

Case No. 18,106a.
[Hempst. 17.]¹

WYATT v. HARDEN.

Superior Court, Territory of Arkansas.

Aug., 1822.

AMENDMENT OF DECLARATION—TIME TO PLEAD—EVIDENCE.

1. When a substantial amendment is made in a declaration, the defendant should be allowed until the next succeeding term to plead.
2. It is improper to allow evidence to go to the jury which would constitute the ground of a separate action.

{Appeal by John Wyatt from a judgment in favor of Jacob Harden.}

Before JOHNSON, SCOTT, and SBLDEN, JJ.

OPINION OF THE COURT. The judgment in this case must be reversed upon two grounds: (1) The court erred in not allowing the appellant, the defendant in the court below, until the next term to plead, after a substantial amendment of the declaration had been made. (2) The court erred in permitting any evidence to go to the jury in relation to a ferry, as a disturbance of or injury done thereto would constitute the ground of a separate action. Reversed.

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