

GASTER VS. HODGINS.

Where the verdict is directly against evidence, this Court will order a new trial.

Appeal from Drew Circuit Court.

Hon. Theodoric F. Sorrels, Circuit Judge.

Winter, and Bell & Carlton, for appellant.
Harrison, for appellee.

Mr. Justice Fairchild delivered the opinion of the court.

To assumpsit for labor brought by Hodgins against Gaster, the latter pleaded non-assumpsit, set-off and recoupment, and issues upon these pleas were submitted to the jury. The verdict and judgment were for the plaintiff in the sum of one hundred and ten dollars. Defendant moved for a new trial, for the verdict being against evidence, which the court overruled.

The evidence shows conclusively that the plaintiff and defendant had a settlement, and that the defendant paid plaintiff more than his own or all the evidence in the case proves he had earned.

The verdict was not only without, but directly against the evidence, and a new trial should have been granted.
