

[Commission Note: Ch. 473, Laws of 2009, raised the felony limit for property crimes from \$1,000 to \$1,500. This law does not become effective until October 1, 2009, subsequent to the time of final adoption and publication of this version of the MCJI. Note that for all Chapter 6 offenses committed on or after October 1, 2009, the threshold felony limit is \$1,500.]

CHAPTER SIX

OFFENSES AGAINST PROPERTY

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INSTRUCTION NO. [6-101]

[Criminal Mischief]

A person commits the offense of criminal mischief if the person knowingly or purposely:

[(injures) (damages) (destroys) any (property of another) (public property) without consent.]

OR

[without consent tampers with (property of another) (public property) so as to endanger or interfere with (persons) (property) (its use).]

OR

[(damages) (destroys) property with the purpose to defraud an insurer.]

OR

[fails to close a gate previously unopened which the person has opened, leading in or out of any enclosed premises, not in a city or town.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-101 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Criminal Mischief, No. 6-101, 2009, Source and Comment]

SOURCE: MCA § 45-6-101 (2007).

COMMENT: Note that the statute defining the offense provides that subparagraph relating to gate closure does not apply to gates located in cities or towns.

INSTRUCTION NO. [6-101(a)]

[Issues in Criminal Mischief]

To convict the Defendant of criminal mischief, the State must prove the following elements:

1. That the Defendant [**damaged**] [**injured**] [**destroyed**] [**the property of** _____] [**public property**];

AND

2. That the Defendant did so without the consent of _____;

AND

3. That the Defendant acted knowingly or purposely;

OR

1. That the Defendant tampered with [**the property of** _____] [**public property**] so as to endanger or interfere with [**persons**] [**property**] [**its use**];

AND

2. That the Defendant did so without the consent of _____;

AND

3. That the Defendant acted knowingly or purposely;

OR

1. That the Defendant [**damaged**] [**destroyed**] property;

AND

2. That the Defendant did so with the purpose to defraud an insurer; and
3. That the Defendant acted knowingly or purposely;

OR

1. That the Defendant failed to close a gate previously unopened which he had opened, leading in or out of any enclosed premises;

AND

2. That the gate was not located in a city or town;

AND

3. That the Defendant acted knowingly or purposely.

[If the Defendant is charged with a felony, the following additional element must be proved:]

4. That the Defendant **[caused pecuniary loss in excess of \$1000.00] [(injured) (killed) a commonly domesticated hoofed animal] [caused a substantial (interruption) (impairment) of (public communication) (transportation) (supply of water) (gas) (power) (or other public services)].**

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-101(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Criminal Mischief, No. 6-101(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-101 (2007).

COMMENT: The blanks should be filled in with the name of the victim.

INSTRUCTION NO. [6-102]

[Negligent Arson]

A person commits the offense of negligent arson if the person purposely or knowingly **[starts a fire] [causes an explosion] [on his/her own property] [on the property of another]** and thereby negligently **[places another in danger of (death) (bodily injury)] [places property of another in danger of (being damaged) (destruction)]**.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-102 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Negligent Arson, No. 6-102, 2009, Source and Comment]

SOURCE: MCA § 45-6-102 (2007).

COMMENT: The statute is worded such that the mental states of “purposely,” “knowingly” and “negligently” are all referred to, making this instruction confusing in application. Give the instruction defining “negligently” with this instruction.

Subparagraph [2] constitutes a misdemeanor under the statute.

INSTRUCTION NO. [6-102(a)]

[Issues in Negligent Arson]

To convict the Defendant of negligent arson, the State must prove the following elements:

1. That the Defendant **[started a fire] [caused an explosion] [on his/her own property] [on the property of _____];**

AND

2. That the Defendant acted purposely or knowingly;

AND

3. That the Defendant thereby negligently placed _____ in danger of **[death] [bodily injury]**.

OR

1. That the Defendant **[started a fire] [caused an explosion] [on his/her own property] [on the property of _____];**

AND

2. That the Defendant acted purposely of knowingly;

AND

3. That the Defendant thereby negligently placed property of _____ in danger of **[being damaged] [destruction]**.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-102(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Negilgent Arson, No. 6-102(a), 2009, Source and Comment]

SOURCE: MCA§ 45-6-102 (2007).

COMMENT: The blanks should be filled in with the name(s) of the victim(s).

Note that placing property of another in danger is a misdemeanor. Also, give the instruction defining “negligently” with this instruction.

If a firefighter is involved, amend the instruction according to MCA § 45-6-102(a) (2007).

INSTRUCTION NO. [6-103]

[Arson]

A person commits the offense of arson if, by means of **[fire] [explosives]**, the person knowingly or purposely:

[(damages) (destroys) a (structure) (vehicle) (personal property, other than a vehicle) that exceeds \$1,000 in value (crop) (pasture) (forest) (other real property) which is property of another without consent.]

OR

[(damages) (destroys) a (structure) (vehicle) (crop) (pasture) (forest) (other property) that the person owns or has an interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception.]

OR

[places another person in danger of (death) (bodily injury) (including a firefighter responding to or at the scene of a fire or explosion.)

GIVEN: _____

DISTRICT JUDGE

SOURCE: MCJI 6-103 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Arson, No. 6-103, 2009, Source and Comment]

SOURCE: MCA § 45-6-103 (2007).

COMMENT: If appropriate, the definition of “property of another” contained in MCA § 45-2-101(2007) should be used.

INSTRUCTION NO. [6-103(a)]

[Issues in Arson]

To convict the Defendant of arson, the State must prove the following elements:

1. That the Defendant, by means of **[fire] [explosives] [damaged] [destroyed]** a **[structure] [vehicle] [personal property (other than a vehicle)] [crop, pasture, forest, or other real property]** that exceeds \$1,000 in value belonging to _____;

AND

2. That the Defendant did so without the consent of _____;

AND

3. That the Defendant acted knowingly or purposely;

OR

1. That the Defendant, by means of **[fire] [explosives] [damaged] [destroyed]** a **[structure] [vehicle] [crop] [pasture] [forest] [other property]** that _____ **[owns] [has a possessory interest in]**, with the purpose of obtaining a pecuniary interest or other gain through fraud or deception;

AND

2. That the Defendant acted knowingly or purposely;

OR

1. That the Defendant, by means of **[fire] [explosives]** placed _____, a firefighter, in danger of **[death] [bodily injury]**;

AND

2. That the Defendant acted knowingly or purposely.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-103(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Arson, No. 6-103(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-103 (2007).

COMMENT: Insert the name of the owner and/or victim in the appropriate blanks.

The several sets of issues present alternative situations.

INSTRUCTION NO. [6-104]

[Burglary]

A person commits the offense of burglary if the person knowingly enters or remains unlawfully in an occupied structure with the purpose to commit an offense therein.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-104 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Burglary, No. 6-104, 2009, Source and Comment]

SOURCE: MCA § 45-6-204(1) (2007).

COMMENT: The definition of the terms “enter or remain unlawfully” and “occupied structure,” which appear in these instructions, should be given.

INSTRUCTION NO. [6-104(a)]

[Issues in Burglary]

To convict the Defendant of the charge of burglary, the State must prove the following elements:

1. That the Defendant knowingly **[entered] [remained unlawfully within]** an occupied structure;

AND

2. That the Defendant did so with the purpose to commit the offense of _____ therein.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-104(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Burglary, No. 6-104(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-204(1) (2007).

COMMENT: The appropriate offense should be inserted in the blank.

INSTRUCTION NO. [6-105]

[Aggravated Burglary]

A person commits the offense of aggravated burglary if the person knowingly **[enters] [remains unlawfully in]** an occupied structure with the purpose to commit an offense therein, and **[(in effecting entry) (in the course of committing the offense) (in immediate flight after the commission of the offense) (the person) (another participant in the offense) is armed with (explosives) or (a weapon).] [(in effecting entry) (in the course of committing the offense) (in immediate flight after the commission of the offense) the person (purposely) (knowingly) (negligently) (inflicts) (attempts to inflict) bodily injury upon anyone.]**

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-105 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Aggravated Burglary, No. 6-105, 2009, Source and Comment]

SOURCE: MCA § 45-6-204(2) (2007).

COMMENT: A definition of the terms “enter or remain unlawfully” and “occupied structure” should be given with this instruction.

A definition of “negligently” and “weapon” should be given when appropriate.

INSTRUCTION NO. [6-105(a)]

[Issues in Aggravated Burglary]

To convict the Defendant of the charge of aggravated burglary, the State must prove the following elements:

1. That the Defendant knowingly **[entered] [remained unlawfully in]** an occupied structure;

AND

2. That the Defendant did so with the purpose to commit an offense therein;

AND

3. **[That (in effecting entry) (in the course of committing the offense) (in immediate flight after the commission of the offense) (the Defendant) (another participant in the offense) was armed with [explosives) or [a weapon.]**

OR

3. **[That (in effecting entry) (in the course of committing the offense) (in immediate flight after the commission of the offense) the Defendant (purposely) (knowingly) (negligently) (inflicted) (attempted to inflict) bodily injury on anyone.]**

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-105(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Aggravated Burglary, No. 6-105(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-204(2) (2007).

COMMENT: The two issues under subsection (3) are alternatives. Only one should be used. See the note to the previous instruction relating to definitions required.

INSTRUCTION NO. [6-106]

[Theft – By Unauthorized Control]

A person commits the offense of theft if the person purposely or knowingly obtains or exerts unauthorized control over property of the owner, and

[has the purpose of depriving the owner of the property.]

OR

[purposely or knowingly (uses) (conceals) (abandons) the property in a manner that deprives the owner of the property.]

OR

[(uses) (conceals) (abandons) the property knowing that such (use) (concealment) (abandonment) probably will deprive the owner of the of the property.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-106 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft – By Unauthorized Control, No. 6-106, 2009, Source and Comment]

SOURCE: MCA § 45-6-301(1) (2007).

COMMENT: The statute permits aggregation of amounts involved in theft when determining pecuniary loss. *See* MCA § 45-6-301(9).

INSTRUCTION NO. [6-106(a)]

[Issues in Theft by Unauthorized Control]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That _____ was the owner of _____ in question;

AND

2. That the Defendant purposely or knowingly obtained or exerted unauthorized control over the _____;

AND

3. **[That the Defendant had the purpose of depriving _____ of the property;]**

OR

3. **[That the Defendant purposely or knowingly used, concealed, or abandoned the _____ in such manner as to deprive _____ of it;]**

OR

3. **[That the Defendant used, concealed, or abandoned the _____ knowing that _____ would probably be deprived of it;]**

AND

4. That the value of the _____ exceeded \$1000.00.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-106(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Theft by Unauthorized Control, No. 6-106(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-301(1) (2007).

COMMENT: This section permits aggregation of amounts in determining pecuniary loss. Subsection 4, relating to the value of the property, is the amount necessary for a felony offense, and the instruction is designed accordingly.

INSTRUCTION NO. [6-107]

[Theft – By Threat or Deception]

A person commits the offense of theft if the person purposely or knowingly obtains control over property of the owner by **[threat] [deception]**, and

[has the purpose of depriving the owner of the property.]

OR

[purposely or knowingly (uses) (conceals) (abandons) the property in a manner that deprives the owner of the property.]

OR

[(uses) (conceals) (abandons) the property knowing that the owner will probably be deprived of the property.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-107 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft by Threat or Deception, No. 6-107, 2009, Source and Comment]

SOURCE: MCA§ 45-6-301(2) (2007).

COMMENT: A definition of “deception” should be given with this instruction.
See MCA § 45-2-101 (2007).

INSTRUCTION NO. [6-107(a)]

[Issues in Theft by Threat or Deception]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That _____ was the owner of the _____ in question;

AND

2. That the Defendant by **[deception] [threat]** purposely or knowingly obtained control over the _____;

AND

3. **[That the Defendant had the purpose of depriving _____ of the property;]**

OR

3. **[That the Defendant purposely or knowingly used, concealed, or abandoned the _____ in such manner as to deprive _____ of it;]**

OR

3. **[That the Defendant (used) (concealed) (abandoned) the _____ knowing that _____ would thereby probably be deprived of it;]**

AND

4. That the value of the _____ exceeds \$1000.00.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-107(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Theft by Threat or Deception, No. 6-107(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-301(2) (2007).

COMMENT: This instruction is designed to address the offense as a felony.
If the value of the property is less than \$1,000.00, subsection 4
should not be included.

INSTRUCTION NO. [6-108]

[Theft by Obtaining Control Over Stolen Property]

A person commits the offense of theft if the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another, and

[has the purpose of depriving the owner of the property.]

OR

[purposely or knowingly (uses) (conceals) (abandons) the property in a manner that deprives the owner of the property.]

OR

[(uses) (conceals) (abandons) the property knowing that the owner will thereby probably be deprived of the property.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-108 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft by Obtaining Control Over Stolen Property, No. 6-108, 2009, Source]

SOURCE: MCA § 45-6-301(3) (2007).

INSTRUCTION NO. [6-108(a)]

[Issues in Theft by Obtaining Control Over Stolen Property]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That the Defendant purposely or knowingly obtained control over _____;

AND

2. That the Defendant knew the _____ had been stolen by another;

AND

3. **[That the Defendant had the purpose of depriving the owner of the _____;]**

OR

3. **[That the Defendant purposely or knowingly used, concealed, or abandoned the _____ in such manner as to deprive the owner of _____;]**

OR

3. **[That the Defendant (used) (concealed) (abandoned) the _____ knowing that the owner would thereby probably be deprived of it;]**

AND

4. That the value of the _____ exceeded \$1000.00.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-108(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

**[Issues in Theft by Obtaining Control Over Stolen Property, No. 6-108(a), 2009,
Source and Comment]**

SOURCE: MCA § 45-6-301(3) (2007).

COMMENT: This instruction is designed to address the offense as a felony. If the value of the property is less than \$1,000.00, subsection 4 should not be included.

INSTRUCTION NO. [6-109]

[Theft - By Unauthorized Control Over Public Assistance]

A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of the assistance, by means of

[a knowingly false statement, representation or impersonation]

[a fraudulent scheme or device].

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-109 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft - By Unauthorized Control Over Public Assistance, No. 6-109, 2009, Source]

SOURCE: MCA § 45-6-301(4) (2007).

INSTRUCTION NO. [6-109(a)]

[Issues in Theft By Unauthorized Control Over Public Assistance]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That the Defendant obtained or exerted unauthorized control over any part of any public assistance;

AND

2. That the public assistance was provided under Title 52 or 53 by a state or county agency;

AND

3. That the Defendant acted purposely or knowingly;

AND

4. That the assistance was obtained by means of **[a knowingly false statement, representation, or impersonation] [a fraudulent scheme or device.]**

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-109(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Theft by Unauthorized Control Over Public Assistance, No. 6-109(a), 2009, Source]

SOURCE: MCA § 45-6-301 (4) (2007).

INSTRUCTION NO. [6-110]

[Theft - By Unauthorized Control Over Title 39 Benefits]

A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 71 by means of:

[a knowingly false statement, representation, or impersonation]

OR

[deception or other fraudulent action].

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-110 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft - By Unauthorized Control Over Title 39 Benefits, No. 6-110, 2009, Source and Comment]

SOURCE: MCA § 45-6-301(5) (2007).

COMMENT: Note that prior to the 2005 legislative session, this subsection of § 45-6-301 provided that the offense was committed by obtaining unauthorized control over "... benefits provided under Title 39, chapter 71 **or 72...**" The reference to chapter 72 was deleted in 2005.

INSTRUCTION NO. [6-110(a)]

[Issues in Theft by Unauthorized Control Over Title 39 Benefits]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That the Defendant [**obtained or exerted**] [**helped another obtain or exert**] unauthorized control over any part of any benefits provided under Title 39, chapter 71;

AND

2. That the Defendant acted purposely or knowingly;

AND

3. That the Defendant [**obtained or exerted control**] [**helped another obtain or exert control**] by means of [**a knowingly false statement, representation or impersonation**] [**deception or other fraudulent action**].

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-110(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

**[Issues in Theft by Unauthorized Control Over Title 39 Benefits, No. 6-110(a), 2009,
Source]**

SOURCE: MCA § 45-6-301 (5) (2007).

INSTRUCTION NO. [6-111]

[Theft - By Insurance Fraud]

A person commits the offense of theft when the person purposely or knowingly:

[commits insurance fraud as provided in 33-1-1202 or 33-1-1302]

OR

[diverts or misappropriates insurance premiums as provided in 33-17-1102]

OR

[receives small business health insurance premium incentive payments or premium assistance payments or tax credits under Title 33, chapter 22, part 20, to which the person is not entitled].

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-111 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft by Insurance Fraud, No. 6-111, 2009, Source]

SOURCE: MCA § 45-6-301(6) (2007).

INSTRUCTION NO. [6-111(a)]

[Issues in Theft by Insurance Fraud]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That the Defendant [**committed insurance fraud as provided in MCA § 33-1-1202 or MCA § 33-1-1302(2007).**] [**diverts or misappropriates insurance premiums as provided in MCA § 33-17-1102(2007).**] [**receives small business health insurance premium incentives payments or premium assistance payments or tax credits under MCA § 33-22-20 (2007), to which the person is not entitled**].

AND

2. That the Defendant acted purposely or knowingly.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-111(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Theft by Insurance Fraud, No. 6-111(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-301(6) (2007).

COMMENT: The statutory provisions of MCA § 45-6-301(6) (2007) have changed substantially since publication of the 1999 Montana Criminal Jury Instruction Guide.

Since the addition of so many Title 33 provisions, incorporating them all into a single “issues instruction” is too awkward to make the instruction useful. The Commission suggests that the language relevant to the charge in MCA § 33-1-1202, 33-1-1302, 33-17-1102, and MCA § 33-22-20 (2007), be incorporated into the issues instruction to be utilized in a particular case.

INSTRUCTION NO. [6-112]

[Theft – Embezzlement]

A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property the person purposely or knowingly :

[obtains or exerts unauthorized control over property of the person’s employer or over property entrusted to the person.]

OR

[obtains by deception control over property of the person’s employer or over property entrusted to the person.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-112 (2009)

Plaintiff’s Proposed Instruction No. _____ Defendant’s Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft – Embezzlement, No. 6-112, 2009, Source]

SOURCE: MCA § 45-6-301(7) (2007).

INSTRUCTION NO. [6-112(a)]

[Issues in Theft - Embezzlement]

To convict the Defendant of the charge of theft, the State must prove the following elements:

1. That the Defendant, with the purpose to deprive _____, the owner, of the property [**obtained or exerted unauthorized control over property of the Defendant's employer, or over property of the Defendant's employer which was entrusted to Defendant**]

OR

1. That the Defendant, with the purpose to deprive _____, the owner, of the property [**obtained by deception control over property of the Defendant's employer or over property of the Defendant's employer which was entrusted to Defendant.**]

AND

2. That the Defendant acted purposely or knowingly.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-112(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Theft – Embezzlement, No. 6-112(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-301(7) (2007).

COMMENT: Instructions for this offense do not appear in the 1999 edition of the MCJI since the statute defining the offense was enacted after publication of that edition.. The instruction should be drafted so that one of the bracketed subsections is used.

INSTRUCTION NO. [6-113]

[Theft –Offender’s Interest in Property]

If you should find that **[it was the Defendant's purpose]** or **[the Defendant acted knowingly]** to deprive his **[co-owner] [joint tenant] [partner] [tenant in common]** of the other's interest in the property in question or any part thereof, then it is no defense that the Defendant also owned an interest in such property.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-113 (2009)

Plaintiff’s Proposed Instruction No. _____ Defendant’s Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft – Offender’s Interest in Property, No. 6-113, 2009, Source]

SOURCE: MCA § 45-6-303(1) (2007).

INSTRUCTION NO. [6-114]

Theft – Offender’s Interest in Property - Spouse

If you should find that the Defendant acted purposely or knowingly to deprive **(his)(her)** spouse of the property in question or any part thereof, then it is no defense that the theft was from Defendant's spouse. This rule does not apply to household and personal effects and property normally accessible to both spouses while they are living together.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-114 (2009)

Plaintiff’s Proposed Instruction No. _____ Defendant’s Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Theft – Offender’s Interest in Property – Spouse, No. 6-114, 2009, Source and Comment]

SOURCE: MCA § 45-6-303(2) (2007).

INSTRUCTION NO. [6-115]

[Failure to Return Rented or Leased Property]

A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return such property within 48 hours after the time provided for such return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and the penalty for failure to return is stated in the rental or lease agreement.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-115 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Failure to Return Rented or Leased Personal Property, No. 6-115, 2009, Source and Comment]

SOURCE: MCA § 45-6-309 (2007).

COMMENT: This instruction and the accompanying issues instruction, MCJI 6-115(a) are included on the assumption that the offense charged is a felony as specified in MCA § 45-6-309 (4)(b) (2007).

INSTRUCTION NO. [6-115(a)]

[Issues in Failure to Return Rented or Leased Personal Property]

To convict the Defendant of failure to return rented or leased personal property, the State must prove the following elements:

1. That there existed a rental agreement between the lessor and lessee containing clear, boldly printed written notice of the date and time for return of the property and the penalty for failure to return the property;

AND

2. That the Defendant failed to return the property within 48 hours of the time provided in the rental agreement for return of the property;

AND

3. That the Defendant failed to give notice to and obtain the permission of the lessor for the delay;

AND

4. The value of the property which the Defendant failed to return exceeded \$1000.00;

AND

5. That the Defendant acted purposely and knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-115(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

**[Issues in Failure to Return Rented or Leased Personal Property, No. 6-115(a), 2009,
Source and Comment]**

SOURCE: MCA § 45-6-309 (2007).

COMMENT: This instruction and the accompanying definition instruction, MCJI 6-115, are included on the assumption that the offense charged is a felony as specified in MCA § 45-6-309 (4)(b) (2007).

INSTRUCTION NO. [6-116]

[Unlawful Use of a Computer]

A person commits the offense of unlawful use of a computer if the person knowingly or purposely:

[obtains the use of any computer, computer system, or computer network without consent of the owner.]

OR

[(alters) (destroys) (causes another to alter or destroy) a computer program or computer software without consent of the owner.]

OR

[(obtains the use of) (alters) (destroys) a computer, computer system, computer network, or any part thereof as part of a deception for the purpose of obtaining (money) (property) (computer services) from (the owner of the computer, computer system, computer network, or part thereof) (any other person).]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-116 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Unlawful Use of a Computer, No. 6-1116, 2009, Source and Comment]

SOURCE: MCA § 45-6-311(2007).

COMMENT: Definitions from MCA § 45-2-101 (2007), should be given in conjunction with the relevant bracketed portions of the above instruction.

INSTRUCTION NO.[6-116(a)]

[Issues in Unlawful Use of a Computer]

To convict the Defendant of unlawful use of a computer, the state must prove the following elements:

1. **[That the Defendant obtained the use of a computer, computer system, or computer network without consent of _____;]
[That the Defendant (altered) (destroyed) (caused _____ to alter or destroy) a computer program or computer software without consent of _____;]
[That Defendant (obtained the use of) (altered) (destroyed) a computer, computer system, or computer network, or any part thereof as part of a deception, for the purpose of obtaining (money) (property) (computer services) from (_____, the owner of the computer, computer system, computer network or part thereof) (any other person);]**

AND

2. That the nature of the offense is one involving property exceeding \$1000.00 in value;

AND

3. That the Defendant acted knowingly or purposely.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-116(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Unlawful Use of a Computer, No. 6-116(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-311 (2007).

COMMENT: Note that this instruction is drawn to reflect the charged offense as a felony. The value is a material element that the state is required to prove

INSTRUCTION NO. [6-117]

[Issuing a Bad Check]

A person commits the offense of issuing a bad check when the person **[issues]** **[delivers]** **[a check]** **[other order]** upon a **[real depository]** **[fictitious depository]** for the payment of money, knowing that it will not be paid by the depository.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-117 (2009)

Plaintiff's Proposed Instruction No. ____ Defendant's Proposed Instruction No. ____

Given as Instruction No. ____ Refused ____ Withdrawn ____ By ____

[Issuing a Bad Check, No. 6-117, 2009, Source and Comment]

SOURCE: MCA § 45-6-316 (2007).

COMMENT: Insert the name of the appropriate depository, e.g., bank, savings and loan association, etc.

INSTRUCTION NO. [6-117(a)]

[Issues in Issuing a Bad Check]

To convict the Defendant of issuing a bad check, the State must prove the following elements:

1. That the Defendant **[issued] [delivered] [a check] [other order]** upon a **[real depository] [fictitious depository]** for the payment of money,

AND

2. The Defendant knew that **[the check] [other order]** would not be paid by the _____;

AND

3. The **[issuing of bad check(s) was part of a common scheme] [value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$1000.00;]**

AND

4. The Defendant acted knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-117(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Issuing a Bad Check, No. 6-117(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-316 (2007).

COMMENT: The monetary amount and common scheme elements should be deleted if the offense is a misdemeanor. If common scheme is involved, give the statutory definition of common scheme.

INSTRUCTION NO. [6-118]

[Deceptive Practices]

A person commits the offense of deceptive practices when the person purposely or knowingly:

[causes another, by deception or threat, to execute a document (disposing of property) (by which a pecuniary obligation is incurred);]

OR

[makes (directs another to make) a false or deceptive statement addressed to the public or any person for the purpose of (promoting) (procuring) the sale of (property) (services);]

OR

[obtains or attempts to obtain property, labor or services by (using a credit card which was issued to another without the other's consent.)(using a credit card that has been revoked or canceled.) (using a credit card that has been (falsely made) (counterfeited) (altered) in any material respect.)(using the pretended number or description of a fictitious credit card.)(using a credit card which has expired when the credit card clearly indicates the expiration date)];

AND

The [deceptive practices are part of a common scheme] [value of any (property) (labor) (services) obtained or attempted to be obtained exceeds \$1000.00.]

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-118 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Deceptive Practices, No. 6-118, 2009, Source and Comment]

SOURCE: MCA § 45-6-317 (2007).

COMMENT: This instruction is designed to be used in felony cases. The monetary amount and common scheme elements should be deleted if the offense is a misdemeanor. Other inapplicable bracketed terms should also be deleted. If common scheme is involved, the definition of common scheme in MCA § 45-2-101(2007) should be given.

INSTRUCTION NO. [6-118(a)]

[Issues in Deceptive Practices]

To convict the Defendant of deceptive practices the State must prove the following elements:

1. That the Defendant:[caused _____, by deception or threat, to execute a document (disposing of property) (by which a pecuniary obligation is incurred);]

OR

[(made) (directed _____ to make) a false or deceptive statement addressed to the public or to

_____ for the purpose of (promoting) (procuring) the sale of (property) (services);]

OR

[obtained or attempted to obtain property, labor or services by (using a credit card which was issued to _____ without his consent) (using a credit card that was revoked or canceled) (using a credit card that was (falsely made) (counterfeited) (altered) in any material respect) (using the pretended number or description of a fictitious credit card) (using a credit card which had expired and the credit card clearly indicated the expiration date)];

AND

2. The [deceptive practice was part of a common scheme] [value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$1000.00];

AND

3. The Defendant acted purposely or knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-118(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Deceptive Practices, No. 6-118(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-317 (2007).

COMMENT: This instruction, like MCJI 6-317, is designed for use in a felony case. The monetary and common scheme language should be deleted for misdemeanor cases. The definition of common scheme in MCA § 45-2-101 (2007) should be given if applicable.

INSTRUCTION NO. [6-119]

[Forgery]

A person commits the offense of forgery when the person, with the purpose to defraud, knowingly:

[Without authority makes or alters a _____, which was apparently capable of being used to defraud another, so that it appears to have been made (by another) (at another time) (with different provisions) (of different composition)]

OR

[Issues or delivers a _____ which he knows has been made or altered so that it appears to have been made (by another) (at another time) (with different provisions) (of different composition)]

OR

[Possesses, with the purpose of issuing or delivering a _____ which he knows has been made or altered so that it appears to have been made (by another) (at another time) (with different provisions) (of different composition)]

OR

[Possesses, with knowledge of its character, any plate, die, or other device, apparatus, equipment or article specifically designed for use in counterfeiting or otherwise forging written instruments]

AND

The [forgery was part of a common scheme] [value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$1000.00.].

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-119 (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Forgery, No. 6-119, 2009, Source and Comment]

SOURCE: MCA § 45-6-325 (2007).

COMMENT: Insert an appropriate description of the document or object involved, e.g., check, note, mortgage, etc. Note subsections 2 and 3 of MCA § 45-6-325 (2007), which relate, respectively, to the meaning of a “purpose to defraud” and “a document or other object capable of being used to defraud.”

This instruction is designed to be used in a felony prosecution. Delete the monetary value or common scheme elements if the offense is a misdemeanor. If common scheme is involved, give the definition of the term in MCA § 45-2-101 (2007).

INSTRUCTION NO. [6-119(a)]

[Issues in Forgery – Alteration of Document]

To convict the Defendant of forgery, the State must prove the following elements:

1. **[That the Defendant without authority made or altered a _____, which was apparently capable of being used to defraud another, so that it appeared to have been made (by another) (at another time) (with different provisions) (of different composition);]**

OR

[That the Defendant issued or delivered a _____ which he knew had been made or altered so that it appeared to have been made (by another) (at another time) (with different provisions) (of different composition);]

AND

2. That the Defendant did so with the purpose of defrauding _____;

AND

3. That the **[alteration of the document(s) was part of a common scheme] [value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$1000.00;]**

AND

4. That the Defendant acted knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-119(a) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

[Issues in Forgery – Alteration of a Document, No. 6-119(a), 2009, Source and Comment]

SOURCE: MCA § 45-6-325(1) (2007).

COMMENT: The blank in the first issue should contain a description of the appropriate document or object. The blank in the second issue should contain the name of the intended victim, if known. If the alleged forger intended to defraud anyone, rather than a specific individual, the word “someone” should be inserted in the blank. Delete monetary amount and common scheme elements if the offense is a misdemeanor.

INSTRUCTION NO. [6-119(b)]

[Issues in Forgery – Possession of Altered Document or Counterfeiting Equipment]

To convict the Defendant of forgery, the State must prove the following elements:

1. That the Defendant possessed a _____, which he knew had been made or altered so that it appeared to have been made **(by another) (at another time) (with different provisions) (of different composition)**;

AND

2. That the Defendant had the purpose to issue or deliver the _____;

AND

3. That the Defendant then had the purpose to defraud _____;

AND

4. That the Defendant acted knowingly;

AND

5. That **[the possession of the altered document(s) was part of a common scheme] [the value of any (property (labor) (services) obtained or attempted to be obtained exceeded \$1000.00)].**

OR

1. That the Defendant possessed any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments;

AND

2. That the Defendant had knowledge of its character;

AND

3. That the Defendant then had the purpose to defraud _____;

AND

4. That the Defendant acted knowingly;

AND

5. That [**the possession of the plate, die, or other device, apparatus, equipment or article was part of a common scheme**] [**the value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$1000.00.)**]

OR

That [**the possession of the altered document(s) was part of a common scheme**] [**value of any (property) (labor) (services) obtained or attempted to be obtained exceeded \$500.00;**]

AND

6. That the Defendant acted purposely or knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-119(b) (2009)

Plaintiff's Proposed Instruction No. _____ Defendant's Proposed Instruction No. _____

Given as Instruction No. _____ Refused _____ Withdrawn _____ By _____

**[Issues in Forgery – Possession of Altered Document or Counterfeiting Equipment,
No. 6-119(b), 2009, Source and Comment]**

SOURCE: MCA § 45-6-325(1) (2007).

COMMENT: The blank in the first and second issues should be completed with a description of the document, the bracketed blank in the third issue should contain the name of the intended victim, if known. If the alleged forger intended to defraud anyone, rather than a specific individual, the word “someone” should be inserted in the blank. Delete monetary amount and common scheme elements if the offense is a misdemeanor. If a common scheme is alleged, give the definition of common scheme from MCA § 45-2-101 (2007).

INSTRUCTION NO. [6-120]

[Identity Theft]

A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose including to obtain or attempt to obtain credit, goods, services, financial information or medical information in the name of the other person without the consent of the other person.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-120 (2009)

Plaintiff's Proposed Instruct. No. ____ Defendant's Proposed Instruct. No. ____

Given as Instruction No. ____ Refused ____ Withdrawn ____ By ____

[Identity Theft, No. 6-120, 2009, Source]

SOURCE: MCA § 45-6-322 (2007).

INSTRUCTION NO. [6-120(a)]

[Issues in Theft of Identity]

To convict the Defendant of the charge of theft of identity, the State must prove the following elements:

1. That the identifying information in question belonged to _____;

AND

2. That the Defendant purposely or knowingly obtained control over the identifying information;

AND

3. That the Defendant used the identifying information for the unlawful purpose of _____;

AND

4. That the Defendant acted without the consent of _____;

AND

5. That the economic benefit that was gained or attempted to be gained [**exceeds \$1,000.00**] [**was \$1,000.00 or less**].

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-120 (a) (2009)

Plaintiff's Proposed Instruct. No. ____ Defendant's Proposed Instruct. No. ____

Given as Instruction No. ____ Refused ____ Withdrawn ____ By ____

[Issues in Theft of Identity, No. 6-120(a), 2009, Source]

SOURCE: MCA § 45-6-332 (2007).

INSTRUCTION NO. [6-121]

[Money Laundering]

A person commits the offense of money laundering if the person knowingly:

[(receives or acquires the proceeds of)(engages in transactions involving proceeds of) any activity that is unlawful under the laws of (the United States)(the state in which the activity occurred)];

OR

[gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value that the person knows is intended to be used for the purpose of committing or furthering the commission of any activity that is unlawful under the laws of (the United States)(the state in which the committing or furthering of the commission of the activity occurs)];

OR

[directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds that the person knows are derived from any activity that is unlawful under the laws of (the United States)(the state in which the activity occurred)];

OR

[conducts a financial transaction involving proceeds that the person knows are derived from any activity that is unlawful under the laws of (the United States)(the state in which the activity occurred) when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds or to avoid a transaction reporting requirement under federal law].

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCJI 6-121 (2009)

Plaintiff's Proposed Instruction No____Defendant's Proposed Instruction No____

Given as Instruction No____Refused____Withdrawn____By____

[Money Laundering, No. 6-121, 2009, Source]

SOURCE: MCA § 45-6-341 (2007).

INSTRUCTION NO. [6-121(a)]

[Issues in Money Laundering]

To convict the Defendant of money laundering, the State must prove the following elements:

1. That the defendant

[(received) (acquired) the proceeds of an activity]

OR

[engaged in transactions involving proceeds of an activity]

OR

[(gave)(sold)(transferred)(traded)(invested)(concealed)(transported)(made available) anything of value that the defendant knew was intended to be used for the purpose of committing or furthering the commission of an activity]

OR

[(directed)(planned)(organized)(initiated)(financed)(managed)(supervised)(facilitated) the (transportation)(transfer) of proceeds that the defendant knew were derived from an activity]

OR

[conducted a financial transaction involving proceeds that the defendant knew were derived from an activity when the transaction was designed in whole or in part to ((conceal)(disguise) the (nature) (location) (source) (ownership)(control) of the proceeds)(to avoid a transaction reporting requirement under federal law)].

2. That the activity was unlawful under the laws of **(the United States)(the state in which the activity occurred)**;
3. That the defendant acted knowingly.

If you find from your consideration of the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that any of these elements has not been proved beyond a reasonable doubt, then you should find the Defendant not guilty.

GIVEN: _____
DISTRICT JUDGE

SOURCE: MCI 6-121(a) (2009)

Plaintiff's Proposed Instruction No _____ Defendant's Proposed Instruction No _____

Given as Instruction No _____ Refused _____ Withdrawn _____ By _____

[Issues in MoneyLaundering, No. 6-121(a), 2009, Source]

SOURCE: MCA § 45-6-341 (2007).