



THE Federalist PAPER

THE MAGAZINE OF THE FEDERALIST SOCIETY • FEDSOC.ORG

Fall 2022

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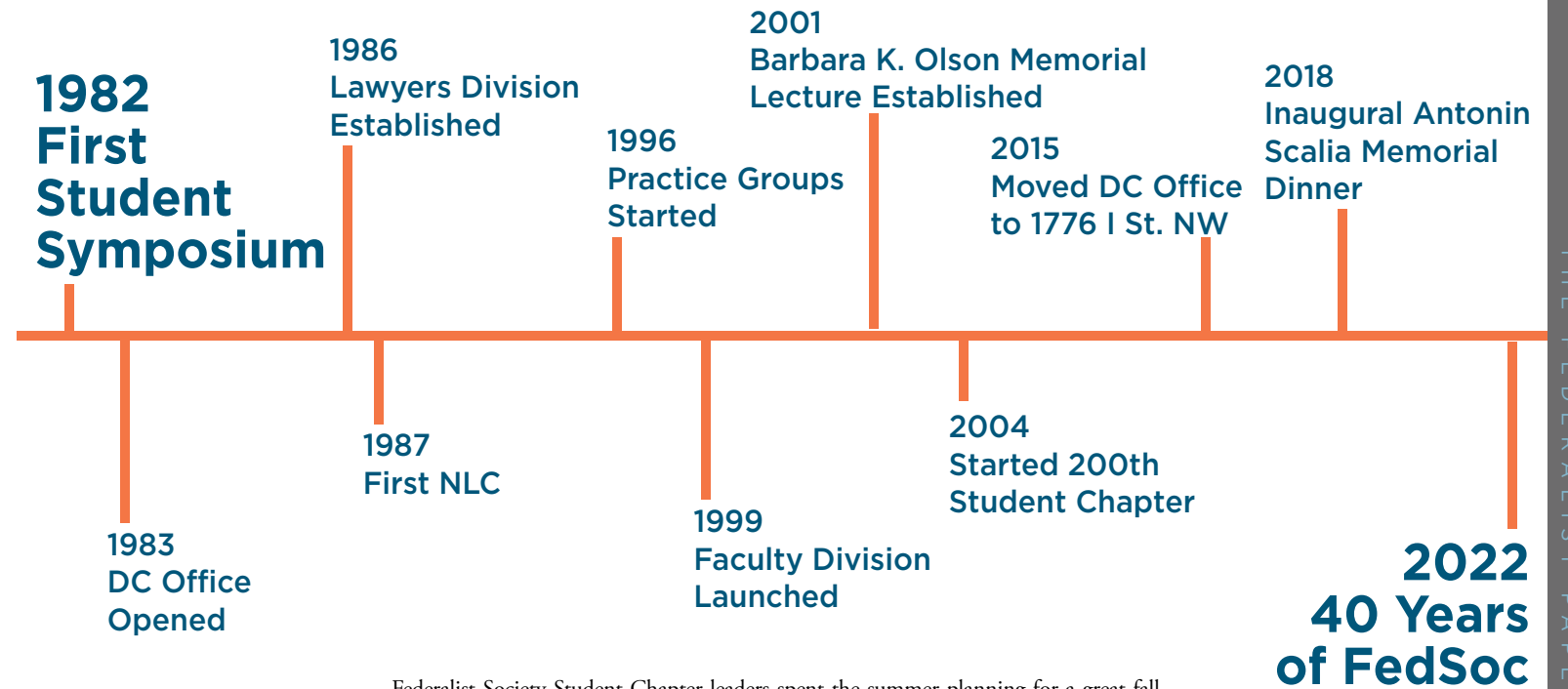
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“The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body.”

Federalist No. 78

The Federalist Society's first 40 years



Dear Friend,

Federalist Society Student Chapter leaders spent the summer planning for a great fall semester, and the school year has started off with a bang! Chapters have recruited new members and hosted excellent events featuring fantastic FedSoc speakers. The 2023 National Student Symposium is already in the works, so be sure to save the date and join us in Texas!

Our Lawyers Chapters held several noteworthy events this summer through early fall. There were four statewide conferences in September alone, which included headline speakers such as Judge Jeff Sutton and former AG Bill Barr. See inside for photos of these events, and save the date for the next statewide or regional conference near you! Our Young Lawyers Chapters also continue to grow and host great events.

The Practice Groups have been actively hosting events and webinars, some of which are featured in these pages. Watch recordings of some of these on our YouTube page at [youtube.com/thefederalistsociety](https://www.youtube.com/thefederalistsociety). The Faculty Division's annual James Kent Academy for aspiring academics was a great success, as was its co-sponsored Supreme Court Preview for the October 2022 Term.

Our Regulatory Transparency Project has been releasing excellent new videos and podcasts, as well as hosting events. One such event was co-sponsored with our Capitol Hill Chapter at the Capitol Hill Club, featuring a panel discussion called *Creatures of Statute: Administrative Agencies in Practice*. The Freedom of Thought project and the Article I Initiative have also been active, and you can see a small sample of their work in this issue. FedSoc Studios renovated our in-house podcast studio to have video capabilities, and we look forward to continuing to produce informative legal commentary at an even higher level of quality. Please visit fedsoc.org to find upcoming events, new videos, and timely podcasts, and read new articles from the *Federalist Society Review* and posts on the FedSoc Blog.

We are looking forward to the 2022 National Lawyers Convention, and we hope you plan to join us at the Mayflower Hotel for an excellent slate of speakers, panels, and debates, as well as a wonderful time of FedSoc fellowship.

Finally, THANK YOU for supporting the Federalist Society these past 40 years! We could not have accomplished what we have without the generous contributions of money, time, and talent by our members. The photo collage on the cover of this issue shows the many (much younger!) faces of just some of those who have supported us over the past four decades. We are grateful for each and every one of you.

We hope you enjoy this issue of the *Federalist Paper*. Please send any questions or comments to us at info@fedsoc.org. Here's to the next 40 years!

Sincerely,
 Katie McClendon
 Director of Publications

STUDENT DIVISION



The semester is off to a roaring start for our student chapters! They kicked off the school year with creative recruitment tables (including Madison-silhouette cookies!), and they have already started hosting fantastic events featuring top-shelf speakers, thought-provoking debates, and, of course, free lunch.



Save the Date
National Student Symposium
March 3-4 • University of Texas
Law & Democracy



LAWYERS CHAPTERS



Alabama Chapters Conference
September 8-9 • Birmingham



Texas Chapters Conference
September 23-24 • Austin



North Carolina Chapters Conference
September 9 • Raleigh

Kentucky Chapters Conference
September 29
Louisville



LAWYERS CHAPTERS

Florida Young Lawyers Summit
July 15 • Tampa



*One Damn Thing After Another:
Memoirs of an Attorney General*
June 29 • New York City



Young Lawyers Chapters

The Federalist Society has a growing list of young lawyers chapters geared toward recent law school graduates in Washington, DC, New York City, Chicago, Atlanta, Ohio, Florida, and Texas. Visit fedsoc.org for more information and notices about upcoming events.

Virginia AG Jason Miyares
August 15 • DC Young



Save the Date

- Missouri Chapters Conference
January 20 • Jefferson City
- Western Chapters Conference
January 28 • Reagan Library
- Florida Chapters Conference
February 3-4 • Disney
- Ohio Chapters Conference
April 21 • Columbus

PRACTICE GROUPS



2022 Annual Supreme Court Round Up

Washington, DC • July 14

The Federalist Society's Washington, DC, Lawyers Chapter presented its annual Supreme Court Round Up discussing the Supreme Court's 2021-2022 Term and the plethora of impactful cases decided. Mr. Reginald Brown, a partner at Kirkland & Ellis LLP, provided introductory remarks while Mr. Miguel Estrada, a partner at Gibson Dunn & Crutcher and experienced litigator before the Court, presented.



Save the Date

National Lawyers Convention
Washington, DC • November 10-12
The Current State of the Legal Profession



A Discussion on Dobbs

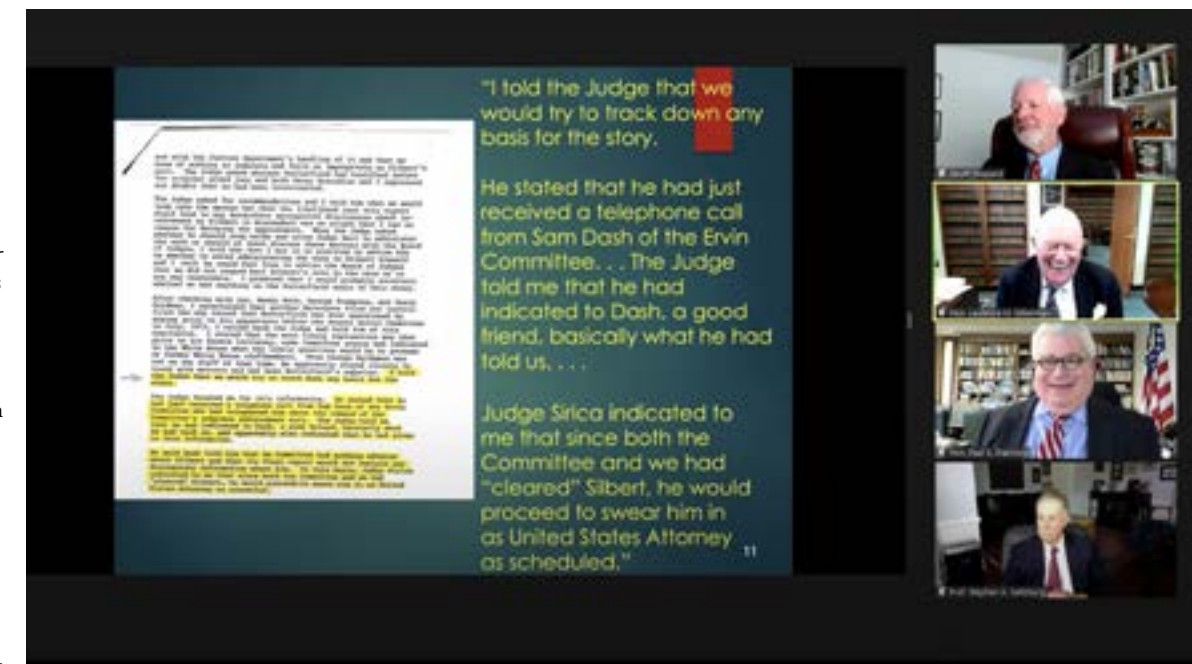
Webinar • June 30

On June 24, the U.S. Supreme Court decided *Dobbs v. Jackson Women's Health Center*. In a 6-3 decision, the Court held that the Constitution does not confer a right to abortion; that *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey* are overruled; and that the authority to regulate abortion is returned to the people and their elected representatives. A team of legal experts joined FedSoc to discuss the effects of the *Dobbs* decision.

- Prof. Daniel Farber, Sho Shato Professor of Law, UC Berkeley; former law clerk, Justice John Paul Stevens
- Carrie Severino, President, Judicial Crisis Network; former law clerk, Justice Clarence Thomas
- Moderator: Hon. Thomas B. Griffith, former Circuit Judge, U.S. Court of Appeals, D.C. Circuit

Marking the 50th anniversary of the Watergate scandal, an esteemed panel joined the Federalist Society's Practice Groups for a virtual symposium to conduct a detailed review of the prosecutions undertaken by the Watergate Special Prosecution Force. Four batches of internal prosecutorial documents have surfaced in recent years, which some have argued call into question whether the defendants received the due process of law guaranteed to them by the Fifth and Sixth Amendments.

- Hon. Theodore Olson, Gibson Dunn & Crutcher LLP
- Prof. Stephen Saltzburg, George Washington University Law School
- Geoff Shepard, author of *The Nixon Conspiracy* (2021) and *The Real Watergate Scandal* (2015)
- Hon. Laurence Silberman, D.C. Circuit
- Moderator: Hon. Paul S. Diamond, Eastern District of Pennsylvania



Revealing Documents from the Watergate Prosecutions

Webinar • September 15



New at the
Regulatory Transparency Project

James Kent Academy

Annapolis • August 3-6

Our James Kent Summer Academy took place August 3-6 in Annapolis. The Academy is a program for law students and recent graduates who demonstrate strong potential for being leaders among a future generation of legal scholars. Thirteen participants had the opportunity to engage in academic discourse, to learn about an academic career track, to deepen their understanding of key ideas about the law, originalism, the administrative state, and markets and the law, and to receive personalized career planning and publishing guidance. Participating faculty this year included Randy Barnett (Georgetown), Julia Mahoney (UVA), Patrick Barry (Michigan), Dan Kelly (Notre Dame), James Stern (William & Mary), John Duffy (UVA), and Robert Miller (Iowa). We also hosted a reception and dinner for Kent alumni (2015-2021), which allowed this year's class to meet several alumni from prior classes and learn how the Academy has benefited them.

SCOTUS Preview

Washington, DC • September 21



Our annual Supreme Court Preview Panel, took place on September 21 at the Mayflower Hotel in Washington, DC. Panelists Prof. Amanda Shanor (Penn Wharton), Carrie Severino (JCN), Roman Martinez (Latham & Watkins), Prof. Derek Muller (Iowa), Virginia Seitz (Sidley Austin), and Devon Westhill (Center for Equal Opportunity) weighed in on major upcoming cases, moderated by Adam Liptak (NYT).

On September 16, we held a roundtable entitled **Stress Test: Federal and State Separations of Powers During and After the Pandemic** at the American Political Science Association annual meeting in Montreal, Canada. Panelists included Bradley Watson (Hillsdale), Michelle Kundmueller (Old Dominion), Michael Morley (FSU), and Geoffrey Sigalet (McGill), and moderator Robert Cottrol (GW).

Just Published

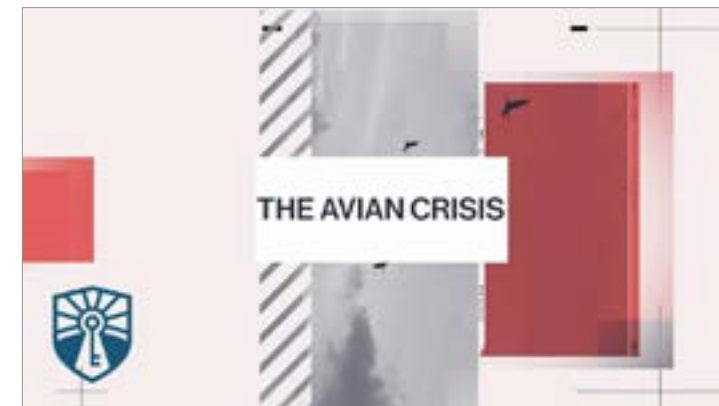


Videos



Equity Crowdfunding: Risk, Reward, and Regulation

Jordan Gillissie, Sara Hanks, Sherwood Neiss



The Avian Crisis: Investigating the Impact of a Century-Old Treaty

Eric Glitzenstein, Jonathan Wood

Podcasts

FTC's New Strategic Plan and the Future of Agency Action

Asheesh Agarwal, Ashley Baker

Tax Exclusions for Employer-Sponsored Health Insurance

Michael F. Cannon

High Energy Prices, Public Policy, & Possible Solutions

James Coleman

Events

Regulating the New Crypto Ecosystem: Necessary Regulation of Crippling Future Innovation?

Jerry Brito, Hester Peirce, Todd Phillips, Ryan Selkis, J.W. Verret

Overcoming the Challenges to Clean Infrastructure

Edward Boling, Alex Herrgott, Mario Loyola

West Virginia v. EPA and the Major Questions Doctrine

James Coleman, Daniel Farber, Adam Gustafson, Mario Loyola

Dobbs and the Potential Implications for Data Privacy

Stewart Baker, Jane Bambauer, Danielle Citron, Paul Rosenweig

Creatures of Statute: Administrative Agencies in Practice

Boris Bershteyn, Paul Ray, Stephen Vaden

Follow us
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Summer Rooftop Reception for Harvard Law alumni, featuring remarks from Paul Clement and Erin Murphy.



Summer Rooftop Reception for Georgetown Law alumni, featuring remarks from Ilya Shapiro and Nate Hochman.



The **Freedom of Thought Project** is a special initiative of the Federalist Society that seeks to foster discussion of challenges to freedom of thought in the United States and ways to address them.

FoT is seeking to gain a deeper understanding of the conditions on law school campuses and the degree to which various campuses are friendly or hostile to the expression of dissenting—often conservative—views. We hope this understanding will help us better support our students and advance academic freedom.

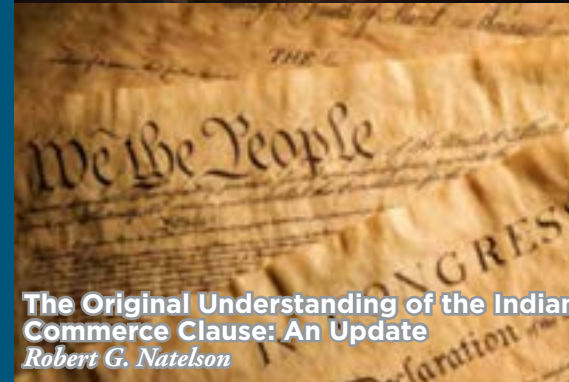
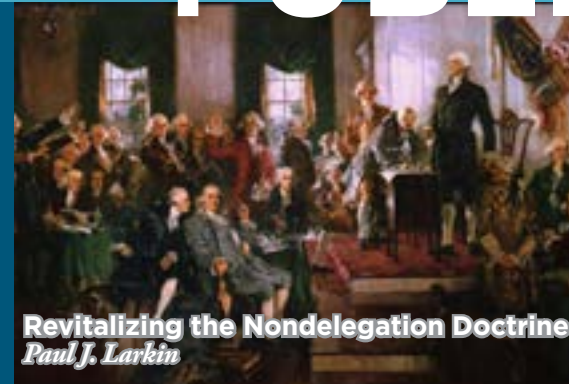
We welcome input and help from our members. Please contact FoT Director Alida Kass at alida.kass@fedsoc.org or Assistant Director Emily Manning at emily.manning@fedsoc.org.

CAPITOL HILL CHAPTER

The Capitol Hill Chapter co-sponsored with the Regulatory Transparency Project an event at the Capitol Hill Club entitled **Creatures of Statute: Administrative Agencies in Practice**, featuring Boris Bershteyn, Paul Ray, and moderator Judge Stephen Vaden.



New from the Federalist Society Review



New from State Court Docket Watch

In *Planned Parenthood of the Heartland, Inc. v. Reynolds*, the Supreme Court of Iowa overturned its prior 2018 decision and ruled that the Iowa Constitution does not guarantee a fundamental right to an abortion, but it reserved judgment on whether to apply the *Casey* undue burden standard or rational basis review. The decision has major implications for the scope of Iowa's single-subject rule, the applicability of issue preclusion to constitutional law, the role of stare decisis, and statutory and constitutional interpretation methods . . .



New from the FedSoc Blog

Read more at fedsoc.org/commentary

SPECIAL EVENT

ARTICLE I

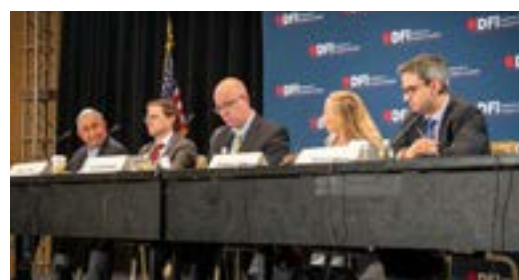
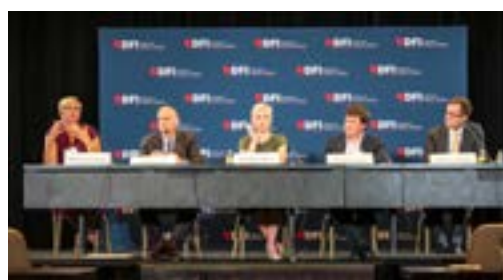
New at the
Article I Initiative



Education Law & Policy Conference

September 20 • Washington, DC

The Education Law & Policy Conference examined the federal legal and policy issues surrounding American education. The conference took place on Tuesday, September 20, 2022, at the Marriott Marquis in Washington, D.C. It featured panel discussions, a luncheon speech by former U.S. Attorney General Bill Barr, a keynote closing speech by former U.S. Secretary of Education Betsy DeVos, and a reception. The Federalist Society co-sponsored the conference with the Defense of Freedom Institute.



Blog Posts



What May Be Lurking in the Future of Environmental Law After *West Virginia v. EPA*

Jeffrey H. Wood

“In the past, EPA and other federal environmental and resource agencies may have felt comfortable taking aggressive regulatory positions in hopes that *Chevron* deference would save them from judicial scrutiny . . . Where a clear statement in the statute is lacking, agencies may need to seek authority from Congress, which is obviously the point that the Court is ultimately making here. Separation of powers requires respect for the lawmaking function of Congress.”



Constitution Day: A Cause for Celebration, and Recommitment

J. Kennerly Davis

“Far too little attention is paid to the vitally important question of whether or not the government action is lawful, whether or not it is authorized under the Constitution and relevant statutes . . . the American people are in danger of losing sight of how important it is to pursue policy objectives in a lawful manner, through the institutions and in accordance with the procedures that the law has established for the purpose.”

Webinar



Who Decides if January 6 Was an Insurrection Prohibiting the Election Of Participants?

James Bopp, Jr., Kory Langhofer, Pressly M. Millen, Devin Watkins

The Fourteenth Amendment prohibits anyone who has engaged in insurrection or rebellion against the United States after swearing an oath to support the Constitution from ever holding public office again. In light of this Disqualification Clause, some have called for participants in the riot that occurred on January 6, 2021 to be barred from future elections. Who has the authority to enforce this provision, the states or Congress?

Event



James Madison vs. James Monroe: The Congressional Campaign That Saved the Constitution

William Mims

The first election for Virginia's 5th congressional district took place on February 2, 1789. James Madison defeated James Monroe for a House seat in the First Congress.

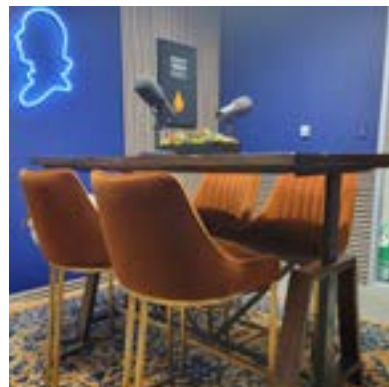
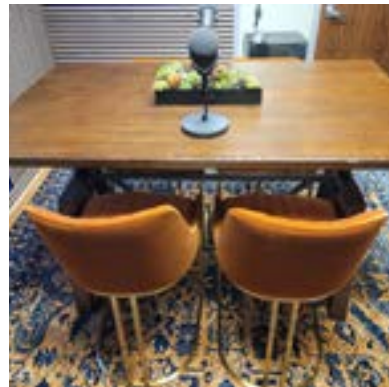
The Appalachian Student Chapter hosted Hon. William C. Mims, senior justice on the Supreme Court of Virginia, for a discussion of the important debates between these two Virginian founding fathers.

Follow us
articleiinitiative.org



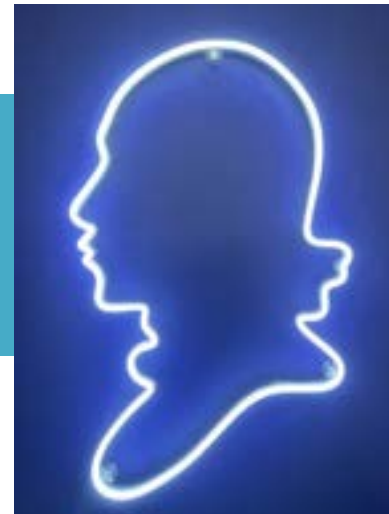


New Video Podcast Studio



In 2022, FedSoc Studios updated our podcast studio to have video capabilities and gave it a facelift to work well on film.

We turned our iconic James Madison "MadHead" logo into a neon sign.



Instead of standard acoustic panels, we used an image of the Supreme Court printed on an acoustic panel.



THANK YOU
for supporting the Federalist Society by contributing your money, time, and effort for



wonderful years! We look forward to many more years of partnering with you—our members, volunteers, donors, and friends—to restore the legal culture of the United States.

The Federalist Society
for Law and Public Policy Studies

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— Register Now —



**2022
NATIONAL LAWYERS
CONVENTION**

November 10-12, 2022 | Mayflower Hotel, Washington DC

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