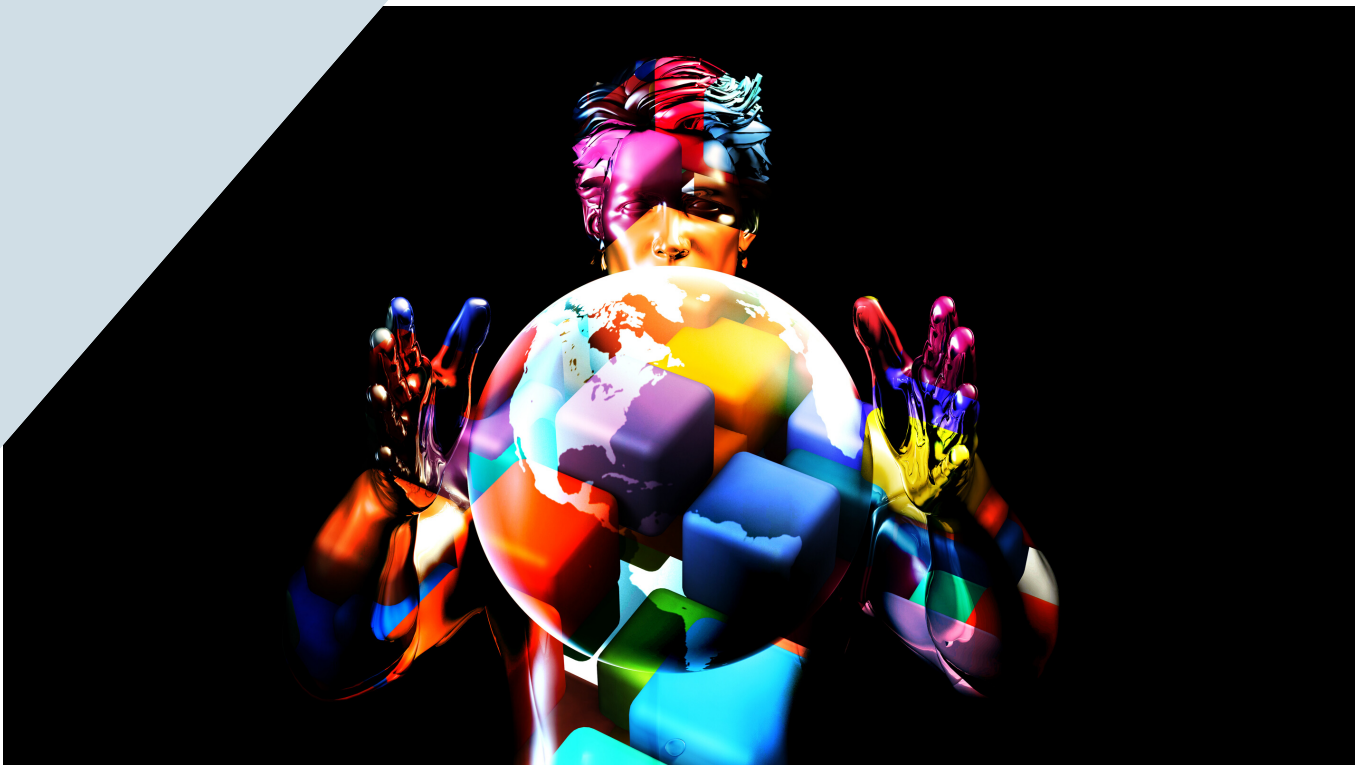


# THE JEFFERSONIAN

*A Student Publication*



THOMAS JEFFERSON  
SCHOOL OF LAW  
SAN DIEGO • CALIFORNIA

STUDENT BAR ASSOCIATION

# A NOTE FROM YOUR EDITORS



We would like to thank all the student that helped make the Jeffersonian possible this year, especially those who got out of their comfort zones by writing creatively. As law students it is hard to get out of the IRAC formula and write about an event, a person, an organization, or a school project in a creative way. So, thank you to everyone who created all the content for us and, to everyone else, we appreciate your support.

- Shelby Scheider, 2L, Co-Editor-In-Chief and  
Aundrea Cardoza, 3L, Co-Editor-In-Chief

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# LAW REVIEW IN REVIEW

\*Editor note: We asked Law Review authors to share their proposals. One is in Spanish and another is about cross-cultural issues.

## FINTECH:

### LA NECESIDAD DE UNA COOPERACIÓN REGULATORIA TRANSFRONTERIZA

Por David Arreguin

En una época en la cual los bancos permanecían ocupados con la regulación de la crisis post-financiera del 2008, la tecnología permitió a ciertos participantes (“Financial Technologies” o “Fintech”) adentrarse en el panorama financiero y competir con muchas de las instituciones del mundo. Fintech es una forma de integración tecnológica la cual facilita servicios financieros por medio del uso de la informática, el uso de la red en línea y la red móvil. En otras palabras, si alguna vez ha pagado por algo con su teléfono, transferido dinero por medio de una app, o revisado su estado de cuenta en línea, usted ya es parte de la industria fintech.

Debido a la naturaleza de fintech, el ritmo de su crecimiento y cambio han presentado un reto regulatorio, dejando al regulador con implementación inadecuada de las regulaciones existentes. Como tal, las actuales regulaciones fintech llaman a una amplia revaloración de su capacidad para permitir la innovación. En la era actual de globalización de mercados, compañías fintech han comenzado a asociarse con operadores de red móvil locales, operadores de transferencia de capital y bancos por toda la frontera de Estados Unidos y México. Por lo tanto, Fintech se presenta como una fuente de oportunidad para reguladores; si los reguladores son capaces de mejorar la cooperación transfronteriza, fintech podría globalizar los servicios financieros.

Mi nota de “law review” es una crítica de las regulaciones fintech existentes y de los “acuerdos” fintech transfronterizos entre los Estados Unidos y México. Propone regulación fintech en la región fronteriza para posteriormente lanzar una propuesta binacional basada en el modelo de “sandboxes.”[1] Un sandbox regulatorio transfronterizo entre los dos países promovería la innovación fintech, atraería y retendría inversión, y permitiría una adecuada protección al consumidor, manteniendo así los riesgos en un nivel adecuado.

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[1] Deron Hicks, Will Globally Popular

Regulatory Sandboxes Ever Crack the U.S. Payments Market?, TSYS (2019),

<https://www.tsys.com/news-innovation/whats-new/Articles-and-Blogs/nGenuity-Journal/will-globally-popular-regulatory-sandboxes-ever-crack-the-us-payments-market.html>. (Los sandboxes presentan un esquema que permite abordar la incertidumbre regulatoria proveyendo a la empresa fintech flexibilidad de las regulaciones estándar y los permisos requeridos por un periodo de tiempo limitado, permitiendo así que nuevos productos y servicios se desarrollen en un “ambiente” limitado mientras que las implicaciones regulatorias se aclaran.)

# LAW REVIEW IN REVIEW

\*Editor note: We asked Law Review authors to share their proposals. One is in Spanish and another is about cross-cultural issues.

## FINTECH: THE NEED FOR CROSS-BORDER REGULATORY COOPERATION

By David Arreguin, 3L

At a time when banks were busy with the 2008 post-financial crisis regulations, technology enabled the smaller players (“Financial Technologies” or “Fintech”) to enter the financial space and compete with many of the world’s largest institutions.[1] Fintech is a form of integration of technology that facilitates financial services through the use of online, mobile, and information technologies.[2] Simply put, if you have ever paid for something with your phone, transferred money using an app, or checked your bank statement online, you are already part of the Fintech industry.[3]

Because of the nature of Fintech, the rate of its growth and change have proved to be a regulatory challenge, leaving regulators with the inadequate implementation of regulation.[4] As such, current Fintech regulation calls for a broad reassessment of its adequacy to allow innovation.[5] In the current era of globalized markets, Fintech companies are starting to partner with local mobile network operators, money transfer operators, and banks across the United States and Mexico borders.[6] Fintech then serves as a source of opportunity for regulators; if regulators can enhance cross-border cooperation, Fintech can globalize financial services.[7]

My law review note is a critique of existing Fintech regulation and cross-border Fintech “agreements” between the U.S and Mexico. It proposes a border region and later binational Fintech regulation based on the “regulatory sandbox” model approach.[8] A cross-border regulatory sandbox between the countries would further Fintech innovation, attract and retain investment, and allow for stronger consumer protection, all while keeping risks at an adequate level. [9]

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[1] Senthil Kumar, Cross-Border Payments: Challenges and Opportunities as Fintechs Compete with Banks, BankingCIOOutlook (2017), <https://fintech.bankingciooutlook.com/cxo-insights/crossborder-payments-challenges-and-opportunities-as-fintechs-compete-with-banks-nwid-218.html>.

[2] Anton Didenko, Regulating Fintech: Lesson from Africa, 19 San Diego Int’l L.J. 311 (2018); Michael Perez, Mobile Payments Promise to Improve Financial Accessibility in Mexico, Federal Reserve Bank of Dallas (2016), <https://www.dallasfed.org/-/media/documents/research/swe/2016/swe1603g.pdf>.

[3] Elizabeth Schulze, What is Fintech?, YouTube.com (Jun. 7, 2018), [https://www.youtube.com/watch?v=EoNrg\\_DR3s](https://www.youtube.com/watch?v=EoNrg_DR3s).

[4] Bryan P. Schwartz & Ellie Einarson, ARTICLE: The Disruptive Force of the Sharing Economy, 18 Asper Rev. Int’l Bus. & Trade L. 221 (2018).

[5] William Magnuson, Regulating Fintech, 71 Vand. L. Rev. 1167 (2018).

[6] Lev Bromberg et al., Cross-Border Cooperation in Financial Regulation: Crossing the Fintech Bridge, Colum. Law School: The CLS Blue Sky Blog (Feb. 13, 2018), [http://clsbluesky.law.columbia.edu/2018/02/13/cross-border-cooperation-in-financial-regulation-crossing-the-fintech-bridge/#\\_ftn2](http://clsbluesky.law.columbia.edu/2018/02/13/cross-border-cooperation-in-financial-regulation-crossing-the-fintech-bridge/#_ftn2); Luis Alejandro Estoup, Fintech under the New United States-Mexico-Canada (USMCA) Agreement, Practical Law UK Articles w-020-8365 (Jun 1, 2019).

[7] Estoup, *supra* note 5.

[8] Deron Hicks, Will Globally Popular Regulatory Sandboxes Ever Crack the U.S. Payments Market?, TSYS (2019), <https://www.tsys.com/news-innovation/whats-new/Articles-and-Blogs/nGenuity-Journal/will-globally-popular-regulatory-sandboxes-ever-crack-the-us-payments-market.html>. (A regulatory sandbox is a framework that addresses regulatory uncertainty by providing Fintech companies flexibility from normal regulations and licensing requirements for a limited period of time, allowing new products and services to be rolled out in a limited environment as the regulatory implications become clearer).

[9] *Id.*



"Cultural Appropriation: The Native American Artist  
Struggle for Intellectual Property Protection in Canada, Mexico,  
and The United  
States."  
Olga B. Gonzalez, 3L

This paper tackles the problematic situations Native American artists face when trying to seek protection for their creations. Whether in Mexico, Canada or the United States, the issues surrounding Native American intellectual property protections are frustrating, to say the least. The inadequacy of current laws is undeniable, and Native artists are subjected to additional victimization when their own tribes will not recognize them as enrolled members or as a tribe-certified artist so that they can seek protection under current laws. One viable solution is including Native artists in the modification or creation of new laws that are enforced and that have enough malleability to accommodate the ever-changing tribal enrollment laws.



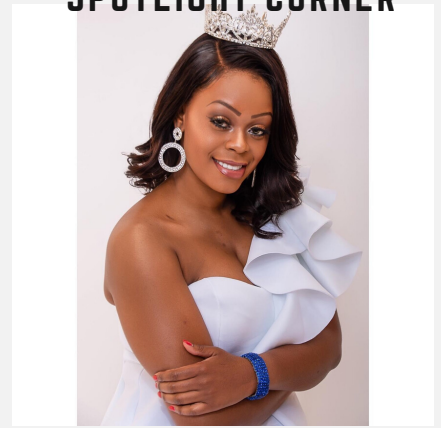
## STUDENT ORGANIZATIONS SPOTLIGHT

### La Raza Law Students Association

By: Alfredo Villegas, 3L

La organización estudiantil de La Raza típicamente es asociada con estudiantes de descendencia hispana. Lo que rápidamente aprendí mi primer año aquí en TJSL fue que La Raza es una de las organizaciones con mayor diversidad en esta escuela. Siempre ha sido una organización que le da la bienvenida a cualquier persona que quiera atender a cualquiera de nuestros eventos que llevamos acabo durante el año escolar. Gran parte de nuestro éxito se debe al gran apoyo que recibimos de la Asociación de Abogados La Raza aquí en San Diego.

## STUDENT SPOTLIGHT CORNER



## BLACK PRIDE, PAGEANT VIBES (JUDGED FOR LIFE)

*by Hani Habbas*

This spotlight will feature Denise Barnes: third-year law student, Air Force Veteran, Air Force Meritorious Service Medal recipient, Miss Fresno County (2014), and Miss Black California USA 2020. Denise possesses the ingredients that make a superhero.

I first met Denise as a 1L. She was in my Torts I class with Professor Dyson. It was the perfect environment because Professor Dyson created an inclusive atmosphere, i.e., everyone felt welcome regardless of color, ethnic background, sexual orientation/identification, social class, or religion. While walking into Professor Dyson's class, with the feel of 90s hip hop bumping in the background, I approached Denise. I felt like Eminem because my palms were sweaty, knees weak and heavy. I was intimidated, and anyone that knows me realizes that it is pretty challenging to do, but Denise has a presence. She always holds her head high and is the type of woman that has no fear in her heart. Denise and I became very close friends after I extended an olive branch. I have a friend that owns a multinational skincare company that focuses on people of color (I love humble bragging), and he was kind enough to provide Denise with a gift bag. Denise was so appreciative, so kind and considerate that she sent my friend a personal e-mail thanking him for the gift bag. At the time, I had no idea that Denise was recognized nationally as a pageant contestant . . .

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El dicho “La Raza” pudiera ser fácilmente comparada con la palabra dada en ingles a la raza en particular a la que perteneces. En mi opinión, el dicho “La Raza” tiene un significado profundo que tiene mayor significado para describir a “mi gente” o “mi comunidad.” Es un orgullo ser el presidente de esta organización este año y prometo esforzarme para apoyar un gran sentido de comunidad no solamente dentro de la organización si no también dentro de todo el cuerpo estudiantil de TJSL. Una de mis muchas metas este año fue que La Raza fuera una reflejo de la diversidad que disfrutamos en esta escuela empezando con la mesa ejecutiva. Estoy muy orgulloso de nuestra mesa ejecutiva porque todos aportamos algo diferente al otro, pero con el meta en común de servir a la comunidad de TJSL.

La Raza continuara trabajando en servicio a la comunidad de esta escuela en todos los aspectos de nuestras vidas de estudiante de derecho. Puede ser en nuestra sesiones de repaso antes de exámenes, nuestros eventos sociales, o una de nuestras juntas donde invitamos a un miembro de la comunidad a platicar con nosotros, La Raza esta comprometida con todos los estudiantes de esta escuela. Quiero agradecer a todos los que han atendido algunos de nuestros eventos hasta ahora y esperamos contar con su apoyo para el resto del año escolar. Así como nuestro nombre lo sugiere, cuando estas en un evento de La Raza, todos son nuestra Raza.



### Crawford Law School Institute & Mentorship Bond (CLIMB)

By Bailey Burlingame, 3L

"The purpose of the Crawford Law School Institute & Mentorship Bond (CLIMB) is to stimulate the minds of youth that have expressed a keen interest in the legal profession. Through a collaborative effort between the youth participants and a staff composed of Thomas Jefferson students, participants get the chance to broaden their vision and develop the skill set necessary to excel in their professional lives"- CLIMB Mission Statement.

On Friday mornings, TJSL students participate in the Teen Court aspect of the CLIMB program at Crawford High School, working directly with sophomore students. Teen Court provides participants with the opportunity to gain simulated legal experience while being enlightened on the subject of professional etiquette.

In 1968, the Ritz Carlton Hotel hosted the first "Miss Black America Pageant" in Atlantic City. The father of the Miss Black America Pageant, J. Morris Anderson, was a Philadelphia businessman who raised two daughters that were infatuated with becoming the next Miss America. The pageant created an opportunity for African-American women to showcase their beauty without the bias and obstacles inherent during that era. At the time, the NAACP became actively involved and publicized the Miss Black America Pageant nationwide in protest of the Miss America Pageant\*.

To earn scholarship money for college and her desire to step outside of her comfort zone, Denise began competing in pageants in 2010 as a high school junior. Surprisingly, her first experience in front of a judge was not law related. The pageant comprised of five criteria: a private interview with a panel of judges, swimsuit, talent, evening gown, and an on-stage question. Denise earned thousands of dollars in scholarship money from pageants. In 2011 she won overall pageant for her cities Annual Harvest Holiday pageant. In 2014, she was crowned Miss Fresno County 2014. Denise competed in the National Distinguished Young Women Pageant and won First Runner-Up. Over the summer, Denise won the title of Miss Black California USA 2020. She will represent the State of California against forty-eight other women.

To earn scholarship money for college and her desire to step outside of her comfort zone, Denise began competing in pageants in 2010 as a high school junior.

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While the focus of the program itself is to expose interested high school students to the legal profession, working with the kids makes it so much more than that. When we first started visiting Crawford High School, the students were shy and uncertain of their potential. Now that we are nearing the close of our sessions with them, they have been tasked with performing an opening in front of the class, and the difference is overnight.

With these closing performances, the kids were confident, sure of their abilities, and eager to learn more about the law. It was a heartwarming and fulfilling experience to be part of their learning process. The CLIMB program will continue next semester with the same set of students, and we would love to have you join us!

## Trademark Clinic

Devin McDaniel

3L

"The Trademark Clinic at Thomas Jefferson School of Law provides free legal services for low-income individuals and organizations desiring to obtain Federal trademarks or service marks from the United States Patent and Trademark Organization" – Trademark Clinic Mission Statement.

Thomas Jefferson students participating in the Trademark Clinic are certified by the California State Bar to practice in front of the USPTO under the supervision of a licensed attorney. The clinic is a masterclass in experiential learning. After joining the program, students hone the skills necessary to succeed after graduation in the area of Trademark law and to work with real people in helping them achieve their business goals. Ultimately, the Trademark Clinic is unique for the type of clients we serve. The clients we engage in are seeking Trademark registration, not suing for or defending against an infringement or dilution claim. As a result, we get to work with people who are excited about their new business and happy to have our help in securing their brand the legal protections provided by a trademark. From the start of the semester until the end, we get to follow our client's applications for trademark registration, argue against any office actions brought against the application by USPTO, and ultimately, we get to meet with our client and present them with their official trademark certificate. If you are interested in Trademark Law, apply to join next semester. You will leave the clinic knowing more about trademark law than your peers, and you get to have fun and make new friends throughout the semester!

Surprisingly, her first experience in front of a judge was not law related. The pageant comprised of five criteria: a private interview with a panel of judges, swimsuit, talent, evening gown, and an on-stage question. Denise earned thousands of dollars in scholarship money from pageants. In 2011 she won overall pageant for her cities Annual Harvest Holiday pageant. In 2014, she was crowned Miss Fresno County 2014. Denise competed in the National Distinguished Young Women Pageant and won First Runner-Up. Over the summer, Denise won the title of Miss Black California USA 2020. She will represent the State of California against forty-eight other women.

"Know Your Rights" is the platform Denise has chosen and will be centered on educating the youth of color. Denise states, "I want to educate our black brothers and sisters on the importance of knowing their rights and exercising those rights, especially concerning law enforcement encounters. This matter is of the utmost importance and a perpetual issue amongst many individuals because so many men and women are learning their basic legal rights for the first time after they are already incarcerated and convicted of a crime—this is unacceptable." Denise has booked several speaking events at various high schools and youth organizations throughout the state of California.

Denise will be competing for the National Title of Miss Black America in Washington, D.C., on August 9, 2020. After law school, she looks forward to continuing to serve her country employed as an Air Force Reserve JAG Officer.

\*The NAACP protest against the Miss America Pageant was centered around the exclusion of black women in the pageant.



## STUDENT BAR ASSOCIATION