

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

	§	Chapter 11
In re:	§	
	§	Case No. 20-43597-399
BRIGGS & STRATTON	§	
CORPORATION, <i>et al.</i> ,	§	(Jointly Administered)
	§	
Debtors.	§	Hearing Date: December 2, 2021
	§	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 APPLICATION FOR AN ORDER PURSUANT TO 11 U.S.C. § 502(c) ESTIMATING THE GENERAL UNSECURED CLAIM VALUE OF PROOFS OF CLAIM NUMBERED 466, 468, 1377, AND 1663

THIS IS A MOTION TO ESTIMATE AND/OR AN OBJECTION TO YOUR CLAIM(S). THE OBJECTING PARTY IS ASKING THE COURT TO SET THE AMOUNT OF AND/OR DISALLOW THE CLAIM(S) 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, 37TH FLOOR, NEW YORK, NEW YORK 10005 (ATTN: JULIE DYAS GOLDBERG, ESQ. AND CARRIE E. ESSENFELD, 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 NOVEMBER 25, 2021.

FAILURE TO FILE A RESPONSE TIMELY 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 Application

1. **Grounds for the Application.** By this Application, the Plan Administrator, on behalf of the Wind-Down Estates of the Debtors, is seeking to **estimate, reduce, and/or disallow** your claim(s) on the grounds more fully set forth in the Application. The claim(s) subject to the Application (collectively, the “**Litigation Claims**”) are listed in the table attached to the Application as **Exhibit A.**



Responding to the Application

2. **Parties Required to File a Response.** If you disagree with the relief requested in the Application 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 Application and claim or claims within the Application to which the Response is directed;
- b. a concise statement setting forth the reasons why the Court should not grant the relief requested in the Application with respect to such claim(s), including the factual and legal bases upon which you rely in opposing the Application;
- 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 November 25, 2021** (the “**Response Deadline**”).

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 Application on consent, failure to file and serve timely a Response as set forth herein and appear at the Hearing may result in the Court granting the relief requested in the Application 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 Application

6. **Date, Time, and Location.** If necessary, a hearing (the “**Hearing**”) on the Application will be held on **December 2, 2021 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 Application 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 Application 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 APPLICATION OR 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.

Dated: November 2, 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 Litigation Claims

Exhibit A-1
Briggs & Stratton Corp., et al.

Claimant Name and Address	Case Number	Debtor Name	Claim Number	Date Filed	Asserted Claim Amount and Priority
1) 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
2) Joseph Ward Dean Ringers Morgan & Lawton PA 201 E. Pine Street, Suite 1200 Orlando, FL 32801-3280	20-43597	Briggs & Stratton Corporation	468	9/10/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$10,000,000.00 Total: \$10,000,000.00
3) Krista Danyale Ward 201 E. Pine Street, Suite 1200 Orlando, FL 32801-3280	20-43597	Briggs & Stratton Corporation	466	9/10/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$10,000,000.00 Total: \$10,000,000.00
4) Troy Craig, Diana Craig, and Amy Craig David Hart 6630 Colleyville Blvd Colleyville, TX 76234	20-43597	Briggs & Stratton Corporation	1663	10/7/2020	Secured: \$0.00 Administrative: \$0.00 Priority: \$0.00 Unsecured: \$10,000,000.00 Total: \$10,000,000.00

UNITED STATES BANKRUPTCY COURT
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BRIGGS & STRATTON §
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**THE PLAN ADMINISTRATOR’S APPLICATION FOR AN ORDER
PURSUANT TO 11 U.S.C. § 502(c) ESTIMATING THE GENERAL UNSECURED
CLAIM VALUE OF PROOFS OF CLAIM NUMBERED 466, 468, 1377, AND 1663**

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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**”),¹ respectfully represents as follows in support of this application (the “**Application**”) for an order estimating the general unsecured claim value of proofs of claim numbered 466, 468, 1377, and 1663 (collectively, the “**Litigation Claims**” and the creditors named on the Proofs of Claim filed in connection with the Litigation Claims, the “**Litigation Claimants**”), fixing such claims for purposes of distribution reserves, and in the process, reducing in amount certain Litigation Claims. In support of this Application, attached hereto as **Exhibit B** is the *Declaration of Alan D. Halperin in Support of the Plan Administrator’s Application for an Order Pursuant to 11 U.S.C. § 502(c) Estimating the General Unsecured Claim Value of Proofs of Claim Numbered 466, 468, 1377, and 1663* (the “**Halperin Claims Declaration**”).

Preliminary Statement

For purposes of this Application, there are four (4) separate lawsuits the Plan Administrator has identified which name Briggs & Stratton as a defendant. One of the lawsuits was filed by Barbara Injeski, on behalf of Donald Papke, for wrongful death.² Two lawsuits were filed by Joseph Ward and Krista Danyale Ward for personal injury.³ The remaining lawsuit was filed by Troy, Diana, and Amy Craig for personal injury.⁴ All of the lawsuits are in the preliminary

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

² The caption of this case is: *Barbara Injeski, Individually and as Special Administrator of the Estate of Donald Papke, Deceased v. 4520 Corp., Inc., as Successor—in-Interest to The Shaw Group, Inc., et al.*, Circuit Court, Third Judicial Circuit, Madison County, Illinois Case No. 2018L000448. [Note: Briggs & Stratton Corporation is one of approximately 100 defendants named in this case].

³ The caption of this case is: *Krista “Danyale” Ward and Joseph Ward, husband and wife, v. Nilfisk, Inc., Nilfisk Pressure-Pro LLC., Kochel Equipment Co., Inc., The Plastics Group, Inc., Briggs & Stratton Corporation and Gotwals Brothers LLC*, Circuit Court of the Fifth Judicial Circuit in and for Marion County, Florida, Case No. 19-CA-001352.

⁴ The caption of this case is: *Troy Craig; Diana Craig; and Amy Craig and Parkland Health and Hospital System (Involuntary Plaintiff); and The University of Texas Southwestern Medical Center at Dallas (Involuntary Plaintiff) v. Briggs & Stratton Corporation; Gemini Insurance Company; Willis Limited/WNA London; Magna Carta Insurance, Ltd.; Allied World Assurance Co., U.S., Ltd.; Allianz Global Corporate & Specialty SE; Ironshore Indemnity, Inc.; Evanston Insurance Company; Great American Insurance Company; ABC Insurance Company;*

stages of litigation and the claims asserted have not been comprehensively tested or investigated in discovery. Further, more than \$30 million in associated claims have been filed against the Wind-Down Estates by the impacted parties.⁵ The Plan Administrator does not admit the veracity, sufficiency, or accuracy of any of the allegations raised by the Litigation Claimants in the pending litigations or underlying any and all of the Litigation Claims, and, after consultation with his professionals, believes that certain defenses/offsets to the Litigation Claims and in the pending litigations may exist. However, the Plan Administrator seeks a procedural resolution that will estimate the Litigation Claims for distribution purposes so that the Wind-Down Estates and holders of other unsecured claims will not be prejudiced by such undue delay while the cases advance. Likewise, the Litigation Claimants will not be prejudiced as the Plan Administrator seeks to estimate and reserve for the Litigation Claims at the maximum exposure the Wind-Down Estates could have given their applicable insurance coverage as to each case.

It is undisputed that the Debtors have insurance coverage for, *inter alia*, the damages associated with the Litigation Claims in the event they are found liable for such damages, in whole or in part. However, the relevant Debtors have a \$2 million self-insured retention with respect to the relevant insurance policies, per occurrence.⁶ Thus, though it is possible that the Litigation Claimants may be awarded damages of more than \$2 million against one of the Debtors (as a defendant) in the litigations underlying the Litigation Claims, the Wind-Down Estates' liability (in terms of fixing a claims pool for distribution purposes) with regard to any specific

DEF Insurance Company; Wood Industries, Inc.; Admiral Insurance Company; GHI Insurance Company; JKL Insurance Company; Spray Foam Solutions, LLC; MNO Insurance Company; and PQR Insurance Company, State of Wisconsin, Circuit Court, Milwaukee County, Case No. 2020CV003953.

⁵ Barbara Injeski, on behalf of Donald Papke, filed Claim No. 1377 in an unliquidated amount; Joseph Ward filed Claim No. 468 in the amount of \$10,000,000; Krista Danyale Ward filed Claim No. 466 in the amount of \$10,000,000; and Troy Craig, Diana Craig, and Amy Craig filed Claim No. 1663 in the aggregate amount of \$10,000,000.

⁶ Insurance policy numbers to be provided upon request.

Litigation Claim is capped at \$2 million aggregate per claim. Accordingly, by this Application, the Plan Administrator seeks to fix a \$2 million maximum estimated claim for each of the Litigation Claims, which the Plan Administrator proposes to reserve for distribution purposes until each Litigation Claim is resolved.

By this Application, the Plan Administrator seeks to estimate and reserve, for distribution purposes, in connection with the four (4) Litigation Claims listed on **Exhibit A**, the amount of \$2 million each, which equals the maximum amount of the Debtors' self-insured retention in connection with each of the Litigation Claims and is, thus, the maximum amount of liability the Wind-Down Estates can reasonably anticipate. In his judgment, the Plan Administrator believes this to be both fair and equitable treatment of the Litigation Claims and a necessary step in order to make distributions in accordance with the Plan and to avoid undue delay of the administration of the Wind-Down Estates. For the reasons set forth in detail below, the Plan Administrator requests the Court's entry of an Order estimating each of the Litigation Claims for distribution purposes as a general unsecured claim in the amount of \$2 million.

Background

A. The Chapter 11 Bankruptcy Case

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 was appointed in these

chapter 11 cases. The Debtors' chapter 11 cases were 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 of the United States Bankruptcy Court for the Eastern District of Missouri (the "**Local Rules**").

3. Pursuant to an order dated August 24, 2020 [Docket No. 564] (the "**General Bar Date Order**"), this Court established October 7, 2020 (the "**General Bar Date**") as the last day for non-governmental entities to file prepetition claims against the Debtors and their estates, and January 19, 2021 as the last day for governmental entities to file prepetition claims against the Debtors and their estates. In accordance with the General Bar Date Order, the Debtors' Claims and Noticing Agent served a *Notice of Deadlines to File Proofs of Claim* and a Proof of Claim Form as evidenced by the *Certificate of Service* filed with this Court [Docket No. 576]. Additionally, in accordance with the General Bar Date Order, the Debtors published a notice of the General Bar Date in the national edition of the *New York Times* and in the *St. Louis Post Dispatch*, as evidenced by the *Certificate of Publication* filed with this Court [Docket No. 826].

4. On September 15, 2020, the Court entered an order authorizing the Debtors to sell substantially all of their assets⁷ to Bucephalus Buyer, LLC (the "**Purchaser**") and on September 21, 2020, the Debtors closed the Sale Transaction.⁸ 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**").

⁷ *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].

⁸ *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].

5. 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.

6. On the Effective Date, pursuant to the Plan, Alan D. Halperin was appointed as Plan Administrator to "serve as the initial director or manager, as applicable, and sole officer of each Wind-Down Estate." See Plan, § 5.4(c).

7. The Plan Administrator is in the process of implementing the Plan, including resolving claims disputes and making distributions to creditors.

8. 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**").

9. On June 10, 2021, the Bankruptcy Court entered that certain *Order Granting Motion of the Plan Administrator Extending Time to Object to All Claims* [Docket No. 1773] and extended the Plan Administrator's deadline to object to claims to December 31, 2021.

B. Distributions Under the Plan

10. The Plan Administrator is responsible for implementing the Plan, which provides for the liquidation of any remaining assets of the Debtors and distribution of proceeds to the holders of Allowed Claims. The holders of allowed general unsecured claims against the Debtor, Classes 4(a) – (e), are entitled to receive their Pro Rata Share of Net Cash Proceeds (of the applicable Debtor) after the Priority Tax Claims, Priority Non-Tax Claims and the Other Secured Claims are satisfied, or reserved for, in full in accordance with the Plan. See Plan, §§ 4.16(b), 4.17(b), 4.18(b), 4.19(b) and 4.20(b). "Net Cash Proceeds" is defined as all Cash realized from business and/or Wind-Down operations and Sale Transaction Proceeds less the Cash required to

pay (or reserve for) Administrative Expense Claims, Fee Claims, and DIP Claims, fund the Wind-Down Budget and pay Statutory Fees. *See* Plan § 1.70. To date, the Plan Administrator has paid all allowed Administrative Expense Claims, Secured Claims, Priority Claims, and Statutory Fees.

11. The Plan Administrator now endeavors to take steps to fix the general unsecured claims pool so that he can properly calculate distribution amounts and reserves for the General Unsecured Creditors. Section 7.5 of the Plan provides a mechanism for the Plan Administrator to estimate claims pursuant to section 502(c) of the Bankruptcy Code and states “[i]n the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claims, including Insured Claims, the amount so estimated shall constitute either the Allowed amount of such Claims, or a maximum limitation on such Claims, as determined by the Bankruptcy Court.” In this instance, as the Litigation Claims have not yet been proven, the Plan Administrator seeks estimation of the Litigation Claims to provide a maximum limitation on such Litigation Claims, with such amount to be allowed in the future at an amount not to exceed total claims of \$2 million per Litigation Claim. The Plan Administrator then proposes to hold distributions on such estimated Litigation Claims in reserve until such time as the Litigation Claims are fixed in amount by judgment, court order, or agreement.

C. The Claims Reconciliation Process

12. The Plan Administrator, with the assistance of his professionals and advisors, has reviewed the Debtors’ schedules of assets and liabilities, the filed proofs of claim, the Debtors’ books and records, and other data. The review process included identifying particular categories of claims that should be disallowed, expunged, reduced and allowed, or reclassified in order to avoid possible double recovery or otherwise improper recovery to claimants.

13. The Plan Administrator has made great strides in the claims resolution process. To date, the Debtors or the Plan Administrator have filed twenty-nine (29) omnibus objections to claims and have resolved the majority of the Disputed Claims (as defined in Section 1.43 of the Plan) as the Plan Administrator works towards making distributions to the Debtors' general unsecured creditors. However, there are a number of large litigation claims including, but not limited to, the Litigation Claims which need to be fixed before any distributions to such creditors may occur. This Application is an important and necessary step in fixing such unliquidated claims.

14. As set forth in the Halperin Claims Declaration, the Plan Administrator and his professionals have examined the Litigation Claims, the documentation provided by the Litigation Claimants with respect to the Litigation Claims, and the Debtors' respective books and records, and have determined that the maximum aggregate liability the Debtors have relating to each of the Litigation Claims is the amount of the Debtors' self-insured retention under the applicable insurance policies, which is \$2 million.

15. Thus, for the reasons described below, the Plan Administrator has determined that the Litigation Claims should be reduced so that each Litigation Claim's maximum total amount is no more than \$2 million, which is the amount of the Debtors' self-insured retention relating to each of the Litigation Claims.

Jurisdiction

16. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Section 7.5 of the Plan. 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.

Relief Requested

17. Pursuant to sections 105(a) and 502(c) of the Bankruptcy Code, Bankruptcy Rule 9014, and Local Rule 3007(C), the Plan Administrator respectfully requests entry of an order (the “**Proposed Order**”)⁹ setting the maximum liability amount for each of the Litigation Claims, listed on **Exhibit A** hereto, at no more than \$2 million.

Relief Requested Should Be Granted

18. Section 502(c) of the Bankruptcy Code provides in pertinent part that “[t]here shall be estimated for purpose of allowance under this section – (1) any contingent or unliquidated claim, the fixing or liquidation of which, as the case may be, would unduly delay the administration of the case.” 11 U.S.C. § 502(c). The Plan Administrator submits that, absent the estimation of the Litigation Claims, their resolution would unduly delay administration of the Wind-Down Estates as the full scale litigation of the Litigation Claims will consume significant judicial hours, leading to delays of months or years, and unnecessary expenditures of significant amounts of estate resources.

19. Each of the Litigation Claimants filed proofs of claim identifying a dollar amount in line with what they assert is the full amount of their damages resulting from their respective litigations.¹⁰ However, the Debtors’ liability to each of the Litigation Claimants in connection with the Litigation Claims is, at most, capped at the \$2 million self-insured retention under the applicable insurance policies. The litigations underlying each of the Litigation Claims are all unresolved, and may take many months, or even years to resolve given their current posture and complexity. As of the date of this Application, no court has determined liability related to any

⁹ Copies of the Proposed Order will be made available on the Debtors’ case information website at <http://www.kccllc.net/Briggs>.

¹⁰ Claim No. 1377 filed by Barbara Injeski, on behalf of Donald Papke, was filed in an unliquidated amount.

of the Litigation Claims. The Plan Administrator submits that setting the maximum aggregate amount of each of the Litigation Claims at \$2 million, the upper limit of the Debtors' potential liability as to each of the Litigation Claims, establishes a fair approach that is exactly the type of equitable treatment the powers of estimation exist to address.

20. A court may authorize the estimation and approximation of the value of a claim using "whatever method is best suited to the circumstances", recognizing that absolute certainty is not possible. *In re Brints Cotton Marketing, Inc.*, 737 F.2d 1338, 1341 (5th Cir. 1984). The Court is not bound by legal rules that govern the ultimate value of the claim and has wide discretion in establishing the method to be used to arrive at an estimate of the value of a claim or claims. *Id.*; *Bittner v. Borne Chemical Co.*, 691 F.2d 134, 135 (3rd Cir. 1982) (estimation requires only "sufficient evidence on which to base a reasonable estimate of the claim"); *In re Baldwin-United Corp.*, 55 B.R. 885, 898 (Bankr. S.D. Ohio 1985) (estimation "does not require that a bankruptcy judge be clairvoyant").

21. Bankruptcy courts have wide discretion in choosing the process for estimating a claim. The methods used by courts include summary trials, a review of written submissions of proposed facts, and a review of the pleadings and briefs. *See e.g.*, *In re Baldwin-United Corp.*, 55 B.R. at 899; *In re Windsor Plumbing Supply*, 170 B.R. 503, 517 (Bankr. E.D.N.Y. 1994); *In re Lane*, 68 B.R. 609, 613 (Bankr. D. Hawaii 1986). A court may also apply summary trial procedures for each claim subject to estimation. *In re Apex Oil Corp.*, 92 B.R. 843, 845 (Bankr. E.D. Mo. 1988) (applying summary trial briefing schedule for each claim subject to estimation).

22. In addition to the Court's ability to estimate claims, the Court's equitable powers are codified in section 105(a) of the Bankruptcy Code. Section 105(a) authorizes the

Court's authority to "issue any order, process, or judgment that is necessary to carry out the provisions of this title."

23. The Plan Administrator submits that given both the need for an expeditious resolution of the Litigation Claims together with the Debtors' insurance coverage related to the Litigation Claims, the exercise of the Court's broad powers under section 105(a) to carry out section 502(c) by estimating each of the Litigation Claims at an aggregate of \$2 million for purposes of distribution by the estates is necessary and appropriate. If the Litigation Claims are not fixed for distribution purposes, the Plan Administrator would be required to reserve for amounts far in excess of the Debtors' maximum potential liability related to the Litigation Claims which will interfere with the Plan Administrator's ability to make distributions to Class 4(a) – (e) Claimants. The Plan Administrator further posits that estimating the Litigation Claims as proposed in this Application should not be controversial as the relief requested seeks to estimate the Litigation Claims at the maximum amount of exposure that is reasonably practicable given the Debtors' insurance coverage. The Plan Administrator submits that fixing the Litigation Claims (without admitting any liability) at a maximum aggregate amount of \$2 million each allows him to set appropriate reserves and is a necessary step toward fulfilling his duty to timely distribute to the general unsecured creditors in these cases. The Plan Administrator submits that estimating the Litigation Claims is in the best interests of the Litigation Claimants, all creditors of the Wind-Down Estates, and all other parties-in-interest.

Reservation of Rights

24. Without limiting any of the foregoing, the Plan Administrator reserves the right to amend this Application, file additional pleadings in support of this Application or take other appropriate actions, including (i) respond to any allegation that may be raised in a response

filed by a Litigation Claimant or interested party; (ii) object further to any Litigation Claim for which a Litigation Claimant provides additional support; and/or (iii) object further to any of the Litigation Claims based on additional information that may be discovered upon further review by the Plan Administrator or through discovery pursuant to the Bankruptcy Rules.

Separate Contested Matter

25. To the extent a response is filed regarding any Litigation Claim identified in **Exhibit A**, and the Plan Administrator is not able to resolve such response, the request for estimation and/or objection to such claim by the Plan Administrator shall be a separate contested matter under Bankruptcy Rule 9014.

Notice

26. Notice of this Application 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; and (iv) any other party entitled to notice pursuant to the Omnibus Procedures Order (collectively, the “**Notice Parties**”).

No Prior Request

27. No prior request for the relief sought herein has been made by 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: November 2, 2021
St. Louis, Missouri

Respectfully submitted,

CARMODY MACDONALD P.C.

/s/ Robert E. Eggmann

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-and-

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EXHIBIT A

Schedule of Litigation Claims

Exhibit A-1
Briggs & Stratton Corp., et al.

Claimant Name and Address	Case Number	Debtor Name	Claim Number	Date Filed	Asserted	
					Claim Amount and Priority	
1) 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
2) Joseph Ward Dean Ringers Morgan & Lawton PA 201 E. Pine Street, Suite 1200 Orlando, FL 32801-3280	20-43597	Briggs & Stratton Corporation	468	9/10/2020	Secured:	\$0.00
					Administrative:	\$0.00
					Priority:	\$0.00
					Unsecured:	\$10,000,000.00
					Total:	\$10,000,000.00
3) Krista Danyale Ward 201 E. Pine Street, Suite 1200 Orlando, FL 32801-3280	20-43597	Briggs & Stratton Corporation	466	9/10/2020	Secured:	\$0.00
					Administrative:	\$0.00
					Priority:	\$0.00
					Unsecured:	\$10,000,000.00
					Total:	\$10,000,000.00
4) Troy Craig, Diana Craig, and Amy Craig David Hart 6630 Colleyville Blvd Colleyville, TX 76234	20-43597	Briggs & Stratton Corporation	1663	10/7/2020	Secured:	\$0.00
					Administrative:	\$0.00
					Priority:	\$0.00
					Unsecured:	\$10,000,000.00
					Total:	\$10,000,000.00

EXHIBIT B

Halperin Claims Declaration

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

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

DECLARATION OF ALAN D. HALPERIN IN SUPPORT OF THE PLAN
ADMINISTRATOR'S APPLICATION FOR AN ORDER PURSUANT TO 11 U.S.C. §
502(c) ESTIMATING THE GENERAL UNSECURED CLAIM VALUE OF
PROOFS OF CLAIM NUMBERED 466, 468, 1377, AND 1663

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**").¹

2. Except as otherwise indicated, this Declaration is based upon my personal knowledge; my review of relevant documents (including the Schedules, the Litigation Claims, and the Application); and 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 of the Debtors who are currently employed by the Purchaser and who provide claims reconciliation support 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

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

testify, I would testify competently to the facts set forth herein. I am authorized to submit this Declaration on behalf of the Wind-Down Estates, in support of *The Plan Administrator's Application for an Order Pursuant to 11 U.S.C. § 502(c) Estimating the General Unsecured Claim Value of Proofs of Claim Numbered 466, 468, 1377, and 1663* (the "**Application**").

3. To the best of my knowledge, information, and belief, the assertions made in the Application are accurate. I can confirm that the Plan Administrator's advisors have examined each of the Litigation Claims, any and all documentation provided by the Litigation Claimants with respect to each of the Litigation Claims, the Debtors' respective books and records, and the Schedules, and have determined that, without admitting any liability, the total maximum aggregate amount of each of the Litigation Claims could be \$2 million, as that is the maximum amount of the Debtors' self-insured retention, per occurrence, in connection with the insurance coverage potentially implicated with respect to the Litigation Claims.

4. Failure to estimate each of the Litigation Claims at \$2 million will impede and delay my ability to administer the Wind-Down Estates, establish appropriate reserves, and make distributions. As such, I believe that the estimation of each of the Litigation Claims at a maximum aggregate amount of \$2 million, without admitting any liability, is appropriate.

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

Dated: November 2, 2021

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