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Ghost of Steinbeck haunts decades of litigation over his works

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So in our pride we ordered for breakfast an omelet, toast and coffee and what has just arrived is a tomato salad with onions, a dish of pickles, a big slice of watermelon and two bottles of cream soda. —John Steinbeck

When John Steinbeck penned, in his 1952 novel “East of Eden,” that “I believe there are monsters born in the world to human parents,” few readers could have envisioned that he might someday become one of those parents.

Fast forward 65 years to the conclusion of decades of litigation among segments of his family with a federal court jury in Los Angeles returning a decisive verdict earlier this month in favor of one branch, awarding millions in punitive damages against the other.

The trial pitted Waverly Scott Kaffaga, daughter of Steinbeck’s third wife, against the estate of his son, Thomas Steinbeck.

The dispute arose after movie deals Kaffaga proposed with Hollywood studios to remake some of her stepfather’s famous novels into new adaptations were stymied by Thomas and his wife Gail, who threatened to sue the studios, claiming they held the copyrights.

Anathematic to Thomas and Gail was the idea that Kaffaga and her mother, Elaine Anderson, married to the novelist from 1950 until his death in 1968, would be the ones to cut these lucrative deals.

Undoubtedly, this family feud was beyond anything Steinbeck could have imagined, and his imagination was fertile enough that he wrote, in “East of Eden,” it “will get me a passport to hell one day.”

Thomas and Gail allegedly scared away luminaries as seemingly impenetrable as Steven Spielberg and Jennifer Lawrence, who at one time showed interest in bringing Steinbeck’s novels to the big screen, perhaps proving the point from “Of Mice and Men” that “Maybe ever’body in the whole damn world is scared of each other.”

Decades of pursuing claims and counterclaims surrounded the family. How could Steinbeck’s own family members turn on each other in such a public and painful way over his own works?

“Do you take pride in your hurt? Does it make you seem large and tragic?” wondered Steinbeck in “East of Eden.” “Well think about it. Maybe you’re playing a part on a great stage with only yourself as audience.”

At trial, Waverly Kaffaga testified that she could not maximize the value of the Steinbeck copyrights, which she and her mother rightfully controlled, due to the threatening actions of Thomas and (by the time of trial) his widow Gail.

After Gail denied the allegations, Kaffaga called her to the witness stand and confronted her with e-mails she sent pledging that a planned "East of Eden" remake with Jennifer Lawrence would produce "litigation city." Other trial evidence indicated the project was dropped by Universal Pictures due to the "constant threat of litigation."

Shown another e-mail where she vowed to litigate over the copyrights until "I draw my last breath," Gail dismissed it, saying only "Oh, that was silly." Her attempt to step back from past comments proved unsuccessful at trial and inconsistent with the enduring message of "The Grapes of Wrath," whose famed tenant farmers wondered "How can we live without our lives? How will we know it's us without our past?"

Meanwhile, Gail's late husband Thomas Steinbeck, a novelist himself, was accused of secretly negotiating with the studios and seeking a "side deal" with DreamWorks to executive produce a new "Grapes of Wrath" film involving Steven Spielberg for \$650,000, all of which spilled out before the jury.

It brought to mind his father's famed admonition in "Sweet Thursday": "A man is the only kind of varmint sets his own trap, baits it and then steps in it."

The trial followed a summary judgment entered last year against Thomas and Gail by U.S. District Judge Terry Hatter Jr., a native Chicagoan and former Cook County assistant public defender. Hatter ruled the Steinbecks breached a 1983 settlement agreement that gave "unfettered control" of the rights to the Nobel Prize winner's "early works," including both "The Grapes of Wrath" and "East of Eden," to Kaffaga (bequeathed from her mother).

"The discipline of the written word punishes both stupidity and dishonesty," Steinbeck noted in "In Awe of Words" and it is difficult to assess precisely which trait got punished by Hatter after Thomas and Gail so plainly breached their earlier settlement agreement.

Also determined on summary judgment was that Thomas and Gail slandered the titles to those works by asserting rights that belonged to Kaffaga. Had the author lived to see his son's conduct, he likely would have asked, as he did in "The Winter of Our Discontent," "I wonder how many people I've looked at all my life and never seen."

Left for the jury to consider was whether Thomas and Gail also interfered with Kaffaga's movie deals and the amount of damages owed, if any.

Although the Pulitzer Prize-winning author mused in "The Grapes of Wrath" that "There ain't no sin and there ain't no virtue. There's just stuff people do," the jury seemed to find some genuine sin and genuine virtue without difficulty.

Voting resoundingly in Kaffaga's favor after only two hours of deliberations, the jury entered a \$5.25 million compensatory damages award, doling out \$1.3 million more than Kaffaga sought, plus a hefty \$7.9 million in punitive damages.

It was the jury's prerogative to disregard John Steinbeck's view in "The Winter of Our Discontent" that "Money does not change the sickness, only the symptoms." Yet Gail, who was left feeling embarrassed and lonely after the verdict, likely found solace in her father-in-law's "East of Eden" observation that "All great and precious things are lonely."

Kaffaga, too, can find no peace or security in the huge win as Gail has vowed to appeal.

This proves only fitting. As quoted in “Of Men and Their Making: The Selected Non-Fiction of John Steinbeck”: “We spend our time searching for security and hate it when we get it.”

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