

TAYLOR v. HOGAN.

{1 Hempst. 16.}¹

Supreme Court, Territory of Arkansas. Aug., 1822.

JUSTICE OF PEACE—APPEAL—TRIAL DE NOVO.

It is no ground for reversing the judgment of a justice rendered on a specialty, that neither the plaintiff nor his agent appeared at the trial, and the appellate court, instead of determining the cause on the transcript from the justice, should have tried it de novo on the merits.

Error to Pulaski circuit court.

{This was an action by John Taylor against Edmund Hogan.}

OPINION OF THE COURT. This was an appeal from a justice of the peace to the court below, where the judgment was reversed on the ground that the plaintiff did not appear before the justice in person, or by agent duly empowered by letter of attorney, on the day of trial. We are of opinion that the court erred in reversing the judgment of the justice on that ground, the suit having been brought on a specialty; and also erred in determining the case on the transcript from the justice alone, when it should 778 have been tried on the merits as though the suit had originated in that court. Geyer, Dig. 390. Reversed.

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