

**From:** Vern Payne [<mailto:paverny@gmail.com>]  
**Sent:** Tuesday, November 21, 2017 9:28 AM  
**To:** Michael Feinberg  
**Subject:** Re:

For presentation to Friends and Prospective Clients of Mr. Tom Tosdal and Michael Feinberg

I have been asked by Mr. Tom Tosdal and Mr. Michael Feinberg to repeat in writing what I have personally expressed to them in private about their handling of the Conchas Fire case in New Mexico. I am pleased and honored to do so! Obviously, you should carefully consider your representation by outstanding lawyers in any cases with which you may be personally involved. Perhaps my opinion can help you decide the direction you will take as you seek redress of your unfortunate experience with fire losses.

My name is H. Vern Payne. I have been a practicing attorney in New Mexico for over 50 years. During that time I also served as a trial judge and ultimately as an appellate judge on the New Mexico Supreme Court. During my experience I had the privileged to preside over many major trials and appeals from almost every legal category and with thousands of lawyers from New Mexico as well as attorneys from the most prestigious law firms in the United States. I sat on a case that involved a lawsuit between some major oil and mining companies represented by some of the most well known trial lawyers in the country in a case with a value of a billion dollars. At the time I commented to my brethren on the Supreme Court that most of the attorneys involved made individual incomes that surpassed the collective incomes of the 5 members of the Court. I was selected to author the opinion in that case that had thousands of pages of briefs and millions of exhibits. The case involved issues of handling of trial exhibits and admissibility of evidence that the nation of Canada had attempted to shield in behalf of Gulf Oil Company.

I have also had the pleasure of working with Mr. Tom Tosdal, Michael Feinberg and other attorneys on the Conchas Fire case in New Mexico for the past 5 years or more. This case involved one of the biggest and most destructive fires in the history of New Mexico. Mr. Tosdal was the lead attorney for the Motions and Trial arguments for all the plaintiffs. He specifically represented the Cochiti Indian Pueblo which suffered substantial damages to its infrastructure. Mr. Feinburg represented a group who owned ranching properties impacted by the fire.

I have commented to many of my colleagues that I have never seen a better overall courtroom presentation than what I saw Tom Tosdal do as lead counsel for the Cochiti Indian Tribe. He and his team, including Michael Feinberg did an extraordinary job in preparation, briefing and presenting the overall case. I spoke with one of the key tribal members last week and our discussion was that the tribe was blessed to have had what I and they consider to have been the most outstanding representation either of us had ever seen.

I sincerely hope you can persuade Mr. Tosdal and Mr. Feinberg to represent you in your claims. I can never predict the outcome of any court case, but I can predict that you will receive the help of outstanding attorneys. I am sure they will give you every ounce of their effort to insure that your case will be presented in a professional and diligent manner. I have personally complimented Mr. Tosdal as being one of the best, if not the single best attorney I have ever seen

in a courtroom. I have also had a warm and personal relationship with Mr. Feinberg and I have found him to be a major asset in the Conchas case and as a team with Mr. Tosdal.

Feel free to call me directly at (505) 710-2308 should you wish any personal discussion about complex cases and/or the type lawyers you should hire to help you.

Very truly yours,

H. Vern Payne  
Chief Justice, New Mexico Supreme Court (retired)  
PO Box 2100  
Los Lunas, NM 87031  
Phone: 505-710-2308  
Email: <[paverny@gmail.com](mailto:paverny@gmail.com)>