



# The Federalist Society

*for Law and Public Policy Studies*

"The Courts must declare the sense of the law; and if they should be disposed to exercise will instead of JUDGMENT, the consequences would be the substitution of their pleasure for that of the legislative body."

The Federalist 78

## 2012 Annual Report



# The Federalist Society

**L**aw schools and the legal profession are currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society. While some members of the academic community have dissented from these views, by and large they are taught simultaneously with (and indeed as if they were) the law.

The Federalist Society for Law and Public Policy Studies is a group of conservatives and libertarians interested in the current state of the legal order. It is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Society seeks both to promote an awareness of these principles and to further their application through its activities.

This entails reordering priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law. It also requires restoring the recognition of the importance of these norms among lawyers, judges, law students and professors. In working to achieve these goals, the Society has created a conservative intellectual network that extends to all levels of the legal community.

Dear Friends and Supporters:

The events that have taken place during the past twelve months have only increased the national discussion about the proper role of government within a free society, and the subordinate problem of regulation as it expands or contracts that role. This surge in the national discussion on the nature of government is one of several factors that have made 2012 a good year institutionally for the Federalist Society. In the 2012 academic year the Society's Student Division once again grew sharply, by over 20%, hosting 1,587 events. At the same time, attendance at Student Division events increased by approximately 10%. Likewise our Lawyers Chapters, Practice Groups, State Courts Project, and Faculty Division have shown solid growth, while retaining their focus on studying core constitutional principles and scrutinizing the role that government plays within a republic.

The Federalist Society's major conferences stress this focus. The



*(left to right) Federalist Society Executive Vice President Leonard Leo, U.S. Sen. Mike Lee (UT), then U.S. Sen.-elect Ted Cruz (TX), and Federalist Society President Eugene Meyer gather during the 2012 National Lawyers Convention in November.*

2012 Student Symposium, held at Stanford Law School on March 2–3, discussed “Bureaucracy Unbound: Can Limited Government and the Administrative State Co-Exist?” and examined the connections between the rule of law, the administrative state, and limited government. The 2012 National Lawyers Convention, held in Washington, D.C. on November 15–17, addressed “The Future of U.S. Constitutional Law in the Supreme Court,” focusing particularly on issues of federalism and separation of powers in relation to Supreme Court jurisprudence historically and in our own time.

During the year ahead the Federalist Society will continue to explore these issues and to further develop the capable group of students and lawyers who, as friends and members of the Society, will persevere in defending and promoting our constitutional principles in the days to come. It is important for us to remember, as we mark 30 years of laboring to improve the state of the legal order, that ideas have a long gestation period, and that to gain ground, we must reinforce and advance them in each new generation of law students and legal scholars.

As economic difficulties persist in the United States, and even more abroad, it is an appropriate time to ask what effect the rule of law manifested in our constitutional structure has on the economy and, even more importantly, on society at large. Mindful of our current circumstances, I want to assure you that the Federalist Society will increase its emphasis on questions in this consequential area during the year ahead—in which task, as always, we look forward to collaborating with our many dedicated volunteers, whose assistance makes our work effective.

Sincerely,

A handwritten signature in blue ink that reads "Eugene B. Meyer".

Eugene B. Meyer  
President



# Student Division Breaks Records Once Again

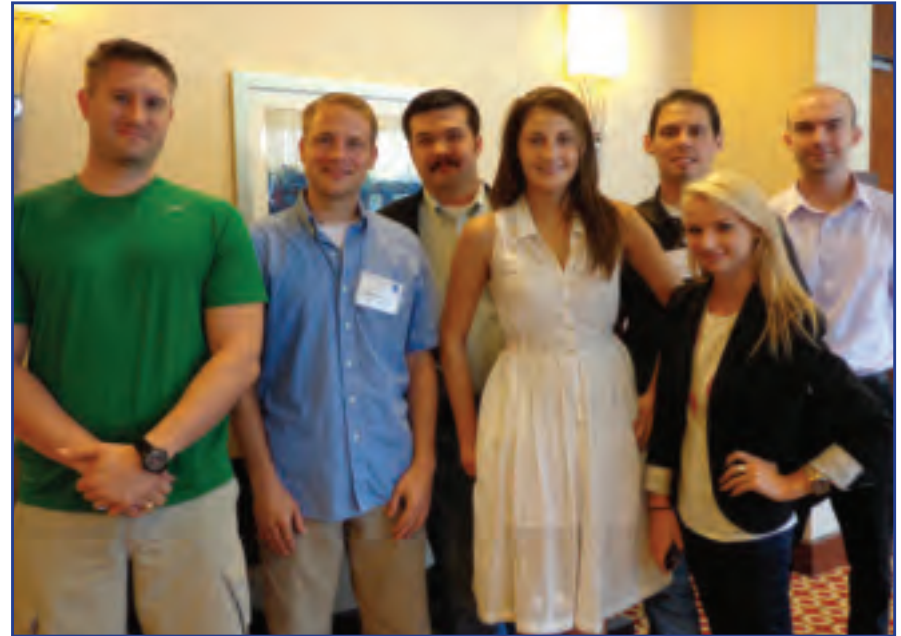
The 2011-2012 academic year broke records in every way. The number of student events increased tremendously, from 1,286 events in 2010–2011 to 1,587 events in 2011–2012. The number of recorded attendees increased from about 75,000 in 2010–2011 to 80,535 in 2011–2012. The Student Division could not have accomplished this without the help of the Student Chapter leaders, who are responsible for organizing, publicizing, and coordinating each event.

What do these numbers mean? Concretely, they mean that at every large school our average Federalist Society Student Chapter holds eight meetings without side guest speakers each year. That amount of activity ensures a hearing for a great number of ideas that otherwise would be absent from these students' education, and signals genuinely robust chapters at many schools.

In fact, Federalist Society chapters continue to be the most active extracurricular groups at most of the 201 law schools where they are based. Despite the stress of coursework, jobs, and activities such as Law Review, our students choose to volunteer time to their school's Federalist Society chapters. Without the volunteerism of these student leaders, conservative and libertarian ideas would not be debated on law school campuses.



*The Harvard Law School Chapter hosted then Indiana Governor Mitch Daniels in November. Gov. Daniels spoke about his experience fighting for secondary education reforms in Indiana, which many consider to be the most far-reaching changes adopted by any state.*



*Representatives from Texas law schools gather at the Summer Leadership Conference in Washington, D.C. in July. The students joined hundreds of others from across the country to learn how to run a student chapter.*

In July, representatives from 197 of our 201 ABA-accredited chapters attended our annual Student Leadership Conference. The Student Chapter presidents participated in three days of panels, discussions, and exercises in preparation for the upcoming school year. The success of the conference contributed to the uptick in Student Chapter events, and helped to increase most chapters' size as well, since chapter membership directly correlates to the chapter president's participation in the conference. Another factor contributing to the increased membership is our focus on close relationships with each chapter, maintained by phone and email correspondence, which allows us to ensure throughout the semester that each chapter is running efficiently. We have also made all student resources electronically available, enabling access to materials ranging from reimbursement submissions to other chapters' promotional flyers.

The growth of the chapters was well-distributed in 2011–2012. Over 50 chapters hosted 10 or more events in the academic year, with 15 chapters hosting more than 20 events. **Harvard, Colorado, Louisiana**

State, Virginia, Notre Dame, Florida, Duke, Florida International, Illinois, Michigan, Temple, and Texas hosted events that drew over 100 attendees. Pepperdine, NYU, Michigan State, Georgetown, and several other chapters utilized social networking (such as Twitter, Facebook, and blogs) to publicize their events.

Northern Illinois hosted an event with Ilya Shapiro and NIU Law Prof. Robert Jones on the Affordable Care Act. The program was so successful that the chapter live-streamed it on a projector in an overflow room. Our Kansas chapter hosted an event with Roger Clegg on affirmative action, utilizing e-vites, Facebook, mailbox stuffing, and email to increase attendance. The publicity drew a crowd of over 115 faculty members and students.

The impact of Obamacare was a popular topic at many chapters, because the Supreme Court decision on the law was presented in June. Our chapters focused on various issues surrounding the litigation and drew huge crowds for each event. Four of the most popular issues were the Commerce Clause, the complexities of severability, the legislation's



(left to right) Moderator Judge Sandra Ikuta, U.S. Court of Appeals for the Ninth Circuit, Prof. Randy Barnett, Georgetown University Law Center, and Prof. Pamela Karlan, Stanford Law School, debate the constitutionality of the Affordable Care Act at the 2012 Student Symposium at Stanford Law School. The theme of the Symposium was "Bureaucracy Unbound: Can Limited Government and the Administrative State Co-Exist?"



(left to right) Peter Thiel, President of Clarion Capital, Hon. Ted Ullyot, Facebook General Counsel, Dean Larry Kramer, Stanford Law School, Prof. Anthony Falzone, Stanford Law School, and Prof. Richard Epstein, New York University Law School (not pictured) discuss "Technology and Regulation" at the 2012 Student Symposium at Stanford Law School.

economic and policy implications, and the role of judges in the decision. Popular speakers for Obamacare events included Gregory Katsas of Jones Day, Richard Epstein of NYU law, Ken Klukowski of Liberty University, and Clark Neily from the Institute for Justice.

There were also many events on the topic of "Law and Growth" in the 2011–2012 academic year, thanks to a generous grant from the Kauffman Foundation. These events have become widely popular with our chapters and draw enormous crowds of students, because the events feature CEOs of businesses, and discuss the law in terms of business and the economy.

The active involvement of our Student Chapter leaders and members has created an environment of continual growth and achievement for the Student Division, and helped to do the same for the Society as a whole. We hope that all our Student Chapters will continue for many years with the work they do so well: presenting to each fresh group of students those important conservative and libertarian ideas which balance the liberal orthodoxy that remains prominent in our nation's law schools.



# Lawyers Chapters Continue Record Activity



(Above) In May, the Washington, D.C. Lawyers Chapter hosted a luncheon with New York Times Best Selling Author and Fox Business Network Host John Stossel. (Below) Georgia Governor Nathan Deal (center) stands with Atlanta Lawyers Chapter officers Bill Jordan, Frank Strickland, Sam Burch, and Jason Alloy.



The exceptional programming of the Federalist Society's 75 Lawyers Chapters is critical to growing a nationwide infrastructure of citizen lawyers engaged with the policy world. These lawyers form a strong community dedicated to carrying the principles of liberty, the separation of powers, and the rule of law into current legal and public policy debates.

In fiscal year 2011–12, the Lawyers Chapters added a new page to their record of success, demonstrating strong leadership, programming, publications, media outreach, and involvement with the Society's special projects, including the State Courts Project. The chapters organized over 320 programs and meetings, drawing an audience of over 27,000.

Several chapters were privileged to host U.S. Supreme Court Justices. This Fall Justice Antonin Scalia spoke before sold-out audiences (averaging nearly 300 lawyers and students) at **Los Angeles, San Diego, New York City, Chicago, Philadelphia, Silicon Valley, San Francisco, and Washington, D.C.** The Justice discussed his new book, *Reading Law: The Interpretation of Legal Texts*, answered audience questions, and signed copies for attendees. Earlier in the year Justice Scalia spoke to 350 attendees at the **Long Island** Lawyers Chapter, in what proved to be their largest program ever. In June the **Charlotte** Chapter hosted U.S. Supreme Court Justice Clarence Thomas and U.S. Court of Appeals for the D.C. Circuit Chief Judge David Sentelle, with a capacity crowd in attendance.

In late January the Federalist Society's Western Lawyer and Student Chapters hosted the Sixth Annual Western Chapters Conference at the Ronald Reagan Presidential Library in Simi Valley, California. About 200 lawyers and students gathered to hear panels on the Arizona immigration case and California's economic decline. Judges Alex Kozinski and Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit reflected on their tenures on the bench and debated immigration and their differing judicial philosophies during a luncheon discussion.

Several chapters hosted their popular annual U.S. Supreme Court Round-Ups this summer. Because of the many high-profile cases decided this term, including health care reform, Arizona's immigration law, the ministerial exception, *Knox v. SEIU*, and *Sackett v. EPA*, these reviews drew significant attention from chapter members, the greater legal community, and the media. The **Washington, D.C.** Lawyers Chapter hosted former U.S. Solicitor General Theodore B. Olson in July for its much-anticipated annual

round-up. The **Philadelphia** Lawyers Chapter hosted former U.S. Solicitor General Paul Clement; and the **Milwaukee** Chapter brought him in for its 100<sup>th</sup> program, which drew a capacity crowd. The **Los Angeles** Lawyers Chapter once again hosted Prof. John Eastman of Chapman University School of Law and Dean Erwin Chemerinsky of UC Irvine School of Law. Judge Sandra Ikuta of the U.S. Court of Appeals for the Ninth Circuit moderated the discussion, which attracted a sold-out audience of over 150 attendees. Prof. Eastman also offered round-ups in both **Rochester** and **Buffalo**. The **San Francisco** Lawyers Chapter hosted Profs. John Yoo and Jesse Choper of Berkeley Law for a round-up as well, attracting over 100 attendees. The **Houston** Lawyers Chapter offered a round-up with Judge Catharina Haynes of the U.S. Court of Appeals for the Fifth Circuit, Judge Dan Hinde of the 269<sup>th</sup> Judicial District Court of Harris County, Prof. Ernest A. Young of Duke University Law School, and Evan Young of Baker Botts. Former Texas Solicitor James Ho delivered round-ups in **Austin**, **Dallas**, and **Iowa**. The **Triangle** Chapter hosted Gibson, Dunn & Crutcher attorney Miguel Estrada for a Supreme Court review. Kannon Shanmugam of Williams & Connolly previewed the upcoming Supreme Court term in presentations before the **Indianapolis** and **Kansas City** Chapters. The **Birmingham** and **Nashville** Chapters hosted former Alabama Solicitor Kevin Newsom and Prof. Brian Fitzpatrick of Vanderbilt Law School for their annual round-ups.

Many chapters addressed the constitutionality of health care, previewing and recapping the oral arguments and analyzing the final decision. The media coverage of these programs was impressive, as many of these events showcased litigators involved in the Obamacare lawsuit. The **Charlotte**, **Houston**, **Iowa**, and **Memphis** Lawyers Chapters hosted Gregory Katsas of Jones Day, who was involved in oral arguments. Kentucky Senator Rand Paul spoke to over 150 Louisville attorneys about his brief in the Obamacare case, which questioned whether the Court should overrule *Wickard v. Filburn*. The **Madison** and **Milwaukee** Chapters both hosted debates on Obamacare's constitutionality with Robert Levy of Cato Institute. Karen Harned of the National Federation of Independent Businesses previewed the case in addresses to the **Philadelphia** and **Phoenix** Lawyers Chapters. Other chapters that hosted programming on the issue include **Las Vegas**, **Los Angeles**, **St. Louis**, **San Diego**, **San Francisco**, **Tallahassee**, **Tampa**, **Washington, D.C.**, and **Winston-Salem**, while **Chicago**, **Colorado**,



(Above) (left to right) Judge David Sentelle, Chief Judge of the U.S. Court of Appeals for the D.C. Circuit, then North Carolina Governor-elect Pat McCrory, and United States Supreme Court Justice Clarence Thomas gather for a discussion at an event hosted by the Charlotte Lawyers Chapter in June. (Below) Former U.S. Solicitor General Paul Clement provides a "Supreme Court Roundup" for the Philadelphia Lawyers Chapter in July at the Historic Union League of Philadelphia.





**Indianapolis, Minnesota, Mississippi, and San Diego** organized post-decision programs.

Many chapters also addressed the controversy over religious conscience rights in the Obamacare legislation, as well as other questions relating to religious liberty. The **Washington, D.C.** Lawyers Chapter hosted Notre Dame Law School Prof. Carter Snead, and the **D.C. Young** Lawyers Chapter hosted Matthew Bowman of Alliance Defending Freedom. The **Birmingham** Lawyers Chapter hosted Kyle Duncan of the Becket Fund, who spoke on “The HHS Mandate and the Proper Role of Religious Groups in Civil Society.” His colleague Eric Kniffin addressed the same issues in a speech to the **Triangle** Chapter. Chapters in **Colorado, Dallas, Fort Worth, and Houston** also organized programs on the HHS mandate, religious liberty, and conscience rights, focusing on the constitutional challenge.

The presidential election provided numerous opportunities for chapters to discuss voting rights issues, voter ID, voter fraud, and the effects of *Citizens United*. Hans von Spakovsky, a former FEC Commissioner and current Senior Legal Fellow and Manager of the Civil Justice Reform Initiative at the Heritage Foundation, discussed voter ID before the **Atlanta, Baltimore, Birmingham, Colorado, Indianapolis, Iowa, and San Francisco** Lawyers Chapters. The **Minnesota** Lawyers Chapter hosted a voter ID debate with Hennepin County Attorney Mike Freeman and John Fund, author of *Who’s Counting: How Fraudsters and Bureaucrats Put Your Vote at Risk*. Campaign finance and the *Citizens United* case also attracted the attention of the **Dallas, Portland, and Sacramento** chapters.

Several lawyers chapters hosted annual dinners in 2011–2012. The **Michigan** Chapter hosted a dinner with Michigan Attorney General Bill Schuette, attended by members of the Michigan Supreme Court and lower state courts, several federal district court judges, and other leading members of the bar. The **Los Angeles** Lawyers Chapter hosted its annual dinner with Dean Deanell Reece Tacha of Pepperdine University School of Law, who was honored for her service as the former Chief Judge of the U.S. Court of Appeals for the Tenth Circuit, and Dr. John C. Eastman, Henry Salvatori Prof. of Law & Community Service and former dean of Chapman University School of Law.



*Prof. John Yoo, UC Berkely School of Law, and Prof. Julian Ku, Hofstra University School of Law, discuss their book, *Taming Globalization: International Law, the U.S. Constitution, and the New World Order*, at an event co-sponsored with the American Enterprise Institute. Profs. Yoo and Ku held similar discussions for several lawyers chapters across the country in 2012.*

Several chapters emphasized leading legal and historical scholarship through book events. Profs. John Yoo of Berkeley Law and Julian Ku of Hofstra University Law School discussed *Taming Globalization: International Law, the U.S. Constitution, and the New World Order* in **New York City, Los Angeles, Long Island, and Orange County**. Michael Greve of the American Enterprise Institute spoke on his latest book, *The Upside Down Constitution*, at **Boston, Charlotte, Los Angeles, Orange County, Sacramento, San Diego, and San Francisco**. The **Baltimore, Connecticut, Indianapolis, Long Island, and Milwaukee** Lawyers Chapters hosted Richard Brookhiser, *National Review* columnist and author of *James Madison: Father of the Constitution, Father of Politics*. Brookhiser discussed Madison’s role in creating the Constitution and his influence on the emergence of the first American political parties.

Mindful of the Federalist Society’s founding by young lawyers, the Lawyers Division continues its outreach to the next generation of lawyers. Both the **Washington, D.C.** and **New York Young** Lawyers Chapters



continue to grow. The **D.C. Young** Lawyers chapter hosted several events, including a summer reception with Paul Clement, a Fall reception with U.S. District Court Judge Richard Leon, and happy hours that encouraged networking amongst attendees. The **New York Young** Lawyers Chapter launched with speakers Senator Mike Lee of Utah and Kannon Shanmugam of Kirkland & Ellis.

The Lawyers Chapters continue to be an essential influence on the State Courts Project and in matters of regional concern. Chapter leadership provides many of the volunteers who perform media outreach, write white papers, and organize debates on important state and local issues. In 2012 chapter leaders in **North Carolina** and **Michigan** were active in raising awareness of state judicial elections, hosting panel discussions and candidate forums and publishing white papers on the issues. The **Florida** chapters focused several Fall programs on their Supreme Court retention elections. Chapters in

**Nashville** and **Memphis** sponsored debates over the federal model judicial selection proposal in Tennessee. The **Madison** Lawyers Chapter hosted State Representative Robin Vos, University of Wisconsin Prof. Kenneth Mayer, and Christian Schneider of the Wisconsin Policy Research Institute for a program on “Reconsidering Wisconsin’s Constitutional Recall Provision: Should the Recalls be Recalled?”

New chapters were launched in 2012 and defunct ones revived, including **Tarrant County (Fort Worth)**, **Mobile**, **New Jersey**, **Tulsa**, and **Virginia Beach**. These chapters, directed by their dedicated volunteer leadership, will continue to shape the debate about legal and public policy in their communities, forming the next generation of Federalist Society members into a national network of legal opinion leaders.



*United States Supreme Court Justice Antonin Scalia (center) poses with the Chicago Lawyers Chapter Board after speaking to a sold-out crowd about his new book, Reading Law: The Interpretation of Legal Texts.*

# International Project Breaks New Ground

The Federalist Society's International Affairs Division made great strides this year in continuing its mission, begun in 2009, of promoting the Western cultural and legal tradition through our infrastructure of European partner organizations and spreading discussion of "First Principles"—such as the separation of governmental powers, an independent and law-abiding judiciary, the rule of law, and limited government—throughout Europe. While co-hosting events on the nature and importance of liberty, especially in Central and Eastern Europe, the Society also worked to build discussion on legal principles among the European judicial and legal elite.

The International Affairs Division co-sponsored a two-part European Advocacy Academy event in March and April with other Brussels-based organizations. The Academy, an educational seminar taught by leading policymakers, judges, and other experts on EU institutions, focused on providing young people with the tools to promote Western legal principles within the EU.

The Federalist Society's Student Chapter at Oxford, the Benjamin Disraeli Society, has assisted in arranging events at Oxford's famed debating society, the Oxford Union, including a February debate on the separation of politics and religion, which feature Judge William Pryor of the Eleventh



*Participants at the inaugural European Advocacy Academy, co-sponsored by the Federalist Society, gather in front of the European Parliament in Brussels in March.*



*Judges from constitutional courts across Central and Eastern Europe pose with U.S. Supreme Court Justice Samuel Alito during the Federalist Society's first-ever European Judges Conference in Washington, D.C. in November.*

Circuit U.S. Court of Appeals and Northwestern Prof. John McGinnis. In October the Society co-sponsored another event at the Oxford Union, in which former U.S. Attorney General and Federalist Society board member Michael B. Mukasey delivered a speech on the threat of terrorism before a packed house. Judge Mukasey's trip also included a speech on the same topic at the House of Lords in Parliament, and a luncheon with dozens of British MPs and members of the press, both of which were organized by the Henry Jackson Society, our conservative partner organization in London.

The Division has also developed new relationships with groups in Paris and Italy. One such group, the Institut de Formation Politique, which organizes weekend workshops for young professionals, hosted its inaugural "Law and Policy Circle" seminar in Paris in December with the Federalist Society's assistance. The seminar brought together young people interested in law and public policy to discuss current important legal issues in France. The Society has also seen exciting growth in its partner organization in Sicily, Academia Res Publica, which hosted a June conference for attorneys, judges, and academics on "Design the Future: Begin from the Constitution."

The Division continues to support grassroots chapters and established partner groups in Central and Eastern Europe, helping students and young professionals who seek to break with old guard socialism in favor of limited



government and economic and religious liberty. In February and July, International Affairs Director Jim Kelly and George Mason Prof. Nathan Sales traveled to universities in the Republic of Georgia to teach on freedom of religion and the American concept of originalism, and to meet with Georgian officials and others interested in promoting the First Principles. The programming was co-sponsored by the Constitutional Court of the Republic of Georgia. In May, Constitutional Court Judge George Papuashvili published a retrospective of the history of Georgia's 1921 Constitution in *Engage*, the Federalist Society's law journal.

In July, the Division partnered with Hungary's Common Sense Society to sponsor the Summer Leadership Academy in Budapest. The Academy offered sessions on philosophy, economics, politics, and constitutional law to young leaders interested in the principles of a free society. The Division also sent a representative to the annual summer school of the Croatian Center for Renewal of Culture, which seeks to engage gifted Croatian university students in discussions about the foundations of a liberal democracy and the implications of the nation's anticipated EU membership in 2013.

In addition to spreading the Western legal debate among the youth of Europe, the Federalist Society has also sparked an exchange between



*Members of the Oxford Union with Federalist Society guests, including Judge William Pryor from the Eleventh Circuit Court of Appeals (bottom row, fourth from right); Professor John McGinnis from Northwestern University School of Law (bottom row, fifth from right); Leonard Leo, Executive Vice President of the Federalist Society (third row, far right); and Ken Wiltberger, Deputy Director of International Affairs for the Federalist Society (back row, far left), at the Union debate in February.*

established legal minds of Europe and the United States. At its November 2012 National Lawyers Convention, the Society hosted nearly twenty top French attorneys and officials, and welcomed ten eminent judges from seven European countries, many from Central and Eastern Europe. Following the Convention, these jurists participated in the Society's inaugural European Judges Conference, during which they discussed issues such as judicial independence, judicial interpretation, the relationship between national and supranational courts, and the development of international soft law norms and their effect on national sovereignty, together with four U.S. circuit court judges. The conference generated a candid conversation on jurists' difficulties in Europe and the U.S. and, through experiences of the attendees' various countries, produced strategies for approaching thorny judicial issues. The conference highlights were a visit from Supreme Court Justice Samuel Alito and a trip to the Court for a luncheon with Justice Antonin Scalia.

Looking forward, the Division seeks to build on this exciting exchange with further judicial conferences and an initiative which aims to enable online discussion by European judges of important national legal issues. In January of 2013, the Federalist Society co-sponsored another event at the Oxford Union, this time with former UN ambassador John Bolton; and after the successful initial event of the Law and Policy Circle in Paris, the Division plans to co-host similar events in the coming year.

Finally, 2012 saw Deputy International Affairs Division Director Ken Wiltberger step down and return to the U.S. with his family. He is replaced by former Publications Director Paul Zimmerman. The Federalist Society owes Ken a debt of gratitude for his three years of dedicated work in Europe, which laid the foundation for the Division's current success in that region.

In taking over the Deputy Director position, Paul eased the transition by visiting the Society's European partners. In October, Executive Vice President Leonard Leo traveled with Paul to Hungary, Austria, Croatia, and Poland to visit organizations and individuals interested in forming groups modeled on the Society. In conjunction with Judge Mukasey's October events, Leonard and Paul met with leaders of our partner organizations in London, Oxford, and Paris; and in November, Paul traveled to Serbia, Romania, Austria, and Poland to meet our contacts in those countries, and to plan future cooperation with them in disseminating discussion of Western legal principles throughout Europe.

# Faculty Division Continues to Grow by Leaps and Bounds

The Faculty Division, now in its fifth year of expanded operations, substantially increased its programming and participation. The Division provided new opportunities for faculty members, especially young faculty, to gain recognition and produce outstanding scholarship, while at the same time maintaining its core programs designed to foster dialogue within the legal academy.

## NEW IN 2012

### *Junior Scholars Colloquium*

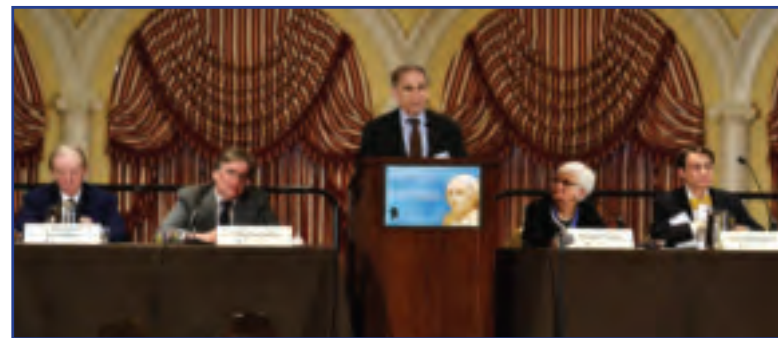
The Division's inaugural Junior Scholars Colloquium took place June 1-2, 2012. It provided seven junior scholars (faculty members who have been teaching for no more than seven years or aspiring academics who have not yet obtained their first tenure-track appointment) with the opportunity to present competitively selected unpublished papers and receive critical feedback from more senior faculty members and via group discussion. The Division expects this event to be annual, with the next Colloquium taking place in June 2013.

### *Junior Faculty Workshops*

The inaugural Junior Faculty Workshops were held in the spring and summer of 2012. Under the organization of a junior faculty member,



*Katherine Twomey, Associate at Latham & Watkins, and Andrew J. Redleaf, Founder and CEO of Whitebox Advisors, participate in the Freedom and Financial Markets Colloquium in Warrenton, VA.*



*(left to right) Judge A. Raymond Randolph, Prof. Charles Geyh, Prof. Stephen Gillers, Hon. Deanell Tacha, and Prof. Ron Rotunda discuss "Judicial Ethics" during the 14th Annual Faculty Conference in January 2012 in Washington, D.C.*

younger faculty from various schools gather to spend a day workshopping each others' papers. This year's workshops focused on Constitutional and International Law, Law and Religion, and Election Law and took place at George Mason, DePaul, and Loyola-Los Angeles.

### *Papers on Derivatives*

Four papers by Professors William Birdthistle (Chicago-Kent College of Law) and Todd Henderson (University of Chicago Law School), Professors Shawn Cole (Harvard Business School) and David Yanagizawa-Drott (Harvard Kennedy School), Professor Sean Griffith (Fordham Law School), and Professor Christian Johnson (University of Utah College of Law) made significant contributions on the governmentalization of previously self-regulatory financial oversight boards, the value of diversity in global derivatives regulation, and the likely unintended consequences of the CFTC's efforts to combat regulatory arbitrage in the derivatives market.

### *Book Events*

The Division launched a series of D.C.-based events to stimulate opinion leaders' buzz about important new books by faculty members. These events have been co-sponsored with the American Enterprise Institute and funded by the Searle Freedom Trust. Generally the author presents his book's key points, followed by comments from two or three panelists, a public question-and-answer session, and a private dinner with the participants and the press.

The first event on February 21 featured Michael Greve's *The Upside-Down Constitution*, which offers a fresh perspective on the past and future of federalism. The next events, featuring Jack Goldsmith's *Power and Constraint*:



*The Accountable Presidency After 9/11* (March 21) and John Yoo and Julian Ku's *Taming Globalization: International Law, the U.S. Constitution, and the New World Order* (April 19), examined Presidential powers and accountability in the aftermath of 9/11, and the effects of globalization and international institutions on American constitutional law. The final event, on May 8, centered on John Inazu's *Liberty's Refuge: The Forgotten Freedom of Assembly*, which argues for the importance of the neglected constitutional right of assembly.

The first book event for Fall 2012, held on October 2, was a standing-room-only presentation by Justice Antonin Scalia of his new book, *Reading Law: The Interpretation of Legal Texts*. The second event, held on November 8, featured Prof. David Skeel's (Penn) argument that the U.S. should establish a state bankruptcy structure, as reflected in his edited essay collection *When States Go Broke: The Origins, Context, and Solutions for the American States in Fiscal Crisis*. Panelists E.J. McMahon (Manhattan Institute), and Damon Silvers (AFL-CIO) took issue with this proposal from different perspectives, with Michael Greve (George Mason & AEI) moderating. *The Wall Street Journal* blog and Newsmax's blog *Moneynews* covered the event.

In Spring 2013 the book events will discuss corporate governance questions raised in books by Stephen Bainbridge (UCLA) and Lynn Stout (Cornell), as well as one on Arbitration and the Constitution, based on Peter "Bo" Rutledge (Georgia)'s book on the topic.



(Left to Right) Prof. George Dent, Case Western Reserve University School of Law, Prof. Lynn Stout, UCLA School of Law, and Prof. George Mocsary, Univ. of Connecticut School of Law participate in the annual Private Law Colloquium.



Dr. Michael S. Greve of George Mason University School of Law discusses his book, *The Upside-Down Constitution*, at the *Federalism at the Crossroads Colloquium* in July

### *Faculty Book Podcasts*

This past year the Division also launched a new podcast series on recently published or forthcoming faculty books. These podcasts feature an author's presentation of and a critical commentator's observations on a new book. A dozen of these podcasts are now available online: <http://www.fed-soc.org/publications/page/faculty-division-podcasts>.

## FOSTERING THE EXCHANGE OF IDEAS

### *Faculty Colloquia*

The Division continues to host a growing number of faculty colloquia on a wide range of topics. These colloquia bring together faculty, practitioners, and aspiring academics (usually about 16 people total) for a day and a half of discussing a common set of readings. This allows the participants, who come from diverse backgrounds and perspectives, to learn from each other and develop camaraderie.

In addition to renewing our agreement with the Liberty Fund to host seven colloquia in 2013–14, the Division will again be hosting additional colloquia on topics relating to religious and/or economic liberty and private law. As a result, the Faculty Division expects to host a total of ten colloquia over the next 12 to 15 months.

## ASSISTANCE FOR ASPIRING SCHOLARS

### *Olin/Searle/Smith Fellowships*

The Faculty Division offers Olin/Searle/Smith Fellowships to law school



(Above) Federalist Society Senior Vice President & Director of the Faculty Division Lee Liberman Otis observes during a lunch event at the 15th Annual Faculty Conference in New Orleans in January 2013. (Below) Prof. Nicholas Quinn Rosenkrantz, Georgetown University Law Center, debates the notion that “Congress’s Enumerated Powers Cannot be Increased by Treaty” with Prof. Richard Pildes from New York University School of Law (not pictured) during the 15th Annual Faculty Conference in New Orleans. The debate was moderated by Ms. Elizabeth Anderson, Executive Director and Executive Vice President of the American Society of International Law.



graduates interested in pursuing a career in legal academia. These one-year fellowships provide a \$60,000 stipend to graduates whose strong academic qualifications make them likely to contribute to intellectual diversity in the legal academy, allowing them to spend a year working on articles at a top law school. Many past recipients have gone on to earn tenure track positions at top law schools. This year’s recipients were Robert Leider (Penn) and Judd Stone (Harvard).

### *Job Talk Workshop*

The Division held its fifth annual workshop for law school graduates on the academic market in Chicago on June 21–24, 2012, running a fourth day this year to accommodate the growing number of strong potential participants. Thirteen candidates preparing to go on the tenure track market in the fall presented portions of their job talks before a panel of professor commentators, received substantive and stylistic feedback, participated in mock AALS interviews, and were given an individualized resume critique.

### *Student Symposium Panel and On-Campus Meetings with Students Interested in Academia*

For the past five years the Faculty Division has sponsored a panel at the Student Symposium offering career advice to students interested in legal academia. This year staff from the Division will also be visiting several schools to meet with these students and to share information about the process.

### *Outreach to New Faculty*

The Division held its sixth annual reception at the annual meeting of the Southeastern Association of Law Schools at Amelia Island, Florida in July. Faculty Division staff also attended the Annual Meeting of the Law and Society Association in August. Next year’s plans also include an outreach effort at the annual meeting of the American Political Science Association. The Division’s updated faculty brochure was distributed in the AALS bulletin in early 2013.

### *Resources to Public and Press*

The Division, in collaboration with the Practice Groups, continued to produce original programming drawing on academic and practitioner expertise. These programs provide a valuable service to the public and the media, and offer faculty members a chance to raise their profiles.

*SCOTUScast*, a series of expert commentary podcasts on U.S. Supreme



Court cases as they are argued and issued, is now in its seventh year. These podcasts are designed to better educate the general public about cases in the Court and to enable faculty members and legal experts to address a wide audience. Over 100 podcasts for the 2011 Term, and over 30 from the October 2012 term, are available online: <http://www.fed-soc.org/publications/page/scotuscast>.

Each year in collaboration with the Practice Groups, the Division also organizes a *Supreme Court Preview Panel* at the National Press Club. Our 2012 term panel is available online: <http://www.fed-soc.org/publications/detail/supreme-court-preview-what-is-in-store-for-october-term-2012-event-audiovideo>.

The Division and the Practice Groups also organize regular press calls with faculty and practitioner experts who analyze upcoming Supreme Court cases. These efforts give members of the press perspective on unfamiliar cases and help enhance the reputations of our experts. These calls are supplemented

with press statements from experts with commentary on the Court's recent activities that are given out as a resource to press. These statements have been picked up by the Associated Press, ABC, the *New York Times*, the *Washington Post*, the *Los Angeles Times*, *Forbes*, and many others.

Finally, the Division periodically posts audio and video recordings of notable faculty events, including the panels held at our annual Faculty Conference.

### ANNUAL FACULTY CONFERENCE

Our 15<sup>th</sup> Annual Faculty Conference took place on January 4-5, 2013 in New Orleans, Louisiana, held simultaneously with the AALS Annual Meeting. Panels addressed the concept of judicial deference versus judicial engagement and problems created by the Dodd Frank Act. The annual luncheon debate focused on whether a treaty can expand Congress's powers. (For more Faculty Conference coverage, see pages 16–17).

## Alumni Relations

The Federalist Society continues to foster and inspire autonomous alumni chapters at leading law schools. In addition to supporting the networking and other benefits these chapters already provide, we encourage their members to become more involved in helping their law schools into places that are congenial to conservative and libertarian thought.

At this year's National Lawyers Convention in November, the Federalist Society hosted separate breakfasts for a few hundred alumni from Catholic University, Chicago, Columbia, Georgetown, Harvard, Michigan, Stanford, the University of Texas, Virginia, and Yale. The breakfasts were hosted by distinguished alumni representatives from each school, including Judge Michael Massengale and Judge Randall Rader. Guest speakers included Chris DeMuth, Prof. Randy Barnett, then Representative-elect Tom Cotton, Judge Carlos T. Bea, Judge Edith Jones, FEC Commissioner Matthew Peterson, and Judge Jerry E. Smith.

Among other alumni highlights of the past year, the Harvard alumni chapter hosted a tour in March of the Ronald Reagan exhibit at the National Portrait Gallery in Washington, D.C., followed by a well-attended happy

hour. This past summer, also in D.C., University of Virginia alumni held a reception with guest speaker Prof. Lillian BeVier, which drew a large number of attendees. University of Michigan alumni also organized a summer reception with cocktails at D.C.'s Cosmos Club, featuring guest speaker Steven G. Bradbury, former acting head of the Office of Legal Counsel.



*Professor Lillian BeVier speaks to University of Virginia alumni during a reception at the Washington, D.C. office of Sidley Austin this summer.*

## Publications Reach New Audiences

Through its publications, the Federalist Society continues to give the media and the general public access to commentary from highly-respected national experts on current legal issues and their societal implications. This commentary takes the form of a scholarly journal, three regular newsletters, a member magazine, and white papers on various topics. All the Society's publications are available online at [www.fed-soc.org/publications](http://www.fed-soc.org/publications).



*Engage*, the journal of the Federalist Society Practice Groups, appears triannually in electronic format. Ideas for *Engage* articles are generated by the fifteen Practice Groups; and occasionally there are special issues framed around a single theme. Articles from 2012 discussed the Department of Justice's authority under the Foreign Corrupt Practices Act, analyzed the constitutionality of the America Invents Act, debated the merits of the Affordable Care Act, and made the case for defending against intergovernmental threats to internet freedom. In 2012, *Engage* took a major step forward by becoming available in Westlaw's law journal database; this will increase the availability and prestige of *Engage* by giving practitioners, academics, and law students greater access to our content. We also continue to publish panel transcripts from the National Lawyers Convention in the *Harvard Journal of Law and Public Policy* and other national law reviews and journals.

*State Court Docket Watch* is a quarterly newsletter, composed primarily by members of the Society's Lawyers Chapters, which reports on noteworthy or controversial state court trends and cases. This year's subjects included state supreme court decisions on the constitutionality of non-economic damages caps in medical malpractice cases, whether citizens have a right to education under their state constitution, and whether plaintiffs can receive "phantom damages" for past medical expenses that were written off by the medical provider but never paid. The Federalist Society also once again produced a special issue focusing on recent court challenges to state tort reforms.

*ABA Watch* is a newsletter published to coincide with the American Bar Association's mid-year and annual meetings. It provides an in-depth, independent look at the organization. The August issue discussed executive

power; policies on religious profiling, SLAPPs, and campaign finance; judicial selection; *Arizona v. United States*; and the confirmation of judicial nominees.

*Class Action Watch* exists to inform Society members and the general public about recent class action litigation. The June 2012 issue featured articles on global warming nuisance suits, Ohio's experience in deciding class certification, and the use of expert testimony at the class certification stage after *Wal-Mart v. Dukes*.



*The Federalist Paper* is the in-house magazine of the Federalist Society, printed winter, summer, and fall. The magazine, which highlights some of the activities and events of the Society's Chapters, Practice Groups, and individual members, provides a glimpse into what divisions of the organization are doing nationally. The National Lawyers Conventions and Student Symposia are covered, and the State Courts and International Law Divisions provide updates on their work as well.

For a decade, the Society has published White Papers that seek to generate debate over important legal issues. In 2012, the State Courts Project continued to inform the public about state judiciary issues with papers on *mens rea* and state crimes, the effect of Super PACs on judicial elections, and the judicial philosophies of state supreme courts. Other White Papers discussed American family law and Sharia-compliant marriages, the different approaches courts take regarding firearms possession after *District of Columbia v. Heller*, and Philadelphia tort litigation.

In these publications, as always, the Federalist Society takes no position on particular issues: the opinions expressed in the publications are those of the authors and not of the Society itself. With these papers and in all its programs the Society seeks to produce material that will encourage discussion of timely legal and public policy developments. Readers are encouraged to respond to what they read and to submit articles or ideas on new legal trends and developments.



# National Lawyers Convention Discusses Future of the U.S. Supreme Court

The Federalist Society's 30<sup>th</sup> annual Nation Lawyers Convention, "The Future of U.S. Constitutional Law in the Supreme Court," was held on November 17, 2012, at the Mayflower Hotel in Washington, D.C. Attendance was up 15% from 2011, and anecdotal feedback from attendees was excellent. Additionally, a new Convention "App," allowing attendees to view the schedule, speaker bios, and hotel maps on their smartphones, was very well-received and will be improved for the 2013 Convention. This year's Convention also featured a "Business Lounge" for attendees to work, charge their electronic devices, rest between events, and enjoy a noise level that was mitigated.

The highlights of the Convention included the Fifth Annual Rosenkrantz Debate on Natural Law between Chief Judge Alex Kozinski of the Ninth Circuit Court of Appeals and Prof. Hadley Arkes of Amherst College; addresses by U.S. Supreme Court Justices Samuel Alito and Antonin Scalia; and speeches by Governor Rick Scott, Senator Mike Lee, and then Senator-elect Ted Cruz.

Significantly, three of the Convention panels addressed the aftermath of *NFIB v. Sebelius*. Showcase Panel I: "Federalism and Federal Power," featured Prof. Randy Barnett, Hon. Paul Clement, Judge Frank Easterbrook, Prof. Heather Gerken, Prof. Neal Katyal, Prof. Robert Natelson, and moderator Judge Diane Sykes. It examined the Supreme Court's federalism jurisprudence in light of the divisions made evident by the close vote on the healthcare law, and discussed what those divisions mean in terms of limits to federal power. The panel was followed by two other events that focused on the effects of the case: "The Spending Clause After the Health Care Decision," hosted by the Federalism and Separation of Powers Practice Group, and featuring Prof. John Eastman, Lee Casey, Prof. Edward Rubin, Robert Gasaway, and moderator Judge Jerry Smith; and "The Administrative State after the Health Care Cases," hosted by the Administrative Law Practice Group, and featuring the Hon. Ronald Cass, the Hon. Christopher DeMuth, Prof. Timothy Jost, Judge Brett Kavanaugh, and moderator Judge Thomas Hardiman.

The Convention continues to be the ideal platform from which to launch new Federalist Society initiatives. As in recent years, this year's Convention included individual meetings of the Practice Group Chairmen, Federalist Society Lawyers Chapters Leaders, Alumni Groups, and Faculty



(Above) U.S. Supreme Court Justice Samuel Alito delivers the keynote speech at the 30th Anniversary Dinner for the 2012 National Lawyers Convention. (Below) (Left to Right) Judge Alex Kozinski, Chief Judge of the U.S. Court of Appeals for the Ninth Circuit, Judge Thomas Griffin, U.S. Court of Appeals for the D.C. Circuit, Prof. Hadley Arkes, Amherst College, Prof. Nicholas Quinn Rosenkrantz, Georgetown Univ. Law Center, and Federalist Society President Eugene Meyer gather after the Fifth Annual Rosenkrantz Debate & Luncheon.



Division Leaders. For the first time, we hosted a delegation of International Judges at the National Lawyers Convention; and in the days following the Convention, these judges participated in a Federalist Society conference to discuss constitutional courts, the role of the judiciary, and the rule of law. (For more on this and other international events, see pages 8–9).

### STUDENT LEADERSHIP CONFERENCE

Every July, newly-elected Student Chapter Presidents travel to Washington, D.C. for the Student Leadership Conference. They spend three days participating in panel discussions, conversing with other chapter Presidents, and learning how to run their chapters efficiently. The 2012 conference was held on July 13–15 at The Key Bridge Marriot. The Society hosted a Friday night reception to facilitate conversation between chapter leaders. Saturday morning began with an address from Prof. Randy Barnett of Georgetown University Law Center. The professor's address was followed by a panel in which Federalist Society President Gene Meyer and the Student Division staff discussed successful chapter leadership. This was first of several panels in which Federalist Society staff discussed how chapters can be most effective at fostering the discussion of ideas on campus. These panels were also designed to help students address any problems they might encounter. Later in the day John Hardin of the Charles G. Koch Charitable Foundation and Leslie Hiner of the Friedman Foundation for Educational Choice spoke to the students about their experience in the conservative and libertarian movement.

On Saturday afternoon, Jordan Lorence of Alliance Defending Freedom, Kyle Duncan of Becket Fund for Religious Liberty, and Clark Neily of Institute for Justice formed a panel on Public Interest Litigation. That evening students attended the Conference's annual Supreme Court Reception, where they met with Federalist Society employees and speakers. On Sunday, the students heard from Prof. Gregory McNeal of Pepperdine, a former Student Chapter President and a Federalist Society speaker.

All in all, the Student Leadership Conference serves to stimulate attendees in their tireless work to build up the Federalist Society on their campuses and to propel their chapters to new heights.



*(Above) Former U.S. Attorney General Michael B. Mukasey delivers remarks during the 30th Anniversary Gala at the 2012 National Lawyers Convention. (Below) U.S. Supreme Court Justice Antonin Scalia speaks about his new book, Reading Law: The Interpretation of Legal Texts, at the National Lawyers Convention. Following his remarks, he signed copies of his book for attendees.*







*Prof. Steven G. Calabresi, Co-Founder of the Federalist Society and Professor of Law at Northwestern University School of Law, and Dr. Roger Pilon, Vice President for Legal Affairs and Director of the Center for Constitutional Studies at the Cato Institute.*

### 15<sup>TH</sup> ANNUAL FACULTY CONFERENCE

Our 15<sup>th</sup> Annual Faculty Conference, held in New Orleans, Louisiana in conjunction with the Association of American Law Schools' annual meeting, drew over 75 law professors from nearly 50 schools, as well as interested practitioners, non-profit staff, and aspiring academics. The conference featured a roundtable moderated by Prof. Randy Barnett (Georgetown University Law Center) highlighting work by top-flight junior scholars on judicial deference and engagement, and a panel of leading scholars who discussed the Dodd-Frank Wall Street Reform and Consumer Protection Act. Associate Justice Antonin Scalia visited with faculty at our evening reception, where he emphasized the crucial role that faculty play in students' long-term intellectual development.

This year's eagerly anticipated luncheon debate featured a friendly, vigorous exchange between Prof. Nicholas Quinn Rosenkranz (Georgetown University Law Center) and Prof. Richard Pildes (New York University School of Law) over whether Congress' enumerated powers can be increased by treaty. Betsy Andersen of the American Society of International Law, which co-sponsored the event, moderated.

For the fourth year, the Conference served as a forum for competitively

selected papers from the Young Legal Scholars Paper Competition. Profs. Erin and Josh Hawley of the University of Missouri-Columbia and Prof. Randy Kozel of Notre Dame received comments from Prof. Michael McConnell (Stanford), while Prof. Dan Kelly of Notre Dame and Prof. Minor Myers of Brooklyn received comments from Prof. James Lindgren (Northwestern). Prof. Eugene Volokh (UCLA) moderated. Other faculty members took advantage of two additional panels dedicated to faculty works-in-progress to obtain feedback on their scholarship.

Overall the conference proved quite successful, and the high quality of discussion among panelists highlighted the Society's commitment to academic rigor and productive debate.

## Student Symposium Explores the Importance of Limited Government and the Administrative State

For many students, Federalist Society chapters on law school campuses can be their only exposure to the conservative and libertarian ideas on which our nation was founded. The Student Division has worked tirelessly this year to expand our influence to every accredited law school campus in the United States.

Every year the Student Division hosts an annual Student Symposium, which is the most anticipated event of the academic year. Each spring, one of our Student Chapters is selected to host the two-day conference on a particular topic. The Student Symposium is one of the Federalist Society's most well-attended events, designed to facilitate a forum for debate and discussion on the year's most relevant topics.

The 31<sup>st</sup> annual Student Symposium was held on March 2–3, 2012 at Stanford University School of Law. Over 600 students traveled from around the country to hear speakers debate all aspects of the topic "Bureaucracy Unbound: Can Limited Government and the Administrative State Coexist?" Scholars and practitioners examined all facets of the rule of law, the administrative state, and limited government.

On Friday night, Larry Kramer, Dean of Stanford Law School, addressed the Symposium attendees. Dean Kramer thanked speakers and students for traveling from afar to attend. He reflected on his time attending the second



*(left to right) Judge Thomas Griffith, U.S. Court of Appeals for the D.C. Circuit, Prof. Mario-Florentino Cuellar, Stanford Law School, and Prof. John Yoo, University of California (Berkely) School of Law, at the Student Symposium in March.*

annual Student Symposium and showed his gratitude for the Federalist Society, stressing the vital role of the organization in molding the next generation's conservative and libertarian leaders.

Dean Kramer's speech was followed by the first panel, "The Rule of Law and the Administrative State," which was monitored by Judge Carlos T. Bea of the U.S. Court of Appeals for the Ninth Circuit. The speakers included Prof. Peter Shane of Ohio State University Law School, Prof. Richard Epstein of New York University School of Law, Prof. David Barron of Harvard Law School, and Judge Brett Kavanaugh of the U.S. Court of Appeals for the D.C. Circuit. Prof. Shane and Prof. Epstein attempted to define the terms "rule of law" and "administrative state," while Prof. Barron chose to focus on the "reconfiguration of the practice of delegation." Judge Kavanaugh focused on Congress' impact on the expansion of the rule of law and the role of the courts in preserving it.

The second panel was titled, "Congress vs. Agencies: Balancing Checks and Efficiency: Gridlock, Organized Interests, and Regulatory Capture." This panel featured moderator Judge Lois Haight of the Contra Costa County Superior Court in California and speakers Hon. C. Boyden Gray, former ambassador and White House Counsel, Prof. Lisa Heinzerling of Georgetown University Law Center, and Profs. Michael McConnell

and David Engstrom of Stanford Law School. This panel focused on the effectiveness of constraints placed on agencies and on problems posed by "regulatory capture."

Prof. Sandy Levinson of University of Texas School of Law addressed the third topic, "Perspectives on Executive Power: Czars, Libya, and Recent Developments," describing the rise of czars as an "unfortunate development." Prof. John Yoo of Berkeley Law School disputed Prof. Levinson's critique of the executive, followed by Prof. Mariano-Florentino Cuellar of Stanford Law School, who explained that Congress is to blame for the expansion of the executive office. Lastly, Prof. John Harrison of University of Virginia School of Law argued that the expansion of executive power is a result of the difficulty of amending the Constitution to fit modern needs.

The debate following the third panel was titled, "The Constitutionality of the Affordable Care Act" and featured Prof. Randy Barnett of Georgetown University Law Center and Prof. Pamela Karlan of Stanford Law School. The speakers debated the constitutionality of the law through the lens of the Interstate Commerce Clause. Prof. Barnett and Prof. Karlan touched on how the Affordable Care Act could change the relationship between individuals and the federal government.



*(Left to Right) Prof. Michael W. McConnell, Stanford Law School, Prof. Lisa Heinzerling, Georgetown University Law Center, Hon. Lois Haight, Superior Court of California, C. Boyden Gray, Former White House Counsel, and Prof. David Engstrom, Stanford Law School, discuss "Congress vs. Agencies: Balancing Checks and Efficiency: Gridlock, Organized Interests, and Regulatory Capture" at the Student Symposium.*



The fourth panel, “Technology and Regulation,” was moderated by Dean Larry Kramer of Stanford Law School and featured Mr. Anthony Falzone of the Fair Use Project at Stanford Law School, Prof. Mark Lemley of Stanford Law School, Facebook’s General Counsel Ted Ulyot, and Peter Thiel of Clarium Capital. The panel explored the drawbacks and benefits of technology, regulation, and the free market.

The Symposium closed with a reception and banquet featuring keynote speaker Senator Mike Lee of Utah. Senator Lee argued that Congress must reclaim the power to legislate from the bureaucracy to restore economic growth and reduce the size of government. The annual Paul M. Bator Award was presented to Prof. Eugene Kontorovich of Northwestern University at the Symposium Banquet.

The second annual Feddie awards were also presented at the banquet, honoring those chapters whose hard work and dedication throughout the fall resulted in soaring attendance numbers, increased membership, and an overall successful year. The Feddie awards encourage Student Chapters to engage in friendly competition with other chapters around the country, helping them to learn from each other how to improve in areas such as membership and publicity. The University of Chicago received the award for the Chapter of the Year, Penn for Most Improved Chapter, Texas for Greatest Membership



*(Above) (left to right) Paul Watkins, Stanford Law School Professor Michael McConnell, Federalist Society Co-Founder and former Congressman Hon. David McIntosh, and Shannen Coffin at the National Lawyers Convention's 30th Anniversary Gala. (Below) Peter A. Thiel, President of Clarium Capital, delivers the annual Barbara K. Olson Memorial Lecture at the 2012 National Lawyers Convention.*

Growth, and Pepperdine for most Creative Publicity. The fifth Feddie, the Benjamin Franklin Spring Breakout Award, was won by Louisville, and presented at the Student Leadership Conference in July.



*United States Senator Mike Lee (Utah) poses with the University of Texas Chapter after it received the Feddie Award for Greatest Membership Growth.*



# 2012 National Lawyers Convention





# Photo Highlights



# Practice Groups Expand Through Teleforum Calls

The Practice Groups continue to promote discussion in the legal, policy, and media worlds, and provide support, guidance, and expertise to the other divisions and special projects of the Federalist Society.

The most important development over the past year has been the institution of programming to engage members who for logistical reasons cannot attend meetings in person. The fastest growing Practice Group initiative, the Teleforum Conference call, illustrates this trend, allowing our programming to reach members outside major cities. The calls have been tremendously popular, creating a demand which led the Practice Groups to more than double the number of annual calls in 2012. The new “From the Courthouse Steps” format has also been extremely popular, broadening the base of active, participating members. In this variation on the standard format, one of our experts attends an oral argument at the Supreme Court, then recaps the argument and answers questions via Teleforum shortly after. All of our members are invited to participate in these calls.

The Practice Groups are also a source of experts for the press, the State Courts Project, the Capitol Hill chapter, and efforts covering the U.S.



*Prof. Randy Barnett (center) from Georgetown University Law Center speaks at the Federalism & Separation of Powers Practice Group's "Obamacare in the Supreme Court" event at the National Press Club in March. The panel also featured, among others, former Acting Solicitor General and current Georgetown University Law Center Professor Neal Katyal (left).*

Supreme Court. Practice Group experts have also served as panelists and coordinators for student and lawyers chapter events across the country, written papers for special projects, and provided pro bono expertise, media outreach, and testimony before Congress and other governmental bodies. The Practice Groups contribute heavily to the Society's online initiatives, including SCOTUSCast, and help ensure that conservative and libertarian perspectives are available to the press during conference calls covering the Supreme Court docket and other legal matters.

## PRACTICE GROUP PROGRAMMING HIGHLIGHTS

The **Corporations, Securities, and Antitrust Practice Group**, the **Free Speech and Election Law Practice Group**, and the **San Francisco Lawyers Chapter** hosted a discussion on “Internet Search, Antitrust, and Free Speech” featuring Thomas Barnett of Covington & Burling, LLP, the Hon. Ron Cass of Cass & Associates, PC, and moderator Judge Carlos Bea of the U.S. Court of Appeals for the Ninth Circuit. The panelists discussed the extent to which government can regulate internet search engine results.



*Former Federal Trade Commission Chairman Hon. James C. Miller III (right) speaks at the “Antitrust Enforcement as Regulation?” event at the National Press Club. The event was moderated by Prof. F. Scott Kieff (left) from George Washington Law School and hosted by the Corporations, Securities, and Antitrust Practice Group.*





*U.S. Supreme Court Justice Clarence Thomas (left) and Yale Law School Professor Akil Amar (right) discuss “The Constitution at 225” at the National Archives in September in honor of the anniversary of our country’s governing document. The event was co-sponsored by the Federalist Society and broadcast on C-Span.*

The **Intellectual Property Practice Group** hosted a Teleforum discussion between New York University Prof. Richard A. Epstein and George Mason Prof. Adam Mossoff on “Patent Rights: A Spark or Hindrance for the Economy?” The discussion centered on whether reduced patent rights would diminish U.S. competitiveness and depress innovation, and whether so-called “non-practicing entities” (NPEs) should have fewer patent rights than those which manufacture their inventions. The Group also hosted a Teleforum entitled “Boon or Bane for Technological Innovation?: Software Patents.” The panel featured Prof. Mossoff, Boston College Prof. David Olson, Robert Sachs of Fenwick & West LLP, and Prof. Mark Schultz of Southern Illinois University School of Law as the moderator.

The Practice Groups co-sponsored “Supreme Court Preview: What Is in Store for October Term 2012?” at the National Press Club with the **D.C. Lawyers Chapter** and the Faculty Division. The panel featured Tom Goldstein of Goldstein & Russell P.C., Georgetown Prof. Nicholas Quinn Rosenkranz, Carrie Severino of Judicial Crisis Network, Stuart Taylor of *National Journal*, and the Hon. Kenneth L. Wainstein of Cadwalader, Wickersham & Taft. Pete Williams, Justice Correspondent for NBC News, moderated.

In October, in anticipation of the national election, the **Free Speech and Election Law** and **Civil Rights Practice Groups** co-sponsored a National Press Club discussion entitled “Who’s Counting?: How Fraudsters and Bureaucrats Put Your Vote at Risk” featuring *National Review* columnist John Fund and Constitutional Accountability Center Chief Counsel Elizabeth Wydra. John Samples, Director of the Cato Institute’s Center for Representative Government, moderated.

The Federalist Society Practice Groups co-sponsored an evening program at the National Archives to celebrate the Constitution’s 225<sup>th</sup> birthday. The program featured U.S. Supreme Court Justice Clarence Thomas and Yale Law Prof. Akhil Amar, and was broadcasted by C-SPAN.

The **Criminal Law Practice Group** sponsored several Teleforum calls, including “The Future of the Expectation of Privacy After *U.S. v. Jones*,” during which George Washington University Prof. Orin S. Kerr and Jamil N. Jaffer of the House Permanent Select Committee on Intelligence discussed the *Katz* test and Justice Sotomayor’s proposal to re-evaluate this standard. In another call, Gerald Masoudi of Covington & Burling LLP and Rick Blumberg of the Food and Drug Administration discussed the



*Hon. Michael Chertoff, Co-Founder and Managing Principal at the Chertoff Group and former Secretary of the the Department of Homeland Security, gives the luncheon address on “National Security After U.S. v. Jones” at the 2012 National Security Symposium sponsored by the International & National Security Law Practice Group.*



*Hon. Gail Heriot, Professor of Law at the University of San Diego and Commissioner on the United States Commission on Civil Rights, speaks at a 2012 National Lawyers Convention panel on "Who Benefits from Affirmative Action and Race and Gender Consciousness?," sponsored by the Civil Rights Practice Group.*

legal rationale for the Responsible Corporate Officer or *Park* doctrine, its current use by law enforcement, and its future. The group also hosted a call with Alexander Abdo of the ACLU and the Hon. Kenneth L. Wainstein on "Limits of Surveillance Warrants." The group held a lively discussion on the Foreign Corrupt Practices Act, featuring Michael J. Madigan of Orrick, Herrington & Sutcliffe LLP and Alexandra Wrage of TRACE International. The practice group also hosted a Teleforum call on "Over-Criminalization and Public Opinion," featuring Whit Ayres of North Star Opinion Research and the Hon. George J. Terwilliger III of White & Case LLP.

The **Environmental Law and Property Rights Practice Group** hosted a Teleforum on hydraulic fracking and federalism which featured Jason Hutt of Bracewell & Giuliani LLP, Scott Perry of the Pennsylvania Department of Environmental Protection, Craig Segall of the Sierra Club Environmental Law Program, and Joel Burcat of Saul Ewing LLP. The speakers discussed the comparative advantages of state and federal regulation of unconventional drilling. The group also hosted a Teleforum on the Supreme Court's unanimous decision *Sackett v. EPA* and the reach of agency authority which featured Prof. Richard Frank of UC Davis' California Environmental Law and Policy Center and Pacific Legal Foundation's Damien Schiff, Counsel

for the Petitioners.

Soon after the U.S. Supreme Court decided the hotly debated immigration case, the **Civil Rights Practice Group** sponsored a Teleforum on "*Arizona v. United States*: Enforcing Immigration Laws," which featured Dr. John C. Eastman of Chapman University and Prof. Margaret D. Stock of Lane Powell PC. The group hosted a Teleforum with Alan Gura of Gura & Possessky PLLC and George Mason Prof. Nelson Lund, who discussed developments in the lower courts post-*Heller* and post-*McDonald*. The group sponsored a panel on "*Ledbetter* and Beyond: Does the Media Oversimplify Gender Issues?" at the National Press Club. The panel was moderated by Committee for Justice President Curt Levey and featured Fatima Goss Graves and Marcia Greenberger of the National Women's Law Center, Jennifer Braceras (formerly of the U.S. Commission on Civil Rights), and Sabrina Schaeffer of the Independent Women's Forum.

In June, the **Federalism & Separation of Powers Practice Group** held a Teleforum discussing George Mason Prof. Michael S. Greve's *The Upside-Down Constitution*. Dr. Greve's book asserts that America's Constitution has



*National Review Columnist and Senior Editor of the American Spectator John Fund debates election fraud and voter ID laws at the National Press Club in October. The event was sponsored by the Free Speech & Election Law Practice Group.*



been exploited by interest groups for power and influence. Dr. Greve and University of San Diego Prof. Michael B. Rappaport discussed the book and took callers' questions. Also in June, Vanderbilt Prof. Brian T. Fitzpatrick participated in a Teleforum canvassing viewpoints on merit selection, and explained why its popularity has declined relative to other judicial selection methods. At the U.S. Supreme Court term's close on June 27, the group hosted a Teleforum on Judicial Activism with Chapman Prof. John C. Eastman and George Mason Prof. Ilya Somin.

On June 28, the afternoon of the historic decision in the healthcare case *NFIB v. Sebelius*, the group hosted a very popular Teleforum call to discuss the decision. David B. Rivkin, Jr. of Baker & Hostetler LLP, the litigator who filed the lawsuit on behalf of numerous states and the NFIB, explained the decision and dissents. In July, after reflecting on the decision, the group hosted a Teleforum call with Georgetown Prof. Randy E. Barnett discussing the Commerce Clause, tax power, Medicaid decisions, and their implications. In August, the group hosted a Teleforum on "Repealing Obamacare" featuring George Mason Prof. Eric R. Claeys and Georgetown Prof. Louis Michael Sediman.

In September, Dr. Roger Pilon of the Cato Institute and Adam J. White of Boyden Gray & Associates reprised an online dialogue during a group



*Dr. John C. Eastman, Professor at Chapman University School of Law, addresses the audience during the "Federalism: The Spending Clauses After the Health Care Decision" panel at the 2012 National Lawyers Convention.*



*Cato Institute President and former BB&T Bank CEO John Allison speaks during Financial Services Panel at the 2012 National Lawyers Convention entitled "Dodd-Frank: Act Two and What's Next in Financial Services Laws and Regulations?"*

Teleforum titled "Bickel's *The Least Dangerous Branch*: Still Relevant, 50 Years Later?" which discussed the seminal work's influence on conservative and libertarian legal thought.

With the passage of Dodd-Frank, the **Financial Services and E-Commerce Practice Group** hosted a Teleforum on "Solving the 'Too Big to Fail' Problem: Resolution Authority vs. Chapter 14." It discussed, among other issues, whether Too Big to Fail has ended, whether the Dodd-Frank tools work in a crisis, and whether a revised bankruptcy code would actually provide more transparency and greater certainty to creditors. The speakers included Randall D. Guynn of Davis Polk & Wardwell LLP, David J. Schraa of the Institute of International Finance, and Pennsylvania Prof. David A. Skeel; Davis Polk's John L. Douglas moderated. The group also hosted a Teleforum on "Risk Retention on Mortgages," the interplay between the QRM rule and other Dodd-Frank requirements, the panoply of new rules, and their potential impact on the U.S. mortgage market. Speakers included




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*FCC Commissioner Hon. Robert M. McDowell speaks during the Telecommunications Panel at the 2012 National Lawyers Convention on “Communications Law Reform.”*

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Michael Calhoun of the Center for Responsible Lending, Anne C. Canfield of Canfield & Associates, Bert Ely of Ely & Company, and Alex J. Pollock of the American Enterprise Institute.

In July, the **Free Speech & Election Law Practice Group** held a Teleforum to discuss the U.S. Supreme Court decision in *United States v. Alvarez*, which “dealt with [the] important and recurring First Amendment question” of when the government may ban lies. First Amendment experts Prof. Eugene Volokh and Erik Jaffe dissected the case and answered questions from the call-in audience. Later in July, in the wake of some extremely high-profile recall efforts, the Practice Group hosted an expert panel to discuss the intersection of campaign finance laws and recall elections. University of Southern California Prof. Elizabeth Garrett, Lisa T. Hauser of Gammage & Burnham, and William R. Maurer of the Institute for Justice discussed First Amendment speech rights in recall elections vis-à-vis conventional elections.

The **International & National Security Law Practice Group** hosted numerous telefora during the year, including “Executing the Treaty Power: A Closer Look at *U.S. v. Bond*.” It featured Georgetown Prof. Nicholas Quinn Rosenkranz, who discussed his *Harvard Law Review* article, “Executing the Treaty Power,” examining the scope of Congress’s power to legislate regarding treaties, and the issue’s prospects in the Supreme Court.

In a July Teleforum, Wilmer Hale partner Benjamin A. Powell and American University Prof. Stephen I. Vladeck debated the merits of the upcoming Supreme Court case *Clapper v. Amnesty International*, which concerns the circumstances wherein the U.S. government’s monitoring of international communications may be challenged. In a September Teleforum, American University Prof. Kenneth Anderson (also of the Hoover Institution) discussed his recent book, *Living with the U.N.: American Responsibilities and International Order*, which analyzes U.S.-U.N. relations with regard to security, human rights and universal values, and development, and addresses whether, when, and how the United States should engage with U.N. activities.

In June, the **Labor & Employment Law Practice Group** presented a Teleforum analyzing the recent Supreme Court decision in *Knox v. SEIU Local 1000*. Hogan Lovells associate Dominic F. Perella and W. James Young, Jr. of the National Right to Work Legal Defense Foundation discussed the decision’s implications. In September the group co-sponsored a program with the Cato Institute examining the role of public sector unions in local, state, and federal governments. The program included Citadel Prof. Mallory Factor and United Electrical, Radio, and Machine Workers of America Political Action Director Chris Townsend, and was moderated by Cato’s Trevor Burns.




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*Stuart Taylor (left) from the Brookings Institution and Pete Williams (right) from NBC News previewed the Supreme Court’s October 2012 Term in September at the National Press Club in Washington, D.C.*

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In August, the **Litigation Practice Group** held a Teleforum on “Civil Asset Forfeiture,” featuring Institute for Justice (IJ) Senior Attorney Scott G. Bullock and Smith & Zimmerman partner David B. Smith. Smith authored the leading two-volume treatise *Prosecution and Defense of Forfeiture Cases*, and Bullock leads IJ’s project challenging civil forfeiture; they discussed the legal workings of forfeiture and how they are abused at the state and federal levels.

Also in August, the **Religious Liberties Practice Group** hosted two telefora. Amherst Prof. Hadley P. Arkes gave a presentation on his book, *Constitutional Illusions & Anchoring Truths: The Touchstone of the Natural Law*, in which he counters the legal academy’s current of judgments on classic cases such as *Lochner v. New York*, *Near v. Minnesota*, *New York Times Co. v. United*

*States* (the Pentagon Papers case), and *Bob Jones University v. United States*. Later in August, the group provided a litigation update, via Teleforum, on the status of challenges to the contraception coverage mandate issued earlier this year by the U.S. Department of Health and Human Services.

The **Telecommunications & Electronic Media Practice Group** hosted Michael Calabrese of New America Foundation and Thomas W. Hazlett of George Mason to examine “Spectrum Policy in the Age of a Spectrum Crunch.” In September, Dan Isett of Parents Television Council and appellate litigator Erik S. Jaffe debated the recent Supreme Court decision *FCC v. Fox*, the “fleeting expletives” First Amendment case which examines government’s role in policing broadcast content.

## IN MEMORIAM: ROBERT H. BORK 1927–2012

Judge Robert H. Bork was born in Pittsburgh, Pennsylvania. He earned both his bachelor’s and law degrees from the University of Chicago. After a period of service in the U.S. Marine Corps, Bork went into private practice before becoming a professor at Yale Law School. He later served as Solicitor General (1973-77) and as a judge for the U.S. Court of Appeals for the D.C. Circuit (1982-88), before being nominated to the U.S. Supreme Court by President Reagan. Bork’s later work included several years as a fellow at the American Enterprise Institute and the Hudson Institute, as well as tenures as a professor at both the University of Richmond School of Law and Ave Maria School of Law. He served as co-chairman on the Federalist Society’s Board of Visitors for twenty years.

Judge Bork was a legal giant, and a man of unsurpassed integrity, intellect, courage, and kindness. He has been a friend, an inspiration, and an intellectual guiding light to the Federalist Society since its inception.

Our nation owes Judge Bork an enormous debt of gratitude for his irrepressible and forceful defense of the Constitution as it was written and understood by our Founding Fathers. He pioneered a jurisprudence of original meaning that has had enormous influence in the legal academy as well as in the courts.

The Judge’s unparalleled wisdom and wonderful wit will be missed. Fortunately much of it will endure through his enormous body of published writings, speeches and lectures which future generations will enjoy and from which they can profit.

Robert Bork’s contributions and achievements are already a part of the fabric of our country. His memory and legacy live on, and, we hope, will further help to preserve America’s exceptional commitment to limited, constitutional government and the rule of law.



# State Courts Project Addresses Proper Role of State Judges and Method of Selection

The Federalist Society's State Courts Project continues to raise the profile of state level issues by hosting timely programs, publishing white papers, and making legal experts available to media to provide substantive analysis on current events.

## PUBLICATIONS

In 2012, the Society published a White Paper titled "A Survey of Empirical Evidence Concerning Judicial Elections" authored by Pittsburgh Prof. Chris Bonneau. In the White Paper, Prof. Bonneau outlines common arguments against judicial elections and evaluates them via empirical data. Other noteworthy topics from 2012 White Papers include an update on the public understanding of *mens rea* in light of the rise of "strict liability" in state crimes (John Baker) and an analysis of textualism's role in the Michigan



*Hon. David Stras, Associate Justice of the Minnesota Supreme Court, moderates the "Electoral College vs. National Popular Vote" panel.*



*Dr. John S. Baker, Emeritus Professor of Law, Louisiana State University Law School, speaks at the 2012 National Lawyers Convention in Washington, D.C.*

Supreme Court (Tom Ludden). The Society also publishes the quarterly *State Court Docket Watch*, which reports on notable state supreme court rulings and jurisprudential trends.

## NORTH CAROLINA: JUDICIAL ELECTIONS AND THE ROLE OF SUPER-PACs

In 2012, the re-election of Justice Paul Newby of the North Carolina Supreme Court captured a significant amount of attention, in large measure because the court is commonly characterized as narrowly divided (4–3), and Justice Newby is considered part of the more conservative majority, which is expected to review legislation passed by the Republican legislature and the newly-elected Republican governor. The Society took advantage of this inflection point by hosting a candidate forum that allowed Justice Newby and his opponent to answer questions about their approach to law. The forum was well-attended and generated news coverage from the Associated Press and local television stations.



Additionally, the Society used a heated debate generated by the formation of a Super PAC, the North Carolina Judicial Coalition, which supported Justice Newby's re-election, to educate the press, the public, and opinion leaders about Super PACs and their impact. Elon Prof. Scott Gaylord authored a White Paper, "The Effect of Super PACs on North Carolina Judicial Elections," which analyzed both sides of the debate and was widely covered in state media outlets.

#### **TENNESSEE: MERIT SELECTION DEBATE AND REFORM**

For nearly 40 years the state of Tennessee has questioned its method of judicial selection, with the debate becoming increasingly intense in the last several years. According to the Tennessee Constitution, "The Judges of the Supreme Court shall be elected by the qualified voters of the State." Pursuant to legislation, however, Tennessee has used a form of the Missouri Plan, in which a commission selects nominees from which the governor must choose.

The debate attained new intensity in 2012 when Governor Haslam and the state's top legislative leaders, hoping to finally end the controversy, called for a constitutional amendment. To promote dialogue on the issue, the Memphis Lawyers Chapter of the Society hosted an event entitled "The Role of the Courts in Our Constitutional System," featuring Chapman Prof. Ronald Rotunda. Vanderbilt Prof. Brian Fitzpatrick, an expert on judicial selection, educated opinion leaders and members of the press and shared his scholarly findings, which suggest that the Missouri Plan has resulted in the nomination of more left-leaning judges than in states which utilize other forms of judicial selection.

After considerable discussion, a modified version of the federal method sponsored by Senator Brian Kelsey emerged in a compromise that garnered bipartisan support from over two-thirds of the state's legislators in both chambers. Under the new amendment judges would be nominated by the governor, confirmed by the legislature, and stand for retention elections every eight years. Both chambers must reapprove the compromise by a two-third majority in the next two-year General Assembly, followed by voter approval on the 2014 ballot, before it can become law.



*(Above) Hon. Don R. Willett, Supreme Court of Texas, moderates the Litigation Panel "Business Cases in the Roberts Court: Perception and Reality" at the 2012 National Lawyers Convention. (Below) (left to right) Wisconsin Circuit Judge Rebecca Bradley, Alida Cass, and Federalist Society Vice President and Director of Practice Groups Dean Reuter at the National Lawyers Convention.*



# SOCIAL MEDIA



Through its social media outlets—blogs, Facebook page, and Twitter feed—the Federalist Society continues to broadcast its events, publications, and multimedia beyond its membership to the general public. Through these outlets, the Society informs its audience about the latest developments in the legal community and sparks debate on issues that impact the making and interpretation of the law.

## FedSoc Blog

Our blog's wide audience includes many lawyers and policymakers. It features news stories and op-eds, highly popular original podcasts, advertisements for upcoming events, FedSoc publications, and substantive summaries of panel discussions and other talks. Content is often picked up by high profile blogs, including the ABA Journal blog, Above the Law, and SCOTUSblog. The substantive summaries have been particularly praised for bringing the substance of events to persons who were unable to attend.



## Facebook

Our Facebook page is extremely popular, with over 105,000 fans, allowing us to reach a far broader audience than our membership. A single popular post can be seen by as many as 20,000 people—enough to fill a basketball arena. We are using more images to attract attention (since images have been shown to be the most popular posts on Facebook), and have posted a number of high quality photos and videos from Federalist Society events. We have received compliments from persons in conservative social media on the content



and popularity of our posts; indeed, some of them have asked for advice on emulating our success.

## Twitter

Our Twitter feed currently has an impressive 9,800 followers—and those numbers continue to rise at a steady rate of 9 followers per day. Some of those followers have their own large followings, so that when they retweet our posts we reach a still greater audience.

We use the Twitter feed to publicize blog posts, relevant news and opinion (including FedSoc publications), and upcoming events. On special occasions, the feed becomes a virtual wire report. For instance, during the 2012 National Lawyers Convention we tweeted coverage in real-time; and it received a great deal of attention, including from C-SPAN and then Senator-elect Ted Cruz.



## SCOTUSreport

This June, in conjunction with the Affordable Care Act decision, we launched a new blog, SCOTUSreport, which aims to be a repository of news and opinion regarding the Supreme Court. To a great extent, the new SCOTUSreport is designed to be the go-to resource for future Supreme Court nominees. Since the initial launch, a number of distinguished persons have blogged on the site, including Roger Clegg, Richard A. Epstein, John O. McGinnis, Nicholas Quinn Rosenkranz, and Ed Whelan. Their contributions have been highly sophisticated and extensive, and have been linked to by such respected and widely-read sites as SCOTUSblog.





# Donors Fuel Federalist Society Expansion

*In a year marked by debate over major constitutional questions, the Society has continued to expand programs for students, faculty, and members of the legal community. This growth was possible only because of the unwavering support of the donors to the James Madison Club. These donors contribute \$1,000 or more annually to the Society. In recognition of the commitment of those individuals, foundations, and corporations, a list of the current members of the James Madison Club appears below.*

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*(left to right) Federalist Society Executive Vice President Leonard Leo, Federalist Society Co-Founder Prof. Steven Calabresi, Supreme Court Justice Samuel Alito, and Federalist Society President Eugene Meyer at the 30th Anniversary Gala.*

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*(left to right) Hon. Carlos Bea, U.S. Court of Appeals for the Ninth Circuit, Mrs. Louise Bea, Prof. Nicholas Quinn Rosenkrantz, and Prof. Randy Barnett at the 30th Anniversary Gala in November.*

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*Mrs. Martha-Ann Alito (center) with Fox News Supreme Court reporter Shannon Bream (right) and Sheldon Bream (left) at the 30th Anniversary Gala in November.*

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**REPORT OF INDEPENDENT AUDITORS**

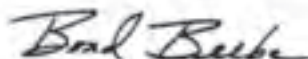
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We have audited the accompanying statements of financial position of The Federalist Society for Law and Public Policy Studies as of September 30, 2012 and 2011 and the related statements of activities and cash flows for the years then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of The Federalist Society for Law and Public Policy Studies as of September 30, 2012 and 2011 and the changes in its net assets and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.



A Professional Corporation  
Bethesda, MD  
January 22, 2013

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES  
STATEMENTS OF FINANCIAL POSITION  
SEPTEMBER 30, 2012 AND 2011

	<u>ASSETS</u>	
	2012	2011
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 4,498,796	\$ 3,932,052
Investments	2,810,815	2,332,733
Grants receivable	1,393,797	729,877
Contributions receivable	827,370	598,320
Other receivables	5,468	8,680
Inventory	80,929	88,878
Other current assets	78,441	104,922
	<u>\$ 9,681,291</u>	<u>7,622,462</u>
<b>GRANT AND CONTRIBUTIONS RECEIVABLE - LONG-TERM</b>		
Contributions receivable	<u>87,779</u>	<u>172,812</u>
<b>FIXED ASSETS</b>		
Computer equipment	107,803	187,790
Office furniture and equipment	86,289	96,289
Leasehold improvements	15,368	15,368
	<u>209,460</u>	<u>299,427</u>
Accumulated depreciation and amortization	<u>(218,642)</u>	<u>(191,887)</u>
	<u>90,818</u>	<u>107,540</u>
<b>OTHER ASSETS</b>	<u>10,000</u>	<u>10,000</u>
<b>TOTAL ASSETS</b>	<u>\$ 9,749,884</u>	<u>\$ 7,913,815</u>
	<u>LIABILITIES AND NET ASSETS</u>	
<b>CURRENT LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 472,171	\$ 297,397
Accrued compensation	291,278	370,705
Deferred revenue	157,183	127,944
Deferred lease obligation	12,183	5,844
	<u>932,815</u>	<u>801,890</u>
<b>OTHER LIABILITIES</b>		
Deferred lease obligation - net of current portion	<u>50,834</u>	<u>43,817</u>
<b>TOTAL LIABILITIES</b>	<u>983,450</u>	<u>844,707</u>
<b>NET ASSETS</b>		
Unrestricted	\$ 756,283	\$ 5,362,858
Temporarily restricted	3,000,151	1,695,249
Permanently restricted	10,000	10,000
	<u>7,766,434</u>	<u>7,047,908</u>
<b>TOTAL NET ASSETS</b>	<u>7,766,434</u>	<u>7,047,908</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u>\$ 9,749,884</u>	<u>\$ 7,913,815</u>

See Notes to Financial Statements



**THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES**  
**STATEMENTS OF ACTIVITIES**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011**

	2012				2011			
	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Unrestricted	Temporarily Restricted	Permanently Restricted	Total
<b>REVENUE</b>								
Grants	\$ 6,216,049	\$ 3,422,178	\$ -	\$ 9,638,227	\$ 3,474,201	\$ 1,803,729	\$ -	\$ 5,277,930
Registration fees	438,128	-	-	438,128	472,588	-	-	472,588
Membership dues	141,064	-	-	141,064	202,224	-	-	202,224
Contributions	4,279,718	58,180	-	4,337,898	3,332,280	238,934	-	3,571,214
Investment (income) loss	321,713	-	-	321,713	(28,130)	-	-	(28,130)
Miscellaneous income	4,094	-	-	4,094	8,453	-	-	8,453
	<u>11,398,760</u>	<u>2,480,358</u>	<u>-</u>	<u>13,879,118</u>	<u>7,461,596</u>	<u>2,042,659</u>	<u>-</u>	<u>9,504,255</u>
<b>NET ASSETS RELEASED FROM RESTRICTIONS</b>								
Satisfaction of restrictions	2,153,436	(2,153,436)	-	-	4,121,471	(4,121,471)	-	-
	<u>13,552,222</u>	<u>304,902</u>	<u>-</u>	<u>13,857,124</u>	<u>11,583,067</u>	<u>(2,078,812)</u>	<u>-</u>	<u>9,504,255</u>
<b>EXPENSES</b>								
Program services:								
General program	1,018,672	-	-	1,018,672	910,888	-	-	910,888
Faculty division	1,368,178	-	-	1,368,178	1,261,880	-	-	1,261,880
Student Chapter and Membership Services	532,298	-	-	532,298	494,240	-	-	494,240
Student Speakers Bureau	2,981,680	-	-	2,981,680	2,228,819	-	-	2,228,819
Student National Symposium	181,337	-	-	181,337	327,863	-	-	327,863
Lawyers Division Chapter and Membership Services	380,722	-	-	380,722	393,006	-	-	393,006
Lawyers Division Speakers Bureau	843,318	-	-	843,318	857,639	-	-	857,639
Lawyers National Conference	931,749	-	-	931,749	894,904	-	-	894,904
State Courts	1,137,781	-	-	1,137,781	968,784	-	-	968,784
Practice activities	2,311,596	-	-	2,311,596	1,908,384	-	-	1,908,384
Other conferences	214,288	-	-	214,288	247,488	-	-	247,488
	<u>11,601,576</u>	<u>-</u>	<u>-</u>	<u>11,601,576</u>	<u>10,182,840</u>	<u>-</u>	<u>-</u>	<u>10,182,840</u>
General and administrative	862,373	-	-	862,373	572,112	-	-	572,112
Fundraising	874,649	-	-	874,649	680,281	-	-	680,281
	<u>13,338,598</u>	<u>-</u>	<u>-</u>	<u>13,338,598</u>	<u>11,445,233</u>	<u>-</u>	<u>-</u>	<u>11,445,233</u>
<b>CHANGE IN NET ASSETS</b>	<u>413,624</u>	<u>304,902</u>	<u>-</u>	<u>718,526</u>	<u>147,834</u>	<u>(2,078,812)</u>	<u>-</u>	<u>(1,940,978)</u>
<b>NET ASSETS AT BEGINNING OF YEAR</b>	<u>5,343,889</u>	<u>1,865,349</u>	<u>10,000</u>	<u>7,047,908</u>	<u>5,194,805</u>	<u>5,784,081</u>	<u>10,000</u>	<u>10,988,886</u>
<b>NET ASSETS AT END OF YEAR</b>	<u>\$ 5,757,513</u>	<u>\$ 2,000,251</u>	<u>\$ 10,000</u>	<u>\$ 7,767,764</u>	<u>\$ 5,342,639</u>	<u>\$ 3,705,269</u>	<u>\$ 10,000</u>	<u>\$ 9,047,908</u>

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES  
STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED SEPTEMBER 30, 2012 AND 2011

	2012	2011
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ 719,526	\$ (1,040,876)
Adjustments to reconcile change in net assets to net cash provided (used) by operating activities:		
Depreciation and amortization	26,735	27,644
Net (appreciation) depreciation in fair value of investments	(250,812)	119,787
Donation of securities	(264,750)	(130,899)
Amortization of present value discounts on grants and contributions receivable	(5,167)	(10,367)
(Increase) decrease in:		
Grants receivable	(963,920)	230,857
Contributions receivable	219,001	(297,000)
Other receivables	4,211	1,770
Inventory	10,350	12,805
Other current assets	26,480	(5,621)
Increase (decrease) in:		
Accounts payable and accrued expenses	174,773	(26,990)
Deferred revenue	29,238	(62,282)
Deferred asset obligation	(5,644)	366
Accrued compensation	(79,476)	163,544
	<u>(80,894)</u>	<u>(1,321,678)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchase of investments:	(383,251)	(238,344)
Proceeds from sale of investments	1,000,642	588,689
Purchase of fixed assets:	(110,053)	(7,260)
	<u>607,338</u>	<u>343,085</u>
<b>INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	<u>566,744</u>	<u>(1,980,894)</u>
<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR</b>	<u>3,932,052</u>	<u>5,512,646</u>
<b>CASH AND CASH EQUIVALENTS AT END OF YEAR</b>	<u><u>\$ 4,498,796</u></u>	<u><u>\$ 3,932,062</u></u>
<b>SUPPLEMENTAL INFORMATION</b>		
Non-cash contributions:	<u>\$ 264,750</u>	<u>\$ 130,899</u>



THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY ISSUES  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEAR ENDED SEPTEMBER 30, 2012 AND 2011

NOTE 1: ORGANIZATION

The Society is a not-for-profit corporation organized under the laws of the State of New York. It is a corporation organized under the laws of the State of New York. It is a corporation organized under the laws of the State of New York.

Financial Statements

Financial statements for the year ended September 30, 2012 and 2011 were prepared in accordance with the accounting principles generally accepted in the United States of America.

Supplementary Information

Supplementary information is provided in the form of schedules to the financial statements. These schedules are not audited by the independent auditor.

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NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Policy of Accounting

The accounting policies of the Society are consistent with the accounting principles generally accepted in the United States of America.

Accounting Principles

The accounting principles of the Society are consistent with the accounting principles generally accepted in the United States of America.

Other Accounting Principles

Other accounting principles are consistent with the accounting principles generally accepted in the United States of America.

NOTES TO FINANCIAL STATEMENTS

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - CONTINUED

Inventory

Inventory is stated at cost and is measured using the first-in, first-out method.

Fixed Assets

Fixed assets are recorded at cost and are depreciated using the straight-line method over their useful lives. Depreciation expense is recorded on a monthly basis.

Liabilities

Liabilities are recorded at the face value of the instrument.

- 1. Accounts payable, accrued liabilities, and other liabilities are recorded at the face value of the instrument.
- 2. Accounts receivable are recorded at the face value of the instrument.
- 3. Accounts payable are recorded at the face value of the instrument.

Supplementary Information

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NOTES TO FINANCIAL STATEMENTS

NOTE 4: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - CONTINUED

Inventory

Inventory is stated at cost and is measured using the first-in, first-out method.

Fixed Assets

Fixed assets are recorded at cost and are depreciated using the straight-line method over their useful lives. Depreciation expense is recorded on a monthly basis.

Liabilities

Liabilities are recorded at the face value of the instrument.

	2012	2011
Accounts payable	\$ 1,000,000	\$ 1,000,000
Accounts receivable	\$ 1,000,000	\$ 1,000,000
Accounts payable	\$ 1,000,000	\$ 1,000,000

Supplementary Information

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NOTES TO FINANCIAL STATEMENTS

NOTE 5: OTHER INFORMATION

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NOTES TO FINANCIAL STATEMENTS

NOTE 6: OTHER INFORMATION

	2012	2011
Accounts payable	\$ 1,000,000	\$ 1,000,000
Accounts receivable	\$ 1,000,000	\$ 1,000,000
Accounts payable	\$ 1,000,000	\$ 1,000,000

NOTE 7: SIGNIFICANT ACCOUNTING POLICIES

Significant accounting policies are consistent with the accounting principles generally accepted in the United States of America.

NOTE 8: SIGNIFICANT ACCOUNTING POLICIES

Significant accounting policies are consistent with the accounting principles generally accepted in the United States of America.

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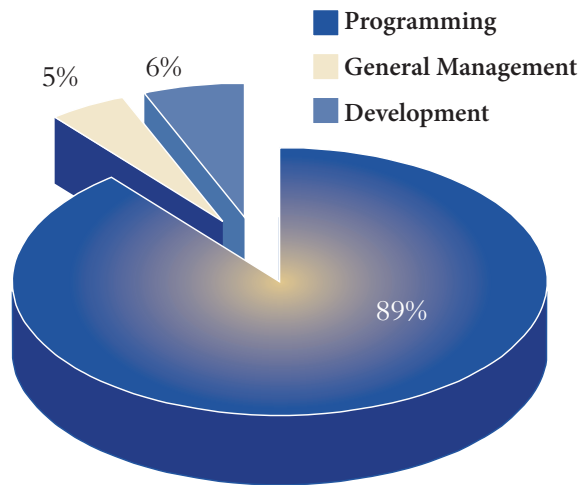
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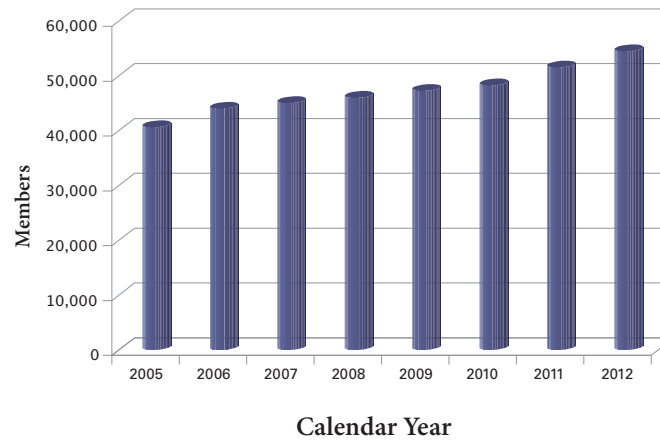
Significant accounting policies are consistent with the accounting principles generally accepted in the United States of America.

END OF AUDITED  
FINANCIAL STATEMENTS

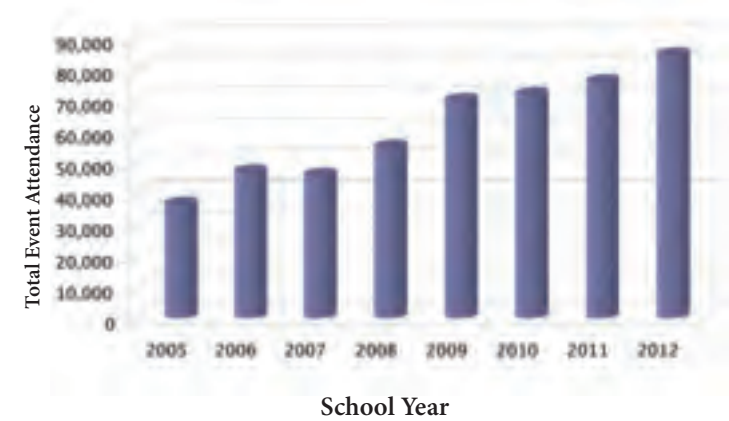
**Expenditures  
Fiscal Year 2012**



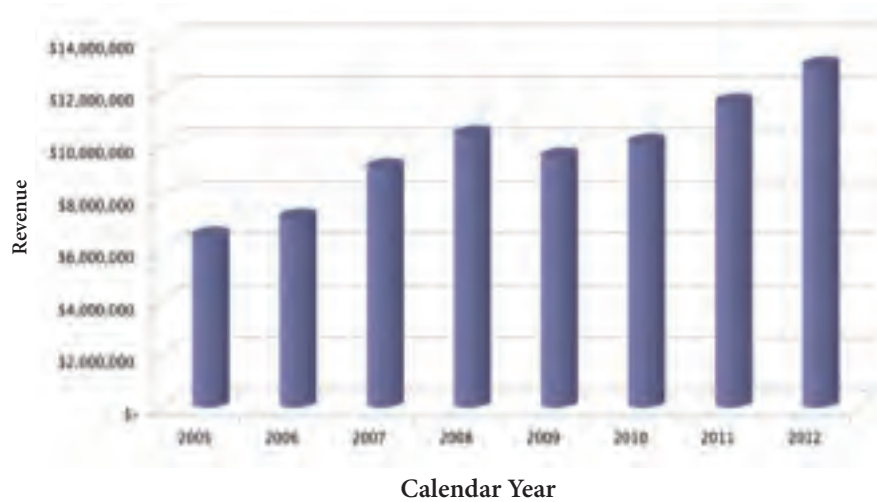
**Federalist Society Membership Growth  
Local and National Involvement**



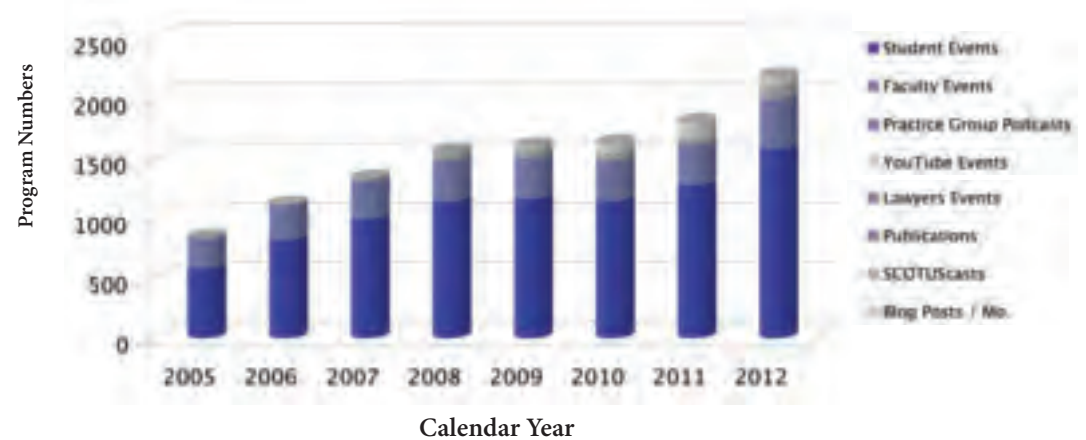
**Federalist Society Student Division:  
Total Event Attendance**



**Federalist Society Unrestricted Revenue Growth**



**Federalist Society Program Growth**





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**The Federalist Society**  
1015 18th Street, N.W., Suite 425  
Washington, D.C. 20036  
(202) 822-8138  
info@fed-soc.org  
www.fed-soc.org

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The Federalist Society for Law and Public Policy Studies

1015 18<sup>th</sup> Street, N.W. • Suite 425 • Washington, D.C. 20036  
(202) 822-8138 • [info@fed-soc.org](mailto:info@fed-soc.org) • [www.fed-soc.org](http://www.fed-soc.org)