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U.S. BKCY. APP. PANEL  
OF THE NINTH CIRCUIT

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT

In re:	)	BAP Nos.	WW-07-1209-JuKMo
	)		WW-07-1231-JuKMo
LEROY RUDOLPH WICKLUND and	)		
ANITA CARAMBA WICKLUND,	)	Bk. No.	05-19000
	)		
Debtors,	)		
	)		
JAMES BRIDE and LINNIE BRIDE,	)		
	)		
Appellants/Cross-Appellees,	)		
	)		
v.	)		
	)		
LEROY RUDOLPH WICKLUND and	)		
ANITA CARAMBA WICKLUND,	)		
	)		
Appellees/Cross-Appellants.	)		
	)		

**M E M O R A N D U M<sup>1</sup>**

Argued and Submitted on November 30, 2007  
at Seattle, Washington

Filed - January 17, 2008

Appeal from the United States Bankruptcy Court  
for the Western District of Washington

Honorable Philip H. Brandt, Bankruptcy Judge, Presiding

Before: JURY, KLEIN and MONTALI, Bankruptcy Judges.

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<sup>1</sup> This disposition is not appropriate for publication. Although it may be cited for whatever persuasive value it may have (see Fed. R. App. P. 32.1) it has no precedential value. See 9th Cir. BAP Rule 8013-1.

1 **I. INTRODUCTION**

2 This is an appeal and related cross-appeal from the  
3 disallowance of James and Linnie Bride's (the "Brides") proof of  
4 claim #13. The Brides' claim arose out of an alleged breach by  
5 Leroy and Anita Wicklund ("debtors") of a purchase and sale  
6 agreement to convey real property.

7 After a multi-day trial and subsequent motion for  
8 reconsideration, the bankruptcy court disallowed the Brides'  
9 claim and found that: (1) the contract between the parties was a  
10 valid and enforceable contract; (2) the mutual agreements between  
11 the parties survived the closing of the sale; (3) the Brides'  
12 claim for breach of the contract could be satisfied in money  
13 damages; (4) the Brides' claim was discharged in debtors' prior  
14 bankruptcy; (5) the contract was executory, but was breached  
15 before debtors' prior bankruptcy resulting in the discharge of  
16 the Brides' claim; and (6) the Brides' claim had a value of  
17 \$300,000 if it was not discharged in debtors' prior bankruptcy.  
18 Both parties timely appealed.

19 The Brides' appeal involves mostly bankruptcy issues. They  
20 contend the court erred in finding they had a "claim" within the  
21 meaning of § 101(5)(B)<sup>2</sup> because their remedy for debtors' breach  
22 of the contract was specific performance and money damages were  
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24 <sup>2</sup> Unless otherwise indicated, all chapter, section and rule  
25 references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330, and  
26 to the Federal Rules of Bankruptcy Procedure, Rules 1001-9036, as  
27 enacted and promulgated prior to the effective date of The  
28 Bankruptcy Abuse Prevention and Consumer Protection Act of 2005,  
Pub. L. 109-8, 119 Stat. 23, because the case from which this  
appeal arises was filed before its effective date (generally  
October 17, 2005).

1 inadequate. They also maintain that the contract was executory  
2 and rode through debtors' prior bankruptcy because it was not  
3 addressed in debtors' plan. Next, they contend that even if the  
4 contract had been breached before debtors' prior bankruptcy  
5 filing, their claim would have survived as a secured claim under  
6 § 365(j). Lastly, they maintain that the court erred in its  
7 valuation of their claim.

8 Debtors' cross-appeal involves mostly state law issues.  
9 Debtors contend the court erred in finding that the contract was  
10 enforceable because it did not meet the statute of frauds or  
11 contain an adequate legal description which is required under  
12 Washington law. They also maintain that the court erred in  
13 finding neither the statute of limitations nor debtors'  
14 performance barred the Brides' claim. Lastly, they assert error  
15 in the court's valuation of the Brides' claim.

16 Because we find that the Brides' claim was discharged  
17 through confirmation of the plan in debtors' 2000 bankruptcy, we  
18 AFFIRM the bankruptcy court's disallowance of the Brides' claim.

## 19 **II. FACTS**

20 The Brides owned real property in Edmonds, Washington  
21 [hereinafter described as "Lot 83, Lot 84 and Lot 85"). In early  
22 1997, the Brides began marketing Lot 83 for sale with a listing  
23 price of \$1.475 million. Debtors offered to purchase Lot 83 at a  
24 reduced price. To make the sale occur, the Brides reduced the  
25 sales price to \$1.205 million and proposed to carve out a 20,000  
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1 square foot lot (hereinafter "Lot A"),<sup>3</sup> which they would retain  
2 if debtors did not exercise their option to purchase it.

3 The parties entered into a purchase and sale agreement for  
4 Lot 83 on March 13, 1997 (the "PSA"). Various addenda attached  
5 to the PSA provided for the carve out of Lot A and the granting  
6 of and recording of an easement on Lot 83 and Lot 84 for road  
7 access to Lot 83, both of which were to occur prior to closing.  
8 The Brides also gave debtors an option to purchase Lot A for  
9 \$300,000.

10 The transaction closed on May 23, 1997, with execution of a  
11 statutory warranty deed for the entirety of Lot 83 without a  
12 reference to Lot A.<sup>4</sup> The escrow instructions, signed by both  
13 parties, provided that all requirements and conditions for  
14 transfer of the property had been satisfied. However, Lot A was  
15 not carved out of Lot 83 through either a short plat process or a  
16 boundary line adjustment ("BLA") and no easement documents were  
17 delivered or executed. Nonetheless, the parties closed the  
18 transaction.

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21 <sup>3</sup> Lot A is sometimes referred to as Lot 9 in the parties'  
22 pleadings and argument. However, to avoid confusion we simply  
23 refer to the 20,000 square foot lot as Lot A throughout this  
24 memorandum.

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24 <sup>4</sup> The Brides and the involved realtors agreed to provide  
25 financing in the amount of \$285,000 and \$27,000 respectively,  
26 secured by Lot 83, but not including Lot A. The debtors signed a  
27 note and deed of trust to the Brides. The deed of trust given to  
28 the Brides contained a legal description of the entire Lot 83  
while the deed of trust to the realtors used a different legal  
description that excepted out the contemplated Lot A. Also, at  
close of escrow, the first secured lender received a deed of  
trust which encumbered Lot 83 in its entirety.

1 **A. Debtors 2000 Chapter 11 Bankruptcy Filing**

2 On October 19, 2000, debtors filed a chapter 11 petition to  
3 stop a foreclosure sale of Lot 83.

4 On December 12, 2000, the Brides transferred Lots 84 and 85  
5 to Talbot Partners, LLC ("Talbot Partners"), a company owned 75%  
6 by the Brides and 25% by Howland Homes, LLC ("Howland Homes").

7 On June 1, 2001, debtors and the Brides entered into a  
8 second right of first refusal allowing debtors to buy Lot A from  
9 the Brides for \$350,000, increased from the original \$300,000  
10 option price because of interest and time lapse. At the time  
11 debtors signed the second option, Lot A was not a legal lot. Of  
12 course, at that time debtors already owned Lot 83, including Lot  
13 A.

14 In August 2001, Talbot Partners and debtors agreed to a  
15 BLA between Lot 83 and Lot 84.<sup>5</sup> The BLA gave debtors full legal  
16 access to their Lot 83 and added additional property to Talbot  
17 Partners' Lot 84. The lot line adjustment survey was recorded.  
18 The BLA was approved by the City of Edmonds. However, the BLA  
19 could not be completed because debtors owed back taxes on Lot 83.  
20 Thus, although deeds evidencing the BLA were exchanged and  
21 submitted for recording, they were never recorded.

22 Debtors noticed a January 4, 2002, claims bar date to all  
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26 <sup>5</sup> The change in boundaries was allegedly the basis for a  
27 proposal by Talbot Partners to subdivide its property into nine  
28 separate lots. The subdivision proposal was rejected by the City  
of Edmonds.

1 creditors, including the Brides.<sup>6</sup>

2 On April 18, 2003, debtors confirmed their plan. The plan  
3 did not mention the Brides' interest in Lot A, but it did address  
4 payments to the Brides pursuant to their note. During the  
5 chapter 11 case, the Brides never asserted that they had an  
6 interest in Lot A or a right to be paid for it. Furthermore,  
7 they did not go before the bankruptcy court seeking to compel  
8 debtors to assume or reject the PSA which they now allege to be  
9 executory. Lastly, they never sought relief from stay to file an  
10 action for specific performance.

11 Postconfirmation, the Brides, presumably on behalf of Talbot  
12 Partners, continued to make proposals to debtors regarding  
13 the BLA. On September 25, 2003, debtors' attorney sent the  
14 Brides a letter stating that debtors declined to execute a new  
15 BLA, but indicating a willingness to consider further proposals.

16 A final decree was entered in debtors' case on January 13,  
17 2004.

18 **B. Transfer of Lot 84**

19 On December 20, 2004, Talbot Partners conveyed Lot 84 to  
20 Howland Homes in which the Brides had no interest. Accordingly,  
21 from that date on neither the Brides nor an entity in which they  
22 had an interest could grant an easement over Lot 84 to debtors  
23 as contemplated by the addenda to the PSA.

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27 <sup>6</sup> The parties have never disputed that the Brides had notice  
28 of the 2000 Chapter 11 nor that debtors' plan failed to address  
the Brides' asserted right to Lot A based upon the PSA.

1 **C. The Current Chapter 11**

2 On July, 14, 2005 the debtors filed their second chapter 11  
3 petition. The bankruptcy court approved debtors' request to  
4 enter into a BLA between Lot 83 and Lot 84 with Howland Homes.  
5 Lot 83 was sold to third parties free and clear of liens and  
6 interests, and the BLA was concluded by the purchasers. The sale  
7 was approved by the bankruptcy court and closed on February 9,  
8 2006.

9 The Brides filed a proof of claim asserting entitlement to  
10 money damages for debtors' failure to transfer Lot A to them.  
11 The proof of claim stated that the debt arose in May 1997 and had  
12 a value of \$350,000 plus statutory interest.

13 After a multi-day trial, the bankruptcy court disallowed the  
14 Brides' claim.

15 Both parties timely appealed.

16 **III. JURISDICTION**

17 The bankruptcy court had jurisdiction pursuant to 28 U.S.C.  
18 §§ 1334 and 157(b)(1) and (b)(2)(B). We have jurisdiction under  
19 28 U.S.C. § 158.

20 **IV. ISSUES**

21 1. Whether the bankruptcy court erred in finding that the  
22 agreement between the parties was an executory contract that did  
23 not "ride through" debtors' 2000 bankruptcy case because it was  
24 breached prepetition.

25 2. Whether the bankruptcy court erred in finding that the  
26 Brides had a claim that fell within the scope of § 101(5) and was  
27 discharged in debtors' 2000 bankruptcy case.

1 **V. STANDARD OF REVIEW**

2 Issues relating to disallowance of the Brides' claim are  
3 questions of law, which we review de novo. Varela v. Dynamic  
4 Brokers, Inc. (In re Dynamic Brokers, Inc.), 293 B.R. 489, 493  
5 (9th Cir. BAP 2003). Questions of contract enforcement and  
6 interpretation are subject to de novo review unless extrinsic  
7 evidence was admissible on issues, such as intent. Estreito v.  
8 Citirealty Corp. (In re Estreito), 111 B.R. 294, 295 (9th Cir.  
9 BAP 1990). Where the interpretation of a contract involves  
10 review of extrinsic evidence, we review findings of fact for  
11 clear error while reviewing de novo principles of law applied to  
12 those facts. Tamen v. Alhambra World Inv., Inc. (In re Tamen),  
13 22 F.3d 199, 203 (9th Cir. 1994). Interpretation of state law is  
14 reviewed de novo. Bitters v. Networks Elec. Corp. (In re  
15 Networks Elec. Corp.), 195 B.R. 92 (9th Cir. BAP 1996).

16 Whether a contract is executory is a factual question to be  
17 determined by the bankruptcy court. Unsecured Creditors' Comm.  
18 of Robert L. Helms Constr. & Dev. Co., Inc. v. Southmark Corp.  
19 (In re Robert Helms Constr. & Dev. Co., Inc.), 139 F.3d 702, 706  
20 n. 13 (9th Cir. 1998). We review findings of fact for clear  
21 error. In re Networks Elec. Corp., 195 B.R. at 96.

22 We may affirm the bankruptcy court's decision on any ground  
23 supported by the record, even if it differs from the reasoning of  
24 the court. Grzybowski v. Aquaslide 'N' Dive Corp. (In re  
25 Aquaslide 'N' Dive Corp.), 85 B.R. 545, 549-50 (9th Cir. BAP  
26 1987).



1 **VI. DISCUSSION**

2 While the parties have raised a myriad of issues, those  
3 dispositive to this appeal are two: 1) whether the PSA was  
4 executory and, if so, whether it "rode through" debtors' 2000  
5 bankruptcy and 2) whether the Brides had a claim that fell within  
6 the scope of § 101(5) that was discharged in debtors' 2000  
7 bankruptcy. The parties have also raised a myriad of facts, but  
8 the one dispositive to this appeal is whether debtors had any  
9 obligations under the PSA at the time they filed their 2000  
10 bankruptcy petition other than to pay for Lot A, which had  
11 already been transferred to them.

12 **A. The PSA Was Not Executory**

13 The Brides allege that the PSA was executory and, therefore,  
14 rode through the debtors' 2000 bankruptcy because it was not  
15 addressed in debtors' plan. Initially, the bankruptcy court  
16 found the PSA was not executory. After reconsidering, the court  
17 found it executory, but decided that the contract did not ride  
18 through because it was breached prepetition. We find the  
19 bankruptcy court erred in finding that the PSA was executory at  
20 the time of debtors' 2000 bankruptcy filing for the reasons set  
21 forth below.

22 An executory contract is one "on which performance remains  
23 due to some extent on both sides." Robert Helms Constr. & Dev.  
24 Co., Inc., 139 F.3d at 704. "More precisely, a contract is  
25 executory if 'the obligations of both parties are so unperformed  
26 that the failure of either party to complete performance would  
27 constitute a material breach and thus excuse the performance of  
28 the other.'" Id. The executory nature of the contract is

1 determined at the time of the filing. Id. at 706.

2       We step back and take a big-picture view of the facts and  
3 circumstances in this case to understand what transpired between  
4 the parties, rather than examine the parties' actions under a  
5 microscope as the parties seek us to do in this appeal. The big-  
6 picture view is that the PSA, upon which the Brides rely for  
7 their claim, involved the purchase and sale of Lot 83. We have  
8 combed through the record and testimony and find that the parties  
9 always intended for debtors to pay the Brides the purchase price  
10 of \$1.205 million plus \$300,000 for the entirety of Lot 83. This  
11 conclusion is buttressed by Mr. Bride's testimony that once  
12 debtors exercised the option to purchase Lot A, that is, pay for  
13 it, the carve out of Lot A would be moot.

14       When the transaction closed, the debtors received the  
15 entirety of Lot 83, but they had not paid for that portion  
16 referred to as Lot A. Thus, the PSA was an executed contract  
17 with debtors' only remaining obligation to pay the remainder of  
18 the purchase price. Contracts that only require payment by the  
19 debtor are not executory. Employee's Ret. Sys. v. Osborne (In re  
20 THC Fin. Corp.), 686 F.2d 799, 804 (9th Cir. 1982). The Brides'  
21 granting of the easement did not make the PSA executory because  
22 the debtors could have always brought an action to compel the  
23 Brides to grant them an easement.

24       While we recognized that the "ride through" doctrine retains  
25 its vitality in Diamond Z Trailer, Inc. v. JZ L.L.C. (In re JZ  
26 L.L.C.), 371 B.R. 412 (9th Cir. BAP 2007), the doctrine is

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1 inapplicable to this case because the PSA was not executory.<sup>7</sup>  
2 Accordingly, the Brides had a claim which arose prior to debtors'  
3 2000 bankruptcy. See Boeing N.A., Inc. v. Ybarra (In re Ybarra),  
4 424 F.3d 1018, 1022 (9th Cir. 2005) (finding that "[A] claim  
5 arises, for purposes of discharge in bankruptcy, at the time of  
6 the events giving rise to the claim...."); THC Fin. Corp., 686  
7 F.2d at 802 (9th Cir. 1982) (accepting bankruptcy court's finding  
8 that contingent claim for indemnification arose at time  
9 indemnification agreement was executed and not when agreement was  
10 breached).

11 **B. The Brides' Claim Was For Money Damages**

12 A claim includes a right to payment or equitable remedy,  
13 whether or not such right is reduced to judgment, liquidated,  
14 unliquidated, fixed, contingent, matured, unmatured, disputed,  
15 undisputed, legal, equitable, secured or unsecured.<sup>8</sup> Centre Ins.  
16 Co. v. SNTL Corp. (In re SNTL), \_\_\_ B.R. \_\_\_, 2007 WL 4625246

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18 <sup>7</sup> Thus, we need not address the Brides' argument under  
19 § 365(j).

20 <sup>8</sup> Under § 502(b)(1), a claim is allowable except to the  
21 extent it is unenforceable against the debtor under applicable  
22 law for a reason other than it is contingent or unmatured.  
23 Centre Ins. Co. v. SNTL Corp. (In re SNTL), \_\_\_ B.R. \_\_\_, 2007 WL  
24 4625246, at \*8 (9th Cir. BAP 2007). Whether the Brides have an  
25 enforceable claim against the debtors is determined by  
26 application of Washington state law. See Hassanally v. Republic  
27 Bank (In re Hassanally), 208 B.R. 46, 49 (9th Cir. BAP  
28 1997) (finding that property interests are created and defined by  
state law). In their cross-appeal, debtors have raised a number  
of state law defenses to the enforceability of the PSA. We need  
not delve into those thorny issues because we can decide this  
appeal on other grounds. We therefore assume, without deciding,  
that the PSA upon which the Brides rely for their claim is  
enforceable under Washington law.

1 (9th Cir. BAP 2007); see also 11 U.S.C. § 105(5). The definition  
2 permits the broadest possible relief in the bankruptcy court and  
3 ensures that “all legal obligations of the debtor, no matter how  
4 remote or contingent, will be able to be dealt with in the  
5 bankruptcy case.” SNTL, 2007 WL 4625246, at \*8 (citation  
6 omitted).

7 The Brides contend their claim was one for specific  
8 performance and not for money damages and, therefore, their claim  
9 was not discharged in debtors’ 2000 bankruptcy case. Whether  
10 their remedy for debtors’ failure to transfer Lot A to them was  
11 one for specific performance must be examined under Washington  
12 law. If the Brides did not have a right to specific performance,  
13 their claim falls within the scope of § 101(5)(A).

14 The Brides primarily rely on Crafts v. Pitts, 161 Wash.2d  
15 16, 162 P.3d 383 (2007) for the proposition that their claim was  
16 not discharged in debtors’ 2000 bankruptcy because money damages  
17 are not an alternative to specific performance when real property  
18 is involved. In that case, the Washington Supreme Court set  
19 forth the standards for granting equitable relief in the form of  
20 specific performance. The court noted that money damages must be  
21 inadequate. Id. at 23-24. “In determining whether damages would  
22 provide adequate compensation, courts inquire as to (i) the  
23 difficulty of proving damages with reasonable certainty, (ii) the  
24 difficulty of procuring a suitable substitute, and (iii) the  
25 likelihood that an award of damages could not be collected.” Id.

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1 at 24.<sup>9</sup> The court also observed that specific performance was  
2 frequently used to order a party to convey land because land was  
3 unique and difficult to value. Id. at 25.

4 The Washington Supreme Court's analysis focused on the  
5 uniqueness of the real property involved. The acreage at issue  
6 abutted the 160 acres already owned by the plaintiffs. Further,  
7 it had always been considered part of the entire parcel. Id. at  
8 26. The court also held that because of the unique nature of the  
9 property, there could be no calculation of its future value and  
10 no dollar sign could be placed on the plaintiffs' equitable  
11 remedy. Id. at 29. Accordingly, the court affirmed the trial  
12 court's finding that the Crafts had a right to specific  
13 performance under Washington law.

14 The court next considered whether the Crafts' equitable  
15 claim survived Pitts' chapter 7 bankruptcy discharge because  
16 there was no alternative right of money damages that would  
17 adequately and completely satisfy the Crafts' claim.<sup>10</sup> While  
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19 <sup>9</sup> The court also held that there must be a binding contract  
20 that has definite and certain terms, that is free from fraud or  
21 overreaching, and that has been breached or a party has  
22 threatened breach. Id. at 23-24. Lastly, the court held that  
the remedy should not result in undue hardship to any party  
involved. Id.

23 <sup>10</sup> We take this moment to note that the Washington state  
24 court does not have the final say in deciding whether a claim is  
25 discharged in a bankruptcy case. Such determination is a core  
26 proceeding that implicates substantive rights under Title 11.  
27 These determinations are left exclusively to the bankruptcy  
courts. See McGhan v. Rutz (In re McGhan), 288 F.3d 1172, 1179-  
28 80 (9th Cir. 2002); Gruntz v. County of Los Angeles (In re  
Gruntz), 202 F.3d 1074, 1082-84 (9th Cir. 2000); and Pavelich v.  
McCormick, Barstow, Sheppard, Wayte & Carruth LLP (In re  
Pavelich), 229 B.R. 777, 782 (9th Cir. BAP 1999).

1 observing that § 101(5)(B) encouraged creditors to select money  
2 damages from among alternative remedies, the Washington Supreme  
3 Court opined that the section did not require creditors who were  
4 entitled to an equitable remedy to "select a suboptimal remedy of  
5 money damages." Id. at 28. Because money damages would not  
6 completely satisfy the Crafts' claim, the court found that the  
7 Crafts' specific performance remedy survived Pitts' discharge.

8 **1. The Brides Had No Right To Specific Performance Under**  
9 **Washington Law**

10 A "decree of specific performance rests within the  
11 sound discretion of the trial court." Crafts v. Pitts, 161  
12 Wash.2d at 29. We therefore consider whether a Washington court  
13 would exercise its discretion and award specific performance to  
14 the Brides under the circumstances of this case.

15 Applying the standards for an award of specific performance,  
16 we consider whether money damages would be inadequate because the  
17 Brides would have difficulty in proving their damages with  
18 reasonable certainty because the real property involved is so  
19 unique.

20 Unlike Crafts v. Pitts, there is no evidence in the record  
21 that demonstrates the uniqueness of Lot A. Rather, the record  
22 shows that the transaction between the debtors and the Brides was  
23 always about money. Like one of the lead actors stated in the  
24 movie Jerry McGuire, "Show me the Money", the Brides would be  
25 satisfied when debtors showed them the money. The Brides were  
26 always willing to allow debtors to keep Lot A, which was never a  
27 legal lot, as long as they paid for it. The debtors' option to  
28 purchase Lot A provides support for the proposition that the

1 Brides would have no difficulty proving their damages with  
2 reasonable certainty because the Brides had already valued Lot A  
3 through the option agreements in 1997 and 2001 by placing a value  
4 on Lot A of \$300,000 and \$350,000, respectively.

5 In short, the arrangement for the sale of Lot A proves it  
6 was not unique property for which money damages would be  
7 inadequate. Rather, because money damages could completely  
8 satisfy the Brides' claim, they would not have had a right to  
9 specific performance under Washington law. Accordingly, we find  
10 their claim appropriately falls within the scope of § 101(5) (A).

11 **2. Even if the Brides Had An Equitable Claim, There Was An**  
12 **Alternative Right to Money Damages**

13 Even if the Brides had a right to specific performance  
14 under Washington law, we find that money damages would be an  
15 alternative right which would adequately and completely satisfy  
16 the Brides' claim for the reasons set forth above. 11 U.S.C. §  
17 101(5) (B). The court in Crafts v. Pitts noted that the "question  
18 is always whether money damages would equally compensate the  
19 injured party - not merely whether they are available. 161  
20 Wash.2d at 28 (emphasis added); see also Matter of Udell, 18 F.3d  
21 403, 408 (7th Cir. 1994) ("If the right to payment is an  
22 'alternative' to the right to an equitable remedy, the necessary  
23 relationship clearly exists, for the two remedies would be  
24 substitutes for one another. This is the example of 'claim'  
25 given in the legislative history."). Legislative history also  
26 supports the view that equitable remedies such as specific  
27 performance may be treated as claims.

28 Section 101(5) (B)...is intended to cause the  
liquidation or estimation of contingent rights of

1 payment for which there may be an alternative equitable  
2 remedy with the result that the equitable remedy will  
3 be susceptible to being discharged in bankruptcy. For  
4 example, in some States, a judgment for specific  
5 performance may be satisfied by an alternative right to  
6 payment in the event performance is refused. In that  
7 event, the creditor entitled to specific performance  
8 would have a "claim" for purposes of a proceeding under  
9 title 11. Cong. Rec. 32392 (1978).

6 Consequently, the Brides' assertion that their equitable  
7 claim survived debtors' 2000 bankruptcy discharge is without  
8 merit. In sum, we find no clear error with the bankruptcy  
9 court's finding that the Brides had a claim for damages capable  
10 of being discharged in debtors' prior bankruptcy case.

### 11 **C. The Brides' Claim Was Discharged**

12 Section 1141(d) of the Bankruptcy Code states that, except  
13 as otherwise provided therein, the "confirmation of a plan . . .  
14 discharges the debtor from any debt that arose before the date of  
15 such confirmation . . . ." 11 U.S.C. § 1141(d)(1)(A). Thus, the  
16 Brides' claim was discharged through confirmation of the debtors'  
17 plan in their prior bankruptcy. Simply put, the Brides chose not  
18 to present their claim in debtors' 2000 bankruptcy when they  
19 should have done so. Not having done so, they cannot now prevail  
20 on their claim in the present case. The arguments they advance  
21 for doing so offer too little too late.

## 22 **VII. CONCLUSION**

23 We find that the Brides had a prepetition claim that was  
24 discharged in debtors' 2000 bankruptcy. While we disagree with  
25 the bankruptcy court's finding that the PSA was executory on the  
26 date of debtors' 2000 bankruptcy filing, remand is unnecessary  
27 because we AFFIRM the bankruptcy court's disallowance of the  
28 Brides' claim.