of Tho: demanded that the Same to pay the Plaintiff denyed and refused and
still doth denyed refuse and unjustly detaine to the damage of the
said Benjamin one hundred and seven pounds and ten
pounds of tobacco and therefore he brings his Suite &c
pledges &c: Jno Doe Richd Roe And the Defendant by his
Attorney comes and Defends the force and Injury when &c: and Craves
liberty to imparle thereunto &c: and Craves liberty to have the said bond
or writing obligatory and its read to him he also prays Oyer of
the Condition of the Same writing and its read unto him in the
words & Tenor viz: The Condition of this obligation is such that if the
above bounden John Atkey his heires Exr Admrs shall and
duly pay or cause to be paid unto the above named Benjamin
Brand his certaine Attorney his Exr Admrs or Assignes the full
Just Sume or quantity of four thousand nine hundred forty
five pounds of good sound merchantable tobacco free
from trash to contain the Same convenient and safe fast or
Rolling Rivers in the County aforesaid on or before the twelfth
day of October next ensuing the date hereof without fraud or
further delay then this obligation to be void else to remaine in
full force and vertue And the said Defendant by Daniel Speare
his Attorney comes and Defends the force and Injury when &c:
and prays Oyer of the originall writt and also of the pltffs attorney
power to prosecute &c: Speare &c: The whole power being
produced the said Defendant by his said Attorney further saith
Benjamin Brand And the said Defendant by Daniel Speare
his Attorney comes and Defends the force &c
Injury when &c: and for plea saith that
he hath fully satisfied and payd the debt in the pltffs declaration mentioned
as by receipt will appeare which he is ready to aver &c: for
trial puts himself upon the Country Speare &c: The pltff
like manner Radcliffe &c: Plaintiff Committed was therefore given
to the Sheriff of Cecill County that he cause to come before Justices &c
by whom &c: to be neither &c: to recognize &c: to keepe the Peace
the day there ready before &c: as by his precept he was commanded Lastly

(Jno

Samuel Walles Foreman John Atkinson Joseph Crouch Benjamin Cox Thomas
Scearson William Edwards James Palser Joseph Fincock Robert Penington
William Rutemore Charles Salyer and Andrew Cannon which Jury being
duly elected tryed and sworn to try the Issue as before recited and having
heard the Evidences allegations and pleadings on both sides the Court gives
them their charge to withdraw to consider the premises and after some
time they again returne and being again called over as also the Pl-
aintiff and Defendant and being demanded with their they were
asked in their Verdict do say they are and likewise w.hm they find for
do say we the Jury find for the Plaintiff and by Samuel Walles
their Foreman also of them so say. But the said plaintiff by his said
Attorney moves the Court that he may have Judgment upon the verdict
which is by the Court accordingly granted that he should have Judg:
for the principle with interest and Cost of Suit

Therefore it is considered by the Court here that day to wit the
ninth day of September Anno Dni 1702 that the said plaintiff Benjam-
in Brand do recover from the said Defendant John Atkey as
well the Sume of five thousand three hundred thirty and eight pounds of
tobacco the principle debt and interest included as also the Sume of
Eight hundred thirty and seven pounds of tobacco costs of Suit and the
said Defendant in mercy &c: John Doudall Clerk but the said Deft
John Atkey by his said Attorney moves the Court that he may have liberty
to appeale from this Judgment of this Court to the next provincial Court
to be held for this province which was denyed him by also Except
Matthias Vandeveyden unto his file inducing reasons that may be
sufficient to induce them to grant an appeale thereon and the said
Defendant by his said Attorney prays time may be given him to file
his reasons which was given him And thereupon ordered that the
said John Atkey have time given him till to morrow at twelve
a clock to file the said Reasons John Doudall Clerk at which said
time the said John Doudall Atkey offers these fold. reasons —

Benjamin Brand vs John Atkey. } Reasons humbly offered by the Defendant John Atkey for his appealing against the Judgment

1. The Defendant saith that having Sundry Dealings with the said Capt
William Speare &c: Speare gave this Defendant an account under his hand

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(and in