

2443. Affirmative Defense—Same Decision (Gov. Code, § 8547.8(e))

Instruction

No 1

Request by Plaintiff		Request by Defendant		Requested by	
Given as Proposed		Given as Modified		Given on Court's Motion	
Refused					
Withdrawn					

Instruction

No 1

If *[name of plaintiff]* proves that *[his/her/nonbinary pronoun]* [making a protected disclosure/refusing an illegal order] was a contributing factor to *[his/her/nonbinary pronoun]* discharge, *[name of defendant]* is not liable if *[he/she/nonbinary pronoun/it]* proves by clear and convincing evidence that *[he/she/nonbinary pronoun/it]* would have discharged *[name of plaintiff]* anyway at that time, for legitimate, independent reasons.

New December 2014