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. \_\_\_\_

 Count \_\_ of the indictment charges the defendant with Harassment. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Harassment; or

(2) not guilty.

 Harassment occurs when a person repeatedly harasses or repeatedly makes credible threats against another.

 “Credible threat” means a threat of bodily injury made with the apparent ability to carry out the threat and with the result that a reasonable person would believe that the threat could be carried out.

 “Harasses” means willful conduct directed at a specific person or persons which would cause a reasonable person mental injury or emotional distress.

 “Repeatedly” means on two or more occasions.

 The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt and the defendant is not required to prove [himself] [herself] innocent. [He] [She] is presumed by the law to be innocent of this charge, and this presumption remains with [him] [her] throughout the entire trial. Before the defendant can be convicted of Harassment, the State must overcome the presumption the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

2. in [insert county] County, West Virginia,

3. on or about the \_\_ day of [insert month], [insert year],

4. did repeatedly harass or make credible threats against

5. [insert name(s) of victim(s)],

6. and the defendant knew or had reason to know that this conduct caused [insert name(s) of victim(s)] to reasonably fear for [his] [her] safety or suffer significant emotional distress.

 If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find defendant guilty of Harassment as charged. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant not guilty.

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

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

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

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 JUDGE