IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

**MOTION TO CHALLENGE JURY SELECTION PROCEDURE**

On this date comes Defendant, [*name*], by Counsel, [*name*], and moves the Honorable Court, pursuant to West Virginia Code § 52-1-15, as amended, to permit Defendant to present a challenge to the jury selection procedures used in obtaining the pool of prospective jurors for this matter.

The criteria for establishing Defendant’s grounds for the motion are as follows:

To establish a prima facie case of unconstitutional jury selection methods under the Sixth Amendment’s fair cross-section requirement, the defendant must show (1) that the group alleged to be excluded is a “distinctive” group in the community; (2) that the representation of this group in venires from which juries are selected is not fair and reasonable in relation to the number of such persons in the community; and (3) that this underrepresentation is due to systematic exclusion of the group in the jury-selection process. Syl. pt. 2, *State v. Hobbs*, 168 W. Va. 13, 282 S.E.2d 258 (1981).

*State v. King*, 183 W. Va. 440, 441, 396 S.E.2d 402, 403 (1990).

In support of said motion, Defendant asserts that the procedures used in determining the selection of the jurors were fatally defective and constitute a substantial failure to comply with the provisions of West Virginia Code § 52-1-1, *et. seq.*, as amended. Defendant further asserts that the attached certification contains a sufficient sworn statement of facts to support this motion.

Therefore, Defendant requests that the court stay further proceedings in this matter and schedule a hearing on the motion herein, and grant any other such relief as the court may deem appropriate.

Dated this \_\_\_ day of [*month, year*].

[*defendant*],

By Counsel

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

[*counsel name*] [*bar number*]

[*address*]

[*phone number*]

[*email address*]

Counsel for Defendant

IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

Defendant.

**STATEMENT IN SUPPORT OF MOTION TO**

**CHALLENGE JUROR SELECTION PROCEDURES**

I, [*counsel’s name*], Counsel for Defendant herein, do hereby verify and affirm the following:

1. [*cite any and all facts showing substantial failure to comply with provisions of § 52-1-1 et. seq.*].

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

[*counsel*]

STATE OF WEST VIRGINIA,

COUNTY OF [*county*], to wit:

I, [ *counsel’s name* ], being first duly sworn, says that the facts and allegations contained in the foregoing motion are true, except so far as they are stated to be based upon information and belief, and that so far as they are stated to be based upon information and belief, are believed to be true.

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

[*counsel*]

Taken, sworn to and subscribed before me this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

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

Notary Public

My Commission expires \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.