

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

KIM LOFTIN

PLAINTIFF

vs.

4:07-cv-564

UNITED PARCEL SERVICE, INC.


DEFENDANTS

**Order Denying Default Judgment**

Before the Court is Plaintiff Kim Loftin's Motion for Default Judgment against Defendant UPS (doc. #42). Loftin claims he is entitled to judgment as a matter of law pursuant to Federal Rule of Civil Procedure 55 because UPS failed to file an answer to the First Amended Complaint (doc. #28). UPS has now filed its Answer (doc. #47), along with a response to the motion, in which it claims there is no prejudice from its inadvertent failure to file earlier. The Court agrees. UPS has been consistently proactive in pursuing its defense. Its original Answer was filed in a timely fashion and it has since filed an Amended Answer as Loftin desired. Furthermore, UPS has filed a Motion for Summary Judgment (doc. #34) prior to the motion at issue, which again demonstrates its attentiveness to the issues. Particularly while this motion is pending, the Court finds the previous failure to file excusable, and thus Loftin's Motion is **DENIED**.

**IT IS SO ORDERED.**

Dated this 14th day of November, 2008.

  
RODNEY S. WEBB, District Judge  
United States District Court