UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

IN THE MATTER OF	)	
	)	
TRACY MICHELLE MOORE,	)	CASE NO. 10-30188 HCD
	)	CHAPTER 7
	)	
DEBTOR.	)	
	)	
	)	
ROBERT WALKER,	)	
PLAINTIFF,	)	
vs.	)	PROC. NO. 10-3052
	)	
TRACY MICHELLE MOORE,	)	
DEFENDANT.	)	

Appearances:

Stephen H. Downs, Esq., attorney for plaintiff, 99 West Canal Street, Wabash, Indiana 46992; and

Steve R. Fawcett, Esq., attorney for defendant, 204 West Main Street, North Manchester, Indiana 46962.

O R D E R

At South Bend, Indiana, on July 29, 2011.

Before the court is the Plaintiff's Motion for Relief from Judgment, filed by plaintiff Robert Walker on July 25, 2011. For the reasons that follow, the court grants the relief sought in the plaintiff's Motion.

The court construes the plaintiff's Motion to be a motion to alter or amend the court's judgment, filed pursuant to Federal Rule of Civil Procedure 59(e) and Federal Rule of Bankruptcy Procedure 9023 (which applies Rule 59 in bankruptcy cases), because it was timely filed within 14 days of the entry of judgment. Rule 59(e) provides relief from judgments or orders for movants who establish the required elements. "Rule 59(e) allows a party to direct the . . . court's attention to newly discovered material evidence or a manifest error of law or fact, and enables the court to correct its own errors and thus avoid unnecessary appellate procedures.'" *Divane v. Krull Elec. Co., Inc.*, 194 F.3d 845, 850 (7th Cir. 1999) (quoting *Moro v.*

Shell Oil Co., 91 F.3d 872, 876 (7th Cir. 1996)). The granting or denial of motions for consideration under Rule 59(e) is within the court's discretion. "[N]ormally Rule 59(e) motions may not be used to cure defects that could have been addressed earlier. The party must instead point either to an error of law or to newly discovered evidence." *Fannon v. Guidant Corp.*, 583 F.3d 995, 1002 (7th Cir 2009) (citing *Sigworth v. City of Aurora*, 487 F.3d 506, 512 (7th Cir. 2007)).

In this case, the court notes that the deadline for filing adversary complaints had been extended and thus that the Complaint therefore was timely filed. Accordingly, relief from the court's Judgment of July 20, 2011, is granted. A trial on the Complaint will be set by separate order.

SO ORDERED.

/s/ HARRY C. DEES, JR.
HARRY C. DEES, JR., JUDGE
UNITED STATES BANKRUPTCY COURT