

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

D20421  
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Submitted - September 3, 2008

PETER B. SKELOS, J.P.  
MARK C. DILLON  
DAVID S. RITTER  
EDWARD D. CARNI  
JOHN M. LEVENTHAL, JJ.

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2008-02719

DECISION & ORDER

Paramount Transportation Systems, Inc., d/b/a  
R + L Carriers, respondent, v Lasertone Corporation,  
appellant.

(Index No. 28695/06)

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Harold M. Hoffman, New York, N.Y., for appellant.

Thompson Hine, LLP, New York, N.Y. (Joseph Koczko of counsel), for respondent.

In an action to recover damages for breach of contract, the defendant appeals from an order of the Supreme Court, Queens County (Taylor, J.), dated December 20, 2007, which granted the plaintiff's motion pursuant to CPLR 3215 for leave to enter judgment on the issue of liability upon the defendant's failure to answer and denied its application for leave to serve and file an answer.

ORDERED that the order is reversed, on the law, with costs, the plaintiff's motion is denied, and the defendant's application for leave to serve and file an answer is granted; and it is further,

ORDERED that the defendant's time to serve and file an answer is extended until 20 days after service upon it of a copy of this decision and order.

February 17, 2009

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PARAMOUNT TRANSPORTATION SYSTEMS, INC.,  
d/b/a R + L CARRIERS v LASERTONE CORPORATION

In opposition to the plaintiff's motion pursuant to CPLR 3215 for leave to enter a default judgment upon the defendant's failure to answer, the defendant's president submitted an affidavit which set forth a reasonable excuse for the defendant's short delay and made a sufficient showing of the existence of a meritorious defense (*see Nasca v Town of Brookhaven*, 4 AD3d 462; *cf. Juseinoski v Board of Educ. of City of N.Y.*, 15 AD3d 353, 355). Under these circumstances, the plaintiff's motion should have been denied and the defendant's application for leave to serve and file a late answer should have been granted (*see CPLR 3012[d]*).

SKELOS, J.P., DILLON, RITTER, CARNI and LEVENTHAL, JJ., concur.

ENTER:



James Edward Pelzer  
Clerk of the Court