

1 stipulation to February 3, 2006, at which time this Court set the
2 matter for trial on May 16, 17 and 18, 2006, and ordered that all
3 declarations in lieu of direct testimony be filed by April 21,
4 2006, and that each side file its points and authorities by
5 May 5, 2006, with any replies due by May 12, 2006.

6 This Court continued the trial dates to June 27, 28 and 29,
7 2006, and then at the request of the parties, who were pursuing
8 settlement discussions and/or mediation, continued the trial
9 dates to September 26, 27 and 28, 2006.

10 In the instant motion, Defendant contends that each of the
11 parties takes a different position as to which party has the
12 burden of proof under 11 U.S.C. § 523(a)(4). Defendant now seeks
13 leave to file a supplement to his declarations and his points and
14 authorities.

15 Real party in interest, Jean Barber, who is confined to an
16 assistant living facility, opposes, arguing that the additional
17 declarations will increase the cost of litigation.

18 The complaint was filed in November 2004. Defendant had
19 just about one year to conduct all of its discovery. The Court
20 set the matter originally for trial on May 18, 2006, and issued
21 its written Order Regulating Pretrial Proceedings and Fixing Date
22 for Trial on February 6, 2006. Defendant agreed to all the terms
23 of this Court's order at the February 3, 2006, status conference.

24 In summary, Defendant has had more than ample time to
25 research the pertinent applicable law and to prepare his case for
26 trial. Accordingly, Defendant's Emergency Motion is denied.

27

28 Dated: July 28, 2006


JOHN J. HARGROVE
UNITED STATES BANKRUPTCY JUDGE