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3 UNITED STATES BANKRUPTCY COURT
4 EASTERN DISTRICT OF CALIFORNIA
5 SACRAMENTO DIVISION
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8 In re:)
9) Case No. 05-34477-B-13L
10 Gary/Rebecca Lawson) Docket Control No. GG-6
11 Debtors.) Date: January 17, 2007
12) Time: 9:30 a.m.

13 On or after the calendar set forth above, the court issued
14 the following ruling. The official record of the ruling is
appended to the minutes of the hearing.

15 Because the ruling constitutes a "reasoned explanation" of
16 the court's decision under the E-Government Act of 2002 (the
"Act"), a copy of the ruling is hereby posted on the court's
17 Internet site, www.caeb.uscourts.gov, in a text-searchable
format, as required by the Act. However, this posting does not
18 constitute the official record, which is always the ruling
appended to the minutes of the hearing.

19 **DISPOSITION AFTER ORAL ARGUMENT**

20 This matter continued from December 19, 2006, to allow the
21 debtors and claimant to brief the nature and validity of a claim,
22 if any, to which claimant may be entitled. Debtors timely filed
23 further briefing.

24 Neither the respondent within the time for opposition nor
25 the movant within the time for reply has filed a separate
26 statement identifying each disputed material factual issue
27 relating to the motion. Accordingly, both movant and respondent
28 have consented to the resolution of the objection to claim no. 9

1 on the court's claims register, filed by Western Sierra (the
2 "Claim") and all disputed material factual issues pursuant to
3 F.R. Civ. P. 43(e). LBR 9014-1(f)(1)(ii) and (iii).

4 The objection to claim is sustained in part and overruled in
5 part. The objection is sustained to the extent that it contests
6 the debtors' personal liability on the claim. The objection is
7 overruled to the extent that it contests the enforceability of
8 the claim against certain of the debtors' property. If all of
9 the debtors' property which secures the claim is abandoned in the
10 debtors' plan, neither the debtors nor their remaining property
11 will have any liability as to the claim.

12 The debtors argue in their supplemental brief that the Claim
13 should be disallowed in its entirety because they intend to
14 surrender the collateral secured by the claim. This argument is
15 not persuasive. Claims in bankruptcy are determined as of the
16 petition date. 11 U.S.C. § 502. How a claim is provided for in a
17 plan is irrelevant to whether the claim was valid on the petition
18 date. Claims that are enforceable against either the debtor or
19 the property of the debtor are allowed pursuant to 11 U.S.C.
20 Section 502(b)(1). The lack of privity between claimant and the
21 debtors "extinguishes only one mode of enforcing a claim -
22 namely, an action against the debtor in personam, while leaving
23 intact another - namely, an action against the debtor in rem."
24 See Johnson v. Home State Bank, 501 U.S. 78, 84-85 (1991).
25 The court will issue a minute order.