

1 Craig A. Marvinney, 0004951 (OH)
 2 John M. Skeriotis, 0069263 (OH)
 3 Jill A. Bautista, 0075560 (OH)
 4 BROUSE MCDOWELL
 5 388 S. Main Street, Suite 500
 6 Akron, Ohio 44311-4407
 7 Telephone: 330-535-5711
 8 Email: cmarvinney@brouse.com,
 9 jskeriotis@brouse.com,
 10 jbautista@brouse.com

Admitted pro hac vice

11 Donald L. Myles, Jr., 007464 (AZ)
 12 JONES, SKELTON & HOCHULI, P.L.C.
 13 2901 N. Central Ave., Suite 800
 14 Phoenix, Arizona 85012
 15 Telephone: 602-263-1700
 16 Email: dmyles@jshfirm.com

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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2901 N. Central Ave., Suite 800
Phoenix, Arizona 85012
Telephone: 602-263-1700
Facsimile: 602-263-1784
Email: dmyles@jshfirm.com

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

