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. \_\_\_\_

 Nothing the lawyers who have tried this case have said or done can be considered by you as evidence of any fact in this case. The lawyer’s opening statements are only intended to give you a brief outline of what each side expects to prove, so that you may better understand the testimony of witnesses.

 The lawyers’ closing arguments are often helpful in refreshing your recollection of the witnesses’ testimony and such facts as may be developed thereby, but your verdict shall not be based upon the statements the lawyers made to you at the opening of the trial or upon their closing arguments at the end of the trial. Such statements and arguments are not evidence.

 The lawyer’s function is to point out those things they believe are most significant or most helpful to their side of the case, and in doing so to call to your attention certain facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your own recollection and interpretation of the evidence that controls this case.

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

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

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

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 JUDGE