



New Orleans attorneys Wendell Gauthier and John Cummings have made a name for themselves representing the victims of mass disasters.

# Disaster masters

## *Lawyers achieve national reputation*

By PATTI NICKELL

ON NOVEMBER 20, 1980, a fire raged through the 21-floor MGM Grand Hotel in Las Vegas. The result of an electrical fire in the delicatessen adjacent to the casino, the blaze left 84 dead and hundreds injured.

On July 9, 1982, in the midst of a typical summer thundershower, Pan Am flight 759 took off from New Orleans International Airport enroute to Las Vegas. Shortly after takeoff, the plane sheared off the tops of trees in a south Kenner neighborhood, ploughed into a row of houses and burst into a ball of

fire. All 153 aboard the plane perished, along with four people on the ground.

On a sunny Sunday afternoon in August 1983, hundreds of people were attending a tea dance in the atrium of the Hyatt Regency Hotel in Kansas City. Without warning, two skywalks above the atrium collapsed and plunged two floors into the midst of the celebrants. Rescue workers later found 114 bodies among the debris.

In each case, John Cummings and Wendell Gauthier were among the first to arrive on the

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# Local attorneys gain national prominence

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scene. Cummings and Gauthier are New Orleans attorneys who specialize in mass disaster cases, and while many describe what they do for a living with the less-than-flattering epithet "ambulance chaser," the two men have attained national prominence, allegedly being among only a handful of attorneys in the nation with the traits necessary to tackle this type of legal work.

For it does require certain character traits: the flamboyance and daring of a riverboat gambler (not to mention a little of his luck), the kind of precision mind that will allow them to painstakingly recreate disaster scenes from scratch, the patience required to read and reread documents that number in the millions and an unorthodox nature that might cause other members of the bar to blush.

It would be hard to imagine two more colorful characters than Cummings and Gauthier — a sort of Butch Cassidy and Sundance Kid of the legal profession. Cummings, the elder statesman, would make a perfect *Saturday Evening Post* cover. With his large frame, shirt sleeves rolled up to the elbow, shaggy hair and luxuriant growth of beard, he is reminiscent of the Abe Lincoln school of country lawyers. Gauthier, in contrast, would more fittingly grace the cover of *Gentlemen's Quarterly*. At 43, seven years younger than Cummings, he has a boyish face, a thatch of perfectly styled sandy hair and a natty way of dressing that is in direct contrast to Cummings' more "casual" look. But if Gauthier's appearance evokes New York City or Washington, his Cajun drawl is pure Iota, the small hamlet in southwest Louisiana where he was born and raised.

And while the two men appear to be the classically ill-matched "odd couple," working in tandem they have been responsible for settlements of spectacular proportions, including the largest tort settlement in United States history, and they have gained a reputation among certain of their peers, both for their brilliant strategy and, despite what some might think, for their ethical standards.

"Gauthier and Cummings have practiced an exceptionally high level of law," observes fellow plaintiff's attorney Russ Herman. "Their clients are extremely well-protected." To Herman's knowledge, neither



PHOTO BY DONN YOUNG

John Cummings and Wendell Gauthier found they needed a warehouse to store the many boxes of files that relate to their various disaster cases.

Gauthier nor Cummings have been cited for any ethical violations, despite their reputations for aggressive lawyering.

Las Vegas attorney Steve Morris, one of the lawyers who squared off against Cummings and Gauthier in the MGM hotel litigation, remembers that they were "tough adversaries, who did a tenacious job in defending their clients' interests." On a more personal note, he comments that the two were "extremely engaging fellows."

Even their entry into the area of disaster law had all the makings of high drama. As a young attorney, Cummings was assigned to understudy Robert Gisevius, the senior partner in his firm who was lead counsel for the plaintiffs in the 1965 explosion of the American Sugar Refinery in Chalmette which killed one person and injured 22. "On the first day of the trial, Bob fell to the floor with a heart attack," explains Cummings. "The next day I was lead counsel."

It was to be 12 years before he met Gauthier, but the meeting was to prove

fateful. In December 1977, the Continental Grain Elevator in Westwego blew up, killing 28 and seriously injuring 14. Cummings and Gauthier were assigned to the seven-member team of attorneys responsible for handling all the plaintiffs' interests. Cummings, by now an old pro, recalls Gauthier's introduction to disaster law: "Wendell looked at one of the bodies that had been crushed by a slab of concrete. He turned around right there and vomited all over the floor."

The first thing the attorneys had to do was reconstruct the grain elevator, which had been completely destroyed, in their minds to try to come up with what caused the explosion.

Next, there were over a million documents which had to be thoroughly perused, and in the course of doing this, the two came up with what turned out to be the basis for a major settlement. Cummings, who readily acknowledges that "you can become obsessed with this kind of case," finding himself unable to sleep one night, decided to go through

the Continental files one more time. What he discovered was a hidden file buried beneath all the others, labeled "What we did right and wrong at Westwego." The document had been assembled by the engineering firm for the project and proved that the engineers had knowingly made shortcuts in the construction of the grain elevator.

"I got Gauthier out of bed and told him to get over here fast — that we had our case," Cummings remembers.

That document forced the engineering firm to settle, and ultimately 30 other defendants were named in the suit. "In a case like this, each defendant has probably made a shortcut or done something that contributed to the disaster," Gauthier explains. "For example, while it was determined that the ignition was not the result of negligence, the explosion was facilitated by the fact that there was grain dust everywhere. And grain dust is more volatile than black powder."

The case went on for two years before a settlement in excess of \$30 million was awarded to the plaintiffs; the seven attorneys got eight percent of that figure. As a result of Cummings' and Gauthier's efforts, as well as those of the other attorneys involved, Continental Grain took the findings and rebuilt a safer grain elevator with modifications that eliminated the need for human workers in the most vulnerable positions.

"We really forced them to adopt this type of design by the knowledge we had acquired during the investigation," claims Gauthier. "They knew that if they didn't make these improvements, they would be held liable in any future disasters."

Their handling of the Continental Grain explosion firmly established Cummings and Gauthier as forces to be reckoned with in cases of mass disaster. In addition to the Pan Am crash and the collapse of the Equinox skywalk, they have been principal players in the 1982 sinking of the Ocean Ranger off Newfoundland, where an ODECO drilling rig collapsed and 84 were lost at sea, and most recently, the 1986 New Year's Eve fire at the Dupont Hotel in San Juan, Puerto Rico. In the latter, Cummings handled all the preliminary investigations, and Gauthier is chairing the ongoing investigations.