



# THE SHARK

# AND THE SHRIMPERS



**AFTER  
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OIL SPILL,  
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**BY  
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**PHOTOGRAPHS  
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In 2010, Dung Nguyen, a 39-year-old Vietnamese fisherman living in Dickinson, Texas, decided to take his boat out early in the season. Peak shrimping in Texas's Galveston Bay wouldn't begin until mid-August, but Nguyen was saving to send his three children to college, so in April, he began heading out for four or five days at a time. Nguyen was accustomed to long days; he had come to America as a refugee in 1992 and had saved for years to buy his first boat. That season, the waters were calm and the catch was good; when he wasn't harvesting shrimp, Nguyen lay on his cot watching Vietnamese soap operas. Then, on April 20, a friend radioed him: The Coast Guard was calling everyone back to shore. Deepwater Horizon, a BP oil rig 40 miles off the coast of Louisiana, had exploded. Nguyen was far from the flames and the oil. As he traveled home, he saw only an endless expanse of night and a sliver of moon. But when he reached the dock at three in the morning, the Coast Guard forced him to dump his catch. The three evenings he'd spent at sea, and the thousands of dollars he'd laid out for diesel, had been a waste.

In the days that followed, Nguyen watched the news anxiously. He saw aerial shots of crude oil coating the waters and heard one ominous number after another: the days the well had been hemorrhaging oil, the gallons that had bled into the Gulf of Mexico. On day 13, the National Oceanic and Atmospheric Administration closed 6,814 square miles of the Gulf's water to fishing (and would eventually shut down 73,000 more). On day 60, Nguyen knew that the season, and probably the industry, was ruined. The spill was a major story across the country, and even if Nguyen could catch shrimp that passed safety inspections, no one would buy it.

The Deepwater Horizon well spewed oil for 87 days; it was one of the largest environmental disasters in American history. The Gulf's oyster beds were wiped out, as were 100,000 birds, many of whom died from consuming oil as they fed or preened.

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**Opening spread:** Buras Boat Harbor, in Buras, Louisiana. **Opposite page, top right:** Dung Nguyen on his boat in San Leon, Texas. His fellow shrimpers work out of harbors in Buras and Venice, Louisiana.

The region was already one of the nation's poorest, and its three major industries—seafood, tourism, and oil and gas—were ravaged. Scientists were uncertain how long the environment would need to recover, and residents didn't know what to expect or how to cope—whether to wait for the cleanup or find another job; whether to eat their catch or throw it out; whether to teach their children to fish or sell their boats. Many of the unemployed, unable to qualify for loans, turned to payday lenders. Tensions festered and flared. That spring and summer, calls to the National Domestic Violence Hotline from Louisiana rose by 21 percent.

In the seafood industry, no one was hit harder than the Vietnamese, who account for up to half of its workforce on the Gulf Coast. Many had come to America as refugees after the fall of Saigon. Shrimpers in their homeland, they sought the familiar climate of the coasts of Texas, Louisiana, Mississippi, and Alabama.

Within weeks of the Deepwater explosion, the community got good news: Mikal Watts, a powerful plaintiff's attorney known for electrifying juries on behalf of the "little guy," decided to represent the Vietnamese fishermen against BP. A high-school debate-team wunderkind, he had graduated from the University of Texas School of Law at 21 and started his own firm by the time he was 30. He'd become a multimillionaire, winning high-profile cases against Ford and Firestone for manufacturing defects that led to exploding tires, and against the makers of a diabetes drug that destroyed the liver.

A sturdy egg of a man in his early 40s with a hawkish nose and a shiny dome, Watts considered the suit against BP clear-cut. "BP was a three-time felon," he told me. "It pled guilty to a felony in 1999 from a spill in Alaska. It pled guilty to killing 15 people in Texas City in 2005. It was still on probation for that." Many plaintiff's attorneys believed that a settlement over the explosion could rival the landmark \$246 billion paid out by tobacco companies to state governments in the late '90s.

Watts hooked up with a South Texan named Eloy Guerra, who made a living pitching potential mass torts to lawyers, as well as recruiting plaintiffs for the cases. Several years earlier, Watts had worked with Guerra (who declined to comment for this story) to go after the Federal Emergency Management Agency for the formaldehyde in the trailers used as housing after Hurricane Katrina. "People were gassed, in effect, with the high humidity of the Gulf Coast," Watts said of the case, which was settled for \$42.6 million.

It was Guerra's idea, according to Watts, to seek out seafood workers harmed by the oil. "We are going to get you 5,000 to 7,000 clients," Guerra emailed Watts in May 2010. "We are going to need \$900,000." Later Guerra emailed, "I will get you 20,000 claims if you want them." Watts did. He upped his investment to \$5 million for 20,000 plaintiffs, then \$10 million for 40,000. And in August, Watts announced the haul. He was representing 40,000 fishermen, nearly all of them Vietnamese. More than 300 legal actions were already pending against BP and other companies implicated in the spill: fines for environmental destruction; claims for lost income and property damage filed by tour-guide operators, hotel workers, and coastal homeowners. As has been the practice since the '70s and '80s, when asbestos and breast-implant mass-injury torts were inundating the courts, nearly all civil matters related to Deepwater Horizon were consolidated into one giant proceeding,



called a multidistrict litigation. MDL 2179 was assigned to a federal district judge named Carl Barbier, in New Orleans.

One of Barbier's first tasks was to appoint a small cadre of lawyers to the Plaintiffs' Steering Committee to litigate on behalf of all the claimants. These were coveted slots, conferring prestige, influence, and almost certainly extra money. While Watts and the other plaintiffs' attorneys were poised to rake in substantial sums in contingency fees if their cases succeeded, steering-committee members could also bill for their work establishing BP and its subcontractors' culpability for the whole mess. More than 100 lawyers applied for the committee; Watts, who had more clients than any other attorney, was one of the 15 selected.

Nearly two years later, in March 2012, the Plaintiffs' Steering Committee settled with the oil company and created a \$2.3 billion fund solely for seafood workers, including oyster shuckers, crab pickers, and Watts's captains and deckhands—who accounted for three-quarters of all the seafood claimants. That meant something like \$1.3 billion was headed to Watts's clients—an average of \$32,000 per person, if the money was divided equally, which wasn't likely—and \$400 million in contingency fees for him and his investors.

There was one problem, however: His fishermen didn't exist.

A STRANGE INDUSTRY has grown up around mass torts, consisting of middlemen who bring potential suits to big-deal lawyers, contractors who do the legwork of finding clients, and investors who help pay the expenses in return for a portion of the award from any victory. This last element—a form of legal financing called third-party litigation funding—proliferated during the 2008

one or, as in the arrangement Watts and his partners put together, take a cut of the contingency fee for an individual matter. Third-party litigation funding levels the playing field for people who can't afford to sue on their own—and thus is a tool to help hold corporations accountable. But the imperative to keep investors happy can prompt decisions that have little to do with “making whole” those who have been harmed.

Among Watts's investors was his friend and fellow plaintiff's attorney Robert Hilliard, who brought in a wealthy Corpus Christi businessman named Max Duncan to cover his approximately \$6 million stake. John Cracken, a Dallas plaintiff's lawyer who'd won numerous hefty settlements (such as \$8.2 million from Taco Bell for the families of four people killed during a restaurant robbery), kicked in another \$2 million. And Watts made his own \$3 million contribution.

One of the surest paths to a handsome profit for a mass tort is for it to be, well, massive. Which is why, these days, after disasters like Deepwater Horizon and the California wildfires, lawyers and their recruitment troops descend en masse, vying for clients. One by one, injured parties have to be found and educated about the lawsuit, and proof of their damages established through tax forms and other documents.

To represent as many clients as possible, as quickly as possible, Watts and his fellow investors relied on an army of field-workers who spread out along the coast—and it was in this messy and time-consuming process that the case went awry. According to Watts's version of events, by the time he began to realize the scope of the problem, he was in too deep to get out.

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RIGHT AFTER THE SPILL, the BP-funded Gulf Coast Claims Facility opened 36 offices that initially issued small emergency payments to seafood workers and others harmed by the oil. Nguyen got one check for \$5,000 and another for about double that. At that point, in exchange for agreeing never to sue BP, he was eligible for a final check based on two years' estimated earnings. Or he could forgo the quick cash and join the mass tort in hopes of eventually getting more. (BP declined to comment on any aspect of this story.)

Nguyen decided to go with the sure money—he was his family's sole breadwinner and had virtually no savings. To file the paperwork, he hired a lawyer from Houston who 10 years earlier had helped him and his fellow fishermen protest state wildlife regulations that threatened to put them out of business. Tammy Tran, or “Auntie Tammy,” had fled Vietnam with her infant son during the fall of Saigon, and her family's U.S. citizenship had been sponsored by a military captain who lived in San Antonio, Texas. Inspired by reading *To Kill a Mockingbird*, Tran told me she enrolled in the University of Texas School of Law in 1982 and became the first Vietnamese American to graduate. In class, she was scared to ask questions, until her professor—future Senator Elizabeth Warren—encouraged her. “If *you* don't understand, trust me, 80 percent of them don't understand,” Tran recalls Warren telling her.

After graduation, Tran was hired by the premier law firm Fulbright & Jaworski. “Every night, I carried my son to the office,” Tran

recession, in part because lawsuits are somewhat insulated from the vicissitudes of the market. Investors might spread their money across a portfolio of cases to limit their vulnerability on any single



Mikal Watts in his office  
in San Antonio, Texas

told me. “A normal lawyer writes, like, five drafts. I have to write a hundred drafts to make it good.” In 1997, she opened her own firm to represent Vietnamese Americans, who, Tran told me, are reluctant to speak up for themselves. “My people are very sweet,” she said. “We’re so polite.”

When Tran filed for the third payment for Nguyen, in September 2011, a claims administrator told her that he wasn’t eligible: He was already a client of Mikal Watts. This came as a surprise to Nguyen, who’d never heard of Watts, but not to Tran. Dozens of others had already come to her in a similar predicament; eventually, she would represent 439 people who’d been claimed as clients of Watts’s without their knowledge. She was convinced that the wealthy lawyers were targeting her clients because they were Vietnamese. “They think we are stupid,” she said. “They think we don’t fight!” Determined to disprove this, Tran began building a class-action suit against Watts for identity theft. Eighteen parties, including Nguyen, signed on.

WATTS LIKES TO TELL A STORY about the moment he realized his mass tort might be in serious trouble. It was October 2010, and he was drinking with his buddy and idol Joe Jamail, once the wealthiest plaintiff’s lawyer in the country, known as the “King of Torts.” Unprompted, Jamail brought up Deepwater Horizon. “And I’m all excited,” Watts told me, “thinking I’m sitting on the next billion-dollar thing. And Jamail says, ‘Oh, I’d never represent them damn shrimpers. Not a one of ’em got a tax return!’

I said, ‘What do you mean, Joe?’” Jamail asked Watts if he remembered a Gulf oil spill in 1979. Indeed he did. Watts had been a kid then, and “literally every day, we’d go out swimming and come back with tar on our feet. Mom would get ticked off because we hadn’t brushed ’em off with the scrubber and the gasoline.” “Somebody tried to give me 2,000 of those cases back in the ’80s,” Jamail said, “and there wasn’t no proof of damage, ’cause none of ’em paid taxes!” *Oh shit*, Watts thought, as an “incredible sinking feeling” came over him.

In reality, Watts already knew by then that he had a big problem, and not because of anybody’s taxpaying behavior. To lead the client-conscription effort, Eloy Guerra had enlisted his partner, Greg Warren, who in turn tapped Kristy Le, a young woman who spoke Vietnamese and had worked with him on the FEMA case. The team traveled the Gulf Coast, tasked with hosting town halls for Vietnamese fishermen where they’d tout Watts’s record and explain the mechanics of joining the mass tort. Le, who had once run a Vietnamese-language video store, hired more than 100 field-workers to gather questionnaires from prospective clients, for \$10 to \$50 each. They knocked on doors and hung out at the docks; they scouted Catholic churches, grocery stores, and other places where Vietnamese people congregated. To compile their information for the law firm, Le hired another half-dozen people, who worked around the clock in an office in D’Iberville, Mississippi.

Despite all the frenzied activity, Watts discovered a month before his conversation with Jamail that the field-workers had barely any documentation of damages for the people they’d entered into the database. To address the issue, he invited some 20 people involved in the case—among them Hilliard, Warren, and Le—to convene for a meeting at a fancy New Orleans hotel. Le told the group that her crew was overwhelmed with data entry and that locating the fishermen who’d filled out initial client forms had been difficult, because so many of them spent the off-season in Vietnam. Watts didn’t doubt the explanation, because in the FEMA case almost all of the 30,000 clients Warren and Le had procured had been the real thing. At night’s end, Watts decided to send the office more computers and to outfit the field-workers with cameras and scanners to make record collection easier: The workers could photograph fishing licenses, ID cards, and tax returns, then just hit Send.

By November, however, there hadn’t been much progress, and Watts and company weren’t the only ones who knew it. The lawyer the Obama administration named as BP’s claims point person, Kenneth Feinberg—who, starting after 9/11, has carved out a niche for himself as the czar of high-profile victims’ funds—let it be known that he seriously doubted there were 40,000 Vietnamese fishermen living on the Gulf Coast, never mind 40,000 harmed by the spill. He requested “confirmation and authorization” from each client who’d retained Watts.

Within a week, the firm sent “fact packets” for 22,533 people. Seven weeks later, it sent 17,469 more. Watts and his investors

knew the fact packets were flimsy at best. In late December, John Cracken had traveled to Mississippi to investigate the situation, and on the way home he'd emailed his partners: "We don't have 41K 'clients'; we have a list of 41K names." (The exact number of clients cited by the investors varied, but was never less than 40,000.) Kristy Le had no more than 15 complete packets, Cracken reported. The list included unreliable birth dates and Social Security numbers; invalid telephone numbers and street addresses; and a number of names that seemed to have been copied directly from the phone book. Cracken, in collaboration with Harvard- and Wharton-educated consultants, estimated that fixing the list would cost a minimum of \$22 million, which was double what the investors had already put in. While Cracken and Watts were willing to keep the money flowing, Bob Hilliard had had it. "Clearly the 40k clients are ghosts in the wind," he wrote in an email, later following up with: "Mikal, you know I say this with love in my heart so hear me out on this, this is either a super-secret plan for a billion-dollar success ... [or] a 'king has no clothes' cluster fuck that needs to be dealt with, openly, quickly and effectively." (Neither Hilliard nor Max Duncan, his investment partner, answered questions for this story.)

In March, an employee from Watts's firm emailed him and Cracken to inform them that one of their purported clients had died prior to the spill. Watts replied, "Another fine example of the shit we paid for; dead 5 years ago." Cracken replied: "Mikal, Fraud."

Still, by April 2011, Watts had filed more than 40,000 short-form claims in the multidistrict litigation. The same month, *The New York Times* ran a story featuring two Vietnamese residents of New Orleans who were included on Watts's client list despite not having been harmed by the spill, much less agreeing to join the suit. That prompted the Louisiana Attorney Disciplinary Board to open an investigation into the case, but Watts pressed on. He told me he considered dropping the clients he couldn't verify, but decided it was too legally risky—for *him*. Because of legal rules, anyone he dropped would be barred from joining another settlement or mass tort and, if they did have a real claim, might sue him as a result. "I would have had 10,000 malpractice lawsuits against me," Watts said. "You've heard doctors talk about practicing defensive medicine. We were very much practicing defensive law."

Meanwhile, Watts and the steering committee were still very much playing offense with BP. He argued that BP should issue a settlement *before* he produced paperwork proving damages. Otherwise, the committee would be forced to take the company to trial, where it would be on the hook for more money than a settlement would likely cost. Getting the usual records would be largely impossible, Watts contended: These fishermen do not speak English, depend on a shadow economy, and travel back and forth to Vietnam. (Leaders of the local Vietnamese community dispute this characterization.)

When BP agreed to settle, in March 2012, creating the Seafood Compensation Fund, Watts wrote to his partners: "Importantly, BP pays the \$2.3 [billion] whether the proof supports it or not. It does not ... Hope this makes everyone feel better about our eggshell plaintiff docket. To quote Monte [*sic*] Python, 'It's merely a flesh wound; I'm not dead yet!'"

The next day, the effort to get documentation for their apparent clients began anew—Watts and his fellow investors seemed to believe that now that BP had committed more than \$2 billion for seafood plaintiffs, fishermen would rush to fill out paperwork. To determine how many people on the list were eligible, the firm sent out self-addressed, postage-prepaid postcards, inviting recipients to review and correct their information and drop the card back in the mail. "If a nice % send back their post card, we'll be pleasantly surprised," Cracken emailed. "We'll begin a shock and awe campaign of love and affection to keep them in fold until the claims process shakes out."

The firm sent 422,000 pieces of mail, made 58,000 phone calls, and executed 372,000 robocalls to confirm clients on their list—to less-than-resounding success. "We had an entire wall stacked with boxes of returned mail," Kayleigh Stone, then a project manager at Watts's firm, would later say. "Thousands upon thousands of pieces of mail were coming back undeliverable every week." Another employee of the firm, Crystal Cox, said that the office phone operators received numerous calls from confused people saying they hadn't signed up for the case.

Watts pushed ahead anyway. In January 2013, six days before the deadline to finalize claims for the Seafood Compensation Fund, he supplied BP with presentment forms on behalf of 42,000 people. Meanwhile, as a lawyer on the steering committee, he billed nearly \$17 million for his firm's work on the case.

A month later, scores of federal agents raided his San Antonio office, searching computers and questioning employees. He was asked to step down from the Plaintiffs' Steering Committee, and in December 2013, BP sued Watts for inflating the cost of the settlement by fraudulently claiming clients.

Nearly two years later, in September 2015, the government indicted Mikal Watts and two employees of his firm—his brother David and an office administrator named Wynter Lee—for being part of a conspiracy to submit fake names to BP. Also charged were Eloy Guerra, Greg Warren, Kristy Le, and Abbie Nguyen, Le's sister-in-law and a part-time office worker. (Conspicuously missing from the list of defendants were John Cracken and Bob Hilliard, who were cooperating with the government.) The news of the indictment made headlines, and the brazenness of the alleged scam was astonishing. Though Watts later told me he'd dropped 500 names from his client list, it still featured 7,000 made-up Social Security numbers and 15,000 stolen ones. On the roster of "deckhands," there was a casino employee, a cosmetologist, a librarian, a soldier fighting in Afghanistan, a Buddhist monk, a Catholic priest, 240 people who'd died before the spill—and one dead dog named Lucy Lu.

**DAYS BEFORE THE START** of *USA v. Watts et al.*, in July 2016, I met Tammy Tran at her Houston office, in a strip mall with blacked-out windows and American-flag bunting. Inside, row upon row of Vietnamese American lawyers and paralegals sat in leather executive chairs in front of computers. Tran told me that about a year after the federal raid, she filed the civil suit she'd been assembling against Watts based on some of the same offenses that were later included in the criminal case.

Tran led me through her offices, which might best be described as strip-mall rococo—pink walls, marble floors, gold chandeliers, and a ceiling painted with roses. “It’s a bit girly,” she said, “but I like it.” In the conference room, Dung Nguyen and another of Tran’s clients were drinking coffee and bubble tea while awaiting my arrival.

Nguyen told me that before 2010, he could catch 1,000 pounds of shrimp a day in Galveston Bay, compared with 200 to 500 pounds in 2016. After the spill, wholesalers began importing increasing quantities of shrimp from Indonesia, Vietnam, and Thailand, some of it processed by enslaved laborers. Many in the seafood industry were hired by BP to help with the cleanup, but afterward, when fishing restrictions were lifted, consumers were scared to eat shrimp from waters so recently rich with oil and dispersant. And just when the stigma was beginning to fade, epic floods in 2016 spoiled another season. To make matters worse for Nguyen, he was still waiting for his final check from BP, six years after the explosion.

In the run-up to the criminal trial, Tran had also sued the unindicted “co-conspirators,” Cracken and Hilliard. Her complaint

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accused the two of harboring “an arrogant presumption” that the Vietnamese fishermen whose identities were allegedly stolen would be scared of challenging fancy lawyers: “Little did they know that the Vietnamese are fighters to their very bones.” Tran was asking for millions of dollars to compensate the plaintiffs for the financial harm they’d suffered while waiting for the delayed BP payments, as well as for punitive damages. She alleged that the federal agents investigating the identity theft had traumatized her clients, who had “nightmarish memories” of Vietnam’s Communist regime.

As part of the discovery for her case, Tran had received 4,000 emails exchanged by Watts and his investors. She’d read them all over a long weekend, she told me, pausing only to pray and eat; friends brought her watermelon slices and bowls of cherries. A high

point, she said, was when she found Watts’s email quoting Monty Python. “I said, ‘Oh my God, oh my God, this is better than anything else in the world.’” She slid down in her chair and let her legs dangle over the armrest. “It’s better than sex!” This is how the “big boys” work, she told me later. “That’s American justice.”

**THE CRIMINAL TRIAL** against Watts and his colleagues began on July 18, 2016, in Gulfport, Mississippi. Tran was forbidden from observing the proceedings, because the government planned to call her as a witness. She’d hoped that thousands of Vietnamese Americans would bus to the trial to lend support, but that didn’t happen. Instead, she was left standing outside the federal courtroom with a small clutch of fishermen’s wives dressed in black.

For at least eight months, 18 employees of Watts’s firm had been preparing for the case, and they’d transferred the whole operation to a hotel near the courthouse. In a conference room decorated with giant silver helium balloons spelling out INNOCENT, Watts’s trial team researched government witnesses, prepared evidence for cross-examinations, and analyzed the transcripts from the previous day. Some members stayed up after Watts went to bed at midnight and updated him when he returned at four in the morning. His private jet was on call to ferry friends, consultants, and witnesses between Texas and Mississippi. The final tab for the defense, Watts told me, was more than \$10 million.

The government’s theory was that Watts had engineered the massive client list to secure a spot on the Plaintiffs’ Steering Committee—for which his firm would pocket \$17 million—or at the very least that he’d known the list was full of falsehoods when he submitted it. The case was built on the cache of investors’ emails; on the testimony of numerous Vietnamese Americans who would tell the court that they’d had their identity stolen; and on the fact that of Watts’s clients, only 786 had provided the firm with two forms of identification and specific instructions to file—and of those, just four were eligible for compensation. An assistant U.S. attorney named John Dowdy spent two and a half years building the case, but just two months before the trial was scheduled to begin, he suddenly left his job without explanation (and later said he retired to work his farm). Dowdy’s co-counsel Jerry Rushing took over.

Watts opted to represent himself, despite never having argued a criminal case in his life—a move that shocked his colleagues. “The whole world thinks I’m being a fool, but I look at things analytically,” he told me, leaning back and cracking open a Miller Lite (which he keeps on supply in his offices and his jet, though not his 8,000-square-foot San Antonio mansion—his wife forbids it, he said). “I didn’t think it was a good visual for me to be sitting in the chair looking like a guilty man while everybody’s firing missiles at me for five weeks before I come testify for three hours and try to undo it. Now they see me arguing and fighting for myself every day.” Watts had studied this *pro se* strategy, even focus-grouped it, he said, to positive results. Watts thought jurors would be impressed with what a fabulous lawyer he was—so good that he would have been picked for the steering committee even *without* a raft of clients to his name.

Watts’s defense was evident as early as jury selection. “Has anyone been ripped off?” he asked each of the prospective jurors. He





Shrimpers in Venice, Louisiana

chatted jovially about online credit-card theft. “I’ve been at a breakfast in Texas and find out I’m buying stuff in Florida,” he joked. “Has that happened to you?”

No matter what the emails said, no matter that the firm ended up having only four actual clients, Watts and his firm had been deceived. They were the victims of Kristy Le and Greg Warren. The optics in the courtroom helped feed the narrative, with a racial twist. At the front defense table sat Mikal and David Watts; Wynter Lee, the office administrator, who is white; and the fair-skinned Guerra, represented by an all-white defense team. At the back table: Le; Abbie Nguyen; Warren, who is African American; and a trio of public defenders.

“I’m sure the front table would love to push Guerra to the back,” speculated a Mississippi attorney who told me he was being paid to observe the proceedings for Cracken. “This is Mississippi,” the lawyer continued. Without Guerra, “you’d have ... the three whites at the front table and the other people at the back ... At some point, the front table is gonna turn on the back table and shoot a double-barrel shotgun.” (Cracken strongly denied having

paid anyone to attend the trial, as did the lawyer himself when asked about it later.)

The lawyer’s prediction basically came true. Working in tandem, Watts and his brother’s lawyer, Michael McCrum, mounted a case against their co-defendants. They portrayed Watts as a legal warrior fighting for “real people, real lives,” while downplaying the fact that they’d noticed red flags in their client list nearly from the get-go. They regaled the jury with what they claimed were the lavish expenditures and personal dramas of the client-recruiters.

Of the more than \$10 million that Watts and his investors had fronted to collect plaintiffs, only an estimated \$2.3 million was spent on that effort, McCrum told the jury in his opening statement. For starters, Guerra took \$3.6 million, and left Warren to oversee the operations. Warren paid himself \$5.7 million, and, McCrum asserted, spent \$2,500 of it on cigars, \$3,000 at salons and spas, and \$77,000 on clothes. McCrum detailed how Warren frequented gentleman’s clubs and bought a new Audi, projecting stock photos of cars and establishments with names like Treasures on a large screen for the jury. As for Kristy Le, she shared

a \$1.4 million account with Abbie Nguyen, from which they paid themselves and the field-workers. Le made comparatively little, but McCrum nonetheless enumerated her “unauthorized” expenditures: purchases at Gucci, Burberry, and Victoria’s Secret, as well as stays at hotels like the Ritz-Carlton and the St. Regis.

The prosecution didn’t contest (or affirm) McCrum’s story about the diversion of money for personal use, because the government’s case wasn’t about that—it was about how Watts and the six other defendants together had knowingly deceived BP and the court. As the trial wore on, the parties tended to blame one another, leaving Watts at the top largely unscathed. At the bottom of the hierarchy was Kristy Le, whose lawyer laid into Warren for taking the bulk of the money and not assisting her when it was clear that the field-workers were taking advantage of her. Instead of admitting that they were coming up dry, they just kept feeding Le names for \$10, \$20, \$50 a pop.

One of the more outlandish moments of the proceeding came when the government called to the stand a New Orleans private investigator turned Kentucky real-estate agent named Ryan Willis. Visibly nervous on the stand, Willis told the court that Cracken had hired him to track down the two bad clients in New Orleans who’d triggered the Louisiana Attorney Disciplinary Board investigation. Unbeknownst to Willis, Cracken wanted them to sign affidavits to make the problem with the disciplinary board go away. (The Louisiana regulators didn’t take action themselves but instead, according to Watts, passed on their information to the feds.) And, Willis testified, that wasn’t the first time he’d been contacted by someone on the BP case. Le had sought his services, too: Would he find out if Warren, whom she’d been dating, was cheating on her? Willis surveilled him for a day or two but didn’t manage to find any evidence of that. (Warren, a husband and father, would later deny having a relationship with Le; Le herself also denies this, according to her lawyer.)

More germane to the criminal case, Willis provided an important clue about where the information in the fake client list had come from. He testified that Le had paid him \$480,000 to use databases available to private investigators—which can include addresses, phone numbers, Social Security numbers—to convert incomplete questionnaires into clients. Willis had agreed to testify for the government, but he told me later that before the trial he’d tried to hide out from Watts’s people, who presumably wanted to subpoena him in case the prosecutors withdrew him as a witness. Strange men stole his mother’s garbage, Willis said; strange cars trailed him for weeks. Or, as Watts bemoaned to the judge: “It took me three and a half weeks to get [Willis] served, chasing through the woods at 70 miles an hour.”

One of the government’s most eagerly awaited witnesses was John Cracken, who took the stand to flesh out the story told by the emails: how, because Watts was consumed with his work on the Plaintiffs’ Steering Committee, Cracken had taken it upon himself to investigate the list; how he’d visited Kristy Le and discovered the virtually worthless client packets; and so on.

When the prosecution wrapped, Watts got his shot with Cracken, and led his fellow investor through the defense’s version of the case. Yes, there had been a fraud, but it had been perpetrated

by Warren and Le alone. The emails that the government used to suggest that Watts and his brother were aware of the scam and nonetheless barreled on—those were taken out of context. The Monty Python quote, for example, was a metaphor for a lawyer who, despite endless obstacles, refuses to quit on his clients.

When Watts asked Cracken whether an experienced mass-tort lawyer like himself would have any financial incentive to file suit for 40,000 people he knew didn’t exist, Cracken replied, “It’s like exposing yourself to Ebola. It’s just ridiculous.”

By the end of the third week of the trial, the case was looking so good that a small posse from Watts’s legal team went to New Orleans for the weekend, celebrating with hurricanes at Pat O’Brien’s. A few days later, the prosecution rested. Tammy Tran was never called as a witness, perhaps because she wasn’t needed, or because the prosecutors never seriously considered using her in the first place and just put her on the witness list to keep her—and any distraction she might cause—out of the courtroom. Watts felt so sanguine that he called only 25 of the 165 people on his witness list and finished his case after three days.

The jury took just four hours to reach a verdict. The Watts brothers, Eloy Guerra, Wynter Lee, and Abbie Nguyen were found not guilty on each of 66 counts; Greg Warren and Kristy Le were found guilty on all of them. Le went from biting her lips to heaving as one “guilty” after another was read out. Watts “needed a scapegoat,” Le’s public defender had told the court during his closing argument. “They wanted the little girl ... that rented videos so they could blame her.” She was sentenced to seven years in prison, and Warren to 17. (He is still appealing the verdict.)

A film crew Watts had hired was waiting outside the courthouse with cameras. “The jury got it right,” Watts told a small crowd. “Justice has been served.”

“I’M REALLY DOWN,” Tran told me after the verdict. “Everybody believes that this is the O. J. Simpson case.” In other words, Watts may not have been convicted of criminal charges, but Tran was determined to get justice in civil court. And she had a new strategy: She’d use the very argument that Watts had used to get himself acquitted. “He blamed the runners!” Tran told me. “You *cannot have* runners!” Hiring runners—independent field-workers who do not have a license to practice law—to solicit clients is illegal in Texas. It’s called barratry, or, colloquially, “ambulance chasing,” and each victim of the practice could recover up to \$10,000 in penalties.

After Watts’s trial, and six years after the spill, BP at last issued Dung Nguyen’s final payment. Tran counseled him not to disclose how much he received, because of her pending litigation, but from the outside at least, the money doesn’t appear to have changed his life. These days, he is still trawling the Gulf, his earnings ever fluctuating along with the price of fuel and shrimp—and currently plummeting because of the coronavirus pandemic’s impact on the economy. Nguyen had covered the cost of an associate’s degree for his eldest child, he said, but couldn’t afford to send his two younger kids to college.

Tran withdrew her federal suit against Watts for identity theft, but filed another one in state court, along with the barratry claim

against him and Hilliard, both of whom deny any wrongdoing. Those two cases were dismissed, but Tran is appealing. (She settled the barratry suit with Cracken and Max Duncan.)

After the criminal court declared him not guilty, Watts took a week off and then set about rebuilding his firm. He now represents 2,500 clients suing the electronic-cigarette maker Juul for marketing to minors, and is part of the executive committee bringing a multidistrict litigation against Purdue Pharma on behalf of several counties in Texas aiming to recover costs

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associated with the opioid crisis. In December 2019, he settled with the California power company PG&E on behalf of 4,500 victims of the 2017 Tubbs Fire and 13,500 victims of the Camp Fire a year later. And in mid-March, he sued Princess Cruise Lines for its “lackadaisical approach” toward the safety of its passengers quarantined aboard a ship off the California coast as a result of COVID-19. Watts told me he’s taking more precautions as he builds his client bases, overseeing the intake himself in weekly meetings, requiring everyone to present a photo ID, and, most important, only hiring field staff and surrogates with “honest reputations,” including one Erin Brockovich.

BP dropped its suit against him, and ultimately paid more than \$60 billion related to the Deepwater Horizon spill. As for the \$2 billion-plus Seafood Compensation Fund, it’s all been distributed, to some 5,000 parties. The largest sums, according to Sandy Nguyen, the executive director of a nonprofit group that assisted fishermen at no cost, went to people like the owners of marshland where oysters had been harvested; the smallest amounts went to people like part-time deckhands. In part because BP would not comment on anything for this story, it’s impossible to know why there wasn’t a lot of money left over from

the seafood settlement, considering that three-fourths of those for whom it was intended turned out to be imaginary. When I mentioned to Watts that somehow \$2.3 billion had ended up being the right figure, he snapped, “Of course it was. They had already discounted my clients. They didn’t believe they existed. They had a solid count of how many people were fishing in the Gulf, and it turned out they were right.”

It’s hard to escape the suspicion that this was all a big game in which powerful entities moved money around and ended up enriching themselves, or at least not losing too much. That doesn’t surprise the Yale Law School professor emeritus Peter Schuck, the author of *Agent Orange on Trial: Mass Toxic Disasters in the Courts*. While they can empower the so-called little guy to go after corporate wrongdoers, mass torts are vulnerable to exploitation and manipulation, he argues. Even when everything’s on the up-and-up, they’re “an extremely inefficient way of compensating victims,” Schuck told me. They take a long time to litigate, have high transaction costs (up to 40 percent of the total outlay, according to Schuck), and can lead to unpredictable rewards. “Where liability is clear and can be established without a lengthy trial, there is no question in my mind that administrative compensation is a better way to go,” he said. That’s what the Gulf Coast Claims Facility was set up to deliver, and I asked Schuck whether there was any reason to pursue a mass tort in a case like this. His answer: The lawyers want the big payouts.

Watts has become an advocate of legal reform, though not tort reform. After watching *Making a Murderer*, the Netflix documentary about a Wisconsin man who spent 18 years in prison after being wrongly convicted of rape, Watts hired a producer to turn his own story into a documentary series. The crew that filmed his victory celebration outside the courthouse had also shot footage in the hotel war room during the trial.

In a talk before the Texas Criminal Defense Lawyers Association, Watts, despite his exoneration and despite never having spent a moment behind bars, likened himself to Michael Morton, who was wrongfully convicted of killing his wife and served 24 years in prison, and Hannah Overton, who served seven years before being exonerated for the murder of her 4-year-old foster son. “I didn’t give two shits about the criminal-justice system before this happened,” Watts told me. “But I am morally outraged by what I’ve learned.”

“There’s a 92 percent conviction rate in federal criminal trials,” Watts went on, attributing the high figure not to defendants’ guilt but to the fact that most of them “don’t have a pot to piss in from the standpoint of hiring a lawyer, getting an investigator, having three copiers back there to crank out all the exhibits. When you look at the United States attorneys’ win-loss rates, their losses are all against rich guys.” Like him, of course—a guy who could afford to spend \$10 million defending himself. “It’s not because rich guys are more or less innocent than other guys. It’s because they’ve got the resources for more of a fair fight.” *A*

*Francesca Mari is a freelance writer who completed this story as a 2019 Calderwood journalism fellow at the MacDowell Colony.*