

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

In re:	§ Chapter 11
	§
	§ Case No. 20-43597-399
	§
BRIGGS & STRATTON CORPORATION, <i>et al.</i> ,	§ (Jointly Administered)
	§
Debtors.	§ Hearing Date: January 13, 2022
	§ Hearing Time: 2:00 p.m. (Central Time)
	§ Hearing Location: Courtroom 5 North
	§ 111 S. 10th St., St. Louis, MO 63102

**NOTICE OF THE PLAN ADMINISTRATOR’S  
THIRTY-THIRD OMNIBUS OBJECTION TO CLAIMS ON  
GROUND OF NO LIABILITY (LITIGATION CLAIMS)**

**THIS IS AN OBJECTION TO YOUR CLAIM. THE OBJECTING PARTY IS ASKING THE COURT TO DISALLOW THE CLAIM THAT YOU FILED IN THIS BANKRUPTCY CASE.**

**IF YOU CHOOSE TO RESPOND, A WRITTEN RESPONSE MUST BE FILED WITH THE CLERK OF COURT, U.S. BANKRUPTCY COURT, 111 SOUTH TENTH STREET, 4TH FLOOR, ST. LOUIS, MISSOURI 63102, AND A COPY SERVED UPON COUNSEL TO THE PLAN ADMINISTRATOR, (A) HALPERIN BATTAGLIA BENZIJA LLP, 40 WALL STREET, 37<sup>TH</sup> FLOOR, NEW YORK, NEW YORK 10005 (ATTN: JULIE DYAS GOLDBERG, ESQ. AND MATTHEW MURRAY, ESQ.) AND (B) CARMODY MACDONALD P.C., 120 S. CENTRAL AVENUE, SUITE 1800, ST. LOUIS, MISSOURI 63105 (ATTN: DORMIE KO, ESQ.), SO THAT THE RESPONSE IS RECEIVED NO LATER THAN 11:59 P.M. (PREVAILING CENTRAL TIME) ON JANUARY 6, 2022.**

**FAILURE TO FILE A TIMELY RESPONSE MAY RESULT IN THE COURT GRANTING THE RELIEF REQUESTED PRIOR TO THE HEARING DATE. YOU SHOULD READ THIS NOTICE AND THE ACCOMPANYING MOTION CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE.**

**Important Information Regarding the Objection**

1. **Grounds for the Objection.** By this Objection, the Plan Administrator, on behalf of the Wind-Down Estates of the Debtors, is seeking to **disallow** your claim(s) on the grounds that each represents a claim that the Plan Administrator believes is a No Liability



Claim.<sup>1</sup> The claim(s) subject to the Objection is/are listed in the table attached to the Objection as **Exhibit A**.

### **Resolving the Objection**

2. **Parties Required to File a Response**. If you disagree with the Objection filed with respect to any of your claims, you may file a response (each, a “**Response**”) with the Court in accordance with the procedures described below and appear at the Hearing (as defined herein).

3. **Response Contents**. Each Response should contain the following (at a minimum):

- a. a caption stating the name of the Court, the name of the Debtors, the case number, and the Objection and claim or claims within the Objection to which the Response is directed;
- b. a concise statement setting forth the reasons why the Court should not grant the Objection with respect to such claim(s), including the factual and legal bases upon which you rely in opposing the Objection;
- c. copies of documentation or other evidence of your claim (not previously filed with proof of such claim) on which your Response is based (excluding confidential, proprietary, or other protected information, copies of which must be provided to the counsel to the Plan Administrator, subject to appropriate confidentiality constraints, if any); and
- d. the following contact information:
  - (i) your name, address, telephone number, and email address or the name, address, telephone number, and email address of your attorney or designated representative to whom the attorneys for the Plan Administrator should serve a reply to the Response, if any; or
  - (ii) the name, address, telephone number, and email address of the party with authority to reconcile, settle, or otherwise resolve the objection on your behalf (to the extent different from the information detailed in paragraph 3(d)(i) above).

4. **Response Deadline**. Your Response must be filed with the Court and served so as to be *actually received* by **11:59 p.m. (Central Time) on January 6, 2022** (the “**Response Deadline**”).

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<sup>1</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Debtors’ Second Amended Joint Plan (the “**Plan**”).

5. **Failure to Respond.** A Response that is not filed and served in accordance with the procedures set forth herein may not be considered by the Court at the Hearing. **Absent an agreement with the Plan Administrator resolving the Objection to a claim, failure to timely file and serve a Response as set forth herein and appear at the Hearing may result in the Court granting the Objection without further notice or hearing.** Upon entry of an order, you will be served with a notice of entry, and a copy, of the order.

#### **Hearing on the Objection**

6. **Date, Time, and Location.** If necessary, a hearing (the “Hearing”) on the Objection will be held on **January 13, 2022 at 2:00 p.m. (Central Time) in the United States Bankruptcy Court for the Eastern District of Missouri, 5th Floor, North Courtroom, Thomas F. Eagleton United States Courthouse, 111 South Tenth Street, St. Louis, Missouri.** Such Hearing may be adjourned from time to time in these chapter 11 cases in the Plan Administrator’s sole discretion. **You must attend the Hearing if you disagree with the Objection and have filed a Response.** If you file a Response in accordance with the response procedures herein, but such Response is not resolved prior to the Hearing, and you appear at the Hearing, the Objection may be heard at the Hearing or adjourned to a subsequent hearing in the Plan Administrator’s sole discretion. If a subsequent hearing is determined to be necessary, the Plan Administrator will file with the Court and serve you with a notice of the subsequent hearing (the date of which will be determined in consultation with the affected claimant(s)).

#### **Additional Information**

7. **Questions or Information.** Copies of the pleadings (collectively, the “Pleadings”) filed in these chapter 11 cases are available at no cost at the Debtors’ case website <http://www.kccllc.net/Briggs>. You may also obtain copies of any of the Pleadings filed in these chapter 11 cases for a fee at the Court’s website at <https://pcl.uscourts.gov/pcl/>. A login identification and password to the Court’s Public Access to Court Electronic Records (“PACER”) are required to access this information and can be obtained through the PACER Service Center at <http://www.pacer.psc.uscourts.gov>.

**Reservation of Rights**

**NOTHING IN ANY OMNIBUS OBJECTION OR OBJECTION NOTICE IS INTENDED OR SHALL BE DEEMED TO CONSTITUTE (I) AN ADMISSION AS TO THE VALIDITY OF ANY PREPETITION CLAIM AGAINST A DEBTOR; (II) A WAIVER OF ANY PARTY'S RIGHT TO DISPUTE ANY PREPETITION CLAIM ON ANY GROUNDS; (III) A PROMISE OR REQUIREMENT TO PAY ANY PREPETITION CLAIM; (IV) AN IMPLICATION OR ADMISSION THAT ANY PARTICULAR CLAIM IS OF A TYPE SPECIFIED OR DEFINED IN THE MOTION OR ANY ORDER GRANTING THE RELIEF REQUESTED BY THE MOTION; (V) A REQUEST OR AUTHORIZATION TO ASSUME ANY PREPETITION AGREEMENT, CONTRACT, OR LEASE PURSUANT TO SECTION 365 OF THE BANKRUPTCY CODE; OR (VI) A WAIVER OF THE PLAN ADMINISTRATOR'S RIGHTS UNDER THE BANKRUPTCY CODE OR ANY OTHER APPLICABLE LAW.**

*[Remainder of Page Intentionally Left Blank]*

Dated: December 10, 2021  
St. Louis, Missouri

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

Robert E. Eggmann, #37374MO  
Christopher J. Lawhorn, #45713MO  
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-and-

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*Counsel to the Plan Administrator*

**EXHIBIT A**

**Schedule of No Liability Claims (Litigation Claims)**

**Exhibit A - No Liability Claims**

*Briggs & Stratton Corp., et al.*

Claimant Name and Address	Case Number	Debtor Name	Claim Number	Date Filed	Asserted Claim Amount and Priority
1) Aubrey E. Karavas  Maune, Raichle, Hartley, French & Mudd, LLC 1015 Locust Street, Suite 1200 St. Louis, MO 63101	20-43597	Briggs & Stratton Corporation	1448	10/5/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$50,000.00 Total: \$50,000.00
2) Barbara Injeski, on Behalf of Donald Papke, Decd  c/o Sara Salger The Gori Law Firm 156 N Main Street Edwardsville, IL 62025	20-43597	Briggs & Stratton Corporation	1377	10/5/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$0.00 Total: \$0.00

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
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In re:	§	Chapter 11
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**THE PLAN ADMINISTRATOR'S THIRTY-THIRD OMNIBUS OBJECTION  
TO CLAIMS ON GROUNDS OF NO LIABILITY (LITIGATION CLAIMS)**

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Alan D. Halperin as Plan Administrator (the “**Plan Administrator**”) under the *Amended Joint Chapter 11 Plan of Briggs & Stratton Corporation and its Affiliated Debtors*, dated November 9, 2020 [Docket No. 1226] (the “**Plan**”),<sup>1</sup> respectfully represents as follows in support of this omnibus objection to claims (the “**Objection**”) that are asserted to be no liability claims

<sup>1</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Plan.

(collectively, the “**No Liability Claims**”). The Plan Administrator submits that the Wind-Down Estates have no liability because each of the No Liability Claims is based on a litigation assertion for which there is no known cause of action, there is no liability on the Debtors’ books and records, and/or no evidence of liability have been attached to the face of the No Liability Claims. Attached hereto as **Exhibit A** is the list of claimants (collectively, the “**Claimants**”) and their claims that the Plan Administrator asserts should be disallowed on the basis that each is a No Liability Claim for the reasons stated herein. In further support of the Objection, attached hereto as **Exhibit B** is the *Declaration of Alan D. Halperin in Support of the Plan Administrator’s Thirty-Third Omnibus Objection to Claims on Grounds of No Liability (Litigation Claims)* (the “**Halperin Claims Declaration**”):

#### **Background**

1. On July 20, 2020 (the “**Petition Date**”), the Debtors each commenced with this Court a voluntary case under title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On August 5, 2020, the United States Trustee appointed an official committee of unsecured creditors (the “**Creditors’ Committee**”) in these chapter 11 cases pursuant to section 1102 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases. The Debtors’ chapter 11 cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and Rule 1015(b) of the Local Rules of Bankruptcy Procedure for the Eastern District of Missouri (the “**Local Rules**”).

3. On September 15, 2020, the Court entered an order authorizing the Debtors to sell substantially all of their assets<sup>2</sup> to Bucephalus Buyer, LLC (the “**Purchaser**”) and on September 21, 2020, the Debtors closed the Sale Transaction.<sup>3</sup> On December 16, 2020, the Debtors filed the Plan, which was confirmed by the *Findings of Fact, Conclusions of Law, and Order Confirming the Plan* on December 18, 2020 [Docket No. 1485] (the “**Confirmation Order**”).

4. The Effective Date of the Plan occurred on January 6, 2021 and the *Notice of Entry of Order Confirming the Plan and Occurrence of the Effective Date* [Docket No. 1538] was filed, at which time the Creditors’ Committee was relieved of its duties and the Plan Administrator took over the administration of the Wind-Down Estates in accordance with the Plan. The Wind-Down Estates continue to honor their post-closing sale obligations, wind down the estates, and otherwise work on concluding these chapter 11 cases.

5. On February 12, 2021, the Bankruptcy Court entered that certain *Order Approving (I) Claims Objection Procedures; (II) Claims Hearing Procedures; and (III) Granting Related Relief* [Docket No. 1614] (the “**Omnibus Procedures Order**”), which, among other things, increased the number of claims authorized to be filed in an omnibus claim objection such as this Objection to three hundred fifty (350) Claims.

### **Jurisdiction**

6. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

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<sup>2</sup> *Order (I) Authorizing the Sale of the Assets and Equity Interests to the Purchaser Free and Clear of Liens, Claims, Interests, and Encumbrances; (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Related Relief* [Docket No. 898].

<sup>3</sup> *See Notice of (I) Filing of Amendment to Stock and Asset Purchase Agreement, And (II) the Occurrence of Closing of the Sale Transaction* [Docket No. 964].

### **Relief Requested**

7. Pursuant to section 502(b) of the Bankruptcy Code, Bankruptcy Rule 3007, and Local Rule 3007(C), the Plan Administrator respectfully requests entry of an order (the “**Proposed Order**”),<sup>4</sup> disallowing the No Liability Claims listed on **Exhibit A**.

### **Claims Reconciliation**

8. On August 23, 2020, the Debtors filed their schedules of assets, liabilities, current income, expenditures, executory contracts, and unexpired leases and statements of financial affairs, as required by section 521 of the Bankruptcy Code [Docket Nos. 555–559] (collectively, the “**Schedules**”).

9. On August 24, 2020, the Court entered an order [Docket No. 564] (the “**Bar Date Order**”), which, among other things, established (a) October 7, 2020 as the deadline for all non-governmental entities holding or wishing to assert a “claim” (as defined in section 101(5) of the Bankruptcy Code) against any of the Debtors that arose before the Petition Date to file a proof of such claim in writing, and (b) January 19, 2021 as the deadline for all governmental entities holding or wishing to assert a “claim” against any of the Debtors that arose before the Petition Date to file a proof of such claim in writing.

10. As of the date hereof, approximately 3,000 proofs of claim (the “**Proofs of Claim**”) have been filed against the Debtors. The Plan Administrator and his advisors have been working diligently to review these Proofs of Claim, including any supporting documentation filed therewith. For the reasons set forth below, and based on their review to date, the Plan Administrator has determined that the No Liability Claims objected to herein should be disallowed.

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<sup>4</sup> Copies of the Proposed Order will be made available on the Debtors’ case information website at <http://www.kccllc.net/Briggs>.

11. As set forth in the Halperin Claims Declaration, the Plan Administrator and his professionals have examined each No liability Claim, all documentation provided by the Claimant with respect to each No Liability Claim, and the Debtors' respective books and records. The Plan Administrator and his professionals have determined in each case the No Liability Claims are claims that should be disallowed. Each No Liability Claim is at best unproven, and the standard for prima facie evidence of a claim has not been met as each No Liability Claim is based on a litigation assertion for which there is no known cause of action, there is no liability on the Debtors' books and records, and/or no evidence of liability is attached to the face of the No Liability Claims. Accordingly, each such corresponding proof of claim should be disallowed as described on **Exhibit A** annexed hereto.

#### **Relief Requested Should Be Granted**

12. Pursuant to section 502 of the Bankruptcy Code, “[a] claim or interest, proof of which is filed under section 501 of [the Bankruptcy Code], is deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a). Bankruptcy Rule 3001(f) provides that a properly executed and filed proof of claim constitutes prima facie evidence of the validity and amount of the claim under section 502(a) of the Bankruptcy Code. FED. R. BANKR. P. 3001(f). The act of filing an objection alone “does not deprive the proof of claim of presumptive validity unless the objection is supported by substantial evidence.” *In re Austin*, 538 B.R. 543, 545 (Bankr. E.D. Mo. 2015) (citing *In re McDaniel*, 264 B.R. 531, 533 (B.A.P. 8th Cir. 2001)). If the objection presents evidence “rebutting the claim,” then “the claimant must produce additional evidence to prove the validity of the claim by a preponderance of the evidence.” *In re Austin*, 538 B.R. at 545 (citing *In re Gran*, 964 F.2d 822, 827 (8th Cir. 1992)); *see also In re Peabody Energy Corp.*, Case No. 16-42529 (BSS), 2017 WL 4570700, at \*7 (Bankr. E.D. Mo. Oct. 12, 2017); *In re Seagraves*, Case No. 12-49433 (BSS), 2015 WL 2026707, at \*2 (Bankr. E.D. Mo. Apr. 30, 2015); *Dove-Nation v.*

*eCast Settlement Corp. (In re Dove-Nation)*, 318 B.R. 147, 152 (B.A.P. 8th Cir. 2004) (citing *In re Innovative Software Designs, Inc.*, 253 B.R. 40, 44 (B.A.P. 8th Cir. 2000)).

13. The No Liability Claims listed on **Exhibit A** have all been identified as claims for which the Debtors have no liability because each of these claims is based on a litigation assertion for which there is no known cause of action, there is no liability on the Debtors' books and records, and/or no evidence of liability is attached to the face of the No Liability Claims. Accordingly, the Plan Administrator (a) objects to the No Liability Claims listed on **Exhibit A** hereto, and (b) seeks entry of an order disallowing the No Liability Claims.

#### **Reservation of Rights**

14. Nothing contained herein is intended to be or shall be deemed as (i) an admission as to the validity of any claim against the Debtors or the Wind-Down Estates, (ii) a waiver or limitation of rights to dispute the amount of, basis for, or validity of any claim, (iii) a waiver of rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (iv) an agreement or obligation to pay any claims, (v) a waiver of any claims or causes of action which may exist against any creditor or interest holder, or (vi) an approval, assumption, adoption, or rejection of any agreement, contract, lease, program, or policy under section 365 of the Bankruptcy Code.

#### **Notice**

15. Notice of this Objection will be provided to (i) the Office of the United States Trustee for the Eastern District of Missouri (Attn: Sirena Wilson, Esq.); (ii) the Claimant; (iii) any other party that has requested notice pursuant to Bankruptcy Rule 2002; (iv) the various insurance carriers that issued the policies that would be responsible for payment of all amounts that may be due from the Debtors if the Claimants are able to establish liability; and (v) any other party entitled to notice pursuant to the Omnibus Procedures Order (collectively, the "**Notice**

Parties”).

**No Previous Request**

16. No previous request for the relief sought herein has been made by the Debtors or the Plan Administrator to this or any other court.

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WHEREFORE, the Plan Administrator respectfully requests entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: December 10, 2021  
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

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*Local Counsel to the Plan Administrator*

-and-

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*Counsel to the Plan Administrator*

**EXHIBIT A**

**Schedule of No Liability Claims (Litigation Claims)**

**Exhibit A - No Liability Claims**

*Briggs & Stratton Corp., et al.*

Claimant Name and Address	Case Number	Debtor Name	Claim Number	Date Filed	Asserted Claim Amount and Priority
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2) Barbara Injeski, on Behalf of Donald Papke, Decd  c/o Sara Salger The Gori Law Firm 156 N Main Street Edwardsville, IL 62025	20-43597	Briggs & Stratton Corporation	1377	10/5/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$0.00 Total: \$0.00

**EXHIBIT B**

**Halperin Claims Declaration**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

<b>In re:</b>	§	<b>Chapter 11</b>
	§	
<b>BRIGGS &amp; STRATTON</b>	§	<b>Case No. 20-43597-399</b>
<b>CORPORATION, et al.,</b>	§	
	§	<b>(Jointly Administered)</b>
	§	
<b>Debtors.</b>	§	

**DECLARATION OF ALAN D. HALPERIN IN SUPPORT OF THE PLAN  
ADMINISTRATOR’S THIRTY-THIRD OMNIBUS OBJECTION  
TO CLAIMS ON GROUNDS OF NO LIABILITY (LITIGATION CLAIMS)**

I, Alan D. Halperin, solely in my capacity as Plan Administrator in the above-referenced cases, make this declaration (the “**Declaration**”) under 28 U.S.C. § 1746:

1. I am the Plan Administrator of the Wind-Down Estates of Briggs & Stratton Corporation and its affiliated debtors (the “**Debtors**”).<sup>1</sup>

2. Except as otherwise indicated, this Declaration is based upon my personal knowledge; my review of relevant documents (including the No Liability Claims and the Objection); information provided to me by: (i) a former officer of the Debtors with whom the Wind-Down Estates have entered into a consulting agreement, (ii) former employees that were transferred to the Purchaser and who provide claims reconciliation services to the Debtors pursuant to a transition services agreement with the Purchaser, (iii) the Debtors’ legal and financial advisors, and/or (iv) my legal counsel and such professionals working directly with me or under my supervision, direction, or control; or my opinion, based upon my experience, knowledge, and information concerning the Debtors’ operations. If called upon to testify, I would testify competently to the facts set forth herein. I am authorized to submit this Declaration on behalf of

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Objection.

the Wind-Down Estates, in support of *The Plan Administrator's Thirty-Third Omnibus Objection to Claims on Grounds of No Liability (Litigation Claims)* (the “**Objection**”).

3. To the best of my knowledge, information, and belief, the assertions made in the Objection are accurate. I can confirm that the Debtors’ advisors have examined each No Liability Claim, all documentation provided by the Claimant with respect to each No Liability Claim, the Debtors’ respective books and records, and the Schedules, and have determined that each No Liability Claim is a claim that should be disallowed. Each of these claims is based on a litigation assertion for which there is no known cause of action, there is no liability on the Debtors’ books and records, and/or no evidence of liability have been attached to the face of the No Liability Claims. Therefore, the Wind-Down Estates have no responsibility to satisfy any of the No Liability Claims or any portion of such claims. As such, the No Liability Claims should be disallowed.

4. I declare under penalty of perjury that, to the best of my knowledge and after reasonable inquiry, the foregoing is true and correct.

Dated: December 10, 2021

/s/ Alan D. Halperin  
Alan D. Halperin  
Solely in His Capacity as Plan Administrator