

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)

Las Vegas' medical mafia

Prosecutors say a group of top lawyers and doctors conspired to collect millions in inflated damages by pushing accident victims into dubious surgery.

By [REDACTED] contributor

Last Updated: August 19, 2009: 4:11 PM ET

LAS VEGAS (Fortune) -- It began as the most ordinary of fender-benders. Cynthia Johnson, an office manager for a real estate company, was driving to work on Interstate 15 near the Las Vegas strip when a fellow commuter clipped the rear bumper of her Toyota Avalon, propelling it into the truck in front. No one seemed hurt, and the drivers exchanged information.

The accident, on June 12, 2002, might have been forgotten. But Johnson woke up the next day with back pain. She went to her regular doctor but was told that she'd have to pay all her treatment costs upfront, since a car accident could result in lawsuits and her health insurance might not cover her. Worried about the costs, she consulted a physician friend, who pledged to find someone to help her.

No more than 30 minutes later she got a call from a man named Howard Awand, who said he was in the business of handling such cases. Awand (pronounced AY-wand) managed to get her an appointment that night with one of the busiest spine surgeons in the country, Mark Kabins. After examining her, the surgeon referred her to several other doctors and said that Awand had also arranged for her to see one of the town's most prominent plaintiffs attorneys, Robert Vannah. All for a routine accident on the way to work. Johnson couldn't believe her luck.

Better still, she didn't have to pay any money upfront. On her first visit to Vannah's office, she signed a medical lien. Such agreements mean injured parties pay nothing unless they collect a settlement; if that happens, the person holding the lien (which could be a plaintiffs lawyer, a doctor, or a hospital) is then paid from the settlement. "Over the next six weeks, I had so many doctor's appointments that I couldn't keep up," recalls Johnson, who was grateful for the attention but also confused by a directive from Vannah's office: Don't mention Howard Awand's name to anybody.

As Johnson underwent cortisone injections and physical therapy, her pain began to ease. Yet each time she saw

Kabins, she says, he urged her to undergo spinal surgery. The doctor asserted that if she didn't, her pain would be 20 times worse in 10 years, she recalls.

Meanwhile, her lawyer, Vannah, filed suit against the driver who hit Johnson, asking for a minimum of \$200,000 in damages. Unbeknownst to Vannah, the driver was a federal prosecutor who had been in his car on government business. This detail meant nothing to Johnson. But it would come to mean everything to her lawyer: Instead of facing a local defense attorney, Vannah was squaring off against Ruth Cohen, a seasoned lawyer in the U.S. attorney's civil division.

Almost immediately, Cohen sensed something strange. For a minor traffic accident, Johnson had seen no fewer than eight doctors and racked up more than \$40,000 in medical bills. Working late one Friday night, Cohen called a former colleague, William Turner, who was then managing attorney for the Las Vegas office of Farmers Insurance. As she described the case and listed the doctors involved, Turner interrupted, saying, "They're all connected to Awand."

"Who?" Cohen asked. She had never heard of the man. But she had stumbled into the middle of what prosecutors would later allege was a massive conspiracy whose participants, witnesses told the FBI, dubbed themselves the "medical mafia."

Prosecutors charge that a group of top Las Vegas plaintiffs lawyers and doctors, with the 64-year-old Awand at its center, conspired in an audacious fraud. The participants appeared to act independently but instead colluded. Unwitting accident victims were recruited as plaintiffs and then persuaded to undergo serious, sometimes needless, surgeries. The procedures, in turn, helped inflate the size of personal-injury claims. The result was multimillion-dollar insurance settlements, even for dubious cases, and lucrative fees for the doctors, the lawyers, and, of course, Howard Awand.

The alleged scheme began in 1999 and lasted for at least six years, prosecutors charge. Business and court records and local press reports suggest that the group -- which numbered about 30 -- colluded in hundreds of suits that yielded hundreds of millions in settlements. According to government evidence, the group coordinated their testimony as expert witnesses, lied under oath, protected one another from malpractice lawsuits -- even after the surgeries left a few patients paralyzed -- and ate away at the plaintiffs' settlement money with kickbacks disguised as contingency fees.

For prosecutors, the alleged conspiracy was almost impossible to detect -- and maddeningly difficult to prove beyond a reasonable doubt. After all, the process looked remarkably like American-style justice: crusading plaintiffs lawyers forcing corporate deep pockets to pay big for injured clients.

So far Awand and his associates have thwarted prosecutors. After five years of FBI investigation, three indictments, a highly publicized trial, and testimony from two complicit surgeons given immunity, no one has been found guilty. A judge dismissed indictments against Awand and one plaintiffs lawyer because a key witness wouldn't testify. (The government is appealing the dismissal.) Though prosecutors have declined to share information not already public while their investigation continues, the saga's details were gleaned from interviews with 40 people -- including two admitted participants -- and a review of thousands of pages of trial testimony and evidence, as well as nonpublic government records.

For his part, Awand asserts his innocence and dismisses the medical mafia as "nonexistent." Kabins has also proclaimed his innocence, and Vannah, who has not been charged with anything by the government, says he has done nothing wrong. Vannah and others claim the real collusion in the case is between the prosecutors and the insurers.

Awand says he has proof that he has been railroaded by the government, but adds, "Basically my attorney has advised me not to say anything." The lawyer, Harland Braun, calls the case against Awand "totally phony" and asserts that his client did nothing wrong. What the government paints as "collusion," Braun says, was nothing more than cooperation among professionals. Because Awand was beating the insurance industry in court, the

government concluded "it must be a conspiracy," says Braun. "What Awand did is level the playing field."

Needless to say, the insurers see it in starkly different terms. As one executive puts it, "This is a horror movie. In your wildest dreams you've never seen anything like this."

The consultant

One month after Cynthia Johnson's accident, Howard Awand threw open his sprawling lakefront home in Big Bear, Calif., to Las Vegas' A-list professionals. Kabins and Vannah, the doctor and the lawyer in the Johnson case, were there, along with 200 other top doctors, lawyers, judges, and their spouses and kids. The event, including a buffet dinner of filet mignon and lobster, was a fundraiser for two Las Vegas judges who faced reelection; some \$30,000 in checks piled up in two crystal bowls, several partygoers recall.

But it was also a showcase for Awand, who played the welcoming host. A self-proclaimed "medical consultant," he was short and bespectacled, with a slight mustache and a paunch. With his boastful patter, he projected a smug sense of power. Some guests would later tell the FBI they were afraid of him because they thought he had connections in the military and intelligence worlds. Awand fed that impression by alluding to high-level work on national-security matters he couldn't discuss. A framed case of military and intelligence medals reinforced this story. Other people at the party, though, thought he was a brain surgeon or a lawyer.

Awand's background was almost impossible to pin down, and the truth of it was considerably less glamorous than he let on to his guests. A former Army medic, he had bounced around from Alaska to Colorado assessing personal-injury claims for insurance companies before setting up shop in Las Vegas in the late 1980s.

Deeper into the house, though, was a clue that seemed to reveal the real Awand. A framed photograph depicted him jokingly cuddling with Kabins and Vannah. The message wasn't hard to decipher: They were all in bed together. (Like Vannah, the other two men in the photo have not been charged with any wrongdoing by prosecutors.)

Long before Awand's party, insurance defense lawyers in Las Vegas had noticed a worrying pattern: Claims that should have been minor were becoming major. Patients usually treated with a little physical therapy were undergoing drastic spine-fusion surgeries. Insurers sent in their top lawyers, only to see them mowed down in court. The plaintiffs' expert witnesses testified so seamlessly they were impossible to contradict. And in each questionable case, the name "Howard Awand" surfaced.

The insurance industry battles some \$80 billion in fraud annually, from staged auto accidents to phantom patients and nonexistent clinics billing for procedures that never happen. In a typical scheme, a victim might collude with his lawyer to exaggerate his injuries a little. But in Las Vegas, the accident victims knew nothing of the alleged conspiracy. More important, at least from the insurers' point of view, cases they estimated would max out at \$1 million were getting jury verdicts for seven times that amount. "Your first reaction is, 'It's not possible. It can't be that pervasive,'" says Nelson Cohen, an attorney for State Farm Insurance.

By 2002, insurance defense lawyers were so concerned they held an unusual meeting. More than a dozen attorneys for competing insurers met to compare notes. Some who had subpoenaed Awand described getting threatening calls from his associates warning that their business would dry up if they didn't back down, William Turner of Farmers Insurance recalls. The lawyers, he says, recounted tales of strange behavior or even intimidation. Expert witnesses, for example, suddenly and inexplicably changed their testimony; some doctors who refused to cooperate with Awand had been threatened with frivolous malpractice lawsuits. By meeting's end, the lawyers felt certain they were facing something bigger and more sinister than garden-variety fraud.

At some of Las Vegas' booming plaintiffs law firms, Awand was hailed as a fixer with no equal. Before he arrived in town, it could be difficult to rope in prominent doctors to serve as expert witnesses in personal-injury cases; they didn't want to testify against fellow doctors and feared being sued themselves. But Awand had a "magic formula to make the dogs and cats work together," says John Thalgott, a spine surgeon and admitted former

participant in the medical mafia who left the group and later was granted immunity as a government witness.

Awand offered the doctors protection, according to Thalgott and others. Because he held sway over key lawyers, he could virtually guarantee they would never sue his doctors for malpractice. In one e-mail to a physician, Awand described himself as a "fixer" and bragged of "saving my friends' butts from lawsuits."

With Awand's doctors freed from anxiety about litigation, and with almost every patient on medical liens -- which severed them from any oversight or restriction their health insurance companies might impose -- there were almost no limits. Awand's patients became perfect unwitting objects for almost any procedure imaginable.

The "Kabinsectomy"

Thalgott first glimpsed Awand around 2000. "This little fat guy starts showing up in the office carrying [patient] charts," the surgeon recalls. "I thought it was pretty intrusive." Awand was there to see Thalgott's junior partner Mark Kabins, whom colleagues describe as a socially awkward workaholic with impeccable medical credentials.

Thalgott had recruited Kabins and then temporarily handed over his practice to his colleague when Thalgott took a break after a divorce. Once he returned, he found Kabins making three times his own salary, up to a staggering \$750,000 a month. There was only one notable difference between his practice and Kabins's: Howard Awand. And so the senior surgeon signed on. "My greedy voice said, 'I'll do a few cases,'" Thalgott recalls.

Awand became a fixture in the office. Kabins installed a dedicated phone line for his use, and the two men spoke sometimes every 15 minutes. Awand even entered Kabins's exam rooms and scrubbed into the operating room.

By 2000, Kabins's practice had become a factory producing multimillion-dollar insurance settlements, according to witness statements and interviews. The volume was so great that Awand himself couldn't keep track. In June 2002 he wrote to Kabins, asking him to create a list of all the clients he'd sent: "We are reaching critical mass and both of us are losing money by my failure to keep up with the referrals."

Kabins became so infamous that insurance investigators coined a term -- a "Kabinsectomy" -- for a needless surgery in Vegas. He often worked 20 hours a day, seven days a week, with patients prepped for surgery from 6:30 in the morning until 10:30 at night, according to several former colleagues. Kabins would even take calls from lawyers and schedule depositions while in the operating room. By day's end, his hands would be shaking and his gown drenched in sweat, one of Kabins's former surgical assistants says.

When Kabins wasn't in surgery, he was often prepping for litigation. He and Thalgott, along with a constant stream of doctors and lawyers, would meet with Awand for hours at a time. Awand would "script" testimony, which the group would then rehearse; he liked to tell the story of a doctor who memorized his script so perfectly that on the stand he accidentally said, "Pause for effect," before correcting himself. Afterward, the group would drink champagne and smoke cigars.

The medical mafia distributed millions of dollars to its members, prosecutors have charged. Disbursements took place at fancy restaurants and parties, with lawyers handing Awand huge checks and doctors receiving envelopes of cash when their wives went to the ladies' room.

Some doctors received referral fees for sending patients into the network. Others took kickbacks when their cases settled for large sums, as Benjamin Venger, a neurosurgeon also given immunity, admitted under oath. He testified that he tried to conceal six-figure kickbacks by falsely claiming to have rented Awand his plane and to have consulted on starting an imaging-facility business.

Awand, meanwhile, earned consulting fees. He also found a second revenue stream: Almost all the patients were on medical liens, so prosecutors say he opened companies that bought liens from doctors at a reduced cost. Once the cases settled, he collected payment in full. All told, Awand's taxable income was rising above \$2 million in some years, according to tax returns cited in a government filing.

With these profits, Awand became increasingly bellicose. In 2002, Rick Harris, a lawyer working with Awand, attempted to save a client about \$15,000 by trying to negotiate a 50% discount from the company holding the liens on the client's medical bills. Unbeknown to Harris, the company was Awand's. Awand responded by writing a letter asserting that it "takes a lot of balls to cut someone's bill fifty percent (50%) without even giving them the courtesy of a kiss when you are done screwing them. It's obvious that you are never going to be able to handle big cases because you don't know how to deal with the people who make you money."

Says Harris, who subsequently became a government witness: "It was as if we had upset the Godfather."

Call me brother

Thalgott admits that he got into the network for ego, money, and legal protection. But it was the case of his patient Melodie Simon that made him want to get out. In August 2000 he performed a vertebrae fusion on Simon, a former Olympic volleyball player and high school softball coach. Then he went on a scheduled family vacation, leaving his partner Kabins in charge. Within days, Simon developed numbness and tingling in her legs, according to her trial testimony (she declined to be interviewed). A CT scan revealed that blood clots had formed in her spine.

Without immediate surgery, she faced the prospect of irreversible damage. But Kabins -- who was having one of his periodic "clinic" days, where he typically saw 65 to 80 patients, according to a former assistant in his office -- allegedly ignored her deteriorating condition for almost 24 hours. By the time he finally took her into surgery, it was too late, a medical expert later testified for the government. At age 41, she was permanently paralyzed from the chest down.

Simon turned to one of the town's top plaintiffs lawyers, Noel Gage, asking him, "What would you do if it was your sister?" Gage responded that she should call him "brother."

But Gage would show more allegiance to Awand than to his client, prosecutors contend. Awand arranged a secret meeting with Gage, Kabins, and Thalgott in which, according to prosecutors and Thalgott, the men agreed to pin the blame on another doctor altogether, the anesthesiologist who had drained Simon's spine. Gage agreed not to sue the surgeons in exchange for a lucrative case referral from Awand. (Kabins and Gage deny any deal; they have said the meeting was simply an opportunity to hear each side's position.)

The depositions and evidence that Awand coordinated implicated the anesthesiologist so perfectly that his insurer had no choice but to settle the suit. By secretly agreeing not to sue the two surgeons, prosecutors would later argue, Gage allowed a case potentially worth \$10 million to settle for \$2 million, netting Simon far less than she would need for a lifetime of treatment.

Awand's hold seemed unshakable. But on Jan. 6, 2005, a small item by the city's best-known investigative reporter, George Knapp, appeared in the Las Vegas Mercury. He mused about "doctors and lawyers, working together on a major, ongoing fraud scheme, but with help from hospital executives and a judge or two, and all centered on a shadowy, shady middleman." The FBI, he wrote, was "already asking questions."

Not what they're supposed to be

Cynthia Johnson entered the courtroom on July 21, 2005, for a routine procedural hearing. Though her case was the only one on the docket, she was surprised to see the courtroom packed with men in dark suits. Vannah seemed rattled, she says, and he complained to the judge that government lawyer Ruth Cohen had "leaked it all over the community that I'm being investigated by her and her cronies for criminal conduct." At the hearing's conclusion, a newspaper columnist rushed up to Johnson, asking, "Are you seeking to get compensation for injuries you don't really have?"

Johnson had no idea what was happening. After the hearing, Vannah screamed, "Things are not what they're supposed to be," as he rushed across the parking lot with an associate, she recalls. The bewildering scene made

Johnson so uneasy that she told Kabins she would not undergo surgery.

Within a week, Vannah asked Johnson to come see him. He requested that she sign a document releasing him from her case. He claimed -- incorrectly -- that she'd failed to disclose previous visits to a chiropractor. If she signed, he continued, she'd owe him no attorney fees and would be responsible only for her medical costs, which had climbed into the many thousands.

As she resisted, he grew more agitated, screaming that if she didn't sign, she'd owe him vast sums. He stood, banging the table and yelling that she was under federal investigation and that "the government had killed people for lesser things than you're doing right now," she recalls.

Vannah denies any impropriety and says he isn't surprised that Johnson's accident received extra attention from the government, given that a government employee caused it. Vannah has not lost sleep over the protracted investigation, he says -- even though he has been subpoenaed by government investigators, has been able to dodge an ethics complaint by a client over his payments to Awand, and has been secretly taped boasting "there are five or six judges that will do anything I want." Still, he notes, prosecutors have not charged him with anything.

Johnson left Vannah's office in tears that day, without signing the document. She had several chilling realizations. Her lawyer appeared to be under investigation, though she had no idea for what. He was panicking. And he'd just threatened her. She needed help from someone she could trust.

The next day, Johnson called every local attorney she could think of -- and almost no one called back. Her case had become radioactive. Sleepless, depressed, and not knowing what else to do, she finally found a lawyer who steered her to Ruth Cohen, the government lawyer on the other side, who immediately called her back. Within days, Johnson was sitting down with the FBI.

Beating the cavalry

In May 2007, federal prosecutors unveiled indictments against Awand and Gage that charged them with conspiracy, fraud, and (in Awand's case) witness tampering. The indictments referred to six other doctors, identified by letters only, who allegedly had also been involved. Gage and Awand pleaded not guilty.

That was just the beginning. Some 20 doctors and nearly a dozen personal-injury lawyers were in the government's cross hairs, the Las Vegas Mercury's Knapp reported at the time, and prosecutors suspected harm to hundreds of patients. "Stay tuned," an FBI agent told the media. It seemed the cavalry had finally arrived.

But for all the promise of the indictments, the prosecution began to run into difficulty almost immediately. In the run-up to Gage's trial in February 2008, for example, all 10 federal judges in Nevada recused themselves, one of them noting that "it's wise to stay away from cases that are local and involve attorneys." A U.S. district court judge from Washington State, Justin Quackenbush, was assigned and promptly threw out 13 of the 19 counts against Gage, including the core of the conspiracy charges. The jury ended up considering a far narrower case, dealing largely with Melodie Simon.

At trial, Gage's lawyers skewered the prosecution, arguing that the case boiled down to an accusation that Gage had netted his client only \$1.3 million. Moreover, they charged, the star witnesses, Thalgott and Venger, were avowed liars. The local press corps shredded the two doctors. One columnist wrote that Venger needed a "reputation transplant." The trial ended with a hung jury.

Gage staunchly maintains his innocence: "I don't believe there is a medical mafia, and if there is, I am certainly not aligned with it." Calling government investigators "despicable, dishonest human beings," he says they have not proved "one scintilla of criminality."

Things turned from bad to worse for the prosecutors as the summer of 2008 began. With Gage's retrial looming,

his lawyers argued that only Kabins could refute his former partner Thalgott's testimony. But Kabins wouldn't take the stand unless the government granted him immunity. Prosecutors refused, arguing that they'd already identified him as a target. Last June, Judge Quackenbush ruled that Gage's right to a fair trial would be violated without Kabins's testimony. The judge threw out the government's case.

Quackenbush then dismissed the conspiracy case against Awand, also citing the absence of Kabins's testimony. In October the government appealed to the Ninth Circuit Court of Appeals. Oral arguments were scheduled for Aug. 11.

Gone but not gone?

These days Howard Awand is no longer a "medical consultant." In 2007 he and his wife, Linda, moved to a historic, fog-shrouded town on the Ohio River in Vevay, Ind. There they restored a Victorian mansion, filled it with elegant antiques, and reinvented themselves as proprietors of a bed-and-breakfast called the Rosemont Inn.

Though Awand has been able to fend off the conspiracy case till now, he faces a second case: Awand and his wife were charged with four counts of misdemeanor tax evasion. They have pleaded not guilty and the trial is scheduled for September.

Despite Awand's departure, according to insurance lawyers, collusion continues among the members of the medical mafia. In their appeal in the Awand case, prosecutors allege the scheme is "ongoing." The doctors keep testifying, and the insurers keep losing. "They're cockier than ever," says Michael Hall, an insurance defense lawyer. Ruth Cohen, who has left the U.S. attorney's office and is now in private practice, wonders whether prosecutors arrived "too late" to change anything.

So far, the only person to receive punishment in the case is one of the doctors who admitted his role and cooperated with the prosecution. In May the Nevada medical board sanctioned the neurosurgeon Venger, giving him a year and a half of probation and over 800 hours of community service.

Thalgott, the other doctor who cooperated -- who by most accounts was dramatically less involved than Venger -- is also facing a threat to his medical license. The county and state medical boards have announced inquiries. Thalgott wonders whether he is being investigated for his lapses -- or for talking about them openly. "I'm under an ethics investigation, and I'm the only ethical person in the whole mix," he says. "I fell on my sword for nothing." Thalgott, who paid the former Olympic volleyball player Simon \$1.5 million as part of his immunity deal, has taken steps to protect himself, spreading shotguns around his house. "These guys have a lot of money, and people are getting desperate," he says.

Meanwhile, the federal prosecutors continue to bring cases. In March a federal grand jury indicted Kabins on eight counts of conspiracy and fraud, all relating to the case of Simon. He pleaded not guilty. In response to detailed questions for this article, his lawyers David Chesnoff and Martin Weinberg write that Kabins "vigorously denied the allegations that have been lodged against him." They also state that he has never been sued for unnecessary surgeries, has never been found liable for medical malpractice, and has an "impeccable reputation in the medical community."

On advice from his lawyers, Kabins declined to be interviewed. But in a deposition for Cynthia Johnson's lawsuit he testified, "My integrity is everything; my outcomes of my patients are everything; I live and die with my patients; if they do well, I'm on top of the world. If they struggle, I struggle." He also denied pushing Johnson to have surgery, saying, "My recommendation is always, if you can live with it, live with it, because surgery has inherent risks. There's no guarantee surgery is going to make you better."

After entering his plea of not guilty at the courthouse in March, Kabins emerged flanked not only by his own defense attorneys but also by a number of the city's most prominent plaintiffs lawyers. Kabins's lawyer Chesnoff says the gathering was an "outpouring of support" from family members, medical staff, and even a family rabbi.

They may have intended to protest what they view as the government's war on litigators. But marching grimly in a protective phalanx in their dark sunglasses and suits, some of them bullying the lone TV cameraman, the group seemed to resemble just the sort of cabal described by prosecutors: a gang of doctors and lawyers, with no intention of backing down. ■

[SAVE THIS](#) | [EMAIL THIS](#) | [Close](#)