



The Federalist Society

for

Law and Public Policy Studies

2009 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.”

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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:

Last year, 2009, turned out to be a very good year for the Federalist Society in spite of the economy – in fact, one of our best ever. We did more with less by taking advantage of the infrastructure we had developed the last 27 years and were therefore able to ensure undiminished productivity in our efforts.

The demand for our programs on law school campuses and in cities across the country continued to grow. We were able to fulfill this demand and conduct more events than ever before by asking more of our volunteers. Not only has our pool of volunteers expanded over the years, but we now have among our volunteers some of the premier lawyers in the country – many just returning to the private sector after serving in critical government appointments, some just now reaching the pinnacle of their legal careers after being part of the Federalist Society network since their student days, and many student volunteers who are at the top of their law school classes.

At every level – at law schools, in legal centers, in state courts and in the current debate of federal policies – the Federalist Society's growth and vigor over the last year has enabled us to contribute even more to fostering the principles of limited government, the separation of powers, individual freedom and responsibility, and the rule of law. There is simply no other organization that can bring constitutional issues to the fore with such credibility and no other organization that can help citizen-lawyers become actively involved and effectively engaged in the discussion of how best to secure the blessings of liberty in the days ahead.

Our principles of limited, constitutional government are facing nearly unprecedented challenges. But we believe there is cause for optimism about the future, in spite of current efforts to increase the size of government. Part of the basis for this optimism is the legal talent involved with the Federalist Society; these lawyers participate actively in the civic life of our nation and thereby improve the legal culture over time. Despite setbacks we may witness on a given



Federalist Society Founders and Leaders Receive 2009 Bradley Prize For Outstanding Achievement

The Bradley Foundation honored the founders and leaders of the Federalist Society with a prestigious Bradley Prize for 2009 for "their ingenuity in forming and nurturing an organization dedicated to preserving the rule of law." Pictured here at the award ceremony in June are seated from left to right: Eugene Meyer, president, Lee Liberman Otis, founding director and senior vice president, Michael W. Grebe, president of the Bradley Foundation, and Steven Calabresi, founding director. Standing from left to right: Leonard Leo, executive vice president, E. Spencer Abraham, founding director, and David McIntosh, founding director.

day, the commitment of so many of our members who are putting their talents to work demonstrates the potential we have for shaping the future direction of the law. Continuing to build that network is the best strategy for preserving the rule of law in this country.

The Bradley Foundation recognized the impact of the Federalist Society on the legal culture when it awarded the 2009 Bradley Prize to the founders and leaders of the Society (see box).

Over 45,000 law students, lawyers, academics, judges, and policy leaders are involved in the Society's wide variety of programs. As I pointed out earlier, in the past year the Society was able to bring our programs to the largest number of law students in our 27 year history. Participation in our Lawyers Chapters, Practice Groups, and special projects such as the State Courts Project and the International Law & American Sovereignty Project have also expanded significantly. The expansion of our Faculty Division is beginning to pay off in identifying and recruiting conservative and libertarian role models and mentors in the academy. Indeed, despite a slight decrease in revenue, the Federalist Society has just con-

cluded one of our most impressive years of programming and growth. We anticipate another exciting year as we continue to pursue our mission to change the legal culture.

The Federalist Society is a community of grassroots intellectuals who willingly give their time, talent, and financial support to promote the rule of law. Thank you for your continuing commitment.

Sincerely,

Eugene B. Meyer
President

STUDENT CHAPTER CAMPUS EVENTS REACH ALL-TIME HIGH

Thanks to the hard work of thousands of student volunteers across the country, the 2008–2009 school year proved to be another record-setting year for the Federalist Society’s Student Division. In the strongest year in Federalist Society history, we sponsored over 1,150 events nationwide with an average attendance of 64 participants, reaching an audience of more than 70,000 people. Our success stems from our dedicated chapter leaders, who work tirelessly to bring high-profile speakers to their campuses for intellectually challenging debates and speeches. Without their energy and effort, many conservative and libertarian ideas would go unheard on law school campuses.

This year, not only did the Federalist Society recognize our students’ hard work, but many schools did, as well. Our **George Washington** Chapter won the Gavel Club Award for Outstanding Student Organization of the Year and our **Toledo** Chapter was featured in their law school alumni magazine as a standout student group. Three of our chapters – **Loyola-New Orleans**, **Chicago-Kent**, and **San Francisco** – were named the Student Organization of the Year at their schools. We are pleased that our students are receiving recognition from their administrations for the impact they are making at their law schools by promoting honest, open debate of legal issues.

A few key issues dominated the attention of our law students this year. For instance, the 2008 presidential election raised questions related to campaign finance reform and free speech, with several chapters hosting debates on these topics, including **Arizona State**, **Boston University**, **Detroit Mercy**, **Har-**



National radio and television talk show personality, Laura Ingraham, meets with a group of law students attending the Federalist Society’s Annual Dinner in Washington, D.C.



The Student Chapter at the **University of Alabama** hosted Justice Clarence Thomas of the U.S. Supreme Court who took questions from the audience and posed for a picture with every student in attendance.

vard, **North Carolina**, and **Phoenix**. Other chapters focused on the issues surrounding voter fraud. Hans von Spakovsky, former Commissioner of the U.S. Federal Elections Commission, addressed voter fraud and electoral law on a panel at **Seton Hall** titled “Is Your Suffrage Suffering?” which drew 140 attendees. Seventy students came to see von Spakovsky tackle the same topic at **Vanderbilt**. Looking at the election from a different perspective, **Columbia** hosted MSNBC’s Joe Scarborough as part of their program “Meet the Press: A View of the Election from the Media’s Perspective,” with 150 in attendance. Meanwhile, **Fordham** attracted 200 attendees for a panel on “The Law, The Media, and Elections,” featuring Byron York of *National Review*.

Another hot topic was the current economic crisis, in particular the bailout of U.S. financial institutions and various legal aspects arising from the bailout. Several chapters at law schools such as **Florida State**, **Santa Clara**, **Stanford**, and **Western New England** hosted speakers on the credit crunch and its repercussions, which proved popular with attendees. Prof. Stephen Bainbridge of UCLA Law spoke on the law behind the financial crisis and bailout to 150 students at **Pepperdine**. At **William & Mary**, Prof. Thom Lambert of Missouri Law broke down the ins and outs of the complicated measures by discussing “Everything You Wanted to Know about the Bailout but Don’t,” before 90 students. U.S. Senator Mitch McConnell also spoke about Congress’ actions to 300 students at **Kentucky**. The **Pennsylvania** Chapter looked at the issue from an ideological standpoint, inviting Prof. Jonathan Macey of Yale Law to provide a commentary on the proper role of government in the market, which drew an audience of 100. **New York University** brought in over 200 students to hear Prof. Adam Pritchard of the University of Michigan Law, Prof. Eric Posner of the University of Chicago Law, and Prof. Richard Ep-

stein of the University of Chicago Law discuss financial deregulation, the recent meltdown, and the impact of future reforms.

International issues were popular topics as well. *Medellin v. Texas*, a prominent topic in 2007-2008, was once again widely debated. Prof. Michael Ramsey of San Diego Law debated the case at



Professors Sai Prakash of the University of San Diego School of Law (left) and Akhil Amar of Yale Law School debate what the President is allowed by law to do during economic emergencies at a panel at **Yale** in March.



One of the academic year's most popular topics, gay marriage, was debated by a number of Student Chapters including a panel in January at the **Georgetown University Law Center** which consisted of (from left to right): Prof. Chai Feldblum of the Georgetown University Law Center, Jordan Lorence of the Alliance Defense Fund, Prof. Nan Hunter of the Georgetown University Law Center, and Prof. Robin Wilson of Washington & Lee Law School.

Lewis & Clark to a crowd of 70, while Prof. John Baker, Jr. of Louisiana State University Law Center addressed it in front of 90 students at **Ave Maria**. International law met national security issues when Prof. Michael Lewis of Ohio Northern Law debated Prof. Ben Davis of Toledo Law in front of 100 at **Toledo** on whether or not the treatment by the U.S. of detainees violates international law. Other professors traveled widely discussing the role of international law in U.S. courts. Prof. Eugene Kontorovich of Northwestern Law spoke at **Missouri-Columbia, Missouri-Kansas City, Kansas, Washburn, and DePaul** to discuss the topic. At DePaul, 110 turned out to hear Prof. Kontorovich debate "The Role of Foreign Law in Constitutional Interpretation," against DePaul's Prof. Alberto Coll.

Second Amendment events also proved popular again this year, as legal scholars continued to debate the impact of the U.S. Supreme Court's landmark decision to hear a case involving the ban on handguns in the District of Columbia. Clark Neily, of the Institute for Justice, discussed the *District of Columbia v. Heller* case at **Boston College, UC-Davis, Regent, Kansas, and Washington & Lee**. The **George Mason University** Chapter hosted a *Heller* Symposium, which drew 125 students to hear numerous speakers, including Neily, attorney Steven Halbrook, Prof. Nelson Lund of George Mason University Law, and John Frazer of the NRA, among many others. In total, our chapters hosted 93 events on gun rights. The topic routinely drew impressive crowds, such as the 250 who attended a Second Amendment debate at **Wake Forest** this year.

In February, students and speakers convened in New Haven, Connecticut for the Federalist Society's annual Student Symposium hosted this year by our founding school, **Yale**. The topic was "The Separation of Powers in American Constitutionalism," and featured several panel discussions with prominent legal scholars and judges. The Symposium was notable not only for its many high-profile conservative and libertarian speakers, but because it allowed us the opportunity to engage in debate with some speakers who would go on to become prominent, and controversial, figures in President Obama's legal strategy. Harold Hongju Koh, then the dean of Yale Law School, welcomed the Federalist Society at the start of the Symposium, with no hint that he would soon become President Obama's widely debated nominee to head the U.S. State Department's legal office. Soon to face her own hotly contested confirmation battle, Judge Sonia Sotomayor served as moderator on a panel discussing "Confirmation Battles and Presidential Nominations." The panel also featured Rachel Brand, attorney at WilmerHale, Prof. John McGinnis of Northwestern Law, Prof. Stephen Carter of Yale Law School, and Nan Aron, of the Alliance for Justice (see page 12 for more coverage of the Yale Student Symposium).

Some of our most well-attended events this year featured those already appointed to the highest court in the land, who graciously met with our students and encouraged them in their often uphill battle in the classroom. U.S. Supreme Court Justice Antonin Scalia traveled to **New Mexico** to discuss "Constitutional Originalism," where he was met with an astonishing crowd of 1,250 students. U.S. Supreme Court Justice Clarence Thomas spoke about his role on the U.S. Supreme Court to Federalist Society members at the **University of Georgia**. Justice Thomas also met with approximately 200 chapter leaders in July 2009 as part of our Student Leadership Conference. As usual, the Student Leadership Conference brought representatives from each chapter in July to Washington, D.C. to provide them with the knowledge and tools they will need to run a successful chapter each year. Justice Thomas met with many of them at a reception during the conference.

With an incredibly strong year behind it, the Student Division looks forward to the challenges and opportunities presented in the 2009–2010 academic year, and is confident in being able to meet, and pass, the high standards that have already been set. With this kind of quality programming, the Federalist Society will be able to provide the next generation of conservative and libertarian leaders with the support they need to tackle America’s greatest legal quandaries, both in and out of the classroom.



William Kristol, founder and editor of *The Weekly Standard* (left), and Judge Janice Rogers Brown, U.S. Court of Appeals for the D.C. Circuit, both spoke to incoming Student Chapter presidents at the Federalist Society’s Student Leadership Conference in July.



Judge Richard Posner of the U.S. Court of Appeals for the Seventh Circuit drew a crowd of more than 250 to hear his speech on “Financial Regulatory Reform & the Obama Administration” at the **Harvard** Student Chapter in November.

SELECTED STUDENT CHAPTERS SPEAKERS

Hon. John Ashcroft, former U.S. Attorney General
 Prof. John Baker, Jr., Louisiana State University Law Center
 Prof. Randy Barnett, Georgetown University Law Center
 Hon. Bob Barr, former U.S. Congressman
 Judge Carlos Bea, U.S. Court of Appeals, Ninth Circuit
 Clint Bolick, Goldwater Institute
 Hon. John Bolton, American Enterprise Institute, former U.S. Ambassador to the United Nations
 Judge Janice Rogers Brown, U.S. Court of Appeals, D.C. Circuit
 Scott Bullock, Institute for Justice
 Hon. Paul Clement, King & Spalding, former U.S. Solicitor General
 Ward Connerly, American Civil Rights Institute
 Justice Maura D. Corrigan, Michigan Supreme Court
 Justice Allison Eid, Colorado Supreme Court
 Prof. Richard Epstein, University of Chicago Law School
 Prof. Charles Fried, Harvard Law School
 Prof. Nicole Garnett, University of Notre Dame Law School

Prof. Richard Garnett, University of Notre Dame Law School
 Judge Douglas Ginsburg, U.S. Court of Appeals, D.C. Circuit
 Judge Neil Gorsuch, U.S. Court of Appeals, Tenth Circuit
 Michael Greve, American Enterprise Institute
 Kevin Hasson, The Becket Fund for Religious Liberty
 Chief Judge Edith Jones, U.S. Court of Appeals, Fifth Circuit
 Judge Brett Kavanaugh, U.S. Court of Appeals, D.C. Circuit
 Judge Alex Kozinski, U.S. Court of Appeals, Ninth Circuit
 Dr. Robert A. Levy, The Cato Institute
 Jordan Lorence, Alliance Defense Fund
 Justice Stephen Markman, Michigan Supreme Court
 Hon. Michael McConnell, Director of Stanford Law School Constitutional Law Center, former Judge of the U.S. Court of Appeals, Tenth Circuit
 Prof. John McGinnis, Northwestern University School of Law
 Hon. Edwin Meese III, The Heritage Foundation, former U.S. Attorney General
 Hon. Theodore Olson, Gibson, Dunn & Crutcher LLP, former U.S. Solicitor General

Judge Diarmuid O’Scannlain, U.S. Court of Appeals, Ninth Circuit
 Dr. Roger Pilon, The Cato Institute
 Judge Richard Posner, U.S. Court of Appeals, Seventh Circuit
 Judge William Pryor Jr., U.S. Court of Appeals, Eleventh Circuit
 Justice Antonin Scalia, U.S. Supreme Court
 Judge David Sentelle, U.S. Court of Appeals, D.C. Circuit
 Christina Hoff Sommers, American Enterprise Institute
 Dean Kenneth Starr, Pepperdine University School of Law
 Prof. Margaret D. Stock, Department of Law, U.S. Military Academy, West Point
 Judge Jeffrey Sutton, U.S. Court of Appeals, Sixth Circuit
 Justice Clarence Thomas, U.S. Supreme Court
 Prof. Amy Wax, University of Pennsylvania Law School
 M. Edward Whelan III, Ethics and Public Policy Center
 Prof. John Yoo, University of California, Berkeley School of Law – Boalt Hall
 Cathy Young, *Reason Magazine*

LAWYERS CHAPTERS MATURE AND THRIVE IN 2009

In 2009, the Federalist Society's 70 Lawyers Chapters rose to even greater heights, as measured by the strength of their leadership, programming, publications, media outreach, and involvement with the Society's special projects, including the State Courts Project. The chapters held 303 events in the last fiscal year, drawing an audience of over 26,000 lawyers.

The quality of the programming continues to be of the highest level, reflecting the Society's strong local leadership. This programming is critical to maintaining a strong community presence and ensuring that pressing constitutional and legal issues are considered in a meaningful, balanced, and timely manner. The chapters organize programs with a variety of formats, including speeches, debates, and panel discussions, often in conjunction with the Practice Groups, Student Division, the State Courts Project, and other public policy groups.

The Lawyers Chapters vary their programming between topics of national and local interest. Especially popular subjects from the past year included the U.S. Supreme Court's docket and the Sotomayor nomination, the financial services bailout and the stimulus package, same-sex marriage, the War on Terror, judicial activism, civil rights in the Obama Administration, state judicial selection, and the constitutionality of health care reform, among others.

The financial, housing, and banking crises, the bailout, and the stimulus package sparked a series of debates and panel discussions sponsored by Lawyers Chapters, with several groups hosting programs designed to discuss the causes of the crisis, how public policy has failed, and what the proper role of the federal government is in the economy. The **New York City** Chapter, in conjunction with the Financial Services Practice Group, hosted a discussion between Judge Richard Posner of the U.S. Court of Appeals for the Seventh Circuit and Peter Wallison of the American Enterprise Institute (AEI) on "The Financial Crisis: Failure of Capitalism or Failure of Government Policy?" Liz MacDonald, of the Fox Business Network, moderated the discussion before one of the chapter's largest-ever audiences. The **Houston** Chapter co-sponsored a luncheon discussion on the mortgage and foreclosure crisis with the South Texas Law School Chapter. Over 100 people attended the event, which featured Prof. Todd Zywicki of George Mason University School of Law, Prof. Matthew Festa of South Texas Law, and Michael Dokupil of SBC Capital. Prof. Zywicki also spoke to the **Philadelphia** Chapter. Alex Pollock of AEI spoke on "TARPs, Bailouts, and the Nationalization of Banking: Where Do We Go From Here?" in both **Baltimore** and **Cleveland**. Amity Shlaes, author of *The Forgotten Man: A New History of the Great Depression*, discussed "The State of the Economy: How Will President Obama and Congress Respond?" before 65 members of the **Orange County** Chapter.



Attorneys Jennifer Braceras, Ralph Boyd, and Harvey Silverglate (from left to right) participated in *Othello*, the **Boston** Lawyers Chapter's Ninth Annual "Shakespeare and the Law" Program. The discussion following the play concentrated on the meaning and the purpose of the civil rights movement in the Obama era.

The **San Diego** Chapter hosted a panel discussion on "Federalism and the Financial Markets" with Dr. John Lott of the University of Maryland, local radio talk show host Aubrey Morrow, Prof. Thomas Smith of the University of San Diego, and Prof. Mike Rappaport of the University of San Diego. The **Puget Sound** Chapter hosted a program on the bailout with Dr. John Lott, Prof. Alan Hess of the University of Washington, and Seattle talk-radio host Mike Siegel. **Minnesota** lawyers heard from local attorneys Mike Macaluso of Morgan Lewis and Tom Kelly of Dorsey & Whitney, and **Colorado** lawyers hosted Peter Wallison. Many other chapters hosted similar programs.

Two chapters were honored to host U.S. Supreme Court Justice Antonin Scalia in 2009. The **New Mexico** Lawyers and Student Chapters cooperated to bring the Justice to the state in April. Justice Scalia spoke twice to the chapters, first at the law school and second at a public lecture. The public lecture drew over 1,200 attendees. Justice Scalia spoke about the differences between "originalists" and "living constitutionalists." He also discussed his view of the death penalty *vis-à-vis* those of his colleagues. Justice Scalia answered several questions from the audience, reiterating his view that the Court should "resist the temptation to use foreign law" in its opinions. The **San Diego** Chapter also hosted the Justice at a meeting with over 60 state and federal judges, lawyers, law students, and businessmen in attendance.

The nomination of Judge Sonia Sotomayor to the U.S. Supreme Court, judicial nominations to the U.S. Court of Appeals, the confirmations process, and the work and activities of the Obama Department of Justice were hot topics for Lawyers Chapters. M. Edward Whelan III, president of the Ethics & Public Policy Center and a blogger on *National Review Online's Bench Memos* blog, of-



Cato Institute Chairman and Federalist Society Board of Visitors member, Robert Levy, visits with Louisiana Supreme Court Chief Justice Catherine Kimball after his speech to the **New Orleans** Chapter.

Senator John Cornyn shortly after Justice Sotomayor's confirmation. In his speech entitled "Fighting Judicial Activism in Washington," Senator Cornyn offered his perspectives on the proper role of the judiciary and discussed President Obama's early nominees to the bench and the U.S. Department of Justice.

Other chapters focused on the state of the judiciary and lower court nominations. Shannen Coffin, former Counsel to Vice President Dick Cheney, discussed the judicial confirmation numbers of the Bush Administration, President Obama's views on the judiciary, and his initial judicial nominations in a speech to the **Charlotte** Chapter. The **Mississippi** Chapter hosted a panel discussion on "The Senate Minority's Role in Judicial Confirmations." Retired U.S. Court of Appeals Judge Charles Pickering, former Senate Staffer Ed Haden of Balch and Bingham, Luther Munford of Phelps Dunbar, Jamie Franks of Wheeler & Franks, and Chairman of the Mississippi Democratic Party and former Lieutenant Governor Brad Dye participated. The **Atlanta** Chapter hosted a panel discussion with several former U.S. Department of Justice staffers from the George H.W. Bush, Clinton, and George W. Bush Administrations on the Obama Justice Department. Panelists reviewed the policies of the recent Bush Department of Justice and speculated what the policies of the Obama Department of Justice would be in remarks to over 100 lawyers. The **Colorado** Lawyers Chapter hosted Judge Timothy Tymkovich of the U.S. Court of Appeals for the Tenth Circuit. He offered his thoughts on the state of the judiciary and the rule of law after his fifth anniversary on the bench.

Several chapters offered recaps of the 2008-2009 U.S. Supreme Court term and previews of the 2009-2010 term. Former U.S. Solicitor General Theodore B. Olson offered his annual U.S. Supreme Court Round-Up Address to nearly 400 **Washington, D.C.** lawyers. The **Mississippi** Lawyers

Chapter hosted Gregory Coleman, an appellate lawyer at Yetter, Coleman & Warden, and local lawyer Robert McDuff, who previewed the 2009-2010 U.S. Supreme Court term. Judge Grady Jolly of the U.S. Court of Appeals for the Fifth Circuit moderated. The **Nashville** Lawyers Chapter hosted a U.S. Supreme Court Preview with Prof. David Stras of the University of Minnesota Law School. Kannon Shanmugam of Williams & Connolly offered his annual speech to the **Indianapolis** Lawyers Chapter previewing the new U.S. Supreme Court term.

The Lawyers Chapters have continued to assume critical leadership roles in organizing State Courts Project initiatives. Chapters in **New Jersey, New Orleans, Pennsylvania, and Tennessee** were among those that took leading roles in 2009 in hosting programs with state and appellate court judges, drafting White Papers and articles on state court jurisprudence for *Docket Watch*, identifying media experts and local scholars, and taking a leading role in the discussion on what the proper role of the state courts should be. Programs debated state judicial selection methods, judicial free speech restrictions, judicial activism vs. judicial restraint, and high-profile state supreme court jurisprudence. Several Lawyers Chapters also considered the repercussions of the U.S. Supreme Court's decision in *Caperton v. A.T. Massey Coal Company*. The **Birmingham** Lawyers Chapter featured a debate between former Alabama Supreme Court Justice Harold See, Jr., attorney Kevin Newsom, who served as *amicus curiae* counsel for several states in *Caperton*, American Bar Association President H. Thomas Wells, Jr., and Alabama State Bar Association President Mark White. The **Atlanta** Lawyers Chapter hosted a similar discussion on the future of judicial elections and recusals after *Caperton*.



Justice Antonin Scalia of the U.S. Supreme Court addressed a crowd of more than 1,200 when he visited New Mexico in April. He contrasted "originalists" like himself to "living constitutionalists" and warned the audience consisting of both lawyers and students to "resist the temptation to use foreign law."



Dean Kenneth Starr of Pepperdine University School of Law (left) is welcomed to the **San Diego** Lawyers Chapter by Chapter President Adam Van Susteren (right) with his guest and Lisa Ezell, Director of the Federalist Society's Lawyers Chapters (second from right).

Several chapters hosted current or former members of their state supreme courts. The **Philadelphia** Lawyers Chapter hosted one of its newest state supreme court members, Justice Seamus McCaffrey, in an event held in conjunction with the Villanova Chapter and the State Courts Project. Justice McCaffrey, who previously served as a Philadelphia policeman and a former Temple Federalist Chapter president, discussed his background, his judicial philosophy, and his goals as a state supreme court justice. The **Atlanta** Lawyers Chapter hosted its Georgia Supreme Court Justice David E. Nahmias, who recently joined the Court. Justice Nahmias discussed his judicial philosophy in remarks to over 90 attendees. The **Houston** Lawyers Chapter hosted former Texas Supreme Court Justice Scott Brister, who reviewed the previous term of the Texas Supreme Court.

The role of religion in the public square and religious freedom captured the attention of several chapters in states where school choice, same-sex marriage, and other policies with religious liberties implications were front page news. The **Connecticut** Chapter hosted a spirited discussion between Prof. Robin Wilson of Washington & Lee School of Law and Prof. Susan Schmeiser of the University of Connecticut School of Law on "Same-Sex Marriage and Religious Liberty: Emerging Conflicts, What Resolutions?" Over 90 lawyers and other interested members of the community attended the program. The discussion focused on whether public officials or private businesses should be compelled to offer services for same-sex couples. The California Supreme Court's same-sex marriage decision provoked several discussions on this question, with chapters in **San Diego**, **San Francisco**, **Orange County**, and **Ventura County** offering a balanced look at the Court's decision through panel discussions. In Oregon, the **Portland** Chapter co-hosted a debate with the Lewis & Clark Student Chapter on the question, "Do Private School Tuition Tax Credits Violate the Religion Clauses of the Oregon Constitution?"



Amity Shlaes, Senior Fellow for Economic History at the Council on Foreign Relations and author of *The Forgotten Man: A New History of the Great Depression*, spoke to more than 65 members of the **Orange County** Chapter.

Seamus Hasson, the president of the Becket Fund, and Charlie Hinkle of Stoel Rives, past president of the ACLU of Oregon, debated the constitutional questions involved.

The Lawyers Chapters hosted several speeches and debates on the constitutional implications of health care reform, often focusing on the health insurance mandate. David Rivkin of Baker & Hostetler, who published several op-eds on the constitutionality of the individual mandate, spoke to the **Puget Sound** Lawyers Chapter on "The Unconstitutionality of ObamaCare: A Discussion of the Constitutional Problems with the Current Proposals for Healthcare Reform." Rivkin also spoke about the issue at a luncheon presented by the **Milwaukee** Lawyers Chapter. Rivkin discussed whether Congress' power to regulate commerce is a basis for its mandating the purchase of health insurance by individuals, and, if the Constitution is so interpreted, whether the federal government can remain a government of limited and enumerated powers. The **New York City** Lawyers Chapter also hosted Rivkin, who debated Columbia Law Prof. Gillian Metzger. The **Birmingham** Lawyers Chapter also hosted a debate between Rivkin and Prof. Douglas Arant of the University of Alabama Law School. The **Washington, D.C.** Chapter hosted a sold-out event with U.S. Senator Tom Coburn, who offered his perspectives on health care reform and the individual mandate.

The **Boston** Lawyers Chapter presented its ninth annual Shakespeare and the Law program, at which prominent judges, public officials, and attorneys staged an abridged version of Shakespeare's *Othello* and then discussed the political aspects of the play and how they pertain to our modern era. This year's production featured former U.S. Attorney and former Massachusetts Bar Association President Wayne Budd as the lead character, Boston Chapter Chairman Daniel Kelly as Iago, and former U.S. Civil Rights Commissioner Jennifer Bracer as Desdemona. Also participating were four members of the Massachusetts federal bench: Judges Nathaniel Gorton, F. Dennis Saylor IV, Douglas Woodlock, and Rya Zobel. The event was hosted by Ralph Boyd, President George W. Bush's head of the Civil Rights Division at the U.S. Department of Justice, and now a senior official at Freddie Mac. Boyd moder-

ated the discussion following the play, along with noted criminal defense and civil liberties attorney Harvey Silverglate. Participants discussed and debated the meaning and purpose of the civil rights movement in the Obama era, and how, if at all, Obama's election affects the need for racial preferences in hiring and admittance to academic programs.

One of the highlights from the past programming year occurred in January, when the Western Lawyers Chapters hosted the Third Annual Western Chapters Conference at the Ronald Reagan Presidential Library. The topic this year was "Federal Sovereignty, State Sovereignty, and the Sovereignty of 562 Native American Tribes: A Match Made in Heaven or Somewhere Less Pleasant?" About 150 lawyers and Student Chapter members gathered for the full-day conference, which discussed tribal sovereignty, the Akaka bill (The Native Hawaiian Government Reorganization Act), international law, and Indian law. Pepperdine University Law School Dean Kenneth Starr offered the luncheon remarks.

FEDERALIST SOCIETY RENEWS CAPITOL HILL CHAPTER WITH IMPRESSIVE LAUNCH

In 2009, the Federalist Society reestablished its chapter on Capitol Hill. The mission of the Federalist Society's Capitol Hill Chapter is to educate Hill staffers about important first principles enumerated in the Federalist Society's mission statement, including the rule of law and limited, constitutional government. That goal is accomplished by sponsoring educational programming and providing networking opportunities amongst staff.

In its first year, the chapter held more than two dozen events attended by Hill staffers spanning a variety of committees and offices in the U.S. House of Representatives and U.S. Senate. Additionally, the chapter has sparked debate among Hill staff about important first principles, often manifested through



Prof. Todd Zywicki of George Mason University School of Law participated in a Federalist Society panel on the mortgage and foreclosure crisis sponsored by the **Houston** Lawyers Chapter that attracted an audience of more than 100 people.

broader and more intense discussion about the constitutionality of various legislative proposals, including, for example, health care reform.

In addition to educational events sponsored exclusively by the Federalist Society, the chapter has teamed with Hillsdale College and the Heritage Foundation to carry out educational seminars for senior staff about key constitutional concepts and first principles of limited government. This endeavor is premised on the belief that it is essential to increase the baseline understanding and information recall of first principles relating to the rule of law and limited, constitutional government across staff in the U.S. House of Representatives and U.S. Senate.

The Federalist Society co-hosted several of these day-long seminars, educating nearly 100 staffers on the topics of:

- The Purpose of Politics
- How to Talk about Rights and Duties
- Reading the Constitution of the United States
- Challenges to the Constitution
- The Administrative State
- Federalism and the Separation of Powers

SELECTED LAWYERS CHAPTERS SPEAKERS

Fred Barnes, *The Weekly Standard*
 Judge Carlos Bea, U.S. Court of Appeals, Ninth Circuit
 Hon. John Bolton, American Enterprise Institute, former U.S. Ambassador to the United Nations
 Hon. George W. Bush, former U.S. President
 Brian Chase, former Senior Staff Attorney, Lambda Legal
 Dean Erwin Chemerinsky, University of California, Irvine School of Law
 Hon. Paul Clement, King & Spalding, former U.S. Solicitor General
 Hon. Tom Coburn, U.S. Senate
 Charles Cooper, Cooper & Kirk, PLLC
 Hon. John Cornyn, U.S. Senate
 Judge Jennifer Walker Elrod, U.S. Court of Appeals, Fifth Circuit
 Prof. Richard Epstein, University of Chicago Law School
 John Fund, *Wall Street Journal*
 Judge David F. Hamilton, U.S. Court of Appeals, Seventh Circuit
 Kevin Hasson, The Becket Fund for Religious Liberty

Walter Paul Helmke, Jr., Brady Campaign to Prevent Gun Violence
 Chief Judge Dennis Jacobs, U.S. Court of Appeals, Second Circuit
 Chief Judge Edith Jones, U.S. Court of Appeals, Fifth Circuit
 Judge Brett Kavanaugh, U.S. Court of Appeals, D.C. Circuit
 Hon. Troy King, Alabama Attorney General
 Hon. Jon Kyl, U.S. Senate
 Dr. Robert A. Levy, The Cato Institute
 Andrew C. McCarthy, Foundation for Defense of Democracies
 Hon. Mitch McConnell, U.S. Senate
 Hon. Edwin Meese III, The Heritage Foundation, former U.S. Attorney General
 Dean Alan Morrison, George Washington University School of Law
 Justice David Nahmias, Georgia Supreme Court
 Hon. Theodore Olson, Gibson, Dunn & Crutcher LLP, former U.S. Solicitor General
 Dr. Roger Pilon, The Cato Institute

Judge Richard Posner, U.S. Court of Appeals, Seventh Circuit
 Judge William Pryor Jr., U.S. Court of Appeals, Eleventh Circuit
 Hon. Gerald Reynolds, U.S. Commission on Civil Rights
 Lori Rifkin, ACLU Foundation of Southern California
 Chief Justice Chase Rogers, Connecticut Supreme Court
 Justice Antonin Scalia, U.S. Supreme Court
 Hon. Jeff Sessions, U.S. Senate Judiciary Committee
 Dean Kenneth Starr, Pepperdine University School of Law
 Justice Evelyn Lundberg Stratton, Ohio Supreme Court
 Prof. Eugene Volokh, University of California, Los Angeles (UCLA) Law School
 H. Thomas Wells, Jr., former president of the American Bar Association
 M. Edward Whelan III, Ethics & Public Policy Center
 Prof. Todd Zywicki, George Mason University School of Law

FACULTY DIVISION WORKS TO EXPAND DISCUSSION IN LEGAL ACADEMY

The American legal academy plays a central role in shaping how the legal community, and less directly but still significantly, the public at large, view the role of law in this country and beyond. The Faculty Division seeks to promote a broader and deeper range of discussion about this and related questions among all levels of the law faculties themselves.

The Faculty Division's programs are designed to foster dialogue and build *esprit de corps* and confidence among faculty members interested in ideas such as the original understanding of the Constitution, the separation of powers, and the overall importance of property rights and markets to a successful legal regime. They also seek to promote discussion of these ideas with critics of them, thereby deepening understanding of the ideas themselves among all participants and helping to diminish politically-based antagonism toward the ideas and those who are interested in them. These programs also help identify strong faculty candidates who are attracted to these ideas and encourage and assist 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 faculty and law students who share these interests and would like to explore the possibility of entering the academy.

SUBJECT MATTER COLLOQUIA

Since its inception, the Federalist Society has sought to promote ideas about law primarily through debate and discussion. This approach is even more warranted in the academic context. Accordingly, this year the Faculty Division has continued to develop a series of subject matter colloquia designed to bring together up to 15 professors from a variety of law schools, at different points in their careers, and with varying points of view, to discuss a topic. A couple of individuals with strong scholarly promise who have an interest in teaching law and have done academic work relevant to the topic are also invited to each colloquium. The colloquia are intended to help define the scope and terms of academic legal debate and enhance the participants' understanding of the issues presented, as well as to forge professional relationships, create something of a community of scholars, and foster a better understanding of competing points of view.

The colloquium "The Free Market and the Financial Crisis," held in New York City, examined the role the free market played in the economic crisis and the role it can and should play in remedying the problems. "Retribution and Justice," which was held in Bachelor Gulch, Colorado, focused on

the role of retribution in the modern-day criminal justice system. And "Law and Judicial Duty," which was held in Chicago, Illinois, focused on Prof. Philip Hamburger's book of the same name, and in particular the questions: What gives obligation to law? What is the office or duty of a judge? What does it mean to say that judges should be independent? What is the authority of judges to expound law? The Faculty Division received overwhelmingly positive feedback on all three of these events from participants, and looks forward to expanding the colloquium series next year when a series on "Liberty and Law," co-sponsored by the Liberty Fund, will be inaugurated.



Senior Vice President and Faculty Division Director Lee Liberman Otis asks a question at the National Lawyers Convention.

ANNUAL FACULTY CONFERENCE

The most recent Faculty Conference, held January 8, 2010 in New Orleans, marked the 12th consecutive year the Federalist Society has provided a unique setting for discourse and for fostering the development of quality scholarship among law school faculty. Approximately 50 faculty members representing over 40 law schools attended the event. See more Faculty Conference coverage in the National Conferences section on page 16.

SEARLE JUNIOR SCHOLARS RESEARCH FELLOWSHIPS

The Searle Junior Scholars Research Fellowship, established in 2007 and awarded for the second time in the fall of 2009, is designed to enable up to two current faculty members in their second to fifth year of teaching at schools with relatively heavy teaching loads and lower research budgets to take a semester-long research leave and work on a significant piece of scholarship. The fellowship and the work the fellows produce should also enhance their professional standing and reputation, including opportunities for them to move to other schools where their voices will be amplified. From the 16 applications received, the selection committee of distinguished academics recently awarded the fellowships to Prof. Dan Markel of Florida State University College of Law, and Prof. J.W. Verret of George Mason University School

New Case Western Reserve University School of Law faculty members Robert Wagner and Irina Manta attended the reception during the Faculty Division's Annual Conference in January.



of Law. In addition, last year's recipients, Robert Miller of Villanova and Jason Yackee of the University of Wisconsin, 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 teaching as a profession. These one-year fellowships provide a \$50,000 stipend to fellows who have strong academic qualifications and seem likely to contribute to intellectual diversity in the legal academy. The fellows spend their time at a top school working on academic scholarship. Two-thirds of past recipients have ended up in tenure-track positions at law schools including George Mason, Georgetown, Harvard, Missouri, Notre Dame, Rutgers, and many others. This year's recipients were Tara Helfman (who is completing her fellowship at New York University School of Law), Steven Menashi (at Georgetown University Law Center), and Elina Treyger (at Yale Law School).

• *Job Talk Workshop and Related Efforts*

Chicago was the venue for the second Faculty Division Job Talk Workshop. Ten candidates for academic jobs in fall 2009 participated as presenters, and an additional 12 future candidates (including one of our Olin Fellows for the coming year) participated as observers. At the workshop, each 2009 candidate had the opportunity to present his or her job talk before a panel of professor commentators with different political and philosophical perspectives as well as different subject matter and methodological expertise. Presenters received both substantive and stylistic feedback on their talks, including tips about how to manage potential ideological discrimination from hiring committees. They also had the opportunity to participate in mock interviews and receive input about their resumes and related materials. In addition to the Chicago workshop, we have also worked individually with job candidates residing in the Washington, D.C., New York City, and Chicago areas to set up mock interviews and job talks before groups of local professors, and have worked to make introductions between job market candidates and current faculty members who may be interested in their work.

• *Panel at Student Symposium*

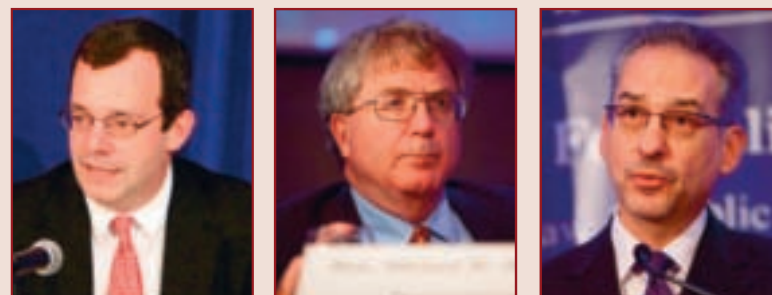
The past three years the Faculty Division has also held a panel at the annual Student Symposium for promising students, primarily at top schools, who are interested in an academic career to receive early advice. Prof. Steven Calabresi of Northwestern University Law School, Prof. Nicole Garnett of Notre Dame Law School, Prof. George Priest of Yale Law School, and Prof. Thomas Merrill of Yale Law School were the panel participants this year.

ALUMNI OUTREACH EFFORT GAINS MOMENTUM

The Federalist Society hosted a series of law school specific alumni breakfasts at the National Lawyers Convention. These events provided an opportunity for alumni, current students, and faculty of different schools to reminisce and renew ties. Alumni from 13 law schools including Catholic, Chicago, Columbia, George Mason, George Washington, Georgetown, Harvard, Michigan, Notre Dame, Stanford, Texas, Virginia, and Yale gathered for different breakfasts at this year's Convention.

The early morning meetings included short talks by prominent alumni, current faculty members, and student chapter leaders. The trend is expected to grow as alumni from several additional law schools have expressed an interest in organizing similar events at next year's Convention.

The success of these breakfasts and other efforts by various student chapters to maintain ties with alumni involved in the Society when they were students has prompted interest in other ways to stay in touch and build relationships with each other and with their school on a more regular basis. The Society's Membership Director will also serve as the Director of Alumni Relations and will work with interested alumni and students to facilitate the effort.



Speaking to the Harvard Law School Alumni Breakfast was Prof. John Manning (left). Prof. Michael McConnell (center) addressed the Stanford Law School Alumni Breakfast and Prof. Randy Barnett (right) spoke to the Georgetown University Law Center Alumni Breakfast.

LEGAL LUMINARIES FROM ACROSS THE COUNTRY GATHER FOR NATIONAL LAWYERS CONVENTION

The Federalist Society capped off its 27th year by hosting the 2009 National Lawyers Convention with more than 1,500 individuals taking part in one or more events at the three-day gathering. Following longtime tradition the annual event took place in mid-November at the Mayflower Hotel in Washington, D.C.

The timely theme of the Convention, which featured more than 25 panels and speeches and 100 lawyers and public policy experts, was “The Federal Government’s Economic Role in our Constitutional System,” resulting in standing-room-only Showcase Panels on “Redistribution of Wealth,” “Bailouts and the Government as Insurer of Last Resort,” “Regulation of Financial Institutions,” and “Control of the Bureaucracy.” Each of the Federalist Society’s 15 Practice Groups organized panels and debates featuring leading academics, top practicing attorneys, and public policy experts exploring some of the most pressing legal questions of the day.

Other highlights included the Federalist Society’s Annual Dinner on the opening night of the Convention featuring a banquet address by U.S. Supreme Court Justice Samuel Alito, who offered reflections on the state of legal scholarship and entertained the more than 1,200 attendees with some personal anecdotes about his confirmation and career.



Former U.S. Solicitor General Theodore Olson (left) congratulates Judge Douglas Ginsburg of the U.S. Court of Appeals for the D.C. Circuit after the judge gave the Ninth Annual Barbara K. Olson Memorial Lecture.

The annual Barbara K. Olson Memorial Lecture on Friday night featured an address by Judge Douglas Ginsburg, U.S. Court of Appeals for the D.C. Circuit, on the non-delegation doctrine and the unitary executive. The Second Annual Rosenkranz Luncheon took place in a packed ballroom on the Saturday of the Convention and featured a lively exchange between two storied jurists, Judge

Guido Calabresi of the U.S. Court of Appeals for the Second Circuit, and Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit. Prof. John Manning of Harvard Law School moderated the event, which explored the topic “RESOLVED: The United States Constitution requires federal courts to interpret statutes as honest agents of the enacting Congress.”

Former U.S. Attorney General Michael Mukasey discarded his prepared remarks and responded to breaking news Friday afternoon when he addressed the Convention and representatives of the national press corps just hours after the Obama Administration’s surprise announcement that some of the Guantanamo detainees would be tried in a civil court in New York City.

The Convention concluded with remarks by Mark Levin of the Landmark Legal Foundation, a popular national radio talk-show host and author of the recent bestseller *Liberty and Tyranny: A Conservative Manifesto*.



Justice Samuel Alito, Jr. of the U.S. Supreme Court was the banquet speaker at the Annual Dinner during the National Lawyers Convention.

STUDENT LEADERSHIP CONFERENCE PREPARES CHAPTER OFFICERS FOR SUCCESSFUL YEAR

Each summer the National Office hosts a training conference to prepare incoming Student Chapter presidents for their leadership duties. In July 2009, approximately 200 chapter leaders attended the Student Leadership Conference in Washington, D.C., where they learned how to organize and run a successful chapter. They also heard from several prominent friends of the Federalist Society.

Judge Janice Rogers Brown, of the U.S. Court of Appeals for the D.C. Circuit, urged them to be aware of and to utilize their potential to make an impact on today's law school campuses. Clark Neily, Senior Attorney with the Institute for Justice, Jordan Lorence, Senior Council for the Alliance Defense Fund, and Kevin Hasson, president of the Becket Fund for Religious Liberty, spoke to the students about career opportunities in public interest law.

For most students, the highlight of their trip to Washington was an evening reception at the U.S. Supreme Court with many legal luminaries including Justice Clarence Thomas. Justice Thomas took the time to speak personally with many of our chapter leaders, welcoming them to the Federalist Society.

Those who attended left energized and well-equipped to plan and execute successful chapter programs on their campuses last year. Much of the growth and development in the Student Division has been credited to these summer sessions which not only train new leaders but present opportunities for new officers from all over the country to meet each other and the National Staff as well as to form friendships and working relationships for the upcoming year.

STUDENT SYMPOSIUM RETURNS TO YALE LAW SCHOOL

The Federalist Society's 28th National Student Symposium in February of 2009 themed "The Separation of Powers in American Constitutionalism" and attended by more than 600 law students was warmly welcomed to its birth-place, Yale Law School, by the then-law school dean, Harold Hongju Koh, who commended the organization for its ongoing contribution to the legal debate at Yale and across the country.

Kicking off the Symposium on Friday evening was a panel discussion entitled "Is the Separation of Powers Principle Exportable?" The panel was moderated by Judge Jose A. Cabranes, U. S. Court of Appeals for the Second Circuit and included Prof. Steven Calabresi of Northwestern Law School



Federalist Society President Eugene Meyer (left) chats with former Commissioner of the U.S. Securities and Exchange Commission Steven M.H. Wallman now of Foliofn, Inc. after he appeared on the panel "Bailouts and the Government as Insurer of Last Resort" at the National Lawyers Convention.



U.S. Senator Jeff Sessions of Alabama (left) with Federalist Society Executive Vice President Leonard Leo after giving the opening address to the 2009 National Lawyers Convention.

(co-founder of the Federalist Society), Prof. Oona Hathaway of UC Berkley School of Law – Boalt Hall, Prof. Juan Linz of Yale University Department of Political Science, and Prof. Jide Nzelibe of Northwestern Law School.

The panel explored the geopolitical implications of nation-building and democratization, with particular attention to constitutional structure and whether or not the American version of democracy is exportable, what role America should adopt in promoting new democratic states, and the benefits of the American constitutional model as opposed to a European parliamentary system of governance. Prof. Linz argued that it is not always desirable that American-style government be adopted in certain countries because this style of democracy faces more danger of degenerating into dictatorship than a parliamentary system. Prof. Calabresi strongly advocated that the European Union adopt certain components of America's governing principles such as a continent-wide presidential election to electrify the population and stir healthy debate in a way which is impossible in the current bureaucratic system. Prof. Nzelibe disagreed with Prof. Calabresi saying lawyers vastly overestimate the importance of constitutionalism and institutional design when it is intrinsic social and cultural factors which determine the success of a country regardless of which type of formal government is adopted. Prof. Hathaway questioned whether there is a one-size-fits-all solution to governance. Although the rest of the world may be able to learn a great deal from the United States, she argued that the American political system cannot be transposed to fit all countries, especially fledgling nations with weak norms of civil society where strong presidencies are liable to lead to political breakdown.

A lively and engaging debate took place Saturday morning between former Texas Solicitor General Ted Cruz and Donald Francis Donovan, a partner at Debevoise and Plimpton LLP. The two had clashed before the U.S. Supreme Court in 2008 over the seminal case *Medellin v. Texas* involving the



Former Texas Solicitor General Ted Cruz explained his winning argument based on federalism and American sovereignty before the U.S. Supreme Court in the 2008 seminal case *Medellin v. Texas* to law students at the Yale Student Symposium.

state of Texas's right, in the face of international pressure, to execute a Mexican citizen for raping and murdering a child. The Court had decided in favor of Texas with a 5-4 vote. Donovan who had represented Medellin argued that disastrous foreign policy consequences would follow if states were permitted to disregard international treaties to pursue their own disparate policies. Ted Cruz based his reply on framing *Medellin* in terms of federalism and American sovereignty.



Two long-time active Federalist Society members, Rachel Brand of Washington, D.C. (left) and Susanna Dokupil of Houston catch up during the Convention.

The second panel on “Confirmation Battles and Presidential Nominations” was moderated by Judge Sonia Sotomayor, U.S. Court of Appeals for the Second Circuit (who would herself soon be nominated and confirmed as a member of the U.S. Supreme Court). The panel included Rachel Brand, currently an attorney at the firm of WilmerHale, who was the chief policy advisor to the U.S. Attorney General in the George W. Bush Administration where she participated in the process of selecting and appointing judges, including Chief Justice John Roberts and Justice Samuel Alito. Also on the panel was Prof. Steven Carter of Yale Law School who spoke on the vagueness of the Advice and Consent Clause of the U.S. Constitution and Prof. John McGinnis of Northwestern



Prof. Nicholas Quinn Rosenkranz of the Georgetown University Law Center (second from left) posed with the participants of the Second Annual Rosenkranz Luncheon, Judge Guido Calabresi of the U.S. Court of Appeals for the Second Circuit (left) who debated Judge Frank Easterbrook of the U.S. Court of Appeals for the Seventh Circuit (right). Prof. John Manning of Harvard Law School (second from right) moderated the program.

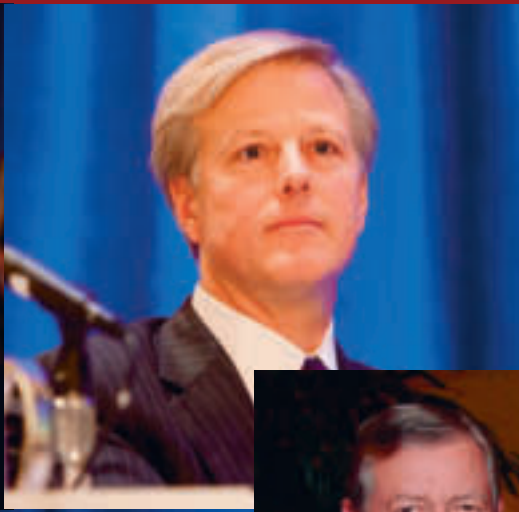
University Law School who argued in favor of robust confirmation battles which he said produce better judicial results. Completing the panel was Nan Aron of the liberal Alliance for Justice who used the occasion to issue a scorching condemnation of the Republican Party, which she said had politicized the judicial appointment and confirmation process.

“The Administrative State and the Constitution” panel was moderated by Prof. Jonathan Macey of Yale Law School and featured Prof. Peter Shane of Ohio State University College of Law, Prof. Gary Lawson of Boston University Law School, Prof. Thomas Merrill of Yale Law School, Prof. John Harrison of the University of Virginia School of Law and Prof. Cynthia Farina of Cornell Law School.

The last panel featured the Hon. John Bolton, former U.S. Ambassador to the United Nations, Prof. Curtis Bradley of Duke University School of Law, Prof. Michael Paulsen of the University of St. Thomas School of Law, and Prof. Christopher Schroeder of Duke University School of Law exploring the subject of “War Powers and the Executive.”

The Symposium concluded with a challenging banquet speech by Judge Lawrence Silberman of the U.S. Court of Appeals for the D.C. Circuit who decried the decline of honor, the word, and the concept in American life. Drawing on his experience as head of the Presidential Intelligence Committee, Silberman noted how many civil servants and appointees no longer make the honorable choice between resignation and faithful service, but instead

2009 NATIONAL LAWYERS



CONVENTION HIGHLIGHTS



Former U.S. Attorney General Michael Mukasey (center) answers questions from law students and the press after his remarks to the National Lawyers Convention concerning the surprise announcement of the proposed terrorist trials of Khalid Sheikh Mohammed and others in New York City.



hang on to their jobs and dishonorably leak information to the press, which gladly takes advantage of this conduct. He said both Democrats and Republicans have driven this trend. He used the example of Dean Acheson who resigned honorably from public life when he disagreed with the Roosevelt Administration's policy direction. He urged the future lawyers to restore the concept of honor in their own careers.

ANNUAL FACULTY CONFERENCE PROMOTES COLLEGIALITY IN LAW SCHOOLS

More than 50 faculty members representing over 40 law schools attended the most recent Faculty Conference, which took place January 8, 2010 in New Orleans, making this the twelfth consecutive year the Federalist Society has provided a unique setting for discourse and for fostering the development of quality scholarship among law school faculty.

This year's panels focused on a wide range of salient legal issues, including bankruptcy versus bailout as a solution for a failing firm, civil pleading standards after the *Iqbal* case, constitutional and prudential limits on the treaty power, and the competing interpretive theories of constitutional construction and constitutional interpretation.

In addition, this year's Conference featured our first ever Young Legal Scholars Paper Competition, for which five papers written by young faculty and other scholars who have not yet entered the academy were competitively selected to be presented on a special panel. Prof. Richard Epstein of the University of Chicago Law School was on hand to provide comments on each paper, and the winners benefitted from his critiques for use in their revisions.

This year's Luncheon Debate, "Constitutional Interpretation versus Constitutional Construction," featured Prof. Randy Barnett of the Georgetown University Law Center and Prof. Michael Rappaport of the University of San Diego School of Law. The lively exchange was moderated by Prof. Lee Strang of the University of Toledo College of Law.

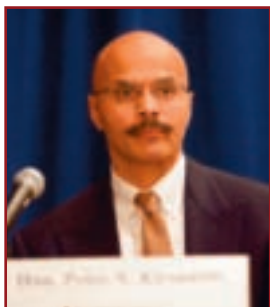
The Conference also provided an opportunity for other faculty to give seven-minute presentations of papers currently in progress and receive feedback on their work from colleagues. The annual Conference energized the attendees, who deal daily with the biases of many of their colleagues in the legal academy and offered the opportunity for the interchange of ideas and the review of each other's work that is so vital for serious scholars.

A lively panel at the 2009 Student Symposium at Yale, "War Powers and the Executive," featured (left to right) Judge Debra Ann Livingston of the U.S. Court of Appeals for the Second Circuit, Prof. Michael Paulsen of the University of St. Thomas School of Law, Prof. Curtis Bradley of Duke Law School, Prof. Christopher Schroeder of Duke Law School and the Hon. John Bolton, former U.S. Ambassador to the United Nations.



PRACTICE GROUPS ADVANCE IN NEW DIRECTIONS

The Practice Groups have developed two significant new ventures to reach Society members and other interested parties unable to attend regular programming: the New Federal Initiatives Project (NFIP), and a series of Practice Group podcast debates and discussions. In the spring of 2009, the Practice Groups launched the NFIP. Since the 2008 elections, there have been many new federal proposals, both legislative and regulatory. Although some of the proposals have garnered a great deal of coverage and analysis, with thorough discussion in full public view, others have attracted significantly less attention, despite the consequential legal and constitutional questions they might present. Through NFIP, the Practice Groups are reporting on such proposals, with a special emphasis on their legal and constitutional implications.



The **Civil Rights Practice Group** panel entitled “Affirmative Action in the Obama Era” featured (clockwise from top left) the Hon. Carlos Bea of the U.S. Court of Appeals for the Ninth Circuit, the Hon. Peter Kirsanow of the U.S. Commission on Civil Rights, Linda Chavez of the Center for Equal Opportunity, and Shirley Wilcher of the American Association for Affirmative Action.

The Practice Groups have been supplemented by 18 additional working groups, composed of Practice Group leaders and over 75 new volunteer leaders, to monitor the regulatory and legislative legal landscape. Members of the working groups have produced a series of briefing papers that describe some of the most significant of these proposals, how they differ from existing law and policy, and the legal and constitutional issues they raise. The papers include links to original source documents and materials related to the federal proposals. The papers are, in turn, made available to the public through the Federalist Society website and are proactively distributed to a specialized network of practitioners, policymakers, media, and other pub-

lic interest groups. For the most topical papers, the Practice Groups host a briefing by conference call led by the paper’s author and attended by related Practice Group members, policy-setters, and staff members from interested organizations. The project has proven to be successful, with the average NFIP paper thus far downloaded at a rate four to five times greater than the average paper on the Social Science Research Network (SSRN).

A second new area of emphasis of the Practice Groups is original podcast programming. For some time, and with good results, the Practice Groups have placed video recordings of live Practice Group programming online for download by interested parties. A typical Practice Group program posted online will be downloaded directly from our website several thousand times. More recently, the Practice Groups began a series of debates and discussions on a myriad of legal topics that exist exclusively online in the form of podcasts. These podcast debates can be organized more quickly than in-person programming, at a fraction of the cost, and they are downloaded in numbers far greater than attendance figures for in-person programming. The popularity of Practice Group podcasts is only expected to increase as word of their availability spreads.

In addition to the programming described above, the Practice Groups also continue to help produce SCOTUScast, the Society’s online descriptions of U.S. Supreme Court case arguments and decisions, and Originally Speaking, the Society’s online written debate series.

Of course, the Practice Groups continue to plan and execute debates and discussions on important legal issues of the day. This year, programming covered a wide range of topics but emphasized four areas of law in particular. The Practice Groups dedicated substantial energy to international law and the War on Terror, civil rights and religious liberties, the economy and the financial services industry, and the intersection of business, technology, and intellectual property.

WAR ON TERROR

The **International & National Security Law Practice Group** sponsored several conferences examining various aspects of the War on Terror. Last fall, it hosted a panel as part of the American Branch of the International Law Association’s annual conference in New York City. The panel was titled “What is Lawfare?” and featured Senior Fellow at the National Review Institute Andrew C. McCarthy, Contributing Editor of *Harper’s Magazine* Scott Horton, Prof. Michael A. Newton of Vanderbilt University Law School, and Brooke Goldstein of the Legal Project of the Middle East Forum.



The **Professional Responsibility & Legal Education Practice Group** hosted Miguel Estrada of Gibson, Dunn & Crutcher LLP (left) for a discussion of “The Role of Government Attorneys and the Global War on Terror.” The panel was moderated by Judge Diane Sykes of the U.S. Court of Appeals for the Seventh Circuit.

In February, the group held a press briefing titled “The War on Terror: Litigation Update.” The briefing focused on numerous pending War on Terror related court cases, ranging from the case of Ali Saleh Kahlah al-Marri before the U.S. Supreme Court (*al-Marri v. Pucciarelli*), to the case involving the Uighurs, to the various district court and courts of appeal cases and how the Obama Administration handled them. The briefing was presented by David Rivkin, Jr. of Baker & Hostetler LLP and Charles “Cully” Stimson, Senior Legal Fellow at the Heritage Foundation, and moderated by former U.S. Attorney General Edwin Meese III.

The group convened again in May for an all-day conference on “Counterterrorism and the Obama Administration.” The conference examined the Obama Administration’s response to the terrorist threat against the United States as it differed or coincided with that of the Bush Administration. Panel topics included “Detention and Trial of Terrorist Suspects,” “Preventing Attacks through Interrogation and Transfer of Terrorist Suspects,” and “Preventing Attacks through Surveillance and Intelligence.” Highlighted speakers included Jonathan Hafetz of the American Civil Liberties Union, Elisa Massimino of Human Rights First, Prof. Deborah Pearlstein of Princeton University, Edwin Williamson of Sullivan & Cromwell LLP, Benjamin Wittes of the Brookings Institution, William Kristol, founder and editor of *The Weekly Standard*, George Terwilliger III of White & Case LLP, and Stewart Baker of Steptoe & Johnson LLP. The discussion brought out stark differences of opinion between and among the panelists.

Also in May, the **International & National Security Law Practice Group** co-sponsored an all-day conference entitled “Libel Lawfare,” which explored actual or threatened legal action against those deemed to have written impermissible critiques of Islam. Conference panel topics included “Islamist Lawfare in the United States,” and “Islamist Lawfare in Europe, Canada, and

the United Nations.” Highlighted speakers included Prof. Alan Dershowitz of Harvard Law School, Center for Security Policy President Frank Gaffney, Senior Fellow at the National Review Institute Andrew C. McCarthy, and James Taranto of *The Wall Street Journal*.

The **Professional Responsibility & Legal Education Practice Group** held a debate titled “Government Attorneys and the Global War on Terror,” which examined the very complicated questions of how government attorneys might be called upon by their superiors to render legal advice, given the possibility of future legal exposure for having rendered that advice. The panel focused on those who advised the government in its conduct of the War on Terror and the detainment and interrogation of terrorist suspects. The issues were debated by Miguel Estrada of Gibson, Dunn & Crutcher LLP and Prof. Bradley Wendel of Cornell University Law School, and moderated by Judge Diane Sykes of the U.S. Court of Appeals for the Seventh Circuit.

CIVIL RIGHTS AND RELIGIOUS LIBERTIES

The **Religious Liberties Practice Group** co-sponsored Georgetown University’s “Series of Conferences Commemorating the 10th Anniversary of the International Religious Freedom Act.” The conference addressed U.S. international religious freedom policy and democracy promotion, civil society, religion-based terrorism, law (domestic and international), and public diplomacy. **Religious Liberties Practice Group** Executive Committee members Prof. Hadley Arkes of Amherst College and William Saunders of the Family Research Council participated in the panel titled “U.S. International Religious Freedom Policy and the Law.”

In May, the **Religious Liberties Practice Group**, together with the Alliance Defense Fund, presented a debate on “Politics in the Pulpit,” which examined the tension between clergy imparting messages integral to their faith and government attempts to limit clergy speech based on their tax-exempt status. The panel included Chief Counsel of the Alliance Defense Fund Benjamin Bull, Prof. Douglas Laycock of the University of Michigan Law School, Americans United for Separation of Church and State Executive Director Rev. Barry Lynn, Prof. Donald Tobin of Ohio State University College of Law, and moderator Steffen Johnson of Winston & Strawn LLP.

The Practice Groups also presented a panel on “Civil Rights in the Age of Obama.” The panel considered what new policies the Obama



“Federalism and the Economic Crisis,” was the topic of the **Federalism & Separation of Powers Practice Group’s** event which featured Dean John Eastman of Chapman University School of Law.

Administration and Congress might pass in the civil rights arena and the possible outcomes of several potentially landmark cases before the Supreme Court. The panel featured Center for Equal Opportunity President and General Counsel Roger Clegg, Prof. Gail Heriot of the University of San Diego School of Law and member of the U.S. Commission on Civil Rights, National Women's Law Center Vice President Jocelyn Samuels, Prof. Theodore M. Shaw of Columbia University School of Law, and moderator Todd Gaziano of the Heritage Foundation.

In June, the **Civil Rights Practice Group** presented a panel on "Voting Rights – and Wrongs: The Elusive Quest for Racially Fair Elections." The panel reviewed the book by U.S. Commission on Civil Rights Vice Chairman Abigail Thernstrom of the same title and the on-going utility of the 1965 Voting Rights Act, particularly Section 5 of the Act. In addition to Prof. Thernstrom, the panel included Michael Carvin of Jones Day, Prof. Richard Pildes of New York University School of Law, and moderator Henry Olsen, Director of the National Research Initiative at the American Enterprise Institute (AEI).



Prof. Mark Schultz of Southern Illinois University School of Law moderated a program on "Intellectual Property and Economic Growth" put together by the **Intellectual Property Practice Group**. Prof. Schultz has served as the Federalist Society's representative to the World Intellectual Property Organization (WIPO) through the International Law & American Sovereignty Project.

THE ECONOMY AND THE FINANCIAL SERVICES INDUSTRY

The **Financial Services & E-Commerce, Administrative Law & Regulation, Federalism & Separation of Powers, and the Corporations, Securities & Antitrust Practice Groups** hosted a day-long conference in March with Chapman University School of Law, titled "The Financial Services Bailout: Cause, Effect & the Limits of Government Action," to discuss next steps in the economic crisis, including concrete steps to denationalize credit risk. A recurring point of contention between panelists was the extent to which government activity and regulation contributed to the collapse and could be seen as a part of the solution going forward. Participants included U.S. Representative Jeb Hensarling of Texas, David Berenbaum of the National Community Reinvestment Coalition, John Weicher of the Hudson Institute, and Alex Pollock of AEI.



Prof. John S. Baker, Jr. of Louisiana State University Law Center participated in a panel on drug enforcement policy hosted by the **Criminal Law & Procedure Practice Group** at the National Lawyers Convention.

The **Labor & Employment Law Practice Group** held a panel discussion titled, "Wall Street, Labor Unions, and the Obama Administration: A New Paradigm for Capital and Labor?" The panel examined how the Obama Administration and Congress might seek to alter the relationship among government, private corporations, and workers. The panel included Harold Meyerson of *The American Prospect*, Amity Shlaes of the Council on Foreign Relations, Damon Silvers of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO), Prof. Todd Zywicki of George Mason University School of Law, and was moderated by Steven Law of the U.S. Chamber of Commerce.

BUSINESS, TECHNOLOGY AND INTELLECTUAL PROPERTY

The Practice Groups spent considerable resources examining various issues at the intersection of business law, privacy, and intellectual property. In a joint venture with the Silicon Valley Lawyers Chapter, the **Intellectual Property and Corporations, Securities & Antitrust Practice Groups** hosted a panel discussion on data collection and competition, featuring Gary Reback, of Counsel at Carr & Ferrell LLP, Rick Rule of the Cadwalader law firm, and Prof. Joshua Wright of George Mason University School of Law.

In New York City, the **Intellectual Property Practice Group** also hosted a program examining the Google™ settlement. The discussion featured Prof. Richard Epstein of the University of Chicago Law School, Jonathan Jacobson of Wilson Sonsini, and Prof. Scott Hemphill of Columbia University School of Law. The spirited discussion, focusing on class action and antitrust issues, has been among the continuing download leaders for Federalist Society programming available online.

In Washington, D.C. the **Corporations, Securities & Antitrust Practice Group** hosted a program entitled "Google the Monopolist?" that examined the new administration's perspective on the business activities of Google™. Susan Creighton of Wilson Sonsini was joined by Prof. Geoffrey Manne of the Lewis and Clark Law School, and economist Scott Cleland of Precursor LLC.

MORE PRACTICE GROUP NEWS

The **Administrative Law & Regulation** and **Litigation Practice Groups**, with Case Western Reserve University School of Law, presented a panel discussion titled “Regulation by Litigation: Boon or Bane.” In their new book, *Regulation by Litigation*, authors Prof. Andrew Morriss, Prof. Bruce Yandle, and Andrew Dorchak argued that “regulation by litigation” is attractive to regulators and activists because it provides an inappropriate and undemocratic shortcut to imposing regulatory burdens on private firms, and needs to be curbed. Panelists Prof. David Vladeck of the Georgetown University Law Center and Roger Martella, Jr. of Sidley Austin LLP participated in the discussion, and, with the authors, provided legal commentary on these and other issues.

The **Criminal Law & Procedure Practice Group** sponsored a panel on “The Prosecution of Public Corruption” featuring Prof. John Baker, Jr. of the Louisiana State University Law Center, Alice Fisher of Latham & Watkins, Daniel Reidy of Jones Day, and Robert Trout of Trout & Cacheris, PLLC. The panel, moderated by Judge Merrick Garland of the U.S. Court of Appeals for the D.C. Circuit, discussed whether or not the U.S. Justice Department’s concentration on public corruption is a prudent use of its law enforcement resources.

The **Environmental Law & Property Rights Practice Group** and the Boston Lawyers Chapter hosted a program on the Clean Water Act: “Where Should Federal Authority Dry Up?” In light of the 2006 plurality decision in *Rapanos v. United States* and subsequent litigation and regulatory uncertainty, U.S. Representative James Oberstar of Minnesota introduced the Clean Water Restoration Act. The legislation, if enacted, would significantly expand federal regulatory authority over waters and wetlands. The panel of experts discussed whether or not such legislation qualifies as sound policy. The panel included M. Reed Hopper of the Pacific Legal Foundation, Prof. Patrick Parienteau of Vermont Law School, Prof. Jonathan Adler of Case Western Reserve University School of Law, Christopher Kilian of the Conservation Law Foundation, and Leigh Gilligan of McCarter & English, LLP.

Just days before the U.S. Supreme Court heard oral arguments in *Free Enterprise Fund v. Public Company Accounting Oversight Board* (PCAOB), the Federalist Society’s **Federalism & Separation of Powers Practice Group** held a conference discussing the case. U.S. Representative Tom Price of Georgia provided introductory remarks, followed by a panel discussion on the legal and regulatory implications of the case. The panel featured Paul Atkins of AEI, Competitive Enterprise Institute Senior Attorney Hans Bader, Council of Institutional Investors General Counsel Jeffrey Mahoney, and Prof. Gillian Metzger of Columbia University School of Law. Dr. Michael Greve of AEI served as moderator.

The **Free Speech & Election Law Practice Group** hosted a panel discussing the past, present, and future of the Fairness Doctrine, including a discussion of possible Congressional action. The panel included Prof. Thomas Hazlett of George Mason University Law School, Media Research Center Communications Director Seton Motley, and Prof. Jamin Ben Raskin of the American University Washington College of Law. Judge David Sentelle of the U.S. Court of Appeals for the D.C. Circuit served as moderator.

During the annual National Lawyers Convention, the **Litigation Practice Group’s** panel, “The Future of Federal Pre-Emption,” explored recent U.S. Supreme Court jurisprudence and whether, particularly in light of the addition of three new Justices, the Court’s pre-emption jurisprudence might be more or less predictable. The panel featured Dr. Michael Greve of AEI, Prof. Alan Morrison of George Washington University Law School, Prof. Catherine Sharkey of New York University School of Law, and Daniel Troy of GlaxoSmithKline, with Judge William H. Pryor Jr. of the U.S. Court of Appeals for the Eleventh Circuit serving as the moderator.

With the issue of net neutrality gaining renewed currency as the Federal Communications Commission proposes new regulations, the **Telecommunications & Electronic Media Practice Group** hosted a panel focused on the benefits and costs to consumers and to technological innovations. The panel included Federal Communications Commissioner Robert McDowell, Prof. Marvin Ammori of the University of Nebraska–Lincoln College of Law, former U.S. Representative David McIntosh of Mayer Brown LLP, National Cable & Telecommunications Association President Kyle McSlarrow, and Public Knowledge president and founder Gigi Sohn, and was moderated by Judge Jennifer Elrod of the U.S. Court of Appeals for the Fifth Circuit.



Federalist Society Vice Chairman David McIntosh of Mayer Brown LLP (left) offered his expert opinion on the subject of “Broadband and Net Neutrality” at a panel organized by the **Telecommunications & Electronic Media Practice Group** which was moderated by Judge Jennifer Elrod of the U.S. Court of Appeals for the Fifth Circuit.

STATE COURTS RECEIVING WIDER PUBLIC ATTENTION

The Federalist Society’s State Courts Project continues to grow and carry out its mission to spark robust public debate about the role of state supreme courts as well as to motivate opinion leaders, the press, and the general public to be more informed about, and interested in, issues of judicial selection. The issues at the state level are similar to those the Federalist Society has underscored at the federal level: the proper role of courts, methods of interpreting state constitutions, the separation of powers, and competing definitions of “judicial restraint” and “judicial activism.”

In 2009, the State Courts Project expanded its volunteer base, increased publications, and reached a record number of people through its Legal Experts Program, White Papers, and events.

LEGAL EXPERTS PROGRAM

The State Courts Legal Experts Program trains volunteer local legal experts on how to address the key issues related to the courts using state supreme court vacancies, appointments, and elections as inflection points, as well as the occasional legislative proposal regarding judicial selection or judicial reform. In 2009, the Legal Experts Program expanded by nearly 20 percent. Despite working during an ‘off year’ of election cycles, the State Courts Project reached a record number of people.

- By comparison to 2007, the last year with only a couple of state supreme court elections, total media impressions more than doubled, from 22.2 million in 2007 to 46.1 million in 2009. Media impressions refer to 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.
- By comparison to 2008, average media impressions per state increased by more than 50 percent, from an average of 3.8 million impressions per state in 2008 to 5.8 million impressions per state in 2009. This is significant, considering that there were about eight fewer elections that could be used as media pegs this year over the previous year.

PUBLICATIONS

The State Courts Project engages distinguished scholars or practitioners to publish White Papers on the recent jurisprudence of a state supreme court and on the methods of judicial selection. These White Papers have been distributed to thousands of opinion leaders, government officials, media outlets, non-

profit institutions, and members of the general public. Additionally, the State Courts Project publishes two newsletters, *State Court Docket Watch* and *State AG Tracker*, that report on noteworthy jurisprudential trends and controversial cases as well as official actions by state attorneys general that have impact both within, and outside of, their respective jurisdictions. In 2009, the Federalist Society published a record 15 publications:

- Eric A. Hanushek & Alfred A. Lindseth, *Judicial Funding Mandates Related to Education Sharply Decline* (October 2009)
- Nathan Fox, Brian Guthrie, & Bill O’Shea, *Key Issues for Pennsylvanians: What is at Stake with the Pennsylvania Supreme Court* (October 2009)
- Frederic J. Giordano, Shauna Peterson, & Robert T. Miller, *Dollars and Sense: Understanding the New Jersey Supreme Court’s Role in Education and Housing* (September 2009)
- Brian Fitzpatrick, *A Report on the Political Balance of the Tennessee Plan* (April 2009)
- Samson R. Elsbernd, *Kansas Supreme Court Nominating Commission Lawyers* (February 2009)
- Four *State Court Docket Watch* publications and six *State AG Tracker* articles



The Federalist Society’s national community of State Courts Project volunteers includes members from the bench, academia, and the business world including Michigan Supreme Court Justice Robert P. Young, Jr. (left) who frequently moderates Society panels and debates, Prof. Jonathan Adler of Case Western Reserve University School of Law (center) who co-authored the State Courts White Paper, *A More Modest Court: The Ohio Supreme Court’s Newfound Judicial Restraint*, and A. Gregory Grimsal, president of the New Orleans Lawyers Chapter (right) who organized candidate debates and other events around the Louisiana Supreme Court election.

EVENTS

Concurrent with the release of a White Paper and the reporting of legal experts' commentary, related panel discussions were often sponsored by local Federalist Society chapters. These chapter events were critical opportunities for public education and media attention. These State Courts events were almost always structured as debates in order to help facilitate open dialogue.

New Jersey

The New Jersey Constitution grants to the state's governor broad executive power, including the power to appoint judges to the New Jersey Supreme Court. Because of that power, and the fact that the next Governor of New Jersey would have the authority to reappoint or replace four of seven judges on the state's supreme court, the gubernatorial race provided a significant inflection point for the State Courts Project's educational efforts. Indeed, the 2009 New Jersey State Courts Project resulted in the most robust debate over the role of judges in that state's recent history, going back to at least 1988.

Prof. Robert Miller, Fred-eric Giordano, and Shauna Peterson co-authored *Dollars and Sense: Understanding the New Jersey Supreme Court's Role in Education and Housing*. The Federalist Society also conducted a survey of 500 New Jerseyans, which revealed that majorities of all demographic groups considered judicial restraint to be a "mostly positive" thing for the New Jersey Supreme Court, including 59 percent of liberals, 68 percent of moderates, and 68 percent of conservatives. The survey also found that only 32 percent of voters identified themselves as familiar with the rulings and decisions of the New Jersey Supreme Court. The State Courts Project took advantage of this knowledge gap and used its experts to educate the public about role of courts issues.

Pennsylvania

With a state supreme court election on the horizon, the State Courts Project employed a number of tactics to motivate opinion leaders, press, and

the general public to be engaged in the debate about the proper role of the Pennsylvania Supreme Court. Federalist Society legal experts in Pennsylvania published a White Paper, *Key Issues for Pennsylvanians: What is at Stake with the Pennsylvania Supreme Court*. Along with the White Paper, the Federalist Society commissioned a survey of 500 Pennsylvanians. That survey showed 77 percent of Pennsylvania voters preferred that judges "interpret and apply the law as it is written and not take into account their own viewpoints and experiences." The survey also showed that state residents were largely unfamiliar with the court and its rulings, but strongly preferred to retain their right to elect judges.

Missouri

Missouri, the birthplace of the Missouri Plan for selecting judges, continues to be a focal point in an intense debate over methods for choosing state judges. In 2009, the Federalist Society continued to use its Legal Experts Program to educate the public and opinion leaders about judicial selection issues. Importantly, Missourians are increasingly weighing in on those issues and expressing their opinions regarding judicial selection and philosophy. For at least the second year in a row, the Missouri Plan is the top issue of discussion in Missouri's legal community.

The debate has attracted the attention of a number of prominent institutions. In February, the University of Missouri School of Law hosted a symposium on the Missouri Plan, titled "Mulling over the Missouri Plan: A Review of State Judicial Selection and Retention Systems." The symposium featured former U.S.

Supreme Court Justice Sandra Day O'Connor and several scholars who have worked with the Federalist Society, including Brian Fitzpatrick of Vanderbilt University Law School, Steve Ware of University of Kansas School of Law, and Michael Dimino of Widener Law School. Most recently, the U.S. Chamber of Commerce held a program on the topic at its annual Legal Reform Summit.



SOCIETY FOSTERS AWARENESS OF THE INFLUENCE OF INTERNATIONAL LAW ON NATIONAL SOVEREIGNTY

During the past year, the International Law & American Sovereignty Project continued to develop in a manner designed to effectively introduce members of the European legal, public policy, and media communities to the “first principles” advocated by the Federalist Society — that the state exists to preserve freedom; that the separation of governmental powers is central to a constitutional form of government; and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. Of course, because these first principles only have meaning in the context of a sovereign state, the International Law Project also seeks to educate these same European communities about the trend of the United Nations, its agencies, and partner non-governmental organizations to globally govern in the areas of business and finance, environment and health, human rights and development, and security.

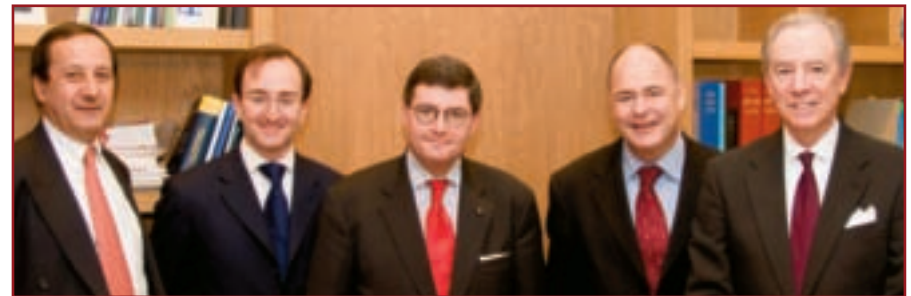
The Federalist Society pursued these two goals in 2009 through our Bradley Foundation-funded outreach in Central and Eastern Europe; the Federalist Society’s presence in London and Paris; the development of our Global Governance Watch® website, including its new Spotlight on Sovereignty and UN Treaty Watch features; and participation in a U.S.-based Sovereignty Network of policy think-tanks dedicated to the cause of protecting national sovereignty from threats posed by global governance.

In August 2009, the Lynde and Harry Bradley Foundation awarded a major grant to the Federalist Society for the purpose of expanding the International Law Project, with special attention to building an infrastructure of grassroots intellectuals in Europe. We have opened an office in Vienna, Austria, and we are now working to establish relations with, and develop a coalition of, leaders of the legal movement in Central and Eastern Europe who are sympathetic to our principles and interested in constructing a sustainable model for transatlantic engagement through programs that occur in Europe as well as in the United States.

In this regard, the Federalist Society has partnered with the Educational Initiative for Central and Eastern Europe (EICEE), a Vienna, Austria-based network of civil society institutions that provide educational programs for young leaders and professionals throughout the Central and Eastern European region in an effort to advance human development in three core areas: economic freedom, political freedom, and cultural freedom. Together, we are working to identify key law schools in Central and Eastern Europe at which it will be advantageous to introduce the Federalist Society and to assist in the creation of student and faculty groups that are similar to (though independent

of) what we have in the United States to pursue sustainable programming and foster a social network of individuals interested in traditional legal principles. Also, in 2010 and 2011, EICEE and the Federalist Society will be co-sponsoring two conferences in Vienna at which Federalist Society speakers from the United States and EICEE contacts in Central and Eastern Europe will meet to discuss matters of mutual concern in the legal and democratic policy areas.

The Federalist Society’s chapters in Europe, located in Paris, London, and Brussels, continue to promote awareness and discussion of traditional Western principles of national sovereignty, limited government, and the rule of law throughout the region. With the invaluable assistance and dedication of its European chapter members, the Federalist Society is creating a network of transnational law and public policy leaders who can advance those principles in the public arena. This is done through programming, partnerships with like-minded European law and public policy organizations, and active participation by chapter members in various international organization meetings and conferences. The Paris Chapter of the Federalist Society operates in cooperation with Institut Vergennes, a non-profit organization led by Paris Chapter President François-Henri Briard. During the past several years, Briard has introduced the Federalist Society to many prominent French jurists and has coordinated several Federalist Society-hosted events in Paris and Strasbourg. Again this year, Briard led a delegation of nearly 20 prominent French judges, lawyers, and law students to the National Lawyers Convention in November during which time they visited with several Justices at the U.S. Supreme Court and participated on Convention panel discussions.



Federalist Society Executive Vice President Leonard Leo (center) and Judge A. Raymond Randolph, U.S. Court of Appeals for the D.C. Circuit (far right), met with the judges of the European Court of Justice in Luxembourg as part of the International Law & American Sovereignty Project.



François-Henri Briard, the president of the Paris Chapter, accompanied a group of 20 European Federalist Society members and French jurists to the 2009 National Lawyers Convention in Washington, D.C. Pictured here are Briard (left), Pierre Masquart who is vice president of the Paris Chapter (second from the left) and Chief Justice of the French Supreme Court Bernard Stirn (center) as they meet U.S. Supreme Court Justice Samuel Alito, Jr. and Mrs. Martha-Ann Alito at the Annual Dinner.

Moreover, in mid-2009, London-based attorneys Thomas Jones, Stephen Fiamma, and Timothy Spangler assumed the leadership responsibilities of the Society's London Chapter. On November 10, the London Chapter co-sponsored an event, "The Use and Misuse of International Law in the Face of the War on Terror," with the London-based Henry Jackson Society at which former U.S. Department of Homeland Security Secretary Michael Chertoff and José María Aznar, former Prime Minister of Spain, spoke to a large group of attorneys about their experiences with counter-terrorism and the laws that relate to that effort. Shortly thereafter, the Paris Chapter hosted former U.S. Attorney General Michael Mukasey, and our London leadership crossed the channel to attend the events.

Recent discussions with leaders of our Paris and London chapters have revealed an interest in a joint chapter meeting on the subject of the move toward a more robust EU federalism in light of the recent ratification of the Treaty of Lisbon, with consideration of the U.S. experience with federalism. A panel of jurists is being organized, and will include representatives of the European Court of Justice, the European Court of Human Rights, the new United Kingdom Supreme Court, and the Federal Judiciary.

Monitoring the activities of various international and non-governmental organizations and their effect on national sovereignty is a vital component of the International Law Project. To that end, Global Governance Watch[®], a website jointly managed by the Federalist Society and the American Enterprise Institute (AEI), has continued to provide substantive content regarding the increasing trend of the United Nations, its agencies, and NGOs to pursue the

global governance of business and finance, environment and health, human rights and development, and security. Each week, the website's Spotlight on Sovereignty section features one or two brief articles regarding global governance developments that affect national sovereignty. A new UN Treaty Watch section of the website examines the degree to which the reporting activities engaged in by various UN treaty body committees promote the global governance of economic, social, and cultural domestic policies and, thereby, weaken sovereignty. The Spotlight on Sovereignty series and UN Treaty Watch are unique and cutting-edge offerings on the subject of UN and NGO global governance. The information offered in these two sections has proven to be attractive to our contacts throughout Europe as they are very concerned about the sovereignty implications of EU integration and the aggressive practices of the UN in the area of monitoring and influencing domestic human rights policies. The Global Governance Watch[®] website can be accessed at www.globalgovernancewatch.org.

Furthermore, in early 2009, representatives from several Washington, D.C.-based think tanks, including, among others, the Federalist Society, the Heritage Foundation, AEI, and the Hudson Institute agreed to cooperate on monitoring probable efforts by the U.S. Senate to ratify key international human rights treaties that could significantly impact national sovereignty. These treaties include the Convention on the Rights of the Child; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Law of the Sea Treaty. The so-called Sovereignty Network members inform each other about UN treaty ratification developments. Thereafter, each member of the Sovereignty Network can choose to take whatever action is best suited for its organization.



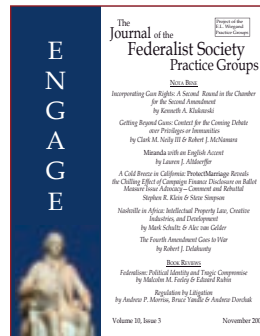
Hon. Michael Chertoff, former Secretary of the U.S. Department of Homeland Security (pictured here), and José Maria Aznar, former Prime Minister of Spain, spoke before the London Chapter of the Federalist Society last November on "The Use and Misuse of International Law in the Face of the War on Terror."

PUBLICATIONS AND WEBSITE EXPAND FEDERALIST SOCIETY REACH

Through its publications, the Federalist Society seeks to bring debate and scholarship to the public by providing a forum in which experts may analyze the law and debate its implications. To that end, the organization produces three regular newsletters, a scholarly journal, a member magazine, and frequent *White Papers* on a variety of topics. The publications are available on the Federalist Society website at www.fed-soc.org/publications/.

ENGAGE

The scholarly journal of the Federalist Society Practice Groups, *Engage* appears three times a year in electronic format. Ideas for topics are generated by the 15 Practice Groups. Articles in 2009 discussed Congress' consideration of the Employee Free Choice Act, application of the ministerial exception to teachers in parochial schools, the potential incorporation of gun rights against the states, the application of the Fourth Amendment to domestic military operations, and many other topics. In addition, we regularly review many noteworthy books in the journal and occasionally present special issues framed around a general theme. The National Lawyers Convention issue, which formerly presented the edited transcripts of all the speeches and panels from that three-day conference, is now also dispersed among law reviews across the country in an attempt to reach a wider scholarly audience. That change and other efforts begun in 2007 have helped place nearly 100 transcripts of Federalist Society events in over 30 law journals.



STATE COURT DOCKET WATCH

This newsletter, appearing four times each year and largely written by members of the Society's nationwide Lawyers Chapters, reports on noteworthy trends, interesting decisions, and controversial cases that are of interest outside their respective jurisdictions. Issues covered this year include lead paint litigation, judicial selection proposals, school funding, and felon gun ownership. It reaches hundreds of state court jurists.



ABA WATCH

A semiannual newsletter, *ABA Watch*, is timed to coincide with the American Bar Association's mid-year and annual meetings and meant to provide readers with an in-depth and independent look at some of the procedures, resolutions, and committees of the organization. The February 2009 issue featured an interview with ABA President-Elect Carolyn Lamm and recommendations to be considered at the ABA's mid-year meeting, including proposals on *habeas*, immigration, and natural disasters. The August 2009 edition discussed the ABA's rating of then-Judge Sotomayor upon her nomination to the Supreme Court along with the ABA's consideration of recommendations on federal benefits for same-sex couples, reducing prison sentences, and school programs for high school dropouts.



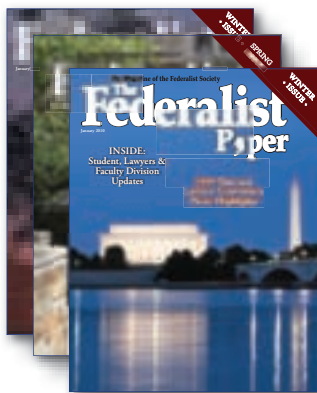
CLASS ACTION WATCH

Class Action Watch is published twice a year in order to apprise both Society membership and the public at large of recent trends and cases in class action litigation. This year, the newsletter focused on "concealed defect" litigation, RICO class actions, the *qui tam* provisions of the False Claims Act, and proposed changes to the Medicare Secondary Payer Statute.



THE FEDERALIST PAPER

The in-house magazine of the Federalist Society, *The Federalist Paper*, comes out in the winter, summer, and fall. Highlighting some of the activities and events of Society chapters, Practice Groups, and individual members, the glossy magazine is meant to give members a sense of the kind of engagements occupying particularly active chapters, students, and lawyers. Each division reports on some of the more noteworthy events of the past season, including the annual Student Symposium and National Lawyers Convention. The State Courts and International Law & American Sovereignty Projects provide updates on their respective activities as well. This publication provides us with an important link to members who are not conveniently located near any of our chapters.



WHITE PAPERS

The Federalist Society increasingly produces high-quality White Papers focused on particular issues or areas of interest. The State Courts Project continued to turn out a variety of White Papers in 2009 on the state judiciaries, including papers on courts in Tennessee, New Jersey, and Pennsylvania. These reports discussed debates over the method by which the judiciary is selected, the role of state courts in education and housing, and what shifts in jurisprudence were likely to occur depending upon the outcomes of certain judicial elections. Other White Papers explored the implications of federal proposals and laws: the potential “individual mandate” in health care reform proposals, the impact of the American Clean Energy and Security Act on the home building industry, and the U.S. Treasury’s proposed authority over certain troubled financial companies. These White Papers are meant to generate a high level of debate about important matters of law and policy. They are regularly accompanied by materials reflecting an array of different viewpoints.



The organization seeks to produce material that will encourage discussion about timely legal and public policy developments; however, it is important to note that the Society takes no position on particular issues. Opinions expressed in the organization’s publications are those of the authors, not necessarily of the Society itself, and readers are encouraged to respond to what appears in those publications and to submit ideas or articles about trends and developments in the law themselves.

LEVERAGING TECHNOLOGY

The Federalist Society continues to make substantially better use of its website, www.fed-soc.org, each year since its redesign in 2007. We have followed up on that redesign by making more and more interesting content available through the Society’s site as well as through other third-party websites. The result has been a doubling of the amount of traffic to the website since then.

One of the reasons our numbers continue to increase is that we are making more of our content available online in various formats, such as audio, video, and PDFs. Since March 2008, we have begun offering PDFs of individual articles from all of our publications. The result has been increased traffic coming from blogs and news readers that prefer to link to individual articles rather than entire publications.

The kinds of additional content we are making available through the internet include the following:

- 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.
- Originally Speaking: Experts from different sides of the ideological spectrum come together to debate the most recent legal topics in an online, written forum.
- SCOTUScasts: Podcasts of digital recordings of expert commentary on U.S. Supreme Court cases as they are argued and issued that may be downloaded from our website and listened to on MP3 players and computers.
- Practice Group Podcasts: Feature debates on a myriad of subjects produced by the Practice Groups including the New Federal Initiatives Project (NFIP). They run from 30-90 minutes and are automatically downloaded to the computers and MP3 players of the subscribers.
- Audio and video recordings of past events, which are made available promptly after the events: For example, audio and video from the “Supreme Court October Term 2009” preview panel was posted (featuring the Hon. Walter Dellinger III, Prof. Orin Kerr, Cleta Mitchell, Prof. Nicholas Quinn Rosenkranz, Gene C. Schaerr, and *Washington Post* reporter Robert Barnes). We have also posted the audio and video from the 2009 National Lawyers Convention.

In addition to the Federalist Society website, we also 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 very recently, so we have only just begun to populate it with videos from our events, including the 2009 National Lawyers Convention.
- Facebook (<http://www.facebook.com/Federalist.Society>): Our Facebook fan page now has over 4,000 subscribed fans. Fans can visit our Facebook page and comment on and discuss recent videos or other Federalist Society news.



STEADFAST SUPPORTERS ENABLE FEDERALIST SOCIETY TO CONTINUE PROGRESS

In spite of economic conditions, the Federalist Society's supporters enabled us to keep pace with our programming and other efforts in law schools and across the legal community. Although revenues were slightly down, we were able to achieve our goal of increasing the number and quality of Federalist Society events in 2009. This was possible because of the continued dedication of our volunteers and the unwavering commitment, especially the financial commitment, of many others. Several long-time supporters increased their contributions to the James Madison Club level of \$1,000 or more this year and many first-time donors also gave \$1,000 and above. In recognition of these individuals, corporations, and foundations, a list of the current members of the James Madison Club appears below.

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Sarah Scaife Foundation
Searle Freedom Trust
William Simon Foundation
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Members of the James Madison Club enjoy a private reception with Justice Samuel Alito, Jr. and other legal luminaries before the Annual Dinner.

The John Templeton
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***Madison Club Sustaining
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(\$2,000 to \$4,999)***

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Paul Singer (left) of New York chats with Justice Samuel Alito, Jr. after introducing him at the Annual Dinner.

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Donors Charles Cooper of Cooper & Kirk, PLLC, Dean Kenneth Starr of Pepperdine University School of Law and Roger Pilon of the Cato Institute (from left to right) enjoy each other's company after the Barbara K. Olson Memorial Lecture.



Longtime James Madison Club members Judge Mark Holmes (left) and Marianne Bizek (center) visit with Hon. Gale Norton, former Secretary of the U.S. Department of the Interior and a member of the Federalist Society Board of Visitors (right), at the James Madison Club reception.

Nolly S. Evans
Nita Farahany
Thomas A. Farr
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Margaret Foran
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David F. Forte
Theodore Frank
George S. Frazza
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Steve Hartung
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Jim Haynes
Sandra J. Hecker
R. Charles Henn, Jr.
Gail Heriot
Lois Haight Herrington*
John Hilton
Bob Hishon
James and Allyson Ho
George E.B. Holding
Joe G. Hollingsworth
Nancy E. Hollingsworth
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Jeffrey W. Jackson
Erik S. Jaffe
Paul J. Kaleta
Thomas J. Kavalier
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Manuel S. Klausner
Howard J. Klein
Richard D. Klingler
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 Letty McAdams
 Robert D. McCallum
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 Dennis R. Nolan
 Coleman A. Nutter*
 John O'Neill
 John C. O'Quinn
 Thomas P. Ogen
 Hugh Overholt
 Don Padgitt



Judge Robert Smith (left) and Francis Menton, Jr., both of New York, enjoy the James Madison Club reception.

Adam S. Paris
 Nicole and Scott Pearson
 Eric J. Pelton
 Lovett Peters
 Thomas Phillips
 Holly Anne Pierson
 John Polito
 Stephen D. Poss
 George Priest
 Alfred Putnam
 Alan Charles Raul
 Sara Church Reese
 Wm. Bradford Reynolds*
 Ronald D. Rotunda
 Lee Rudofsky
 Charles (Rick) F. Rule
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 Robert H. Scarborough
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 Ilya Shapiro
 Loren A. Smith
 Stephen C. Smith
 John A. Smyth
 Abraham D. Sofaer*
 John J. Soroko*
 Cheryl Stanton
 Edward E. Steiner
 Dorothy Stephens
 Charles Henry Still



Westerners Brent Hatch of Utah and treasurer of the Federalist Society Board of Directors (left) and Alex Dahl of Brownstein Hyatt Farber Schreck, LLP, a Colorado-based law firm, chat at the National Lawyers Convention.



Gerald Walpin (left) and Daniel Troy discuss current events at the Annual Dinner.



James Madison Club Members Manny and Willette Klausner from California enjoy the Mayflower Hotel during the National Lawyers Convention.

Roger and Susan Stone Family
 Foundation
 J. Robert Suffoletta, Jr.
 The Susquehanna Foundation
 Michael A. Szkodzinski
 Heath Price Tarbert
 Linda S. Thomas
 David H. Thompson
 Larry D. Thompson
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 E. Peter Urbanowicz
 Jeffery J. Ventrella
 Vincent J. Vitkowsky
 Michael B. Wallace
 Lynn D. Wardle
 Richard E. Weicher
 Donn Weinberg

G.W. Wekony
 Hill B. Wellford
 Ketia B. Wick
 Rando B. Wick
 Richard E. Wiley
 William Reynolds Williams*
 Edwin D. Williamson*
 Craig Wolf
 Christopher A. Wray
 Fred Young
 James W. Ziglar

**Denotes individuals who are founding members of the James Madison Club.*



REPORT OF INDEPENDENT AUDITORS

Board of Directors
The Federalist Society for Law and Public
Policy Studies
1015 15th St., N.W., Ste. 425
Washington, DC 20006-6221

We have audited the accompanying statements of financial position of The Federalist Society for Law and Public Policy Studies as of September 30, 2009 and 2008 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, 2009 and 2008 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 5, 2010

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, 2009 AND 2008

<u>ASSETS</u>	<u>2009</u>	<u>2008</u>
CURRENT ASSETS		
Cash and cash equivalents	\$ 3,883,518	\$ 3,721,748
Investments	2,612,299	2,888,807
Grants receivable	1,726,230	1,192,400
Contributions receivable	225,897	363,243
Other receivables	12,677	13,360
Supplies inventory	112,363	117,483
Other current assets	142,115	86,392
	<u>8,725,099</u>	<u>8,181,481</u>
GRANT AND CONTRIBUTIONS RECEIVABLE - LONG-TERM		
Grants receivable	604,733	976,040
Contributions receivable	334,539	412,345
	<u>939,272</u>	<u>1,388,385</u>
FIXED ASSETS		
Computer equipment	144,778	188,723
Office furniture and equipment	94,905	94,658
Leasehold improvements	15,388	15,388
	<u>255,071</u>	<u>278,779</u>
Accumulated depreciation and amortization	(164,578)	(165,146)
	<u>90,493</u>	<u>113,633</u>
OTHER ASSETS		
	10,000	10,000
TOTAL ASSETS	<u>\$ 9,764,864</u>	<u>\$ 9,693,499</u>
<u>LIABILITIES AND NET ASSETS</u>		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	\$ 266,552	\$ 521,827
Deferred revenue	211,017	179,557
	<u>477,569</u>	<u>701,384</u>
NET ASSETS		
Unrestricted	4,867,708	5,000,854
Temporarily restricted	4,408,587	3,675,261
Permanently restricted	10,000	10,000
TOTAL NET ASSETS	<u>9,286,295</u>	<u>8,692,115</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$ 9,754,864</u>	<u>\$ 9,693,499</u>

See Notes to Financial Statements

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES
STATEMENTS OF ACTIVITIES
FOR THE YEARS ENDED SEPTEMBER 30, 2009 AND 2008

	2009				2008			
	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Unrestricted	Temporarily Restricted	Permanently Restricted	Total
REVENUE								
Grants	\$ 3,300,455	\$ 2,744,920	\$ -	\$ 6,045,375	\$ 3,497,095	\$ 3,574,913	\$ -	\$ 7,072,008
Registration fees	375,891	-	-	375,891	645,487	-	-	645,487
Membership dues	229,755	-	-	229,755	227,612	-	-	227,612
Contributions	2,986,767	341,644	-	3,328,411	4,408,809	72,043	-	4,480,852
Investment income	76,557	-	-	76,557	(86,194)	-	-	(86,194)
Miscellaneous income	18,807	-	-	18,807	15,778	-	-	15,778
	<u>6,988,033</u>	<u>3,086,564</u>	<u>-</u>	<u>10,074,597</u>	<u>6,708,567</u>	<u>3,646,956</u>	<u>-</u>	<u>12,355,543</u>
NET ASSETS RELEASED FROM RESTRICTIONS								
Satisfaction of restrictions	<u>2,652,238</u>	<u>(2,652,238)</u>	<u>-</u>	<u>-</u>	<u>1,957,612</u>	<u>(1,957,612)</u>	<u>-</u>	<u>-</u>
	<u>9,640,271</u>	<u>434,326</u>	<u>-</u>	<u>10,074,597</u>	<u>10,666,199</u>	<u>1,689,344</u>	<u>-</u>	<u>12,355,543</u>
EXPENSES								
Program services								
General program	743,822	-	-	743,822	836,827	-	-	836,827
Fellows program	978,759	-	-	978,759	871,006	-	-	871,006
Student Chapter and Membership Services	383,879	-	-	383,879	607,371	-	-	607,371
Student Speakers Bureau	1,889,438	-	-	1,889,438	1,458,528	-	-	1,458,528
Student National Symposium	119,367	-	-	119,367	130,818	-	-	130,818
Lawyers Division Chapter and Membership Services	266,818	-	-	266,818	478,651	-	-	478,651
Lawyers Division Speakers Bureau	630,909	-	-	630,909	843,951	-	-	843,951
Lawyers National Conference	1,046,367	-	-	1,046,367	1,327,453	-	-	1,327,453
State Courts	1,271,659	-	-	1,271,659	1,568,956	-	-	1,568,956
Practice activities	1,184,822	-	-	1,184,822	1,003,978	-	-	1,003,978
Other conferences	252,948	-	-	252,948	346,811	-	-	346,811
	<u>8,768,788</u>	<u>-</u>	<u>-</u>	<u>8,768,788</u>	<u>9,474,350</u>	<u>-</u>	<u>-</u>	<u>9,474,350</u>
General and administrative	412,840	-	-	412,840	482,322	-	-	482,322
Fundraising	597,789	-	-	597,789	646,540	-	-	646,540
	<u>9,779,417</u>	<u>-</u>	<u>-</u>	<u>9,779,417</u>	<u>10,603,212</u>	<u>-</u>	<u>-</u>	<u>10,603,212</u>
CHANGE IN NET ASSETS	<u>(139,146)</u>	<u>434,326</u>	<u>-</u>	<u>295,180</u>	<u>62,987</u>	<u>1,689,344</u>	<u>-</u>	<u>1,752,331</u>
NET ASSETS AT BEGINNING OF YEAR	<u>5,006,854</u>	<u>3,975,261</u>	<u>10,000</u>	<u>8,992,115</u>	<u>4,943,867</u>	<u>2,285,917</u>	<u>10,000</u>	<u>7,239,784</u>
NET ASSETS AT END OF YEAR	<u>\$ 4,867,708</u>	<u>\$ 4,409,587</u>	<u>\$ 10,000</u>	<u>\$ 9,287,295</u>	<u>\$ 5,006,854</u>	<u>\$ 3,975,261</u>	<u>\$ 10,000</u>	<u>\$ 8,992,115</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, 2009 AND 2008

	2009	2008	
CASH FLOWS FROM OPERATING ACTIVITIES			
Change in net assets	\$ 295,180	\$ 1,752,331	
Adjustments to reconcile change in net assets to net cash provided (used) by operating activities			
Depreciation and amortization	28,027	29,080	
Net depreciation in fair value of investments	52,853	319,230	
Donation of securities	(16,548)	(541,571)	
Amortization of present value discounts on grants and contributions receivable	(208,337)	(28,522)	
(Increase) decrease in			
Grants receivable	(395,434)	(1,454,968)	
Contributions receivable	887,450	148,540	
Other receivables	684	4,344	
Supplies inventory	5,121	39,154	
Other current assets	(55,723)	(19,409)	
Increase (decrease) in			
Accounts payable and accrued expenses	(255,277)	183,306	
Deferred revenue	31,460	(93,087)	
	<u>139,056</u>	<u>338,428</u>	
CASH FLOWS FROM INVESTING ACTIVITIES			
Purchase of investments	(967,651)	(989,658)	
Proceeds from sale of investments	905,852	1,789,157	
Purchase of fixed assets	(5,485)	(22,260)	
	<u>32,716</u>	<u>757,239</u>	
INCREASE IN CASH AND CASH EQUIVALENTS	171,772	1,095,667	
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR	<u>3,721,746</u>	<u>2,626,079</u>	
CASH AND CASH EQUIVALENTS AT END OF YEAR	<u>\$ 3,893,518</u>	<u>\$ 3,721,746</u>	
SUPPLEMENTAL INFORMATION			
Non-cash contributions	<u>\$ 16,548</u>	<u>\$ 541,571</u>	

See Notes to Financial Statements.

NOTE 5: ORGANIZATION

The Federalist Society for Law and Public Policy Studies (the Society) was organized in August 1982 as a not-for-profit corporation under the laws of the District of Columbia for the primary purpose of promoting intellectual diversity in the legal profession and the legal community. It is organized exclusively for charitable, educational and scientific purposes. The following provides a description of the Society's major classes of programs:

Faculty Activities
 Provides programs for faculty to discuss their teaching. Provides fellowship to junior faculty and those seeking to enter the legal academy.

Chapter and Membership Services
 Provides organizational and other assistance to the individuals involved in the Society's chapter and group chapters. The chapters promote discussion of legal issues.

Speaker Services
 A program which brings judges, lawyers and legal scholars to the courts, colleges and university campuses and other public locations to speak about issues of national significance.

Symposium and Conferences
 A program of seminars, conferences and meetings at which distinguished legal scholars give lectures and engage in debate and other discussions on issues of national importance. These programs include providing hotel accommodations for students.

State Events
 A program of periodic and occasional white papers and planned conferences related to state courts.

Practice Activities
 A program of regular periodic and occasional white papers and planned conferences related to specific legal areas of practice.

NOTE 6: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Date of Accounting
 The financial statements of the Society have been prepared on the annual basis of accounting in conformity with accounting principles generally accepted in 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 and certain expenses at the date of the statements or financial position and revenue and expenses during the reporting period. Actual results could differ from these estimates.

Cash and Cash Equivalents
 All highly liquid assets instruments with a maturity of three months or less at the time of purchase are considered cash equivalents.

NOTE 7: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Inventory
 The supplies inventory is stated at cost and is computed using the first-in, first-out (FIFO) method.

Fixed Assets
 Fixed assets are capitalized at cost and depreciated over estimated useful lives of 3 to 10 years using the straight-line method. If a management's policy to capitalize fixed assets for credit the useful life extends over one year.

Investments
 Investments are presented at fair value, as follows:

- Common stocks, U.S. government and government agencies securities and corporate bonds are valued using the reported closing price of these assets on the last day of the fiscal year, when available, or the reported price of the assets, contractual market price, bid and/or offer price, when available.
- Short-term securities that have market quotations are valued at cost, which approximates fair value.

Membership dues
 The Society provides certain services only to those paying members creating exchange transactions. Therefore, membership dues are considered program service fees and are recognized in the period in which the services are rendered.

Net Assets
 Net assets arising from contributions are reported as unrestricted or restricted based on stipulations of the donor. Unrestricted net assets are the portion of net assets that are neither temporarily nor permanently restricted by donor restrictions or end-use. Temporarily restricted net assets are the portion of net assets resulting from contributions or other sources of assets where use is limited by donor-imposed stipulations that can be removed by the passage of time or action of the Society pursuant to those stipulations. Permanently restricted net assets are the portion of net assets where use is limited by donor-imposed stipulations that cannot be removed by the passage of time or action of the Society.

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 expenses are charged to expense when incurred. Advertising and promotion expenses totaled \$1,121,127 and \$1,114,719 for the years ended September 30, 2009 and 2008, respectively.

Subsequent Events
 In preparing these financial statements, management of the Society has evaluated events and transactions that occurred after September 30, 2009 for potential recognition or disclosure in the financial statements. There were no adjustments here evaluated through February 7, 2010, the date that the financial statements were available to be issued.

NOTE 8: GRANTS AND CONTRIBUTIONS RECEIVABLE

Included in the grant and contributions receivable are the following concentrations payable to date as of September 30, 2009 and 2008, using the present value discount rates of 3.0%:

	2009	2008
Amounts to be received on:		
One-year and over	\$ 1,089,127	\$ 1,046,856
One-to-five years	109,523	1,046,212
Present value discount	(119,523)	(119,523)
	\$ 1,079,127	\$ 1,973,545

As of September 30, 2009 and 2008, 2007 and 2006, respectively, of the grants and contributions receivable are from one entity. Grants and contributions receivable are backed by management's or fully collectible.

NOTE 9: INVESTMENTS

As of September 30, 2009 and 2008, the Society's investments consist of the following:

	2009	2008
Corporate bonds	\$ 109,870	\$ 346,719
Government bonds	1,771,146	2,043,847
Common stock	1,219,091	1,219,718
	\$ 3,099,107	\$ 3,610,284

Investment income (expense) is recognized in the statements of activities for the years ended September 30, 2009 and 2008, as follows:

	2009	2008
Interest and dividends	\$ 103,441	\$ 211,020
Net appreciation (or loss) of investments	(14,253)	(11,008)
	\$ 89,188	\$ 200,012

NOTE 10: FAIR VALUE

In accordance with Generally Accepted Accounting Principles the Society adopted Fair Value Measurements as of July 1, 2009. Fair Value Measurements refer to all financial instruments that are fairly measured and reported on a fair value basis. The input measurements reflect the value as the price that would be received in an arm's length transaction in the market to settle the liability or asset. The Society has adopted the following hierarchy for determining the fair value of financial instruments:

- Level 1: Quoted prices for identical assets or liabilities that are actively traded in an active market.

NOTE 11: FAIR VALUE - continued

Level 2
 Valuation is based on directly or indirectly observable inputs other than quoted prices included within Level 1 such as quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in markets that are not active, other than quoted prices that are observable in an active market, or valuations based on inputs other than quoted prices that are observable in an active market.

Level 3
 Valuation is based on unobservable inputs for the asset or liability. Level 3 assets may include financial instruments whose value is determined using pricing models with unobservable assumptions, discounted cash flow methodologies, or other techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

Financial instruments that fall within the fair value hierarchy by the level of observability of the inputs that are significant to the fair value measurement. See Note 1 for more specific detail on valuation methodology. There was no change during the years ended September 30, 2009 and 2008.

As of September 30, 2009, assets measured at the value of a recurring basis are summarized by level within the fair value hierarchy as follows:

	Level 1	Level 2	Level 3	Total Fair Value
Corporate bonds	\$ 46,241	\$ 711,228	\$ -	\$ 757,469
Government bonds	1,714,905	1,317,823	-	\$ 3,032,728
Common stock	1,198,046	-	-	\$ 1,198,046
	\$ 3,019,292	\$ 1,029,051	\$ -	\$ 4,048,343

NOTE 12: TEMPORARILY RESTRICTED NET ASSETS

As of September 30, 2009 and 2008, temporarily restricted assets of \$4,499,001 and \$1,517,261, respectively, were available for education and research projects. All assets received from restrictions during the years have been used as intended for those education and research projects.

NOTE 13: COMMITMENTS AND CONTINGENCIES

The Society has an office lease that expires December 31, 2010. However, the Society has the option to terminate the lease on November 30, 2010 with a termination amount of \$127,843. Lease expense for the years ended September 30, 2009 and 2008 was \$223,127 and \$258,873, respectively. As of September 30, 2009, reported minimum lease payments, assuming that the lease is not terminated in 2010, are as follows:

Year	\$
2010	269,801
2011	242,791
2012	217,287
2013	191,782
2014	166,277
Thereafter	102,000
	\$ 1,260,938

NOTE 14: FUNCTIONAL ALLOCATION OF EXPENSES

The costs of providing the various programs and other activities have been summarized on a functional basis in the statements of activities. Accounting, certain costs have been allocated among the programs and supporting services benefits.

NOTE 15: EMPLOYED EMPLOYEE PENSION PLAN AND THE FEDERALIST SOCIETY 401(K) PLAN

For October 1, 2007 through December 31, 2007 and for the year ended September 30, 2007, the Society maintained a qualified pension program plan. For January 1, 2008 through September 30, 2008, the Society adopted the Federalist Society 401(k) Plan. For both 2008 and 2007, the Society has the option to contribute a matching amount. For both 2008 and 2007, the Society contributes 5% of eligible compensation to the Federalist Society 401(k) Plan and the smallest voluntary payment plan. The Society contributes totaled \$48,219 and \$51,283, for the years ended September 30, 2008 and 2007, respectively.

NOTE 16: INCOME TAXES

The Society is exempt from federal income taxes, except for income on unrelated business income, under Section 501(c)(3) of the Internal Revenue Code. There was no unrelated business income in the years ended September 30, 2009 and 2008.

The Society reported its return information under on August 3, 2009, in which the Internal Revenue Service advised that the Society, as non-exempt, may be compliant with the applicable requirements of the Internal Revenue Code 501(c)(3) and is a qualified under Section 501(c)(3) of the IRC.

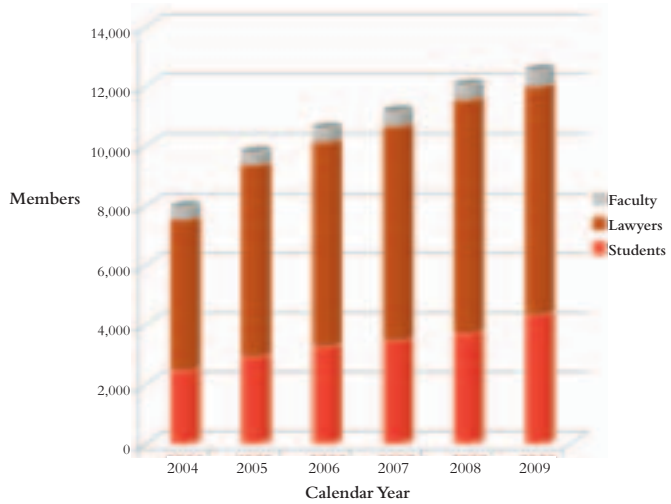
Accounting principles generally accepted in the United States of America require that management of an organization evaluate the probability future tax regulations and changes in the ability of its assets. Such that not that the position will not be sustained upon examination by the Internal Revenue Service. Management has prepared the Society's returns and has concluded that as of September 30, 2009, there are no uncertain tax positions or exposures to be open that would require disclosure in the financial statements.

NOTE 17: CONCENTRATION OF CREDIT RISK

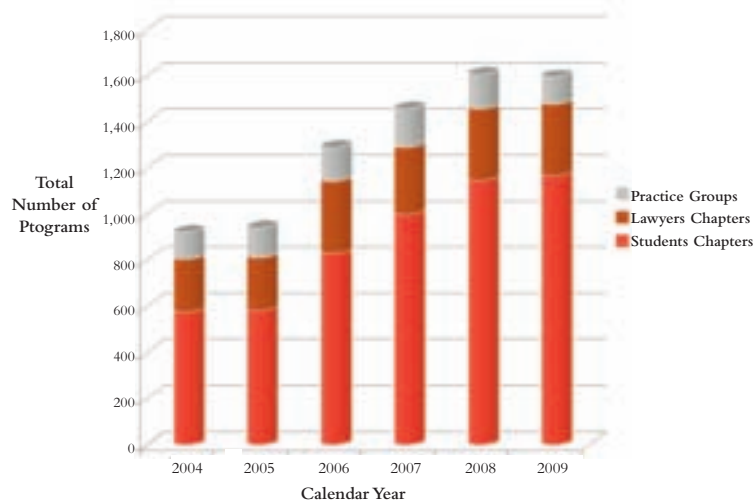
Financial instruments that subject the Society to concentrations of credit risk include cash and investments which are held by financial institutions. When the Society originates loans to financial institutions, its major balances with financial institutions may, at times, exceed the limits imposed by agencies of the U.S. government. The Society has not experienced, and does not anticipate experiencing, any losses on such deposits.

END OF AUDITED
 FINANCIAL STATEMENTS

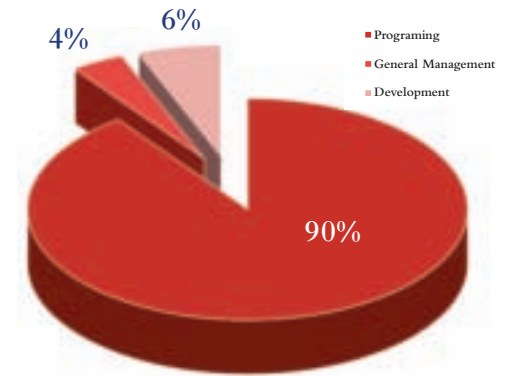
FEDERALIST SOCIETY MEMBERSHIP GROWTH
National Dues Paying Members



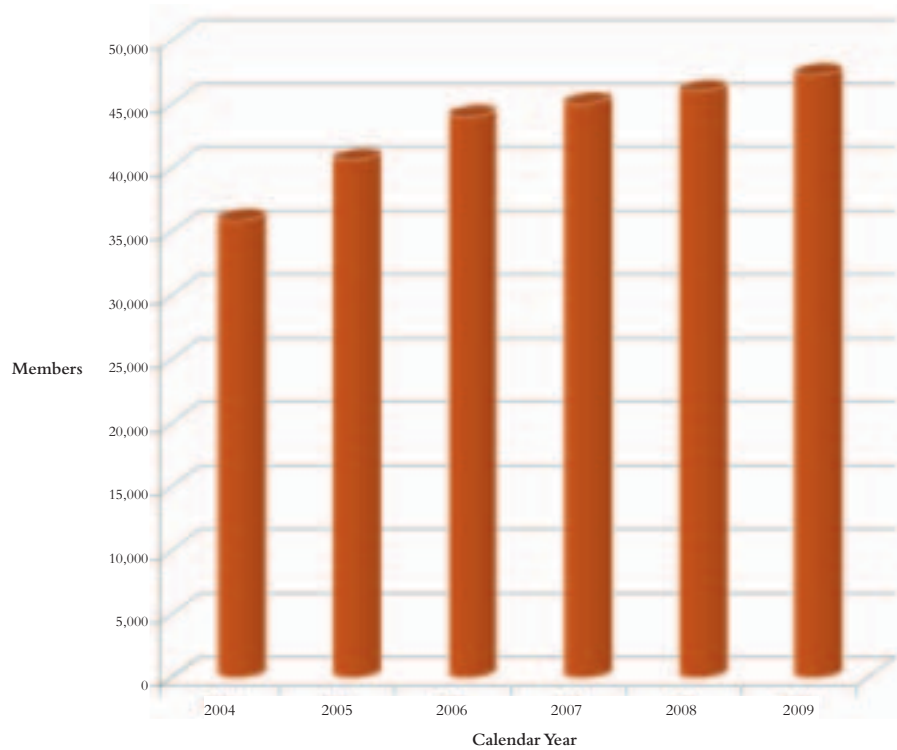
FEDERALIST SOCIETY PROGRAM GROWTH



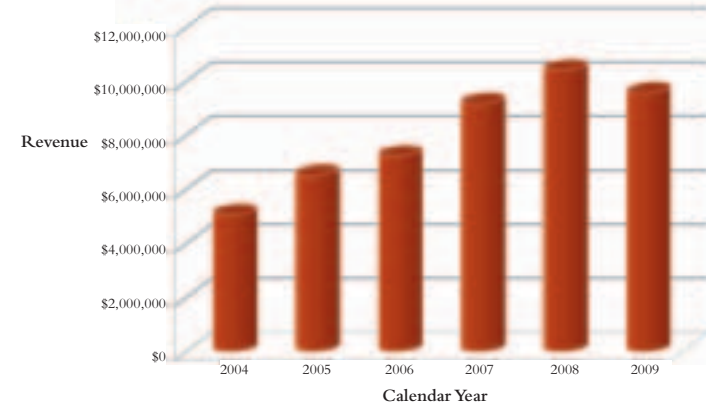
FEDERALIST SOCIETY EXPENDITURES
FISCAL YEAR 2009



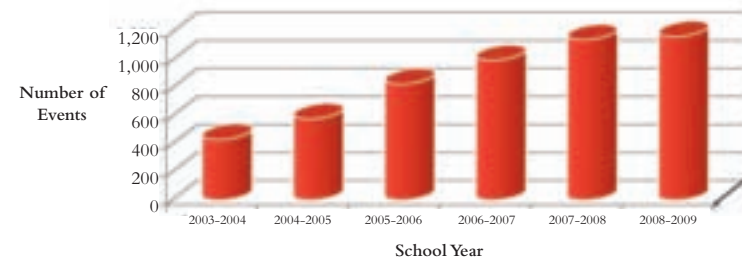
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Local and National Involvement



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