



THE COMMENTATOR

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The Student Newspaper of the New York University School of Law

March 13, 2008

Yale Professor and Award-Winning Author Yoshino Accepts Tenured Position at NYU



Kenji Yoshino, here deep in thought, will officially join the NYU Law faculty in the fall of 2008, though he will spend that semester on leave. Yoshino is currently visiting at the law school and teaching Constitutional Law.

BY IAN SAMUEL '08

Professor Kenji Yoshino, currently the Guido Calabresi Professor of Law at Yale Law School, has accepted a tenured offer from NYU, and will join us permanently this fall, holding a chair in constitutional law. Professor Yoshino was also a former Deputy Dean at Yale Law School.

Rumors have been circulating, of course, about the reasons for the move. Yoshino's conflicting answers to queries haven't helped clear up the mystery, either. In an interview, Yoshino explained, "I visited wanting to spend more time in the city, but stayed because of my great experience with the school." But in a

February 28, 2008 letter to Dean Harold Koh, Yoshino described the reasons for his move as "entirely personal," having "nothing to do with the school." Yoshino also noted in the interview that, "except in size," he has seen no difference in the student bodies of the two schools.

Yoshino, when asked what NYU did to secure the move, was frank. "Dean Revesz and his colleagues have been wonderful in giving me what most academics want - time to write. This took the form of reduced administrative burdens, NYU's more generous leave policies, and the like." These benefits may help Yoshino to fulfill his pledge to be a "frequent visi-

tor" to Yale, beginning this fall. Professor Yoshino confirmed in the interview that he will be on "leave" from NYU this fall, his first semester as a permanent member of the faculty.

Next year, Yoshino will teach only a basic course in constitutional law. He said in the interview, however, that he will likely teach a seminar on constitutional interpretation at some point.

Yoshino is perhaps best known for his book, *Covering: The Hidden Assault on Our Civil Rights*, which won the Randy Shilts Award for Gay Non-Fiction from the Publishing Triangle in 2007. Part memoir and part legal argument, Yoshino uses the book to explain the phenomenon of "covering," the downplaying of disfavored traits to blend into the mainstream. Yoshino says he is currently working on an article on the symbolic relationship between liberty and equality, as well as a book on "Shakespeare and the Law."

Yoshino has been teaching at Yale since 1998, shortly after completing a clerkship with Judge Guido Calabresi in 1997. He says he still expects to be teaching law in ten years, and still at NYU. "I grew up as the son of a professor and couldn't imagine my way out of living a life of the mind," Yoshino wrote in an email. "I don't understand

See YOSHINO page 5.

Public Service Auction Raises \$140,000



Current students, faculty, and alumni all participated in the live auction. Money raised will fund students' summers doing public interest work.

BY JACK LEO '10

This year's Public Service Auction, held on Thursday, February 28, 2008 in Vanderbilt Hall, raised a total of \$140,000 for the Law School's Public Interest Summer Funding Program. The event was attended by over 600 students, faculty, alumni, and friends of the law school and featured both a silent and live auction. After the donations campaign brought in a great deal of items from local business, students, faculty, and alumni, auction co-chairs Lars Johnson '09 and Carly Leinheiser '09 had no doubt that this year's event would be a tremendous success.

The night got off to a quick start during the silent auction with intense bidding on items like theater tickets, a karaoke night with students from Section Three, a MacBook laptop, and a variety of other items. The excitement then picked up as anxious bidders crowded into Tishman Auditorium for the live auction where some of the most coveted items were put on the auction block. Students and faculty members acted as auctioneers, extolling the virtues of the items on the block, though bidders did not need much encouragement to offer generous amounts of money.

Brunch with Dean Revesz and Professor Been sold for \$2,100, and two weekends at Professor Law's house sold for \$1,150 each. While alumni seemed to have the deepest pockets, several students got into the mix. Chris Utecht '10, for instance, won a lunch with Jeffrey Toobin, CNN Analyst and author of *The Nine*.

The highlight of the auction was Dean Revesz's riveting *Wii Tennis* match, an athletic competition truly unlike any other. Emerging to the powerful riffs of Survivor's "Eye of the Tiger," Dean Revesz looked dashing in his tennis duds and headband, ready to take on all comers. The bidding to battle him was intense, but eventually NYU Law student David Jacobson '10 prevailed. Revesz fought hard, urged on by the raucous cheers of the crowd, but he eventually faltered, losing 2-0 to the challenger. (For more in-depth coverage on the tennis match, see page 8.)

Overall, the auction was a success and will provide funding for hundreds of students to pursue vital public interest work this summer. The hard work of the Auction Committee and the generosity of donors and bidders will yield great benefits for those doing good work across the country.

Law Students Can Dance, Apparently



Katherine Greeberg

A group of law students performed an "Indian Hip-Hop Fusion Dance" as the final act of MOKA's Cultural Arts Spring Show on March 5, 2008. The night saw a total of 15 acts, featuring current students, alumni, and professionals. MOKA helps students facilitate cultural artistic expression.

The administration comes under attack for its policies regarding registration and the classes prospective students get to sit in on. page 2

Smart people say smart things about a big problem. We summarize. page 3

We review something written by an NYU Law grad. Here's a surprise: we liked it. page 6

Wii Tennis extravaganza! page 8

Infra

Admitted Students Deserve to See Worthwhile Classes

TO THE EDITOR:

I believe the law school doesn't care about whether prospective students decide to attend this school or another. Friday, March 7 was an admitted students' day, and I noticed two very conspicuous things: (1) I have an excellent class on Fridays with a very engaging professor, but there were no admitted students sitting in on it. (2) I have what is perhaps the most boring class I've had the displeasure of sitting through over my entire academic career on Fridays with a professor that must not know that keeping students interested in the subject is something he should strive for, but there were more admitted students observing the class than enrolled students.

I don't believe that NYU should try to present to admitted students a false picture of what classes here are like. Indeed, I applaud the fact that they refrain from doing what I hear Columbia does, which is to hold a "mock class" for prospectives, "taught" by a star professor. But that doesn't mean that we should flaunt the fact that some of our professors are terrible teachers.

It would be easy to prevent admitted students from going to mind-numbing classes. Just don't put them on the list of classes prospective students can sit in on. And it's not like the admissions office doesn't have access to information that could easily be used to determine which professors should be screened. I quickly looked up the most recent course evaluations for the two professors I mentioned above. The first was rated a 4.96 out of 5 for whether or not the professor was "effective," which I take to be a proxy for whether or not he's interesting. The second received a 3.47 on the same scale, one of the lowest I've seen. And on the scale for whether attending class is important, which I take to be asking whether students learned something from attending, the first professor received a 4.19 and the second a 3.32.

It took me about a minute to find hard numbers that indicate that your average law school student would like to see a class with the first professor I mentioned and would rather shoot herself in the eye than sit through a class with the second. It seems like it would be easy for the admissions office to do the same thing, then plan accordingly. Unless, of course, they don't care about whether prospective students decide to attend this school or another.

STUDENT WHO WOULDN'T BE HERE
IF SHE'D SAT IN ON GILLERS'S "EVIDENCE"

Administration Needs to Be Open About Changes to Registration System

BY SYDNEY NASH '09

To begin with, I think most upperclassmen realize that our current registration system has various incurable flaws, and I applaud the administration's efforts to provide us with a new system. I also realize that some rising-3L class must be the transitional class which will experience both systems – that is inevitable. With these truths in mind, I'd like to make two major points in response to the Town Hall meeting held on February 27 to discuss the new registration system.

First, I would like to respectfully request that the administration be honest about their own policy goals and the preferences of current students. While I appreciate the opportunity for students to air their concerns about the new registration system at the Town Hall meeting, I had the distinct feeling that the administration was more interested in talking than in listening. When students expressed concerns that the new system was overly complicated, we were told by Professor Barry Adler that the old system was actually more complicated. When some students noted that they did not believe the new system would accurately reflect true preferences and the randomness of the old system seemed more fair, we were told that students thought the old system was unfair.

Students had two main complaints about the old registration system: the lack of waiting lists and the clumsiness of the technical, web-based application for entering lottery choices. Instead of simply responding to these two complaints, the administration has seized on the opportunity to effectuate a wholesale change in policy. Changing registration policy is certainly not a bad thing. It does, however, seem disingenuous to respond to current students' legitimate concerns by explaining that the administration is simply implementing changes requested by certain anonymous students. Note that, for the most part, these anonymous

students who felt the old system was unfair and overly complicated were not in attendance. I have a difficult time believing, as the administration seemed to imply, that the majority views of those in attendance at the Town Hall meeting did not reflect the majority views of current students.

Second, I believe students should be given a chance to respond to the specifics of the new registration system. This may well take place in the "trial run" planned for later in the semester, but it did not occur at the Town Meeting.

The overriding concern of current 2Ls in attendance at the Town Hall meeting was the shift in course preference from rising 3Ls to rising 2Ls. Considering the major change in policy that the administration hopes to make and the importance of getting into desired classes during a very short law school career, this is no big surprise. The administration began the Town Hall meeting by saying they had listened to the concerns of current 2Ls and made changes to take care of their fears.

It was not until after leaving the meeting that I realized the administration had not shared any actual numbers with us. We were told rising 3Ls would get additional points, but it was unclear whether by this they meant the same 1250 to 1000 point ratio that students had complained about or additional points on top of the 1250. We were also told that 3Ls would get a certain amount of reserved seats in popular seminars, but we don't know whether there will be three seats or ten. It is impossible to evaluate the degree to which the administration has accommodated rising 3Ls without an opportunity to debate specific numbers.

One of the great advantages of the proposed "bid" system is that the discrepancy between rising 3Ls and rising 2Ls can be adjusted. If the administration feels that 3Ls should not have quite so significant an advantage over 2Ls, that's fine. Under the new system, the advantage can be gradually phased out by adjusting the "points" each class receives. It is

unfair to current 2Ls – and unnecessary – to stick with the current proposal that almost entirely eliminates the 3L advantage in a single year. Switching from absolute preference for 3Ls under the old system to a 25% advantage in points is not a gradual change. In terms of points, if rising 2Ls are going to be given 1000 points, then rising 3Ls need at least 1500 and preferably 1750 to maintain the advantage over rising 2Ls that was had by the preceding classes. This number can be slowly adjusted down so that no class must bear the full brunt of the shift.

In my mind, it is the administration's duty to try to relieve the burden on the transitional class (current 2Ls) by trying as hard as possible to not disadvantage them over past or future classes. Keep in mind that this is a class that has been subject to quite a few registration snafus since beginning law school. First, our 1L registration was halted midway through due to kinks in the system. Then, after 2/5 of 1Ls had chosen their electives, the administration amended the requirement that we take Property by first semester of 2L year. While we appreciate this change, a mid-registration period shift in curriculum requirements makes careful planning somewhat difficult. Finally, our class has been living in a "limbo" over journal/moot court credits for almost a year now. As we look forward to our 3L year, we still have no idea whether we will be receiving credits for these activities, or, if we are to receive credits, what will be necessary to receive the credits and how many credits we can receive. For almost an entire year, as we try to plan our short time at the law school, we've been told it's "to be announced."

In sum, I would like to thank the administration for trying to communicate with students about the proposed system, but I would urge them to be forthright about their own policy goals and to fully disclose all details of the proposed plan for relieving the impact on rising 3Ls.

THE COMMENTATOR

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240 Mercer Street
New York, NY 10012
212.998.6080 (phone) 212.995.4032 (fax)
asgehring@nyu.edu

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Law & Business Symposium Provides Update on State of Private Equity Markets

It's not pretty, people. But there might yet be some hope.

BY STEVEN COHEN '09

On Tuesday, February 26, 2008, the *NYU School of Law Journal of Law & Business* hosted its Spring Symposium, "Contemporary Issues in Private Equity After the Credit Crunch."

The symposium's first panel was entitled "Private Equity's Challenges After the Credit Crunch." One point repeatedly stressed by the panelists was that there was no "demise" of private equity deals, as had been intimated in a recent *Wall Street Journal* article. Larry Graev of The GlenRock Group noted that private equity had faced comparable downturns at other times, but rebounds have regularly occurred such that the volume of deals eventually returned in full force.

Despite the lack of long-range concerns, the panelists acknowledged that there are current short-term hurdles in private equity deals that must be overcome. The panelists, including Audra Cohen of Sullivan & Cromwell, noted that the credit crunch has led to a strained relationship between banks and private equity sponsors. Prior to the credit crunch, banks were willing to let private equity sponsors dictate contractual terms in merger

agreements; however, banks now insist on negotiating terms such as covenants and interest rates. Geoffrey Levin of Kirkland & Ellis noted that buyers have been trying to close many deals, but banks have become hesitant to allow some of those deals to go through. A reason for this reluctance, as noted by Andrew Nussbaum of Wachtell, Lipton, Rosen & Katz, is that accounting rules require banks to account for declining debt values via writedowns each quarter. Thus, some banks are trying to find ways to get out of deals in order to reduce the amount of debt they are carrying on their books.

Graev predicted that many of the deals in place will get done but that the process will be more painful for banks and buyers than in the past. He predicted that smaller deals may fall apart since banks can manage those small losses; however, despite the pain on both sides, larger deals will generally be consummated.

Mark Lebovitch of Bernstein Litowitz Berger & Grossmann LLP noted that, as a result of private equity sponsors dictating terms to banks, risk was pawned off with banks holding the bag in the end. Because of ambiguity in some merger agreements, many private equity buyers were able

to back out of merger agreements once financing went sour and were only responsible for paying relatively small reverse break-up fees. However, banks and sellers tended not to have comparable break-up fee provisions in many of these agreements. Much of the ensuing litigation, including the recent lawsuit by Wachovia related to the Clear Channel Communications acquisition, has dealt with whether the sellers and banks were entitled to specific performance or other damages attributable to buyers' breach of merger agreements.

Graev insisted that, as a result of this litigation and current problems in the private equity market, lawyering on the part of buyers, sellers and banks will improve going forward. In new contracts, there will be more explicit provisions relating to how each party involved in the deal can back out and what the consequences are for doing so. He suggested that in future deals, boards of directors of public companies will accept lower prices from buyers in return for increased certainty that the buyer will close the deal. Nussbaum expressed concern with this suggestion, as a line of Delaware cases, including *Revlon v. MacAndrews & Forbes*, suggests a mandate that

directors sell to the bidder offering the highest price in order to maximize shareholder value. The other panelists, however, pointed out that Delaware courts nonetheless would acknowledge financing and certainty as a valid consideration for directors when evaluating potential deals.

The second panel – "Private Equity's Current Challenges and Their Impact on Future Transactions" – found its members, similarly to the first panel, expressing a general outlook that deals will eventually get done, but that over the next year or two, transactions that are highly leveraged could be difficult to complete.

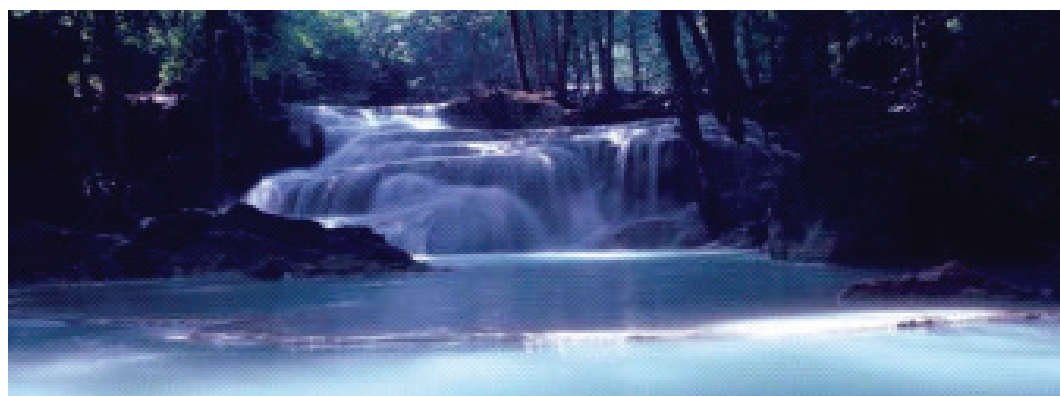
The panel's discussion concentrated on whether a merger agreement was a contract in which the parties involved committed themselves to a sale, or whether it was simply an option that provided private equity firms to back out if financing possibilities later soured. Rick Press of Apollo Management revealed that the private equity industry knew that debt markets were in a bubble, thus suggesting that private equity buyers foresaw declining debt markets, and so knew they needed to prepare an exit strategy. Press and Mitchell Presser of Paine & Partners both acknowledged that reverse

break-up fees were seen as necessary so that private equity firms could opt out of deals.

However, when moderator Professor Yermack of the Stern School of Business argued that these agreements were more accurately described as options, Press and Presser insisted that private equity firms were fully committed to these deals at the time they were written and did not view them as options. Presser noted that public company sellers had fiduciary outs under Delaware law (i.e., if another buyer came along offering a higher price, the seller was allowed to break the deal) that did not apply to private equity buyers, so buyers needed reverse break-up fees to protect themselves.

Despite the current slowdown in deals, Gregory Gooding of Debevoise & Plimpton and Presser believe that the recent slowdown in deals has created a hole in the market, providing a great time for opportunistic buyers to re-enter the market. Whether they are correct that a deal resurgence is forthcoming remains to be seen, but as the symposium attendees learned, the credit crunch has undoubtedly changed the way that these deals will be structured and negotiated now and in the future.

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Law & Business

Alternative Spring Break Program Expands Due to Efforts of Students, Will Teach Legal Principles to Grade Schoolers

By MICHAEL SCHACHTER '10

In the spring of 2006, then-1L Mimi Franke '08 approached Law Students for Human Rights (LSHR) about taking a group of students on a trip to the Gulf Coast region to do disaster recovery work in the aftermath of Hurricane Katrina. With the support of LSHR, Mimi led a group of volunteers to New Orleans, Louisiana and Gulfport, Mississippi. Together, Mimi and LSHR had founded NYU's Alternative Spring Break (ASB) Program.

The trip's popularity and success attracted the attention of the administration and the Public Interest Law Center (PILC). In 2007, with the support of the law school, Mimi and LSHR expanded the Alternative Spring Break Program to include three sites: New Orleans; the Bronx; and Miami, Florida. Collectively, 34 NYU Law students performed over 1,000 hours of community service on these trips.

This year, under the leadership of current ASB Chairs Molly Tack '09 and Leah Lotto '09, the Program is expanding yet again. This Spring Break, 55 students will contribute law-oriented public service in six cities. The Program will return to New Orleans, Miami, and the boroughs of New York, and will add three new sites: Washington, DC; Newark, New Jersey; and Charlotte, North Carolina.



Volunteers with the Alternative Spring Break Program donate their time and efforts to helping communities in need of legal assistance. Every year since its inception, the Program has visited New Orleans to help with the \$81 billion of damage caused by Hurricane Katrina.

Planning for the Charlotte trip, themed around education and children's welfare, began

early, on August 25, 2005. This was my first day as a fourth grade teacher at Devonshire

Elementary School in northeast Charlotte. Over the next two years, I did what I could to teach my students what I knew about life. In return, my students taught me what life is all about. I had a hard time leaving, and I knew that I would have to find some way to go back to visit this year.

I learned about the ASB Program soon after arriving at NYU. I worked with Molly and Leah to develop the concept for a Charlotte trip that would further the goals of the Program, addressing the growing interest among NYU Law students in education law and children's rights, while simultaneously serving the Charlotte community and Devonshire Elementary School. Working with the Education Law Society, I recruited Marie Mark '10 to sign on as a co-leader and develop a social studies curriculum on the legal system.

During the coming Spring Break, a group of six volunteers, comprised of 1Ls, 2Ls, and 3Ls, will be joining Marie and me in Charlotte. Each morning we will convert Devonshire Elementary into Devonshire Law School, engaging third and fourth graders in a civil trial of Yertle the Turtle, and helping student-led think tanks to develop new policies for the school's administration. In the afternoons we will do public interest legal work with the Of-

fice of the General Counsel for Charlotte Mecklenburg Schools, and we will also work with attorneys at Charlotte's Guardian ad Litem Program.

Consistent with the objectives of the Program, we will provide meaningful service, and I am especially excited that we will expose the students at Devonshire to American law. But I also expect that our volunteers will leave Charlotte with a collection of experiences that will impact the way that they think about education and poverty well into the future. The American education system is in disarray, and at Devonshire first-hand exposure to the faults in our system made this especially clear to me. But in spite of this, my students at Devonshire were full of joy. It is my hope that my fellow volunteers will also find inspiration in their smiles, and they will in the future commit themselves to playing some role in improving our education system regardless of their eventual career path.

Today the ASB Program, created just two years ago, is an NYU institution, and a fixture that embodies NYU's commitment to public service. I am very grateful to be a part of ASB's growth, and I look forward to a remarkable adventure with some amazing people this coming Spring Break.

YOSHINO: A Scholar and a Gentleman Finds a New Home at NYU

Continued from page 1.

why everyone doesn't want to be an academic (though I'm profoundly grateful everyone does not). One answers one's own questions or someone else's, and it seems preferable to answer one's own, if one can." As for future ambitions, Yoshino was coy when asked whether he has an

interest in government service, saying he doesn't – "currently."

Of course, the most important topic of the interview was left for last. Danger signs appeared when Yoshino indicated that he "identifies with Dice-K." Moreover, he indicated that he "tends to root for underdogs." That's right, law school: NYU hired a Red Sox fan.

How weird is daylight savings time?

Write for *The Commentator*.

Contact asgehring@nyu.edu.
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SCHUDOKO!

Below you'll find a variation on a standard sudoko grid. Fill in the missing boxes such that each row, column, and three-by-three box contains one of each of the following letters: N Y U L A W S C H

	L					A	
U	C	S				W	
H			W				S
		C		Y		L	
N				A			H
		L		H		U	
A					Y		U
		H				N	L
	U						W

Solution on page 6.

An NYU Law Grad Discovers the Real Money Is in Study Aids, Not Law Firms

By DEREK TOKAZ '08

Alexandra Klein's *The Estate and Gift Tax Map* (Thomson West 2008), a device produced to aid in self-study of the Internal Revenue Code's estate and gift tax provisions, is one of the more useful tools designed for that purpose that I've come across, which is likely the result of Klein's pedigree as a 2004 graduate of NYU Law.

The *Map* is really more of a flow chart than a map. Other

than that complaint, though, Klein (along with assistance from Aejaz Dar '04 and editor Mitchell Gans, an adjunct professor here) has done some pretty fine work.

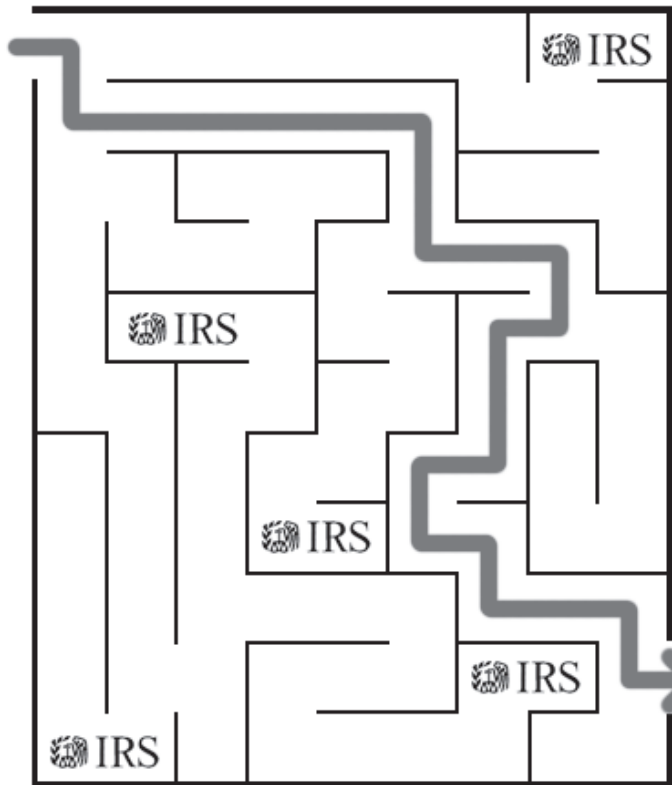
If you're going to be taking a class on estate and gift taxes next year, or if you're in one now and haven't been doing the readings (I'm looking at you, 3Ls), I'd recommend getting a copy. At the very least you can unfold it during exams and use it to distract

everyone else (this works even in non-tax classes).

But if you actually plan to study with it (and here I'm talking to the 2Ls), the *Map* is concise and straightforward, and probably as easy to follow as anything dealing with tax law can be. I haven't even taken Income Tax and I can still follow the *Map*. I don't think I could give it a more positive review than that.

Like any good study aid aimed at law students, the *Map* contains a disclaimer letting you know that it's not a substitute for a more thorough study of tax law (so don't go getting yourself sued for malpractice). The good news is that it contains all the statutory citations you need to make doing the thorough research a breeze. So, if you think your firm might give you an estate tax assignment, but you want to finish in time to watch the new episode of *House* (and save the client a few billable hours), the *Map* might just do the trick.

Available for only \$16 from Amazon, it's a pretty sound investment. And with its lovely pastel purple color, you can use it to decorate your apartment while showing off your school spirit.



SCHUDOKU! Solution

See puzzle page 5.

C	M	V	N	S	H	Y	U	T
Y	T	N	U	M	V	H	S	C
U	S	H	Y	T	C	N	M	V
M	Y	U	C	H	N	T	V	S
H	C	S	M	V	T	U	Y	N
V	N	T	S	Y	U	C	H	M
S	U	Y	T	C	M	V	N	H
T	H	M	V	N	Y	S	C	U
N	V	C	H	U	S	M	T	Y

Hands all inky?

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“No” Means “Yes! No. Yes?”

By DEREK TOKAZ '08

William Ury, co-author of *Getting to Yes* and author of *Getting Past No*, delivers again in *The Power of a Positive No: Save the Deal, Save the Relationship – And Still Say No*, yet another book on the seemingly endless topic of monosyllabic answers. Ury, co-founder of Harvard's Program on Negotiation, deals with a difficult negotiation topic in *Positive No*: how to say “no” without chilling relations.

Positive No will take you through the three steps of successfully saying “no”: the “Yes!” the “No.” and the “Yes?” With the help of a tree metaphor and a tree graphic which I can only assume was once rejected clip-art, you'll learn through cutesy clichés about saying “Yes!” to your needs, saying “No.” to the

other's demands, and offering the other something they can say “Yes?” to. The book would read a little smoother if the second “Yes?” was a “Maybe?” but that might be too many syllables for the negotiation community to handle.

Yes! the “Yes?” and the hokey tree stuff were pretty annoying, but No. that doesn't make *Positive No* not worth reading, so maybe you can look past that and still see the good, Yes?

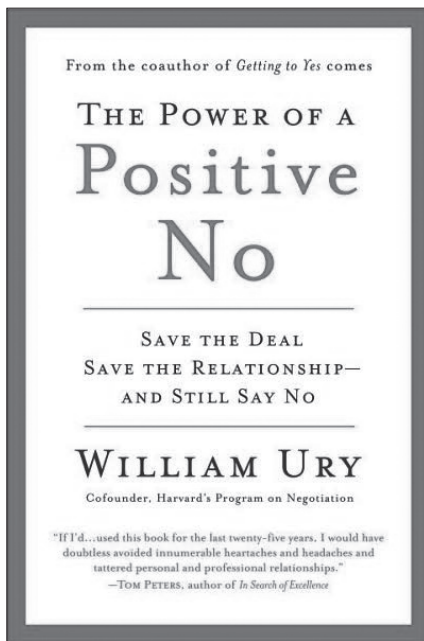
Quick to read, easy to digest, and chock-full of anecdotes, Ury

describes how this three-step system can help resolve conflicts ranging from family feuds to violent revolutions. You don't need a strong background in negotiation theory to find *Positive No* useful, and even the more experienced will still find lots of great advice.

Learning to say “no” might seem like a basic skill which no law student should still be learning, but Ury delves deeper. Saying “no” becomes no longer just about turning someone down, but about sparing their feelings, saving the relationship, and getting them to cooperate with something you can both say “yes” to.

If you're thinking to yourself, “I'm not doing contract or settlement negotiation, I'm going to be a sexy tax lawyer, so I don't need this book,” you're wrong. The skills taught in *Positive No* aren't just for formal negotiation settings. You can use them to learn to say “no” to everything from annoying sales pitches to hostage-takers, from law partners who assign you document review during surgery recovery to libidinous significant others who want sex when you're tired. Just kidding. It takes a much bigger book to let you say “no” to document review, preferably a book you can sleep under when you get fired and can't afford rent anymore.

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BAR REVIEW



Wii Tennis 101

By Andrew Simon '09

The Nintendo Wii has stormed into the American consciousness, and one of its most popular games appears – anecdotally, at least – to be *Wii Tennis*, part of the *Wii Sports* package. As many of you are already aware, there was a battle royale between Dean Revesz and David Jacobson '10 at the PILC Auction (see sidebar). That match – and the audible jubilation of victors and the moans of the defeated echoing throughout D'Agostino and Mercer Halls – is a strong indication that the popularity of *Wii Tennis* has grown to immense proportions here at NYU Law. It therefore seems only appropriate that those new to the game should understand some basics.

Create a Mii

Nintendo has ingeniously allowed you to insert yourself directly into the action by giving you the option to create a Mii, the digital avatar that stands in your virtual shoes. Your Mii will be your partner and only friend on the glorious field of *Wii Tennis* battle. Thus, you should be sure to treat your Mii right. Respect your Mii and your Mii will respect you.

Basic Parameters of the Game

Wii Tennis, for those of you that don't know, is played as a doubles match regardless of how many people are playing. Therefore, if you are playing head-to-head, you are responsible for both players on your side of the court. When you swing, both players swing, and you have no control over where the players move and whether they will use their forehand or backhand (which is determined by the ball's location when you swing). Your largest responsibility is for the timing of the swing. The basic rules of tennis apply.

The Power Serve

Consistent execution of the Power Serve is a mandatory skill in order to play alongside the *Wii Tennis* elite. Failure to hit a Power Serve will often result in your opponent successfully employing the Kill Shot (discussed *infra*) against you. The first shot Kill Shot is massively demoralizing and can lead to you lose confidence in your Mii's ability, which can further lead to a rift in the Mii-Player relationship, return from which is a long and arduous journey that not everyone can make. Don't let this happen. Don't be a statistic.

In order to hit a Power Serve, strike the ball when it is at the apex of your Mii's toss. Remember, practice makes perfect, and champions never quit.

Once you can consistently execute the Power Serve, you should experiment with twisting the Wii controller in different directions to influence the placement of your

serve. A well-placed serve increases the chance that your opponent will return an easy shot or miss the serve altogether. At the very least, a well-placed serve will help avoid your opponent's Kill Shot (which is possible even against the Power Serve) or an excellent return that will likely set up a Kill Shot.

Placing Your Shots

As I mentioned above, the most important skill to master is the timing of your swing, which is the largest determinant of where the ball will go. The placement of your shots is critical to whether you will reign in victory or languish in defeat. The method used to place your shots is rather intuitive: the earlier you swing, the more the ball will travel in the direction of the swing; the later you swing, the more the ball will travel in the direction opposite that of the swing. While the basic concept is not complicated, mastery of shot placement requires dedication and practice. Accordingly, I fully recommend the Training program that works on shot placement by asking you to hit the ball through a moving orange laser wall ("Timing Your Swing").

A well-placed shot can really ruin your opponent's game plan. Our esteemed Editor-in-Chief is an excellent example of the power of well-placed shots. Mr. Gehring consistently moves the ball around on his serves, returns, and volleys, often leaving my Mii out of position and forced to hit a suboptimal return. The basic idea is to stretch the court as much as you can. If you hit the ball far on either side of the court, your opponent's Mii may not get to it, especially since Miis run with the alacrity of Fat Albert. If your opponent does get to the ball, her Mii will have almost no chance of hitting a good Kill Shot. As of late, Mr. Gehring's skill with ball placement during volleys has left him the victor far more often than not. To practice ball placement on volleys, use the Training simulator with targets ("Target Practice") rather than the moving orange laser wall.

Thanks a Lot: I Placed My Shot and It Hit the Net

Now we begin to get to some of the more subtle points of the game. The way you rotate your wrists and the angle at which you hold the Wiimote (the proprietary name for a Wii controller) actually influence the spin and loft of the ball. To increase your likelihood of clearing the net (especially on the outside of the court, where the net is higher than in it is in the middle of the court) rotate your wrist upward (see pictures below) as you bring the control through the zone of contact. By doing so, you will give your ball a bit more loft and will usually clear the net.

First-Year Takes Revesz to Virtual Cleaners

By Andrew Gehring '09

Thursday, February 28, 2008 featured one of the most exciting sporting events in the law school's history: first-year David Jacobson faced off against Dean Richard "Ricky" Revesz in a best-of-three match of *Wii Tennis*. The culminating event of the Public Interest Law Center's (PILC) live auction, Tischman Auditorium was at near-capacity, thronged with students, alumni, and faculty ready to witness history.

Dressed the part of a tennis professional from the 1970s, Revesz jogged into the auditorium to the theme of Survivor's 1982 chart-topper "Eye of the Tiger," clapping hands with a few lucky audience members along the way. After an introduction to the spectacle to come, a furious round of bidding found Jacobson paying \$400 for the privilege of testing his virtual tennis mettle against Revesz's.

A projection screen descended to display the match to the audi-

ence. Revesz's Mii – the term applied to avatars on the Wii gaming system – had a near-faithful representation of Revesz's visage (though perhaps a bit more youthful and with a thicker head of hair), while Jacobson was relegated to using the ingloriously



Revesz plays to the audience, unaware of his pending defeat.

monikered "Challenger," a cross-eyed and oafish Mii.

The contest itself got off to a rocky start, Revesz only managing to serve at speeds that would embarrass a more seasoned *Wii Tennis* player. Jacobson took advantage of Revesz's apparent inexperience with the game to

win three unanswered points, quickly bringing the score to love-40. A fierce net volley on the fourth point brought Revesz to 15, but Jacobson handily returned the next serve to win the first game.

The second game was, surprisingly, even more lopsided than the first. Though Jacobson – like Revesz – never managed to bring the heat with his serves, he nevertheless aced the Dean several times and otherwise made short work of the match. To use the common parlance, Jacobson skunked Revesz, the latter failing to score even once.

Jacobson was awarded a trophy and a bottle of champagne to commemorate his triumph over the Dean, spilling a large amount of the latter prize on the auditorium's stage in an attempt to share a celebratory glass with Revesz. Revesz, apparently remaining unhumiliated by his defeat (or perhaps heady from the champagne), tossed tennis balls into the crowd.

Kill Shots

If your opponent serves up a weak return to the middle of the court (what I like to call a "lame duck"), you must capitalize. When attempting a Kill Shot with your backcourt Mii ("Back Mii"), make sure that your opponent's Mii at the net ("Net Mii") is on the half of the court that is in the opposite direction of your swing. If Net Mii is cross-court – or worse, in the middle of the court – you might unexpectedly find yourself on the wrong end of a Kill Shot.

To execute a Kill Shot, point the sensor of the Wiimote more upwards than sideways and swing with a downward motion while rotating your wrist downward (toward the ball) through the zone of contact. This motion allows your Mii to put increased top spin on the ball which will drive it harder into the court than normal. Timing is critical here. In order to employ a Kill Shot that cannot be returned, you will need to swing a bit earlier than you otherwise might choose to. If you master the timing, your shot will be a hard, sinking line drive that will skip out the side of the court to win the point.

The Kill Shot can be executed with either Net Mii or Back Mii. The Kill Shot with Net Mii is among the most devastating and demoralizing maneuvers in the game. I suggest you come up with a series of insults to hurl at your opponent for when you've successfully executed the play in order to better

assert your dominance. After all, everybody knows that *Wii Tennis* is roughly 64.8% mental.

Is Your Opponent's Net Mii Dominating You? Pop It Up!

Mr. Gehring's game is characterized by excellent net play. In order to counteract his Net Mii's skill I often try to "pop" the ball up (known to tennis aficionados as a "lob"). To do this, point the sensor of the control to the ground and swing up. The more pronounced the downward angle of the Wiimote and the harder your upward swing, the further you will be able to pop the ball up. By employing this technique you will give your Miis time to reposition themselves and, if done correctly, you will greatly hinder your opponent's ability to come back with a Kill Shot. As you master the placement of your lobs, you will induce your opponent to make more lame duck returns, thereby setting yourself up for Kill Shots more often. You must, however, be careful to get sufficient loft on the ball or you will be returning your own lame duck and will find yourself on the business end of a Kill Shot.

Countering the Power Serve

To counter the Power Serve you will need to immediately recognize whether your opponent has brought the heat or served like my four-year-old niece. If your opponent has brought the heat, a good return is critical or you will leave yourself open to the Kill Shot. Once you recognize the Power Serve is on its way, time your swing to ensure that your return goes cross-court, thereby keeping it away from Net Mii. This will take practice. If you find your returns hitting the net improbably often, remember to use the upward wrist-twist discussed *supra*. Effective execution of a return will either result in your own Kill Shot or, more

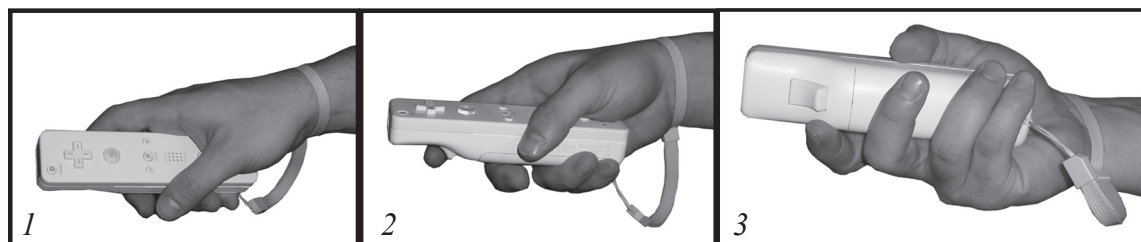
likely, a shot that skips out the side of the court and forces your opponent to (1) return the ball into the net, (2) pop it up, or (3) return a lame duck.

Net Mii Is Critical!

When I was a *Wii Tennis* novice some six weeks ago, a friend advised me to ignore Net Mii and simply play with Back Mii. This was some of the worst "sporting" advice I have ever received. As it turns out, Net Mii is of critical importance. Those with the quickest reaction times will find themselves with a significant advantage. The best use of Net Mii requires rapid decision making and lightning reflexes. If you swing at a ball outside of Net Mii's reach, Back Mii also swings, which may prevent Back Mii from recovering in time to effectively return the ball. I have all too often suffered the derision from my opponents when missing with Net Mii only to miss again with Back Mii. I implore you to stay focused and learn from my mistakes.

When engaged in a face-off between two Net Miis (a "volley"), it remains important that you not return a lame duck. Continually try to move the ball around the court, employ top spin when necessary, and go for the Kill Shot when possible. If you find yourself overmatched in a face-off and want to get out of it, try to pop the ball up. But for the love of God, country, and *Wii Tennis*, when you find yourself entangled in a heated dogfight of a face-off battle, DON'T BLINK!

Follow these tips, practice like a wannabe Pete Sampras, and don't be afraid to experiment with different wrist-twists to give the ball new and unique spins. Soon, victory will be yours. Revel in it, and never let your opponent forget who "holds all the marbles" in your *Wii Tennis* relationship.



Rotating the Wiimote upward through the zone of contact gives your ball extra loft to ensure that you clear net.