

# Daily Journal

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## TOP VERDICTS OF 2017

The largest and most significant verdicts and appellate reversals in California in 2017

### TOP PLAINTIFFS' VERDICT BY IMPACT

# Kaffaga v. Steinbeck

If film versions of “East of Eden” or “The Grapes of Wrath” hit the theaters anytime soon, some thanks will be owed to Susan J. Kohlmann and her team at Jenner & Block LLP.

Kohlmann represented Waverly Scott Kaffaga, the daughter of John Steinbeck’s third wife Elaine, in an infringement battle over the rights to the late authors’ work. Kaffaga, who inherited her mother’s estate, said efforts to create new projects based on Steinbeck’s work had been constantly thwarted by Gail Knight Steinbeck, the widow of John Steinbeck’s son.

At the heart of the dispute was a 1983 settlement agreement struck between Elaine Steinbeck and the author’s two sons, Thomas and John IV. Elaine Steinbeck inherited the rights to her husband’s work upon his death in 1968, a fact disputed by the author’s two sons. In exchange for a greater portion of royalties, the settlement agreement stipulated that Thomas and John IV cede all rights to their father’s works.

The lawsuit filed by Kaffaga wasn’t the first time the parties had gone to court over the issue; a similar suit was filed in the Southern District of New York nearly 10 years earlier. That ruling, later affirmed by the 2nd U.S. Circuit Court of Appeals, found that Kaffaga rightfully controlled Steinbeck’s works.

Explaining to jurors the long history of the litigation — and how the previous courts ruled — was a top priority for the plaintiffs, Kohlmann said.

“It’s very complicated with a long

*case*  
**INFO**

**Breach of Contract, Intentional Interference**

**Central District**

**U.S. District Judge Terry J. Hatter Jr.**

**Plaintiff’s Lawyers:** Susan J. Kohlmann, Andrew J. Thomas, Alison I. Stein, Brittany R. Lamb, Gretchen O. Stertz, Andrew G. Sullivan, Jonathan M. Diaz, Stephanie Krent, Jenner & Block LLP

**Defense Lawyers:** Matthew I. Berger, Robert M. Graham, Matthew I. Berger Law Group PC

history of litigation. For the jury, it was important to try and tell the story in a chronological way, so they could see the court had reviewed these same issues,” Kohlmann said. “[Kaffaga] was forced to bring this case after it became clear they wouldn’t abide by the previous rulings.”

Knight Steinbeck’s attorney, Matthew I. Berger of Matthew I. Berger Law Group PC, dedicated most of his argument to mitigating the damage allegedly done to the estate as a result of the alleged interference.

He accused the plaintiff’s damages expert of overstating the harm caused by the collapse of a deal for a planned “East of Eden” film, and said Thomas Steinbeck had been paid a \$650,000 salary for an executive producer credit on a new “The Grapes of Wrath” project because he was his father’s son, not because he



**SUSAN KOHLMANN**

held the rights to his father’s works.

Though Berger argued Thomas Steinbeck had been brought on for his value as a producer, Kohlmann said the jury wasn’t having it and ruled in his client’s favor in September. *Kaffaga v. Steinbeck et al.*, 14-CV08699 (C.D. Cal., filed Nov. 10, 2014).

“We went back and forth, but at the end of the day it became clear to the jury that they were not producers,” Kohlmann said. “They certainly wanted their names on it, but the most important thing for them was getting a side payment.”

The jury found in Kaffaga’s favor, ordering Knight Steinbeck to pay \$13.15 million in damages. U.S. District Judge Terry J. Hatter Jr. denied the defendants’ motion for a new trial earlier this month.

— Steven Crighton