



THE STATE BAR
OF CALIFORNIA

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

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<http://www.calbar.ca.gov>

June 02, 2005

RE: Inquiry Number: 05-3207
Respondent: Brian James Robbins

Dear Mr. Robbins:

Your complaint against Brian James Robbins, received on February 25, 2005, has been reviewed by a staff attorney to determine whether he violated the State Bar Act and/or the Rules of Professional Conduct and whether there is a basis for investigation or prosecution of his alleged conduct.

In your complaint, you stated that Mr. Robbins was hired to represent you in a class action lawsuit. You stated that he told you that you would be the lead plaintiff on the case and that he would apply for lead plaintiff compensation on your behalf. The case subsequently settled with the court's approval. You stated that you attempted to contact Mr. Robbins on several occasions without success. When you were finally able to communicate with him, you were informed that he had not applied for lead plaintiff compensation on your behalf as he had promised.

Mr. Robbins responded to your allegations. He stated that you retained his services to file a shareholder derivative action on behalf of ESI on March 31, 2003. He stated that your action was consolidated with another shareholders directive action on behalf of ESI, and on September 25, 2003, he filed a consolidated shareholder derivative complaint. He explained the action was hotly contested and given that the action was a shareholder derivative matter, the settlement was subject to court approval. On October 15, 2004, the court approved the settlement and dismissed the litigation with prejudice.

Mr. Robbin further stated that he communicated with you on a regular basis, and he discussed with you the concept of settling the derivative litigation. He stated that he never promised you that he would seek Lead Plaintiff compensation on your behalf. He did say that he discussed the issue of a possible incentive award in connection with your role in the litigation and he drafted a declaration for you in connection with such a request. He stated that you did not devote a significant amount time or resources to the litigations and, assuming that you are still a shareholder of ESI, you have enjoyed the benefits that the litigation and settlement has conferred to ESI.

After careful review and after taking into consideration all relevant factors, the State Bar has concluded that the matter does not warrant action. The State Bar has determined that there is insufficient evidence to find that Mr. Robbins engaged in misconduct.

You may wish to consult with other legal counsel regarding your available civil remedies. You may contact your local or county bar association to obtain the names of attorneys to assist you in this matter. The local bar association or county bar association in your area is: Lawyer Referral and Information Service of the San Diego County Bar Association, 1333 Seventh Avenue, San Diego, CA 92101-4309 (619) 231-8585.

We are closing our file at this time.

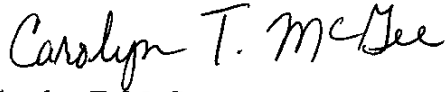
If you do not agree with the decision to close your complaint, you may request a review, **in writing**,

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within **three (3) months** of the date of this letter. Telephonic requests cannot be accepted. Include with your request any additional or new evidence and **copies** of documentation which you believe should be considered. You may make your written request to: Audit and Review, Office of the Chief Trial Counsel, State Bar of California, 1149 South Hill Street, Los Angeles, California 90015.

Very truly yours,



Carolyn T. McGee
Complaint Analyst