

Case No. 2,264a.

BYINGTON et al. v. LEMMONS.

[Hempst. 12.]¹

Superior Court, D. Arkansas.

April, 1822.

ADDING INTEREST TO VERDICT.

Where damages are assessed by a jury, the court, on rendering judgment therefor, cannot add interest from a time anterior to the verdict, as it is presumed that interest was embraced in the damages, if interest ought to have been given at all.

[At law. Action by E. Byington and Benjamin Murphy against James Lemmons. Defendant appeals from a judgment for plaintiffs upon a verdict rendered.]

Before JOHNSON, SCOTT, and SELDEN, Judges.

OPINION OF THE COURT. The only question we deem important is the variance between the verdict of the jury and the judgment of the court. The verdict is for “eighty-nine dollars in damages,” and the judgment is for damages assessed by the jury, and also for interest thereon from the rendition of the judgment before the justice of the peace. We are of opinion that the court erred in adding interest to the damages found by the jury. It was the province of the jury to decide upon the question of interest, and it must be presumed, if any ought to have been awarded, that it was included in their assessment of damages. Reversed.

¹ [Reported by Samuel H. Hempstead, Esq.]