IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

This is a criminal case commenced by the State of West Virginia, which I may sometimes refer to as “the prosecution” and sometimes as “the State,” against [insert name of defendant] whom I may refer to as “defendant(s).” The case is initiated by way of an indictment, which [is summarized] [reads] as follows:

[Insert the text or summary of the indictment]

You should understand that the indictment is simply a charge by the State to begin a case and that it is not, in any sense, evidence of the allegations or statements it contains. The [defendant has] [defendants have] pleaded “not guilty” to the indictment. Defendant(s) contend(s) that {[he][she] is} {they are} not guilty because [insert the defense’s theory if requested].

The State has the burden or obligation to prove each of the essential elements of the crime(s) charged in the indictment to you beyond a reasonable doubt. The purpose of this trial is to determine whether or not the State can meet this burden or obligation. You must presume that [insert name(s)], the [defendant, is] [defendants, are] not guilty of the crime(s) charged in the indictment.

The crime(s) charged in the indictment [is][are] based on West Virginia Code Section(s) [insert Code Sections], which provide(s) as follows:

[insert the relevant portions of the statute(s) upon which the indictment rests]

To help you analyze the evidence as you hear it at trial, I will now give you a preliminary summary of the individual elements of the crime(s) charged which the State is required to prove beyond a reasonable doubt.

In order to prove the crime of [insert crime] charged in Count [insert count number], the State must prove:

[Insert elements of crime]

At the end of the trial, after you have heard all the evidence and after I have conferred with the lawyers, I will give you the final and controlling statement as to what the elements of the crime(s) are. I am giving you this preliminary summary now to help you as you hear the evidence and see the exhibits as the trial progresses.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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JUDGE