

13-2326. Whistleblower Protection Act; damages.

If you decide in favor of _____ (*name of plaintiff*) on [any of] _____'s (*name of plaintiff*) claim[s] under the Whistleblower Protection Act, then you must fix the amount of money damages that will reasonably and fairly compensate _____ (*name of plaintiff*) for any of the following elements of damages proved to have resulted from the wrongful conduct of _____ (*name of defendant*):

[(1) The wages _____ (*name of plaintiff*) would have earned during the period that _____ (*name of plaintiff*) would have remained employed by _____ (*defendant*) had there been no retaliatory action.]

[(2) The value of employment benefits, including _____ (*insert specific benefits at issue*).]

[(3) Compensation for any _____ (*insert any special damage*) sustained as a result of the violation.]

Whether any of these elements of damages has been proved by the evidence is for you to determine. Your verdict must be based on proof, and not on speculation, guess, or conjecture. Further, sympathy for a person, or prejudice against any party, should not affect your verdict and is not a proper basis for determining damages.

USE NOTES

This is the basic form of damages instructions for Whistleblower Protection Act claims. It must be completed by inserting appropriate elements of general and/or special damages as supported by the law and the evidence. The court should decide what, if any, special damages may be included.

[Adopted by Supreme Court Order No. 22-8300-030, effective for all cases pending or filed on or after December 31, 2022.]