

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

JOHN S. MCNULTY, ET AL.

v.

ROBERT A. CASERO, JR., ET AL.

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Civil No. – JFM-16-2426

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**MEMORANDUM**

This is an action for a declaratory judgment and twelve related causes of action. The case arises from a property dispute between the parties. Defendants have filed a motion to dismiss or for summary judgment. Plaintiffs have filed a cross-motion for summary judgment.

Defendants’ motion will be denied and plaintiffs’ motion will be granted on the issue of liability.

The parties own adjacent properties along the Mason-Dixon line. Defendants allegedly have violated plaintiff’s property rights by tearing down two fences and constructing a driveway.

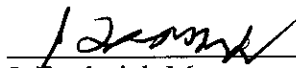
The case turns upon the proper placement of the Mason-Dixon line. Defendants contend that using “modern surveying techniques,” i.e. GPS surveying, the line should be moved southward across Salt Lake Road – which divides the parties’ property - to incorporate within their property the land on which the two fences were located and across which their driveway was constructed. Plaintiffs contend, on the other hand, that the line should not be moved southward but should remain the same based upon the original-surveyed line of the Mason-Dixon line and deeds that are based upon the original surveyed line. They also rely upon the fact that both Pennsylvania and Maryland authorities have deemed Salt Lake Road to be within Pennsylvania.

The case turns upon a decision rendered by the Supreme Court more than 100 years ago in *State of Md. v. State of W. Va.*, 217 U.S. 1 (1910). There, the Supreme Court held that the boundary between the states should be deemed to be that created by the Deakins Line rather than by a later line, arguably based upon newer surveying techniques, established by a Lieutenant Michler. The court held that its decision was “warranted by the applicable principles of law and equity; and will least disturb rights and titles long regarded as settled and fixed by the people most to be affected.” *Id.* at 280.

Defendants seek to distinguish *State of Md. v. State of W. Va.* on the ground that the latter case was a dispute between two states and involved the disparity of over a mile and a quarter. That, however, is not a meaningful distinction. The State of Maryland has recognized the originally surveyed Mason-Dixon line for over 250 years, and it has recognized that Salt Lake Road falls within the jurisdiction of Pennsylvania.

A separate order is being entered herewith.

Date: *January 5, 2017*

  
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J. Frederick Motz  
United States District Judge

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