

Media & Entertainment Group Of The Year: Jenner & Block

By Emma Cueto

Law360 (February 4, 2020, 2:25 PM EST) -- Jenner & Block LLP received a definitive Ninth Circuit victory in a long-running copyright case over the works of John Steinbeck, negotiated a deal on behalf of FOX Sports for a new gambling partnership and scored a victory for FanDuel in a class action suit, earning it a spot among Law360's 2019 **Media & Entertainment Groups of the Year**.

The firm's content, media and entertainment group consists of about 20 partners, as well as a rotating lineup of associates, and enjoys taking on a wide variety of cases across the rapidly evolving media and entertainment industry, according to Andy Bart, co-chair of the group.

"The goal was always to be a practice that could render all kinds of services to the industry," Bart told Law360. "I think what distinguishes us in this space and our practice is the breadth of what we do."

One of the group's longest-running cases was a copyright dispute over the works of Steinbeck, the famed 20th-century author. After securing a major victory on behalf of the estate of Steinbeck's late wife, Elaine Anderson Steinbeck, and her daughter Waverly Scott Kaffaga in 2018, the firm also prevailed on appeal before the Ninth Circuit in 2019, potentially laying the case to rest after over a decade.

The case involved a dispute between Kaffaga and Steinbeck's late son Thom Steinbeck, with Kaffaga arguing that Thom Steinbeck wrongly claimed to hold copyright to his father's work.

In shooting down the appeal by Thom Steinbeck's wife, Gail Knight Steinbeck, and the company that she and Thom Steinbeck founded, the Ninth Circuit said in an exasperated ruling that the litigation over the issue "has to end," affirming the lower court ruling in Kaffaga's favor. It later denied a motion to rehear the case.

Susan Kohlmann, managing partner of the firm's New York office who has worked on the case since before joining Jenner & Block in 2007, said she was hopeful that the dispute could finally be put to rest, but didn't know if Gail Knight Steinbeck would try to continue regardless of the rulings against her.



"This case is unusual because [of] ... the absolute insistence by the defendants that they were right, regardless of the decisions we received," she said.

The litigation also had the unfortunate effect of preventing major studios from going ahead with plans for film adaptations of "East of Eden" and "The Grapes of Wrath." Kohlmann said that as a fan of Steinbeck's work, the case was also important to her on a personal level.

"I think you feel a particular obligation when you're trying to ensure that works like 'East of Eden' and 'Grapes of Wrath' can get to new generations of audiences," she said.

In addition to potentially concluding the Steinbeck matter, Jenner & Block also negotiated a deal on behalf of FOX Sports to launch FOX Bet, an online sports betting platform. The firm said it was a major shift in how sports content is positioned and consumed.

It was also a major transaction, which Bart said the firm was proud to be a part of.

"[The practice group] is clearly more dominated by its litigation practice than its transaction component, but has a significant transaction component," he said.

Jenner & Block also scored a win in late 2018 on behalf of another titan in the sports betting space, FanDuel. It represented FanDuel in a putative class action alleging that it and its competitor DraftKings had both made unauthorized use of the names and likenesses of former NCAA athletes.

After the Seventh Circuit asked the Indiana Supreme Court to weigh in regarding the state's right of publicity law, Jenner & Block argued successfully before the state high court, which eventually said the information at issue was protected by the First Amendment.

The Seventh Circuit formally ended the case in November 2018.

Looking ahead, Bart said that Jenner & Block plans to continue evolving with the entertainment industry.

"We're all consuming content in different ways than we did five or six years ago," he noted. "[Jenner & Block is] looking to stay strong not just in the established industries like motion pictures and recorded music that we've always been strong in, but looking at emerging areas ... to stay at the top of our game as the industry evolves."

--Editing by Orlando Lorenzo.