

22nd day of April, 1914, which was during the March Term, of the said Atlanta Circuit.

Upon the hearing of said extraordinary motion for new trial, movant filed certain amendments which were duly allowed and which are of record in the case.

Upon the hearing of said extraordinary motion, the following evidence was introduced:

GROUND 1.

J.P.FYFFE, Sworn for the Movant. On April 2, 1914, I had a conversation with Dr. H. F. Harris at the latter's office, in Atlanta, Fulton County, Georgia, concerning an affidavit from the aforesaid Dr. Harris touching his knowledge of certain facts in connection with this case, and I presented to the said Dr. Harris a typewritten copy containing what I understood to be a statement which Dr. Harris would make in connection with the aforesaid facts. The said Dr. Harris, after reading the matter prepared for his signature, declined to sign the same, but with a lead pencil, made certain changes in the phraseology of said statement in order to make it conform to his own ideas, same being Exhibit B hereto attached, and then stated that if the document was recopied in conformity with the alterations made in pencil by him, same being Exhibit A hereto attached, that he would sign the same under oath and that the statements contained therein were true. After making the above declaration to me, the said Dr. Harris read the altered copy aloud to me and at the conclusion added in pencil an additional paragraph stating in connection therewith in substance as follows: "It would not be necessary to add my conclusion from the experiments made in this case under ordinary circumstances, or if I was dealing with gentlemen.

Accordingly I had the affidavit prepared in exact accordance with the pencil memorandum made by Dr. Harris, with the exception of the paragraph last above referred to, which was omitted, and upon April 3rd, 1914, presented the same to Dr. Harris for his signature. Dr. Harris, after reading the copy, declined to sign the same because of the omitted paragraph. He stated that the facts contained in the affidavit which he was asked to