

**CRIMINAL MISCHIEF  
FOURTH DEGREE  
(A Misdemeanor)  
(Intentionally Damaging Another's Property)  
PENAL LAW 145.00(1)  
(Committed on or after Sept. 1, 1967)  
(Revised January 5, 2009)<sup>1</sup>  
(Revised December 17, 2009)<sup>2</sup>**

The \_\_\_\_\_ count is Criminal Mischief in the Fourth Degree.

Under our law, a person is guilty of Criminal Mischief in the Fourth Degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, that person intentionally damages<sup>3</sup> property of another person.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: “intentionally” [and “property of another.”]

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY damages property of another person when that person's conscious objective or purpose is to damage property of another person.<sup>4</sup>

[PROPERTY OF ANOTHER includes all property in which another person has an ownership interest, whether or not a

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<sup>1</sup> This charge was revised in January, 2009 to incorporate the legislative enactment of a statutory definition of “property of another” (Penal Law § 145.13).

<sup>2</sup> This charge was revised in December, 2009 to incorporate the legislative enactment of an amendment to the statutory definition of “property of another” (Penal Law § 145.13; L. 2009, c. 45, §2).

<sup>3</sup> *People v. Hills*, 95 N.Y.2d 947 (2000) held that “While the extent of damage necessary to sustain a conviction for fourth degree criminal mischief is slight, some amount of damage is required.”

<sup>4</sup> See Penal Law § 15.05(1).

person who damages the property, or any other person, may also have an interest in the property.]<sup>5</sup>

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), intentionally damaged property of another person; and
2. That the defendant had no right to do so nor any reasonable ground to believe he/she had such right.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Mischief in the Fourth Degree as charged in the \_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Mischief in the Fourth Degree as charged in the \_\_\_\_ count.

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<sup>5</sup> Penal Law § 145.13. The modifying word “such” contained in the statute has been replaced here with “the” for clarity.