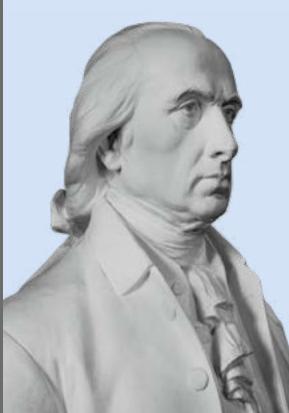


FEATURES

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"The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body."

Federalist No. 78

EDITOR'S LETTER

Dear Friend,

A new school year is underway, and the Federalist Society is as committed as ever to bringing underrepresented perspectives to law school campuses around the country. Student Chapters have already hosted some great debates on campus, and they have been busy recruiting new Fed Soc members. See inside for more about why legal education is important to us, and visit **fedsoc.org** to find resources for law students, lawyers, and others.

Besides maintaining a full roster of regular campus events, our Student Chapters have hosted a few special events this fall, including an address by Sen. Rand Paul at George Washington University Law School, and participated in statewide Lawyers Chapter conferences. The Texas Lawyers Chapters held a successful conference in Houston, and the Kentucky Lawyers Chapters held their inaugural statewide conference this fall.

The Faculty Division brought together law students and law faculty for the annual James Kent Academy at the tail end of the summer. Keep an eye out for the Faculty Division's new books podcast, which will debut soon. The Practice Groups continue to produce excellent commentary in their Teleforum conference calls; if you miss a call, you can listen to it as a podcast later. And don't miss the excellent videos that our Digital team has been releasing, which you can find at **youtube.com/thefederalistsociety**.

See inside for photos of the many recent events put on by the Regulatory Transparency Project, the Article I Initiative, and External Relations. The Federalist Society is more active than ever, and we hope you enjoy this look at just a few of our activities. Keep up with us between issues by liking us on Facebook, following us on Twitter, and checking in at the recently revamped **fedsoc.org**.

Please send any comments to **info@fedsoc.org**. We look forward to hearing from you!

Katie McClendon

Director of Publications



WESTERN CHAPTERS CONFERENCE

January 27, 2018

Reagan Library, Simi Valley, CA Register soon at fedsoc.org.

FLORIDA CHAPTERS CONFERENCE

February 2-3, 2018

Disney World Resort, Orlando, FL Register soon at **fedsoc.org**.

NATIONAL STUDENT SYMPOSIUM

March 9-10, 2018

Georgetown University Law Center Washington, DC First Principles of the Constitution Register soon at fedsoc.org.

LEGAL EDUCATION IN FOCUS



Legal education is at the core of the Federalist Society's **mission**...

We were founded on a law school campus, by law students, with the support of law school faculty. Even today, many of our resources—money, time, and expertise—are dedicated to helping the law students who run Student Chapters host events on their campuses and bringing them into the Federalist Society family from the very start of their careers. Turn the page to see what's happening in our Student Division.

Legal education is important to us because our mission is to influence the legal culture from the ground up, providing a forum for discussion of ideas too often absent from the law school experience. A focus on legal education doesn't yield quick results, but it makes a big difference over the long haul. Today, after 35 years of the Federalist Society, the discussion of legal ideas is far more wide-ranging than it was when we started.

We also help our law students, lawyers, and professors to meet and share ideas. Our Alumni Relations Division is working hard to connect students with recent graduates of their law schools, and our Practice Groups invite students to get involved with their work. Getting exposed to the real world of legal practice is crucial for law students, and we want them to see like-minded lawyers as a resource.

The Federalist Society examines the basics of American law, especially the principles that bind together our ideologically diverse membership: the rule of law, originalism, the separation of powers, federalism, and more. Using social media, we hope to amplify those principles, starting with our series on the common law, which is described on the opposite page.

Our Purpose Law 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's Digital team is bringing you **No. 86**, a video series following up on the original eighty-five *Federalist Papers.* **No. 86** videos give brief introductions to the fundamentals of American law.

The first part of the series is now available on YouTube, and it features Prof. Richard Epstein of NYU Law giving an introduction to the common law. He argues that four traditional branches of common law—property, contract, tort, and restitution—fit together into a coherent whole, and that there is a deep intellectual unity among them. He goes on to introduce property by defining it and laying out some of its basic concepts and rules.

These videos are a great supplement for law students, a handy reminder for lawyers, and an easy-to-understand introduction for non-lawyers. Watch the first few videos, and stay tuned for more!

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 and libertarian intellectual network that extends to all levels of the legal community.



Kate Alcantara

What is your background, and what brought you to work at the Federalist Society?

After graduating from Christendom College in 2007, my hope was to work somewhere that would allow me to serve this great country. After a brief stint as a legal assistant for the Christian Legal Society, I started working at the Federalist Society, where I have been for the last 9 1/2 years. Working for the Federalist Society is the realization of my goals. I'm able to wake up every morning and help our law students build and care for the Federalist Society chapters on their campuses. In many situations, these chapters are the only active conservative/libertarian groups at their law schools and, therefore, very important to the intellectual fabric of the university. Knowing this—and seeing the amount of good that the Federalist Society is able to do by the 1000+ events that the students host every year—makes working here an incredible opportunity.

What is your role within the Student Division?

As the Associate Director of the Student Division, my number one responsibility is keeping track of all of the events that our student chapters host throughout the year. Every August, I begin with a blank spreadsheet, and every June, we close the year out with over a thousand events. This past

Associate Director
Student Division
The Federalist Society

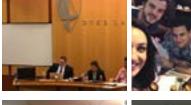
year, we held close to 1,100 student events and were able to reach about 68,000 people with our programming. This is all accomplished by just 200 student chapters. Each year, I'm overwhelmed by the generosity of these students who give so much time and effort to the Federalist Society.

What are some of the best things you've seen student groups do since you've been at Fed Soc?

Federalist Society students tend to be an extraordinarily creative bunch. We've seen some fantastic posters and thought-provoking events over the years. However, one of the greatest things that I witness time and time again is when we restart a chapter from the rubble and it soars to incredible heights the following year. It's truly inspiring to see the dedication of student leaders of new chapters. They all have full course loads, but they make time to host several standing-room only events each year.

What do you like to do outside of work?

Outside of work, being a wife and a mother to three beautiful children keeps me busy. I'm extraordinarily blessed to be part of an organization that lets me primarily work from home, so that I can simultaneously be "mom" and "Associate Director." It's tough to do two jobs, but it's worth it!













Student Chapters are kicking back into gear, with student activity fairs, welcome back happy hours, informational meetings, and regular events all throughout the fall.

















STUDENT DIVISION

Sen. Rand Paul at GW Law



Above: Alison Cheperdak, copresident of the GW Student Chapter, introduces Sen. Rand Paul.

Right: Sen. Rand Paul speaks to the crowd assembled at GW Law.









Students at the Texas Chapters Conference

Left: Recent Texas Student Chapter Presidents Alex Cummings (2016-17), Aaron Reitz (2015-16), and Amanda Salz (current).

Right: Students from South Texas College of Law.



Student Chapters Kick Off a New School Year



Chapter hosted a debate between Yaron Brook and Prof. Daniel Markovits about whether income inequality is fair or unfair.

LAWYERS CHAPTERS

















Texas Chapters Conference

September 22-23 at the Houstonian



WelcomeAaron Streett, *Pres., Houston Lawyers Chapter*





Panel 1: Executive Power Over Immigration

Allyson Ho, Partner, Morgan Lewis; Former Special Assistant to President George W. Bush Andre Segura, Legal Director, ACLU of Texas Brantley Starr, Deputy First Assistant AG, Texas Moderator: Hon. Jerry Smith, Fifth Circuit



Solicitor General, New York
Scott Keller, Solicitor General, Texas
Ernest Young, Professor of Law, Duke University
Moderator: Hon. Jeff Brown, S.Ct. of Texas





Panel 2: Ethics in the Executive Branch

Bobby R. Burchfield, Partner, King & Spalding; Ethics Advisor, Trump Org.
Adam White, Research Fellow, Hoover; Dir., Center for Study of the Admin. State
Tobi Young, GC, G.W. Bush Pres. Center
Moderator: Hon. Jennifer Walker Elrod,
Fifth Circuit



Shakespeare and the Law

Measure for Measure

The Boston Lawyers Chapter cosponsored Shakespeare's Measure for Measure and the Art of Judging, featuring a staged reading of Measure for Measure followed by a discussion of the legal and political issues addressed in the play and their application to today's headlines





Kentucky Chapters Conference September 14 at the Kentucky State Capitol

Opening

Governor Matt Bevin Steve Pitt, General Counsel to the Governor

Panel 1: Religious Liberties and the Roberts Court

Michael Abate, Partner, Kaplan & Partners LLP
David Cortman, Sr. Counsel and VP, Alliance Defending Freedom
Justin Walker, Assistant Professor of Law, University of Louisville
Judge Gregory F. Van Tatenhove, Eastern District of Kentucky
Moderator: Joe Bilby, General Counsel, KY Dep't of Ag.

Panel 2: KY's Regulatory Transparency Efforts

Jeff Calabrese, *Partner, Stoll Keenon Ogden PLLC*Barry Dunn, *General Counsel, Kentucky Public Protection Cabinet*Hon. Amul Thapar, *Sixth Circuit*Moderator: Allison Ball, *State Treasurer, Kentucky*

The Evolving Role of a State Solicitor General

Elbert Lin, Solicitor General, West Virginia







Above Left: Gov. Matt Bevin gives the opening address. Above Right: A panel discusses Religious Liberties and the Roberts Court. Bottom Left: Allison Ball and Judge Amul Thapar discuss regulatory transparency. Bottom Right: Elbert Lin speaks about state SGs.

FACULTY DIVISION

James Kent

Summer Academy

August, Annapolis

The Federalist Society's James Kent Summer Academy is a program for law students and recent graduates who demonstrate strong potential for being leaders among a future generation of legal scholars. Participants engage in academic discourse, learn about an academic career track, deepen their understanding of key ideas about the law, the founding period, originalism, religious liberty, and markets and the law, and receive personalized career planning and publishing guidance.

The Academy took place in August in Annapolis, MD. Speakers included Randy Barnett (Georgetown), Robin Fretwell Wilson (Illinois), Dan Kelly (Notre Dame), Julia Mahoney (Virginia), and G. Marcus Cole (Stanford).















The Faculty Division is launching a new book podcast. The first episode will feature Prof. Ozan Varol's new book (see below).

New Podcast

New Books

The Democratic Coup d'État by Prof. Ozan Varol
A Debt Against the Living by Ilan Wurman

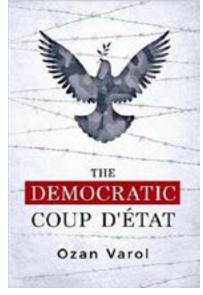
The term coup d'état brings to mind coups staged by power-hungry generals who overthrow the existing regime, not to democratize, but to concentrate power in their own hands as dictators. We assume all coups look the same, smell the same, and present the same threats to democracy. It's a powerful, concise, and self-reinforcing idea. It's also wrong.

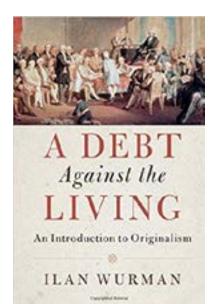
In *The Democratic Coup d'État*, Ozan Varol advances a simple, yet controversial, argument: Sometimes, a democracy is established through a military coup. The book covers events from the Athenian Navy's stance in 411 B.C. against a tyrannical home government, to coups in the American colonies that ousted corrupt British governors, to twentieth-century coups that toppled dictators and established democracy in Guinea-Bissau, Portugal, and Colombia.

Connecting the dots between these neglected events, Varol challenges everything we thought we knew about military coups. In so doing, he tackles several baffling questions: How can an event as undemocratic as a military coup lead to democracy? Why would generals armed with tanks and guns voluntarily surrender power to civilian politicians? What distinguishes militaries that help build democracies from those that destroy them?

Written for a general audience, this book will entertain, challenge, and provoke, but more importantly, serve as a reminder of the imperative to question the standard narratives about our world and engage with all ideas.







Thomas Jefferson famously wrote that the earth belongs to the living. His letter to James Madison is often quoted for the proposition that we should not be bound to the 'dead hand of the past', suggesting that the Constitution should instead be interpreted as a living, breathing document. Less well-known is Madison's response, in which he said the improvements made by the dead—including the U.S. Constitution—form a debt against the living, who benefit from them. In this illuminating book, Ilan Wurman introduces Madison's concept of originalism to a new generation and shows how it has shaped the U.S. Supreme Court in ways that are expected to continue following the death of Justice Antonin Scalia, one of the theory's leading proponents. It is a resource for anyone seeking a better understanding of originalism and its ongoing influence on the constitutional jurisprudence of the Supreme Court.

This book is an introduction to and defense of originalism and the Founding intended for a more general audience. It is aimed at law students, advanced college students, policymakers, and the politically interested reader seeking a general introduction to originalism and its implications for today.

Adapted from the publisher's description of the book.

Be sure to check out the *Federalist Society Review* for helpful reviews of recent books. It is available at **fedsoc.org** and on Westlaw.

Recently published and forthcoming book reviews include:

Cyber, Robots, and Space Weapons in International Conflict, by Vince Vitkowsky (forthcoming)—Review of Jeremy Rabkin & John Yoo's *Striking Power: How Cyber, Robots, and Space Weapons Change the Rules for War*

The Decades of Our Discontent: Judge J. Harvie Wilkinson III Reflects on the Sixties and Today, by Danielle Sassoon—Review of Judge J. Harvie Wilkinson III's *All Falling Faiths: Reflections on the Promise & Failure of the 1960s*

Professionals, Amateurs, and Rape: How Colleges Are Failing Their Students, by Paul J. Larkin, Jr.—Review of KC Johnson & Stuart Taylor, Jr. 's *The Campus Rape Frenzy: The Attack on Due Process at America's Universities*

Lions Under the Bureaucracy: Defending Judicial Deference to the Administrative State, by Evan Bernick—Review of Adrian Vermeule's *Law's Abnegation: From Law's Empire to the Administrative State*

PRACTICE GROUPS



SCOTUS Preview

Carrie Severino, Andrew Pincus, Orin Kerr, Samuel Estreicher, Kyle Duncan, and moderator Jan Crawford



Administrative Law & Regulation

Civil Rights

Corporations, Securities & Antitrust

Criminal Law & Procedure

Environmental Law & Property Rights

Federalism & Separation of Powers

Financial Services & E-Commerce

Free Speech & Election Law

Intellectual Property

International & National Security Law

Join a practice group and stay up-to-date on practice group activities at **fedsoc.org**.

Labor & Employment Law

Litigation

Professional Responsibility & Legal Education

Religious Liberties

Telecommunications & Electronic Media

TOP 5 TELEFORUM CALLS THIS FALL

Supreme Court October 2017 Term Preview Featuring John Eastman, Richard W. Garnett, Eugene Scalia, Ilya Shapiro, & Louis Michael Seidman

Ethics CLE Teleforum 2017: Recent Developments Impacting the Ethical Practice of Law Featuring William Hodes & John S. Dzienkowski

Second Amendment Rights: Litigation & Legislation Update Featuring Alan Gura

Litigation Update: Sanctuary Cities in the District Court Featuring John Eastman

Warning to Corporate Counsel: If State AGs Can Do This to ExxonMobil, How Safe Is Your Company?

Featuring John Baker

Teleforum Calls

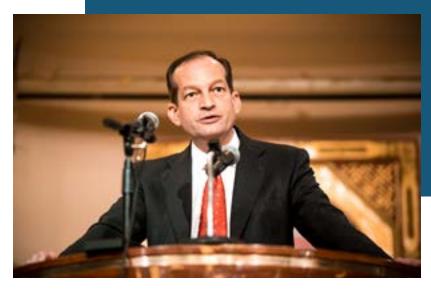
Listen to podcasts of these and other calls, and check our schedule to join us live!

DC Lunches

Tony Cheng's Chinese Restaurant







Secretary of Labor Alex Acosta

REGULATORY TRANSPARENCY

Occupational Licensing, Antitrust, & Innovation

Innovation

Hosted by
Crowell & Moring

Above: Clark Neily, Chairman of the State & Local Working Group, asks a question at the event.

Right: James C. Cooper, Lisa Kimmel, Koren Wong-Ervin, Hon. Maureen Ohlhausen, and Sarah Oxenham Allen spoke on the panel at the event.





Over the past quarter, the Regulatory Transparency Project has continued to publish new papers, *Free Lunch* podcasts, and *Fourth Branch* videos on **regproject.org**. The project is entering its second year and is focusing on timely regulatory issues. We are grateful for your support for this project and encourage you to spread the word about it among your friends and colleagues.

In September, we released the first video in the *Fourth Branch* mini-documentary series. It examined the regulatory process and raised questions about the regulatory state. Since this initial video, we have also released several supplemental videos discussing how regulations are made and the economic incentives of regulating. More *Fourth Branch* videos are in the works, so stay tuned!



Have you or someone you know been directly affected by the regulatory state? Tell us your story by using the **Share Your Story** feature on our website! Subscribe to our **newsletter** and follow us on LinkedIn, Twitter, and Facebook!



ARTICLE I INITIATIVE





Former Congressman Mickey Edwards and National Review Institute Senior Fellow Andrew C. McCarthy joined us in the Russell Senate Office Building to discuss **Congressional War Powers**.



For more information about the Initiative visit: **fedsoc.org/articlei.**

The Framers devoted special attention to the Congress because it was the linchpin of their new scheme of government. We often think of the separation of powers as the Constitution's key innovation—checks and balances among Congress, Executive, and Judiciary would police the excesses of power and keep each branch tolerably honest and accountable. But that required an antecedent invention—a powerful, independent legislature . . .

Whatever the causes, Congress' abnegations have left us with a national government that is dangerously unbalanced, bureaucratic, and indebted We should all hope that Congress is able to pick up these gauntlets.

Excerpted from Chris DeMuth's Article I contribution to the Philadelphia Inquirer's Constitution Day series.

The Article I Initiative hosted an event that explored the **Congressional Budget Process**. It featured University of Maryland Professor Frances Lee and Capitol Hill veteran David Hoppe of Hoppe Strategies in the Rayburn House Office Building.



On August 1, the Initiative announced a writing contest for individuals under 40. There are several cash prizes, and the submission deadline is January 5, 2018.

For full rules and submission, visit fedsoc.org/aicontest.

EXTERNAL RELATIONS

The Federalist Society's External Relations Division just launched a new website that tracks information about state attorneys general.

Visit **stateags.com** to try out the interactive State AG Guide and find more information about state AGs throughout the country.



Commercial Free Speech

Megan Brown speaks on a panel alongside Stephen Obermeier, Erica Smith, and Karen Harned.

Panelists discussed First Amendment protections for commercial speech.



Independent Counsel

Hon. Kenneth Starr discusses the Role of the Independent Counsel with Adam White.

The conversation took place on Capitol Hill.

INTERNATIONAL AFFAIRS

Be sure to check out the Federalist Society's **Global Governance Watch**, your source for the latest developments on the expanding influence of transnational institutions over domestic law and policymaking.

Visit **globalgovernancewatch.org** for more information and to sign up for updates.



The Federalist Society's Fourth European Judicial Network Conference, where jurists from Central and Eastern Europe gathered in Vienna to discuss their approaches to issues like judicial independence and the freedom of expression.





ALUMNI RELATIONS





Summer Receptions





MEMBERSHIP

MEMBER PROFILE: Adam White

Research Fellow, The Hoover Institution
Director, Center for the Study of the
Administrative State, Scalia Law School



When and how did you first get involved with the Federalist Society?

I joined the Federalist Society during my 1L year at Harvard Law School. But I really got involved with it during my third year, when I was asked to run our student chapter's blog, *Ex Parte*. (Blogs were a new thing back then.)

In 2003, I enrolled in the Federalist Society course on the separation of powers that Justice Scalia taught with Professor John Baker in Colorado. It was a truly lifechanging experience, significantly re-shaping my interests and aspirations and solidifying my relationship with the Federalist Society.

What has your involvement looked like since then?

My main involvement has been as a member of the Administrative Law Practice Group's executive committee for the last decade or so, helping Ron Cass, Lee O'Connor, and the team plan programs. And the Society has been so generous with opportunities to participate in panel discussions, teleforums, podcasts, and other events, and to visit student and lawyer chapters. It's all a great challenge, and great fun.

What are some of the most interesting things you've learned from studying the administrative state?

So much of modern administrative law is the accumulation of choices and compromises that reflected moments and contingencies of history. Within the broad (but crucial) boundaries set by our Constitution, administrative law is mostly a set of laws and norms that are subject to revision—and that probably should be revised from time to time, in light of modern circumstances.

Of course, I'm still learning, and I've been blessed along the way with great teachers in administrative law—especially Judge David Sentelle and C. Boyden Gray.

If you could change one thing about legal education, what would it be?

It's easy to criticize legal education. But since I began teaching as an adjunct at the Scalia Law School, I've seen firsthand what a challenging vocation it is. What would I change? Recently I wrote about Antonin Scalia's view of legal education for *National Affairs*, and I think Scalia was (as usual) right: when legal education is stripped of its foundation in civics, history, and the virtues necessary for republican self-government, then the students suffer a major loss—and they don't even know it.

So if I were law school king for a day, I'd require all students to read *The Federalist*, Madison's notes from the convention, accounts from the First Congress, and other important founding-era materials. Students should also read books and essays by Scalia, Alexander Bickel, Martin Diamond, Walter Berns, Harvey Mansfield, James Ceaser, and other scholars of American constitutionalism in its best, broadest sense.

What was your favorite thing about law school?

I was at Harvard Law School from 2001 to 2004, and I loved the whole experience. My favorite thing was simply the opportunity to read a lot, think deeply, and then be challenged by good teachers—too many to name here, but especially Richard Parker, who taught me constitutional law. Years later, I can close my eyes and find myself in the Langdell Library's beautiful reading room, or my room in Hastings Hall, and remember it all fondly.

RESOURCES

Watch Listen Read

Short Videos

Capitalism v. Cronyism: Why Can't You Buy a Tesla in Utah? with Greg Reed

Studying the Common Law with Richard Epstein

Regulatory Takings Law: Penn Central v. New York with Eric Claeys

Executive Orders in the Modern Era

with Neil Eggleston

Is Congress Afraid of Power? with Adam White



Recent Events

Occupational Licensing,
Antitrust, and Innovation
with Maureen K. Ohlhausen,
Sarah Oxenham Allen, Koren W.
Wong-Ervin, Lisa Kimmel

2017 Annual Supreme Court Round Up

with Miguel Estrada

The Constitutional War
Powers of the Executive and
Legislative Branches
with Mickey Edwards, Andrew C.
McCarthy



TELEFORUM

The European Commission's Google Decision: Searching for Answers

with James Cooper, Juergen Schindler, Lawrence J. Spiwak, John T. Delacourt

Janus in the Court
with William Messenger

Politics and Federal Antitrust Enforcement: Strangers or Bedfellows?

with Jon Leibowitz, William Kovacic, Seth Bloom, Tad Lipsky, Richard M. Steuer

Law Firm Preferences with Curt Levey

The Persecution and Genocide of Christians in the Middle East: Prevention, Prohibition, & Prosecution with Ronald J. Rychlak, Nina Shea



Fry v. Napoleon Community Schools

with Daniel Woodring

White v. Pauly

with Josh Skinner

Jenkins v. Hutton and Virginia v. LeBlanc

with Ron Eisenberg

McLane Co., Inc. v. EEOC with Ellen Springer

FedSoc Blog

Principled Realism-President Trump's Speech to the UN by John S. Baker, Jr.

Docket Watch: *Burgess v. FDIC*, the Appointments Clause, and the Separation of Powers

by Oliver Dunford

In Response to E.U.
Competition Ruling, Google
to Modify Search Practices
by John T. Delacourt

ABA Watch: Unconstitutional and Blatantly Political, Model Rule 8.4(g)

by George W. Dent

Real Progress on Reg. Reform by Randolph J. May



Federalist Society Review (Volume 18)

Morally Innocent, Legally Guilty: The Case for Mens Rea Reform

by John G. Malcolm

Federal Special Education Law and State School Choice Programs

by Nat Malkus, Tim Keller

How to Regulate the Internet by Kathleen Q. Abernathy

Luis v. United States: The Distinction That Makes All the Difference

by Dean A. Mazzone

The Federalist Society for Law and Public Policy Studies

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