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. \_\_\_\_

If you believe the State has proved beyond a reasonable doubt that the defendant killed [insert name(s) of victim(s)] in [insert county] County, West Virginia, and did so unlawfully, intentionally, with malice, and that the defendant premeditated and deliberated before acting, then you may find the defendant guilty of First Degree Murder.

The essential difference between First and Second Degree murder is premeditation and deliberation. To premeditate and deliberate means to take a moment to reflect upon one’s course of action, consciously weighing the implications of taking a life, and still choosing to kill. First Degree Murder is reserved for calculated killings, where a defendant chose to take a life following a rational thought process as opposed to reacting quickly and out of emotion.

To find the defendant guilty of First Degree Murder, the State must prove beyond a reasonable doubt that:

1. the defendant

2. killed [insert name(s) of victim(s)],

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

4. unlawfully,

5. intentionally,

6. maliciously,

7. and after premeditation and deliberation.

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

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

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

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JUDGE