

**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Withdrawn			Judge

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.**

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*New December 2014*