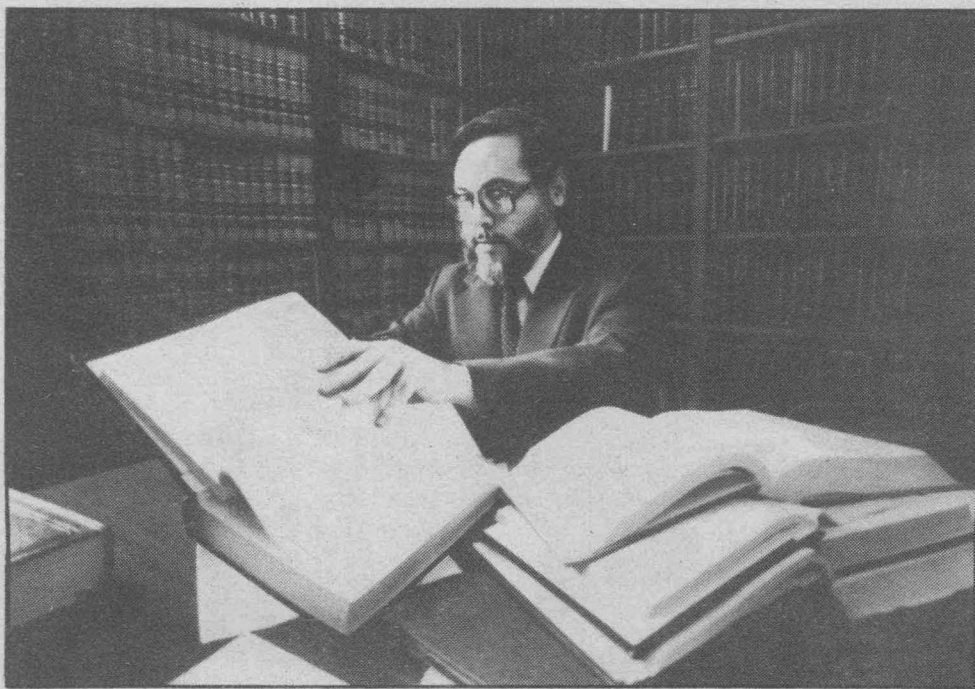
"It's very difficult for the judge to deal with so many different people," said Cummings, "sometimes you can't even fit that many people in the courtroom—so he'll appoint a committee of lawyers to represent the entire group."

Cummings and Gauthier were chosen as chairmen of their respective committees by attorneys such as Melvin Belli of San Francisco, Leonard Ring of Chicago and Stanley Chesley from Cincinnati.

Basically, Cummings' job is to serve as a liaison between lawyers and their clients and the presiding judge. Gauthier is charged with "putting together a damage settlement the defendants can live with," he said.

Neither believes that either the MGM or the Hyatt suit will ever be decided by a jury, but rather that plaintiffs and defendants will come to a settlement—"probably in the hundreds of millions," both agreed.

Currently, in the MGM fire, clients



John Cummings.



Wendell Gauthier.

Photos by Christopher R. Harris

number in the hundreds—"Two hundred eighty-four people alone are from Louisiana," said Gauthier, adding that at least one plane-load a weekend travels from New Orleans to Las Vegas.

Lawsuits filed against the Hyatt Regency have hit the \$1 billion mark, and are still being filed in the disaster that killed 111 people and injured 188, July 17. There are 2,000 claims so far,

Gauthier said.

"In the MGM fire, there were hardly any natives of Las Vegas in the hotel unless they were hookers or croupiers," said Cummings, "but there were people from 19 different states, plus 800 Mexican nationals.

"That's why it's so important for attorneys to work together on these kinds of suits," he added. "Can you imagine the mess if all these people went back home and started filing suits from all over the country?"

Cummings and Gauthier plan to wade through 1.8 million documents pertaining to the Hyatt trial to decide whom among 13-30 defendants—supply firms, engineers, architects, service groups, and hotel management—they will hold responsible for the collapse of the sky bridges.

"For MGM, we went through 6,000 documents in two weeks—with plenty of 16- and 20-hour days," said Gauthier.

Their other duties include preparing questions for each defendant, conducting

Lawsuits filed against the Hyatt Regency have hit the \$1 billion mark.

pre-trial procedures, requesting pertinent documents and files and taking oral depositions.

"We also have to be sure we spread the workload so these attorneys don't get burned out," said Cummings. "We have to motivate them to pore over all that material, yet stay fresh enough to spot something that could be important."

Cummings said that when he first gathered the committee together, he tried to recognize each man's unique ability and assign him to a task at which he could excel.

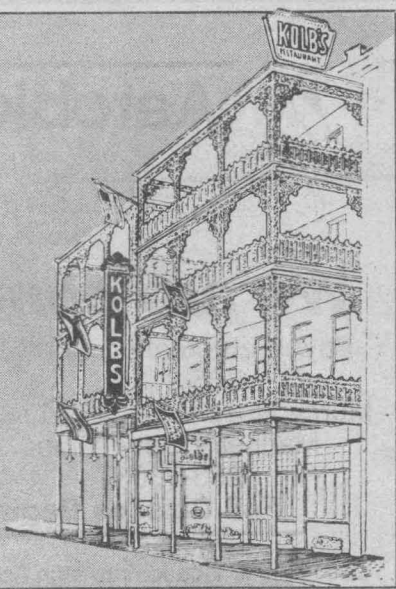
"Most of these people have been through other battles, though," he said, "so they know what has to be done and we get through it without a clash of egos. It's a mature group and we work very

Unique, leisurely dining
on historic St. Charles Avenue



German Restaurant
125 St. Charles Ave. • 522-5079

Over 100 appetizing dishes
A New Orleans Landmark since 1899.



HAIR AFTER LTD.

Go Back to School
In Style and get
20% OFF
with this Ad

3640 Magazine St.
Between Napoleon and Louisiana
891-1725, Mon. - Sat.



well together.”

One of the ways Cummings and Gauthier create a cohesive and congenial atmosphere within their committees is with the use of humor and practical jokes.

Much of the work is serious, however, and both men are disturbed by one aspect of their findings which they say will be disastrous.

“The use of PVC—polyvinyl chloride—in more and more large buildings, is having a dangerous effect on people,” said Cummings.

He explained that PVC is used as a coating for wiring, in pipes for plumbing and many times to cover furniture, such as naugahyde.

“When PVC is ignited, it becomes hydrochlorine gas,” he said, “and as such, it makes people disoriented, burns their throat and lungs, and eventually kills them.”

Cummings said the PVC reaction explains why people jump out of windows during a fire instead of waiting to be rescued, and why people die during a fire even though the fire never touches them.

“Remember, in the MGM hotel, there were only 12 deaths from the fire,” he said, “but 72 others—some as high up as the 26th or 27th floor—died from smoke inhalation.”

In the Hyatt case, the attorneys are disturbed by the fact that the sky bridges fell in the first place, and Gauthier has photographs which he said demonstrate that they were not properly installed.

“As our buildings have more and more open spaces,” he said, “and less and less support beams, this could happen more and more often.”

Gauthier added that the American Association of Architects is conducting a study which is projected to demonstrate that cantilevered arms projecting more than 100 feet cannot support themselves.

Although they are nationally recognized experts in mass disaster cases today, Gauthier and Cummings happened into the field almost by accident.

Cummings was an associate of an attorney who was representing a client in the American Sugar Refinery explosion in the late '60s when the lawyer was stricken with a heart attack and asked Cummings to take over for him.

Gauthier represented several Metairie residents whose homes blew up in the gas explosions of 1977, and went to work in the Tenneco and United Gas Pipeline explosion cases.

They became associates during the Continental Grain explosion case and began their routine of 16-hour days, seven days a week of reading documents.

They also began to forge their relationship of easy bantering, playful kidding,

and good-natured needling of each other that they say is their defense against going stale during the one- to four-year duration before a judicial decision is reached.

Their work involves a great deal of traveling, usually with Gauthier arriving in the site city early in the week—“I have to prepare them all for John’s arrival,” he ribs Cummings. Cummings lands later in the week—“mainly to clean up the mess ‘Gaut’ has created by that time,” he rides Gauthier.

Yet, both admit the partnership has worked well through three grueling mass disaster cases.

Gauthier, 38, is the son of a contractor from rural Iota, Louisiana, and Cummings’ father was a coffee broker and accountant from New Orleans. Both attended Loyola law school, but didn’t meet there since Cummings, 44, finished before Gauthier started.

Their first meeting took place when both were on the same panel for a discussion during a trial lawyers’ convention—“I was so brilliant, John came over afterwards to congratulate me and find out how I did it,” heckles Gauthier.

Now, their partnership—“actually, we’re associates, because we both maintain separate private practices,” said Gauthier—has resulted in not only landmark decisions, but also in a number of articles involving mass disaster cases published in prestigious legal journals. The pair have also contributed heavily to the revision of the *Manual for Complex Litigation*, the bible of lawyers involved in mass disaster litigation.

Gauthier said that sometimes he and Cummings work together all day, go out to dinner, then stay up until two or three in the morning—all the while discussing their current case.

Even with this killer of a schedule, though, they find time to relax once in awhile. Cummings, who has four children and is divorced, spends at least two nights a week at his farm just above Picayune, Mississippi, when he’s in town—“I use all that driving time to think,” he said.

Gauthier, whose wife Ann owns Chanticleer Rouge, a kitchen shop in Harahan, has three daughters and likes to jog to relieve the tension.

“All of this probably sounds like a lot of drudgery,” admitted Gauthier, surveying the stacks of papers and documents which cover every available desk and floor space. “But it occupies you completely, it’s always interesting.”

He adds, “We hope there won’t be any more mass disasters, of course, but if there are, we’ll be on the front line and want others to make use of our experience.”