



# THE COMMENTATOR

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The Student Newspaper of the New York University School of Law

March 29, 2006

## Dean Revesz Rejects All-ALSA Space Proposal

CHRIS MOON '06

In a letter addressed to the law school community, Dean Richard Revesz rejected the proposal of a coalition of student group leaders for an All-ALSA space.

Asked to comment on the Dean's decision, Johnathan Smith, '07, a supporter of the proposal, stated, "I am disappointed with the Dean's letter and his rejection of the All-ALSA Space proposal. Racism, expressed either through stereotypes or less subtle forms of discrimination continue to play a role in our legal system - and even in our law school - and the All-ALSA Space could have taken concrete steps to ameliorate those problems and the alienation some student of color experience."

Dean Revesz's lengthy memorandum, a four page letter, eventually reached the final decision, but it took a while to figure out what that decision was. In fact, the first reference to the actual decision popped up buried in the middle of the third paragraph.

In the letter Dean Revesz directly confronted the concerns voiced to him by the ALSA space proponents: first, the classroom experience; second, the hideous condition of the ALSA offices; third, meeting and programming space procedures; and most importantly, the proposal for a "distinct space."

Regarding the ALSA space, Revesz felt that such a space should be rejected for two distinct reasons. First, there is a limited amount of public space at the law school, and to essentially "privatize" an entire room would be an inefficient allocation of resources. Second, Revesz indicated that an ALSA space would be contrary to the spirit of inclusiveness that the law school attempts to cultivate.

Revesz pointed out that, "Just as the ALSA groups might benefit from the existence of space dedicated to their activities, so too would other groups that have minority status at the Law School as a result of some other attribute, like religion or political outlook."

Other concerns raised by the ALSA space proponents achieved more tangible results. For instance, Revesz indicated that the faculty has taken steps to improve the classroom experience for students of color, including the creation of a planned Student of Color Program during Orientation for first-year students and the creation of an annual informational session to help student groups with the often difficult to understand symposium funding process.

Revesz also addressed the

concern of the office space in the Mercer basement. Most students groups have offices down in the dungeon-like basement of Mercer. These offices are not frequently used for anything other than storage, mostly because they are scary. As a result of the ALSA space proponents' concerns, dehumidifiers have been added to the basement area, and the offices will be painted, with new furniture added over the summer. Hopefully, after this summer students will be able to use the Mercer Offices as an actual office.

Finally, Dean Revesz indicated that he would work to make sure that the room reservation system would allow reservations for periods of time that are informal gathering sessions.

The letter to the community followed an SBA Open Forum regarding the need for the All-ALSA space. About 90 students as well as Dean Ricky Revesz and Dean Clay Gillette attended the forum.

According to SBA President Oliver Carter, the forum was organized "because many students contacted SBA to support or oppose the creation of the space and questions at the Dean's Town Hall meeting (about the space) were not adequately addressed."

Supporters of the space opposed the forum. In a letter to the SBA Board dated for the day before the meeting, Arlen Benjamin Gomez wrote on behalf of the All-ALSA coalition that she did not believe the SBA was "the proper board for handling our interests." The SBA had discussed the issue of the commons prior to the forum and "we were made to explain ourselves in a way that was demeaning and inappropriate; the SBA board and members verbally attacked the constructive work we have put into the Space, questioned the legitimacy of ALSA members' input, and undermined the contributions we made to this school."

As for the forum itself, "similarly based on the way tomorrow's "open forum" is constructed and advertised—including the choice of moderator without ALSA consultation—we ALSA representatives anticipate the forum that will again fail to address the Space campaign accurately and appropriately."

While the tension in the room was palpable, Carter believes that the forum was a success. I definitely think the Forum was a success, though it is merely a small step on the road toward exploring issues of alienation within the law school. I am convinced that conversations about racial tension at NYU Law are far too important to be held solely over listservs or in ways that exclude a significant number of viewpoints."

### Response from Proponents: Drinking the Kool-Aid: Colorblindness and the Problem of Race at NYU Law

By JOHNATHAN SMITH '07

It is tempting to lull ourselves into the false consciousness of believing our society has moved beyond racial discrimination and oppression. While we all acknowledge that there may be a few "bad actors" who engage in bigoted, prejudiced conduct, we are unprepared to acknowledge that systemic, institutionalism racism remains a problem. This is indeed the great myth in present-day America, and as law students, it is too easy to buy into it, to drink the "kool-aid." After all, this is the language we hear espoused by the courts all the time—colorblindness has emerged as the new currency among judges, lawyers, and diversity-advocates alike. Why do we need to continue to talk about race and bring up the history of animus and discrimination we have tried so hard to put behind us?

But as the controversy over the All-ALSA Space made evident to all who were involved, despite the prevalence of this colorblind rhetoric, what lies beneath is far more disturbing and unsettling than we often like to believe. The request for the proposal made visible to all what some of us have tried to ignore: there still remain a substantial number of students of color here at our very own "progressive" law school who feel alienated and marginalized. While it was acknowledged that the presence of the All-ALSA Space could not completely ameliorate this problem, supporters contended that such a room could not only provide a safe space for students of color, but it could also serve as a forum for conversations about race as well as a space where students could develop strategies and mechanisms for dealing with discrimination and alienation that they could take both to the classroom and the legal offices where they will eventually practice. Nonetheless, many students attended the open forum the SBA organized to publicly state their disagreement with the All-ALSA Space proposal and to let Dean Revesz know they believed he should not support the initiative. Similarly, many friends and classmates personally expressed to me their reservations about supporting the Space campaign.

While the rationales students have given for why they opposed the All-ALSA Space vary tremendously, at their core many of the comments seemed to revolve around a few commons themes. First, some wondered how we, as a law school, could ever move beyond this feeling of racial alienation if we created a

room that specifically catered to the needs of students of color. After all, such reasoning goes, would not that only lead to self-segregation and greater isolation? Second, some argued that they themselves had never and would never engage in racist actions or behavior, and those the creation of an All-ALSA Space was an insult to their character and integrity. Third, and one of the most common critiques of the All-ALSA Space, was that it would be exclusive, and such exclusivity is directly contrary to the nature and ethos of the community to which we all belong. Such arguments, while consistent with the colorblind ideal that pervades our cases and textbooks, show a fundamental misunderstanding of how race continues to operate in our country. They deny the complex, often insidious manner in which racial discrimination has infiltrated our society, and indeed our law school. This new form of racism is often obscured from public view, but as a plethora of scholars (ranging from Claude Steele and Mari Matsuda to our very own Derrick Bell and Peggy Cooper Davis) have observed, it is just as dangerous and destructive as the much more blatant forms of discrimination we are all much more familiar with. The colorblindness ideal makes us ignore this troubling reality, it causes us to turn our attention away from continued alienation and marginalization that some feel and to rather focus on how far we have come.

Such rhetoric is also found in the dean's letter to the Law School Community on March 21 where he rejected the All-ALSA Space proposal. Even though the dean acknowledged the feelings of "marginalization" some students feel, he did not provide any institutionalized, concrete actions

to address this problem. Instead, he encouraged "each member of our community [to] make it a priority to make every student feel supported and to make students of all races, genders, sexual orientations, religions, and viewpoints feel that NYU Law School is 'their' law school." While such exhortations from the dean are always welcome, they do not fully address the underlying issues that drove some students to request and support the All-ALSA Space proposal. By rooting the causes of student of color alienation in the specific actions of particular students, the dean's letter signed on to the colorblind ideology as well, without providing a deeper, more nuanced description of how racism continues to operate in our school and our profession.

And so, where do we go from here? Well, first proponents and supporters of the All-ALSA Space still hope that the dean will reconsider the proposal and see why institutionalized, structural reforms like the All-ALSA Space are needed to fully and completely address the continued legacy of racism some students of color face while at NYU. But on a deeper level, it would be a travesty for us, as a campus and a community, to not take this opportunity to openly and more systematically explore the role that race continues to play in our society. As two recent New York Times articles demonstrated—one on the plight of black men in American society and the other on the continued difficulty female associates and partners face in large law firms—it is simply factually incorrect for us to believe that discrimination and oppression are no longer relevant concerns in our country or in the legal profession. Unfortunately, despite the progress that has been

*continued on page 2*

### It's LAW REVUE 2006!!!



Wednesday – Saturday  
March 29 – April 1, 2006  
Tishman Auditorium, 8 P.M.

Tickets are on sale in Golding  
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*We're not in Contracts anymore...*

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## “Peep” and “Fake Orchid”: Top Thai Tastes

BRIGHAM BARNES '06

I never anticipated how much Thai food I'd eat while living in New York. Thai is just absolutely everywhere. Sometimes it seems like I know of at least two decent Thai spots within three blocks of any given location in Manhattan, I'm certainly more familiar with good Thai in the city than good Chinese.

The abundance of Thai food in the city is impressive. So is the way that Thai restaurants, in general, always make some sort of design statement. Usually, that statement is: “This restaurant takes place in the future.”

Consider the restaurants of the Spice family—Spice itself in its downtown, Chelsea, and Upper East Side incarnations, Peep in SoHo, and Sea in the East Village and Williamsburg—they all sport sleek, modern furniture and their food is always presented on plates that look like they're from Luke Skywalker's home on Tatooine by servers dressed in matching modern outfits as multi-ethnic house music fills the dining space.

Highline in the Meatpacking District is equally as future-hip, Galanga on 4<sup>th</sup> (half a block west of the law school) is sleek and modern, and Bang Thai on Thompson presents the budget version of

edgy style. Wild Ginger on Grove in the West Village trades the typical futuristic look for a design-intensive indoor-village style, and nearby Isle on Bleecker merges future-modern with indoor-village. The only Thai restaurant that I can think of that looks like a restaurant is Thai Village on West Third.

Along with design, the other trademark of Thai restaurants (and perhaps the main reason behind their popularity in my life) is that nearly all of them feature some sort of great lunch deal—usually an entrée and an appetizer for seven or eight dollars. When time permits, my preferred cheap and modern Thai lunch destination is Peep in SoHo on Prince between Sullivan and Thompson.

Peep, a member of the Spice family of restaurants, features an undulating, reflective ceiling, walls of mirrors, stools whose seats are woven from pink medical tubing, and the most distinctive and unique bathrooms in the city. But the main reason I visit Peep is for its satisfying lunch specials, every lunch offered—from the earthy massaman curry to the pad thai—is delicious and artfully presented and the complimentary appetizers offered with the lunch are often even tastier than the fine entrees (I'm particularly fond of the chicken and shrimp dumplings in

ponzu sauce.)

Along with these stylish and distinctive Thai restaurants, I've grown fond of Fake Orchid, a small East Village location on East Ninth street between 1<sup>st</sup> Avenue and Avenue A, which presents a sort of anti-fashion alternative to its cousins to the west.

Eating at Fake Orchid is like eating in the living room of the crazy aunt you wish you had—the walls are decorated with posters from magazines, random photos, and images printed out from computers, the lighting scheme is a subdued approximation of the Christmas-light explosions that can be found in the restaurants of Curry Row just a few blocks south, and everything about the restaurant—from the utensils to the music played on the stereo to the seating, is delightfully mismatched. For instance, on my last visit to the restaurant my dining companion and I were seated on opposite sides of an old school desk with a stack of vinyl record albums hidden inside.

But the design scheme of Fake Orchid isn't the only thing that distinguishes it from other Thai restaurants in the city. The food is nearly unique in that has a distinctively homemade vibe—where many of the city's Thai restaurants rely on flavorfully complex curries and sauces, Fake Orchid entrees are often heavy on the vegetables—the delicious plates resemble something your Grandmother would much more approve of your eating than the geometrically arranged meals at other Thai restaurants. The atmosphere at Fake Orchid is laid back and nearly overwhelmingly pleasant. It is a perfect excuse to venture into the East Village.

## Ragen Talks Animal Rights

NICHOLAS KANT '06

“I foresee the day when all the cages will be empty, when all the animals will be free,” said Tom Regan, emeritus professor of philosophy at North Carolina State.

The event fliers called Regan “a leading philosophical spokesperson for animal rights.” He spoke in Greenberg Lounge for 90 minutes on Monday, March 20th, at an event sponsored by the NYU Law Student Animal Legal Defense Fund (SALDF).

“As animal right advocates, we know that the world sees us in negative terms,” Regan said. But Regan said he wasn't here to convert anyone, just to encourage those already involved.

“We have to understand that animal rights is a hard sell,” he said.

Regan then made an effort to explain what is meant by the term “animal rights.” He said that first we should understand what is meant by the term “human rights.”

Regan explained human as having three main elements. First was “no trespassing,” meaning one person's rights stop when that person would be infringing on another's rights. “I'm not free to infringe on your rights as I please,” Regan said. Second was “equal rights,” meaning no one person is better or has more rights than another. Third was that individual rights always trump social custom and personal benefit.

“All we're saying is animals should have the same rights we do,” Regan said.

Regan then made an analogy. He said society denying animals rights is like ancient rivers building and building and finally converging at Niagara Falls; the ethic behind it has been building

for so long and is so intrinsic to people. So now, for animal rights advocates trying to combat that ethic it's like standing at the bottom of Niagara Falls. It's nearly impossible to make any progress.

“I might not live to see the day, and you might not either,” Regan said.

### All Alsa Space

*continued from page 1*

made, many students, whether it is because of their race, gender, class, or sexual orientation (just to name a few examples) continue to feel marginalized, and the colorblind ideal, instead of remedying these problems, only covers them up. The closer we look, the more we realize that the colorblindness ideal is just that – an ideal. Our society, and our law school, are far from color blind. Everyday, many of our classmates are forced to be conscious of their race and skin color, and as much as we may wish that were not the case, the reality still remains the same. Whether its being the only person of color in a classroom or knowing that you are being targeted or profiled solely because of your phenotypic complexion, the lives of so many of our peers and friends are influenced and shaped by race, whether they like it or not. So is colorblindness an ideal to strive towards? Perhaps. The answer you may have to that question would depend on your conceptions of race and racism. But what we should all be able to agree on, is that we have not reached that ideal yet. Sadly, far too many of us on this campus have chosen to drink the kool-aid, rather than engage in substantial, though often hard and painful, conversation and debate. I can only hope the debate surrounding the All-ALSA Space will shake us out of our false consciousness and into a more productive and meaningful discussion.

## THE COMMENTATOR

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**Friday, March 31, 2006, 9:00AM – 5:30 PM: Vanderbilt Hall, Greenberg Lounge**

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**“Existing and Emerging Legal Approaches to Nuclear Weapons in the 21<sup>st</sup> Century”**

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## Lupa Osteria: Quality Italian Fare in the Village

COLIN PARENT '07

On cozy Thompson Street, near Houston, the small unassuming storefront of Lupa Osteria hides a dimly lit treasure of Washington Square dining.

Mario Batali's lower price-point alternative to Babbo and Del Posto made good on its reputation. Reviews elsewhere suggest that

ion arrived before me and didn't check in with my name. This was heartening, but suspicious. I'd stopped by one Friday night to find a two hour wait, and called a full week ahead for another Friday reservation to find nothing available. But such is New York dining, where restaurants cater to the connected or well-prepared. Perhaps

waiter had adequate descriptions, which proved true. The "by the glass" menu provided small glass-and-a-half carafes which packed a bit more punch than a traditionally sized glass of wine. I had no complaints.

We started with two small dishes of antipasti. The eggplant was simply too sweet for my tastes. It was like someone tried to make apple pie filling with eggplant, and then thought better of the exercise and tried to serve it for dinner. I wasn't particularly impressed with the Brussels sprouts either, which were finely chopped to a sort of slaw mixed with a pungent crumbled hard cheese. The fresh strong flavors were striking, but they hardly complemented one another and proved unremarkable.

The focaccia served almost immediately before the appetizer was very good, if perhaps too olive oily. The stuff had the savory flare of a glutteny buttery pastry, but was slick with olive oil, like a sponge left to soak up the stuff. And it was served with a small dish of even more olive oil. Completely unnecessary. The bread was tasty and delicate, almost a savory sponge cake, but I literally had to wipe my hands after touching it.

For dinner I ordered the sweetbreads, which you may know is a thymus gland, usually of a young lamb. Batali is well-known for reinventing viscera and the discarded parts of animals into subtle delicacies. I'd only eaten sweetbreads for Christmas break-

fast, with our inexplicable family tradition of diced sweetbreads in a white sauce served over waffles. So far Google has offered no clue to the origin of our Christmas ritual.

Lupa served its sweetbreads in two meaty lumps, about half the diameter of a hockey puck, coated in a crushed pine nut and bread crumb crust. Each were rich and fatty. Sweetbreads have a delicate almost raw texture, with a gamey fat flavor that slowly melts and pulls apart into your tongue. The crust was very mild in flavor, with an occasional spike of rough-

to provide their own distinctness as a slight layer throughout, pulling the squash in with the sweetbreads, without compromising it. It was a bridge for flavor, a mediator.

My companion ordered a de-boned half fish with skin, cooked in a paper bag with vegetables and mushrooms. I believe the fish of the day was a regional trout. The mushrooms carried all the flavor. They were rich and deep, dressed conservatively in lemon zest and olive oil. The fish was tender and perfect, if, however, merely a protein medium for the flavorful mushrooms.

With dessert we ordered two glasses of a muscato d'asti, a thin lightly sparkling sweet wine. It didn't arrive with the dessert. The waiter apologized and asked if we still wanted it. I said yes, assuming that they'd be comped, which they were. The wine was pleasant, although not at all my type. I enjoy dessert wines because they're a treat to which the cautious dining companion often acquiesces, even after declining a second glass of wine with dinner.

Dessert was a small dish of spiced candied dates, each sweet and flavorful like a fall seasonal pie. Even spiced dates at Lupa can find flavors drowned within their natural and abundant sugars, but they were still quite good.

For about \$120, the meal for two was among the best I've had in New York, or anywhere. It's not an everyday indulgence, but one worthy of some scrimping for a few weeks or packing sack lunches from home.

The stuff had the savory flare of a glutteny buttery pastry and was slick with olive oil. An indulgence to scrimp for.

ground black pepper to toss you through some contrast.

The two sweetbread lumps were served on top of a slightly sweet pile of butternut squash and onions, perfumed with toasted whole pine nuts. The squash was exquisite, sweet, mild and gently flavored. The pine nuts were so carefully applied as



many consider it the best Italian dinner anywhere. I presume most of those opinions by those who haven't had the foresight or speed-dialing endurance for reservations at Batali's Babbo.

A consummate foodie I met wine-tasting after a call-back interview in San Francisco planned to visit New York, so I made reservations somewhere I hoped would impress. Even reservations two weeks in advance netted a late 9:30 P.M. table.

We were seated with little delay, and without regard to my reservation, as my dining compan-

our late-night timeslot on a Thursday wasn't as sought after. But I wouldn't suggest anyone take our experience as license to arrive unscheduled.

The restaurant was dark, with brick walls lit mostly with warm candles and smiling patrons. Our booth, in the extreme corner of the back of the restaurant was built into a heating element, making our seats even cozier than those of our neighbors.

The wine list was all Italian, which proved difficult to navigate for those of us more familiar with California's products. But the

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### The New Power Generation: Environmental Law and Electricity Innovation

New York University Environmental Law Journal  
Spring 2006 Colloquium  
Thursday, April 6, 2006  
9 am-5 pm  
Greenberg Lounge, Vanderbilt Hall  
40 Washington Square South  
NYU School of Law

Air pollution from the electric power generation sector was a motivating force in the development of the first generation of pollution control law in the United States. After three decades of environmental regulation, the electric power generation industry remains a serious source of both traditional pollution and greenhouse gas emissions. Recently, some international, federal and state-level actors have enacted policies to encourage alternative electricity generation technologies, both within the traditional power industry and in the renewable electricity sector. The reasons for this trend are manifold: national security, rising oil and natural gas prices, climate change, traditional pollution control and economic development opportunities. The ELJ Colloquium will explore how environmental and natural resources law both fosters and hinders the development of alternative electricity generation technologies, and the potential role of regulation to exert pressure on the electricity generation market.

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#### Panel 3: New Power Generation World-Wide

What are the optimal public law and private investment tools to foster innovation in the international electricity generation context?

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For more information, please visit <http://www.law.nyu.edu/journals/envtlaw/colloquia/upcoming/index.html>, or

Contact Amanda Garcia, ELJ Colloquium Editor, at [agarcia@nyu.edu](mailto:agarcia@nyu.edu).

## Arctic Monkeys Hold Up To Scrutiny At Mercury Lounge

BRIGHAM BARNES '06

If you're a committed reader of *The Commentator* who also happens to read the articles that I write, perhaps you'll remember that last semester I reviewed British buzz-band the Arctic Monkeys' first-ever US performance at the Mercury Lounge. The Arctic Monkeys returned to New York this weekend for the first time since their early-winter shows to play a sold-out show at Webster Hall, the venue of choice for Indie bands on the verge of going from big to huge.

I caught the show partially because I like the band and loved their Mercury Lounge show, but mostly because I wanted to see how the band stood up at a repeat performance. A large part of the thrill of catching the Arctic Monkeys for the first time last winter was the opportunity it presented to be the first in the country to see this well-hyped band perform and the among the first to take in this alleged new sensation. Seeing the Arctic Monkeys this second time, I was able to take them in without any hype-based anticipation and consider them as just a band, not a sensation.

So, what has changed about the band in the last four months? For starters, I've now heard the name "the Arctic Monkeys" enough and seen it posted around the city enough that it no longer seems like a bizarre or unwieldy

name for a band. Secondly, the band actually moves around now—when I saw them at the Mercury Lounge, each member remained nearly motionless on the stage—now they walk about a bit. There's no Kaiser Chiefs-like jumping or Franz Ferdinandian villainous dandy flourishes, but they aren't Manchester shoegazers, ei-

The band doesn't provide much of a reason to check them out live more than once. But they rock.

ther.

The band still retains a distant demeanor towards the audience, and this detracts most from the Arctic Monkeys' concert experience. While the band has concocted a musical style integrating equal parts Oasis and Libertines that drives the audience wild, on-stage the band behaves like a master chef that refuses to come out of the kitchen. The band simply dishes the music out (quite well) and doesn't seem to care much for what the audience thinks of it.

You'd think a band almost entirely of nineteen year olds who didn't even know how to play their respective instruments over a year

ago who are now the Indie rock scene's most quickly rising stars would display a little more enthusiasm for, appreciation of, or even mere acknowledgement of the audiences that come out to see them. The band looks like its having a good time, but they don't seem to be sharing that good time with the audience.

I don't wish to detract from the fact that if you went to your first Arctic Monkeys show on Sat-

I don't mean to come off as too jaded but, aside from the facts that the Arctic Monkeys always seem to play their songs well and all of their songs rock, I say try to catch them sometime if you're so inclined, then hold off until they've put out another album.

*Eds. Note: I am extremely jealous that Brigham went to this concert. I bought the Arctic Monkeys' new album, largely based on*



urday night you probably were 1) amused that the band took the stage while Warren G's "Regulators" played, 2) amazed by how well and how fast the band played its instruments, and 3) thrilled that the band played their big "hit" "I Bet You Look Good on the Dance Floor" as the second song of the set, just as I was when I first saw the band.

*Brigham's original concert review, and must say that I have not been disappointed. Great band, buy the CD and then you'll be able to say you knew them before they were big. Well, they were on SNL a couple weeks ago, so I guess you'll be able to say you knew them before they were gigantic, if not big.*

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**2006 Marden Final Argument**

on Monday, April 10, 2006 from 5:30-7:00 p.m. in Greenberg Lounge, Vanderbilt Hall.

The Panel for this year will be Judge Robert Katzmann of the Second Circuit, Judge Marjorie Rendell of the Third Circuit, and Judge M. Blane Michael of the Fourth Circuit.



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