

Case No. 17,505.

WHETCROFT v. BURFORD.

[2 Cranch, C. C. 96.]¹

Circuit Court, District of Columbia.

Dec. Term, 1813.

ASSUMPSIT—SET-OFF—ACCOUNT.

An account for work and labor cannot, at the trial, be given in evidence upon non assumpsit, as a set-off, unless the account has been filed and notice given.

Assumpsit, against the defendant, as indorser of the note of Ambrose White, indorsed by Burford to Minifie, and by Minifie to Whetcroft as his agent and trustee.

Mr. Law, for defendant, offered to prove work and labor done by White for Minifie on account of this note.

Mr. Key, for plaintiff, objected, because notice of such set-off had not been given before the jury was sworn.

THE COURT (nem. con.), upon consideration of the Maryland act of 1785, c. 46, § 7, which requires the account to be filed, or pleaded, refused to receive the evidence.

[See Case No. 17,507.]

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