

1 **13-2327. Whistleblower Protection Act; special verdict.**

2 On the questions submitted, the jury finds as follows:

3 *Question 1: Did _____ (name of plaintiff) engage in protected activity?*

4 *Answer: _____ (Yes or No)*

5 If the answer to Question 1 is “Yes,” answer Question 2.

6

7 *Question 2: Did _____ (name of defendant) take retaliatory action against _____*
8 *(name of plaintiff)?*

9 *Answer: _____ (Yes or No)*

10 If the answer to Question 2 is “Yes,” answer Question 3.

11

12 *Question 3: Was _____’s (name of plaintiff) engagement in protected activity a cause of*
13 *the retaliatory action by _____ (name of defendant)?*

14 *Answer: _____ (Yes or No)*

15 If the answer to Question 3 is “Yes,” answer Question 4.

16

17 *Question 4: Did _____’s (name of defendant) retaliation against _____ (name of*
18 *plaintiff) cause damage to _____ (name of plaintiff)?*

19 *Answer: _____ (Yes or No)*

20 If the answer to Question 4 is “Yes,” answer Question 5.

21

22 *Question 5: In accordance with the damage instructions given by the court, we find the damages*
23 *suffered by _____ (name of plaintiff) to be:*

1 Back pay \$ _____

2 (Add other elements of damages) \$ _____

3 _____ \$ _____

4

5 _____

6 Foreperson

7

8 **USE NOTES**

9 This instruction provides a form of special verdict for claims involving violation of the
10 Whistleblower Protection Act (“WPA”), NMSA 1978, §§ 10-16C-1 to -6 (2010). The amount
11 awarded as back pay, if any, should appear on a separate line so that the court may double the
12 award and add interest under NMSA 1978, Section 10-16C-4(A). This special verdict form should
13 be modified as necessary to suit the case at hand. Additionally, in appropriate cases it may be
14 necessary to add questions relating to the employer’s affirmative defense under UJI 13-2325
15 NMRA and NMSA 1978, Section 10-16C-4(B).
16 [Adopted by Supreme Court Order No. 22-8300-030, effective for all cases pending or filed on or
17 after December 31, 2022.]