

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY**

MILLIN A. NOBREGAS,

Plaintiff,

CASE NO.: 11-05755-CA 32

v.

VIRGINIA HADAD GONZALEZ,

Defendant.

/

**NOTICE OF FILING**  
**DEFENDANT'S PROPOSED JURY INSTRUCTIONS AND VERDICT FORM**

DEFENDANT, VIRGINIA HADAD, by and through undersigned counsel, hereby files her proposed Jury Instructions with the Clerk of the Court.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy hereof has been furnished pursuant to Florida Rule of  
Judicial Administration 2.516 this 15 August 2018 to the parties listed below.

By: Jane W. Muir  
Jane W. Muir

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## **PRETRIAL INSTRUCTIONS**

### Qualifications Instruction:

Many of you have electronic devices such as cell phones, smartphones, tablets, and laptops. Even though you have not yet been selected as a juror, there are some strict rules that you must follow about electronic devices.

When you are called to a courtroom, the judge will give you specific instructions on the use of electronic devices. These rules are so important that the judge may tell you that you must turn off your cell phone or other electronic devices completely or that you cannot have your cell phone or electronic devices in the courtroom. If someone needs to contact you in case of an emergency, the judge will provide you with a phone number where you can receive messages. If the trial judge allows you to keep your cell phones, computers, or other electronic devices, you cannot use them to take photographs, video recordings, or audio recordings of the proceedings in the courtroom or your fellow jurors. You must not use them to search the Internet or to find out anything related to any cases in the courthouse.

Why is this restriction imposed? This restriction is imposed because jurors must decide the case without distraction and only on the evidence presented in the courtroom. I know that, for some of you, these restrictions affect your normal daily activities and may require a change in the way you are used to communicating and perhaps even in the way you are used to learning.

If you investigate, research, or make inquiries on your own, the trial judge has no way to make sure that the information you obtain is proper for the case. The parties likewise have no opportunity to dispute or challenge the accuracy of what you find. Any independent investigation by a juror unfairly and improperly prevents the parties from having that opportunity our judicial system promises.

Between now and when you have been discharged from jury duty by the judge, you must not discuss any information about your jury service with anyone, including friends, co-workers, and family members. You may tell those who need to know where you are that you have been called for jury duty. If you are picked for a jury, you may tell people that you have been picked for a jury and how long the case may take. However, you must not give anyone any information about the case itself or the people involved in the case. You must also warn people not to try to say anything to you or write to you about your jury service or the case. This includes face-to-face, phone or computer communications.

I want to stress that you must not use electronic devices or computers to talk about this case, including tweeting, texting, blogging, e-mailing, posting information on a website or chat room, or any other means at all. Do not send or accept any messages, including e-mail and text messages, about your jury service. You must not disclose your thoughts about your jury service or ask for advice on how to decide any case.

The judge will tell you when you are released from this instruction. Remember, these rules are designed to guarantee a fair trial. It is important that you understand the rules as well as the

impact on our system of justice if you fail to follow them. If it is determined that any one of you has violated this rule, and conducted any type of independent research or investigation, it may result in a mistrial. A mistrial would require the case to be tried again at great expense to the parties and the judicial system. The judge may also impose a penalty upon any juror who violates this instruction. All of us are depending on you to follow these rules, so that there will be a fair and lawful resolution of every case.

## **INTRODUCTION**

[201.1] Welcome. [I] [The clerk] will now administer your oath.

[101.2] Members of the jury, do you solemnly swear or affirm that you will well and truly try this case between Millin Nobregas and Virginia Hadad, and a true verdict render according to the law and evidence?

Now that you have been sworn, I'd like to give you an idea about what we are here to do.

This is a civil trial. A civil trial is different from a criminal case, where a defendant is charged by the state prosecutor with committing a crime. The subject of a civil trial is a disagreement between people or companies [or others, as appropriate], where the claims of one or more of these parties have been brought to court to be resolved. It is called "a trial of a lawsuit."

The principal witnesses who will testify in this case are Millin Nobregas, Virginia Hadad and Veronica Fazzio.

Prior to 2007, Ms. Fazzio met with Ms. Hadad regularly. Between 2007 and 2008, Ms. Hadad met with Mr. Nobregas regularly. In March of 2010, Ms. Fazzio gave birth to Mr. Nobregas's baby. Mr. Nobregas alleges that Ms. Hadad disclosed confidential information to Ms. Fazzio in August of 2010. In September of 2010, Ms. Fazzio petitioned for sole custody of their child.

Plaintiff Millin Nobregas claims that Defendant Virginia Hadad caused a family legal dispute over the custody of his child and stress by disclosing private information to the mother, and offered counseling without proper licensure.

Ms. Hadad concedes that she lacked proper licensure. She believed that she was allowed to offer drug addiction counseling with her credentials, relying on the advice of another. She denies disclosing any information, confidential or otherwise, to Ms. Fazzio. She denies causing any harm to Mr. Nobregas.

## **OATH**

[202.1] You have now taken an oath to serve as jurors in this trial. Before we begin, I am going to tell you about the rules of law that apply to this case. It is my intention to give you most of the rules of law but it might be that I will not know for sure all of the law that might apply in this case until all of the evidence is presented. However, I can anticipate most of the law and give it to you at the beginning of the trial so that you can better understand what to be looking for as the

evidence is presented. If I later decide that different law applies to the case, I will call that to your attention. In any event, at the end of the evidence I will give you the final instructions that you must use to decide this case and it is those instructions on which you must base your verdict. At that time, you will have a complete written set of the instructions so you do not have to memorize what I am about to tell you.

## **EVIDENCE AND TESTIMONY**

### [202.5] Translation

Some witnesses may testify in Spanish which will be interpreted in English.

The evidence you are to consider is only that provided through the official court interpreters. Although some of you may know (language used), it is important that all jurors consider the same evidence. Therefore, you must accept the English interpretation. You must disregard any different meaning.

If, however, during the testimony there is a question as to the accuracy of the English interpretation, you should bring this matter to my attention immediately by raising your hand. You should not ask your question or make any comment about the interpretation in the presence of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy resolved. If, however, after such efforts a discrepancy remains, I emphasize that you must rely only upon the official English interpretation as provided by the court interpreter and disregard any other contrary interpretation.

### [301.1] Deposition Testimony

Members of the jury, the sworn testimony of (name), given before trial, will now be presented. You are to consider and weigh this testimony as you would any other evidence in the case.

### [301.2] Documentary Evidence

The (describe item of evidence) has now been received in evidence. Witnesses may testify about or refer to this or any other item of evidence during the remainder of the trial. This and all other items received in evidence will be available to you for examination during your deliberations at the end of the trial.

[301.3] The (describe item of evidence) has been received in evidence. It is being shown to you now to help you understand the testimony of this witness and other witnesses in the case, as well as the evidence as a whole. You may examine (describe item of evidence) briefly now. It will also be available to you for examination during your deliberations at the end of the trial.

[409.2] The claims and defenses in this case are as follows. Millin Nobregas claims that Virginia Hadad fraudulently misrepresented that she was eligible to provide counseling services, and disclosed private information to the mother of his child, Ms. Fazzio, which caused him harm.

Ms. Hadad denies disclosing private information, and also claims that Mr. Nobregas disclosed private information to Ms. Fazzio himself. Additionally, she argues that she believed she was allowed to offer drug addiction counseling with her credentials, relying on the advice of her professor, and that Mr. Nobregas caused his own family legal dispute.

The parties must prove all claims and defenses by the greater weight of the evidence. I will now define some of the terms you will use in deciding this case.

[409.3] "Greater weight of the evidence" means the more persuasive and convincing force and effect of the entire evidence in the case.

[409.5] A material fact is one that is of such importance that (claimant) would not have [entered into the transaction] [acted], but for the false statement.

[409.6] Misrepresentation of a material fact is a legal cause of damage if it directly and in natural and continuous sequence produces or contributes substantially to producing such damage, so that it can reasonably be said that, but for the misrepresentation, the damage would not have occurred.

[601.2(a)] Let me speak briefly about witnesses. In evaluating the believability of any witness and the weight you will give the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in the light of your own experience and common sense.

[601.2(b)] Some of the testimony you hear may be in the form of opinions about certain technical subjects.

You may accept such opinion testimony, reject it, or give it the weight you think it deserves, considering the knowledge, skill, experience, training, or education of the witness, the reasons given by the witness for the opinion expressed, and all the other evidence in the case.

## **OUTLINE OF TRIAL**

[202.2] Now that you have heard the law, I want to let you know what you can expect as the trial proceeds.

**Opening Statements:** In a few moments, the attorneys will each have a chance to make what are called opening statements. In an opening statement, an attorney is allowed to give you his views about what the evidence will be in the trial and what you are likely to see and hear in the testimony.

**Evidentiary Phase:** After the attorneys' opening statements the plaintiff will bring her witnesses and evidence to you.

**Evidence:** Evidence is the information that the law allows you to see or hear in deciding this case. Evidence includes the testimony of the witnesses, documents, and anything else that I instruct you to consider.

**Witnesses:** A witness is a person who takes an oath to tell the truth and then answers attorneys' questions for the jury. The answering of attorneys' questions by witnesses is called "giving testimony." Testimony means statements that are made when someone has sworn an oath to tell the truth.

The plaintiff's lawyer will normally ask a witness the questions first. That is called direct examination. Then the defense lawyer may ask the same witness additional questions about whatever the witness has testified to. That is called cross-examination. Certain documents or other evidence may also be shown to you during direct or cross-examination. After the plaintiff's witnesses have testified, the defendant will have the opportunity to put witnesses on the stand and go through the same process. Then the plaintiff's lawyer gets to do cross-examination. The process is designed to be fair to both sides.

It is important that you remember that testimony comes from witnesses. The attorneys do not give testimony and they are not themselves witnesses.

**Objections:** Sometimes the attorneys will disagree about the rules for trial procedure when a question is asked of a witness. When that happens, one of the lawyers may make what is called an "objection." The rules for a trial can be complicated, and there are many reasons for attorneys to object. You should simply wait for me to decide how to proceed. If I say that an objection is "sustained," that means the witness may not answer the question. If I say that the objection is "overruled," that means the witness may answer the question.

When there is an objection and I make a decision, you must not assume from that decision that I have any particular opinion other than that the rules for conducting a trial are being correctly followed. If I say a question may not be asked or answered, you must not try to guess what the answer would have been. That is against the rules, too.

**Side Bar Conferences:** Sometimes I will need to speak to the attorneys about legal elements of

the case that are not appropriate for the jury to hear. The attorneys and I will try to have as few of these conferences as possible while you are giving us your valuable time in the courtroom. But, if we do have to have such a conference during testimony, we will try to hold the conference at the side of my desk so that we do not have to take a break and ask you to leave the courtroom.

**Recesses:** Breaks in an ongoing trial are usually called "recesses." During a recess you still have your duties as a juror and must follow the rules, even while having coffee, at lunch, or at home.

**Instructions Before Closing Arguments:** After all the evidence has been presented to you, I will instruct you in the law that you must follow. It is important that you remember these instructions to assist you in evaluating the final attorney presentations, which come next, and, later, during your deliberations, to help you correctly sort through the evidence to reach your decision.

**Closing Arguments:** The attorneys will then have the opportunity to make their final presentations to you, which are called closing arguments.

**Final Instructions:** After you have heard the closing arguments, I will instruct you further in the law as well as explain to you the procedures you must follow to decide the case.

**Deliberations:** After you hear the final jury instructions, you will go to the jury room and discuss and decide the questions I have put on your verdict form. [You will have a copy of the jury instructions to use during your discussions.] The discussions you have and the decisions you make are usually called "jury deliberations." Your deliberations are absolutely private and neither I nor anyone else will be with you in the jury room.

**Verdict:** When you have finished answering the questions, you will give the verdict form to the bailiff, and we will all return to the courtroom where your verdict will be read. When that is completed, you will be released from your assignment as a juror.

**What are the rules?**

Finally, before we begin the trial, I want to give you just a brief explanation of rules you must follow as the case proceeds.

**Keeping an Open Mind:** You must pay close attention to the testimony and other evidence as it comes into the trial. However, you must avoid forming any final opinion or telling anyone else your views on the case until you begin your deliberations. This rule requires you to keep an open mind until you have heard all of the evidence and is designed to prevent you from influencing how your fellow jurors think until they have heard all of the evidence and had an opportunity to form their own opinions. The time and place for coming to your final opinions and speaking about them with your fellow jurors is during deliberations in the jury room, after all of the evidence has been presented, closing arguments have been made, and I have instructed you on the law. It is important that you hear all of the facts and that you hear the law and how to apply it before you start deciding anything.

**Consider Only the Evidence:** It is the things you hear and see in this courtroom that matter in this

trial. The law tells us that a juror can consider only the testimony and other evidence that all the other jurors have also heard and seen in the presence of the judge and the lawyers. Doing anything else is wrong and is against the law. That means that you must not do any work or investigation of your own about the case. You must not obtain on your own any information about the case or about anyone involved in the case, from any source whatsoever. This includes reading newspapers, watching television or using a computer, cell phone, the Internet, any electronic device, or any other means at all, to get information related to this case or the people and places involved in this case. This applies whether you are in the courthouse, at home, or anywhere else. You must not visit places mentioned in the trial or use the internet to look at maps or pictures to see any place discussed during trial.

Do not provide any information about this case to anyone, including friends or family members. Do not let anyone, including the closest family members, make comments to you or ask questions about the trial. Jurors must not have discussions of any sort with friends or family members about the case or the people and places involved. So, do not let even the closest family members make comments to you or ask questions about the trial. In this age of electronic communication, I want to stress again that just as you must not talk about this case face-to-face, you must not talk about this case by using an electronic device. You must not use phones, computers or other electronic devices to communicate. Do not send or accept any messages related to this case or your jury service. Do not discuss this case or ask for advice by any means at all, including posting information on an Internet website, chat room or blog.

No Mid-Trial Discussions: When we are in a recess, do not discuss anything about the trial or the case with each other or with anyone else. If attorneys approach you, don't speak with them. The law says they are to avoid contact with you. If an attorney will not look at you or speak to you, do not be offended or form a conclusion about that behavior. The attorney is not supposed to interact with jurors outside of the courtroom and is only following the rules. The attorney is not being impolite. If an attorney or anyone else does try to speak with you or says something about the case in your presence, please inform the bailiff immediately.

Only the Jury Decides: Only you get to deliberate and answer the verdict questions at the end of the trial. I will not intrude into your deliberations at all. I am required to be neutral. You should not assume that I prefer one decision over another. You should not try to guess what my opinion is about any part of the case. It would be wrong for you to conclude that anything I say or do means that I am for one side or another in the trial. Discussing and deciding the facts is your job alone.

[202.3] If you would like to take notes during the trial, you may do so. On the other hand, of course, you are not required to take notes if you do not want to. That will be left up to you individually.

You will be provided with a note pad and a pen for use if you wish to take notes. Any notes that you take will be for your personal use. However, you should not take them with you from the courtroom. During recesses, the bailiff will take possession of your notes and will return them to you when we reconvene. After you have completed your deliberations, the bailiff will deliver your notes to me. They will be destroyed. No one will ever read your notes.

If you take notes, do not get so involved in note-taking that you become distracted from the proceedings. Your notes should be used only as aids to your memory.

Whether or not you take notes, you should rely on your memory of the evidence and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any greater weight than each juror's memory of the evidence.

[202.4] During the trial, you may have a question you think should be asked of a witness. If so, there is a procedure by which you may request that I ask the witness a question. After all the attorneys have completed their questioning of the witness, you should raise your hand if you have a question. I will then give you sufficient time to write the question on a piece of paper, fold it, and give it to the bailiff, who will pass it to me. You must not show your question to anyone or discuss it with anyone.

I will then review the question with the attorneys. Under our law, only certain evidence may be considered by a jury in determining a verdict. You are bound by the same rules of evidence that control the attorneys' questions. If I decide that the question may not be asked under our rules of evidence, I will tell you. Otherwise, I will direct the question to the witness. The attorneys may then ask follow-up questions if they wish. If there are additional questions from jurors, we will follow the same procedure again.

By providing this procedure, I do not mean to suggest that you must or should submit written questions for witnesses. In most cases, the lawyers will have asked the necessary questions.

The attorneys will now present their opening statements after which you will begin hearing the evidence.

[601.1] In deciding this case, it is your duty as jurors to decide the issues, and only those issues, that I submit for your determination at the end of the case and to answer certain questions I will ask you to answer on a special form, called a special verdict. You must come to an agreement about what your answers will be. Your agreed-upon answers to my questions are called your jury verdict.

In reaching your verdict, you must think about and weigh the testimony and any documents, photographs, or other material that has been received in evidence. You may also consider any facts that were admitted or agreed to by the lawyers. Your job is to determine what the facts are. You may use reason and common sense to reach conclusions. You may draw reasonable inferences from the evidence. But you should not guess about things that were not covered here. And, you must always apply the law as I finally explain it to you at the end of the case.

## **INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**

[410.4] Extreme and outrageous conduct is behavior, which, under the circumstances, goes beyond all possible bounds of decency and is regarded as shocking, atrocious, and utterly intolerable in a civilized community.

[410.5] Emotional distress is severe when it is of such intensity or duration that no ordinary person should be expected to endure it.

[410.6] Extreme and outrageous conduct is a legal cause of severe emotional distress if it directly and in natural and continuous sequence produces or contributes substantially to producing such severe emotional distress, so that it can reasonably be said that, but for the extreme and outrageous conduct, the severe emotional distress would not have occurred.

[410.7] The issues for you to decide on Millin Nobregas's claim for INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS are:

whether Virginia Hadad engaged in extreme and outrageous conduct; and acted with the intent to cause severe emotional distress or with reckless disregard of the high probability of causing severe emotional distress;

whether Millin Nobrega suffered from severe emotional distress of such intensity or duration that no ordinary person should be expected to endure, and, if so

whether that Virginia Hadad's extreme and outrageous conduct was a legal cause of the severe emotional distress suffered by Millin Nobrega.

[410.8] If the greater weight of the evidence does not support Millin Nobregas's claim, your verdict should be for Virginia Hadad.

However, if the greater weight of the evidence supports Millin Nobregas's claim, then you shall consider the defenses raised by defendant.

If the greater weight of the evidence supports the defense, your verdict should be for Virginia Hadad. However, if the greater weight of the evidence does not support the defense, your verdict should be for Millin Nobregas.

## **FRAUDULENT MISREPRESENTATION**

[409.7] The issues for you to decide on Millin Nobregas's claim for fraudulent misrepresentation are:

First, whether Virginia Hadad intentionally made a false statement concerning a material fact;

Second, whether Virginia Hadad knew the statement was false when she made it;

Third, whether Virginia Hadad intended that another would rely on the false statement;

Fourth, whether Millin Nobregas relied on the false statement; and, if so,

Fifth, whether the false statement was a legal cause of damage to Millin Nobregas.

On this claim for fraudulent misrepresentation, Millin Nobregas may rely on a false statement, even though its falsity could have been discovered if he had made an investigation. However, Millin Nobregas may not rely on a false statement if he knew it was false or its falsity was obvious to him.

[409.10] If the greater weight of the evidence does not support one or more of Millin Nobregas's claims, your verdict should be for Ms. Hadad on those claims.

[409.11] If, however, the greater weight of the evidence supports one or more of Millin Nobregas's claims against Ms. Hadad, then you shall consider the defenses raised by Ms. Hadad.

On the first defense, the issues for you to decide are whether Mr. Nobregas was negligent in relying on Ms. Hadad's statement; and, if so, whether such negligence was a contributing legal cause of any damage he sustained.

[409.13] If your verdict is for the Defendant, you will not consider the matter of damages. But, if the greater weight of the evidence supports the Plaintiff, Millin Nobregas's, claim, you should determine and write on the verdict form, in dollars, an amount of money that the greater weight of the evidence shows will fairly and adequately compensate Millin Nobregas for a false statement of material fact, made with knowledge, with intent to rely on that statement, that Plaintiff relied upon, and that was the legal cause of his damage.

## **CONSTRUCTIVE FRAUD**

[409.7] The issues for you to decide on Millin Nobregas's claim for constructive fraud are:

First, whether Virginia Hadad intentionally made a false statement concerning a material fact;

Second, whether Virginia Hadad knew the statement was false when she made it;

Third, whether Virginia Hadad intended that another would rely on the false statement;

Fourth, whether Virginia Hadad and Millin Nobregas had a fiduciary relationship;

Fifth, whether Millin Nobregas justifiably relied on the false statement; and, if so,

Sixth, whether the false statement was a legal cause of damage to Millin Nobregas.

[409.10] If the greater weight of the evidence does not support one or more of Millin Nobregas's claims, your verdict should be for Ms. Hadad on those claims.

[409.11] If, however, the greater weight of the evidence supports one or more of Millin Nobregas's claims against Ms. Hadad, then you shall consider the defenses raised by Ms. Hadad.

On the first defense, the issues for you to decide are whether Mr. Nobregas was negligent in relying on Ms. Hadad's statement; and, if so, whether such negligence was a contributing legal cause of any damage he sustained.

[409.13] If your verdict is for the Defendant, you will not consider the matter of damages. But, if the greater weight of the evidence supports the Plaintiff, Millin Nobregas's, claim, you should determine and write on the verdict form, in dollars, an amount of money that the greater weight of the evidence shows will fairly and adequately compensate Millin Nobregas for a false statement of material fact, made with knowledge, with intent to rely on that statement, that Plaintiff relied upon, and that was the legal cause of his damage.

## **INVASION OF PRIVACY**

[409.7] The issues for you to decide on Millin Nobregas's claim for invasion of privacy are:

First, whether Virginia Hadad disclosed a fact that was private;

Second, the disclosure was public;

Third, the public disclosure was offensive to a reasonable person of ordinary sensibilities.

[409.10] If the greater weight of the evidence does not support one or more of Millin Nobregas's claims, your verdict should be for Ms. Hadad on those claims.

[409.11] If, however, the greater weight of the evidence supports one or more of Millin Nobregas's claims against Ms. Hadad, then you shall consider the defenses raised by Ms. Hadad.

On the first defense, the issues for you to decide are whether Ms. Hadad received confidential information from third parties. If she received information from third parties, then it is no longer confidential. If the information was not confidential, then Mr. Nobregas is not entitled to relief.

On the second defense, the issues for you to decide are whether Mr. Nobregas shared his own confidential information with third parties. If he shared information with third parties, then it is no longer confidential. If the information was not confidential, then Mr. Nobregas is not entitled to relief.

On the third defense the issues for you to decide are whether Ms. Hadad was entitled to share confidential information with third parties, for the protection of a child's welfare, or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar, because she had "qualified immunity" for those purposes. If Ms. Hadad was entitled to share for these reasons, then Mr. Nobregas is not entitled to relief.

On the fourth defense the issues for you to decide are whether Ms. Hadad was privileged to share confidential information with third parties, for the protection of a child's welfare, or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar. If she was entitled to share confidential information, then Mr. Nobregas is not entitled to relief.

On the fifth defense, if the greater weight of the evidence shows that

1. Mr. Nobregas's conduct was inequitable or in bad faith; and
2. Mr. Nobregas's conduct is directly related to the subject matter of its claims.
3. Ms. Hadad has clean hands, or in other words, her conduct was in good faith.

If you find that Ms. Hadad has proven that Mr. Nobregas has come into court with "unclean hands," and that his "unclean hands" are related to the case at hand, you may deny Millin Nobregas relief for his claim.

On the sixth defense, if Ms. Hadad was justified in making any alleged disclosures, you may

deny Mr. Nobregas's claim.

On the seventh defense, if Ms. Hadad received confidential information in the presence of another, then it is no longer confidential and Mr. Nobregas is not entitled to relief.

On the eighth affirmative defense, if Ms. Hadad never received any confidential information from Mr. Nobregas, then he is not entitled to relief.

On the ninth affirmative defense, if Mr. Nobregas gave Ms. Hadad permission to share any confidential information, then he is not entitled to relief.

[409.13] If your verdict is for the Defendant, you will not consider the matter of damages. But, if the greater weight of the evidence supports the Plaintiff, Millin Nobregas's, claim, you should determine and write on the verdict form, in dollars, an amount of money that the greater weight of the evidence shows will fairly and adequately compensate Millin Nobregas for a false statement of material fact, made with knowledge, with intent to rely on that statement, that Plaintiff relied upon, and that was the legal cause of his damage.

## **FDUPTA**

The Court has determined that Ms. Hadad violated the Florida Deceptive and Unfair Trade Practices Act, because in the absence of an exception, it is an unfair and deceptive trade practice to engage in activity that is required to be licensed under Florida law without obtaining such a license.

You should award Mr. Nobregas an amount of money that the greater weight of the evidence shows will fairly and adequately compensate him for his damage, including any damage he is reasonably certain to incur in the future.

On the unfair or deceptive business practices claims you shall consider the difference in value of counseling services offered by Ms. Hadad in comparison to services offered by a licensed mental health or drug addiction counselor.

Your verdict must be based on the evidence that has been received, and the law on which I have instructed you. In reaching your verdict, you are not to be swayed from the performance of your duty by prejudice, sympathy or any other sentiment for or against any party.

Reaching a verdict is exclusively your job. I cannot participate in that decision in any way. You should not speculate about how I might evaluate the testimony of any witness or any other evidence in this case, and you should not think I prefer one verdict over another. Therefore, in reaching your verdict, you should not consider anything that I have said or done, except for my specific instructions to you

## **DAMAGES**

[501.1] If your verdict is for Virginia Hadad, you will not consider the matter of damages. But if the greater weight of the evidence supports Millin Nobregas's claim, you should determine and write on the verdict form, in dollars, the total amount of loss which the greater weight of the evidence shows will fairly and adequately compensate him for his, including any damages that he is reasonably certain to incur or experience in the future.

[501.4] In determining the total amount of damages, you should not make any reduction because of the negligence, if any, of Millin Nobregas. The court will enter a judgment based on your verdict and, if you find that Millin Nobregas was negligent in any degree, the court, in entering judgment, will reduce the total amount of damages by the percentage of negligence, which you find was caused by Millin Nobregas.

## **INSTRUCTION BEFORE FINAL ARGUMENT**

[401.1] Members of the jury, you have now heard and received all of the evidence in this case. I am now going to tell you about the rules of law that you must use in reaching your verdict. You will recall at the beginning of the case I told you that if, at the end of the case I decided that different law applies, I would tell you so. These instructions are, however, the same as [if different explain how] what I gave you at the beginning and it is these rules of law that you must now follow. When I finish telling you about the rules of law, the attorneys will present their final arguments and you will then retire to decide your verdict.

The parties must prove their claims by the greater weight of the evidence. I will now define some of the terms you will use in deciding this case.

[401.3] "Greater weight of the evidence" means the more persuasive and convincing force and effect of the entire evidence in the case.

### **REFER TO CLAIM SPECIFIC INSTRUCTIONS**

You will be given a Special Verdict Form to use in this case. The first question in the Special Verdict is:

1. Was there disclosure of confidential information on the part of Defendant, Virginia Hadad, which was a legal cause of loss, injury or damage to Plaintiff, Millin Nobregas?

YES        NO       

[401.21, 22] If the greater weight of the evidence supports Millin Nobregas's claim, you will answer that question "YES." If, however, your answer to question 1 is "NO," your verdict is for the Defendant, and you should not proceed further, except to date and sign the Special Verdict and return it to the courtroom.

If you answered the first question YES, then you shall consider the defense raised by the Defendant.

On the first defense, the issues for you to decide are whether Ms. Hadad received confidential information from third parties. If she received information from third parties, then it is no longer confidential. If the information was not confidential, then Mr. Nobregas is not entitled to relief.

2. Did Ms. Hadad receive information from third parties, that resulted in the information not being confidential?

YES        NO       

On the third defense the issues for you to decide are whether Ms. Hadad was entitled to share confidential information with third parties, for the protection of a child's welfare, or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar, because

she had “qualified immunity” for those purposes. If Ms. Hadad was entitled to share for these reasons, then Mr. Nobregas is not entitled to relief.

3. Was Ms. Hadad entitled to share confidential information with third parties, for the protection of a child’s welfare or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar, because she had qualified immunity?

YES \_\_\_\_ NO \_\_\_\_

On the fourth defense the issues for you to decide are whether Ms. Hadad was privileged to share confidential information with third parties, for the protection of a child’s welfare, or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar. If she was entitled to share confidential information, then Mr. Nobregas is not entitled to relief.

4. Was Ms. Hadad privileged to share confidential information with third parties, for the protection of a child’s welfare or in the context of a legal proceeding, or in the context of a grievance filed with the Florida Bar?

YES \_\_\_\_ NO \_\_\_\_

On the fifth defense, if the greater weight of the evidence shows that

1. Mr. Nobregas’s conduct was inequitable or in bad faith; and
2. Mr. Nobregas’s conduct is directly related to the subject matter of his claims.
3. Ms. Hadad has clean hands, or in other words, her conduct was in good faith.

If you find that Ms. Hadad has proven that Mr. Nobregas has come into court with “unclean hands,” and that his “unclean hands” are related to the case at hand, you may deny Millin Nobregas relief for his claim.

5. Did Mr. Nobregas act in bad faith, in a manner directly related to the subject matter of his claims?

On the sixth defense, if Ms. Hadad was justified in making any alleged disclosures, you may deny Mr. Nobregas’s claim.

6. Was Ms. Hadad justified in making any alleged disclosures?

YES \_\_\_\_ NO \_\_\_\_

On the seventh defense, if Ms. Hadad received confidential information in the presence of another, then it is no longer confidential and Mr. Nobregas is not entitled to relief.

7. Were third parties present when Mr. Nobregas disclosed confidential information to Ms. Hadad, eliminating the privacy of the information?

YES \_\_\_\_ NO \_\_\_\_

On the eighth affirmative defense, if Ms. Hadad never received any confidential information from Mr. Nobregas, then he is not entitled to relief.

8. Did Ms. Hadad never receive confidential information from Mr. Nobregas?

YES        NO       

On the ninth affirmative defense, if Mr. Nobregas gave Ms. Hadad permission to share any confidential information, then he is not entitled to relief.

9. Did Mr. Nobregas give Ms. Hadad permission to share confidential information?

YES        NO       

[401.23] If the greater weight of the evidence supports the Virginia Hadad's defense, you will answer that question "Yes." If, however, your answer to that question is "NO" and the greater weight of the evidence supports Millin Nobregas's claim, then your verdict should be for Millin Nobregas in the total amount of his damages and you will skip the third question in the Special Verdict and proceed directly to the questions concerning damages.

[501.1] If your verdict is for the Defendant, you will not consider the matter of damages. But, if the greater weight of the evidence supports Millin Nobregas's claim and you answered the first question "YES," you should determine and write on the verdict form, in dollars, the total amount of money that the greater weight of the evidence shows will fairly and adequately compensate Millin Nobregas for the following elements of damage, including damage that Millin Nobregas is reasonably certain to incur in the future:

These appear as questions \_\_\_\_\_ and \_\_\_\_\_.

[601.1] In deciding this case, it is your duty as jurors to decide the issues, and only those issues, that I submit for your determination and to answer the questions I have asked you to answer on the special verdict. You must come to an agreement about what your answers will be. Your agreed-upon answers to my questions are called your jury verdict.

In reaching your verdict, you must think about and weigh the testimony and any documents, photographs, or other material that has been received in evidence. You may also consider any facts that were admitted or agreed to by the lawyers. Your job is to determine what the facts are. You may use reason and common sense to reach conclusions. You may draw reasonable inferences from the evidence. But you should not guess about things that were not covered here. And, you must always apply the law as I have explained it to you.

[601.2(a)] Let me speak briefly about witnesses. In evaluating the believability of any witness and the weight you will give the testimony of any witness, you may properly consider the demeanor of the witness while testifying; the frankness or lack of frankness of the witness; the intelligence of the witness; any interest the witness may have in the outcome of the case; the

means and opportunity the witness had to know the facts about which the witness testified; the ability of the witness to remember the matters about which the witness testified; and the reasonableness of the testimony of the witness, considered in the light of all the evidence in the case and in the light of your own experience and common sense.

[601.2(b)] Some of the testimony before you was in the form of opinions about certain technical subjects.

You may accept such opinion testimony, reject it, or give it the weight you think it deserves, considering the knowledge, skill, experience, training, or education of the witness, the reasons given by the witness for the opinion expressed, and all the other evidence in the case.

[601.3] Some witnesses testified in Spanish during this trial, which had to be interpreted into English. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may know Spanish, it is important that all jurors consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must disregard any different meaning.

[601.5] That is the law you must follow in deciding this case. The attorneys for the parties will now present their final arguments. When they are through, I will have a few final instructions about your deliberations.

## **INSTRUCTIONS AFTER CLOSING ARGUMENT**

[700] Members of the jury, you have now heard all the evidence, my instructions on the law that you must apply in reaching your verdict and the closing arguments of the attorneys. You will shortly retire to the jury room to decide this case. Before you do so, I have a few last instructions for you.

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. You will have in the jury room all of the evidence that was received during the trial. In reaching your decision, do not do any research on your own or as a group. Do not use dictionaries, the Internet, or any other reference materials. Do not investigate the case or conduct any experiments. Do not visit or view the scene of any event involved in this case or look at maps or pictures on the Internet. If you happen to pass by the scene, do not stop or investigate. All jurors must see or hear the same evidence at the same time. Do not read, listen to, or watch any news accounts of this trial.

You are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person or through the telephone, writing, or electronic communication, such as a blog, twitter, e-mail, text message, or any other means. Do not contact anyone to assist you, such as a family accountant, doctor, or lawyer. These communications rules apply until I discharge you at the end of the case. If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the bailiff.

Any notes you have taken during the trial may be taken to the jury room for use during your discussions. Your notes are simply an aid to your own memory, and neither your notes nor those of any other juror are binding or conclusive. Your notes are not a substitute for your own memory or that of other jurors. Instead, your verdict must result from the collective memory and judgment of all jurors based on the evidence and testimony presented during the trial.

At the conclusion of the trial, the bailiff will collect all of your notes and immediately destroy them. No one will ever read your notes.

In reaching your verdict, do not let bias, sympathy, prejudice, public opinion, or any other sentiment for or against any party to influence your decision. Your verdict must be based on the evidence that has been received and the law on which I have instructed you.

Reaching a verdict is exclusively your job. I cannot participate in that decision in any way and you should not guess what I think your verdict should be from something I may have said or done. You should not think that I prefer one verdict over another. Therefore, in reaching your verdict, you should not consider anything that I have said or done, except for my specific instructions to you.

Pay careful attention to all the instructions that I gave you, for that is the law that you must follow. You will have a copy of my instructions with you when you go to the jury room to deliberate. All the instructions are important, and you must consider all of them together. There

are no other laws that apply to this case, and even if you do not agree with these laws, you must use them in reaching your decision in this case.

After you have decided what the facts are, you may find that some instructions do not apply. In that case, follow the instructions that do apply and use them together with the facts to reach your verdict.

When you go to the jury room, the first thing you should do is choose a presiding juror to act as a foreperson during your deliberations. The foreperson should see to it that your discussions are orderly and that everyone has a fair chance to be heard.

It is your duty to talk with one another in the jury room and to consider the views of all the jurors. Each of you must decide the case for yourself, but only after you have considered the evidence with the other members of the jury. Feel free to change your mind if you are convinced that your position should be different. You should all try to agree. But do not give up your honest beliefs just because the others think differently. Keep an open mind so that you and your fellow jurors can easily share ideas about the case.

I will give you a verdict form with questions you must answer. I have already instructed you on the law that you are to use in answering these questions. You must follow my instructions and the form carefully. You must consider each question separately. Please answer the questions in the order they appear. After you answer a question, the form tells you what to do next. I will now read the form to you: (read form of verdict)

Your verdict must be unanimous, that is, your verdict must be agreed to by each of you. When you are finished filling out the form, your presiding juror must write the date and sign it at the bottom. Return the form to the bailiff.

If any of you need to communicate with me for any reason, write me a note and give it to the bailiff. In your note, do not disclose any vote or split or the reason for the communication.

You may now retire to decide your verdict.

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI-DADE COUNTY**

MILLIN A. NOBREGAS,

Plaintiff,

CASE NO.: 11-05755-CA 32

V.

VIRGINIA HADAD GONZALEZ,

**Defendant.**

## VERDICT

We, the jury, return the following verdict:

1. Was there disclosure of confidential information by Virginia Hadad, which was a legal cause of loss, injury or damage to Plaintiff, Millin Nobregas?

YES      NO

If your answer to question 1 is NO, your verdict is for the Defendant, and you should not proceed further, except to date and sign this verdict form and return it to the courtroom. If your answer to question 1 is YES, please answer question 2.

10. State the percentage of legal responsibility which was a legal cause of damage to Plaintiff, Millin Nobregas, that you charge to:

Millin Nobregas %

Virginia Hadad %

Total must be 100%

In determining the amount of any damages, do not make any reduction because of the negligence, if any, of Plaintiff, Millin Nobregas. If you find Plaintiff, Millin Nobregas, legally responsible in any degree, the court, in entering judgment, will reduce Millin Nobregas's total amount of damages (100%) by the percentage of responsibility that you find was caused by Millin Nobregas.

3. On the unfair or deceptive business practices claims you shall consider the difference in value of counseling services offered by Ms. Hadad in comparison to services offered by a licensed mental health or drug addiction counselor.

\$ \_\_\_\_\_

TOTAL DAMAGES OF MILLIN NOBREGAS

\$ \_\_\_\_\_

SO SAY WE ALL, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
FOREPERSON