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17 *Attorneys for Defendant/Counterclaimant*  
 18 *Midwest Industrial Supply, Inc.*

19 **UNITED STATES DISTRICT COURT**  
 20 **IN AND FOR THE DISTRICT OF ARIZONA**

21 SOILWORKS, LLC, an Arizona  
 22 corporation,  
 23  
 24 Plaintiff / Counterdefendant /  
 25 Counterclaimant,  
 26  
 27 v.  
 28 MIDWEST INDUSTRIAL SUPPLY,  
 INC., an Ohio corporation authorized to do  
 business in Arizona,  
 Defendant / Counterclaimant /  
 Counterdefendant.

NO.: 2:06-CV-2141-DGC

**MIDWEST INDUSTRIAL SUPPLY,  
 INC.'S PROPOSED VERDICT  
 FORMS**

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**VERDICT FORM #1**

1. Do you find by the greater weight of the evidence that Midwest advertised a false or misleading statement of fact about Soilworks or Soilworks' products which deceived Soilworks' customers and injured Soilworks?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If your answer was Yes, please proceed to verdict form #2. If your answer was No, please proceed to verdict form # 4.

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**VERDICT FORM # 2**

2. Do you find, by clear and convincing evidence, that Midwest made the statements in bad faith?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If your answer is Yes, please proceed to Verdict Form #3. If your answer is No, please proceed to Verdict Form #4.

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**VERDICT FORM #3**

3. Do you find that Soilworks is entitled to damages for its false advertising claim against Midwest?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If your answer is Yes, please fill in the amount of damages you believe Soilworks is entitled to:

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

Please proceed to Verdict Form #4

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**VERDICT FORM # 4**

4. Do you find by the greater weight of the evidence that Soilworks advertised a false or misleading statement of fact about Soilworks' own products which deceived Midwest's customers and injured Midwest?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

Please proceed to Verdict Form #5.

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**VERDICT FORM #5**

5. Do you find that Midwest is entitled to damages for Soilworks' trademark infringement?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer is yes, please indicate the amount of damages Midwest is entitled to:

Actual Damages \$ \_\_\_\_\_

Soilworks' Profits \$ \_\_\_\_\_

Enhanced Damages (up to treble the amount) \$ \_\_\_\_\_

Please proceed to Verdict Form #6.



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**VERDICT FORM # 7**

7. Do you find that Soilworks was unjustly enriched by its business practices to the detriment of Midwest?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

If your answer is yes, please indicate the amount of Soilworks' unjust enrichment:

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

Please proceed to Verdict Form # 8.



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**VERDICT FORM # 8**

Total Verdict Form

8(a). You find for Soilworks and against Midwest in the total amount of

\$ \_\_\_\_\_.

8(b). You find for Midwest and against Soilworks in the total amount of

\$ \_\_\_\_\_.

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By: /s/ Jill A. Bautista  
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