

300 A.D.2d 543, 752 N.Y.S.2d 566, 2002 N.Y. Slip Op. 09694  
(Cite as: 300 A.D.2d 543, 752 N.Y.S.2d 566)

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Supreme Court, Appellate Division,  
Second Department, New York.

HAROLD LEVINSON ASSOCIATES, INC., appel-  
lant,  
v.  
SAM'S SURPRISE, INC., respondent.

Dec. 23, 2002.

[Kenneth J. Weinstein](#), Garden City, N.Y. ([Lesley A. Reardon](#) of counsel), for appellant.

Madu, Edozie, & Madu, P.C., New York, N.Y.  
([Sam O. Maduegbuna](#) of counsel), for respondent.

\*543 In an action, inter alia, to recover on an account stated, the plaintiff appeals, as limited by its brief, from so much of an order of the Supreme Court, Nassau County (O'Connell, J.), dated September 11, 2001, as denied its motion for summary judgment with leave to renew upon completion of discovery.

ORDERED that the order is affirmed insofar as appealed from, with costs.

\*544 Contrary to the plaintiff's contention, the account stated is vague and cursory as there is no indication of the invoices upon which the defendant failed to make payments or that the defendant is indebted to \*\*567 the plaintiff in the amount alleged in the complaint (see [Goodman, Rakower & Agiato v. Lieberman](#), 226 A.D.2d 343, 344, 640 N.Y.S.2d 764). As such, there exists an issue of fact as to whether the defendant has an outstanding debt owed to the plaintiff. Accordingly, the Supreme Court properly denied plaintiff's motion for summary judgment with leave to renew upon completion of discovery (see generally [Sillman v. Twentieth Century-Fox Film Corp.](#), 3 N.Y.2d 395, 404, 165 N.Y.S.2d 498, 144 N.E.2d 387).

[FEUERSTEIN](#), J.P., [SMITH](#), [O'BRIEN](#) and [GOLDSTEIN](#), JJ., concur.

N.Y.A.D. 2 Dept. 2002.  
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