

A Message from Dean Rudy Hasl about the February Bar Passage Results



The results of the February California bar exam were released over the weekend of May 19 and 20.

The Thomas Jefferson School of Law had 55 first time takers, of whom 33 passed, for a first time passing rate of 60 percent. This compares with the California ABA first time taker rate of 62 percent and the Non-California ABA first time taker rate of 48 percent.

Of the first time takers, 25 were participants in the Bar Secrets program, of whom 16 passed, for a passing percentage of 64 percent. Of the remaining 30 first time takers, 17 passed, for a passing percentage of 57 percent.

I offer my congratulations to the successful bar candidates and look forward to continued success by the school's graduates.



Paul Ochoa '12 and Elizabeth Knowles '12

TJSL Students Receive San Diego La Raza Lawyers Association's Bar Stipend Scholarships

San Diego La Raza Lawyers Association awarded its second annual Bar Stipend Scholarships on Tuesday, May 22 at The Village @ 631. SDLRLA had sixteen applications, twice the number as last year, and awarded ten well-deserving recent grads with \$500 in scholarships to assist with bar examination related expenses.

Scholarship President Nadia Bermudez, a litigation partner at GCR, LLP said, "This is really about showing the students that we support them and that we are in their corner and believe in them."

"The bar stipend is awarded to law students in their final year of study to assist with bar examination related expenses," explains Board member Renee Galente. "In awarding bar stipends, the SDLRA Scholarship Fund considers the applicant's financial need, academic achievement, community service, leadership experience and any hardship experienced in pursuing an education. The eligibility also requires candidate to be of Latino heritage; and/or with significant contributions to the Latino community. Candidates should also intend to sit for the July 2012 or February 2013 California Bar Examination."

Of the ten awardees, four were from TJSL including Susana Beltran '12, Elizabeth Knowles '12, Adriana Maldonado '12 and Paulo Ochoa '12.

Present for support of the students were Professor K.J. Greene, Eric Ganci '08, Lorena Slomanson '03, and Renee Galente '08 and Maysa Eissa, Associate Director of Career Services. Slomanson and Galente are both on the Board of SDLRLA and Galente is also on the Board of the SDLRLA Scholarship Fund.



Professor Waldman's Frozen Embryos Scholarship Cited by Pennsylvania Superior Court

The Superior Court of Pennsylvania relied heavily on a law review article authored by TJSJ Professor Ellen Waldman in affirming the award of cryopreserved pre-embryos to a divorcing wife seeking post-marital motherhood.

Professor Waldman's article, "The Parent Trap: Uncovering the Myth of 'Coerced Parenthood' in Frozen Embryo Disputes," was published in the *American University Law Review* in 2004. In her article, she encourages the courts to "adopt guidelines that more equitably assess the parties' competing reproductive interests" and to avoid inappropriate presumptions "where careful and fact-sensitive analysis is necessary to fairly assess the interests at stake." Specifically, Professor Waldman was concerned that "courts stray when they presume that parties seeking to avoid unwanted genetic links should prevail in frozen embryo disputes."

In the Pennsylvania case, the Court of Common Pleas of Chester County had awarded the wife 13 frozen pre-embryos that had been conceived a few years earlier via in vitro fertilization. The wife underwent extensive breast cancer treatment and, at the time of divorce, believed that she was no longer able to become pregnant. The husband appealed and lost.

In her article, Professor Waldman challenged the judicial presumption that the right to avoid procreation should, in frozen embryo disputes, always trump the interest to achieve genetic parenthood and took issue with judicial notions that adoption exists as a viable option for aging single divorcees. The opinion by the Superior Court, issued this April and cited as 2012 WL 1202039 (Pa.Super.), relied on Waldman's work in rejecting the husband's claim that his ex-wife, if precluded from using the frozen embryos, could simply adopt. The court wrote:

Adoption is a complicated process. "There are three routes by which one may adopt a child. None [is] risk or burden-free and the burdens are multiplied for aging single women." Ellen Waldman, "The Parent Trap: Uncovering the Myth of 'Coerced Parenthood' in Frozen Embryo Disputes," 53 *Am. U.L.Rev.* 1021, 1056 (2004).

Waldman goes on to discuss the public, private, and international routes for adoption, all of which pose significant obstacles to Wife. She notes that in terms of public adoption, there are many more adoptive parents than children available for adoption. Furthermore, when public adoption agencies do have a "child, they first look to place that child with a married couple and will only look to a single person as a secondary option." Additionally, there are issues for older, single women when it comes to private adoption. She notes that "all private agencies have their own requirements regarding age, marital status and income that may exclude older single mothers." The same holds true for foreign adoption, which leads Waldman to conclude that "[a]doption, especially for single older women, is an expensive process fraught with the potential for protracted delay and ultimate disappointment."

Thus, we conclude that Wife's compelling interests in using the pre-embryos include the fact that these pre-embryos are the option that provides her with what is likely her only chance at genetic parenthood and her most reasonable chance for parenthood at all.

Professor Waldman has written extensively about frozen embryo disputes and is pleased that courts are now beginning to examine some of the cultural myths and practical realities that she believes have muddied earlier courts' treatment of the topic. "It's very gratifying to think that the writing we do does actually lead courts to reach better, more informed decisions," she said.

TJSL Alumnus Hears Rev. Jesse Jackson and Prof. K.J. Greene at D.C. Conference



Reverend Jesse Jackson and David Mahood '00 in Washington, D.C.

TJSL Alumnus David Mahood '00 recently attended the Institute for Intellectual Property & Social Justice "IP and Civil Rights Conference" in Washington, D.C., where Reverend Jackson was the keynote speaker, and our own Professor K.J. Greene was a presenter.

"Reverend Jackson spoke about the difficulties that African-Americans have had in their efforts to improve economically," said Mahood. "He mentioned that in Maryland and in many other states there are no African-American owners of, for example, car dealerships and other powerful economic entities. This has led to lack of economic influence in America and has contributed to many problems facing African-Americans."



Professor K.J. Greene

Mahood says Reverend Jackson also explained that "victims of discrimination react in three basic ways: One way to react is to be discouraged, ignore the problem, and suffer in silence. A second way to react is to be angry and bitter and to engage in activities to vent the emotions ineffectively. The third way to react is to acknowledge the harm of discrimination and then act positively to make a better life for oneself and one's family."

After his talk, Mahood spoke with Rev. Jackson briefly and then "asked for the honor of taking his picture with me," Mahood said. "He quickly struck the pose which I am sure he has taken thousands of times."

"Reverend Jackson is one of the country's greatest civil rights leaders, and I was honored to share the stage with him," said Professor Greene. "And I'm grateful that the issue of IP and race, an area I pioneered, has come so far in legal discourse."

Professor Greene's panel explored whether copyright terminations that allow artists, including music artists, to reclaim copyrights assigned by contract after 35 years, can be used as a vehicle to correct the injustice many blues and rock artists faced in "giving away" their copyrights.

"My talk focused on the bigger picture of exploitation and appropriation of creative works by black artists," said Professor Greene who, as noted, is a pioneer researcher and a major presenter on this subject.

"Professor Greene was inspiring, dynamic and exciting," said Mahood. "He was the best speaker of the day."

When Mahood was a student at TJSL, he was a member of the Black Law Student Association because he has long been interested in black civil rights. "The struggle for fairness and equality has been a noble struggle," he said.

Mahood's practice, located in Savage, Maryland, is mainly devoted to divorce law and general litigation, involving real estate, and contracts and other general areas of law. He is an attorney in both California and Maryland.

"I really enjoy being so close to Washington, D.C., where I can participate in so many different legal activities," said Mahood. "I just finished four ADR seminars on Mediation and Collaborative Law. I now wish I had taken classes in ADR at TJSL because it is becoming a more important focus of the courts."

Professor Schwabach's Latest Book Explores the World of Fan Fiction

Professor Aaron Schwabach's latest book *Fan Fiction and Copyright: Outside Works and Intellectual Property Protection* (Ashgate; 2011) takes up a very complex and complicated subject: Do published authors have a legal claim over the writings created by their own fans using the author's characters?



Fan fiction ("fanfic" or "fanworks" for short) is the practice of fans picking up where an author leaves off and writing their own, usually unauthorized versions of a story, using the same characters and developing their own plotlines. Much of it appears on the internet.

"Fanworks are outsider works," according to Professor Schwabach. "For the most part they're written by people with no commercially published works of their own, and they're ignored, scorned, or sometimes attacked by commercial publishers. Through fanfic, the fans are telling the story too, and taking it in directions the author might have avoided. While an individual fan's voice would be lost, the magnifying power of the internet lets the fans collectively be heard - even by the author."

It goes without saying that fanworks lead to copyright disputes.

"It was these copyright concerns that prompted me, back in 2009, to publish an article in the *University of Pittsburgh Law Review*, titled "The Harry Potter Lexicon and the World of Fandom: Fan Fiction, Outsider Works, and Copyright," says Professor Schwabach. "The 2009 article addressed three individual instances of disputes between authors and fans over fan works, including the Harry Potter Lexicon referred to in the title."

Professor Schwabach says that in doing the research for the article, he realized there was a lot of material that wouldn't fit into an article, but more than enough for a book.

According to Professor Schwabach's publisher, Ashgate: "*Fan Fiction and Copyright* looks closely at examples of three categories of disputes between authors and their fans: Disputes over the fans' use of copyrighted characters, disputes over online publication of fiction resembling copyright work, and in the case of Harry Potter author J.K. Rowling and a fan site webmaster, a dispute over the compiling of a reference work detailing an author's fictional universe. Offering more thorough coverage of many such controversies than has ever been available elsewhere, and discussing fan works from the United States, Brazil, China, India, Russia, and elsewhere, *Fan Fiction and Copyright* advances the understanding of fan fiction as transformative use and points the way toward a 'safe harbor' for fan fiction."

Professor Schwabach has written scholarly articles on the Harry Potter series, and he's a fan of fantasy worlds himself.

"Fan fiction has been an interest of mine for a while," says Professor Schwabach. "I'm a fan of any number of fictional universes: Harry Potter, Lord of the Rings, Legend of Aang/Korra... and while there are plenty of other fandoms that don't appeal to me in quite the same way, I understand and respect the fannish impulse underlying them."

In *Fan Fiction and Copyright*, Professor Schwabach examines the link between fannish impulses and copyright infringement. It is fascinating new legal territory and these issues will no doubt create new caselaw along the way. Professor Schwabach hopes the emerging legal regime preserves ample space for fanworks. "Fanworks build markets and enhance the fans' appreciation of the underlying work. If the end result is that copyright law gives content owners greater power over those works, that power must be tempered with commensurately greater responsibility."

A Message from Professor Tiefenbrun from Hangzhou, China

Dear TJSL Faculty, Students, and Staff:

I am delighted to report that our first week of the 3-week China International Law Study Abroad Program in Hangzhou, China has been very successful. We have 58 American students from 3 different law schools in the United States and 17 Chinese students from Zhejiang University Guanghua School of Law, all studying international and comparative law subjects together with four American law professors and four Chinese law professors. Students report that all five courses are going well, and they very much appreciate the high level of class discussion and learning. Classes are held from 8:30 a.m. to 12:20 p.m., and students are free every afternoon to do good sight seeing in beautiful Westlake, which is across the street from our four-star hotel. Breakfast is sumptuous and provides us with the time and place to talk to each other over a good meal. We travel to law school together by bus, where we all chat and discuss class material and other law-related and cultural, political, or social issues involving us, China and the world, and international law.


The day after we all arrived in Hangzhou, we went on a fun trip around Hangzhou and visited the oldest Buddhist temple in China, the Linyin Temple, whose monumental interior statues take your breath away. We were all in awe! The visit to a real tea plantation and view of the Chinese tea ceremony was a great introduction to a new and different culture. We then visited the Six Harmonies Pagoda for a real escape into the past and into the world of ancient China and its traditions. This weekend almost all of us went to Shanghai together and had a really good, event-packed time, led by an expert guide, whom I have known for six years.

We took the "fast train" to Shanghai, visited the biggest Chinese law firm in Shanghai, and heard an inspiring presentation by James Lin, one of the founding partners of that firm. The managing partner, Dr. Chen Ke, will visit our program on Monday June 3, after we all return from Beijing. In Shanghai we had a delicious dinner at a local restaurant and saw an unbelievable Acrobat Show that everyone said was better than Cirque du Soleil! The next day we visited the magnificent combination of green and stone and water in the famous Yuyuan Garden and residential mansion. Chinese gardens are absolutely beautiful and places of artistic harmony and peacefulness. Then we went to the amazing Shanghai museum where we luxuriated in ancient and modern Chinese paintings, bronze sculptures, porcelain through the ages, and Chinese furniture. For me, this was the highlight of the Shanghai trip, and I have visited this museum eight times in my life. From there we went shopping in Taobao City (i.e. the "Fake Market") where we learned and honed our skills at negotiating the deal! At night we all took a romantic cruise on the Huangpu River seeing all of Shanghai, the new and the old, lit up like a giant Christmas tree all around us. Overwhelming! We visited the French Concession and other examples of the international and cosmopolitan nature of extraordinary Shanghai! The next day we went up to the highest building in Shanghai (the Shanghai World Financial Center) for a superb panorama of the city. We went to a local food market and had lunch at the modest home of a Shanghai resident. She prepared more than 20 delicious dishes for us to eat. What a day it was!

Now we are back in Hangzhou ready to begin the second week of our China Program. This is a truly wonderful group of students who seem eager to learn all about the Chinese language, history, art, culture, legal system, and politics. They are intellectually curious and immersed in international law in a foreign world. This is good, really good. More to come next week.

Professor Susan Tiefenbrun/Director, China Study Abroad Program





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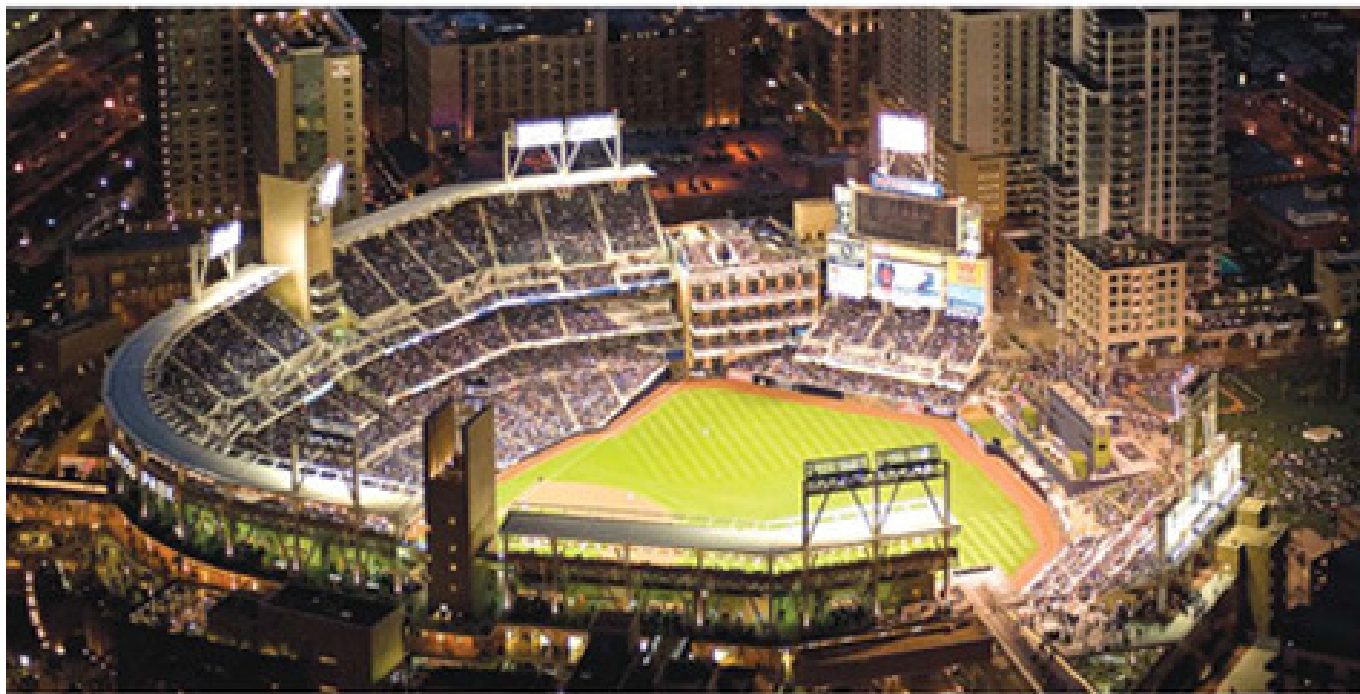
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The San Diego Padres are offering discounted tickets to Thomas Jefferson School of Law students, faculty, employees and their friends and family for select games!

Up to **25% OFF** tickets in Field Box, Field Pavilion, Upper Infield Reserve and Upper Reserve sections on the following games:

Friday, May 18 at 7:05pm Padres vs Angels

Saturday, July 7 at 7:05pm Padres vs Reds

Friday, June 1 at 7:05pm Padres vs Diamondbacks

Saturday, July 21 at 5:35pm Padres vs Rockies

Saturday, June 2 at 4:15pm Padres vs Diamondbacks

Friday, August 17 at 7:05pm Padres vs Giants

Friday, June 22 at 7:05pm Padres vs Mariners

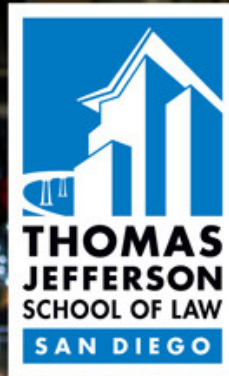
Friday, September 14 at 7:05pm Padres vs Rockies



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2012 NATIONAL SPORTS LAW NEGOTIATION COMPETITION

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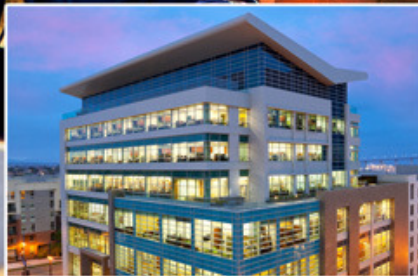
SATURDAY: PRELIMINARY ROUNDS

SUNDAY: CHAMPIONSHIP FINAL ROUND

QUESTIONS & INFORMATION, PLEASE EMAIL: NSLNC@TJSL.EDU

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FRIDAY

OCTOBER 5, 2012

**Rancho Bernardo Inn Golf Course
17550 Bernardo Oaks Drive
San Diego, CA 92128**

10:00 - 11:30 A.M.

Registration & Putting Contest



12:30 P.M.

Shotgun Start, Scramble Format

5:00 - 7:30 P.M.

Awards Dinner

Early Bird Registration

(Before September 7)

\$130 per person for TJSL Alumni (After 9/7 - \$150)

\$150 per person for Friends of TJSL (After 9/7 - \$170)

\$70 per person for TJSL Students (First Fifteen)

**Entry Fees include putting contest, lunch, green fees,
prizes and awards dinner. A lucky player could win
\$20,000 with a hole-in-one on Hole #11.**

Registration and Sponsorship Opportunities:

<http://www.tjssl.edu/tjssl-alumni/golf-tournament>

For more information, please contact: alumni@tjssl.edu



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FACULTY SCHOLARSHIP

Citations Submitted May 13, 2012 - May. 19, 2012

Aaron Schwabach

Articles:

The Specter of Civil Law Clawback Actions Haunting U.S. and U.K. Charitable Giving, 26 Probate & Property 60 (2012)

Julie A. Greenberg

Articles:

Health Care Issues Affecting People with an Intersex Condition or DSD: Sex or Disability Discrimination, 45 Loy. L.A. L. Rev. 849 (2012, available at <http://digitalcommons.lmu.edu/llr/vol45/iss3/5/>)

Marjorie Cohn

Presentations:

Presenter, The United States and Torture, Citizens for Peaceful Resolution, Veterans for Peace # 112, and Pulse TV, Ventura, CA, May 6, 2012

Presentations:

Presenter, Immigrants' Rights on Trial in the Supreme Court, National Lawyers Guild - TJSJ chapter, National Lawyers Guild - S.D. chapter, American Friends Service Committee, Equality Alliance of San Diego, Organizing for Justice Committee, First UU Church of San Diego, San Diego Immigrant Justice Consortium, San Diego Organizing Project, Thomas Jefferson School of Law, San Diego, CA, April 23, 2012

Presentations:









Panelist, Stand Your Ground panel (BLSA), Thomas Jefferson School of Law, San Diego, CA, April 4, 2012

Susan Bisom-Rapp

Presentations:

Panelist, At-Will Employment: A Default Rule with Many Exceptions, Essential US Employment and Labor Law for the French Entrepreneur, French American Chamber of Commerce, Thomas Jefferson School of Law, San Diego, CA, April 8, 2012 (Available at <http://www.tjsl.edu/news-media/2012/6396>)

May / June

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
<p>27</p> <p><i>Golden Gate Bridge opened on May 27, 1937</i></p> 	<p>28</p> <p><i>Memorial Day TJSL Closed</i></p> <p><i>Memorial Day commemorates U.S. soldiers who died while in the military service.</i></p> 	<p>29</p>	<p>30</p>	<p>31</p>	<p>June 01</p>	<p>02</p>
<p>03</p> 	<p>04</p>	<p>05</p> <p><i>U.S. Senator Robert F. Kennedy shot by an assassin June 5, 1968. Died the following day, 1968.</i></p>	<p>06</p> <p><i>YMCA organized in London, June 6, 1844.</i></p>  	<p>07</p>	<p>08</p>	<p>09</p>
<p>10</p>	<p>11</p>	<p>12</p>  	<p>13</p>	<p>14</p> <p><i>Continental Congress adopted the Flag of the United States, June 14, 1777.</i></p> <p><i>Hawaii organized as a territory, June 14, 1900.</i></p>	<p>15</p> <p><i>George Washington appointed commander in chief of the Continental Army, June 15, 1775.</i></p> 	<p>16</p> <p><i>Ford Motor Company founded, June 16, 1903.</i></p> 