

**BOARD OF COMM'RS V. KEYES, 1934-NMSC-044, 38 N.M. 337, 32 P.2d 1017 (S.
Ct. 1934)**

BOARD OF COM'RS OF MORA COUNTY et al.

vs.

KEYES

No. 3884

SUPREME COURT OF NEW MEXICO

1934-NMSC-044, 38 N.M. 337, 32 P.2d 1017

May 14, 1934

Appeal from District Court, Mora County; Armijo, Judge.

Proceeding purporting to be brought by the Board of County Commissioners of Mora County and Ricardo Gonzales, Manuel Valdez, and Rosendo Torres, members constituting said board, against Charles R. Keyes. From an order sustaining a motion to strike the complaint and dismiss the proceeding, an appeal is taken.

COUNSEL

Truder & Faircloth, of Las Vegas, for appellant.

W. J. Lucas, of Las Vegas, for appellee.

JUDGES

Watson, Chief Justice. Sadler, Hudspeth, Bickley, and Zinn, JJ., concur.

AUTHOR: WATSON

OPINION

{*337} {1} This is an attempted proceeding to condemn lands for highway purposes. It was early terminated by an order sustaining a motion to strike the "complaint" and to dismiss the proceeding, from which order "plaintiff," whoever he or it may be, was granted an appeal.

{2} The "complaint" was signed by Manuel Valdez and by him verified. The point of the motion seems to be that the board of county commissioners of Mora county, being the necessary and sole petitioner, had failed, by itself or by its attorney, to sign the petition.

In the caption of the "complaint," the board, together with the three members, of whom Valdez is one, are named as "plaintiff."

{3} We are not greatly impressed with the importance of the points argued in the briefs. Indeed, we do not perceive any necessity for {338} this appeal. The stricken "complaint" was quite informal, though we are not prepared to say that we should have held it insufficient if the trial judge had seen fit to proceed upon it.

{4} If the board of county commissioners had in fact authorized the proceeding, a matter not entirely clear from the record, its "complaint" could easily have been amended to meet the objections, and the court would no doubt have permitted the requisite amendments if application had been made. If the board had not authorized the proceeding, it was properly dismissed.

{5} The order appealed from will be affirmed without prejudice to any further proceedings.

{6} It is so ordered.