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Assigned for All Purposes

Judge William Claster

cx-104

Attorneys for Plaintiff Jeffrey Young

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

JEFFREY YOUNG, individually, and on behalf
of all aggrieved employees pursuant to the Private
Attorneys General Act (“PAGA”),

Plaintiff,

vs.

REFINED TECHNOLOGIES, INC., and DOES 1
through 100, inclusive,

Defendants.

Case No. 30-2022-01279468-CU-OE-CXC

**COMPLAINT FOR CIVIL PENALTIES
(PRIVATE ATTORNEYS GENERAL ACT
OF 2004)**

Complaint Filed: September 6, 2022
Trial Date: None Set

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EST. 1981

1 Plaintiff Jeffrey Young (“Plaintiff”) hereby submits his complaint for civil penalties against
2 Defendant Refined Technologies, Inc. (“Defendant RTI” or “RTI”), and DOES 1 through 100, inclusive
3 (collectively, “Defendants”), on behalf of himself and other current and former aggrieved employees of
4 Defendant RTI as follows:

5 1. This representative action is brought pursuant to Labor Code § 2698, *et seq.* under
6 California’s Private Attorney Generals Act (“PAGA”) for Defendants’ violation of Labor Code § 925(a).
7 The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court, and
8 will be established according to proof at trial.

9 2. Venue is proper in this court because Defendant RTI transacts business and/or has offices
10 in this county. In addition, acts and omissions underlying the claims alleged herein took place in this
11 county. Moreover, this action is brought on behalf of the State of California as a private attorney general
12 and therefore as a result, jurisdiction is proper in this venue.

13 3. Plaintiff Jeffrey Young is an individual residing in the State of California. He was
14 employed by Defendant RTI within the statutory time period.

15 4. Defendant RTI is a Delaware Corporation headquartered in Texas, and doing business in
16 the State of California, including in Orange County.

17 5. Plaintiff does not know the true names or capacities, whether individual, partner or
18 corporate, of Defendants sued herein as DOES 1 through 100, inclusive, and for that reason said
19 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend the complaint
20 when the true names and capacities are known. Plaintiff is informed and believes and thereon alleges
21 that each of the Defendants designated as a DOE was responsible in some way for the matters alleged
22 herein and proximately caused Plaintiff and other current and former aggrieved employees to be subject
23 to the illegal employment practices, wrongs and injuries complained of herein, and as to be discovered
24 through discovery.

25 6. At all times herein mentioned, Defendants, and each of them, were agents, partners, joint
26 venturers, representatives, officers, servants, employees, successors-in-interest, co-conspirators and
27 assigns, and that all acts or omissions alleged herein were duly committed with ratification, knowledge,
28 permission, encouragement, authorization and consent of each Defendant designated herein.

1 7. As such, and based upon all of the facts and circumstances incident to Defendants’
2 business in California, Defendants are subject to PAGA and liable for the violations committed under
3 the California Labor Code.

4 8. Plaintiff worked for Defendant RTI as an Operations Manager and Hydroprocessing
5 Specialist. He primarily resided and worked in California since June 2019.

6 9. In late November 2021, Defendant RTI presented Plaintiff with its form entitled “Non-
7 Solicitation Agreement (“NSA”) for California Employees.” Plaintiff understood that signing the
8 agreement was a condition of his employment, and that the terms were not negotiable. Moreover,
9 Plaintiff understood that if he refused to sign the NSA, RTI would withhold the bonus he had been
10 working toward and expecting all year.

11 10. Plaintiff applied his signature to the NSA electronically via DocuSign on December 10,
12 2021 from his home office in Vacaville, California. He did not have legal representation in connection
13 with his acceptance of the NSA, and, in light of his understanding the terms were not negotiable, he did
14 not negotiate any of the terms.

15 11. The NSA includes provisions that purportedly prohibit Mr. Young from engaging in
16 certain actions during the term of his employment and for two years thereafter, including restrictions on
17 soliciting RTI’s employees (NSA § 5.1), soliciting RTI’s clients (NSA § 5.2), and competing with RTI
18 in any way (NSA § 7). RTI also included in the NSA a provision stating that “all questions relating to
19 its validity, interpretation, performance, and inducement [are] to be governed by, construed, interpreted,
20 and enforced in accordance with the substantive laws of the State of Texas, excluding Texas choice-of-
21 law principles.” (NSA § 12.2). In addition, RTI included in the NSA a provision that purports to permit
22 RTI to obtain injunctive relief “from any court of competent jurisdiction” in the state of Texas, while
23 requiring Plaintiff to submit any claims relating to his employment to arbitration in Texas.

24 12. Section 12.2 of the NSA is intended to deprive California employees of the protections
25 of California Business & Professions Code § 16600—which broadly prohibits non-competes of the type
26 set forth in the NSA.

27 13. RTI was prohibited by California Labor Code § 925(a) from requiring Plaintiff and other
28 California employees to accept the terms of the NSA. RTI attempted to contravene this prohibition by

1 inserting in the NSA a “representation and warranty” by Plaintiff. The warranty purports to state that
2 Plaintiff “was individually represented by independent legal counsel in negotiating the terms of this
3 agreement specifically to designate that both the venue and forum will be in Texas for any controversy
4 arising from this Agreement to be adjudicated and for Texas law to apply, consistent with California
5 Labor Code § 925(e).” (NSA § 12.2).

6 14. Plaintiff was not in fact represented by independent legal counsel in negotiating the terms
7 of the agreement, and RTI knew he was not. RTI did not negotiate or otherwise deal with any attorney
8 purporting to represent Plaintiff. Furthermore, RTI knew the circumstances would not allow for an
9 individual employee such as Plaintiff to retain and consult with knowledgeable counsel to negotiate on
10 his behalf.

11 15. On information and belief, RTI has required many, if not all, of its California employees
12 to sign the NSA. Like Plaintiff, those employees did not have independent legal counsel to represent
13 them in negotiating any terms of the contract with RTI. On information and belief, RTI knew those
14 employees had no independent legal representation, and inserted the boilerplate warranty solely to
15 attempt to circumvent the prohibition of Labor Code § 925(a).

16 16. Plaintiff filed a PAGA Notice with the California Labor & Workforce Development
17 Agency on August 1, 2022 and served a copy of the Notice by certified mail on Defendant RTI as
18 required. A copy of the PAGA Notice with return receipt is attached hereto as Exhibit 1.

19 17. The LWDA did not notify Plaintiff that it intends to investigate the matter. As such,
20 Plaintiff is entitled to represent himself and all other similarly aggrieved employees in litigation against
21 RTI to prevent unlawful and unenforceable contracts from being enforced and continuing to be offered
22 to RTI’s California employees. Plaintiff is also entitled to recover civil penalties arising from RTI’s
23 unlawful conduct.

24 **CAUSE OF ACTION**

25 (For Civil Penalties)

26 18. As alleged above, Defendants are violating California Labor Code § 925(a) with respect
27 to employees who primarily reside and work in California.
28

19. Section 925 does not provide a specific penalty for its violation. As such, Defendants are liable for the civil penalty established by California Labor Code § 2699(f)—namely, \$100 per aggrieved employee per pay period for the initial violation, and \$200 per aggrieved employee per pay period for each subsequent violation.

20. Pursuant to California Labor Code § 2699(g)(1), Plaintiff is entitled to recover the civil penalties owed by Defendants, as well as attorney’s fees and costs.

PRAYER FOR RELIEF

Wherefore, Plaintiff, on behalf of himself and as a representative of other current and former aggrieved employees, prays for judgment as follows:

1. For civil penalties in an amount to be determined at trial;
2. For costs and attorney’s fees; and
3. For such other and further relief the court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: September 6, 2022

CALL & JENSEN
A Professional Corporation
John T. Egley
Samuel G. Brooks

By: /s/Samuel G. Brooks
Samuel G. Brooks

Attorneys for Plaintiff Jeffrey Young

EXHIBIT 1



LAWYERS

610 NEWPORT CENTER DRIVE, SUITE 700
NEWPORT BEACH, CALIFORNIA 92660

TELEPHONE 949.717.3000
FACSIMILE 949.717.3100

CALLJENSEN.COM

August 1, 2022

OUR FILE NUMBER
USA02-06

California Labor & Workforce Development Agency
Filed via dir.ca.gov

Re: Refined Technologies, Inc.

Dear LWDA Representative:

We represent Jeffrey Young. Mr. Young is a former employee of Refined Technologies, Inc. (“RTI”), and is aggrieved by RTI’s violation of subdivision (a) of Labor Code § 925. Because section 925 is a provision other than those listed in Section 2699.5 or Division 5 (commencing with Section 6300) of the Labor Code, Mr. Young provides this notice pursuant to Section 2699.3(c)(1)(A) of that code. As further explained below, this notice sets forth the facts and theories that support the alleged violation. This notice filed with the Labor and Workforce Development Agency (“LWDA”) is also accompanied by the filing fee required by Section 2699.3(c)(1)(B).

Mr. Young worked for RTI as an Operations Manager and Hydroprocessing Specialist. He has primarily resided and worked in California since June 2019. In late November 2021, RTI presented Mr. Young with its form entitled “Non-Solicitation Agreement (“NSA”) for California Employees.” Mr. Young understood that signing the agreement was a condition of his employment, and that the terms were not negotiable. Moreover, Mr. Young understood that if he refused to sign the NSA, RTI would withhold the bonus he had been working toward and expecting all year. Mr. Young applied his signature to the NSA electronically via DocuSign on December 10, 2021 from his home office in Vacaville, California. Mr. Young did not have legal representation in connection with his acceptance of the NSA, and, in light of his understanding the terms were not negotiable, he did not negotiate any of the terms.

The NSA includes provisions that purportedly prohibit Mr. Young from engaging in certain actions during the term of his employment and for two years thereafter, including restrictions on soliciting RTI’s employees (NSA § 5.1), soliciting RTI’s clients (NSA § 5.2), and competing with RTI in any way (NSA § 7). In a transparent effort to avoid the effects of California Business & Professions Code § 16600—which broadly prohibits non-competes of this type as an unlawful restriction on trade—RTI included in the NSA a provision stating that “all questions relating to its validity, interpretation, performance, and inducement [are] to be governed by, construed, interpreted, and enforced in accordance with the substantive laws of the State of Texas, excluding Texas choice-of-law principles.” (NSA § 12.2). In addition, RTI

included in the NSA a provision that purports to permit RTI to obtain injunctive relief “from any court of competent jurisdiction” in the state of Texas, while requiring Plaintiff to submit any claims relating to his employment to arbitration in Texas.

RTI also attempted to contravene California Labor Code § 925(a) by inserting in the NSA a “representation and warranty” by Young that he “was individually represented by independent legal counsel in negotiating the terms of this agreement specifically to designate that both the venue and forum will be in Texas for any controversy arising from this Agreement to be adjudicated and for Texas law to apply, consistent with California Labor Code § 925(e).” (NSA § 12.2). RTI included this provision despite circumstances which it knew or should have known would not allow for an individual employee such as Mr. Young to retain and consult with knowledgeable counsel. Moreover, RTI knew or should have known that Mr. Young was not in fact individually represented since it did not negotiate or otherwise deal with any attorney purporting to represent him.

RTI has required many, if not all, of its California employees to sign the NSA. Like Mr. Young, RTI knew or had reason to know that those employees were also not in fact individually represented by legal counsel in negotiating the terms designating the venue and forum in which controversies arising from the agreement may be adjudicated or the choice of law to be applied.

Subdivision (a) of section 925 of the Labor Code provides, “an employer shall not require an employee who primarily resides and works in California, as a condition of employment, to agree to a provision that would do either of the following:

“(1) Require the employee to adjudicate outside of California a claim arising in California.

“(2) Deprive the employee of the substantive protection of California law with respect to a controversy arising in California.”

This prohibition applies to all employment contracts entered into, modified, or extended on or after January 1, 2017. During the relevant time period, Mr. Young and other aggrieved employees were required, as a condition of their employment, to agree to the provisions in the NSA which require them to adjudicate in Texas claims arising in California, and which deprive them of the substantive protections of California Business & Professions Code § 16600.

Subdivision (f) of section 2699 of the Labor Code establishes a civil penalty for all provisions of the Labor Code that do not specifically provide for a different penalty. Mr. Young intends to seek on behalf of all aggrieved employees the penalties arising out of RTI’s violation of Labor Code § 925(a) and violations of Labor Code Section 16600, and to recover attorney’s fees and costs as provided by subdivision (g)(1) of section 2699.

Please advise within the applicable statutory time whether the LWDA intends to investigate this matter. Should the LWDA decline to investigate, Mr. Young intends to represent himself and all other similarly aggrieved employees in litigation against RTI to prevent these unlawful and unenforceable contracts from being enforced and continuing to be offered to RTI’s

California Labor & Workforce Development Agency
August 1, 2022
Page 3

California employees, and to seek all applicable remedies and penalties arising from RTI's unlawful conduct.

If you have any questions or require additional information, please feel free to contact us.
Thank you for your attention to this matter.

Very truly yours,



Samuel G. Brooks
For Call & Jensen
A Professional Corporation

cc: (By U.S. Certified Mail/Return Receipt Requested)
Refined Technologies, Inc.
c/o 1505 Corporation 112 CT Corporation System
Registered Agent
330 N Brand Blvd, Ste 700
Glendale, CA 91203

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Monday, August 1, 2022 11:43 AM
To: Sam Brooks
Subject: Thank you for submission of your PAGA Case.

8/1/2022

LWDA Case No. LWDA-CM-898811-22
Law Firm : Call & Jensen
Plaintiff Name : Jeffrey Young
Employer: Refined Technologies, Inc.
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv%2Furl%3Fu%3Dhttp-3A__labor.ca.gov_Private-5FAttorneys-5FGeneral-5FAct.htm%26d%3DDwICaQ%26c%3DeuGZstcaTDIlvimEN8b7jXrwqOf-v5A_CdpnVfiiMM%26r%3DgiuXsxYQJON7fr2vLaBGg7KG4InHYT_snRYA6CMTiBY%26m%3DSdzfAQMCf6jx22-aVrOzjydxFLOpc4jtfb4ljXQFbA%26s%3DL6nVzyGoB5NsJZEFm6lwffwg42emGuliMrxlo2LzVbs%26e%3D&data=05%7C01%7Csbrooks%40calljensen.com%7Cc6f3833e10614ffd856c08da73ed9ef5%7Cf4b2466b3cca4166bb621221ad2f160e%7C0%7C0%7C637949761834805536%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6lk1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=UifPFPhulnj4KDuVvim7ECQ%2BSvHGEKnOHduzRdi8kFc%3D&reserved=0

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USPS TRACKING #



SAN ANTONIO TX 78201 CA 913

4 AUG 2022 PM 5 L

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USPS
Permit No. G-10

9590 9402 3788 8032 2430 06

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• Sender: Please print your name, address, and ZIP+4® in this box•

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LAWYERS
610 NEWPORT CENTER DRIVE, SUITE 700
NEWPORT BEACH, CALIFORNIA 92660

959094023788

SGB/USA02'06



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Refined Technologies, Inc.
c/o 1505 Corporation 112 CT Corporation
System

Registered Agent

330 N Brand Blvd, Ste 700

Glendale, CA 91203



9590 9402 3788 8032 2430 06

2. Article Number (Transfer from service label)

7016 1970 0001 2150 4521

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

NDS

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

AUG 4 2022

Delivery Service

3. Service Type

☒ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ Insured Mail☐ Insured Mail Restricted Delivery (over \$500)☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt :