

Case No. 6,956. HUTCHINSON v. DECATUR.
[3 Cranch, C. C. 291.]¹

Circuit Court, District of Columbia.

May Term, 1828.

VERDICT—NEW TRIAL.

If the jury take out the plaintiff's account, without the consent of the defendant, the court will grant a new trial.

The jury having taken out an account of the plaintiff without the defendant's consent, came in and declared their verdict.

Mr. Redin, for plaintiff, before the verdict was entered and affirmed, discovered the error, and requested that the paper should be withdrawn, and the jury sent out again with an instruction that the paper was not evidence; which THE COURT (nem. con.) granted.

The jury then retired and returned a verdict for a smaller sum.

R. S. Coxe, for defendant, moved for a new trial, and cited *Irvine v. Cook*, 15 Johns. 239, and *Penfield v. Carpenter*, 13 Johns. 350.

New trial granted.

¹ [Reported by Hon. William Cranch, Chief Judge.]