# **20.20C SPECIAL VERDICT FORM – PUNITIVE DAMAGES**

# SPECIAL VERDICT

1. Do you award punitive damages against [defendant name]?

Yes

No

If the answer is "NO", do not answer the rest of the questions on this form. Sign and date the form and notify the court that you have completed your deliberations.

If the answer is "YES", you must answer the rest of the questions on this form.

2. What amount do you award to the plaintiff as punitive damages?

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3. Was the conduct that formed the basis for your award of punitive damages motivated by financial gain?

Yes

No

4. Were the adverse consequences of this conduct actually known by the defendant or the person responsible for making policy decisions on behalf of the defendant?

Yes

No

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Jury Foreperson

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
Date

# USE NOTE

This special verdict form should be submitted to the jury after the punitive damage phase of the trial.

Alaska statutes provide for caps on punitive damages. The cap is higher if the conduct was motivated by financial gain, and adverse consequences were actually known to the defendant. *See* AS 09.17.020(f) (cap if there are no findings) and AS 09.17.020(g) (higher cap if there are findings that the conduct was motivated by financial gain, and adverse consequences were known).

In a case where the plaintiff contends that the higher cap applies, Questions 3 and 4 must be answered by the jury so that the judge will have findings necessary to decide which cap on punitive damages applies. *See Central Bering Sea Fisherman's Ass'n v. Anderson,* 54 P.3d 271 (Alaska 2002).

In a case involving individual defendant(s) (as opposed to corporations or other business entities), the phrase "or the person responsible for making policy decisions on behalf of the defendant" should be deleted.

In a case where the plaintiff does not claim that the higher cap applies, delete questions 3 and 4 from the Special Verdict Form.

In employment discrimination cases under AS 18.80.220, delete questions 3 and 4. In these cases, the amount of the punitive damage cap depends upon the number of persons who are employed by the defendant in Alaska. AS 09.17.020(h), (i). If there is a factual dispute about the number of persons who are employed by the defendant in Alaska, the special verdict form should require the jury to make a finding as to the number of employees, so that the judge can apply the correct cap on punitive damages.

Liability for punitive damages must be established by clear and convincing evidence. AS 09.17.020(b). The statute is silent on whether the findings necessary for applying the higher caps set forth in AS 09.17.020(g) must be supported by clear and convincing evidence. If the court concludes that these findings must be supported by clear and convincing evidence, this instruction must be modified to instruct the jury on this requirement.