

**AFFIDAVIT OF NAHID BIRJANDI**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

I, Nahid Birjandi (Colton), declare as follows:

1. I am the wife of the defendant named in the within indictment. I have personal knowledge of the facts set forth in this declaration and, if called and sworn as a witness, I would be competent to testify to such facts.

2. I have been licensed as a podiatrist in the State of California since 1991. Since that time, I have had conducted business as a podiatrist under the business name of Nahid Birjandi Podiatric, Inc.

3. I married Roland C. Colton on June 16, 1999. We have lived together in my residence in Laguna Niguel, California, since our marriage. Both my husband and I desired to have children together.

4. In April of 2000, I had an ectopic pregnancy, which required surgery. One month later, I experienced a near fatal event while on vacation in San Francisco, when the ectopic pregnancy ruptured (the gynecologist had failed to properly follow up with blood tests, and the fetus had not been fully removed in the earlier procedure). Emergency action was required to save my life. Subsequent to the ectopic pregnancy, I suffered two miscarriages.

5. In late January, 2002, my husband and I were thrilled to learn that I was pregnant again. I immediately began taking steps to reduce my stress, hoping to avoid another failed pregnancy.

4. It was just a few days later, in early February of 2002, that I first learned that my husband had filed bankruptcy after receiving a copy of a lawsuit filed by Richard Kipperman, Trustee. I received a notice that there was a *lis pendens* recorded simultaneously against my residence at the same time. The lawsuit also sought to force the turnover of my podiatric practice to the Trustee. The lawsuit and *lis pendens* were served on my parents, who were temporary guests at my home at the time. They immediately shared the documents with me. In reading the complaint, I experienced

1 enormous shock and anxiety, because I could not understand how someone I did not  
2 know or had ever heard of, could attempt to take away my home and my practice.

3 5. I immediately confronted my husband after receiving the documents.  
4 Roland was stunned that I had been served, explaining to me that he had been promised  
5 advance notice if such an event took place by the Trustee's counsel. He then proceeded  
6 to explain to me that he had filed bankruptcy several months earlier, and that the lawsuit  
7 was a result of the Trustee trying to recover a equity interest in my residence, based on  
8 financial assistance that he had rendered to me during our marriage.

9 6. I then retained counsel, L. Scott Keehn, Esq. to defend me in the adversary  
10 proceedings. Over the course of the next few months, I experienced frequent panic  
11 attacks due to the lawsuit. I would find myself driving a car, or engaged in some other  
12 activity, when I would experience shortness of breath combined with an overwhelming  
13 sense of fear and dread about the lawsuit. If driving when this happened, I would be  
14 forced to pull off the road and stop the car and try to calm myself down.

15 7. Several months after receiving the lawsuit with the Trustee, my deposition  
16 was noticed. I consulted my gynecologist about testifying. He would not allow me to  
17 testify, due to my two previous miscarriages, ruptured ectopic pregnancy, and panic  
18 attacks, fearing that the pregnancy might be adversely affected. Fortunately, the  
19 pregnancy went to term, and we welcomed a beautiful daughter into the world on October  
20 10, 2002.

21 8. A few days after celebrating the arrival of our daughter, while I was still  
22 recuperating at home, my husband informed me that a TRO had been issued in the  
23 bankruptcy case, preventing any access to various assets, including my podiatry practice  
24 bank accounts. My husband also advised me that the Trustee's counsel had hinted at  
25 taking possible criminal action against him if a settlement was not quickly achieved. I  
26 insisted that he resolve the bankruptcy case at any cost. Over the next couple of weeks,  
27 he kept me advised of the progress of the settlement discussions.

28 9. Due to the amount of settlement demanded by the Trustee, my husband

1 advised me that he need financial assistance with respect to the “down payment” on the  
2 settlement. I offered to refinance my residence in order to provide the source of funds for  
3 the down payment, but only after receiving assurances from him that the settlement would  
4 wrap up all the litigation, including any threat of future criminal action. My husband  
5 assured me that his attorney had been so advised.

6 10. The bankruptcy and resulting litigation placed a great deal of strain on our  
7 marriage, but we were both committed to providing a happy home for our new daughter.  
8 As we put the past behind us, we discussed having another child that would be a  
9 companion to our young daughter. In early 2004, we decided to try to conceive another  
10 child. I became pregnant several months thereafter, and we welcomed another daughter  
11 into the world on March 8, 2005.

12 11. If I had been aware that there was an ongoing criminal investigation of my  
13 husband, with the risk of his incarceration, I would never have considered becoming  
14 pregnant under any circumstances. I had been assured that there would be no criminal  
15 action taken, when my husband settled his bankruptcy case.

16 12. As a result, it came as an enormous shock when my husband advised me  
17 that the government was pursuing a criminal investigation related to his bankruptcy and  
18 that an indictment would be forthcoming shortly.

19 13. Having already experienced an enormously stressful period during the  
20 bankruptcy proceedings back in 2002; dealing with the threat of losing my home and  
21 practice, and then paying a huge financial penalty to have the matter resolved, I never  
22 imagined that the government would go back on its word and try to punish my husband  
23 and family a second time.

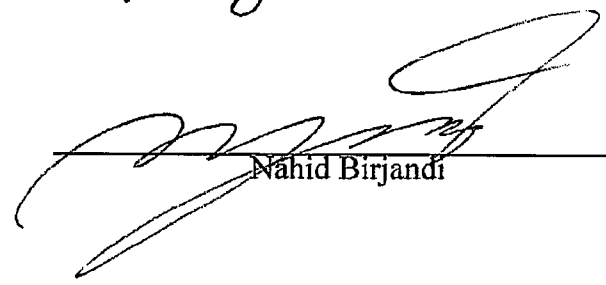
24 14. The government then sought to have me testify before the grand jury,  
25 hoping to elicit testimony that could be used against my husband. Once again, I was  
26 forced to retain counsel to oppose this effort.

27 15. My family and I have suffered enough at the hands of the government. We  
28 were forced to make a huge financial sacrifice just to have the bankruptcy actions

1 resolved. We were further led to believe that the matter was over, including criminal  
2 action. It is difficult to put into words the black cloud that has been hanging over our  
3 heads since the indictment was issued.

4 16. The humiliation and shame is even more pronounced because our lives have  
5 also been affected by the internet's publication of this event. Entering my husband's  
6 name on "google" shows the indictment at the very top of the list. In addition, when I  
7 "google" my name on the internet, my husband's indictment also shows up on the first  
8 page. This event has further caused me embarrassment and humiliation, in that I rely on  
9 the internet for much of my business. I have a website devoted to my practice, and when  
10 anyone accesses my practice, it is very easy to note the indictment against my husband as  
11 well. This has caused me to caution my husband to be private about our identity among  
12 potential friends, parents of our children at school, and others.

13  
14 I declare under penalty of perjury that the foregoing is true and correct and that this  
15 declaration was executed on the 8<sup>th</sup> day of January 2008 at Laguna Niguel,  
16 California.

17  
18  
19   
20 Nahid Birjandi  
21  
22  
23  
24  
25  
26  
27  
28