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Good to Know



Articles by members, for members, with information that is good to know.

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Rights or Left? Your Literary Estate by Elizabeth Aden

"Aunt Betsy, what do we do with these boxes? They're filled with paper," my nephew shouted across the large playroom.

In preparation for the estate sale, we were cleaning out my mother's office, something that hadn't been done in 32 years. We'd sorted through medical files, personal diaries, books, magazines, photographs and even empty wine crates. The only actual paper that we'd found to date was in boxes that contained unused stationery—engraved with her name and address.

I looked at the boxes. They were the same vanilla-colored glossy cardboard that held letter-size stationery. "Bring it here so I can look at it."

I opened the first box. The top sheet was typewritten with the words "Dune House by Eunice Mays Boyd". I thumbed through the perfectly clean manuscript. On the second page, it read, "Dedicated to Marilyn Reed Roberts". My mother. It was written and dedicated to my mother sometime between 1947 and 1950 when she was married to my father. I opened the second box, which was much lighter. "Slay Bells", clearly a Christmas murder mystery. The third box contained a very different title, "One Paw Was Red."

I flipped through this outlier and saw a familiar name, F. Millard Smythe. I understood. Eunice was my godmother. She published three novels set in Alaska featuring an amateur sleuth, a small, unassuming grocer. She won awards and received accolades for her novels *Murder Breaks Trail*, *Doom in the Midnight Sun*, and *Murder Wears Mukluks*. In my hands, I held the fourth book in this series. The last of the Alaska mysteries.

I knew my godmother, whom I called Nana, had written a book set in Europe which she began when she retired from the University of California. I'd read that manuscript when I was twenty years old and in college. I'd loved the crafty plotting, red herrings – a classic Christie-style "whodunit". I couldn't put down the yellow draft paper pages. I could read her penciled corrections and was surprised by the ending. When she died the following year, my mother rescued that manuscript and gave it to me. The 250 pages were held together on a clipboard.

For forty-five years I kept that manuscript. As my time became more flexible, I thought it would be fun to see some of the sites she described in *A Vacation to Kill For*. In 2014, I visited Carcassonne, France. There, I re-read the book and read the places she described and confirmed her descriptions of this walled medieval city. At the end of the trip, I thought about what might have involved to publish this murder mystery. That was as far as I got...a thought.

But that all changed when I discovered the other three unpublished murder mysteries. I read them. "Dune House" was set in San Francisco's Ocean Beach. "Slay Bells" was also set in San Francisco, but near the Stonestown shopping center. I guessed that they were written between 1957 and 1963 because we were living in that area during those years.

I knew my godmother regularly participated in a writers' club and had co-authored *The Marble Forest* with other Bay Area writers, including Anthony Boucher. The movie *Macabre* was based on that book. We all saw the movie and it gave the ten year old me nightmares.

In all those years, not once do I recall hearing her talk about works in progress or the submission of manuscripts for publication. Nothing.

What to do? I now had a critical mass of manuscripts. I felt an obligation to honor Eunice's memory and to let others enjoy her skillful, intelligent writing. Thus began my journey. First step was to convert the typed pages into a Word document. I tried scanning the typed pages and then using OCR software to convert it into an electronic format for editing. It worked, sort of. The next step was a manual edit. So far, so good.

Then, a local editor suggested, "Why not get the rights to her published books and republish them as well?" OMG, four books just became seven. Luckily, I found a literary lawyer who asked if I had the rights to publish the books. He asked if I had a copy of her will. Nope, and neither did Alameda County. In this case, possession didn't seem to count for nine-tenths of anything. He next suggested getting in contact with her heirs and closest next of kin and obtaining a release to allow me to publish and republish her books.

Fortunately, I grew up knowing members of my godmother's family. Even though Eunice had no children, her niece and family visited the Berkeley home frequently. Her niece was also the same age as my mother and we kept in contact through the years. Well, up to a point. The niece died decades ago and I'd lost touch with her children. Enter LinkedIn. I found her nephew and sent him a note. We connected online. He suggested I get in touch with his brother who was the keeper of their family's pioneer history. I did. With their help, I was able to identify her surviving heirs: their sister and Eunice's nephew, Harry.

Back to the internet. I spent hours figuring out which Harry Mays it was, deduced the email and then bingo, I found a phone number. I dialed it and miraculously a woman answered the landline.

"Hi, I'm Eunice Mays Boyd's goddaughter. My mother was Mal Matys. I knew Harry's parents George and Harriett and I was the little girl at the house on Forest Avenue."

"I remember Mal well," she replied.

We chatted for a while and she told me Harry wasn't too well. She put Harry on the phone and I told him about the books and my desire to publish them.

"So, would you like me to sign a release?"

"Yes!" I replied.

The lawyer wrote a release and I sent it immediately to Harry with two copies and a self-addressed stamped envelope. Ten days later I had his signature. Two weeks later the grandnephews and grandniece gave their permission and six weeks later Harry was dead.

Now back to the published books. I found a copy of the standard Farrar & Rinehart contract from 1943 which required giving them 90-day notice to assess whether they would republish the three out-of-print books. The attorney sent a certified letter to the successor company. They did not reply, so I was good. That's how I spent the pandemic lockdown.

In addition, the lawyer tracked down the copyright history of Eunice's books and found she'd renewed the copyrights two years before her death and that only one of the twelve authors of *The Marble Forest* had followed through with copyright.

The lessons I've gleaned for my own literary estate are:

- File all contracts (with publishers, agents, consultants, etc) both online and put a paper copy with your legal documents. It is best to have more than one source for important legal documents.
 - If your only copy is in a computer file – be certain a trusted friend(s) knows the passwords.
 - It is best if your estate lawyer or estate executor has a paper and electronic copy.
- Gift your literary rights to someone in your will.
 - If you can, give the beneficiary copies of the relevant contracts.
- If there are co-authors involved, work out a sharing or succession agreement now while everyone is present.

For *Hepatitis Beach*, a book I am writing about my anthropological fieldwork in New Hebrides (now Vanuatu), I had to secure rights to publish letters written to me by my mother and diary entries by my step-father. In this case, I had to provide a copy of my mother's will and my step-father's will to demonstrate: (i) my step-father, who predeceased my mother, did not assign his literary rights and as a result, they defaulted to my mother; and (ii) when my mother passed, there was no assignment of literary rights, so her children inherited equal rights to use her letters or diary entries.

The lesson learned for rights succession are:

- Your written documents will be part of your estate unless you explicitly state otherwise.
- The rights to your written records will be given equally to your descendants unless specifically directed otherwise.
- Literary rights can be passed on from generation to generation even without explicit mention and can remain in force until the copyright expires, seventy years after the author's death.

About Elizabeth Aden: Elizabeth Aden has a doctorate in biomedical anthropology. Her problem-solving epidemiology tools were developed answering the question of why some infants became chronic carriers of hepatitis B virus and not others. After a brief, boring stint in Academia, she went into New Product Development in the pharmaceutical industry where she became Senior Vice President of Global Strategy for one of the top Swiss Pharma companies. Recently, she wrote a business plan to implement personalized medicine for a G7 country. Twenty-five years ago she understood the promise of using an individual's genetics to tailor prescription medicines. Her debut medical thriller, **The Goldilocks Genome** (January 2023), makes personalized medicine accessible to the general reader.



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