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. \_\_\_\_

 In instructing you to consider all the evidence, I do not mean that you must accept all the evidence as true or accurate. You are the sole judges of the credibility or believability of each witness and of the weight to be given to that witness’s testimony. A witness’s credibility means a witness’s truthfulness or lack of truthfulness. The weight of evidence means the extent to which you are, or are not, convinced by the evidence.

 The number of exhibits and the number of witnesses testifying on one side or the other of any issue are not alone the test of credibility of the witnesses and the weight of the evidence. If the evidence warrants, you may believe one witness against a number of witnesses testifying differently. The tests are how truthful is the witness and how convincing is that witness’s evidence in light of all the evidence and circumstances shown?

 In determining the credit and weight you will give to the testimony when any witness has testified before you, you may consider, if found by you from the evidence :

1. The witness’s good memory, or lack of memory;

2. The witness’s interest, or lack of interest, in the outcome of this trial;

3. The witness’s demeanor and manner of testifying;

4. The witness’s opportunity or means of having knowledge of the matters about which the witness testified or, conversely, the lack of opportunity or means of having such knowledge;

5. The reasonableness or unreasonableness of the witness’s testimony; and

6. The witness’s fairness or lack of fairness.

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

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

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

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 JUDGE