

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

In re:	)	
	)	Case No. 20-43597-399
<b>BRIGGS &amp; STRATTON</b>	)	Judge Barry S. Schermer
<b>CORPORATION, et al.,</b>	)	Chapter 11
	)	(Jointly Administered)
Debtors.	)	
	)	<b>Hearing Date: October 14, 2020</b>
<hr style="width: 35%; margin-left: 0;"/>	)	<b>Hearing Time: 10:00 A.M.</b>
<b>METROPOWER, INC.,</b>	)	<b>Answer Due: October 7, 2020</b>
	)	
Movant.	)	

**MOTION FOR RELIEF FROM AUTOMATIC STAY**  
**FILED BY METROPOWER, INC.**

MetroPower, Inc., a creditor and party in interest, (“Movant”) by its attorneys, Stone, Leyton & Gershman, A Professional Corporation, hereby files this Motion for Relief from Automatic Stay (“Motion”) pursuant to 11 U.S.C. §362 in the above-entitled and number cause and in support thereof respectfully states as follows:

1. This Court has jurisdiction in regard to this matter pursuant to 28 U.S.C. §§ 151, 157, and 1334 and Local Rule 81-9.01(B) of the United States District Court for the Eastern District of Missouri.
2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(G).
3. Venue is proper in this District under 28 U.S.C. § 1409(a).
4. On July 20, 2020, Debtor Briggs & Stratton Corporation and related entities (“Debtor”) filed a Voluntary Petition for Relief under the provisions of Chapter 11 of Title 11 of the United States Bankruptcy Code.
5. Movant is a creditor of Debtor and holds a claim in excess of \$93,000 against Debtor.



6. Movant's claims arise from the sale of materials, machinery and equipment to Debtor Briggs & Stratton Corporation<sup>1</sup>.

7. Movant believes that it may be able to assert a mechanic's lien for some or all of the materials, machinery and equipment provided to Debtor, on Debtor's facility at 5356 E. Ponce De Leon Avenue, Stone Mountain, Georgia 30083, Parcel Number: 18 139 05 006, Pin Number: 1097649, Tax District: S4 – Stone Mountain CID.

8. Accordingly, Movant seeks relief from the automatic stay to allow Movant to:

- (a) take such action as is necessary to commence and prosecute its mechanic's lien action in Georgia state court to secure its claim(s) as appropriate under applicable Georgia state law; and
- (b) to otherwise secure its claim(s) as permitted under applicable Georgia state law.

9. 11 U.S.C. §362(d) states the following in regard to relief from the automatic stay:

- (d) On request of a party in interest and after notice and a hearing, the Court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, and modifying, or conditioning such stay-
  - (1) for cause, including the lack of adequate protection of an interest in property of such party in interest;
  - (2) with respect to a stay of an act against property under subsection (a) of this section, if-
    - (A) the Debtor does not have an equity in such property; and
    - (B) such property is not necessary to an effective reorganization.

10. Movant moves the Court to modify/terminate the automatic stay pursuant to 11 U.S.C. §362(d) because “cause” exists for termination/modification of the automatic stay in that Movant MetroPower, Inc. is not adequately protected.

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<sup>1</sup> The invoices issued by MetroPower, Inc. were directed to Briggs & Stratton Power Products Group, LLC. On information and belief, Briggs & Stratton Power Products Group, LLC was merged with and into Briggs & Stratton Corporation, on or about January 1, 2017.

11. If Movant is not permitted to pursue its mechanic's lien claim, its rights will forever prejudiced and it will lose its ability to assert a secured claim against Debtor.

WHEREFORE, Movant MetroPower, Inc. respectfully requests that the automatic stay of 11 U.S.C. §362 be terminated/modified pursuant to 11 U.S.C. §362(d)(1) and further requests that:

(a) Movant be free to immediately take such action as is necessary to commence and prosecute its mechanic's lien action in Georgia state court to secure its claim(s) as appropriate under applicable Georgia state law;

(b) Movant be free to immediately take such action to otherwise secure its claim(s) as permitted under applicable Georgia state law;

(c) this Court's order granting relief not be subject to the fourteen-day stay provided in Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure; and

(d) this Court award Movant such other and further relief as is just and proper under the circumstances.

Dated: **September 23, 2020**  
St. Louis, Missouri

Respectfully submitted,  
STONE, LEYTON & GERSHMAN  
A Professional Corporation

By: /s/ Howard S. Smotkin  
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*Attorneys for MetroPower, Inc.*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was filed electronically on **September 23, 2020** with the United States Bankruptcy Court, and has been served on the parties in interest via email by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List, and has been served by Regular United States Mail Service, first class, postage fully pre-paid, addressed to those parties listed below on **September 23, 2020**:

1. Briggs & Stratton Corporation                      Debtor  
PO Box 702  
Milwaukee, Wisconsin 53201

/s/ Howard S. Smotkin

Howard S. Smotkin