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Attorneys for Plaintiff SOHEIL DAVOOD,
as an aggrieved employee, and on behalf of all other
aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

SOHEIL DAVOOD, as an aggrieved
employee, and on behalf of all other aggrieved
employees under the Labor Code Private
Attorneys' General Act of 2004,

Plaintiff,

v.

NKSFB, LLC, a Delaware limited liability
company; and DOES 1 through 100,
inclusive,
Defendants.

Case No.: **22ST CV 17305**

PAGA ENFORCEMENT ACTION

1. Civil Penalties for Violations of California
Labor Code, pursuant to Labor Code §§ 2698,
et seq. (PAGA)

DEMAND FOR JURY TRIAL

[Amount in Controversy Greater Than
\$25,000.00]

COMES NOW Plaintiff, as an aggrieved employee, and on behalf of all other aggrieved employees under the Labor Code Private Attorneys' General Act of 2004, and alleges as follows:

JURISDICTION AND VENUE

1. This is a representative action brought pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2698, *et seq.*, against NKSFB, LLC, a California corporation, and any of its respective subsidiaries or affiliated companies within the State of California ("NKSFB"), and DOES 1 through 100, as further defined below, "Defendants") to recover civil penalties and any other relief available on behalf of Plaintiff, the State of California, and other prospective, current, or former employees of Defendants who worked in, or applied to work in, California, within the Civil Penalty Period, as further defined herein, (collectively, Aggrieved Employees"). The penalties and restitution sought by Plaintiff exceed the minimum jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10 and Code of Civil Procedure section 410.10.

3. This Court has jurisdiction over all Defendants because Defendants are either citizens of California, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice. There is no basis for federal diversity jurisdiction in this action given that the State of California, as the real party in interest in this action, is not a "citizen" for purposes of satisfying diversity jurisdiction. *Urbino v. Orkin Servs. of Cal.*, 726 F.3d 1118, 1123 (9th Cir. Cal. 2013).

4. Venue is proper in this Court because Defendants employ persons in this county, and thus a substantial portion of the transactions and occurrences related to this action occurred in this county. Code Civ. Proc. § 395. Plaintiff is informed and believes and thereon alleges that Defendants conduct business and employ Aggrieved Employees in Los Angeles County; the events complained of occurred in this county; this is the county in which performance of the employment contract, or part

1 of it, between Plaintiff and Defendants was due to be performed as well as the county in which the
2 employment contract, or part of it, between Plaintiff and Defendants was actually performed.

3 5. Plaintiff is an “aggrieved employee” under PAGA, as Plaintiff applied for employment
4 with Defendants during the applicable statutory period and suffered one or more of the Labor Code
5 violations set forth herein. Accordingly, Plaintiff seeks to recover civil penalties under the Labor Code
6 Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq.* (“PAGA”) plus
7 reasonable attorneys’ fees and costs, for Plaintiff and all other aggrieved current and former employees
8 of Defendants during the Civil Penalty Period.

9 6. Specifically, Plaintiff seeks to recover PAGA civil penalties through a representative
10 action permitted by PAGA and the California Supreme Court in, among other authorities, *Arias v.*
11 *Superior Court* (2009) 46 Cal.4th 969. According to the same authorities, class certification of the
12 PAGA allegations described herein is not required.

13 7. During the period beginning one (1) year preceding the provision of notice to the LWDA
14 regarding the herein-described Labor Code violations (the “Civil Penalty Period”), Defendants
15 violated, *inter alia*, Labor Code sections 432.7, and 432.8, among others.

16 8. Labor Code section 2699, subdivisions (a) and (g), authorizes aggrieved employees such
17 as Plaintiff, on behalf of Plaintiff and all other aggrieved current and former employees within the
18 statutory period, to bring a civil action to recover civil penalties pursuant to the procedures specified
19 in Labor Code section 2699.3.

20 9. California Labor Code §§ 2698, *et seq.*, the “Labor Code Private Attorneys Generals
21 Act of 2004” (“PAGA”), authorize aggrieved employees to sue as private Attorneys General their
22 current or former employers for various civil penalties for violating the California Labor Code.

23 10. On or around March 22, 2022, Plaintiff provided written notice pursuant to Labor Code
24 section 2699.3 online and by certified mail, with return receipt requested, of Defendants’ violation of
25 various, including the herein-described, provisions of the Labor Code, to the LWDA, as well as by
26 certified mail, with return receipt requested to Defendants, and each of them.

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THE PARTIES

11. Plaintiff SOHEIL DAVOOD (“Plaintiff”) is a resident of Los Angeles County, California. Plaintiff applied for work as a prospective non-exempt employee with Defendants in or around March 2021.

12. Defendant NKSFB, LLC (“NKSFB”) is, on information and belief, a California corporation with a principal place of business located at 10960 Wilshire Boulevard, 5th Floor, Los Angeles, California 90024, and, at all times hereinafter mentioned, an employer whose employees are engaged throughout this county, the State of California, and/or the various states of the United States of America.

13. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues defendants by such fictitious names under Code of Civil Procedure section 474. Plaintiff is informed and believes and based thereon alleges that each of the defendants designated herein as DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known. Plaintiff is informed and believes, and based thereon alleges, that each defendant acted in all respects pertinent to this action, as the agent of the other defendant(s), carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants. Whenever, heretofore or hereinafter, reference is made to “Defendants,” it shall include NKSFB and any of their parent, subsidiary, or affiliated companies within the State of California, as well as DOES 1 through 100 identified herein.

14. At all relevant times, Defendants, and each of them, ratified each and every act or omission complained of herein. At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and all the other Defendants in proximately causing the violations herein alleged.

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15. Plaintiff is informed and believes, and thereon alleges, that each Defendant is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions alleged herein.

JOINT LIABILITY ALLEGATIONS

16. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, each of the defendants was the agent, principal, employee, employer, representative, joint venture or co-conspirator of each of the other defendants, either actually or ostensibly, and in doing the things alleged herein acted within the course and scope of such agency, employment, joint venture, and conspiracy.

17. All of the acts and conduct described herein of each and every corporate defendant was duly authorized, ordered, and directed by the respective and collective defendant corporate employers, and the officers and management-level employees of said corporate employers. In addition thereto, said corporate employers participated in the aforementioned acts and conduct of their said employees, agents, and representatives, and each of them; and upon completion of the aforesaid acts and conduct of said corporate employees, agents, and representatives, the defendant corporation respectively and collectively ratified, accepted the benefits of, condoned, lauded, acquiesced, authorized, and otherwise approved of each and all of the said acts and conduct of the aforementioned corporate employees, agents and representatives.

18. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants, and each of them, are joint employers.

PAGA REPRESENTATIVE ALLEGATIONS

19. In connection with the alleged claims, Plaintiff seeks to represent all employees who formerly worked for Defendants, are current employees of Defendants, or applied for employment with Defendants at any time during the Civil Penalty Period. At all times herein mentioned, Plaintiff and Aggrieved Employees were employees of Defendants in the State of California. As such, Plaintiff and Aggrieved Employees were the type of persons contemplated by the California Labor Code, and said

laws and regulations were intended to apply to Defendants and to prevent the type of injury and damage alleged herein.

20. On information and belief, and at all relevant times, Defendants had and has a practice or policy of conducting unlawful background checks on Aggrieved Employees prior to making a conditional offer. Plaintiff is informed and believes, and based thereon alleges, that Defendants violated applicable laws by, without limitation: requiring job applicants and employees to disclose their conviction history before Defendants made a conditional offer of employment; inquiring into or considering the conviction history of applicants before Defendants made any conditional offers of employment; considering, distributing, or disseminating information about arrests not followed by conviction, referrals to or participation in a pretrial or posttrial diversion program, convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation, while conducting conviction history background checks in connection with any applications for employment; intending to deny an applicant a position of employment solely or in part because of the applicant's conviction history; and asking applicants for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of the juvenile court, to the detriment of Plaintiff and other Aggrieved Employees.

FIRST CAUSE OF ACTION

(VIOLATION OF PAGA – Against all Defendants)

21. Plaintiff incorporates by reference and re-alleges as if fully stated herein every allegation set forth above.

22. At all times herein set forth, California Labor Code sections 432.7 and 432.8 collectively restrict prospective employers from making inquiries into prospective employees' criminal records prior to making a conditional offer of employment. Even after making an offer of employment, the employer cannot deny the application because of a conviction without making an individual assessment

1 which, among other things, must justify denying the applicant the position by linking relevant
2 conviction history with specific job duties of the position sought.

3 23. At all times mentioned herein, California Labor Code sections 432.7, subdivision (a)(1)
4 has stated prospective employers “shall not ask an applicant for employment to disclose...information
5 concerning an arrest or detention that did not result in conviction, or information concerning a referral
6 to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has
7 been judicially dismissed or ordered sealed pursuant to law...”

8 24. At all times mentioned herein, California Labor Code sections 432.7, subdivision (a)(2)
9 has stated prospective employers “shall not ask an applicant for employment to disclose, through any
10 written form or verbally, information concerning or related to an arrest, detention, processing,
11 diversion, supervision, adjudication, or court disposition that occurred while the person was subject to
12 the process and jurisdiction of the juvenile court. An employer also shall not seek from any source
13 whatsoever, or utilize, as a factor in determining any condition of employment including hiring,
14 promotion, termination, or any apprenticeship training program or any other training program leading
15 to employment, any record concerning or related to an arrest, detention, processing, diversion,
16 supervision, adjudication, or court disposition that occurred while a person was subject to the process
17 and jurisdiction of the juvenile court.”

18 25. Pursuant to Labor Code section 432.7, subdivision (c), any person who violates this
19 section may be subject to “actual damages or two hundred dollars (\$200), whichever is greater, plus
20 costs, and reasonable attorney’s fees. An intentional of violation of this section shall entitle the
21 applicant to treble actual damages, or five hundred dollars (\$500), whichever is greater, plus costs, and
22 reasonable attorney’s fees...”

23 26. During the relevant time period, Plaintiff is informed and believes and thereon alleges
24 that Defendants had and has a practice or policy of conducting unlawful background checks on
25 prospective and current employees prior to making a conditional offer. Plaintiff is informed and
26 believes, and based thereon alleges, that Defendants violated applicable laws by, without limitation:
27 requiring job applicants and employees to disclose their conviction history before Defendants made a
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1 conditional offer of employment; inquiring into or considering the conviction history of applicants
2 before Defendant made any conditional offers of employment; considering, distributing, or
3 disseminating information about arrests not followed by conviction, referrals to or participation in a
4 pretrial or posttrial diversion program, convictions that have been sealed, dismissed, expunged, or
5 statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a
6 full pardon or has been issued a certificate of rehabilitation, while conducting conviction history
7 background checks in connection with any applications for employment; intending to deny an applicant
8 a position of employment solely or in part because of the applicant's conviction history; and asking
9 applicants for employment to disclose, through any written form or verbally, information concerning
10 or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition
11 that occurred while the person was subject to the process and jurisdiction of the juvenile court, to the
12 detriment of Employee and other Aggrieved Employees.

13 27. As a direct and proximate result of the herein-described Labor Code violations, Plaintiff
14 and other Aggrieved Employees are entitled to recover attorney's fees, and civil penalties from
15 Defendants pursuant to Labor Code sections 432.7 and 432.8.

16 **ATTORNEY'S FEES AND COSTS**

17 28. Plaintiff is entitled to fees and costs, pursuant to California law, including Labor Code
18 §§ 432.7 subdivision (c), among other things. Further, enforcement of statutory provisions enacted to
19 protect workers and to ensure prompt payment of wages due employees is a fundamental public interest
20 in California. Consequently, Plaintiff's success in this action will result in the enforcement of important
21 rights affecting the public interest and will confer a significant benefit upon the public.

22 **DEMAND FOR JURY TRIAL**

23 29. Plaintiff, on behalf of himself and all other Aggrieved Employees, demands a trial by
24 jury.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff and Aggrieved Employees pray for judgment as follows:

- 3 1. For payment of penalties in accordance with California law;
- 4 2. For penalties pursuant to Labor Code sections 432.7 and 432.8;
- 5 3. For all penalties permitted by Labor Code section 2698, *et seq.*;
- 6 4. For interest accrued to date;
- 7 5. For costs of suit incurred herein;
- 8 6. For reasonable attorneys' fees and costs pursuant to Labor Code sections 432.7; and
- 9 7. For all such other and further relief that the Court may deem just and proper.

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11 Date: May 25, 2022

12 BIBIYAN LAW GROUP, P.C.

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14 By: /s/ Noor Kurdi

15 NOOR Y. KURDI

16 DAVID D. BIBIYAN

17 Attorneys for Plaintiff SOHEIL DAVOOD,

18 as an aggrieved employee, and on behalf of all other

19 aggrieved employees

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