



The State Bar  
*of California*

OFFICE OF CHIEF TRIAL COUNSEL

845 S. Figueroa Street, Los Angeles, CA 90017

213-765-1338

bo.yang@calbar.ca.gov

February 20, 2020

Darryl Cotton  
6176 Federal Blvd.  
San Diego, CA 92114

RE: Case Number: 20-O-02573  
Respondent: Michael Weinstein

Dear Mr. Cotton:

The State Bar's Office of Chief Trial Counsel has reviewed your complaint against Michael Weinstein to determine whether there are sufficient grounds to prosecute a possible violation of the State Bar Act and/or Rules of Professional Conduct. Please note that this letter addresses only your complaint against Michael Weinstein. Your complaints against other attorneys will be reviewed and addressed separately.

In this complaint, you stated that Mr. Weinstein represented your opposing party (the plaintiff) in a civil case. You stated that in his original civil complaint and demand letter to you, Mr. Weinstein stated that the plaintiff was entitled to \$300,000 in damages. However, at trial, Mr. Weinstein was only able to prove \$32,000 in damages. Based on the above, you alleged that Mr. Weinstein has committed fraud and has misled the court.

Based on our evaluation of the information provided, we are closing your complaint. In order to investigate allegations of attorney misconduct, the State Bar needs specific facts which, if proved, would establish a violation of the attorney's ethical duties. We have determined that your complaint does not present sufficient facts to support an investigation.

As opposing counsel, Mr. Weinstein is entitled to rely on information provided by his client in good faith (such as the estimated amount of damages to which the client is entitled) to file a civil complaint on behalf of his client. As discovery progresses over the course of litigation, facts are uncovered about the case and the parties and their attorneys are allowed to adjust their arguments, claims, and allegations accordingly – including the amount of damages to which the plaintiff is entitled. Therefore, the fact that Mr. Weinstein was not able to prove the same amount of damages he claimed in his original complaint is not proof of fraud or intent to mislead the court. For these reasons, the State Bar is closing this matter.

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If you have new facts and circumstances that you believe may change our determination to close your complaint, you may submit a written statement with the new information to the Intake Unit for review. If you have any questions about this process, you may call Deputy Trial Counsel Bo Yang at 213-765-1338. If you leave a voice message, be sure to clearly identify the lawyer complained of, the case number assigned, and your telephone number including the area code. We should return your call within two business days.

If you are not aware of new facts or circumstances but otherwise disagree with the decision to close your complaint, you may submit a request for review by the State Bar's Complaint Review Unit, which will review your complaint and the Intake Unit's decision to close the complaint. The Complaint Review Unit may reopen your complaint if it determines that your complaint was inappropriately closed or that you presented new, significant evidence to support your complaint. To request review by the Complaint Review Unit, you must submit your request **in writing**, together with any new evidence you wish to be considered, post-marked within **90 days of the date of this letter**, to:

The State Bar of California  
Complaint Review Unit  
Office of General Counsel  
180 Howard Street  
San Francisco, CA 94105-1617

We would appreciate if you would complete a short, anonymous survey about your experience with filing your complaint. While your responses to the survey will not change the outcome of the complaint you filed against the attorney, the State Bar will use your answers to help improve the services we provide to the public. The survey can be found at <http://bit.ly/StateBarSurvey1>.

Thank you for bringing your concerns to the attention of the State Bar.

Sincerely,



Bo Yang  
Deputy Trial Counsel