

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

LIGURIA FOODS, INC.,

Plaintiff,

vs.

GRIFFITH LABORATORIES, INC.,

Defendant.

No. C 14-3041-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

No. 1 — INTRODUCTION

Congratulations on your selection as a juror!

These Instructions are to help you better understand the trial and your role in it.

This is a civil case brought by plaintiff Liguria Foods, Inc., against Griffith Laboratories, Inc., for damages for alleged breaches of implied warranties of fitness for a particular purpose and merchantability.

You have been chosen as jurors to try the issues of fact related to Liguria's claims. In making your decisions, you are the sole judges of the facts. You must not decide this case based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, these Instructions, and any additional oral or written instructions that I may give you. Do not take anything that I have said or done or that I may say or do as indicating what I think of the evidence or what I think your verdict should be.

Corporations stand equal before the law and are entitled to the same fair consideration as individuals. A corporation can act only through its agents or employees, however. Any agent or employee of a corporation may bind it by acts and statements made while acting within the scope of the authority delegated to the agent by the corporation or within the scope of his or her duties as an employee of the corporation.

Please remember that this case is important to the parties and to the fair administration of justice. Therefore, please be patient, consider all the evidence, and do not be in a hurry to reach a verdict just to be finished with the case.

In these Instructions, I will explain how you are to determine whether Liguria has proved its claims. First, however, I will explain some preliminary matters, including some important terms, the burden of proof, what is evidence, and how you are to treat the testimony of witnesses.

No. 2 — SOME IMPORTANT TERMS AND ABBREVIATIONS

- Plaintiff Liguria Foods, Inc.—or Liguria—is a pepperoni and dry sausage manufacturer
- Defendant Griffith Laboratories, Inc.—or Griffith—is a manufacturer of food seasonings and spice blends
- Liguria’s most popular pepperoni product is called Liguria Pepperoni
- Griffith’s Optimized Pepperoni Seasoning—or OPS—is a special spice blend manufactured by Griffith and used in Liguria Pepperoni
- Butylated hydroxyanisole—or BHA—and butylated hydroxytoluene—or BHT—are antioxidants commonly used to delay oxidation and produce longer shelf life in meat products
 - Both BHA and BHT were used in OPS
- Proximate cause means
 - that the conduct had such an effect in producing an injury as to lead a reasonable person to regard it as a cause
 - and*
 - that the injury was a natural and probable result of the conduct

There may be more than one proximate cause

- the conduct need not be the only cause or the last cause of injury
- the conduct may be a proximate cause of injury even if that conduct acted at the same time or in combination with

- the conduct of another, or
 - another force, or
 - another circumstance
- to produce the injury

No. 3 — BURDEN OF PROOF

Your verdict depends on what facts have been proved. Facts must be proved “by the greater weight of the evidence.” This burden of proof is sometimes called “the preponderance of the evidence.”

“Proof by the greater weight of the evidence” is proof that a fact is more likely true than not true.

- It does not depend on which side presented the greater number of witnesses or exhibits
- It requires you to consider all the evidence and decide which evidence is more convincing or believable
 - For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict that witness’s testimony
 - You are free to disbelieve any testimony or other evidence that you do not find convincing or believable
- If, on any issue in the case, you find that the evidence is equally balanced, then you cannot find that the issue has been proved

You may have heard that criminal charges require “proof beyond a reasonable doubt.” That is a stricter standard that does not apply in a civil case, such as this one.

No. 4 — DEFINITION OF EVIDENCE

Evidence is

- Testimony, which may be either “live” or “by deposition”
 - A “deposition” is testimony taken under oath, before the trial, and preserved in writing or on video
 - It must be considered as if it had been given in court
- Answers to interrogatories, which are written answers, under oath, to written questions
 - The question and answer must be considered as if they had been stated in court
- Exhibits admitted into evidence, but exhibits are not necessarily more important than any other evidence
- Stipulations, which are agreements between the parties that certain facts are true
 - You must treat stipulated facts as proved

Evidence is *not*

- testimony I tell you to disregard
- exhibits that are not admitted into evidence
- statements, arguments, questions, and comments by the lawyers
- objections and rulings on objections
- anything you see or hear about this case outside the courtroom

Some exhibits consisting of charts and summaries may be shown to you to help explain the facts disclosed by books, records, or other evidence in the case

- Such summary exhibits are not evidence or proof of any facts
- They are used for convenience
- In deciding how much weight to give summaries, you must
 - decide if they correctly reflect the facts shown by the evidence
 - consider testimony about the way in which the summaries were prepared

You may have heard of “direct” or “circumstantial” evidence.

- “Direct” evidence is direct proof of a fact
 - An example is testimony by a witness about what that witness personally saw, heard, or did
- “Circumstantial” evidence is proof of one or more facts from which you could find another fact
 - An example is testimony that a witness personally saw a broken window and a brick on the floor from which you could find that the brick broke the window
- You should consider both kinds of evidence, because the law makes no distinction between their weight

Some evidence may be admitted only for a limited purpose.

- I will tell you if that happens

- I will instruct you on the purposes for which the evidence can and cannot be used

The weight to be given any evidence—whether that evidence is “direct” or “circumstantial,” or in the form of testimony, an exhibit, or a stipulation—is for you to decide.

No. 5 — TESTIMONY OF WITNESSES

You may believe all of what any witness says, only part of it, or none of it.

In evaluating a witness's testimony, consider the witness's

- Opportunity to have seen and heard what happened
- Motives for testifying
- Interest in the outcome of the case
- Drug or alcohol use or addiction, if any
- The reasonableness of the witness's testimony
- Memory. Memory is not an exact recording of past events, and witnesses may misremember events and conversations. Scientific research has established
 - that human memory is not at all like video recordings that a witness can simply replay to remember precisely what happened
 - that when a witness has been exposed to statements, conversations, questions, writings, documents, photographs, media reports, and opinions of others, the accuracy of their memory may be affected and distorted
 - that a witness's memory, even if testified to in good faith and with a high degree of confidence, may be inaccurate, unreliable, and falsely remembered; thus, human memory can be distorted, contaminated, or changed, and events and conversations can even be falsely imagined

- that distortion, contamination, and falsely imagined memories may happen at the acquisition of the memory (perception of events); the storage of the memory (period of time between acquisition and retrieval); and/or the retrieval of the memory (recalling stored information)
- Demeanor. Scientific research has established
 - that there is not necessarily a relationship between how confident witnesses are about their testimony and the accuracy of their testimony; thus, less confident witnesses may be more accurate than confident witnesses
 - that common cultural cues, like shifty eyes, shifty body language, the failure to look one in the eye, grimaces, stammering speech, and other mannerisms, are not necessarily correlated to witness deception or false or inaccurate testimony

In evaluating a witness's testimony, also consider the following:

- Any differences between what the witness says now and said earlier
- Any inconsistencies between the witness's testimony and any other evidence that you believe
- Whether any inconsistencies are the result of seeing or hearing things differently, actually forgetting things, or innocent mistakes or are, instead, the result of lies or phony memory lapses, and
- Any other factors that you find bear on believability or credibility

You should not give any more or less weight to a witness's testimony just because the witness is an expert.

- An expert witness may be asked a “hypothetical question,” in which the expert is asked to assume certain facts are true and to give an opinion based on that assumption
- If a “hypothetical question” assumes a fact that is not proved by the evidence, you should decide if the fact not proved affects the weight that you should give to the expert's answer

You may give any witness's opinion whatever weight you think it deserves, but you should consider

- the reasons and perceptions on which the opinion is based
- any reason that the witness may be biased, and
- all the other evidence in the case

It is your exclusive right to give any witness's testimony whatever weight you think it deserves.

**No. 6 — LIGURIA’S CLAIM FOR BREACH OF
IMPLIED WARRANTY OF FITNESS FOR A
PARTICULAR PURPOSE**

Liguria’s first claim is that Griffith breached the implied warranty of fitness for a particular purpose. Griffith denies this claim.

To win on this claim, Liguria must prove *all* the following elements:

***One*, Liguria relied on Griffith to formulate OPS for the particular purpose of preventing discoloration, oxidation, and spoilage of Liguria Pepperoni during its nine-month shelf life.**

Liguria must prove more than reliance on Griffith’s general reputation or integrity. Liguria must prove

- that Griffith had special skill or judgment regarding OPS and its intended use, *and*
- that Liguria relied on Griffith’s special skills or judgment

Liguria’s reliance on Griffith’s skill or judgment need not be a total reliance. Liguria may rely partly on its own judgment and partly on Griffith’s skill and judgment.

***Two*, at the time of the sale, Griffith had reason to know Liguria’s particular purpose for OPS.**

Liguria does not have to prove that the parties had a specific conversation about Liguria’s particular purpose for OPS. The particular purpose may be apparent from the facts and circumstances surrounding past transactions between the parties.

***Three*, Griffith had reason to know that Liguria was relying on Griffith’s skill or judgment to furnish OPS to meet Liguria’s particular purpose.**

Four, Griffith's OPS was not fit for Liguria's particular purpose.

Liguria must prove that OPS was not fit for Liguria's particular purpose, because it did not contain uniform and sufficient quantities of BHA and BHT to prevent discoloration, oxidation, and spoilage of Liguria Pepperoni during its nine-month shelf life.

Five, the failure of Griffith's OPS to fit Liguria's particular purpose was a proximate cause of Liguria's damages.

Six, the amount of Liguria's damages.

If Liguria does *not* prove *all* these elements, then you must find in favor of Griffith on Liguria's claim of "breach of implied warranty of fitness for a particular purpose."

No. 7 — LIGURIA'S CLAIM FOR BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY

Liguria's second claim is that Griffith breached the implied warranty of merchantability. Griffith denies this claim.

To win on this claim, Liguria must prove *all* the following elements:

One, Griffith's OPS was not merchantable.

Merchantability means that the product meets the buyer's reasonable expectations that it will be free of significant defects and will perform in the way products of that kind should perform. OPS was not merchantable, if

- it would not pass without objection in the trade under the contract description, or
- it was not fit for the ordinary purposes for which pepperoni seasonings are used

A product is not merchantable if it has a manufacturing defect or a design defect.

- OPS had a manufacturing defect if, at the time it left Griffith's control, it departed from its intended design because of the improper mixing of antioxidants in it,
and/or
- OPS had a design defect if, at the time it left Griffith's control,
 - its design did not support the intended shelf life of Liguria Pepperoni, *and*
 - Griffith could have adopted a reasonable alternative design that

- was practical, *and*
- would have reduced or avoided the foreseeable risk of harm posed by OPS

***Two*, the lack of merchantability of Griffith's OPS was a proximate cause of Liguria's damages.**

***Three*, the amount of Liguria's damages.**

If Liguria does *not* prove *all* these elements, then you must find in favor of Griffith on Liguria's claim of "breach of implied warranty of merchantability."

No. 8 — DAMAGES IN GENERAL

If you find that Liguria has proved either or both of its breach of warranty claims, then you must determine the amount of damages. I will now explain some general rules for awarding damages.

- Decide what damages, if any, have been proved, based upon the evidence
- You must not engage in any speculation, guess, or conjecture, or base any damages award on sympathy, and you must not award damages as punishment
- You must enter separate amounts for each category of damages in the verdict form and must not include the same items in more than one category
- Do not decide the amount of damages by taking down the estimate of each juror and agreeing in advance that the average of those estimates will be your award of damages. Instead, use your sound judgment based upon an impartial consideration of the evidence
- Any award of future damages must be reduced to “present value,” which is a sum of money paid now, in advance, that, together with interest earned at a reasonable rate of return, will compensate the plaintiff for future damages
- The fact that I am instructing you on the proper measure of damages should not be considered as an indication that I have any view as to

which party is entitled to your verdict in this case. Instructions on the measure of damages are only for your guidance

No. 9 — ACTUAL DAMAGES

Liguria seeks four kinds of actual damages: Lost profits; additional rebates to customers; credits to customers; and costs of pepperoni disposal. I will explain how you are to calculate each of these kinds of damages, if any, to award to Liguria.

“Lost Profits”

- Lost profits are calculated by subtracting the profits that Liguria actually had or would have had during the period affected by the breach from the profits that Liguria would have had if there had been no breach
 - Past lost profits, if any, are for the period from March 2013 through the date of your verdict
 - Future lost profits, if any, are from the date of your verdict until the date you find Liguria was no longer affected by the breach of warranty
- Lost profits
 - must be the natural and probable consequences of the breach of warranty
 - must be shown with a reasonable degree of certainty and not be speculative
 - need not be proved with mathematical precision
- In determining lost profits, you may consider

- any past earnings of Liguria in the business in question
- any other evidence in the case bearing on the issue
- Liguria contends that it is a “lost volume seller.” Liguria was a “lost volume seller” if Liguria proves
 - It had the ability to perform agreements to supply Liguria Pepperoni, at the same time, to both a customer it lost because of the breach of warranty and a new customer it got after March 2013
 - the additional agreement to supply Liguria Pepperoni to the new customer would have been profitable to Liguria, and
 - Liguria more likely than not would have made the agreement with the new customer, even if it had not lost the original customer

If Liguria proves that it was a “lost volume seller,” then the profit from the agreement with a new customer cannot be used to reduce Liguria’s lost profits damages from the breach of warranty.

“Additional Rebates To Customers”

- Damages for additional rebates to customers are the cost of rebates that Liguria paid to customers because of the breach of warranty
 - Past additional rebates, if any, are for the period from June 2013 through the date of your verdict

- Future additional rebates, if any, are from the date of your verdict until the date you find Liguria was no longer affected by the breach of warranty

“Credits To Customers”

- Damages for credits to customers, if any, are for credits issued to customers in 2013 because of the breach of warranty

“Pepperoni Disposal Costs”

- Damages for pepperoni disposal costs, if any, are for the costs of disposing of unsaleable or returned Liguria Pepperoni in 2013 because of the breach of warranty

No. 10 — OUTLINE OF THE TRIAL

I will now explain how the trial will proceed.

After I have read all but the last Instruction,

- The plaintiff will present evidence and call witnesses and the defendant may cross-examine them
- The defendant may present evidence and call witnesses, and the plaintiff may cross-examine those witnesses
- The parties will make their closing arguments
 - Closing arguments summarize and interpret the evidence
 - Like opening statements, closing arguments are not evidence
- I will give you the last Instruction, on “deliberations”
- You will retire to deliberate on your verdict
- You will indicate your verdict on a Verdict Form, a copy of which is attached to these Instructions
 - A Verdict Form is simply a written notice of your decision
 - When you have reached a unanimous verdict, your foreperson will complete one copy of the Verdict Form by marking the appropriate blank for each question
 - You will all sign that copy to indicate that you agree with the verdict and that it is unanimous
 - Your foreperson will then bring the signed Verdict Form to the courtroom when it is time to announce your verdict

No. 11 — OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon.

- If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself
- Do not hold it against a lawyer or a party that a lawyer has made an objection, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

No. 12 — BENCH CONFERENCES

During the trial, it may be necessary for me to talk with the lawyers out of your hearing.

- I may hold a bench conference while you are in the courtroom or call a recess
- Please be patient, because these conferences are
 - to decide how certain evidence is to be treated
 - to avoid confusion and error, and
 - to save your valuable time
- We will do our best to keep such conferences short and infrequent

No. 13 — NOTE-TAKING

You are allowed to take notes during the trial if you want to.

- Be sure that taking notes does not interfere with listening to and considering all the evidence
- Your notes are not necessarily more reliable than your memory or another juror's notes or memory
- Do not discuss your notes with anyone before you begin your deliberations
- Leave your notes on your chair during recesses and at the end of the day
- At the end of trial, you may take your notes with you or leave them to be destroyed
- No one else will ever be allowed to read your notes, unless you let them
- If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence
- An official court reporter is making a record of the trial, but her transcripts will not be available for your use during your deliberations

No. 14 — QUESTIONS BY JURORS

When the attorneys have finished questioning a witness, you may propose questions in order to clarify the testimony.

- Do not express any opinion about the testimony or argue with a witness in your questions
- Submit your questions in writing by passing them to the Court Security Officer (CSO)
- Do not sign your questions

I will review each question with the attorneys. I may not ask your question:

- I may decide that the question is not proper under the rules of evidence
- Even if the question is proper, you may not get an immediate answer, because a later witness or exhibit may answer your question

Do not feel slighted or disappointed if your question is not asked. Remember, you are not advocates for either side, but impartial judges of the facts.

No. 15 — CONDUCT OF JURORS DURING TRIAL

You must decide this case *solely* on the evidence and the law in these Instructions and any additional written or oral instructions I may give. You must also keep to yourself any information you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.
- When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.
- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell them when you must be in court and warn them not to ask you or talk

to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, a computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, any blog, or any social media sites such as Facebook, MySpace, YouTube, Twitter, or Instagram, to communicate to anyone any information about this case until I accept your verdict.

- Do not do any research on your own—on the Internet, in libraries, in the newspapers, in dictionaries or other reference books, or in any other way—or make any investigation about this case, the law, or the people involved.
- Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony.
- Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.
- Do not decide the case based on biases. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence and the instructions that I give you. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.
- If, at any time during the trial, you have a problem you want to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the CSO to pass to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining Instruction after closing arguments.

No. 16 — DELIBERATIONS

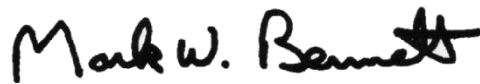
In conducting your deliberations and returning your verdict, there are certain rules that you must follow.

- When you go to the jury room, select one juror as your foreperson to preside over your discussions and to speak for you here in court
- Discuss this case in the jury room to try to reach agreement on the verdict, if you can do so consistent with individual judgment
 - Nevertheless, each of you must make your own conscientious decision, after considering all the evidence, discussing it fully, and listening to the views of fellow jurors
- Do not be afraid to change your opinions if the discussion persuades you that you should, but do not come to a decision simply because other jurors think it is right, or simply to reach a verdict
- Remember that you are not advocates, but judges—judges of the facts
 - Your sole interest is to seek the truth from the evidence in the case
- If you need to communicate with me during your deliberations, you may send me a note, signed by one or more jurors, through the CSO
 - I will respond as soon as possible, in writing or orally in open court
 - Remember that you should not tell anyone—including me—how your votes stand numerically

- Base your verdict solely on the evidence and the law as stated in my Instructions
 - Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide
- Your verdict on each question submitted must be unanimous
- Remember to complete and sign one copy of the Verdict Form
 - The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict
- When you have reached a verdict, the foreperson must tell the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

DATED this 1st day of May, 2017.



MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

LIGURIA FOODS, INC.,

Plaintiff,

vs.

GRIFFITH LABORATORIES, INC.,

Defendant.

No. C 14-3041-MWB

VERDICT FORM

On plaintiff Liguria’s claims, we, the Jury, find as follows:

I. LIABILITY	
Claim 1: Breach Of Implied Warranty Of Fitness For A Particular Purpose	
(a)	On Liguria’s claim of breach of implied warranty of fitness for a particular purpose, as explained in Instruction No. 6, has Liguria proved it relied on Griffith to formulate OPS for Liguria’s particular purpose? <i>(If you answer “no,” do not answer Questions (b) through (e). Instead, you must find in favor of Griffith on this claim in answer to Question (f). If you answer “yes,” go on to Question (b).)</i>
	<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)	If you answered “yes” to Question (a), has Liguria proved that Griffith had reason to know Liguria’s particular purpose for OPS? <i>(If you answer “no,” do not answer Questions (c) through (e). Instead, you must find in favor of Griffith on this claim in answer to Question (f). If you answer “yes,” go on to Question (c).)</i>
	<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)	If you answered “yes” to Question (b), has Liguria proved that Griffith had reason to know that Liguria was relying on Griffith’s skill or judgment to furnish OPS to meet Liguria’s particular purpose? <i>(If you answer “no,” do not answer Questions (c) and (d). Instead, you must find in favor of Griffith on this claim in answer to Question (f). If you answer “yes,” go on to Question (d).)</i>
	<input type="checkbox"/> Yes <input type="checkbox"/> No

(d)	If you answered “yes” to Question (c), has Liguria proved that OPS was not fit for Liguria’s particular purpose? <i>(If you answer “no,” you must find in favor of Griffith on this claim in answer to Question (f). If you answer “yes,” then go on to Question (e).)</i>	
	___ Yes	___ No
(e)	If you answered “yes” to Question (d), do you find that the lack of fitness of OPS for Liguria’s particular purpose was a proximate cause of Liguria’s damages? <i>(If you answer “no” to this Question then you must find in favor of Griffith on this claim in answer to Question (f). However, if you answer “yes” to this Question, then you must find in favor of Liguria on this claim in answer to Question (f).)</i>	
	___ Yes	___ No
(f)	On Liguria’s claim of breach of implied warranty of fitness for a particular purpose, as explained in Instruction No. 6, in whose favor do you find?	
	___ Liguria	___ Griffith
Claim 2: Breach Of Implied Warranty Of Merchantability		
(a)	On Liguria’s claim of breach of implied warranty of merchantability, as explained in Instruction No. 7, has Liguria proved that OPS was not merchantable? <i>(If you answer “no,” then do not answer Questions (b) or (c), and you must find in favor of Griffith on this claim in answer to Question (d). However, if you answer “yes,” then you must also answer Questions (b) and (c).)</i>	
	___ Yes	___ No
(b)	If you answered “yes” to Question (a), please mark whether OPS was not merchantable because of a manufacturing defect, a design defect, or both a manufacturing defect and a design defect. <i>(Please go on to Question (c) after answering this Question.)</i>	
	___ a manufacturing defect	___ a design defect ___ both a manufacturing defect and a design defect
(c)	If you answered “yes” to Question (a), has Liguria proved that the lack of merchantability was a proximate cause of Liguria’s damages? <i>(If you answer “no” to this Question then you must find in favor of Griffith on this claim in answer to Question (d). However, if you answer “yes” to this Question, then you must find in favor of Liguria on this claim in answer to Question (d).)</i>	
	___ Yes	___ No
(d)	On Liguria’s claim of breach of implied warranty of merchantability, as explained in Instruction No. 7, in whose favor do you find?	
	___ Liguria	___ Griffith

*(If you find in favor of Griffith on both claims, then do not answer any further questions in the Verdict Form. Instead, please sign the Verdict Form and notify the CSO that you have reached a verdict. If you find in favor of Liguria on one or both claims, then go on to **Part II** concerning “Damages.”)*

II. DAMAGES

*If you found that Liguria won on one or both of the claims in **Part I**, what amounts, if any, do you award for each of the following items of actual damages, as actual damages are explained in Instruction No. 9? (Remember that future damages, if any, must be reduced to “present value,” as explained in Instruction No. 8.)*

	Past lost profits:	\$ _____
	Future lost profits:	\$ _____
	Past additional rebates:	\$ _____
	Future additional rebates:	\$ _____
	Credits to customers:	\$ _____
	Pepperoni disposal costs	\$ _____
	Total Damages	\$ _____

_____ Date

Foreperson	Juror
Juror	Juror
Juror	Juror
Juror	