

**HARRIS & MALDONADO V. SPERRY, 1929-NMSC-039, 34 N.M. 107, 277 P. 967 (S.
Ct. 1929)**

**HARRIS & MALDONADO
vs.
SPERRY**

No. 3426

SUPREME COURT OF NEW MEXICO

1929-NMSC-039, 34 N.M. 107, 277 P. 967

May 11, 1929

Appeal from District Court, San Miguel County; Armijo, Judge.

Action by Harris & Maldonado, a copartnership, against O. M. Sperry. Judgment for plaintiffs, and defendant appeals. On motion to strike the praecipe and bill of exceptions from transcript of record and for affirmance of judgment.

SYLLABUS

SYLLABUS BY THE COURT

Motion to strike portion of record and affirm judgment, based upon repealed statute, denied.

COUNSEL

Tom W. Neal, of Las Vegas, for appellant.

Jose E. Armijo, of East Las Vegas, for appellee.

JUDGES

Catron, J. Bickley, C. J., and Simms, JJ., concur. Parker and Watson, JJ., did not participate.

AUTHOR: CATRON

OPINION

{1} OPINION OF THE COURT This is a case commenced in the district court of San Miguel county on June 25, 1928. Judgment was entered against defendant, appeal taken, and transcript of record filed in this court.

{2} 1. A motion has been filed by appellee to strike the praecipe and bill of exceptions from the transcript of record and for affirmance of judgment based upon certain sections of chapter 43, Laws 1917, the old Appellate Procedure Act, and upon the assumption that the same are still in force.

{3} All of the statutory provisions relied upon by appellee in his motion having been repealed by chapter 93, Laws 1927, and none thereof having any application under our "Rules of Appellate Procedure," which became effective March 1, 1928, and which control this case, the motion must be denied, and it is so ordered.