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 [Extortion] [Attempted Extortion]. One of two verdicts may be returned by you under this Count of the indictment:

(1) guilty of [Extortion] [Attempted Extortion]; or

(2) not guilty.

 Extortion occurs when a person [threatens injury to the character, person, or property of another person] [threatens injury to the character, person, or property of another person’s wife or child] [accuses another person of an offense] and thereby extorts money or a pecuniary benefit, or a bond, note or other evidence of debt.

 Attempted extortion occurs when a person [threatens injury to the character, person, or property of another person] [threatens injury to the character, person, or property of another person’s wife or child] [accuses another person of an offense] in a failed attempt to extort money, a pecuniary benefit, or any bond, note or other evidence of debt.

 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 Extortion, the State must overcome the presumption that 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. {threatened injury to the character, person, or property of [insert name(s) of victim(s)]} {threatened injury to the character, person, or property of [insert name(s) of victim(s)]’s wife or child} {accused [insert name(s) of victim(s)] of an offense, specifically: [insert offense]},

5. and [thereby extorted money or a pecuniary benefit, or a bond, note or other evidence of debt] [attempted but failed to extort money or a pecuniary benefit, or any bond, note or other evidence of debt].

 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 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