



2010 Annual Report

The Federalist Society

for

Law and Public Policy
Studies

2010 Annual Report

“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

THE FEDERALIST SOCIETY

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 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.

Letter from the President

Dear Friends and Supporters:

This annual report marks the Federalist Society's 28th anniversary as advocate for the principles of limited government, the separation of powers, and the rule of law. It's been quite a year. We have witnessed a tremendous revival of interest in the Constitution, thanks in large part to the tea parties. The public is now debating the constitutional issues raised by legislation such as national health care and Dodd-Frank. Questions about the proper role of government are front and center. Since its beginning the Federalist Society has sought to foster debate on such questions. The infrastructure we've developed has helped to lay groundwork for this debate, and through that infrastructure we will continue to foster the debate in every way we can.

This infrastructure is extensive and influential. At many law schools, including over half of the country's top 20, the Society is now the strongest extra-curricular presence; and this presence of ours continues to grow, thanks largely to the work of our student chapters. As one member at Yale explained to the press, the Federalist Society chapters "bring in speakers



(left to right), Eugene Meyer, president; U.S. Supreme Court Associate Justice Antonin Scalia; U.S. Supreme Court Associate Justice Samuel Alito; and Leonard Leo, vice president, attended the Annual Dinner at the Federalist Society's 2010 National Lawyers Convention.

who enrich the law schools' intellectual debate by voicing perspectives students don't otherwise hear." This progress in enriching the debate through the discussion of rule of law principles has been assisted by the thousands of citizens involved with the Federalist Society, including 4,000 very active volunteers who've helped bring the debate to the general public.

The country's constitutional enthusiasm and the Society's efforts to further its constitutional debate contributed much to the Society's growth this year. In 2010 over 45,000 law students, lawyers, academics, judges, and policy leaders were involved in our wide variety of programs. We conducted over 1,400 events at law schools and Lawyers Chapters and saw a 15 percent increase in attendance at those events. Our alumni have now organized officially on the national level. We have over 100,000 Facebook fans and more than 4,000 followers on Twitter. The number of people exposed to the papers, articles, and interviews from one Federalist Society project alone (State Courts) has risen to 51.7 million.

As mentioned above, much of this growth is due to the national hunger for a genuine and mature debate on the rule of law. In order for the Federalist Society to persevere in its work of feeding this hunger—in order to continue inculcating an attitude that supports open, serious, intellectual discussion on the Constitution, limited government, and the role of the courts—we must take advantage of this groundswell of constitutional enthusiasm by encouraging still more debate on rule of law principles. The Federalist Society is prepared to make its contribution to this debate, but as always our contribution depends on yours.

Over 120 years ago James Madison wrote that "you must first enable the government to control the governed, and in the next place oblige it to control itself." The Constitution is that control of the government over itself, that surety that freedom will continue to flourish. As the Constitution goes, so goes the country. With your help, and through the renewed national interest in the constitutional debate, the Federalist Society will keep defending both for years to come.

Sincerely,

Eugene B. Meyer
President

This school year the efforts of our student volunteers and accomplished speakers led to 1,145 Federalist Society events on campuses across the country, reaching a total of more than 70,000 people nationwide. The Student Division's debates, panels, and speeches have never been more popular. Among the subjects that dominated the scene this year—often drawing audiences of over 100—were *Christian Legal Society v. Martinez*, the constitutionality of the Arizona Immigration Bill, health care reform, and the case over California's Proposition 8.

Many of our chapters focused on the legal and policy issues raised by efforts to moderate the economic crisis. The **Louisiana State** Chapter drew a crowd of over 125 when they invited the Cato Institute's Doug Bandow to debate their own Prof. James Bowers on "The Economic Crisis: Will More Government Spending and Regulation Save Our Economy?" The students' interest in the question was evident throughout the debate and in the lively Q&A that followed.

The recent U.S. Supreme Court decision in *Citizens United v. Federal Election Commission* was a key topic with many chapters. Do corporations



The Federalist Society's George Washington University Law School Chapter hosted Alan Gura (second from left), who argued against laws imposing gun restrictions in *District of Columbia v. Heller* before the U.S. Supreme Court and was lead counsel for the plaintiffs in the gun rights case *McDonald v. Chicago*.



U.S. Supreme Court Associate Justice Clarence Thomas met with members of the Catholic University Columbus School of Law Chapter of the Federalist Society.

have rights under the Constitution? Did the Supreme Court go too far in overturning McCain-Feingold? What about claims that the decision overturns 100 years of laws regulating corporate political spending? Does this ruling enhance or diminish the people's right to have their voice heard? These and other questions were raised in the March 2010 debate before the **Berkeley** Student Chapter. Attended by over 190 students, the debate pitted Kurt Lash of the University of Illinois College of Law against Berkeley's own Calvin Massey. Capital Law Prof. Bradley Smith (formerly chairman of the FEC) addressed this same decision at several schools, including **Stanford**, **Washington & Lee**, **Michigan**, and **Ohio State**. **Akron** also boasted an impressive attendance when it covered the case in a discussion of "Corporations, Political Speech, and the Constitution." The debate featured Prof. Allison Hayward and Akron Law School Prof. Richard Aynes. **California-Hastings** had 110 at their *Citizens United* event, which featured Jim Sutton of Sutton Law Firm and Hastings Prof. Steven Mayers. **Columbia** brought in 165 students for "In the Wake of *Citizens United*: A Panel Discussion on the Future of Campaign Finance Regulation," which featured Director James E. Tierney of the National State Attorneys General Program at Columbia Law School; Profs. Nathaniel Persily and Richard Briffault, also of Columbia; and Profs. Richard Pildes and Samuel Issacharoff of New York University School of Law. **Harvard**,

Lewis and Clark, Pennsylvania, Texas, UCLA, Chicago, St. Thomas (FL), Denver, UVA, and Kentucky also held popular debates on the case.

Immigration reform and particularly the Arizona immigration law took the stage at many chapters including **Brigham Young, Kansas, Chicago, Columbia, Boston** and **Tulane**. The **Berkeley** Law Chapter's debate, "Did the Federal Judge in the Arizona Immigration Case Get It Right?" was attended by over 220 students and faculty; the debate participants included John Eastman of Chapman Law and Berkeley's David Sklansky. A **Rutgers-Camden** panel brought in Ken Klukowski of the Family Research Council, Lou Moffa of Montgomery McCracken, Robert Nix of the Center for Progressive Leadership, and attorney Derek DeCosmo, and was attended by over 110 students.

The question of health care reform drew crowds at many schools, including **UVA, Michigan, Columbia, Louisiana State, and Western New England**. It also provided the matter for one of our best attended student events: Karl Rove's appearance at the **Yale Law School** Chapter before a crowd of over 500. In comments later reported by *The New Haven Register*, Rove remarked that "The President said [the health care bill] would not add a dime to the deficit, and he is right. We're going to add trillions of dimes to the deficit."

Due in part to the Supreme Court's deliberations on and decision in *McDonald v. Chicago*, the subject of Second Amendment Rights was also



Members of the Federalist Society's Student Chapter at the University of Texas School of Law met U.S. Supreme Court Associate Justice Antonin Scalia in April.



Judge Douglas Ginsburg of the U.S. Court of Appeals for the D.C. Circuit spoke on the use of forensic evidence in court at St. Thomas and the development of law in Western Civilization at Catholic University.

a hot topic on many campuses, including **Barry, Marquette, St. Mary's, Oregon, American, and UVA**. Lead *McDonald* counsel Alan Gura of Gura & Possessky PLLC brought his arguments from the Supreme Court to several Federalist Society Chapters, including **Mississippi, UCLA, and Georgetown**. At **UVA** Gura debated Dennis Henigan of the Brady Center to Prevent Gun Violence on "The Second Amendment & the States: A Debate on the Future of Gun Rights" before a crowd of 100.

Religious liberty on university campuses was another important issue this year. *Christian Legal Society v. Martinez* raised the question of whether a public university can deny funding to religious student groups when it deems their principles to be in conflict with anti-discrimination policies. Several attorneys from the Alliance Defense Fund (ADF) served as legal counsel for the case and spoke on the issue at our chapters. David French of ADF debated it in front of 70 at **Chicago**; Greg Baylor, also of ADF, discussed the case before an audience of 65 at **North Carolina**; and at **Roger Williams** an audience of 130 watched ADF's Casey Mattox debate the subject with their own Prof. Jarrett Goldstein.

A generous grant from the John Templeton Foundation made many debates possible this year, on topics in one of four categories: Freedom of Exercise/Religious Jurisprudence; Law and the Formation of Character; the Rule of Law and Wealth Creation; and Creativity, the Knowledge Economy, and Intellectual Property. The Templeton Debate Series has proved vastly popular, funding more than 220 events with an average attendance of 78.



Prof. Caleb Nelson of the University of Virginia School of Law participated in a panel on originalism and construction at the Federalist Society's 29th Annual Student Symposium at the University of Pennsylvania Law School in February 2010.

Student chapters also hosted a variety of events that focused on the daily concerns of law enforcement officials. The **Harvard** Chapter kicked off their year (before an audience of 150) with a racial profiling debate that featured Heather MacDonald of the Manhattan Institute and their own Prof. Richard Sullivan. Roger Clegg of the Center for Equal Opportunity put a spin on the same topic in his appearance before the **George Mason** chapter, tackling the question of profiling in the light of the recent terrorist attempts, while George Mason Prof. Nelson Lund offered commentary.

The **Emory** Student Chapter held the best-attended event of the year, with 1,100 students and guests coming to hear former Governor Mitt Romney discuss “No Apology: The Case for American Greatness & The United States Courts.” The event was covered in *The Atlanta-Journal Constitution*. **UVA**'s Student Chapter stood out this year for its successful series of programs. In addition to the aforementioned debates on the Second Amendment, health care reform, and *Citizens United*, events at the school addressed (among other topics) school choice, energy law, the housing crisis, the trials of Guantanamo detainees, and the role of foreign and international law in interpreting the Constitution. In February 2010 the UVA Chapter sponsored a 50-student trip to the Supreme Court. The students sat in on oral arguments and spoke with Justice Clarence Thomas, who met each of them personally and spent over an hour answering their questions.

Justice Thomas wasn't the only notable from the bench who met with our chapters. At **Harvard** more than 100 students turned out to hear Judge Brett Kavanaugh of the U.S. Court of Appeals for the D.C. Circuit speak on the separation of powers. Judge Douglas Ginsburg, also of the D.C.

Court of Appeals, traveled to **St. Thomas** in Florida to discuss the role of forensic evidence in the modern court. His speech, which addressed the importance of DNA evidence and a prosecutor's obligation to remedy wrongful convictions, attracted 200 students. In September Judge Ginsburg drew another large crowd at **Catholic University**, where he gave a detailed history of the development of law in Western Civilization. At **Lewis & Clark** Judge Diarmuid O'Scannlain of the Ninth Circuit Court of Appeals debated Prof. Thomas Merrill of Yale on the most important Supreme Court cases of the decade. Judge Alex Kozinski, also of the Ninth Circuit Court of Appeals, spoke to the students at **Stanford** and **Berkeley**, drawing crowds of over 100 at each school; Judge Diane Sykes of the Seventh Circuit Court of Appeals spoke to students at **Duke** and **William Mitchell** Law Schools. These visits by prominent judges are of great value in helping our Student Chapters maintain a large and active membership.

The Federalist Society's 29th annual Student Symposium took place in February of 2010 at the **University of Pennsylvania**. The Symposium (focus: “Originalism 2.0”) began with welcoming remarks from Chair Ryan Ulloa and Penn Dean Michael Fitts. Panel topics included: “Originalism: A Rationalization for Conservatism or a Principled Theory of Interpretation?,” “Originalism in Criminal Procedure,” “Originalism and Construction,” and “Originalism, Precedent and Judicial Restraint.” After a day and a half of intellectual stimulation, the Symposium attendees enjoyed a banquet and cocktail reception. William Kristol of *Fox News* and *The Weekly Standard* gave the dinner address, and Prof. Todd Henderson of the University of Chicago received the Paul M. Bator Award in the course of the evening. (Details of the Symposium can be found on pages 14–16.)

The 2009–10 school year has proven to be one of the strongest yet for our student chapters. The national office is not alone in noticing this fact: many chapters have received awards from their schools for their activities, and their events have received news coverage in local papers and school websites. The Federalist Society greatly appreciates the dedication of the distinguished speakers and the student volunteers whose time and effort have made these events possible. We look forward to the future when the talented men and women leading these chapters will join the lawyers and judges they have met as key members of the legal community.

Lawyers Chapters Build on Recent Success



Ken Cuccinelli (above), Attorney General of Virginia, spoke to the Richmond Lawyers Chapter about Virginia's challenge to the new health care legislation and appeared at the launch of the new Young Lawyers Chapter in Washington, D.C. Rachel Brand (below), Counsel at WilmerHale, addressed the Milwaukee Lawyers Chapter on the topic of Elena Kagan's confirmation hearing.



The Federalist Society's 75 Lawyers Chapters continued their expansion in 2009–10 in terms of leadership, programming, publications, media outreach, and involvement in ventures such as the State Courts Project. The chapters organized nearly 300 programs and meetings during the year, drawing a combined audience of over 25,000 lawyers.

The Society's strong local leadership continues to produce programming of the highest quality. The programming encourages our members to become engaged citizen lawyers. It helps to establish strong community support for the American constitutional tradition and to ensure that the principles of limited government inform current law and public policy. The chapters' programs (often formed in collaboration with those of the Practice Groups, Student Division, and the State Courts Project) come in several formats, including speeches, panel discussions, and debates.

The Lawyers Chapter programming has both national and local significance. This year, topics included the constitutionality of health care and financial services reform, the U.S. Supreme Court's docket, the Elena Kagan nomination, the *Citizens United* decision, state judicial selection methods, immigration reform, the constitutionality of same-sex marriage, and the war on terrorism.

Programs from the past 12 months also addressed such questions as: Should judges consider the economic climate when deciding business cases? Should they defer to popular referenda as to legislative decisions? Should states have supermajority requirements to raise taxes and pass a budget? These were, for example, some of the particulars raised at the Fourth Annual Western Chapters Conference on "State Judiciaries and the Popular Will: What Deference Do Judges Owe to the People?" The conference, held in January at the Ronald Reagan Presidential Library, was sponsored by the Federalist Society's California Lawyers Chapters. Panelists included Pepperdine University School of Law Dean Kenneth Starr; UCLA School of Law Profs. Stephen Bainbridge and Eugene Volokh; University of San Diego School of Law Prof. Michael Rappaport; Jon Eisenberg of Eisenberg and Hancock, LLP; Judges Sandra Ikuta and Carlos Bea of the U.S. Court of Appeals for the Ninth Circuit; and Judge Carolyn Kuhl of the Los Angeles Superior Court. Former U.S. Attorney General Edwin Meese took the occasion to introduce a rare videotape of President Ronald Reagan's address to the 1976 Republican National Convention; and Steve Hayward discussed his new book, *The Age of Reagan: The Conservative Counterrevolution: 1980–*

1989. The conference broke all its previous attendance records, with nearly 300 lawyers and students participating.

Many chapters addressed the recently adopted health care reform legislation with robust debate and discussion of its policy implications and constitutionality. Several events included lawmakers, candidates, and litigants who are challenging the bill. The **Atlanta** Chapter hosted U.S. Congressman Tom Price for a speech on “The Patient Protection and Affordable Care Act: A Unique View from a Physician Congressman.” Representative Price spoke about his perspectives on patient- versus government-centered health care reform. The **Portland, Oregon** Chapter sponsored a debate with James Huffman, former Dean of Lewis & Clark Law School, and Simon Lazarus, Public Policy Counsel for the National Senior Citizens Law Center. The **Los Angeles** Chapter hosted a debate on “The Constitutional Health of the 2010 Affordable Health Care for America Act” with David B. Rivkin, Jr. of Baker & Hostetler LLP, counsel for plaintiffs in *Florida v. U.S. Department of Health & Human Services*, and Prof. Jonathan D. Varat of UCLA School of Law. The **Mississippi** Chapter hosted a panel discussion on “Is ObamaCare Good for Patients, Doctors, Employers, & State Budgets?” The program featured Ilya Shapiro, a Cato Institute Senior Fellow in Constitutional Studies, who commented on the legal, political, and practical impact of the legislation, and moderated a Q&A session with Mississippi State Medical Association President Dr. Randy Easterling, Venture Technologies Founder and CEO Gerard Gibert, and Governor Haley Barbour’s Federal Policy Director, Marie Thomas Sanderson. The **Richmond** Chapter hosted Virginia Attorney General Ken Cuccinelli and the **Charlotte** Chapter hosted Virginia Solicitor General Duncan Getchall, with both officials discussing Virginia’s challenge to the legislation. Many other Lawyers Chapters, including **Albany, Boston, Columbus, Colorado, Dallas, Gold Coast, Greenville, Houston, Indianapolis, Nashville, Phoenix, Philadelphia, Piedmont-Triad, Sacramento, St. Louis, San Diego, and Triangle** also based programs on the issue.

The role of the U.S. Senate in offering advice and consent on judicial nominations was another area of interest. Several chapters hosted U.S. Senators, who offered their perspectives on the Senate’s responsibility and the Supreme Court’s jurisprudence. At the **Louisville** Chapter, U.S. Senate Minority Leader Mitch McConnell spoke on the recent *Citizens United* decision and discussed potential U.S. Supreme Court vacancies. The **Buffalo** Chapter hosted U.S. Senator Orrin G. Hatch of Utah. The **Phoenix** Chapter hosted U.S. Senator Jon Kyl who, like Senator McConnell,



Former U.S. Attorney General Michael Mukasey (above) discussed the topic “The War on Terror: Where We Are and How We Got There” at the Sacramento Lawyers Chapter shortly after September 11, 2010. Prof. Eugene Volokh (below, center) of UCLA School of Law participated in a panel at the Fourth Annual Western Chapters Conference at the Ronald Reagan Presidential Library in January.



combined discussion of *Citizens United* with speculation on pending judicial nominations. The **Dallas** Chapter hosted U.S. Senator John Cornyn, who spoke on “Fighting Judicial Activism in Washington.” The nomination of Elena Kagan to the U.S. Supreme Court became one of the most popular topics this past summer, with several chapters covering her nomination and confirmations process, including **Dallas, Long Island, Los Angeles, Milwaukee, Nashville, New York City, Piedmont-Triad, and Puget Sound**.

Supreme Court roundups of 2009-10 were as usual among many chapters’ most well attended events. The **Chicago** Chapter hosted a roundup with Ted Cruz, former Solicitor General of the State of Texas, Prof. Eugene Kontorovich of Northwestern University School of Law, Illinois Solicitor General Michael A. Scodro, and Judge Gary Feinerman of the U.S. District Court for the Northern District of Illinois. The **Los Angeles** Chapter hosted its annual roundup with Prof. John Eastman of Chapman University School of Law and Dean Erwin Chemerinsky of the University of California, Irvine School of Law. Judge Sandra Ikuta of the U.S. Court of Appeals for the Ninth Circuit moderated this event. Former U.S. Solicitor General Greg Garre delivered the **Washington, D.C.** Chapter’s annual roundup before several hundred attorneys and summer associates. The **Houston** Chapter hosted Judge Sylvia Matthews of the 281st District Court; Allyson N. Ho of Morgan, Lewis & Bockius LLP; and Prof. Matthew J. Festa of South Texas College of Law. Both the **Atlanta** and **Nashville** Chapter roundups hosted former Alabama Solicitor General Kevin C. Newsom, partner at Bradley Arant Boult Cummings LLP. The **San Francisco** Chapter held a panel discussion with Prof. Vikram Amar of the University of California Davis and Profs. Jesse H. Choper and John C. Yoo of University of California (Berkeley) School of Law. The **Cincinnati** and **Columbus** Chapters held their annual roundup with Ohio Solicitor General Benjamin C. Mizer, who also addressed the recent jurisprudence of the Ohio Supreme Court. Kannon Shanmugam, attorney at Williams & Connolly and former assistant to the U.S. Solicitor General’s Office during the Bush Administration, gave roundups of the U.S. Supreme Court’s term in **Indianapolis, Kansas City, and Wichita**.

The U.S. Supreme Court’s *Citizens United* decision attracted particular interest among Lawyers Chapters. In the months before the 2010 midterm, speakers addressed the decision’s effects on political speech, its potential influence on the 2010 campaign season, and claims about conservative judicial activism on the part of the Roberts Court. The **Philadelphia** Chapter hosted a debate on “*Citizens United* and the Future of Campaign



The Los Angeles Lawyers Chapter hosted David B. Rivkin, Jr. (above) who debated Prof. Jonathan D. Varat of the UCLA School of Law on the constitutionality of the health care law.

Finance Reform” with Hans von Spakovsky of The Heritage Foundation and Doug Kendall of the Constitutional Accountability Center. Von Spakovsky also spoke about the case in events hosted by the **Miami** and **Richmond** Chapters, debating Nova Southeastern University Prof. Michael Masinter in Miami. The **Long Island** Chapter hosted Jim Bopp, Legal Advisor to Citizens United and General Counsel to the James Madison Center for Free Speech. Former Federal Election Commission Chairman Bradley Smith spoke about the decision before the **Cincinnati, Cleveland, Madison, and Minnesota** Chapters. Shannen Coffin, former counsel to Vice President Dick Cheney, offered his take on *Citizens United* in a speech to the **New Orleans** Chapter. The **Colorado, Connecticut, Gold Coast, Los Angeles, Piedmont-Triad, and Puget Sound** Chapters also addressed the decision in their programming.

Several chapter programs were inspired by the public’s attention to state supreme court and attorneys general elections. The **Piedmont-Triad** and **Raleigh** Chapters both hosted North Carolina judicial candidate forums. All candidates for the seats were invited; and the participants included Judge Barbara Jackson, candidate for the State Supreme Court; incumbent Judge Sanford L. Steelman, Jr.; incumbent Judge Rick Elmore; challenger Steven Walker; incumbent Judge Ann Marie Calabria; challenger Judge Jane Gray; incumbent Judge Martha Geer; and challenger Dean Poirier. The **Atlanta** Chapter hosted a similar candidate forum for those running for the Georgia Court of Appeals. The **Puget Sound** Chapter hosted a debate between incumbent Justice Richard Sanders and his Washington Supreme Court challenger. The **Birmingham** Chapter hosted candidates

for State Attorney General. The **Iowa** Chapter hosted a forum debating Iowa's method of judicial selection and the use of retention elections for incumbent justices. (This was a major topic in the state following the Iowa Supreme Court's recent same-sex marriage decision.) Chapters in California, including **Los Angeles** and **San Francisco**, considered what the effect of the state's gubernatorial election would have on its Supreme Court.

The Obama Administration's announcement that it would try Khalid Sheikh Mohammed and other al Qaeda operatives in a New York City federal court spurred a number of chapters to consider this and related issues. The **Sacramento** Chapter hosted former U.S. Attorney General Michael Mukasey shortly after the ninth anniversary of the September 11 terrorist attacks. General Mukasey spoke on "The War on Terror: Where We Are and How We Got There" before a capacity crowd. The **Connecticut** Chapter cosponsored a program with the **Quinnipiac** Chapter on "Trying Alleged Terrorists in U.S. Courts." The **Atlanta** Chapter hosted former United Nations Ambassador John Bolton, who spoke on foreign policy challenges for the Obama Administration before a sold-out crowd. Chapters in **Albany**, **Baltimore**, **Colorado**, **Columbus**, **Houston**, **Iowa**, **New York City**, **Orlando**, **Rochester**, and **Tampa** hosted similar programs on national security-related issues. Even the **Boston** Chapter's annual Shakespeare and the Law program got into the act, hosting a



Judge Diane S. Sykes of the U.S. Court of Appeals for the 7th Circuit spoke at the Madison Lawyers Chapter for its inaugural event in July 2010.

staged reading of *Henry V* with special guests who included Prof. John Yoo, former White House Chief of Staff Andy Card, syndicated columnist Jeff Jacoby, former Lieutenant Governor Kerry Healey, and several district court judges. Following the reading the 400 participants engaged in a lively discussion on the role of patriotism in war, the treatment of enemy combatants, the use of torture, and the trial of foreign terrorists.

Prof. John Yoo of the University of California (Berkeley) School of Law also spoke to several chapters about his new book, *Crisis and Command: A History of Executive Power from George Washington to George W. Bush*. He visited **Baltimore**, **Dallas**, **Houston**, **Los Angeles**, **New York City**, **Philadelphia**, **San Francisco**, and **Washington, D.C.**; and in **Chicago** and **Orange County** he debated former Libertarian presidential candidate Bob Barr on "Balancing Individual Rights and National Security."

The U.S. Supreme Court's consideration of the Second Amendment case *McDonald v. City of Chicago* was another popular topic for Lawyers Chapters. Alan Gura, who argued *District of Columbia v. Heller* and was lead counsel for *McDonald*, spoke to chapters in **Charlotte**, **Memphis**, **Orlando**, **Piedmont-Triad**, **Portland**, and **Raleigh** in advance of the Court's decision. Clark Neily of the Institute for Justice discussed the case in a speech to the **Phoenix** Chapter.

The financial crisis and its effects on the American economy continued to interest lawyers this summer. The **Cleveland** Chapter hosted Prof. J.W. Verret of George Mason University School of Law for a talk on "Uncle Sam In The Boardroom: The Impact Of Bailouts On Corporate Governance." The **Atlanta**, **Birmingham**, **Charlotte**, and **Piedmont-Triad** Chapters hosted John Allison, the former CEO and Chairman of the Board of BB&T Corp. He offered his thoughts on the "Causes and Cures of the Financial Crisis" before sold-out events in both cities. The **Boston** Chapter hosted a forum discussing the constitutionality of the Dodd-Frank Act.

The 2009-10 year also witnessed more inaugural Lawyers Chapters events than have been seen for years. Chapters in **Piedmont-Triad**, **Iowa**, **Madison**, and **Toledo** held initial events, while several other chapters (including **Bakersfield**, **Jacksonville**, and **South Bend**) formed steering committees in anticipation of their Chapter launches in 2011. The **Washington, D.C.** Young Lawyers Chapter launched in mid-November, on the eve of the National Lawyer's Convention. Virginia Attorney General Ken Cuccinelli was the guest speaker for this event, which attracted over 100 attendees.

Faculty Division Expands Programming to Advance Dialogue in the Legal Academy

The American legal academy plays a central part in shaping how lawyers view the role of law in this country and beyond. Less directly but still significantly, it shapes public opinion in the same area. The Faculty Division seeks to broaden and deepen discussion about the character of law at all levels of the law faculties, in the hope of enhancing understanding of the law in both legal and civil communities.

The Faculty Division's programs are designed to foster dialogue, confidence, and *esprit de corps* among faculty interested in the original understanding of the Constitution, the separation of powers, and the importance of property rights and markets to a successful society. They strive to promote discussion with the critics of these ideas and help to diminish the politically-based antagonism between proponents and critics alike. The programs help identify faculty who are attracted to these ideas, and aid and encourage them in honing the skills they need to become successful legal academics. Finally, the programs are designed to foster mentoring structures among older and younger law faculty and students who share these interests, and would like to explore the possibility of entering the academy.

Colloquia

Since its inception the Federalist Society has sought to promote ideas about law primarily through debate and discussion. To help realize this goal in an academic context, the Faculty Division launched a series of colloquia two years ago. These colloquia bring together small groups of law professors, legal professionals, and individuals with scholarly promise to debate and discuss enduring legal questions and current legal events. The participants represent a broad variety of law schools, academic career stages, and points of view. In addition to improving the academic debate on these issues, the colloquia provide a unique opportunity to forge professional relationships and come to terms with competing perspectives.

This year the Faculty Division was pleased to be able to enlarge this program by partnering with the Liberty Fund. Liberty Fund has long hosted events of this sort, and we had their conferences very much in mind when the colloquia were first developed; so we were delighted when they concluded that they wished to collaborate with us in expanding

their cosponsored programs and their programs on law. In our inaugural "Liberty and Law" series, our organizations cosponsored six colloquia between May 2010 and May 2011.

- "Constitutional Economics," Cambridge, Massachusetts; June 18–19, 2010. This colloquium focused on the place of economic liberty in the creation and design of the U.S. Constitution, and its role in constitutional law today. Participants discussed key clauses in the 1789 Constitution, the Amendments of 1791 and the Civil War, subsequent U.S. Supreme Court decisions, and modern Public Choice scholarship, giving particular attention to property rights and takings.
- "Hayek on Law, Legislation, and Liberty," Denver, Colorado; August 19–20, 2010. In this colloquium devoted to Friedrich A. Hayek's work, the discussion touched on crucial themes of his writing, including law, liberty, justice, and the relationships between desirable social and economic order. Using his three-volume treatise, the participants covered topics such as the relationship between legislation and liberty and Hayek's critique of social justice endeavors within a market-driven socio-economic order.
- "The Federalists, the Anti-Federalists, and the Constitution They Created," Atlanta, Georgia; September 11–12, 2010. Directed at legal practitioners, this colloquium considered the arguments between the Federalists and the Anti-Federalists over the Constitution of 1789, and the extent to which the hopes and fears of each group have proven prescient or ill-founded.
- "Natural Law and Property Rights in American Private Law," Atlanta, Georgia; October 15–16, 2010. This colloquium addressed questions on the connection between natural law theories and property rights. Participants considered how the justifications natural law proposes for private property differ from those of law and economics scholars, and whether natural law theories work for or against intellectual property rights.
- "Liberty, Responsibility, and the Legal Profession," Dallas, Texas; January 21–22, 2011. This colloquium brought together legal academics

and practitioners to consider the tensions among the roles that lawyers may find themselves assuming in our society: crusader for the public interest, spellbinding orator, hired gun, statesman, and legal specialist.

- “Economic Crisis and Freedom,” La Jolla, California; March 2011. This colloquium explored the risks to liberty involved in attempts to resolve economic crises. Participants considered in particular the impact of the government’s interventions in the Great Depression and the economic crisis of 2008.

Because both we and Liberty Fund are delighted with the results of this collaborative effort, we plan to continue and increase the “Liberty and Law” program to a total of seven cosponsored colloquia between May 2011 and May 2012. New topics will include “International Law, Foreign Law, and the United States Constitution” and “Liberty and Constitutional Jurisprudence.”

The Faculty Division also hosted a separate colloquium in the spring of 2010 and plans to do so again in 2011.

- “Intellectual Property and the New Media,” Austin, Texas; March 26–27, 2010. This colloquium was attended by a group of intellectual property scholars interested in the recent explosion of “free” media. From the Google Book Project to the ascendancy of online news sources, the changing business contexts of the world we live in pose new challenges for our understanding of intellectual property. The colloquium addressed issues raised by new media and content distribution technologies, and the value and viability of the property rights conception of IP.
- “Corporate Criminal Liability,” Washington, D.C. area; April 2011. This colloquium will address a series of questions relating to the nature of corporate criminal liability, the kind of justice it realizes, and the pragmatic forms it has taken in recent years during the increasing federalization of criminal law.

Annual Faculty Conference

The most recent Faculty Conference, held January 7, 2011 in San Francisco, marked the 13th consecutive year that the Federalist Society has provided a setting for discourse and the development of quality scholarship among law school faculty. Approximately 80 faculty members from more than 40 law schools attended the event. (See more Faculty Conference coverage on page 17.)



Lee Liberman Otis, Senior Vice President and Faculty Division Director of the Federalist Society, speaks with Soraya Rudofsky at the National Lawyers Convention in November.

Searle Junior Scholars Research Fellowships

The Searle Junior Scholars Research Fellowship, established in 2007, assists current faculty members in their second to fifth teaching year. Awarded to faculty with relatively heavy teaching loads and lower research budgets, the fellowship enables up to two professionals to take a semester-long research leave to work on a significant piece of scholarship. The fellowship and the studies produced enhance the fellows’ professional standing and reputation, and increase their prospects of moving to schools where their voices will be amplified. This year the distinguished academics of the selection committee awarded fellowships to Prof. Richard Ekins of the University of Auckland and Prof. Jody Madeira of the Indiana (Bloomington) School of Law. Last year’s recipients, Prof. Dan Markel of Florida State University College of Law and Prof. J.W. Verret of George Mason University School of Law, start their research leaves this spring.

Resources for Prospective Faculty Members

Olin/Searle/Smith Fellowship

The Faculty Division continues to offer the Olin/Searle/Smith Fellowships in Law to law school graduates interested in pursuing a

career in legal academia. These one-year fellowships provide a \$50,000 stipend to graduates with strong academic qualifications who are likely to contribute to intellectual diversity in the legal academy. Two-thirds of past recipients have earned tenure track positions at law schools, including Harvard, Notre Dame, Georgetown, George Mason, Missouri, Rutgers, and Syracuse. This year's recipients were Logan Beirne (completing his fellowship at Yale Law School), Nathan Chapman (Stanford Law School), Marie Gryphon (Harvard Law School), and Erin Sheley (Georgetown University Law Center).

Job Talk Workshop and Related Efforts

This past June the Faculty Division hosted its third annual Job Talk Workshop in Chicago. Eight candidates for academic jobs in the fall of 2010 participated as presenters; the observers were ten current and future candidates, including our 2011 Olin Fellows. At the workshop, each 2010 candidate presented his or her job talk to a panel of commentators of varied interests, political and philosophical perspectives, and areas of methodological expertise. The commentators provided substantive and stylistic feedback on the talks. Presenters also had the opportunity to participate in mock interviews and receive input on their resumes and related materials.



*Prof. Richard A. Epstein of New York University School of Law participated in the annual Faculty Conference and recorded SCOTUScasts on the Supreme Court cases *Christian Legal Society v. Martinez* and *Bilski v. Kappos*.*

In addition to the Chicago workshop, the Faculty Division set up mock interviews and job talks before groups of local professors in San Diego, Washington, D.C., and Boston, and worked to introduce job market candidates to current faculty members with potential interest in their work.

Panel at Student Symposium

For the past four years the Faculty Division has sponsored a panel at the annual Student Symposium to offer early career advice to promising students interested in academic careers. Prof. Randy Barnett of Georgetown University Law Center, Prof. Todd Henderson of the University of Chicago Law School, and Prof. Saikrishna Prakash of the University of Virginia School of Law were this year's panel participants.

Conservative/Libertarian Bibliography

Two years ago, for the first time since 1997, the Faculty Division began the process of updating the Federalist Society's online Conservative/Libertarian Bibliography. This topically-organized reading list is designed to provide accessible information on conservative/libertarian legal scholarship to students in any major field of law. After two years of careful research and with assistance from a number of committed law professors, we are pleased to announce that the update is complete and posted to the Society's website.

Online Programming

Working with the Practice Groups, we continue to produce original web-based programming drawing on the expertise of academics and practitioners. These programs are a valuable service to the public and the media, and offer faculty members a chance to raise their profile with a broader audience.

SCOTUScast

Our SCOTUS podcasts provide expert commentary on U.S. Supreme Court cases as they are argued and decided. These podcasts are regularly among the top twenty on iTunes, the leading source of podcast material, in the "Government & Organizations/Nonprofits" category.

Originally Speaking

The online forum Originally Speaking brings together academic and practitioner experts from different sides of the political/philosophical spectrum to debate the latest legal issues in a written format. Recent topics include the civilian trial of Khalid Sheikh Mohammed, *Citizens United v. FEC*, the retirement of Justice Stevens, and the nomination of Justice Kagan.

Supreme Court Panels and Press Calls

We organize regular panels on the Supreme Court Term which are also recorded and made available online. They are supplemented by pre-argument press calls in which experts analyze the upcoming cases.

Prof. Steven G. Calabresi of Northwestern University School of Law and co-founder of the Federalist Society participated in many Federalist Society events throughout the year and recorded SCOTUScasts on Free Enterprise Fund v. PCAOB and McDonald v. City of Chicago.



Alumni's Organization is Official

On September 1, 2010, the Federalist Society welcomed Kendra Kocovsky as its first full-time Alumni Director. Kocovsky is a 2010 graduate of the University of Virginia School of Law. As Alumni Director she will oversee and support the current alumni chapters and assist additional schools in forming chapters of their own. These chapters will provide another way for members to stay informed about their alma maters, to meet talented students and new faculty, and to remain involved after graduation with the Society and the friends they made in law school.

Alumni Breakfasts

The National Lawyers Convention was the occasion for the fourth annual Alumni Breakfasts of 13 schools: **Catholic, Chicago, Columbia, George Mason, George Washington, Georgetown, Harvard, Michigan, Stanford, Texas, Vanderbilt, Virginia, and Yale**. The breakfasts provided alumni, students, and faculty with opportunities to reminisce and catch up on developments at their schools. At each breakfast a current faculty member and the Student Chapter president reviewed the school's past year; and the alumni discussed events, recruitment, etc. with the Chapter president.

Additional Activities

The **University of Virginia** Alumni Chapter held its first official event on October 28, 2010, with approximately thirty D.C. area members in

attendance. The group hosted Trevor Potter of Caplin & Drysdale, a UVA Law graduate and former General Counsel to McCain during his 2000 and 2008 presidential bids. Mr. Potter spoke about campaign finance and the upcoming midterm elections.

As part of the Stanford Law School Alumni Reunion weekend, the **Stanford** Alumni Chapter held an informal dinner at a member's house on October 19, 2010. Those present were able to touch base with alumni from around the country and to speak with the dean, faculty members, and current students.

The **University of Chicago** Student Chapter held an event for Federalist Society alumni at the Law School Reunion Weekend last April. The chapter also established an award named for Federalist Society Founding Director Lee Liberman Otis to be given annually to an alumnus or alumna who exemplifies the ideals of the Society.

Future Plans

In the next year we anticipate that each of our nine founding alumni chapters—**Chicago, Columbia, George Washington, Georgetown, Harvard, Michigan, Stanford, Virginia, and Yale**—will develop a strong leadership team dedicated to promoting the new chapters. The **Yale** Alumni Chapter is currently planning a home cocktail reception for students and alumni in the New York City area; hopefully this will be the first of many such events.

National Lawyers Convention Strikes Timeless Notes in Timely Fashion

The dynamic political atmosphere of November 2010 provided great energy for the Federalist Society's 28th annual National Lawyers Convention: "The Framers, The Tea Parties and the Constitution." Some hundred lawyers and public policy experts, guests and members of the Society, spoke on panels organized by the Society's 15 Practice Groups. Their exploration of the Convention's theme drew an enthusiastic audience of legal practitioners and theorists whose numbers surpassed all previous Conventions, the 25th excepted, with over 1000 in attendance.

For three fall days, November 18–20, these members of the legal profession met at the Mayflower Hotel in Washington, D.C. Standing-room-only Showcase Panels covered "Ideas for Structural Change: Term Limits, Revising the Right to Civil Jury Trail, Moving Administrative Law Judges to Article III, and Others," "Enumerated Powers, the Tenth Amendment, and Limited Government," "Equality, Liberty and Risk," and "Government Of the People, By the People, and For the People."

The annual dinner featured U.S. Supreme Court Justice Antonin Scalia, who was interviewed by Jan Crawford of CBS News. Scalia delighted his audience by answering Ms. Crawford's queries with candor and wit.

Friday night's annual Barbara K. Olson Memorial Lecture was delivered by Judge Dennis Jacobs, U.S. Court of Appeals for the Second Circuit, who discussed hostility to the military among the bar or, as he put it, "Lawyers at War." The following afternoon saw the Society's Third Annual Rosenkranz Luncheon in a packed ballroom. The luncheon debate was led by Judge Robert Smith of the Court of Appeals of the State of New York, who did his best to moderate Prof. Richard Epstein of New York University Law School and Prof. William Eskridge, Jr. of Yale Law School in their lively discussion of the resolution that "California's Proposition 8 Violates the Fourteenth Amendment."

The Convention's debates and panels were supplemented by four guest speakers' remarks. The opening address on Thursday was given by U.S. Senate Minority Leader Mitch McConnell. Senior political analyst Michael Barone of *The Washington Examiner* spoke later that day of the Tea Party's influence on the recent election. Friday featured addresses by U.S. Senator-elect Michael Lee of Utah (the former President of the Federalist Society



(above) Hon. R. Edward "Ted" Cruz from Morgan, Lewis & Bockius LLP spoke on a showcase panel at the Federalist Society's 2010 National Lawyers Convention on "Enumerated Powers, the Tenth Amendment, and Limited Government." (below) Prof. Gigi Sohn of Public Knowledge discussed the topic "Minimizing Risk and Maximizing Reward: IP as Regulatory Policy or Property Right?" on the Intellectual Property panel at the 2010 Convention.



Student Chapter at Brigham Young University) and Congressman Mike Pence of Indiana.

Student Symposium Brings Debate to the Next Generation

“Neither snow nor rain nor heat nor gloom of night” keep the postal officer from his rounds; but the speakers and students of the Federalist Society were one up on the USPS during the 29th Annual Student Symposium, braving an erratic nor’easter in order to attend it on the weekend of February 26–27, 2010, in Philadelphia, PA.

The topic that roused so many of the students from the comfort of their warm university dorms was “Originalism 2.0.” After Friday night welcomes by Symposium Chair Ryan Ulloa and Penn Dean Michael Fitts, the Symposium kicked off with a roundtable discussion of “Originalism: A Rationalization for Conservatism or a Principled Theory of Interpretation?” Panelist Saikrishna Prakash of the University of Virginia School of Law answered with a resounding “Both!” He was followed by Richard Fallon of Harvard Law School, who took the position that there are many different originalisms, making principled application of originalism difficult (if not impossible) and enabling its use as a rationalization. Keith Whittington of Princeton University proceeded to argue that originalism is the friend of no political movement, while Mary Anne Case of the University of Chicago Law School emphasized the imperfections of originalism from a feminist perspective. The panel was moderated by former U.S. Solicitor General Greg Gage.

The following morning’s panel discussed “Originalism in Criminal Procedure: Ancient Checks or Newfangled Rights?” Penn Law’s own Prof. Christopher Yoo moderated Penn Law colleague Stephanos Bibas and Jeffrey Fisher of Stanford Law School. Prof. Fisher focused on the jury trial right in the context of the Sixth Amendment, saying that an originalist understanding of the Constitution supports a robust enforcement of the few criminal procedure rights it contains. Prof. Bibas agreed on the need to protect criminal rights but insisted that originalism deserves “two cheers, not three” because it is in many cases an inadequate guarantor of those rights.

The second morning panel concerned the limitations of originalism: “Originalism and Construction: Does Originalism Always Provide the Answer?” Seventh Circuit Judge Diane Sykes moderated. Randy Barnett of the Georgetown University Law Center opened by distinguishing



William Kristol (above), editor of the Weekly Standard, addressed the 29th Annual Student Symposium, hosted by the University of Pennsylvania Student Chapter in Philadelphia. A large number of student volunteers visited Washington, D.C. to help run the 2010 National Lawyers Convention, providing invaluable assistance to the staff, speakers, and attendees. Below, two volunteers manage the publications table.





Roger Clegg (left) of the Center for Equal Opportunity and James C. Ho (right) of Gibson, Dunn & Crutcher and former Solicitor General of Texas discussed “Immigration, the Arizona Statute, and E Pluribus Unum” on the Civil Rights panel at the 2010 National Lawyers Convention.

between interpretation and construction, and held that originalism, as a theory of the former, still requires its users to construe the Constitution with regard to particular facts and cases. Caleb Nelson of the University of Virginia School of Law argued that the ambiguity of meaning in the Constitution extended beyond mere words, so that a loyal originalist might use present-day considerations to decide a Constitutional question. Kermit Roosevelt of Penn Law School responded that although originalism might imply determinate meanings for parts of the Constitution, even a determinate meaning could produce different outcomes at different times (e.g., the Equal Protection Clause). Lino Graglia of the University of Texas Law School disagreed with all three of his previous co-panelists, taking the position that the actions of the Court from *Marbury* onward have been no better than exercises of a public policy authority that uses constitutional constructions as window-dressing. The panel concluded with D.C. Circuit Judge A. Raymond Randolph, who defined originalism as the interpretation of the Constitution in light of history, and discussed the consequent oft-ignored requirement to interpret history itself.

The first of the afternoon panels, “Originalism, Precedent and Judicial Restraint,” was moderated by Penn Law alumna and Pennsylvania Eastern District Judge Gene Pratter. Michael Rappaport of the University of San Diego began by remarking on the tension between originalism and precedent, and proposed a frankly utilitarian resolution that would generally privilege originalism but leave certain strongly entrenched precedents undisturbed. David Strauss of the University of Chicago Law School followed with a critique of originalism, based on the difficulty of ascertaining original intent and the irrelevance of the Constitution to the present day. Justice Stephen Markman of the Michigan Supreme Court agreed that respect for precedent is essential for a judge performing his duty, but argued that problems regarding precedent are not unique to originalism, since they arise anytime one espouses a judicial philosophy of fixed standards. He added that the unusually well-fixed standards of originalism are a genuine virtue, because they govern the choice of precedents—which choice might otherwise degenerate into a mere exercise of judges’ personal discretion—in a principled way. The panel concluded with Jeffrey Rosen of the George Washington University Law School, who criticized the current Court for having engaged in “faux-judicial restraint”



Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit participated as a moderator for the Labor panel’s discussion of ‘Regulatory Power Unleashed’ at the 2010 National Lawyers Convention.



Jan Crawford of CBS News interviewed U.S. Supreme Court Associate Justice Antonin Scalia at the Federalist Society's Annual Dinner at the 2010 National Lawyers Convention.

and “judicial obfuscation,” and proposed that the golden rule of judging was to respect the precedents of others as you would have them respect your own.

The Symposium's final panel, moderated by Penn Law Prof. Amy Wax, proposed the question, “Does the Originalism of the Fourteenth Amendment Guarantee Justice for All?” Prof. Steven Calabresi opened by arguing that the 14th Amendment grants equal protection of civil, though not necessarily of political, rights, and that without an Article V consensus (such as women achieved with the 19th Amendment) the Court could not use the 14th as an instrument for social change. John Harrison of the University of Virginia School of Law extended the question, arguing that any attempt either to critique or justify an interpretive theory from its consequences is inherently unpersuasive, because it is in the nature of constitutions to allow for such a degree of discretion as permits negative consequences. Prof. Harrison was followed by Jack Balkin of Yale Law School, who examined the 14th Amendment historically and concluded that its enacting Congress intended its guarantee of equal justice to mean protection of individuals from state neglect of law. The panel was closed

by Akhil Reed Amar, also of Yale Law School. He proposed to broaden the scope of the debate by identifying and discussing seven ways to be serious about originalism: moral, methodological, historical, institutional, legal, holistic, and intergenerational. Prof. Amar closed with the reminder that the Constitution was intended to endure, not in one time, but for all time.

The Symposium adjourned to a reception and banquet at the Philadelphia Marriott. Prof. Todd Henderson of the University of Chicago Law School, introduced by Prerak Shaw of the **University of Chicago** Federalist Society Chapter, received the Paul M. Bator Award for significant public impact through his work, his excellence in legal scholarship, his commitment to teaching, and his abiding concern for students. Federalist Society President Eugene Meyer took the stage to introduce the banquet's keynote speaker, William Kristol of *The Weekly Standard* and *Fox News*, formerly of the University of Pennsylvania and the Kennedy School at Harvard. Mr. Kristol reminisced on the revival of constitutionalism, from the uncertain early days of the Reagan White House to recent populist movements like the Tea Parties, and proposed cautious optimism for the originalist cause.



Prof. Jack Balkin (left) and Prof. Akhil Reed Amar (right) of Yale Law School debated the topic “Does the Originalism of the Fourteenth Amendment Guarantee Justice for All?” at the Annual Student Symposium in February.

Student Leadership Conference Draws Representatives from 195 Schools

The 15th Annual Student Leadership Conference (SLC) took place as usual in Washington, D.C. in sweltering early July. This year nearly every accredited U.S. law school was represented by the 195 chapter officers in attendance. The students, hailing from Maine to Hawaii, were all recently-elected chapter officers, invited to the SLC for three intense days of education, motivation, and exchange of ideas. The talks given cover such topics as Student Chapter best practices, chapter troubleshooting, new member recruitment, and ways to spread the word about the Federalist Society.

U.S. Supreme Court Justice Clarence Thomas welcomed students at an informal social reception at the U.S. Supreme Court. Former Solicitor General of Texas Ted Cruz and Federalist Society Co-Founder David McIntosh addressed the students, giving them a big-picture view of the Constitutional controversies in the legal culture, and stressing the ways students can strive to improve that culture. Return-speakers Jordan Lorence of the Alliance Defense Fund, Kevin Hasson of the Becket Fund for Religious Liberties, and Clark Neily from the Institute for Justice provided long-term career perspective in a panel on “Opportunities for Public Interest Litigation.”

Health Care Debate Draws Standing Room Only Crowd at Annual Faculty Conference

The 13th Annual Faculty Conference, held in San Francisco on January 7, 2011, was attended by more than 80 representative faculty members from over 40 schools. During the past decade the Conference has developed into a unique occasion for fruitful discourse and exchanges of scholarship among the law school faculty attending.

This year the Conference panels focused on a wide range of current legal issues: efforts to introduce class-wide arbitration in class action lawsuits, the viability of alternative methods of litigation finance, and the respective powers of the states and the federal government in immigration matters. More theoretically, panelists also discussed conservative and libertarian alternatives to originalism.

Latecomers to this year’s Luncheon Debate found it a standing-room only affair. Prof. Randy Barnett of Georgetown University Law Center and



(left to right) Prof. Randy Barnett of Georgetown University Law Center and Prof. Orin Kerr of The George Washington University Law School debated the constitutionality of the health care legislation’s individual mandate at the 2011 Federalist Society Faculty Conference in January.

Prof. Orin Kerr of The George Washington University Law School faced off over the “Constitutionality of the Individual Mandate” to purchase health insurance, as set forth in recent federal legislation. Their rather lively exchange was moderated by Prof. Steven Calabresi of Northwestern University School of Law.

This Conference was also the occasion for our second annual Young Legal Scholars Paper Competition. A panel of five young faculty, moderated by Prof. Grant Nelson of Pepperdine Law School, presented their competitively selected papers for comment and critique. Prof. Richard Epstein of New York University Law School offered an assessment of each paper. The Conference also gave other faculty the opportunity to present their working papers and hear their colleagues’ feedback.

Overall, the San Francisco Faculty Conference was a great success. The attendance was among the highest in the Conference’s history, and the program was, in the estimation of many participants, one of the best yet.

2010 National Lawyers Convention



Photo Highlights



The Practice Groups had a transformative year, broadening their audience significantly by presenting programming and scholarship online through a number of different mediums. The New Federal Initiatives Project (NFIP) continues to flourish, monitoring noteworthy Congressional and executive regulatory proposals. The groups have produced a record number of podcasts—recorded debates among leading legal experts and scholars—on iTunes, YouTube, and the Federalist Society's website. The Practice Groups have also begun hosting briefing calls in which, after a short presentation, a legal expert takes questions on the topic at hand from the live audience.

The **Administrative Law & Regulation Practice Group** hosted a podcast on the Consumer Product Safety Commission featuring Commissioners Nancy Nord and Robert Adler, moderated by Hal Stratton. The commissioners provided analysis and commentary on past product safety legislation (most notably the Improvement Act of 2008 and the regulations that followed 9/11) and discussed the pending Enhancement Act of 2010.

The **Civil Rights Practice Group** produced a podcast on the *Northwest Austin Municipal Utility District Number One v. Holder* case and the future of the Voting Rights Act. The podcast featured Greg Coleman of Yetter, Warden & Coleman LLP and Laughlin McDonald of the ACLU Voting Rights Project with Roger Clegg of the Center for Equal Opportunity moderating. The practice group's podcast on the Akaka Bill featured Prof. Jon Van Dyke of the University of Hawaii School of Law and Joseph Matal, Counsel to U.S. Senator Jeff Sessions. Members of the group also wrote on the proposed U.S. Commission on Civil and Human Rights (Prof. Ken Marcus), on the move to eliminate sentencing disparities for certain drug offenses (Christopher Byrnes), on the rescission of the Model Survey for compliance with Title IX (Alison Schmauch), and on the use of racial, ethnic, and gender classifications and preferences in the Dodd-Frank financial regulation bill (Roger Clegg).

The **Criminal Law & Procedure Practice Group** produced papers on cap-and-trade (Joseph Ditkoff), on proposed amendments to the federal sentencing guidelines for organizations (Michael H. Huneke), on the costs of the criminal law explosion (William Maurer, David Malmstrom), and on the constitutional aspects of parallel proceedings (Lizette Herraiz, Brian Field). The group also recorded a podcast about the recently decided

“honest services cases” featuring former White House Special Counsel William Otis, Louisiana State University Law Center Prof. John S. Baker, Jr., and John D. Cline.

The **Corporations, Securities, & Antitrust Practice Group** held an executive compensation briefing call featuring Prof. J.W. Verret of the George Mason University School of Law. Partnering with the **Georgetown University Law Center** Student Chapter, the group co-sponsored a program on the administrative litigation process of the Federal Trade Commission (FTC) featuring Commissioner and George Washington University Law School Prof. William Kovacic, former FTC Counsel John Delacourt, Todd Anderson of Constantine Cannon, and Bilal Sayyed of O'Melveny & Myers. The panel was moderated by Robin Moore of Dewey & LeBoeuf. The group sponsored programs on competition and internet advertising in New York, Silicon Valley, and Washington, D.C. The D.C. program featured Precursor President Scott Cleland, Susan Creighton of Wilson Sonsini Goodrich & Rosati, Prof. Geoffrey Manne of the International Center for Law & Economics, and Rick Rule of Cadwalader, Wickersham & Taft. The group produced a paper, “Constitutional Implications of Expanding FTC's Rulemaking and Enforcement Authority,” by George Mason University School of Law Prof. Joshua Wright. With the **Financial Services Practice Group** they also recorded a bankruptcy and forum shopping podcast related to *Marshall v. Marshall*. (The *Marshall* case involves starlet Anna Nicole Smith's efforts to recover from the estate of her deceased husband, J. Howard Marshall, and has become one of the most complex and potentially momentous bankruptcy disputes in history.) Moderated by Fifth Circuit Court of Appeals Judge Edith Jones, the podcast featured Prof. Troy McKenzie of the New York University School of Law, Prof. David Skeel of the University of Pennsylvania Law School, and Prof. Todd Zywicki of the George Mason University School of Law.

The **Environmental Law & Property Rights Practice Group** recorded a podcast on federal court standards for ripeness and takings claims, which featured J. David Breemer of the Pacific Legal Foundation, Daniel Siegel of the California Attorney General's Office, and Chapman University School of Law Prof. Donald Kochan, who moderated. Another podcast covered *National Cotton Council v. EPA* and National Pollutant Discharge Elimination System permits. A podcast on vehicle fuel emissions standards featured Tom Tanton of the Pacific Research Institute and James Tripp of



Hon. Peter J. Wallison of the American Enterprise Institute discussed the topic “The Constitutionality of the Dodd-Frank Financial Services Reform Act” on the Financial Services panel at the 2010 National Lawyers Convention and participated in a briefing call on the financial services industry in July.

the Environmental Defense Fund, with Prof. Steve Eagle of George Mason University School of Law moderating. The group also recorded a podcast on “Individual Property Takings” featuring Columbia University School of Law Prof. Thomas Merrill and Kent Safriet of Hopping Green & Sams. Papers produced by the group cover the EPA Endangerment Rule (Jeffrey Clark), cap-and-trade (Timothy Harris, Benjamin Ingram), the coal mining permits process (Lee Rudofsky), and the new climate change bill (Alec Rogers, Jeffrey Wood).

The **Financial Services Practice Group** hosted a briefing call on the state of the financial services industry; the briefing call featured John Douglas and Randall Guynn of Davis Polk & Wardwell LLP. Their discussion continued in a financial services reform briefing call featuring John Douglas, Bert Ely of Ely & Company, Inc. and Peter Wallison of the American Enterprise Institute. The group also produced papers on the Dodd-Frank Act (John Shu), on the administration’s proposals to limit financial institutions (John Douglas), on the SEC’s restriction of short sales (Julius Loeser), and three papers on mortgage bailouts and credit card regulation (Prof. Todd Zywicki and Jeffrey Frank).

The **Federalism & Separation of Powers Practice Group** commissioned a March 10 NFIP paper during the controversy surrounding health care

reform legislation. Martin Gold of Covington & Burling wrote the piece, discussing the history of reconciliation and its use in passing health care reform. In May, on the heels of U.S. Supreme Court Justice Stevens’s retirement announcement, the group hosted a panel on the impending nomination and confirmation. The panel featured SCOTUSblog founder Thomas Goldstein of Akin Gump Strauss Hauer & Feld LLP, former Deputy White House Counsel Prof. William Kelley of the University of Notre Dame Law School, University of Minnesota Law School Prof. David Stras, and former Associate White House Counsel Sarah Wilson of Covington & Burling LLP.

The **Federalism & Separation of Powers Practice Group** recorded a podcast on the “Role of the State Attorneys General.” How should state attorneys general exercise their power, and what are the limits of their federal enforcement authority? Should state AGs be involved in matters with extra-territorial effect? Should settlements that impose future management requirements be limited? The podcast included Chapman University School of Law Prof. John Eastman, former Nebraska Attorney General Donald Stenberg of Erickson & Sederstrom, former Maine Attorney General James Tierney of Columbia Law School, and moderator Ted Cruz of Morgan, Lewis and Bockius LLP.

The Kagan nomination renewed discussion about judicial activism and prompted the group to produce a podcast on the subject. What precisely is judicial activism? Is the term useful in discussing the Court’s decisions? Is the term properly or unfairly invoked by the Court’s critics? The podcasters were Georgetown University Law Center Prof. Randy Barnett; Dean Erwin Chemerinsky of the University of California, Irvine School of Law; Prof. Pamela Karlan from Stanford Law School; and Ethics and Public Policy Center President Edward Whelan III.

In October the group hosted a discussion on “Government’s Duty to Defend the Law in Court.” The panel, which included Prof. John Baker, Prof. John Eastman, and former Acting U.S. Solicitor General Walter Dellinger of O’Melveny & Myers LLP, discussed how this duty applies generally and in relation to California’s Proposition 8 case, the Defense of Marriage Act litigation, and “Don’t Ask, Don’t Tell.”

The **Free Speech & Election Law Practice Group** published an NFIP paper on the Fair Elections Now Act (FENA), a proposed federal law concerning public financing of campaigns. The paper, written by the Institute for Justice’s William Maurer and Kirkland & Ellis’s Dominic

Draye, discussed the practical, constitutional, and policy issues FENA raises. William Maurer held a follow-up briefing call that discussed related developments like the *Citizens United* decision. The group also generated an NFIP paper on felon voting; the paper (authored by the Center for Equal Opportunity's Roger Clegg) and the subsequent country-wide briefing call came on the heels of Congressional hearings on the subject.

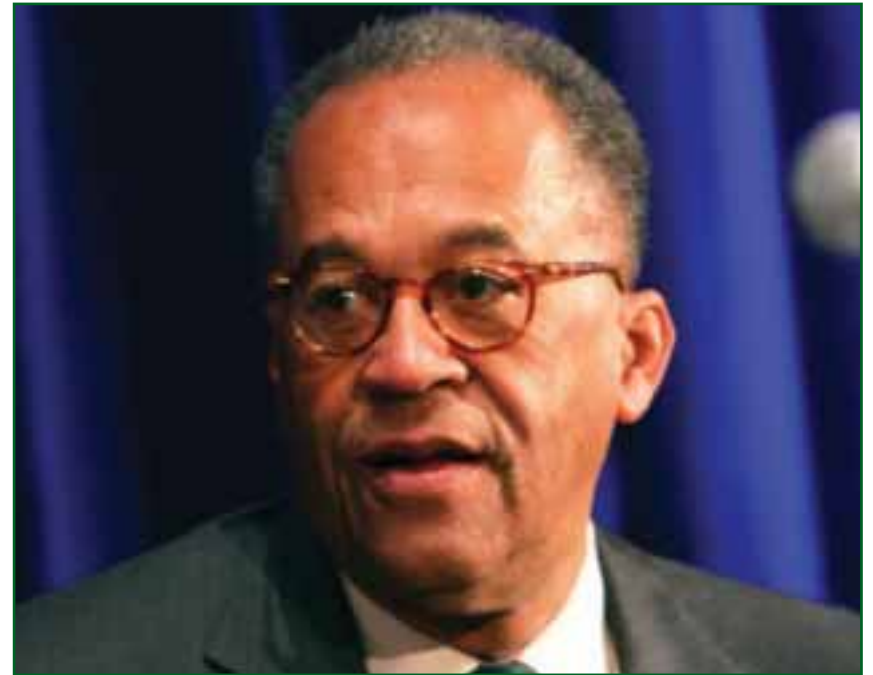
In May Executive Committee Group Chairman Allison Hayward wrote on the DISCLOSE Act, explaining how this Congressional legislation was designed to counter the Supreme Court's decision in *Citizens United*. The group hosted a series of election law podcasts, the first of which (also on *Citizens United*) aired on April 28, 2010. The podcast participants were Loyola Law School Prof. Richard Hasen and Institute for Justice Senior Attorney Steve Simpson, with UCLA School of Law Prof. Eugene Volokh moderating. The group recorded a podcast on "*Doe v. Reed* and the Role of Anonymity in a Democracy." Do people who sign ballot measure petitions have rights preventing disclosure of their personal information? What level of scrutiny should the Court use in examining the question? The podcast, moderated by Prof. Hayward, featured Robert Frommer of the Institute for Justice and the American Enterprise Institute's John Fortier. The group also hosted a podcast on redistricting with Mark Braden of Baker and Hostetler, Anne Lewis of Strickland Brockington Lewis, and Prof. Nathaniel Persily of Columbia University School of Law. The panel was moderated by former Federal Election Commissioner Hans von Spakovsky, now of The Heritage Foundation.

On April 26th the **Intellectual Property Practice Group** co-sponsored (with the Institute for Policy Innovation) a continuing legal education conference on intellectual property. The day-long D.C. conference included a discussion on "Creative Development" featuring Kampsite Music CEO Victor Tiekue; Stephen Siwek of Economists, Inc.; and Southern Illinois University School of Law Prof. Mark Schultz. The conference also featured a debate on biotech patents with George Mason University School of Law Prof. Adam Mossoff and DePaul University College of Law Prof. Joshua Sarnoff.

The group recorded a podcast on "Patents in the Supreme Court: *Bilski v. Kappos*." Prof. John Duffy of George Washington University Law School and Prof. David Olson of Boston College Law School discussed the decision's implications, moderated by Prof. Mossoff. The group also considered health care reform legislation's intellectual property implications in an NFIP paper and briefing call in which David Applegate

of Williams Montgomery & John Ltd. and Arthur Gollwitzer of Floyd & Buss collaborated.

The **International & National Security Law Practice Group** published an NFIP paper by Executive Committee Member Adam Pearlman on "Federal Cybersecurity Programs." The group also co-sponsored a War on Terror panel with the Center for Law & Counterterrorism (CLC) in Washington, D.C. Panelists included Steven Engel of Dechert LLP; Principal Deputy U. S. Solicitor General Neal Katyal; CLC Co-Chairman David B. Rivkin, Jr. of Baker & Hostetler; and American University Washington College of Law Prof. Stephen Vladeck. George Mason University School of Law Prof. Neomi Rao moderated. In April the group joined with the Capitol Hill Chapter for another War on Terror panel featuring ACLU Senior Legislative Counsel Christopher Anders, Gregory Katsas of Jones Day, and Brookings Fellows Benjamin Wittes and Stuart Taylor, Jr. (columnist for the *National Journal*). Steven Engel of Dechert LLP moderated the panel, which examined the respective roles of the three branches of government in the War on Terror.



Judge Barrington D. Parker, Jr. of the U.S. Court of Appeals for the 2d Circuit moderated the third Showcase Panel of the 2010 National Lawyers Convention, on "Equality, Liberty, and Risk."

In July the group presented a post-Kampala conference panel on the International Criminal Court, particularly focusing on its relationship with the U.S. The panel included former Assistant U.S. Secretary of State for International Organizations Brian H. Hook, Human Rights Watch International Justice Division Director Richard Dicker, George Mason University School of Law Prof. Jeremy Rabkin, and Case Western Reserve University School of Law Prof. Michael Scharf, and was moderated by former U.S. Department of State Legal Adviser Edwin Williamson.

The **Labor & Employment Law Practice Group** presented two interesting Convention panels in November 2009–10. The first panel, which examined whether the Obama Administration aimed to fundamentally alter the relationship among the government, private corporations, and workers, featured Prof. Todd Zywicki, Harold Meyerson of *The American Prospect*, Amity Shlaes of the Council on Foreign Relations, Damon Silvers of the American Federation of Labor and Congress of Industrial Organizations, and moderator Steven Law of the U.S. Chamber of Commerce. The 2010 panel focused on the ever-expanding reach of the regulatory state, and included Executive Director Kim Bobo of Interfaith Worker Justice, U.S. Equal Employment Opportunity Commissioner Victoria A. Lipnic, and Dr. Roger Pilon of the Cato Institute. The panel was moderated by Judge Edith Jones.

The **Litigation Practice Group** has been active in a debate on the federal rules which govern civil court procedures. What relation do the rules bear to the Constitution? What obligations do civil lawyers have to preserve documents and other potential evidence? Which party (or which attorney) should bear the costs of discovery? The group commissioned a panel presentation addressing these questions and discussing recent efforts to revise the federal rules. The panelists were Profs. Ronald Allen and Martin H. Redish of the Northwestern University School of Law, Yale Law School Prof. Donald Elliott, and Marquette University Law School Prof. Richard M. Esenberg, moderated by D.C. Circuit Court of Appeals Judge Merrick Garland.

The **Professional Responsibility & Legal Education Practice Group** recorded two topical podcasts. The first was by Chapman University School of Law Associate Dean for Administration and Prof. Richard Redding, who discussed the book he recently edited, *The Politically Correct University*. The second podcast featured George Washington University Law School Prof. Thomas Morgan (author of *The Vanishing American Lawyer*),

Anthony Davis of the Columbia University School of Law, and moderator Prof. William Hodes, formerly of the Indiana University School of Law in Indianapolis. The podcast concerned the influence of new technologies like automatic transactions and the demand for affordable routine services in revolutionizing the legal profession.

In March the **Religious Liberties Practice Group** recorded a podcast on *Salazar v. Buono*, the Supreme Court case concerning the existence of a cross on former federal park land. Podcast participants included Peter Eliasber of the Southern California ACLU, who argued the case in the Supreme Court, and former Texas Solicitor General Edward (Ted) Cruz of Morgan, Lewis & Bockius LLP. Susanna Dokupil of the group's Executive Committee moderated. The group also joined with the Becket Fund for Religious Liberty and the Cato Institute for a panel on *Christian Legal Society v. Martínez*. Panelists included Becket National Litigation Director Luke Goodrich, Americans United for Separation of Church and State Executive Director Barry Lynn, Dr. Roger Pilon of the Cato Institute, and Paul M. Smith of Jenner & Block LLP. Group Chairman William Saunders moderated.

The group continued to be most active in the NFIP, producing papers on presidential appointees, embryonic stem cell research, and restrictions on religious expression. The group also began a series of local debates on state restrictions of crisis pregnancy centers. In December, the Baltimore Lawyers Chapter co-sponsored a debate between Catholic University of America Prof. Mark L. Rienzi and University of Maryland School of Law Prof. Mark Graber.

In March the **Telecommunications & Electronic Media Practice Group** held a panel discussion on the authority of the Federal Communications Commission (FCC) to regulate the internet. The panel included former U.S. Solicitor General Gregory Garre, now of Latham & Watkins LLP; Public Knowledge President and Co-Founder Gigi Sohn; and Helgi Walker of Wiley Rein LLP. The moderator was Bryan Tramont of Wilkinson Barker Knauer, LLP. In December the group followed up with a discussion of the FCC's new net neutrality rules and the recent internet regulatory developments. The event began with an address by FCC Commissioner Meredith Attwell Baker; the following panel included Loyola University New Orleans College of Law Prof. John Blevins, Skype Senior Director of Government and Regulatory Affairs Christopher Libertelli, University of Pennsylvania Law School Prof. Christopher Yoo, and moderator Scott J. Wallsten of the Technology Policy Institute.

Another Record Year for the State Courts Project

In 2010 the Federalist Society's State Courts Project took advantage of current events to enhance public debate on judicial philosophy, methods of selection, and the rule of law. The project has exposed numerous media outlets, non-profits, public officials, opinion leaders, lawyers, and members of the public to courts issues bearing on limited, constitutional government. In many cases Federalist Society members measurably influenced the creation or impact of statewide debate on these issues. Total media impressions (the number of people who are exposed to the articles, interviews, White Papers, etc. produced by or as a result of the State Courts Project) increased to 51.7 million in 2010, a four percent increase from 2008 (the last year with several state supreme court elections; the increase from 2009 was even more dramatic).

Publications

The State Courts Project engages distinguished scholars or practitioners to publish White Papers on recent rulings and the methods of judicial



(left to right) State Courts Scholars Jonathan Watson (Indiana), Robert Numbers (North Carolina), Charles Miller (Iowa), Jonathan Bunch (Vice President, The Federalist Society), and Pepper Crutcher (Mississippi) meet at the 2010 National Lawyers Convention in Washington, D.C.

selection. The project also publishes two newsletters, *State Court Docket Watch* and *State AG Tracker*, which report on jurisprudential trends and actions of state attorneys general with extraterritorial impact. In 2010, the Federalist Society published:

- Michael Reitz, Michael Bindas, and David DeWolf, *The Washington Supreme Court and the State Constitution: A 2010 Assessment* (July)
- Earl Maltz, *Temporary Assignments to Fill Vacancies on the New Jersey Supreme Court* (September)
- Jack Park, Jr., *Alabama Supreme Court: Role of Court in Key Corporate Cases* (October)
- Jeremy Rosen and Tom Gede, *California 2010: The Courts and the Economy* (October)
- Jim Dunlop and Tara Fumerton, *Illinois Supreme Court: An Analysis of Recent Trends* (October)
- C. Thomas Ludden, *Recent History of the Michigan Supreme Court* (October)
- Scott W. Gaylord, *The North Carolina Supreme Court in 2010: Is It Time for Reform?* (October)
- Aaron Streett and Evan Young, *The Twenty-First Century Texas Supreme Court: Pro-Law, Pro-Prosperty* (October)
- Jacob Huebert, *Judicial Elections and Their Opponents in Ohio* (November)
- Four *State Court Docket Watch* publications and two *State AG Tracker* articles

New Jersey

In 2010 the State Courts Project continued to inform the public debate that it helped spark in 2009 over the role of New Jersey judges. In May Governor Chris Christie exercised his constitutional option to deny reappointment to Justice John Wallace. Christie, who had pledged

during the campaign to re-make New Jersey's Supreme Court, believed that Justice Wallace had contributed to an "out of control" judiciary and hoped to appoint "someone who will interpret laws and the Constitution, not legislate from the bench." Though other New Jersey justices had retired rather than face similar fates, this was the first time in state history that a justice was not reappointed.

Christie nominated Anne Patterson to replace Wallace, but the New Jersey Senate President refused to hold confirmation hearings for her; and New Jersey Supreme Court Chief Justice Rabner temporarily appointed Judge Edwin Stern to fill the vacancy. Prof. Earl Maltz of Rutgers School of Law authored a White Paper analyzing the text and history of the New Jersey Constitution with regard to the chief justice's authority to make this appointment; and the State Courts Project released a public opinion survey on the nomination and the Senate's refusal to hold hearings as a means of sparking a full and thought-provoking debate in the press. The State Courts Project organized a media teleconference on the issues, in which Prof. Maltz and Seton Hall University School of Law Prof. Edward Hartnett asserted that Chief Justice Rabner's temporary appointment was unconstitutional, while Rutgers School of Law Prof. Robert Williams defended the action. The teleconference was covered by several media outlets, including leading state blogs and newspapers.

Most recently, Associate Justice Rivera-Soto officially opposed the temporary appointment, citing the Society's paper and stating that he will abstain from decisions in which Judge Stern might impact the outcome.

Michigan

In 2010, two seats on the Michigan Supreme Court were contested. Because the 2008 election cycle had seen a shift in the philosophical balance of the Court, this was an especially promising opportunity for Federalist Society members to contribute to the judicial philosophy debate.

The Society first published a White Paper by Thomas Ludden on the "Recent History of the Michigan Supreme Court," with emphasis on areas of the law that could affect Michigan's economy. In conjunction with the paper, the State Courts Project released a survey scrutinizing public opinion on judicial activism and restraint to spark media interest in the



Hon. Patience Drake Roggensack (above) of the Wisconsin Supreme Court and Hon. Clifford W. Taylor (below) of Ave Maria School of Law and former Chief Justice of the Michigan Supreme Court traveled to Washington, D.C. in November to speak on the Professional Responsibility panel at the 2010 National Lawyers Convention on the topic "The Bloody Crossroads: Republican Party of Minnesota v. White Runs into Caperton v. Massey."



issues. According to the survey nearly three-fourths (74 percent) agreed, and 54 percent strongly agreed, that “judges should interpret and apply the law as it is written and not take into account their own viewpoints and experiences.”

Iowa

In early 2009 the Iowa Supreme Court issued a unanimous opinion invalidating the State’s ban on same-sex marriage, a decision that brought a great deal of attention to the Court and the three justices who would stand for retention in 2010. Voters ousted all three judges, making it the first time in state history that any judge had been denied retention and creating an unprecedented level of controversy over the State’s use of the Missouri Plan for judicial selection.

The State Courts Project took the occasion to foster further dialogue about the Missouri Plan. The Des Moines Lawyers Chapter hosted a debate on the “Appropriate Role of Retention Elections” featuring former Iowa Supreme Court Justice Robert Allbee, William Brown, Prof. Rachel Caufield, and Prof. Brian Fitzpatrick. Thanks to this debate, and the Society’s promotion of studies such as Prof. Fitzpatrick’s “The Politics of Merit Selection,” the press has increasingly taken note of disputes over the balance of the Iowa Courts’ nominating commission. That imbalance and the attention drawn to it led Terry Branstad, then Republican gubernatorial candidate, to call for changes to the system that would allow for the choice of judges “who have a commitment to protect the constitution.” In the aftermath of the election Governor-elect Branstad reiterated his pledge to foster a more restrained judiciary.

North Carolina

In 2010 a North Carolina Supreme Court election and five appellate court elections provided an excellent opportunity for the State Courts Project to promote interest in the Society and public debate over the role of judges. In September the project hosted two forums featuring Barbara Jackson (who went on to win the Supreme Court race) and several of the appeals court candidates. The Society’s efforts resulted in considerable earned media attention and were widely regarded as a significant contribution to the state’s judicial discussion. In addition, the project commissioned Prof. Scott Gaylord of Elon University School of Law to author a White Paper on the court. Prof. Gaylord highlighted the low number of cases the court

has decided in recent years and the resultant lack of legal guidance for the state. Since releasing the White Paper, Prof. Gaylord has given numerous interviews on the problem, establishing himself and the Society as key sources for reliable information on this subject. We are confident that the paper, which also addresses the judicial selection debate, will be an important source as that debate becomes more intense in North Carolina.

Ohio

Three of Ohio’s seven Supreme Court justices stood for re-election this year. On the heels of the election the State Court Project released a paper by Prof. Jacob Huebert which outlined the history of judicial selection in Ohio and provided Prof. Huebert and other experts with an opportunity to discuss the pros and cons of various methods of selection.

The State Courts Project also hosted discussions on judicial selection at two of Ohio’s law schools. Profs. Huebert, Ric Simmons, and Daniel Tokaji participated in a panel on “Judicial Elections: History and Controversy” at The Ohio State University Michael E. Moritz College of Law; and the Federalist Society at Akron School of Law sponsored a debate on “Judicial Selection: Should Judges be Appointed or Elected?” featuring the Heritage Foundation’s Jack Park and Akron School of Law Dean Martin Belsky.



N.C. Court of Appeals Judge Ann Marie Calabria (left) and Wake County District Judge Jane Gray (right) speak at the Federalist Society’s North Carolina Appellate Judicial Candidate Forum on Sept. 21. Photo courtesy of The John Locke Foundation.

Society Promotes Western Legal Principles Abroad

From international conferences in the Austrian capitol of Vienna, to a new forum for monitoring pan-European legal and political institutions, the year 2010 saw the Federalist Society's International Law Project greatly extend its outreach to members of the European legal, public policy, and media communities. As in previous years, this effort is premised on the idea that the United States cannot stand alone in embracing the western legal tradition if those principles are to survive in the long run here at home.

Through the generosity of the Lynde and Harry Bradley Foundation, the Federalist Society hosted a March 2010 Law and Sovereignty Conference at Schloss Neuwaldegg, the home of the Educational Initiative for Central and Eastern Europe, where we now maintain an office for international operations. Organized for Central and Eastern European law students and young lawyers as a means of facilitating the creation of home-grown institutions like the Federalist Society in their own countries, the conference featured classes by Judge Douglas H. Ginsburg of the U.S. Court of Appeals for the D.C. Circuit; Prof. John Baker of the Louisiana State University Law Center; Leonard Leo, Executive Vice President of the Federalist Society; and Jim Kelly, the Federalist Society's Director of International Affairs. The conference agenda included lectures and discussion sessions on originalism, the separation of powers, limited government, the problems associated with an active judiciary, and the risks presented by the UN treaty body system and its human security agenda.

The Federalist Society followed up on that highly successful Law and Sovereignty Conference with the August Law and Security Conference, held again at Schloss Neuwaldegg. Profs. Jeremy Rabkin and Nathan Sales of George Mason University School of Law cooperated in an illuminating discussion of the legal functions of international entities like the United Nations. In particular, the conference addressed the roles and responsibilities of such bodies in the war on terror, the proper balance between security precautions and civil and religious liberties, and regional defense measures taken by the United States and the nations of Europe.

Throughout the year the International Law Project worked to build partnerships with the leaders of nascent legal and public policy organizations friendly to free markets and rule of law principles. We assisted several young legal professionals in starting organizations in their own communities modeled on the Federalist Society's domestic



(left to right) U.S. Supreme Court Associate Justice Samuel Alito, François Briard, President of the Federalist Society's Paris Chapter, and Judge Jean-Claude Bonichot of the European Court of Justice address the Paris Chapter in December on judicial review and separation of powers.

Student and Lawyers Chapters. These emerging groups of law students and legal and public policy organizations form the “European Sovereignty Network” (ESN), dedicated to promoting transparency and accountability in Europe's various political, economic, legal, and security institutions. ESN monitors the work of the European Court of Human Rights, the European Parliament, and other institutions and reports on threats to national sovereignty, individual freedom, and the rule of law.

Current members of the ESN include the *Ius et Lex* Association at the University of Warsaw (Poland), the Jagiellonian Club (Krakow, Poland), the Law & Leadership Association (Bucharest, Romania), the Central European Business and Social Initiative (CEBSI; Bratislava, Slovak Republic), the Common Sense Society (Budapest, Hungary), Akademsko društvo Pravnika (i.e. “Academic Lawyer Society;” Ljubljana, Slovenia), and *Iustitia* (Zagreb, Croatia). The members of the ESN connect through the Federalist Society's Global Governance Watch® website and an active Facebook group called “The Federalist Society—Central and Eastern Europe,” which serves as an online forum for posting relevant papers, comments, and articles on legal, economic, and public policy issues and

helps members build connections with like-minded individuals and organizations in the region.

In the fall of 2010 the Society initiated a new plan to help expand these associations. Society representatives met with interested law students, professors, and politicians to assist in the formation of new student groups, and discussed potential partnership opportunities with the leaders of free market and like-minded public policy organizations. Thanks to this effort, we are anticipating ESN participation from groups in Sofia, Bulgaria; Skopje, Macedonia; Belgrade, Serbia; Tallinn, Estonia; Riga, Latvia; and Vilnius, Lithuania. Increasingly these groups are becoming a powerful forum for discussing the global governance efforts which daily gain traction in Europe.

In Western Europe the Federalist Society's local Lawyers Chapters continue to be an important component of our International Law Project, promoting transatlantic awareness and discussion of national sovereignty, limited government, and the rule of law. In March the London Chapter hosted a panel discussion on "National Sovereignty and European Justice: Lessons on Federalism from the Jurisprudence of the U.S. Supreme Court," featuring The Rt. Hon. Lady Justice Arden, DBE, member of the Court of Appeals of England and Wales, and Judge Ginsburg of the D.C. Circuit. The discussion centered on the importance of striking a balance between the role of the European Court of Human Rights and the sovereignty of the national courts of Europe. The attempts of the U.S. Supreme Court and federal judiciary to achieve this balance vis-à-vis the states were given special attention.

In December the Paris Chapter hosted U.S. Supreme Court Associate Justice Samuel Alito and Judge Jean-Claude Bonichot of the European Court of Justice in a public discussion on judicial review and separation of powers. During his Paris visit, Chapter President Francois Briard graciously organized meetings for Justice Alito with France's legal elites, including French Minister of Justice Michel Mercier, *Conseil Constitutionnel* President Jean-Louis Debré and most of his fellow justices, *Conseil d'État* Justices Jean-Marc Sauvé and Olivier Dutheillet De Lamothe, and Supreme Court Bar President Didier Le Prado. The Federalist Society looks forward to working with the leaders and members of our Paris Chapter in the years ahead and deepening the ties between our two nations. We also anticipate



2010 Law and Sovereignty Conference participants, representing ten Central and Eastern European countries, gather in front of conference site Schloss Neuwaldegg.

aiding several young lawyers in their efforts to help build our Brussels Chapter.

Finally, partnering with the American Enterprise Institute, the Federalist Society uses the Global Governance Watch® website, and its "Spotlight on Sovereignty," "UNTreaty Watch," and "NGOWatch" sections to counteract the increasing trend towards global governance of security, business and finance, environment, health, and human rights. At the request of several of our network partners, we added an ESN section to the website in 2010.

In Europe as in the United States, the past year has seen the Federalist Society fully engaged in the long-term effort to safeguard the legal underpinnings of limited, constitutional government. The Federalist Society's domestic work and on-the-ground outreach support sympathetic leaders in Europe (as well as the leaders at home) in discussing ideas pertaining to the free market and the rule of law.

Publications and Website Keep the News Coming

The Federalist Society continues to educate and inform Americans through its publications, which provide a forum for expert commentary on the law and its societal implications. This commentary takes the form of a scholarly journal, three regular newsletters dealing with diverse legal issues, a member magazine, and a number of White Papers on a variety of topics. All the Society's publications (except for its member magazine, *The Federalist Paper*) are available exclusively online on the Federalist Society site: www.fed-soc.org/publications/.

Engage

Engage, the scholarly journal and review 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 of the journal framed around a single theme. The issues of 2010 discussed (among other topics) proposed reforms to the Civil Rights Commission, the *McDonald v. Chicago* gun rights case, the individual health insurance mandate, the Dodd-Frank financial reform legislation, and the *Citizens United* decision. The National Lawyers Convention issue, which formerly presented the edited transcripts of the conference, now appears nationally in a number of law reviews. That change and other efforts begun in 2007 have placed nearly 100 transcripts of Federalist Society events in over 30 distinct law journals.



State Court Docket Watch

This newsletter, appearing four times a year and composed primarily by members of the Society's nationwide Lawyers Chapters, reports on trends, decisions, and cases that are noteworthy or controversial both within and without their respective jurisdictions. This year's subjects included medical malpractice reform, judicial recusal standards, physician-assisted suicide, and eminent domain. The Federalist Society also produced a special issue focused solely on California 17200, a law that authorizes private citizens or businesses to bring unfair competition suits as "private attorneys general."



ABA Watch

ABA Watch is a semiannual newsletter published in tandem with the American Bar Association's meetings to provide readers with an in-depth independent look at the organization. The February issue featured an interview with ABA President-Elect Stephen Zack and resolutions to be considered at the ABA's mid-year meeting, including



proposals on the Violence Against Women Act, Paycheck Fairness Act, and Nuclear Test Ban Treaty. The August edition included the ABA's amicus brief opposing the Arizona immigration law, the ABA's rating of now-Justice Elena Kagan, resolutions that the ABA House of Delegates considered on gun control and same-sex marriage, and a profile of the members of the ABA Standing Committee on the Federal Judiciary.

Class Action Watch

The purpose of *Class Action Watch* is to inform Society members and the general public about recent class action litigation. This year, the newsletter considered court rulings on non-economic damage caps and drug pricing, as well as a proposed rule requiring class action defendants to pay certain costs upon filing.



The Federalist Paper

The Federalist Paper is the in-house newsletter of the Federalist Society, printed winter, summer, and fall. The newsletter, which highlights some of the activities and events of the Society's Chapters, Practice Groups, and individual members, aims to give readers a sense of these groups' activities. The National Lawyers Conventions and Student Symposia are covered each year, and the State Courts and International Law Divisions provide updates on their work as well.



White Papers

For almost a decade, the Federalist Society has published White Papers that seek to generate debate over issues or areas of interest. In 2010 the State Courts Project substantially increased its output of White Papers on the state judiciaries, including Ohio, Texas, North Carolina, Michigan, Illinois, and California. These reports covered debates over the courts' effect on regional businesses and the methods of judicial selection. (For a more in-depth account of some of the White Papers in question, see pages 24-26.) Other White Papers explored federal issues:

the increasing number of criminal laws, vicarious criminal liability, and the FCC's decision to regulate the Internet.

As has been the Federalist Society's practice, we take no position in these publications on particular issues: the opinions expressed in the organization's publications are those of the authors and not of the Society itself. With these papers as with 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 the trends and developments in the law.



Leveraging Technology

Each year the Federalist Society continues to make substantially better use of its website, www.fed-soc.org, increasing the available content and the links to notable third-party websites. Recently added content includes the following:

- *FedSoc Blog*. The aim of the blog is to inform members of the organization and the general public of the current state of the legal order and to generate discussion about current legal and policy issues using debates, addresses, and commentary from all sides of the political and legal spectrums. With the FedSoc Blog, the Federalist Society also seeks to bring together in one place the most recent multimedia and articles on these important issues and to inform the public about its upcoming events.
- *SCOTUScasts*. These digital recordings provide expert commentary on U.S. Supreme Court cases as they are argued and issued. The recordings can be downloaded from our website and listened to on computers and MP3 players.
- *Practice Group Podcasts*. These podcasts feature debates on a myriad of subjects, including the New Federal Initiatives Project (NFIP). They run from 30-90 minutes and are automatically downloaded to the computers and MP3 players of subscribers.
- *Recordings*. Audio and video of past Federalist Society events is made available promptly on the website. Recently posted items include recordings from the 13th Annual Faculty Conference's debate on "The Constitutionality of the Individual Mandate" between Prof. Randy Barnett and Prof. Orin Kerr. We have also posted the audio and video from the 2010 National Lawyers Convention.

- *Scholar Database*. Anytime we post an article or recording that a scholar has participated in, a link to that post can be found on the scholar's own Federalist Society web page. This has made it easier for visitors to find articles written by a particular scholar.

In addition to the Federalist Society website, we now have a significant online presence on other third-party websites that utilize Web 2.0 technologies.

- *YouTube* (www.youtube.com/thefederalistsociety). We launched our YouTube page in late 2009, and already have over 470 videos posted online. These videos include events organized by the Practice Groups, the Faculty Division, and Lawyers and Student Chapters from around the country.
- *iTunes* (<http://itunes.apple.com/us/podcast/federalist-society-event-audio/id207414471>). Since 2009 the Federalist Society has published a total of 137 podcasts through iTunes, providing yet another forum for members of the public to hear and engage in the debates the Society fosters.
- *Facebook* (<http://www.facebook.com/Federalist.Society>). Our Facebook fan page now has over 100,000 subscribed fans, up from 3,000 fans this time last year. Fans can visit our Facebook page to discuss recent videos or other Federalist Society news.
- *Twitter* (<http://twitter.com/FedSoc>). Through Twitter the Federalist Society provides timely updates on court decisions, congressional votes, and more. The Society has gained over 4,000 followers since it began tweeting in 2009.

Continued Contributions Keep Federalist Society Growing

Despite the harder economic times, the loyal supporters of the Federalist Society enabled the Society's revenues to keep pace with its programmatic growth this year. Reaching more students, faculty, and members of the legal community than ever before, the Society maintained its momentum in 2010. This was possible through the unwavering support of many of our long-time donors who recently joined or increased their gifts in the James Madison Club, contributing \$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.

2010 James Madison Club Roster

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Hon. Gale Norton (left), Board of Visitors member and former Secretary of the Interior, and Hon. Elaine Chao (right), former Secretary of Labor, talk before the Annual Dinner at the 2010 National Lawyers Convention in November.

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Dr. Roger Pilon of the Cato Institute participated on a panel at the National Press Club in Washington, D.C. on the U.S. Supreme Court case Christian Legal Society v. Martinez and on the Labor panel at the 2010 National Lawyers Convention in November.

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REPORT OF INDEPENDENT AUDITORS

Board of Directors
The Federalist Society for Law and Public
Policy Studies
1015 10th St., N.W., Ste. 425
Washington, DC 20036-5221

We have audited the accompanying statements of financial position of The Federalist Society for Law and Public Policy Studies as of September 30, 2010 and 2009 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, 2010 and 2009 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 handwritten signature in black ink that reads "Bond Beebe".

A Professional Corporation
Bethesda, MD
February 8, 2011

A Professional Corporation with Offices in Bethesda, MD and Alexandria, VA

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES
 STATEMENTS OF FINANCIAL POSITION
 SEPTEMBER 30, 2010 AND 2009

ASSETS	2010	2009
CURRENT ASSETS		
Cash and cash equivalents	\$ 5,512,646	\$ 3,893,518
Investments	2,568,860	2,612,299
Grants receivable	880,244	1,726,230
Contributions receivable	169,720	225,897
Other receivables	11,450	12,677
Inventory	69,783	112,363
Other current assets	96,001	142,115
	9,308,704	8,725,099
GRANT AND CONTRIBUTIONS RECEIVABLE - LONG-TERM		
Grants receivable	77,760	604,733
Contributions receivable	254,575	334,538
	332,335	939,272
FIXED ASSETS		
Computer equipment	181,089	144,778
Office furniture and equipment	95,690	94,905
Leasehold improvements	15,388	15,388
	292,167	255,071
Accumulated depreciation and amortization	(164,243)	(164,078)
	127,924	90,993
OTHER ASSETS		
	10,000	10,000
TOTAL ASSETS	\$ 9,778,963	\$ 8,764,864
LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 531,566	\$ 266,552
Deferred revenue	190,226	211,017
	721,792	477,569
OTHER LIABILITIES		
Deferred lease obligation	68,295	-
TOTAL LIABILITIES	790,087	477,569
NET ASSETS		
Unrestricted	5,194,825	4,867,708
Temporarily restricted	3,794,061	4,409,587
Permanently restricted	10,000	10,000
TOTAL NET ASSETS	8,988,886	9,287,295
TOTAL LIABILITIES AND NET ASSETS	\$ 9,778,963	\$ 8,764,864

See Notes to Financial Statements

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES
STATEMENTS OF ACTIVITIES
FOR THE YEARS ENDED SEPTEMBER 30, 2010 AND 2009

	2010				2009			
	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Unrestricted	Temporarily Restricted	Permanently Restricted	Total
REVENUE								
Grants	\$ 3,234,842	\$ 2,114,642	\$ -	\$ 5,349,484	\$ 3,300,456	\$ 2,744,920	\$ -	\$ 6,045,376
Registration fees	421,738	-	-	421,738	375,691	-	-	375,691
Membership dues	200,336	-	-	200,336	229,755	-	-	229,755
Contributions	3,330,549	118,029	-	3,448,578	2,986,767	341,644	-	3,328,411
Investment income	159,293	-	-	159,293	76,557	-	-	76,557
Miscellaneous income	16,490	-	-	16,490	18,807	-	-	18,807
	<u>7,363,248</u>	<u>2,232,671</u>	<u>-</u>	<u>9,595,919</u>	<u>6,988,033</u>	<u>3,086,564</u>	<u>-</u>	<u>10,074,597</u>
NET ASSETS RELEASED FROM RESTRICTIONS								
Satisfaction of restrictions	2,858,197	(2,858,197)	-	-	2,652,238	(2,652,238)	-	-
	<u>10,221,445</u>	<u>(625,526)</u>	<u>-</u>	<u>9,595,919</u>	<u>9,640,271</u>	<u>434,326</u>	<u>-</u>	<u>10,074,597</u>
EXPENSES								
Program services								
General program	873,425	-	-	873,425	743,822	-	-	743,822
Fellows program	1,063,163	-	-	1,063,163	978,759	-	-	978,759
Student Chapter and Membership Services	435,122	-	-	435,122	383,879	-	-	383,879
Student Speakers Bureau	2,045,521	-	-	2,045,521	1,889,438	-	-	1,889,438
Student National Symposium	165,268	-	-	165,268	119,367	-	-	119,367
Lawyers Division Chapter and Membership Services	311,008	-	-	311,008	266,818	-	-	266,818
Lawyers Division Speakers Bureau	550,023	-	-	550,023	630,909	-	-	630,909
Lawyers National Conference	788,795	-	-	788,795	1,046,367	-	-	1,046,367
State Courts	891,258	-	-	891,258	1,271,659	-	-	1,271,659
Practice activities	1,423,444	-	-	1,423,444	1,184,822	-	-	1,184,822
Other conferences	223,528	-	-	223,528	252,948	-	-	252,948
	<u>8,770,555</u>	<u>-</u>	<u>-</u>	<u>8,770,555</u>	<u>8,768,788</u>	<u>-</u>	<u>-</u>	<u>8,768,788</u>
General and administrative	479,672	-	-	479,672	412,840	-	-	412,840
Fundraising	644,101	-	-	644,101	597,789	-	-	597,789
	<u>9,894,328</u>	<u>-</u>	<u>-</u>	<u>9,894,328</u>	<u>9,779,417</u>	<u>-</u>	<u>-</u>	<u>9,779,417</u>
CHANGE IN NET ASSETS	327,117	(625,526)	-	(298,409)	(139,146)	434,326	-	295,180
NET ASSETS AT BEGINNING OF YEAR	4,867,708	4,409,587	10,000	9,287,295	5,006,854	3,975,261	10,000	8,992,115
NET ASSETS AT END OF YEAR	<u>\$ 5,194,825</u>	<u>\$ 3,784,061</u>	<u>\$ 10,000</u>	<u>\$ 8,988,886</u>	<u>\$ 4,867,708</u>	<u>\$ 4,409,587</u>	<u>\$ 10,000</u>	<u>\$ 9,287,295</u>

See Notes to Financial Statements

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES
 STATEMENTS OF CASH FLOWS
 FOR THE YEARS ENDED SEPTEMBER 30, 2010 AND 2009

	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES		
Change in net assets	\$ (298,409)	\$ 295,180
Adjustments to reconcile change in net assets to net cash provided (used) by operating activities		
Depreciation and amortization	29,962	28,627
Net (appreciation) depreciation in fair value of investments	(61,342)	52,853
Donation of securities	(286,318)	(16,548)
Amortization of present value discounts on grants and contributions receivable	(23,809)	(208,337)
(Increase) decrease in		
Grants receivable	1,386,732	(396,434)
Contributions receivable	145,177	657,450
Other receivables	1,227	684
Inventory	42,580	5,121
Other current assets	46,114	(55,723)
Increase (decrease) in		
Accounts payable and accrued expenses	265,004	(255,277)
Deferred revenue	(20,791)	31,460
Deferred lease obligation	68,295	-
	1,315,422	139,056
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchase of investments	(562,918)	(667,651)
Proceeds from sale of investments	834,017	905,852
Purchase of fixed assets	(67,393)	(5,485)
	303,706	32,716
INCREASE IN CASH AND CASH EQUIVALENTS	1,619,128	171,772
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR	3,893,518	3,721,746
CASH AND CASH EQUIVALENTS AT END OF YEAR	\$ 5,512,646	\$ 3,893,518
SUPPLEMENTAL INFORMATION		
Non-cash contributions	\$ 291,023	\$ 19,067

See Notes to Financial Statements

NOTE 1: ORGANIZATION

The Federalist Society for Law and Public Policy Studies (the Society) was organized in August 1981 as a not-for-profit corporation under the laws of the State of Florida. Its primary purpose is promoting intellectual diversity in the legal profession and the legal community. It is organized exclusively for charitable, educational and scientific activities. The following provides a description of the Society's major programs or programs.

Faculty Division

Provides programs for faculty to discuss their scholarship. Provides fellowship for prior faculty and those seeking to enter the legal academy.

Chapters and Membership Division

Provides organizational and other assistance to the individuals included in the Society's student and lawyer chapters. The chapters provide discussion of legal issues.

Speaker Bureau

A program which brings judges, lawyers and legal scholars to speak at seminars, colleges and seminars nationwide and other public locations to speak about issues of national significance.

Symposium and Conferences

A program of seminars, conferences and meetings to attract distinguished legal scholars from academia and beyond to discuss and public discussion about issues of national importance. These programs include providing travel reimbursements for attendees.

Issue Councils

A program of interdisciplinary and cross-sectional white papers and journal contributions related to public policy.

Practice Publishing

A program of regular periodicals and occasional white papers and journal contributions aimed to assist legal areas of practice.

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The financial statements of the Society have been prepared on the basis of the accounting system in accordance with generally accepted accounting principles applicable to the United States of America.

Accounting Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets, liabilities, equity, net income or loss, and expenses during the reporting period. Actual results could differ from these estimates.

Cash and Cash Equivalents

All highly liquid cash instruments with a maturity of three months or less at the date of purchase are considered cash equivalents.

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Securities

The securities are valued at cost and are in compliance with the fair value method.

Fixed Assets

Fixed assets are reported at cost and depreciated over estimated useful lives of 3 to 10 years using the straight-line method. It is management's policy to capitalize those assets to which the useful life extends past one year.

Investments

Investments are presented at fair value, as follows:

- a. Government bonds, U.S. government and government agency securities and corporate bonds are valued using the respective closing bid or ask prices on the last day of the fiscal year, when available, or the reported price of the security. Derivative marketable debt interest accrues until maturity.
- b. Short-term securities and money market accounts are valued at price, after adjustments for value.

Nonprofit Recognition

Individuals and foundations make grants and contributions to the Society. All grant and contribution are considered contributions unless the contributor specifically restricts the grant or contribution. Revenue is recognized when the grant or contribution is received.

The Society does not consider revenues only to those paying, therefore creating surpluses. Therefore, reporting funds are considered program-related funds and are recognized to the extent of the services are rendered.

Registration fees are recognized to the extent of the work done.

Net Assets

Net assets arising from contributions are reported as unrestricted or restricted based on restrictions of the donor. Unrestricted net assets are the portion of net assets that are neither restricted nor permanently restricted to those objectives of their use. Permanently restricted net assets are the portion of net assets resulting from contributions or other gifts of assets which are to be held by the donor for a specific purpose that can be returned to the donor or to the donor's estate or to the donor's heirs or assigns. Permanently restricted net assets are the portion of net assets which are to be held by the donor for a specific purpose that cannot be returned by the donor or to the donor or to the donor's heirs or assigns.

Contributions and Grants Receivable

Contributions and grants receivable are reported at net realizable value and any allowance for bad debts is the result of management's assessment of the collectability of the receivable.

Advertising and Promotion

All advertising and promotion expense are charged to expense when incurred. Advertising and promotion expense rates \$30,000 and \$10,117 for the years ended September 30, 2010 and 2009, respectively.

NOTE 4: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Subsequent Events

In preparing these financial statements, management of the Society has evaluated events and transactions that occurred after September 30, 2010 for potential adjustment to the financial statements. These events and transactions were evaluated through February 9, 2011. We note that the financial statements were available to the public.

NOTE 5: GRANTS AND CONTRIBUTIONS RECEIVABLE

Included in the grant and contributions receivable are the following unconditional promises to give as of September 30, 2010 and 2009 (using the present value discount rate of 2%):

	2010	2009
Accounts to be received in:		
Less than one year	\$ 1,000,000	\$ 1,951,177
One to five years	200,000	302,428
Present value received	\$ 1,200,000	\$ 2,253,605

As of September 30, 2010 and 2009, 10% and 0%, respectively, of the grants and contributions receivable are from law-related. Grants and contributions receivable are deemed to management to be fully collectible.

NOTE 6: LIABILITIES

As September 30, 2010 and 2009, the Society's liabilities consist of the following:

	2010	2009
Accounts payable	\$ 250,000	\$ 200,000
Government grants	1,000,000	1,111,648
Deferred grants	1,000,000	1,184,900
Liabilities of chapter	\$ 1,250,000	\$ 2,500,548

Management reports which is incorporated in the statements of activities for the year ended September 30, 2010 and 2009 may be viewed.

Interest due on debt	\$ 81,000	\$ 125,410
Net assets (liabilities) or net value of fund/asset	\$ 1,169,000	\$ 97,000

NOTE 7: FAIR VALUE

As indicated with Generally Accepted Accounting Principles the Society adopted the "Fair Value Measurement" as of July 1, 2009. Fair Value Measurements apply to all financial instruments that are being measured with regularity at fair value. The fair value measurement is defined as the price that would be received to sell an asset or settle a liability in an orderly transaction between market participants at the measurement date. The fair value measurement is based on the highest level of inputs that are available to market participants at the measurement date. The fair value measurement is based on the highest level of inputs that are available to market participants at the measurement date.

NOTE 8: FAIR VALUE - continued

Level 1

Inputs are quoted prices in active markets for identical assets or liabilities that the reporting entity has the ability to access at the measurement date. Level 1 assets may include securities that are traded in an active market or actively traded over the counter market.

Level 2

Inputs are based on observable or indirectly observable inputs other than quoted prices provided under Level 1 such as quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets that are not active or quoted prices for similar assets or liabilities that are not active or quoted prices for similar assets or liabilities that are not active or quoted prices for similar assets or liabilities that are not active.

Level 3

Inputs are based on unobservable inputs for the asset or liability. Level 3 assets may include private placements, structured debt, non-subordinated, or similar instruments, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

A financial instrument's level either the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. See Note 7 for more specific detail on valuation methodology, which will change during the year ended September 30, 2011.

As of September 30, 2010 and 2009, assets measured at fair value on a recurring basis are summarized by hierarchy as follows:

	2010			
	Level 1	Level 2	Level 3	Total Fair Value
Investments	\$ 86,150	\$ 196,428	\$ -	\$ 282,578
Government grants	1,000,000	1,000,000	-	2,000,000
Deferred grants	1,000,000	1,000,000	-	2,000,000
Liabilities of chapter	1,250,000	1,250,000	-	2,500,000
Cash and cash equivalents	\$ 2,136,150	\$ 2,396,428	\$ -	\$ 4,532,578

	2009			
	Level 1	Level 2	Level 3	Total Fair Value
Investments	\$ 80,000	\$ 171,600	\$ -	\$ 251,600
Government grants	1,100,000	1,111,648	-	2,211,648
Deferred grants	1,100,000	1,100,000	-	2,200,000
Cash and cash equivalents	\$ 2,180,000	\$ 2,388,248	\$ -	\$ 4,568,248

NOTE 9: TEMPORARILY RESTRICTED NET ASSETS

As of September 30, 2010 and 2009, temporarily restricted net assets of \$2,700,000 and \$4,000,000, respectively, were available for educational and research activities. All grants received from restriction during the year were used for the intended purposes.

NOTE 10: COMMITMENTS AND CONTINGENCIES

The Society has an office lease agreement September 30, 2010. The Society has the option to terminate the lease on September 30, 2010 by paying termination expense of \$10,000. The office was not renewed before September 30, 2010. Rent expense for the years ended September 30, 2010 and 2009 was \$485,000 and \$440,000, respectively.

The Society recognizes and reported under its operating assets all intangible assets on a straight-line basis over the term of the asset and the difference between original recognition and amortization generally year-ended an deferred basis obligation in the accompanying statements of financial position.

As of September 30, 2010, significant intangible assets are as follows:

2010	\$ 140,000
2009	\$ 141,000
2008	\$ 142,000
2007	\$ 143,000
2006	\$ 144,000
2005	\$ 145,000
Total	\$ 857,000

NOTE 11: FUNCTIONAL ALLOCATION OF EXPENSES

The costs of operating the various programs and other activities have been quantified on a functional basis in the accompanying activities. Accordingly, certain costs have been allocated among the programs and supporting services identified.

NOTE 12: THE FEDERALIST SOCIETY GRANT PLAN

Effective January 1, 2008 the Society adopted the Federalist Society Grant Plan which allows the Society to provide the member organizations with grants. For 2010 and 2009 the Society contributed 7% and 7% of grant contributions to the Federalist Society Grant Plan. The Society contributed \$1,000,000 and \$450,000 for the years ended September 30, 2010 and 2009, respectively.

NOTE 13: RECEIVABLES

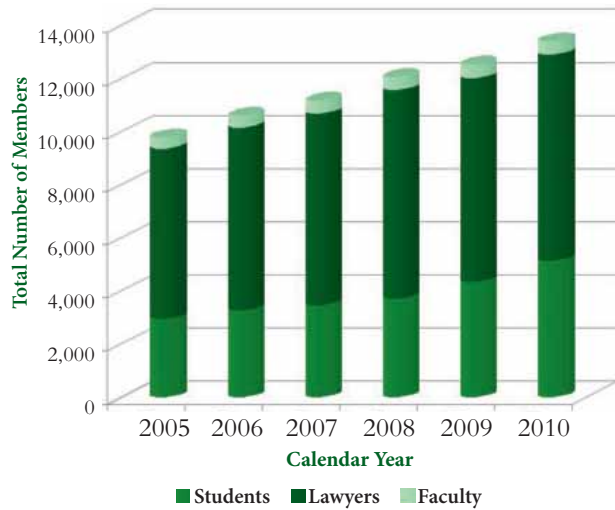
The Society is exempt from Federal income taxes. Annual fee based on estimated business income under Section 501(c)(3) of the Internal Revenue Code. There are no unrelated business income in the years ended September 30, 2010 and 2009.

The Society received an annual determination letter on August 5, 2009 in which the Internal Revenue Service stated that the Society is a private operating organization under the applicable provisions of the Internal Revenue Code (IRC) and it is eligible under Section 501(c)(3) of the IRC.

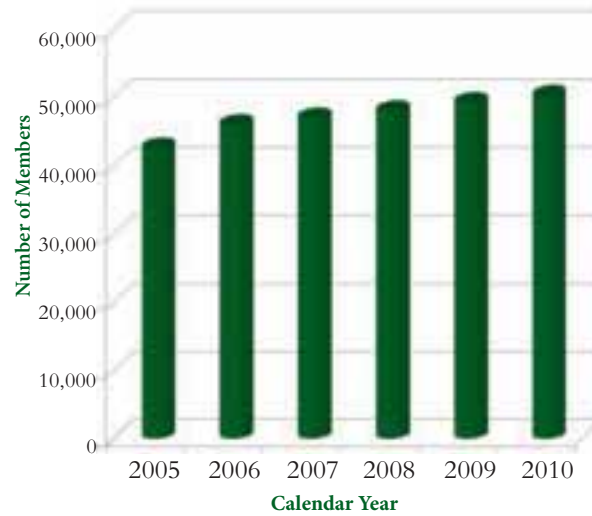
Accounting principles generally accepted in the United States of America require that management or an independent auditor or auditors report on the organization and because of the Society's 501(c)(3) status that the auditor will not be permitted to express an opinion on the Internal Revenue Service. Management may request that the Society's tax position and tax-related facts as of September 30, 2010. Such a request will be considered and reported to the extent that it does not require disclosure in the financial statements.

END OF AUDITED
FINANCIAL STATEMENTS

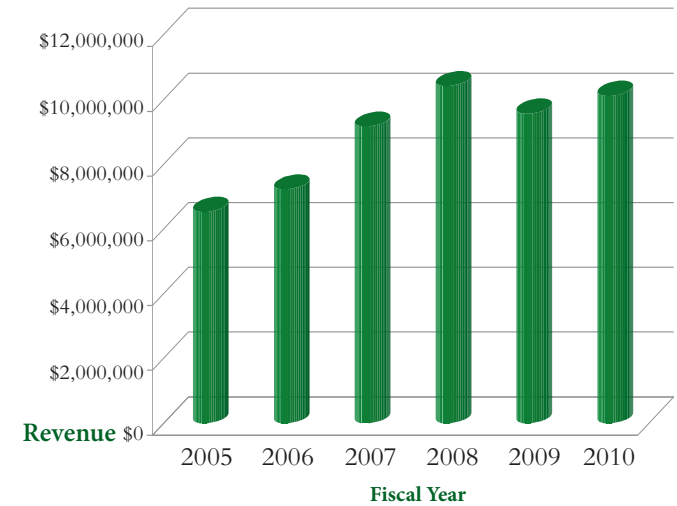
**Federalist Society Membership Growth
National Dues Paying Members**



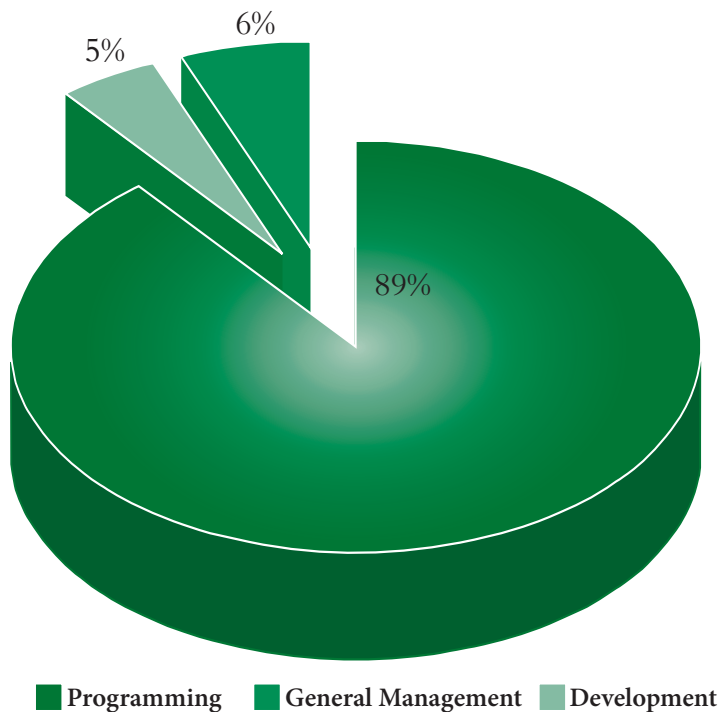
**Federalist Society Membership Growth
Local and National Involvement**



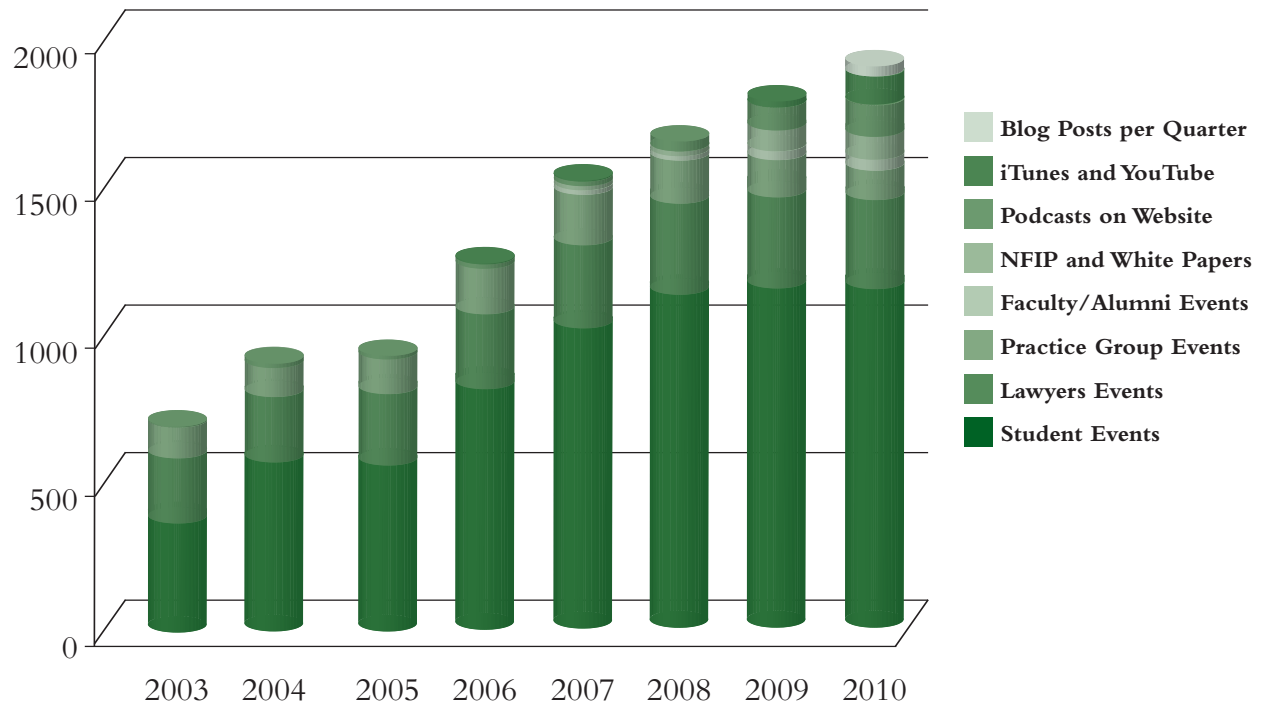
**Federalist Society
Revenue Growth**



**Federalist Society Expenditures
Fiscal Year 2010**



**Federalist Society Program Growth:
Papers, Podcasts, and Events**



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A historical painting depicting a legislative assembly in a grand, ornate hall. The room features a large chandelier, a red carpet, and an American flag. Numerous men in 18th-century attire are seated at long tables, engaged in discussion or reading. The scene is set in a grand, classical-style building with high ceilings and large windows.

*“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.”*

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