

conceiving they were not are not in his answer mentioned as much & left it wholly upon the Court desiring them to judge the matter of Law as in the said answer upon Record doth more at large appear & this he humbly conceives is Error

5th For a Jury to give damages beyond the capacity or possibility of the Plaintiff being damnified more than in Estate Credit or other wise he was ever worth the Birth Education & Estate of my Adversary being sufficiently obvious Your petitioner also humbly conceives is Error

6th and lastly there is palpable Error in the Jury for giving any Damages at all when my Adversary never named any for he ought to have named his Damages & indeed have proved them for for 339 C. 10. 113. 13 H. 7. 16 with plainly a man shall never recover more Damages than he doth declare for in his Declaration

L Barber

Triat Justitia
Charles Calvert

Whereupon issued this Writt as followeth

Cacilius To the Sherriff of St. Mary's County Greeting, because in the Record & process & giving of judgment in a plea that was depending between Henry Spinke & Elinor his wife Plaintiffs & Luke Barber Defend^t in Tryal of an action upon their Case for Defamation & Slander which was summoned before our Governour & Council in our Provincial Court the 9th February 1663, as is said Error manifest hath interwened to the great Damage of the apt Luke as from his plea we have received, We the Error in due manner to be concerted & to the parties apt full & speedy Justice to be done willing in this part Command you that by good & lawful men of your County you make known to the sd Henry Spinke & Elinor his wife who recovered against the sd Luke Barber that they be before us at our assembly held at St. Marys on Thursday 15th Septem^r next to hear the Record and process apt so had, as also the errors which the apt Luke in this part to assign & alledge shall happen & further to do & receive what our Court of Assembly shall consider in the premises & have then there the names of those by whom this thou shalt make known unto them & this will Witness our dear son Chas Charles Calvert Esq^r our Lieut^t of our Province of Maryland this 10th day of September 1664. Charles Calvert

Tuesday 13th September 1664

Met according to Adjournment abovementioned
Charles Calvert Esq^r Lieutenant General
Philip Calvert Esq^r Deputy Lieut^t of the Province
Jerome White Esq^r Baker Brooke Edw. Hoys