

Case No. 4,785a.  
[Hempst. 61.]<sup>1</sup>

FIKES v. BENTLEY.

Superior Court, Territory of Arkansas.

May. 1828.

NEW TRIAL—NEWLY DISCOVERED EVIDENCE.

On an application for a new trial, on the ground of newly discovered evidence, it should appear that it was unknown to the party at the trial, as well as his counsel.

Appeal from the Conway circuit court [in a suit by Fire Fikes against George Bentley].

Before ESKRIDGE, JOHNSON, and TRIMBLE, Judges.

OPINION OF THE COURT. This is an appeal from the Conway circuit court. The appellant moved for a new trial, on an affidavit setting forth newly discovered evidence, and stating that the evidence was not known to his counsel on the trial of the cause. But it does not state that it was unknown to himself, which we think indispensable. Judgment affirmed.

<sup>1</sup> [Reported by Samuel H. Hempstead, Esq.]