

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RYECO, INC.,
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Plaintiff,
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GARDEN STATE PRODUCE CO., INC.
et al.,
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Defendants.
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Civil Action No. 08-307 (SRC)

OPINION

CHESLER, U.S.D.J.

This matter comes before the Court on the motion for summary judgment, pursuant to Federal Rule of Civil Procedure 56, by Plaintiff Ryeco, Inc. ("Ryeco"). The motion for summary judgment will be granted on two grounds. First, Plaintiff's motion for summary judgment is unopposed, and asserts a legal basis for judgment that this Court accepted when the previous motion for summary judgment was granted in part in the Opinion & Order of August 12, 2009. Second, Plaintiff has brought to the Court's attention that the Court was in error when it stated in the Opinion & Order of August 12, 2009 that Defendant Garden State Produce Co., Inc. ("Garden State") had not appeared in the case. Although a notice of appearance was not entered on the docket, Garden State did file an Answer to the Complaint, and the brief in opposition to the previous motion for summary judgment filed by Defendant Gary T. Feruggia ("Feruggia") makes clear that counsel for Feruggia also represented Garden State, which was out of business and did not oppose the motion. Because of this, this Court was in error when it declined to grant

the previous motion for summary judgment against Garden State because of the erroneous belief that Garden State had defaulted. The previous motion for summary judgment should have been granted in its entirety.

In the instant motion, Plaintiff seeks an award of prejudgment interest. Plaintiff has established its entitlement to prejudgment interest under the Perishable Agricultural Commodities Act of 1930, 7 U.S.C. § 499a (“PACA”). Judgment will be entered against Garden State in the amount of \$20,000, plus prejudgment interest at the rate of 1.5% per month from 12/18/2006 until the date of Judgment.

Plaintiff’s motion for summary judgment (Docket Entry No. 30), pursuant to Federal Rule of Civil Procedure 56, is **GRANTED**. An Order follows.

/s Stanley R. Chesler
STANLEY R. CHESLER
United States District Judge

Dated: April 22, 2010