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 proven 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, maliciously and by poison, then you may find the defendant guilty of First Degree Murder.

 The essential difference between Second Degree Murder and First Degree Murder by Poison is the element of employing a poison. To employ a poison means to administer a substance at a dosage the defendant believes will have a destructive effect on the recipient with the intent to kill.

 To find the defendant guilty of First Degree Murder by Poison, 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 with a poison.

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

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

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

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 JUDGE