**10.9 Receiving Illegal Gratuity by Witness**

**(18 U.S.C. § 201(c)(3))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with [soliciting] [receiving] [agreeing to receive] an illegal gratuity in violation of Section 201(c)(3) of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove beyond a reasonable doubt that the defendant [solicited] [received] [agreed to receive] something of value, [*specify the thing of value*], [for testimony to be given under oath by the defendant as a witness in [*specify proceeding*]] [because of testimony given under oath by the defendant as a witness at/in [*specify proceeding*]] [for being absent from [*specify proceeding*] so that the defendant could not testify as a witness].

**Comment**

*See* Comment to Instructions 10.2 (Bribery of Federal Public Official), 10.6 (Illegal Gratuity to Public Official), and 10.8 (Illegal Gratuity to Witness).

Depending on the facts in evidence, it may be appropriate to amend this instruction with language requiring specific jury unanimity (*e.g.*, “with all of you agreeing as to what the witness intended to do in return for the gratuity”). *See* Instruction 6.27 (Specific Issue Unanimity).