

THE 2018 CLAY AWARDS

The 22nd Annual California Lawyer Attorneys of the Year

INTELLECTUAL PROPERTY

Settling the estate of a famous author to let his works live on

Kaffaga v. Steinbeck



ANDREW THOMAS Jenner & Block LLP

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• Andrew J. Thomas

There’s at least one marked difference between the family dramas at the center of many of John Steinbeck’s stories and the estate battle over the rights to the late author’s works — Steinbeck’s stories eventually ended.

Even though all the biological relatives involved in the decades-long dispute have either moved on or passed on, it seems there’s still no immediate end in sight to the back-and-forth litigation between Waverly Scott Kaffaga, the daughter of John Steinbeck’s third wife Elaine, and 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 sons. In exchange for a greater portion of the royalties, the settlement stipulated that Thomas and John IV cede all rights to their father’s works.

Knight Steinbeck and husband Thomas, prior to his death in 2016, made numerous attempts to include themselves or put a stop to projects involving Steinbeck’s intellectual property that Kaffaga had a hand in, reasoning that the 1983 agreement hadn’t taken all of their intellectual property rights. Judge Terry J. Hatter ruled in December 2016, however, that Knight Steinbeck’s attempts to block plans for “East of Eden,” “Grapes of Wrath,” and other projects did constitute a breach.

Knight Steinbeck’s attorney, Matthew I. Berger of Matthew I. Berger Law Group PC, said that decision set the scope of the August 2017 trial and severely handicapped the defendant’s case.

“It limited the real critical issues of who owned the copyrights, who had the rights to do things with them. It totally ignored the consequence under federal law of terminations,” Berger said. “I think the judge didn’t really understand the difference between terminations and renewals, and as a result of that the rulings made in the summary judgment really limited the defendant’s testimony.”

Once the trial was underway, Berger dedicated most of his argument to mitigating the damage allegedly done to the estate as a result of the alleged interference, most notably accusing the plaintiff’s damages expert of over-inflating the damages allegedly caused by Knight Steinbeck’s interferences.

Kaffaga’s team, comprised of Jenner & Block LLP partners Susan Kohlmann, Andrew J. Thomas, and Alison Stein, focused on the long history of the litigation and the court orders that Knight Steinbeck had overlooked to continue pressing her claims on Steinbeck’s work. Most notably, a Southern District of New York decision 10 years ago finding in Kaffaga’s favor, a ruling later affirmed by the 2nd U.S. Circuit Court of Appeals. *Kaffaga v. Steinbeck et al.*, 14-cv-08699 (C.D. Cal., filed Nov. 10, 2014).

The jury found in Kaffaga’s favor and ordered Knight Steinbeck to pay \$13 million in damages. While post-trial motions largely fell in Kaffaga’s favor, the judge declined to grant her injunctive relief. Between that and their stated intention to appeal, Berger said Kaffaga shouldn’t expect Knight Steinbeck to disappear anytime soon.

Thomas said he was pleased with the judge’s post-trial ruling.

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— Steven Crighton