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. \_\_\_\_

 There will not be a transcript of the proceedings for your deliberations. However, you are permitted to take notes during the trial. You are not required to take notes but you are allowed to take notes if you choose to do so. Please remember that the notes you take are to be an aid in your memory but not a substitute for it. Therefore, do not try to write down every word that is said. Listen to the witnesses and watch them and remember their testimony. You may take notes if you choose to in order to help your memory but it is your memory upon which you should rely in recalling the testimony. If you choose to take notes your notes must be your own. Do not look at another juror’s notes and do not share or show your notes to another juror. I mentioned earlier that you must not discuss the case among yourselves until you begin to deliberate at the end of the trial, but by the same token if you begin to compare notes before the end of the trial then that’s a form of deliberation. For the same reason, you must not look at each other’s notes or compare notes during the trial. So, if you miss something that you were trying to write down you can’t look at your neighbor and say “What was that?” Don’t do that. It’s from your notes and your notes only.

 For this purpose each of you will be given a clipboard and notepad and pencil after opening statements. When you get the pad write only your name on the front sheet, just your name, so that we will know who it belongs to, and then begin your notes on the second page; that way there is always a cover sheet and no one can inadvertently see your notes.

 The bailiff will collect your notepads at the lunch break and at evening breaks and redistribute them to you as we reassemble; during the recesses no one will look at your notes, and that includes me. I won’t look at them either. They are your private notes for your use only.

 Take notes only of the evidence. You will not be permitted to take notes of opening statements or closing summation or the Court’s instructions because these are not evidence. And remember this is optional for you; you can just choose not to altogether if you don’t want to.

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

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

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

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 JUDGE