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. \_\_\_\_

The evidence in this case consists of the sworn testimony of the witnesses—regardless of who may have called them; all exhibits received in evidence—regardless of who may have produced them; all facts which may have been agreed to or stipulated; and all facts and events which may have been judicially noticed.

[Insert if applicable: Depositions have also been received in evidence. These contain sworn testimony with counsel for each party being entitled to ask questions. A deposition may be accepted by you, subject to the same instructions which apply to testimony received in court].

[Insert if applicable: When the attorneys on both sides stipulate or agree as to the existence of a fact, you may accept the stipulation as evidence and regard that fact as proved. You are not required to do so, however, since you are the sole judge of the facts].

[Insert if applicable: The Court has taken judicial notice of certain facts or events. When the Court declares that it has taken judicial notice of some fact or event, you may accept the Court’s declaration as evidence and regard as proved that fact or event. You are not required to do so, however, since you are the sole judge of the facts].

You must entirely disregard any proposed testimony or proposed exhibit to which the Court sustained an objection and any testimony or exhibit the Court ordered struck. Anything you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

Questions, objections, statements, and arguments of counsel are not evidence in the case [insert if applicable: unless made as an admission or stipulation of fact].

You are to base your verdict only on the evidence received in the case. In your consideration of the evidence received, however, you are not limited to the bald statements of the witnesses or to the bald assertions in the exhibits. In other words, you are not limited solely to what you see and hear as the witnesses testify or as the exhibits are admitted. You are permitted to draw from the facts which you find have been proved such reasonable inferences as you feel are justified in the light of your experience and common sense.

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

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

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

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JUDGE