

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D20689
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_____AD3d_____

Argued - September 22, 2008

PETER B. SKELOS, J.P.
STEVEN W. FISHER
THOMAS A. DICKERSON
ARIEL E. BELEN, JJ.

2007-09262

DECISION & ORDER

Cohen-Putnam Agency, Ltd., appellant,
v Hudson Building Maintenance, Inc., respondent.

(Index No. 223/03)

Louis J. Reda (Goldman & Grossman, New York, N.Y. [Eleanor R. Goldman and Jay S. Grossman], of counsel), for appellant.

Daniels and Porco, LLP, Carmel, N.Y. (Robert C. Lusardi of counsel), for respondent.

In an action, inter alia, in effect, to recover damages for breach of an express warranty, the plaintiff appeals from an order of the Supreme Court, Putnam County (O'Rourke, J.), dated August 28, 2007, which granted the defendant's motion for summary judgment dismissing the complaint.

ORDERED that the order is reversed, on the law, with costs, and the defendant's motion for summary judgment dismissing the complaint is denied.

The Supreme Court erred in entertaining the summary judgment motion brought by the defendant long past the time required by CPLR 3212, in the absence good cause shown (*see Brill v City of New York*, 2 NY3d 648; *Dettman v Page*, 18 AD3d 422). Accordingly, the defendant's motion should have been denied.

SKELOS, J.P., FISHER, DICKERSON and BELEN, JJ., concur.

ENTER:



James Edward Pelzer
Clerk of the Court

October 14, 2008

COHEN-PUTNAM AGENCY, LTD. v HUDSON BUILDING MAINTENANCE, INC.