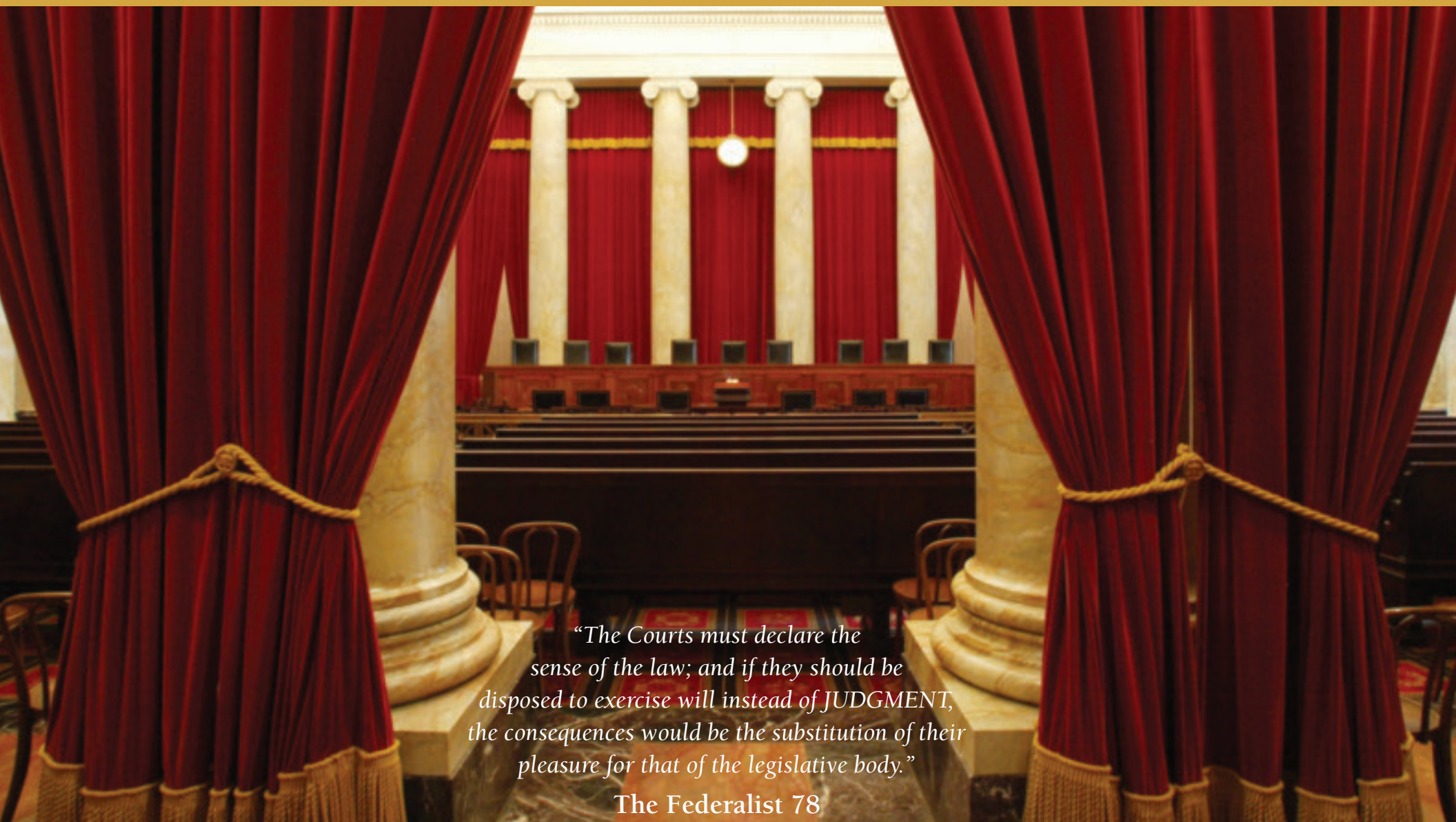


# *2011 Annual Report*

# The Federalist Society

for Law and Public Policy Studies



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

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# The Federalist Society

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

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

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



Dear Friends and Supporters:

America is in the middle of a momentous national discussion about the size and role of the federal government and, correspondingly, about the role of the regulatory state in that government. The investigation of questions regarding the government's size, scope, and regulatory activity is intimately connected to our mission of promoting the principles of freedom, the separation of governmental powers, and the rule of law. In consequence, the country's increasingly keen sense of the significance of these principles has been evident in a growing demand for our programming, especially among those still in law school. In 2010-11 our Student Division had its most productive year ever, hosting over 1,280 events at law schools across the country—12.3% more than in the previous year. Attendance at individual events also increased, indicating that students' interest in our programming is stronger than ever.

All the Federalist Society's formal programs advance and clarify the rule of law debate in various ways. In November our 2011 National Lawyers Convention called upon its attendees to consider whether our Constitution is "The Constitution of Small Government?" Our March 2012 Student Symposium will reflect on "Bureaucracy Unbound: Can Limited Government and the Administrative State Co-Exist?" These recent conferences maintain a theme which the Society has addressed frequently over the past four years. The 2010 National Lawyers Convention, "Controlling Government: The Framers, the Tea Parties and the Constitution," also dealt with the size and scope of government. The 2011 Student Symposium, "Capitalism, Markets, and the Constitution," involved a similar examination of regulatory activity, its effects on our economic life, and the economic system implied by our Constitution. Indeed, much of our programming over the years has centered on this subject.

In 2011 the Federalist Society focused on the relation between government and a free society and the role that the law, our courts, and our judicial system play in preserving and defining that relation. We will continue this focus in 2012. As always, we seek to foster a civil, energetic, and issue-oriented debate.



*(left to right) U.S. Supreme Court Justice Samuel Alito; Federalist Society Executive Vice President Leonard Leo; Susan Mukasey; Former Attorney General and Federalist Society Board Member Michael Mukasey; Federalist Society President Eugene Meyer; Federalist Society Senior Vice President Lee Liberman Otis; Prof. Steven Calabresi of Northwestern University Law School, who is Chairman of the Federalist Society Board of Directors; and former Congressman David McIntosh, who is Vice Chairman of the Federalist Society Board of Directors, attended the Society's National Lawyers Convention in Washington, D.C.*

If public discussions are any indication, our country is more preoccupied by these principles now than at any time since its early days. Although this preoccupation has arisen largely from the current climate of widespread frustration with the political process, we find it heartening, because we believe that the principles considered in these discussions are critical to preserving a free society. It is at times of public stress and distress that people are driven to contemplate the ideas upon which our republic stands. We are striving to contribute to this discussion, so that in the end it will lead to a strengthening of our constitutional republic and of the free society which that republic has protected for more than two centuries. We are grateful to many of you for having been part of our efforts, and we look forward to working with you in the years to come.

Sincerely,

Eugene B. Meyer  
President

# Student Division Leaders Break the Records Once Again

During the 2010-2011 school year the members of the Student Division hosted a record-shattering 1,286 events at law school campuses across the country. Over 150 of these events attracted more than 100 attendees, and several attracted 200 or more. The total number of attendees topped the 75,000 mark. These unprecedented and unanticipated accomplishments are due to our dedicated chapter leaders, who work tirelessly to bring high-profile speakers to their campuses for intellectually stimulating programs. With a Student Chapter at every accredited law school in the country, the Society is relying more and more on student volunteers to help plan, organize, and promote events. The enthusiasm of these volunteers has been a great boon to the Society and, of course, to their fellow law students, and constitutes one more sign of an approaching constitutional renaissance.

Today every accredited law school in the country has a Federalist Society Student Chapter, and we are probably the most active extracurricular group at the majority of the top 20 law schools, including Harvard, Yale, Chicago, Stanford, and Columbia: additionally, we have the strongest



*The Federalist Society's Student Division staff and volunteers from law school chapters across the country gather for a picture during the closing reception at the 2011 National Lawyers Convention in Washington, D.C.*

*John Allison, former chairman and CEO of BB&T Corporation, addressed the students, scholars, and other attendees of the annual Student Symposium in February 2011 at the University of Virginia on the topic of "The U.S. Financial Crisis: Causes and Consequences" and also addressed several chapters over the course of the year on the same topic.*



extracurricular groups at close to half of all the accredited law schools. Despite the time-consuming grind of classes, moot court competitions, law review deadlines, and demanding course loads, our Student Chapter leaders spend numerous hours organizing events, advertising on their campuses and in neighboring communities, and seeking to broaden participation in the Society's educational programs.

Without the efforts of these students, many conservative and libertarian ideas would go unheard on law school campuses. The Student Chapters help ensure that conservative and libertarian thought receives a fair hearing at the law schools, where it is frequently neglected. This in turn enables every law student to acquire some understanding of the principles underlying American law before beginning a legal career. The Student Chapters are also pools for identifying and nurturing tomorrow's community of citizen-lawyers, and enabling us to encourage them in community activities. By developing long-term relationships with these students, relationships that extend their involvement with the Federalist Society well past graduation, we support these "citizen-lawyers" in their life-long work of bringing the principles of our programs to bear on the legal culture. We foster the reemergence of a legal culture that focuses on



the traditional legal principles described in our statement of purpose: the state exists to preserve freedom; the separation of governmental powers is central to our Constitution; and it is emphatically the province and duty of the judiciary to say what the law is, not what it should be.

In 2010-2011 the students' overwhelming favorite among topics for discussion was the Affordable Care Act, or "Obamacare." Nearly 90 separate events centered on discussing the Act, its constitutionality, and the challenges that it has faced and continues to face in the federal courts. In April at **Boston**, Doug Bandow of the Cato Institute debated Ian Millhiser of the Center for American Progress on the subject, drawing 170 attendees. In the previous month a **Harvard** panel on "The Constitutionality of Health Care Reform" drew 200. The panelists were Professor Randy Barnett of Georgetown Law and Harvard Profs. Larry Tribe and Charles Fried, moderated by Harvard Prof. Glenn Cohen. **Yale, UVA, Illinois, Kansas, Michigan, Columbia, Brooklyn, Campbell, California-Hastings, Texas, and Fordham** also held highly successful events on the topic.

Immigration was also widely debated, with over 60 events dedicated to topics such as Arizona Senate Bill 1070 and proposals to alter the terms of birthright citizenship. **California-Berkeley, Denver, Rutgers-Camden, Brigham Young, Kansas, Chapman, Columbia, Georgetown, and Ohio State** all drew large crowds for events on the issue.



*In March, Prof. David Moore of Brigham Young University Law School visited the Roger Williams Student Chapter, where he discussed the topic "Should U.S. Courts Ignore International Law?"*



*Kevin Hasson (left) of the Becket Fund for Religious Liberty and Francois-Henri Briard (second to left), attorney of the Supreme Court of France, joined Prof. Steven Calabresi (center) and members of the Northwestern Law School Student Chapter for a debate on "Banning Burqas" in April.*

Several Student Chapters held events on environmental law, paying special attention to the relation between environmentalism and free market ideas. **Ohio State** hosted an environmental law debate with author Tim Carney and Ohio State Law Prof. Peter Swire, drawing over 120 students, professors, and guests. **Yale, Colorado, Stanford, Berkeley, Columbia, and Brigham Young** also hosted extremely successful environmental law events, many of which drew in crowds of over 100.

As always, Supreme Court reviews and previews were popular with the students. Free speech and affirmative action continue to be debated at schools across the nation. Other topics that drew large crowds this year included Second Amendment issues, economic liberty, the recent Supreme Court case *Christian Legal Society v. Martinez*, and same sex marriage, especially in light of the litigation over California's Proposition 8. One of the most successful events on that topic was held at the **University of Virginia**. Jordan Lorence of the Alliance Defense Fund and Gibson Dunn's Matt McGill debated Proposition 8 before an audience of 175 students and faculty. **Pepperdine, Syracuse, Northwestern, Arizona, Columbia and Washington-Saint Louis** also hosted large events on the topic.

Over 800 students attended this year's Student Symposium, "Capitalism, Markets and the Constitution," held in February at the **University of**



*(left to right) Prof. William P. Marshall of University of North Carolina School of Law and Prof. Jeremy Rabkin of George Mason University School of Law discussed “The Welfare State and American Exceptionalism” at the 2011 Student Symposium in February.*

**Virginia.** Highlights included a speech on the financial crisis by former BB&T chairman John Allison, the inaugural “Feddie Awards,” and Justice Clarence Thomas’ appearance at the banquet. (For more concerning this event, please see the Student Symposium section on pages 15, 18-20.)

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

#### *Some Selected Student Chapter Speakers*

- Hon. John Ashcroft, former Attorney General of the United States
- John Allison, BB&T Corporation
- Prof. Randy Barnett, Georgetown Law
- Justice Marvin Baxter, CA Supreme Court
- Ambassador John R. Bolton, American Enterprise Institute

- Francois-Henri Briard, French Attorney of the Supreme Court
- Judge Janice Rogers Brown, U.S. Court of Appeals, D.C. Circuit
- Hon. Michael Chertoff, former U.S. Sec. of Homeland Security
- Hon. Paul Clement, former Solicitor General of the U.S.
- Hon. Charles Cooper, Cooper & Kirk PLLC
- Ted Cruz, Morgan Lewis & Bockius, LLP
- Chief Justice Dan Eismann, Idaho Supreme Court
- Prof. Richard Epstein, Chicago Law & NYU Law
- Prof. Noah Feldman, Harvard Law
- Prof. Martha Field, Harvard Law
- Hon. Greg Garre, former Solicitor General of the U.S.
- Prof. Abner Greene, Fordham Law
- Senator Orrin Hatch, U.S. Senator from Utah
- Judge Dennis Jacobs, U.S. Court of Appeals, 2nd Circuit
- Judge Edith Jones, U.S. Court of Appeals, 5th Circuit
- Judge Brett Kavanaugh, U.S. Court of Appeals, D.C. Circuit
- Judge Alex Kozinski, U.S. Court of Appeals, 9th Circuit
- Senator Mike Lee, U.S. Senator from Utah
- Prof. Jerry Mashaw, Yale Law
- Hon. Ed Meese III, Heritage Foundation
- Hon. Michael Mukasey, former Attorney General of the United States
- William Otis, former White House Special Counsel
- Justice Antonin Scalia, U.S. Supreme Court
- Justice Harold See, Alabama Supreme Court
- Chief Judge David Sentelle, U.S. Court of Appeals, D.C. Circuit
- Hon. Kenneth Starr, Baylor University
- Justice David Stras, Minnesota Supreme Court
- Judge Diane Sykes, U.S. Court of Appeals, 7th Circuit
- Justice Clarence Thomas, U.S. Supreme Court
- Prof. Eugene Volokh, UCLA Law
- Ed Whelan, Ethics & Public Policy Center
- Prof. John Yoo, Berkeley Law
- Justice Annette Ziegler, Wisconsin Supreme Court

In fiscal year 2010-11, the Federalist Society's 75 Lawyers Chapters continued their recent success, 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 organized nearly 300 programs and meetings in the last fiscal year, drawing an audience of over 26,000 lawyers.

The quality of the programming continues to be at the highest level, reflecting the Society's strong local leadership. This programming is critical to growing a nationwide infrastructure of citizen-lawyers who will engage the policy world. This engagement creates a strong community that ensures the principles of liberty, the separation of powers, and the rule of law inform current legal and public policy debates.

The Lawyers Chapters continue to organize programs in a variety of formats, including speeches, debates, and panel discussions, often in conjunction with the Practice Groups, the Student Division, and the State



*Attorney General of Washington Rob McKenna (left) met with Louisville Lawyers Chapter president John K. Bush (right) and spoke about state challenges to the individual health care mandate in April.*



*House Majority Leader Eric Cantor (center) visited the Washington, D.C. Young Lawyers Chapter to discuss the budget and other matters facing the House.*

Courts Project. The programming focuses on topics of both national and local interest, which in 2010-11 included the constitutionality of health care reform and Dodd-Frank, the state of the war on terrorism on the anniversary of 9/11, the jurisprudence of the United States Supreme Court, labor union issues and proposed collective bargaining reforms, immigration reform, state judicial selection, and judicial ethics.

Several chapters commemorated their 25<sup>th</sup> anniversaries, reflecting the Division's founding in 1986. The **New York City** Lawyers Chapter hosted its anniversary dinner honoring former U.S. Attorney General Michael Mukasey. He was the fourth recipient of the Chapter's James Madison Award, which was offered to him "in appreciation for his distinguished service to New York and the nation." The sold-out crowd of over 150 gathered at the New York Yacht Club for the dinner, which featured an introduction by *National Review* columnist Andy McCarthy. General Mukasey offered a significant policy address on the war on terrorism and the Obama Administration's foreign policy. The remarks were later published on the Federalist Society website and in *Engage*.



Other chapters hosted widely attended annual dinners, which attracted leading practitioners, public policy officials, and members of the judiciary. The **Michigan** Lawyers Chapter hosted its annual dinner in April in Dearborn, recognizing Justices Mary Beth Kelly and Brian Zahra, the state's two new members of the Michigan Supreme Court; 160 lawyers attended the event. The Chapter also honored Justice Stephen J. Markman of the Michigan Supreme Court with its Grano Award, "which is presented to a Michigander of note who has exhibited a great respect for the rule of law, a deep appreciation of the separation of powers, and a dedication to the principle that ours is a government of laws, and not of men." The dinner also featured remarks by Michael Gadola, who is the legal counsel to Michigan Governor Rick Snyder. The **Chicago** Lawyers Chapter, celebrating its 25<sup>th</sup> anniversary, hosted a robust schedule in 2011, one highlight being a book forum with former Secretary of Defense Donald Rumsfeld. Secretary Rumsfeld discussed portions of his recent memoir,



*(left to right) Memphis Lawyers Chapter president Greg Grisham; Distinguished Scholar in Residence at Catholic University of America Law School and Emeritus Professor of Law at LSU Law School John Baker; and Memphis Lawyers Chapter member Todd Mosley gathered for an event on "The Federalization of Crime: A Look at the Case of Gibson Guitar and Beyond."*

particularly those involving the post 9/11 years, before an audience of over 100 attorneys. The **Los Angeles** Lawyers Chapter hosted its second annual dinner, honoring local attorney and long-time Federalist Society chapter leader Henry Weissman and Judge Sandra Ikuta of the U.S. Court of Appeals for the Ninth Circuit. The dinner was attended by 130 people, with six local firms and companies sponsoring tables.

In January the Federalist Society's **California** Lawyers Chapters sponsored the Fifth Annual Western Chapters conference at the Ronald Reagan Presidential Library. Panels focused on "Current Developments in Election Law and Litigation" and "California's Pensions System: Can It Be Reformed?" Speakers included Professors Hugh Hewitt and Ron Rotunda of Chapman University Law School; Judge Carlos Bea of the U.S. Court of Appeals for the Ninth Circuit; Steve Greenhut of the Pacific Research Institute; and William R. Maurer of the Institute for Justice. Over 200 lawyers and students attended the conference.

The **Silicon Valley** Lawyers Chapter re-launched with U.S. Supreme Court Justice Samuel Alito as its initial guest. Over 150 lawyers and students attended the luncheon, where the Justice gave remarks and answered audience questions, including one concerning his recent dissent in *Snyder v. Phelps*. In May, the **St. Louis** Lawyers Chapter was also honored to host Justice Alito, who met with Chapter members at a breakfast meeting. He spoke briefly before answering questions from the attendees.

Many chapters addressed the recently adopted health care reform legislation, with programs offering a robust debate and discussion of the constitutionality of the law. Several events featured debates with lawmakers, candidates, and litigants who are challenging or defending the legislation. The Florida case challenging the constitutionality of health care reform was of particular interest at several chapters. Greg Katsas, who is serving as co-counsel on that case, offered an update on the status of the litigation in speeches to the **Cincinnati, Dallas, Milwaukee, Mississippi, Silicon Valley, St. Louis, and Tallahassee** Lawyers Chapters. Prof. Randy Barnett of Georgetown, also on the Florida case's legal team, offered an update on the case in a speech to the **Washington, D.C.** Lawyers Chapter. Michael





*U.S. Supreme Court Justice Samuel Alito (left), pictured here with Judge Carlos Bea (right) of the U.S. Court of Appeals and Louise Bea (center) at the National Lawyers Convention, traveled to Silicon Valley and St. Louis for chapter events in 2011. Judge Bea participated in a panel at the 5<sup>th</sup> Annual Western Conference in January.*

Carvin of Jones Day, another of the lawyers who argued against the health care law before the 11<sup>th</sup> Circuit Court, addressed the case in a speech to the **Pittsburgh** Lawyers Chapter. In **Richmond**, Virginia Attorney General Ken Cuccinelli discussed Virginia's challenge to the legislation before a crowd of over 70 lawyers. Virginia's Solicitor General, Duncan Getchell, discussed the Virginia challenge in a speech to the **Charlotte** Lawyers Chapter. The **Madison** Lawyers Chapter hosted a panel discussion on the topic the week after Wisconsin announced it would join the Florida lawsuit. Participants included J.B. Van Hollen, the Wisconsin Attorney General; Prof. Ilya Somin of George Mason University School of Law; and State Representative Jon Richards, the Ranking Chairperson for the Assembly Health Committee. Lawyers Chapters in **Birmingham, Cleveland, Colorado, Jacksonville, Lexington, Long Island, Louisville, Orlando, Philadelphia, Portland, Rochester, Sacramento, and South Bend**, among others, also addressed these issues.

Foreign policy and the tenth anniversary of the September 11 attacks were among the national security topics addressed by Lawyers Chapters

this past year. The **Richmond** and **Miami** Lawyers Chapters hosted former United Nations Ambassador John Bolton, who offered a critique of the Obama Administration's foreign policy. The **Washington, D.C.** Lawyers Chapter hosted a discussion with former Attorney General Michael Mukasey and former Congressman Bob Barr on civil liberties and the war on terror. The **Chicago** Lawyers Chapter co-hosted a program on the tenth anniversary of the September 11 attacks with former ACLU President Nadine Strossen; Prof. John Yoo of Berkeley School of Law; Judges Frank Easterbrook and Richard Posner of the Court of Appeals for the Seventh Circuit; and former United States Congressman Bob Barr, among others. The **Miami** Lawyers Chapter hosted a roundtable discussion with all of the former United States attorneys who have served the Southern District of Florida over the past decade, as well as Michael Caruso, the chief assistant federal defender, and local lawyer Neal Sonnett. Over 130 attended the program. The **Silicon Valley** Lawyers Chapter hosted former Secretary for Homeland Security Michael Chertoff in a luncheon speech to about fifty local lawyers and students. Secretary Chertoff offered remarks about the implications of the recent death of Osama bin Laden and the war on terrorism. Chief Judge David Sentelle of the U.S. Court of Appeals for the District of Columbia Circuit spoke on "The Role of Courts in National Security" in speeches to both the **Houston** and **Triangle** Lawyers Chapters.

The **Washington, D.C.** Lawyers Chapter hosted its annual U.S. Supreme Court Round-Up in July. This year, Miguel Estrada of Gibson, Dunn & Crutcher offered the round-up to an audience of several hundred lawyers and summer associates. Several other Lawyers Chapters also featured reviews of the 2010-11 Supreme Court Term. The **Philadelphia** Lawyers Chapter hosted its annual Supreme Court round-up with former U.S. Solicitor General Paul Clement of Bancroft Associates. Over 90 lawyers attended the event. The **Los Angeles** Lawyers Chapter hosted its annual Supreme Court round-up with former Chapman University School of Law Dean John Eastman and Dean Erwin Chemerinsky of UC Irvine. Judge Sandra Ikuta of the U.S. Court of Appeals for the Ninth Circuit moderated the discussion. The **Houston** Lawyers Chapter hosted a panel with Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit, Justice William J. Boyce of the 14<sup>th</sup> Court of Appeals of Texas, Edward C.

Dawson of Yetter Coleman LLP, and Prof. Charles W. “Rocky” Rhodes of South Texas College of Law. Over 70 lawyers attended the event. The Chapter announced that their annual round-up would be named in honor of tragically deceased appellate lawyer Gregory Coleman, who served as a Chapter officer in the 1990s and was a frequent guest speaker on the Supreme Court’s jurisprudence. Lawyers Chapters in **Atlanta, Austin, Birmingham, Columbus, Greenville, Indianapolis, Los Angeles, Nashville, and Winston Salem**, amongst others, hosted similar round-ups. Judicial ethics were also explored, notably in a speech hosted by the **San Francisco** Lawyers Chapter, in which Senior Judge Laurence Silberman of the U.S. Court of Appeals for the District of Columbia discussed “phony concerns and real concerns” about judicial ethics in remarks to the Chapter.

Several chapters addressed the debates regarding labor unions and collective bargaining reform that were rife in the Midwest in 2011. The **Madison** Lawyers Chapter hosted a discussion with Wisconsin Deputy Attorney General Kevin St. John, Prof. Edward Fallon of Marquette Law School, and former Wisconsin Supreme Court Justice Jon P. Wilco on “The Wisconsin Supreme Court’s Decision Upholding Act 10—Gov. Walker’s Collective Bargaining Bill.” The **Chicago** Lawyers Chapter co-hosted a discussion with Tammy McCutchen, the former Administrator of the U.S. Department of Labor’s Wage and Hour Division; Prof. John McGinnis of Northwestern University; Stephen Yokich of Cornfield and Feldman; and Prof. Martin Malin, Chicago-Kent IIT. The **Philadelphia** Lawyers Chapter hosted Ray LaJeunesse of the National Right to Work Legal Defense Foundation on the question “Public-Sector Unionism: Does It Need to Be Curbed?” The **Columbus** Lawyers Chapter hosted a debate between Gary Greenburg, a management-side labor counsel, and Stephen Lazarus, a union-side labor counsel, on Ohio’s “Senate Bill 5 and Issue 2: Legal and Policy Implications.” The measure, on the November 2011 ballot, sought to repeal legislation that limited collective bargaining for public employees in the state. The **Greenville** Lawyers Chapter hosted Hans von Spakovsky of The Heritage Foundation, who addressed the National Labor Relations Board’s then-pending lawsuit against Boeing, which sought to open an aircraft production plant in South Carolina rather than Washington State.

In June, the **Boston** Lawyers Chapter hosted its annual “Shakespeare and the Law” program. This year readings from *The Merchant of Venice* were followed by a discussion on some of the legal issues that arise in the play, including contract law, equity, justice, and judicial philosophy. All of the performers were members of the Massachusetts state and federal judiciary, including U.S. District Court Judges Nathaniel Gorton, Rya W. Zobel, and George A. O’Toole, Jr.; Massachusetts Supreme Judicial Court Justice Barbara Lenk; Massachusetts Appeals Court Judges Andrew Grainger, Sydney Hanlon, James F. McHugh, Scott Kafker, Peter J. Rubin, and Gabrielle Wolohojian; and Massachusetts Superior Court Justices Carol S. Ball, Judith Fabricant, Linda Giles, Leila Kern, and Frances McIntyre. Recently retired Massachusetts court judges were also honored at the program. Over 400 lawyers, students, and members of the community attended the event.

Looking back to the Federalist Society’s founding by young lawyers, the Society’s Lawyers Division has renewed its outreach to a new generation of young lawyers. This includes establishing new young



*Dr. Arthur C. Brooks, president of the American Enterprise Institute, spoke on “The Moral Foundations of Capitalism” at the December 2011 Luncheon hosted by the Washington, D.C. Lawyers Chapter.*



lawyers divisions of some of the major chapters, as well as continued outreach to student chapters and recent graduates. The first young lawyers chapter was launched in **Washington, D.C.** in November 2010, on the eve of the National Lawyer's Convention. Virginia Attorney General Kenneth Cuccinelli was the guest speaker for the Chapter's launch, which attracted over 100 attendees. In 2011, the Chapter hosted several sold-out events, featuring Rachel Brand of the U.S. Chamber of Commerce, House Majority Leader Eric Cantor, FCC Commissioner Robert McDowell, and Congressman Justin Amash.

### *Some Selected Lawyers Chapter Speakers*

- Justice Samuel Alito, United States Supreme Court
- John Allison, BB&T Corporation
- Prof. Randy E. Barnett, Georgetown University Law Center
- Michael Barone, *The Examiner*
- Bob Barr, former United States Congressman
- Judge Carlos Bea, U.S. Court of Appeals, Ninth Circuit
- John Bolton, former United States Ambassador to the United Nations
- Dean Erwin Chemerinsky, University of California, Irvine
- Michael Chertoff, Covington & Burling and the Chertoff Group
- Paul Clement, King & Spalding and former United States Solicitor General
- Kenneth Cuccinelli, Attorney General, Virginia
- Senator Jim DeMint, U.S. Senator from South Carolina
- Prof. Richard Epstein, Chicago Law & NYU Law
- Miguel Estrada, Gibson Dunn & Crutcher
- Prof. Richard W. Garnett, Associate Dean & Professor of Law, Notre Dame Law School
- Judge Douglas H. Ginsburg, U.S. Court of Appeals, D.C. Circuit
- C. Boyden Gray, Gray & Associates and former Ambassador, EU
- Senator Jon Kyl, U.S. Senator from Arizona
- Daniel Mach, Director, ACLU Program on Freedom of Religion and Belief
- Rob McKenna, Washington Attorney General
- Michael Mukasey, former United States Attorney General



*Prof. John C. Eastman of Chapman University School of Law, who chairs the Federalism and Separation of Powers Practice Group Executive Committee, participated in the Los Angeles Lawyers Chapter's annual Supreme Court round-up with Dean Erwin Chemerinsky of UC Irvine. He also moderated a discussion of the "Continuity of Presidential War Powers" at the National Lawyers Convention.*

- Sam Olens, Georgia Attorney General
- Judge William Pryor, U.S. Court of Appeals, 11<sup>th</sup> Circuit
- Donald Rumsfeld, former Secretary, Department of Defense
- Chief Judge David Sentelle, U.S. Court of Appeals, D.C. Circuit
- Judge Laurence Silberman, Senior Judge, U.S. Court of Appeals, D.C. Circuit
- Neal Sonnett, Miami Attorney
- Seth Stern, Author, *Justice Brennan: Liberal Champion*
- Prof. Nadine Strossen, New York Law School
- Senator Pat Toomey, U.S. Senator from Utah
- J.B. Van Hollen, Wisconsin Attorney General
- Ben Wizner, Litigation Director, ACLU National Security Project
- Professor John Yoo, Berkeley School of Law

# Faculty Division Increases Programming and Participation

The American legal academy is a key determinant of lawyers' views of the role of law in this country and beyond. Less directly but still significantly, it shapes public opinion on the law. The Federalist Society's Faculty Division seeks to encourage examination of the character of law and to enhance legal understanding in the academic and civil communities. The Division's programs are designed to foster academic dialogue on the nature of the Constitution, the separation of powers, and the importance of property rights and free markets to a successful society.

During 2011 the Division, marking its fourth year as a full-fledged branch of the Society, continued to expand its programming as increasing numbers of faculty took advantage of its colloquia, fellowships, and professional development opportunities. The Division increased the number of its annual colloquia to eight, and developed a number of new programs. This programming represents a substantial increase in Division activities.

## ***New Opportunities for Faculty***

The expanded programming includes fresh opportunities, made possible through the generosity of the Searle Freedom Trust, for young faculty members to improve and gain recognition for their scholarship.

## ***Junior Scholars Colloquium***

The Division's inaugural Junior Scholars Colloquium in June 2012 will allow nine "junior scholars" (aspiring academics and faculty who have taught not more than seven years) to present unpublished papers for critique by senior faculty. Over the



*Prof. Joan Larsen of University of Michigan Law School participated in the Law & Liberty colloquium in Dallas on "International Law, Foreign Law, and the United States Constitution" in October.*



*(left to right) Prof. Michael D. Ramsey of University of San Diego School of Law and Prof. John O. McGinnis of Northwestern University School of Law attended the 2011 National Lawyers Convention.*

course of two days, an assigned faculty commentator will give feedback on each paper, followed by a group discussion. Besides helping junior scholars sharpen their oral presentation skills and improve their legal scholarship, these colloquia will increase their chances of recognition within the academic community and ultimately obtain better placement for their published work.

## ***Junior Faculty Workshops***

Junior Faculty Workshops are intended to provide a less formal structured environment in which six or seven junior faculty members from geographically proximate schools gather to spend a day workshopping each others' papers. The breadth of the workshops' topical focus is determined by the organizer's preference, but the attendees must consist primarily of junior tenure track faculty. At each workshop the junior faculty member who has assumed organizational responsibility receives a small budget to cover facilities and a group meal. The Division recently approved proposals from faculty at George Mason and Saint Louis Universities for workshops focused on election law, constitutional and administrative law, and the meaning of the Constitution's religion clauses.

## ***Book Events***

The Division is also conducting a number of programs focused on books, with the goal of drawing greater attention to publications by its faculty members. The programs include three live events in Washington, in which the author presents key points from his or her book, receives critical commentary, and fields questions. The other programs are podcasts, with the author providing an overview of his or her book, followed by a commentator's review.



### *Colloquia: Fostering the Exchange of Ideas*

Three years ago, the Faculty Division launched a series of colloquia for law professors, legal professionals, and individuals with strong scholarly promise to debate enduring legal questions and discuss current legal events. The participants hail from a broad variety of law schools and represent multiple viewpoints and stages on the academic career path. In addition to improving the scope and terms of the legal debate within academia, the colloquia allow participants to forge professional relationships and expand their acquaintance with competing legal theories within a community of scholars.

This year marks the second anniversary of the Division's colloquia co-sponsorship with Liberty Fund. Liberty Fund has long hosted events of this sort, and their conferences addressing classic economic and political questions helped inspire the Division's co-sponsored "Law and Liberty" colloquia. Now in its second iteration, this series has been expanded to comprise seven colloquia per year. The May 2011 through May 2012 colloquia are:

- "Liberty and Constitutional Jurisprudence," Minneapolis, Minnesota; June 3-4, 2011. In this colloquium, faculty and aspiring academics discussed existing originalist theory and assessed a new defense of originalism presented in a forthcoming Harvard University Press book by Northwestern University School of Law Prof. John McGinnis and Prof. Michael Rappaport of the University of San Diego School of Law.
- "Natural Law and Property Rights in American Private Law," Denver, Colorado; August 12-13, 2011. In this colloquium, faculty and aspiring academics considered natural law and law and economics justifications for property rights, and whether natural law theories work for or against intellectual property.
- "The Federalists, the Anti-Federalists, and the Constitution They Created," Charlotte, North Carolina; September 9-10, 2011. This practitioner-oriented colloquium weighed the arguments of the Federalists and the Anti-Federalists regarding the Constitution of 1789 and the extent to which the hopes and fears of each group have proven ill-founded or prescient.
- "International Law, Foreign Law, and the United States Constitution," Dallas, Texas; October 21-22, 2011. This colloquium for faculty and aspiring academics examined the standing of international and foreign law under the U.S. Constitution.
- "Liberty, Responsibility, and the Legal Profession," Marina del Rey, California; February 10-11, 2012. This practitioner-oriented colloquium considered the evolution of American legal practice, and discussed which approaches to legal practice seem most conducive to sustaining a society of free and responsible individuals.
- "Hayek on Law, Legislation, and Liberty," Atlanta, Georgia; March 9-10, 2012. In this colloquium, faculty and aspiring academics assessed crucial themes in the work of Friedrich A. Hayek: law, liberty, justice, and the relationships between desirable social and economic order.
- "Constitutional Economics," La Jolla, California; March 23-24, 2012. This colloquium for faculty and aspiring academics discussed the role of economic liberty in the creation and design of the United States Constitution, and in modern constitutional law.



*A group of practitioners and other members of the Federalist Society gathered to discuss "The Federalists, the Anti-Federalists, and the Constitution They Created" at a September "Law and Liberty" colloquium in Charlotte.*

In addition, the Faculty Division hosted a separate private law-oriented colloquium in the spring of 2011, and plans to do so again in 2012. The 2011 colloquium, “The Corporate Criminal,” was held in Warrenton, Virginia on April 29-30. It discussed the nature of corporate liability, the kind of justice it produces, and the pragmatic forms liability takes given the “federalization” of criminal law.

### ***Assistance for Aspiring Scholars***

The road to the legal academy is a challenging one. Success generally requires the publication of scholarly papers, but with the financial pressures of school debt and the demands of practice, law graduates are pressed for time to write and research. The market for law professors has also been contracting in recent years, as the economy decreases the demand for lawyers, and law schools, facing external criticism, examine themselves concerning their standards for preparing students for practice. The Faculty Division’s fellowships respond to these challenges by creating a transitional period during which aspiring academics can affiliate with a top law school and focus full-time on producing quality scholarship, making them stronger contenders in the extraordinarily competitive academic market.

### ***Olin/Searle/Smith and Information Society Project Fellowships***

The Faculty Division offers Olin/Searle/Smith Fellowships to law school graduates interested in pursuing a career in legal academia. These one-year fellowships provide a \$50,000 stipend to graduates with strong academic qualifications who are expected to contribute to intellectual diversity in the legal academy. Many past recipients earned tenure track positions at top law schools, including Harvard, Northwestern, Georgetown, Notre Dame, and Missouri. This year’s recipients were Michael Kenneally (Harvard), John Ohlendorf (Northwestern), and James Stern (Virginia). The Division also received a special fellowship-creating grant for Rebecca Bolin, a prosecutor whose work focuses on technology-related crimes. She will pursue her fellowship with Yale’s Information Society Project.

### ***Job Talk Workshop***

This past June the Division hosted its fourth annual Job Talk Workshop in Chicago. Nine candidates for fall 2011 academic jobs participated as presenters, and 14 future candidates (including the Division’s current Olin/Searle/Smith Fellows) came to observe. Each 2011 candidate had the opportunity to present his or her job talk before a panel of faculty commentators. Presenters received substantive and stylistic feedback on their talks, participated in mock AALS interviews, and received individualized resume critiques.

### ***Cooperative Activities with Other Law Professors Associations***

In order to increase general awareness of the Faculty Division among law professors and make more potentially interested faculty specifically aware of the Division’s resources and activities, the Division participates in a variety of events hosted by other academic organizations. In the past year, the Division hosted its fifth reception at the annual meeting of the Southeastern Association of Law Schools in Hilton Head Island, South Carolina in

*The Faculty Division and Practice Groups co-hosted a preview of the upcoming Supreme Court Term at the National Press Club in September. (top) (left to right) Moderator Jan Crawford of CBS News, Thomas Hungar of Gibson Dunn & Crutcher LLP, Prof. Adam Mossoff of George Mason University School of Law, and Elizabeth Papez of Winston & Strawn. (bottom) (left to right) Prof. Mark Rienzi of Catholic University of America School of Law, Michael Carvin of Jones Day, and Prof. Neal Katyal of Georgetown University Law Center.*





July, and held its third reception at the annual meeting of the Association of Law and Economics at Columbia Law School in New York City in May. The Division also co-sponsored its Faculty Conference lunch debate with the American Society of International Law (ASIL). The debate was moderated by ASIL Executive Director Elizabeth Andersen.

The Division is also creating a new faculty brochure to reflect changes in programming over the past year. The new brochure will be distributed to all faculty listed in the 2011-2012 AALS Bulletin for fall 2012.

### *Online Programming*

Working with the Practice Groups, the Division has continued to produce original web-based programming that draws on academic and

practitioner expertise. This programming, which can be found online at <http://www.fed-soc.org/publications/>, informs the public and the media and raises faculty members' profiles.

The Division's online flagship program is SCOTUScast, a series of podcasts designed to educate the general public through expert commentary on U.S. Supreme Court cases as they are argued and issued. As noted above, SCOTUScast will shortly be joined by a new series of podcasts highlighting faculty members' books. The Division also holds regular press calls with faculty and practitioner experts who analyze the upcoming Supreme Court cases; and, in collaboration with the Practice Groups, the Division organizes an annual Supreme Court Preview Panel at the National Press Club, which is recorded and made available online. Finally, the Division periodically posts audio and/or video recordings of notable faculty events, such as the panels from the annual Faculty Conference (*see page 21*).

## Alumni Effort

The Federalist Society has taken significant steps in starting alumni chapters associated with different law schools. The goal is to create chapters that run themselves largely autonomously with the Federalist Society's financial and other support.

At this year's National Lawyers Convention in November, the Federalist Society hosted separate well-attended breakfasts for alumni from Catholic, Chicago, Columbia, Georgetown, Harvard, Michigan, NYU, Stanford, Virginia, and Yale. The breakfasts were hosted by alumni representatives from each school. In most cases, both a faculty member and a current student delivered remarks about the current situation at the school. Guest speakers included the Honorable Brett Kavanaugh, the Honorable Loretta Preska, and Professors Randy Barnett (Georgetown) and Michael McConnell (Stanford).

Below is a list of additional alumni events from throughout the year:

- In February, at the National Student Symposium at the University of Virginia, the law school's alumni chapter hosted a lunch for approximately 50 attendees.
- The University of Virginia alumni chapter hosted receptions in March and June. During the first reception, at the home of Assistant United States Attorney Kevin McFadden, Ronald Tenpas, co-chair of Morgan

Lewis's Environmental and Climate Change Practices, spoke about climate change to a group of 35 to 40 alumni. The chapter hosted the second reception on the rooftop of Jones Day in Washington, D.C.

- In April, distinguished attorney Gerald Walpin hosted a well-attended Yale Law School alumni cocktail party at his home in New York City.
- In June, the Stanford alumni chapter hosted a dinner with Professor Michael McConnell.

Moving forward, the alumni initiative will play a more active role in finding and developing chapter leadership, together with giving them the support they need. With the hiring of Justin Shubow in a permanent position with responsibilities partially focused on these chapters, we expect the Alumni chapters to develop more rapidly. The interest is definitely there, and we have identified enthusiastic leaders at many law schools.



*Prof. Michael McConnell helped boost the Alumni chapter effort by participating in a dinner event hosted by the Stanford Chapter.*

# A Big Convention Looks Toward a Small Government



*U.S. Supreme Court Justice Antonin Scalia spoke at the Federalist Society's Annual Dinner at the 2011 National Lawyers Convention in November.*

The Federalist Society's 2011 National Lawyers Convention, "The Constitution of Small Government?", was held Thursday, November 10 through Saturday, November 12 at the Mayflower Hotel in Washington, D.C. With the approaching 2012 elections and growing nationwide debate regarding the size of government, the Convention's topical theme aroused a great deal of interest and led to the largest number of attendees in Federalist Society history.

The Convention's prominent speakers explored the theme through a variety of forums, including four showcase panels focused directly on the burgeoning scale and powers of the Federal Government: "Too Big to Fail," "Political Philosophy and Classical Liberalism," "Term Limits, Entitlement Reform, and Random Assignment of Members of Congress to Committees," and "A Federal Sunset Law."

In addition to debates and panel discussions, the Convention's roster of events included speeches by several distinguished members of Congress. The Convention opened on Thursday with an address given by

the Hon. Jeff Sessions, junior U.S. Senator for Alabama. Florida junior Senator Marco Rubio spoke later in the same day. Friday featured an address by the Hon. Michael Lee, the junior U.S. Senator from Utah.

The highlight of the Convention as always was the Annual Dinner, held this year on Thursday, November 10 at the Omni Shoreham Hotel, and attended by nearly 1,300 guests. The Dinner was a celebration of service for U.S. Supreme Court Justices Antonin Scalia and Clarence Thomas, each of whom celebrated a judicial anniversary this year in serving on the High Court. The Justices both spoke briefly at the conclusion of the evening.

Friday night was the occasion for the 11<sup>th</sup> annual Barbara K. Olson Memorial Lecture. This year the lecturer was the Hon. Michael B. Mukasey, the former 81<sup>st</sup> U.S. Attorney General who is now a partner at Debevoise & Plimpton LLP. General Mukasey drew on his experiences in the federal government to give his audience an intense and gripping account of specific terrorist attempts against the United States.



*Hon. David M. McIntosh (left), Vice Chairman of the Federalist Society Board of Directors, spoke with U.S. Senator Jeff Sessions (right) of Alabama at the National Lawyers Convention.*



The following afternoon, Convention attendees met in a packed ballroom for the Society's Fourth Annual Rosenkranz Debate and Luncheon. The debate resolution, "Congress Acted Within Its Authority in Enacting the Patient Protection and Affordable Care Act," was defended by Prof. Laurence H. Tribe, the Carl M. Loeb University Professor at Harvard Law School, and opposed by the Hon. Paul D. Clement, a partner at Bancroft PLLC and a former U.S. Solicitor General. (Mr. Clement is currently involved in the litigation that concerns the Act.) The debate was moderated by Georgetown University Law Center Prof. Nicholas Quinn Rosenkranz. The animation Prof. Tribe and Mr. Clement displayed in debating the Act was equaled—and in fact surpassed—by the audience's keen and palpable interest in the subject. Indeed, barring time constraints, the Q&A would have stretched well into the afternoon and involved dozens more debaters than the forum was designed to include.

Saturday evening offered two final events for the Convention attendees: an address by *National Review's* Senior Editor Mr. Richard Brookhiser, author of *James Madison*, and a recognition of Executive Vice President Leonard A. Leo's 20 years with the Federalist Society, which was attended by General Mukasey and Justice Scalia.

Taken as a whole, the events of the Convention, the debates, discussions, and speeches, served as an important reminder of why the Constitution's provisions are so important. The structural constraints of the Constitution on government power, federalism, enumerated powers, and careful separation of powers preserve freedom and allow the citizenry to flourish. It is a small government that the Constitution provides.

### Student Symposium Examines Individual and Economic Liberty

Those familiar with the Federalist Society will agree that Student Chapters are the key to the Society's success and the primary mechanism for introducing ideas into the law school environment. They help ensure that conservative and libertarian viewpoints receive a fair hearing in law schools, where they are frequently neglected. This introduction of neglected ideas makes it possible for all law students to have some understanding of the principles underlying American law before they begin their legal careers.



(above) (left to right) Hon. Paul D. Clement of Bancroft PLLC, Prof. Nicholas Quinn Rosenkranz of Georgetown University Law Center and of the Federalist Society Board of Visitors, and Prof. Laurence H. Tribe of Harvard Law School, participated in the Fourth Annual Rosenkranz Debate on the health care individual mandate. (below) (left to right) Whitebox Advisors founder and CEO and Federalist Society Board of Visitors member Andrew J. Redleaf, Prof. Steven G. Calabresi of Northwestern University Law School and of the Federalist Society Board of Directors, and Prof. Randy Barnett of Georgetown University Law Center lined up to ask their questions at the Rosenkranz Debate.

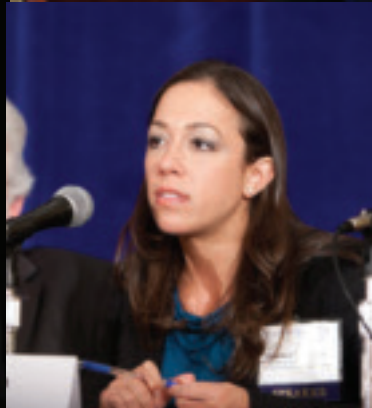


# 2011 National Lawyers Convention





# Photo Highlights



If the Student Chapters are the key to the Federalist Society, the Student Symposium is the annual high point of the Student Chapters' year. Each February, with the help of the Society's national office, a local Student Chapter organizes a two-day conference on some significant rule of law subject. Over the years the Symposiums have become some of the Society's most anticipated and well-attended events, second only to the National Lawyers Convention in their influence and the attention that they generate. These Symposiums provide debates and discussions on a scale and extent that many of the individual student chapters, particularly the smaller and newer ones, cannot replicate on their own.

The 30<sup>th</sup> annual Student Symposium was held on February 25-26, 2011 at the University of Virginia School of Law. It was a huge success, attended by 800 law students—a sharp increase over the previous year. The Symposium led its attendees on a lively intellectual exploration of “Capitalism, Markets, and the Constitution,” investigating the link between individual and economic liberty, and the relations among the Constitution, the markets, and the courts.



*U.S. Supreme Court Justice Clarence Thomas congratulated the Columbia Student Chapter after it won the James Madison Award for Chapter of the Year at the 2011 Student Symposium in February at the University of Virginia.*



*Prof. Lillian BeVier of University of Virginia School of Law and of the Federalist Society Board of Visitors opened the 2011 Student Symposium.*

The topic was a timely one, as the enthusiasm generated by the Symposium suggests. As the Student Symposium Committee reflected, “America’s economy, characterized by capitalism and the free market, has generally provided material prosperity for its citizens since the country was founded. In the last few years, however, that same economy has faced a financial crisis and recession worse than any other since the Great Depression. ... With the state of the economy at a historic low and the popularity of the Constitution at a historic high, now is an apt time to examine the topic of capitalism, markets and the Constitution.”

The Symposium opened Friday night with a speech by Federalist Society Board of Visitors Member Prof. Lillian Bevier of the University of Virginia School of Law. Prof. Bevier reminded her audience that the Federalist Society has not always been a part of the legal landscape; in the beginning, its future seemed doubtful. She identified two elements that have been crucial to the Society’s growth over the years, and that remain essential to its survival and thriving today: the power of its principles, and



its unique method of providing a forum for civilized debate that centers on ideas rather than persons.

Prof. Bevier's speech was followed by a spirited debate on "Economic Freedoms and the Constitution" sponsored by the John Templeton Foundation. The speakers, Prof. Randy Barnett of Georgetown University Law Center and Prof. Jeffrey Rosen of The George Washington University Law School attempted to answer the key question posed by the moderator, Judge Debra Ann Livingston of the Second Circuit U.S. Court of Appeals: Does the Constitution protect economic liberties (i.e., the rights to acquire, use, and possess property and to enter into contract), and is it desirable for a constitution to do so?

Friday evening concluded with a panel on "Economic Theory, Civic Virtue and the Meaning of the Constitution." Moderated by Judge J. Harvie Wilkinson III of the Fourth Circuit U.S. Court of Appeals, the four speakers—Prof. G. Edward White of the University of Virginia School of Law, Prof. Renee Lerner of the George Washington University Law School, Prof. James Ely of Vanderbilt University Law School, and George Mason University School of Law Prof. Nelson Lund—sought to define the tie that binds the Constitution's seemingly eclectic economic provisions.

Saturday morning began with the second Symposium panel, "Federalism and Interstate Competition." The moderator, the Hon. Gregory G. Katsas, began by outlining the theory of federalism as interstate competition, and asked three questions of the panelists: Is this analogy a good one, is it what the Framers had in mind, and what are the weaknesses of interstate competition? The panel speakers were Case Western Reserve University School of Law Prof. Jonathan Adler, Prof. Clayton Gillette of the New York University School of Law, Prof. John McGinnis of the Northwestern University School of Law, and Prof. Louis Michael Seidman of Georgetown University Law Center.

Following the panel, John Allison, former chairman and CEO of BB&T Corporation, spoke about "The U.S. Financial Crisis: Causes and Consequences." According to his account, the crisis was caused primarily by government policies, beginning with the government's encouragement of subprime lending, a policy decision which was brought about by the



*Prof. Brian T. Fitzpatrick of Vanderbilt Law School was awarded the Paul M. Bator Award and spoke on the topic "Preparing to Become a Law Professor" at the 2011 Student Symposium.*

belief that affordable housing—a good that actually exists by virtue of the labor of human beings—is a *right*. Mr. Allison went on to assert that the solution to our social problems must lie in the actions of moral individuals. At the conclusion of his speech, the students gave him a standing ovation.

The penultimate panel of the Symposium dealt with "The Welfare State and American Exceptionalism." The panelists, George Mason University School of Law Profs. Jeremy Rabkin and Neomi Rao, and Prof. William Marshall of the University of North Carolina School of Law, discussed the relationship between religion, individualism, personal responsibility, and human rights, moderated by Judge Brett Kavanaugh of the U.S. Court of Appeals for the D.C. Circuit.

The final panel of the Symposium, moderated by Judge Diane Sykes of the U.S. Court of Appeals for the Seventh Circuit, dealt with "Economic Uncertainty and the Role of the Courts." The panelists, Prof. Paul Stephan and Dean Paul G. Mahoney of the University of Virginia and George Mason University School of Law Prof. Todd Zywicki, explored the relative advisability of judicial intervention and restraint regarding property rights.

The Symposium closed with a reception and Banquet at The Boar's Head. This year's Banquet included the inaugural presentation of the "Feddies," Oscar-style awards given to Student Chapters who have demonstrated exceptional leadership and achievements in the course of the year. The five awards, which have generated interest in the Society and made a huge impact on campuses, are the James Madison Award for Chapter of the Year, the Alexander Hamilton Award for Most Improved Chapter, the Samuel Adams Award for Membership Growth, the Thomas Paine Award for Creative Publicity, and the Benjamin Franklin Spring Breakout Award.

Each of the nominees and winners deserves recognition and appreciation for the efforts they made in improving the conservative legal debate on their campus. The nominees for 2011 were Northwestern, Yale, Columbia, The Ohio State, and Chicago for the James Madison Award; Catholic, The Ohio State, Western New England, Rutgers-Newark, and Wyoming for the Alexander Hamilton Award; Virginia, BYU, Inter-American, Harvard, and Oregon for the Samuel Adams Award; Florida International, Idaho, North Carolina, Berkeley, and Houston for the Thomas Paine Award; Boston College, UC-Davis, Stanford, Tulane, and Washington & Lee for the Benjamin Franklin Award.



*Judge A. Raymond Randolph of the U.S. Court of Appeals for the D.C. Circuit joined the panel on Judicial Ethics at this year's Faculty Conference in Washington, D.C.*

Deciding which chapters would receive the Freddie awards proved extremely difficult, as this has been one of the Student Division's most successful years, with many chapters contributing to that success. The eventual winners of the first four Feddies were Columbia School of Law for the James Madison Chapter of the Year, Rutgers-Newark for the Alexander Hamilton Most Improved Chapter, Berkeley for the Thomas Paine Award for Creative Publicity, and BYU for the Samuel Adams Award for Membership Growth. The chapter attendees from Freddie Award-winning schools were able to meet with Justice Thomas after the Symposium's closing banquet for a photo opportunity. The fifth Freddie, the Benjamin Franklin Spring Breakout Award, was won by Stanford later that year; the school's representatives were honored at the Student Leadership Conference in July.

Following the presentation of the Feddies, the annual Paul M. Bator Award was presented to Prof. Brian T. Fitzpatrick of Vanderbilt University Law School in recognition of his legal scholarship, commitment to teaching, concern for students, and public impact. The Banquet concluded with a question and answer session in which banquet speaker U.S. Supreme Court Justice Clarence Thomas spoke with one of his own former clerks, Prof. Caleb Nelson of the University of Virginia School of Law, and the Federalist Society's Executive Vice President Leonard Leo.

### **Student Leadership Conference**

Every summer the Federalist Society's incoming Student Chapter presidents travel to Washington, D.C. for the Student Leadership Conference: three days of training and preparation for their tenure as officers. This year the Conference was held on July 15-17 at the Key Bridge Marriott. At the opening Friday night reception the student leaders were able to meet the Federalist Society staff and the other chapter presidents. Saturday morning began with a welcome address from Judge Brett Kavanaugh of the U.S. Court of Appeals for the D.C. Circuit. The judge's address was followed by a panel in which Federalist Society President Gene Meyer and the Student Division staff discussed how to be an effective chapter leader. Later in the day Jordan Lorence of Alliance Defense Fund, Clark Neily of the Institute for Justice, and Kevin Hasson of the Becket Fund formed a panel to discuss opportunities for public





*(above) Prof. Stephen Vladeck (left) of American University Washington College of Law and Prof. Eugene Kontorovich (right) of Northwestern University School of Law debated international law at the Faculty Conference in January, as Elizabeth Andersen (center), Executive Director of the American Society of International Law, moderated. (below) Prof. M. Todd Henderson of University of Chicago Law School provided comments during the Young Legal Scholars Paper Presentations at the Faculty Conference.*



interest litigation. On Saturday evening the student attendees were invited to the Conference's annual Supreme Court Reception, where they had the opportunity to meet with U.S. Supreme Court Justice Clarence Thomas.

### **Annual Faculty Conference Draws Largest Attendance Yet**

The 14<sup>th</sup> Annual Faculty Conference, held in Washington, D.C. on January 5-6, 2012, was attended by more than 100 law professors from over 65 schools and over a dozen aspiring academics. During the past decade the Conference has developed into a unique occasion for fruitful discourse and exchange of scholarship among attending faculty. This year's panels focused on the legal effects of U.S. government's shareholding in the financial and automotive sectors, the merits of public sector unions, and developments in judicial ethics.

At the annual luncheon debate, Prof. Eugene Kontorovich of Northwestern University School of Law and Prof. Stephen Vladeck of American University Washington College of Law, moderated by Ms. Elizabeth Andersen of the American Society of International Law, sparred over the Alien Tort Statute and the related problem of corporate liability, an issue currently pending before the Supreme Court.

The Conference also served for the third year as a forum for the winners of the Division's Young Legal Scholars Paper Competition. Four young faculty, moderated by Georgetown Prof. Nicholas Quinn Rosenkranz, presented their competitively selected papers to be critiqued. Prof. Eugene Volokh of the UCLA School of Law and Prof. Todd Henderson of the University of Chicago Law School assessed the papers. The Conference also gave other faculty the opportunity to present working papers and hear colleagues' feedback.

Overall the conference was a great success, and its strong attendance was a reflection of the continued expansion of faculty interest and involvement over the past year.

## New Horizons for the Practice Groups

The Practice Groups had a banner year, continuing their strong series of programs with highly respected scholars from across the country. The Groups' latest development is the Teleforums, a series of conference call discussions featuring one or more presenters on a topic of moment, with a live call-in audience. After brief opening remarks by each presenter, the bulk of the one-hour call is spent on audience questions. Teleforum calls represent a unique but growing opportunity for members outside major metropolitan areas to participate actively in Federalist Society programming.

The Practice Groups are currently focused on presenting their programming and scholarship online, making it available to a larger audience, while simultaneously maintaining in-person programs such as the National Lawyers Convention. They continue to produce podcasts—debates by leading legal experts and scholars which are recorded and posted on the Federalist Society's website, iTunes, and YouTube. Samplings of the various forms of programming and program topics appear in the pages that follow.

In March, the **Administrative Law & Regulation Practice Group** hosted a program in Washington, D.C. on President Obama's executive order to "avoid excessive, inconsistent and redundant regulation" mandating a review "to remove outdated regulations that stifle job creation and make our economy less competitive." The group's panel of experts examined the Administration's prescription for a new direction. Panelists included Ronald A. Cass of Cass & Associates, Donald Elliott of Willkie Farr & Gallagher LLP, Sally Katzen of the Podesta Group, Prof. Jeffrey Lubbers of the American University Washington College of Law, and moderator Judge A. Raymond Randolph of the U.S. Court of Appeals for the District of Columbia. In a separate consideration of the executive order, Susan Dudley, Director of the George Washington University Regulatory Studies Center, discussed her recently-published *Engage* article, "Prospects for Regulatory Reform in 2011," and took callers' questions during a Teleforum sponsored by the Administrative Law & Regulation Practice Group. The Administrative Law & Regulation Practice Group also joined with the **Litigation Practice Group** to host several Teleforum calls on the Affordable Care Act and the litigation challenging its constitutionality.



*Prof. Jide Nzelibe of Northwestern University School of Law participated on a Showcase Panel during the 2011 National Lawyers Convention on the topic "Term Limits, Entitlement Reform, and Random Assignment of Members of Congress to Committees."*

The **Civil Rights Practice Group** produced a podcast discussing birthright citizenship, the proper interpretation of the 14<sup>th</sup> Amendment's Citizenship Clause, and the extent of states' powers in controlling or altering birthright citizenship. The podcast featured John Eastman of Chapman University School of Law and former Solicitor General of Texas James C. Ho of Gibson Dunn & Crutcher. In light of a recent Ninth Circuit decision, the Civil Rights Practice Group and the **Free Speech & Election Law Practice Group** also held a Teleforum call on felon voting. The Teleforum featured Nancy Abudu of the American Civil Liberties Union, Roger Clegg of the Center for Equal Opportunity, and Hans von Spakovsky of The Heritage Foundation. With the Litigation Practice Group, the Civil Rights group also hosted a Teleforum call with Michael Rosman, General Counsel at the Center for Individual Rights, to discuss the U.S. Court of Appeals for the Sixth Circuit decision overturning Michigan's anti-preference ballot initiative.



In March, the **Criminal Law & Procedure Practice Group** cosponsored a panel discussion with the Chicago Lawyers Chapter on the future of the honest services statute. Panelists included former U.S. Assistant Solicitor General John Elwood of Vinson & Elkins; Ronald Safer of Schiff Hardin, co-counsel in *United States v. Black*; and Brian Murray of Jones Day, petitioner's counsel in *Weyhrauch v. United States*. The moderator was former U.S. Deputy Assistant Attorney General Gil Soffer of Katten Muchin Rosenman. The Criminal Law & Procedure Practice Group also held a sentencing guidelines Teleforum call with former Special White House Counsel William Otis, and another with Mark Brnovich, Director of the Arizona Department of Gaming, who discussed his *Engage* article "Internet Gaming, Is it Too Late to Reboot?" Most recently, following the Khalid Sheikh Mohammed case and the Norway tragedy, the group sponsored a Teleforum on the death penalty.

Following the recent decision in *Business Roundtable v. SEC*, the **Corporations, Securities & Antitrust Practice Group** held a Teleforum on shareholder access. The call featured Prof. Stephen Bainbridge of UCLA School of Law, Eugene Scalia of Gibson Dunn & Crutcher, University of Denver Law School Prof. Jay Brown, and Ted Allen of Institutional Shareholder Services, Inc. The group also presented a panel in cooperation with the **Intellectual Property** and **Telecommunications Practice Groups** and the **Chicago Lawyers Chapter** on "The First Amendment Online: Search, Privacy & Personalization." The panel featured Prof. Richard



*Prof. Todd Zywicki of George Mason University School of Law, a member of the Financial Services and E-Commerce Practice Group's Executive Committee, participated on a panel discussing the Consumer Financial Protection Bureau at the National Lawyers Convention and debated Ilya Somin on the implications of repealing the 17<sup>th</sup> Amendment on a Teleforum call in August.*

Epstein of New York University School of Law, Prof. James Grimmelman of New York University School of Law's Institute for Information Law and Policy, University of Chicago Law School Prof. Jonathan Masur, Mr. Berin Szoka of TechFreedom, and the Honorable Diane Wood of the U.S. Court of Appeals for the Seventh Circuit. Among other questions, the panel considered what would qualify as protected speech online, what level of judicial scrutiny would apply to online First Amendment cases, and how the government could address real harms consistent with the First Amendment.

The **Environmental Law & Property Rights Practice Group** and the **Administrative Law & Regulation Practice Group** cosponsored a panel discussion with the Federalist Society's Capitol Hill Chapter on environmental regulation and the legal and policy implications of the current Administration's regulation of greenhouse gas emissions. The panelists included the Hon. C. Boyden Gray of Boyden Gray & Associates and Prof. Robert Purcival of the University of Maryland School of Law, with Ronald Cass as the moderator.

The **Financial Services & E-Commerce Practice Group** and the **Corporations, Securities & Antitrust Practice Group** cosponsored a panel discussion with the Federalist Society's Capitol Hill Chapter at the U.S. Capitol Visitors Center on the implementation of Dodd-Frank and congressional oversight of agencies. The panel featured C. Boyden Gray; John Douglas of Davis, Polk, and Wardwell; and Prof. Arthur Wilmarth of the George Washington University School of Law, with Prof. Scott Kieff moderating. In March, the Financial Services & E-Commerce Practice Group also hosted a Teleforum with Financial Crisis Inquiry Commission member and American Enterprise Institute Scholar Peter Wallison.

On September 1 and 2, the **Federalism & Separation of Powers Practice Group** hosted a continuing legal education course on the separation of powers featuring U.S. Supreme Court Justice Antonin Scalia and Prof. John Baker. With the topic of judicial ethics prominent in the news this year, the Federalism & Separation of Powers Practice Group also hosted a Teleforum on the topic featuring Indiana University School of Law Prof. Charles Gardner Geyh, who coauthored *Judicial Conduct and*

*Ethics*; Prof. Ron Rotunda from Chapman University Law School, who coauthored *Problems and Materials on Professional Responsibility and Legal Ethics: The Lawyer's Deskbook on Professional Responsibility*; President of the Ethics and Public Policy Center Edward Whelan; and Prof. William Yeomans of the American University Washington College of Law, who served as Senator Edward Kennedy's Chief Counsel on the Senate Judiciary Committee.

In August, the Federalism & Separation of Powers Practice Group held another Teleforum in which Profs. Todd Zywicki and Ilya Somin of George Mason University School of Law debated whether repealing the 17<sup>th</sup> Amendment would restore the principles of federalism to the U.S. constitutional system by increasing state power.

Prof. Eugene Volokh of UCLA Law School participated in a Teleforum call hosted by the Free Speech & Election Law Practice Group in July, discussing the most important free speech cases of the 2010-2011 U.S. Supreme Court Term, including ones involving Westboro Baptist Church, violence in video games, campaign funding, and the marketing of pharmaceuticals.

The Federalist Society's Practice Groups and various local Lawyers Chapters co-sponsored several technology panels. In April, the Intellectual Property and Litigation Practice Groups hosted a panel in San Diego discussing the *Microsoft v. i4i* Supreme Court case. The panelists included University of San Diego School of Law Prof. David McGowan, Joseph Re of Knobbe Martens Olson & Bear, and John Rogitz of Rogitz & Associates, with U.S. District Court for the Southern District of California Judge Marilyn L. Huff moderating.

The Intellectual Property Practice Group, along with the Corporations, Securities & Antitrust, Litigation, and Telecommunications Practice Groups, hosted a number of programs, podcasts, and Teleforum calls on overlapping issues. They sponsored a panel retrospective of the Microsoft Consent Decree, titled "U.S. v. Microsoft, 10 Years Later: Who Won, Who Lost, and Did It Matter?" The program included Prof. Phillip Malone of Harvard Law School's Berkman Center for Internet and Society, Cyberlaw Clinic, and Rick Rule, Partner at Cadwalader, Wickersham & Taft who represented Microsoft in its settlement with the U.S. Department of Justice.

Judge Douglas Ginsburg of the U.S. Court of Appeals for the D.C. Circuit, who sat on the appellate panel for the Microsoft antitrust cases, moderated.

In June, the groups co-sponsored a Boston panel discussing "Patent Enforcement in the 21<sup>st</sup> Century" and a Chicago panel discussing "The First Amendment Online: Search, Privacy & Personalization," which included Richard Epstein, Prof. James Grimmelmann of New York Law School's Institute for Information Law and Policy, Prof. Jonathan Masur of University of Chicago Law School, and TechFreedom President and founder Berin Szoka. Judge Diane P. Wood of the U.S. Court of Appeals for the Seventh Circuit moderated. Also in June, the groups hosted another discussion, this one in Dallas, of the YouTube fair use lawsuit involving Viacom and Google. In September, the groups co-sponsored a program at the National Press Club in Washington, D.C., to discuss "The Google Review: Regulation of Search Results and More." That discussion included Thomas Barnett of Covington & Burling, James Grimmelmann, Rick Rule, and Berin Szoka.

In September, the **International & National Security Law Practice Group** and the **Washington, D.C. Lawyers Chapter** hosted a debate on national security issues between former U.S. Attorney General Michael Mukasey of Debevoise & Plimpton and former U.S. Representative Bob Barr of Liberty Strategies, Inc., with Judge Laurence Silberman of the U.S. Court of Appeals for the D.C. Circuit moderating. All three participants are contributors to the book *Confronting Terror: 9/11 and the Future of American National Security*. The group also hosted a day-long conference titled "Cyber Security, National Security, and



*Prof. Ann Shalleck, Director of the Women and the Law Program at American University Washington College of Law, participated in a panel on law school accreditation for the Professional Responsibility & Legal Education Practice Group at the National Lawyers Convention in November.*



Economic Security,” which included a detailed presentation by Stewart Baker, the former Assistant U.S. Homeland Security Secretary for Policy. Mr. Baker discussed U.S. government and private sector vulnerabilities to cyber attack, and the effectiveness (or lack thereof) of measures taken to protect the potential targets of such attacks. Also in September, the group co-sponsored a ten-year retrospective on the state of the law and changes to the legal landscape since the September 11 attacks of 2001. The conference, “Civil Liberties Ten Years After 9/11,” was hosted by the Justice Action Center at New York Law School and the *New York Law School Review* and co-sponsored by the Federalist Society, the American Civil Liberties Union, and the American Constitution Society. Conference panels included “Separation of Powers: The Roles and Inter-Relationships of the Executive, Legislative, and Judicial Branches since 9/11,” “National Security and Civil Liberties: A Decade of Striking a Delicate Balance, or a False Choice?” and “Courts, Accountability, and Justice: Forums for Assuring that Justice Is Served.” The group also produced podcasts debating the President’s authority to engage militarily in Libya, issues emanating from the WikiLeaks release of classified documents, prosecutorial discretion and the practice of transferring terrorism suspects to American soil for trial, and providing *Miranda* warnings for terrorism suspects.

In June, the **Labor & Employment Law Practice Group** and the Litigation Practice Group, together with the **Orange County Lawyers Chapter**, hosted a panel discussion on the important Supreme Court class action decision from the past Term, *Dukes v. Wal-Mart Stores, Inc.* The Labor & Employment Law Practice Group also sponsored an April panel discussion, “Can the State Stop Collective Bargaining? Wisconsin, Ohio and the Constitution—A Courtroom Style Debate on One of the Great Labor Law Issues of Our Time,” in Chicago with the Lawyers Chapter. The panel featured former U.S. Department of Labor Wage and Hour Division Administrator Tammy McCutchen, now of Littler Mendelson; Northwestern University School of Law Prof. John McGinnis; and Stephen Yokich of Cornfield and Feldman, with Chicago-Kent College of Law. The moderator was Illinois Institute of Technology Prof. Martin Malin.

The **Professional Responsibility & Legal Education Practice Group** held a Teleforum call featuring Chapman University School of Law Prof. Ronald Rotunda and American University Washington College of

Law Prof. Stephen Vladeck discussing the ethics questions surrounding King & Spalding’s decision to withdraw from representing the House of Representatives in defending the constitutionality of the Defense of Marriage Act.

In June, the **Religious Liberties Practice Group** co-sponsored a panel on “Minority Religious Communities at Risk.” The program, co-sponsored with the First Freedom Center, focused on efforts to ensure protections of all minority religious communities around the globe. The program opened with a letter to the audience from U.S. Representative Christopher H. Smith (New Jersey), Chairman of the House Foreign Affairs Committee’s Subcommittee on Africa, Global Health, and Human Rights. The panelists included First Freedom Center President Randolph Marshall Bell; Georgetown University Berkley Center for Religion, Peace, and World Affairs Senior Fellow Thomas Farr; and Tad Stahnke of Human Rights First, and was moderated by the group’s Chairman, William Saunders of Americans United for Life. The group also held a joint event with the **Georgetown University Law Center Student Chapter** examining conscience protections in the medical and pharmaceutical professions. Debate participants included Georgetown University Law Center Prof. Gregg Bloche; University of Chicago Medical School Prof. Farr Curlin, who is also an associate faculty member at the MacLean Center for Clinical Medical Ethics; Catholic University of America Columbus School of Law Prof. Robert Destro; and Case Western Reserve University Prof. B. Jessie Hill. The debate was moderated by Catholic University School of Law Prof. Mark Rienzi, who serves on the practice group’s executive committee.

Besides co-sponsoring many of the technology and antitrust programs mentioned above, the Telecommunications & Electronic Media Practice Group hosted a December panel discussion on the authority of the Federal Communications Commission to regulate the Internet. The discussion was preceded by a keynote address from Federal Communications Commissioner Meredith Attwell Baker. The panel included Loyola University New Orleans College of Law Prof. John Blevins, Skype Senior Director of Government and Regulatory Affairs Christopher Libertelli, and University of Pennsylvania Law School Prof. Christopher Yoo, and was moderated by Technology Policy Institute Vice President for Research and Senior Fellow Scott Wallsten.



## State Courts Project Continues Growth and Increases Influence

The Federalist Society's State Courts Project has experienced significant growth in recent years, adding more volunteers and enhancing public debate about judicial selection, the role of state supreme courts, and judicial philosophy. The year 2011 was no exception, and in states across the country the Society's members and volunteers had a measurable impact on these issues. The State Courts Project continues to achieve its goals by taking advantage of current events to host timely programs, publish white papers, and train media experts who can provide substantive analysis.

### *Publications*

The State Courts Project engages distinguished scholars or practitioners to publish white papers on recent rulings and methods of judicial selection. For instance, in 2011 the Federalist Society published a white paper by J. Ammon Smartt and Keith W. Randall titled "A Report on Tennessee Attorney General Selection." Tennessee is the only state in which the Attorney General is selected by the state supreme court, so the authors examined that method of selection and evaluated its potential impact. The Project also publishes State Court Docket Watch, which reports on notable state supreme court rulings and jurisprudential trends. In 2011 the Federalist Society published an update on jurisprudential trends concerning gay marriage, by John Shu, as well as a survey of court challenges to legislatively enacted tort reforms, by Andrew Cook and Emily Kelchen.

### *Wisconsin: A Key 2011 Focus*

The State Courts Project has an excellent track record in Wisconsin. Since 2007, our local volunteers and legal experts have played a valuable public role by providing thoughtful commentary and analysis on standard reelection campaigns, and so helping to bring about a more robust debate on judicial philosophy and the role of courts in a democracy. This year, we sought to build on that success by taking advantage of educational opportunities created by Supreme Court Justice David Prosser's reelection.

As in previous years, we helped encourage public officials, candidates and interested parties to discuss ideas such as judicial restraint and the role of textualism. One of the Federalist Society's most active legal experts, Marquette Law Prof. Rick Esenberg, was quoted in Wisconsin's major newspapers—the *Milwaukee Journal Sentinel*, the *Wisconsin State Journal*, and the *Wausau Daily Herald*—on radio outlets throughout the state, and in national publications including *National Review*, *The Weekly Standard*, and *The American Spectator*. The Federalist Society's Milwaukee and Madison Lawyers Chapters hosted widely-read *Wall Street Journal* columnist John Fund, who discussed the election, the recent debate over collective bargaining, and the potential impact of the election on the court's jurisprudence.

### *New Jersey: Greater Role of Courts Debate*

Governor Christie campaigned on the promise to re-make New Jersey's Supreme Court and stated that he would appoint judges "who will interpret laws and the Constitution, not legislate from the bench." In June, after more than a year of political debate with the state senate, Governor Christie's first nominee to the New Jersey Supreme Court, Anne Patterson, was confirmed by the senate. In 2011 the State Courts Project continued to take advantage of the educational opportunities created by the Governor's focus on judicial issues, and our legal experts made significant contributions to the public debate on the role of courts issues.

The Federalist Society's New Jersey-related publications—Professor Earl M. Maltz's white paper *Temporary Assignments to Fill Vacancies on the New Jersey Supreme Court* and Fred Giordano and Robert Miller's *Dollars and Sense: Understanding the New Jersey Supreme Court's Role in Education and Housing*—continued to play an important role in the public debate about the state supreme court. Similarly, legal expert Thomas Gentile continued to enhance the quality of the public discussion of these issues by publishing op-eds and making himself available to print and radio journalists.



# Society Continues to Protect American

## Constitutionalism and Exceptionalism Abroad

Beginning in the fall of 2009 the Federalist Society has substantially extended its International Law Project, increasing our promotion of the Western cultural and legal tradition within the European legal and judicial worlds, and building a permanent continental infrastructure in support of that tradition through the formation of law student associations.

Throughout Central and Eastern Europe we have encouraged and assisted in the successful formation of multiple student and professional organizations similar to the Federalist Society's domestic Student and Lawyers Chapters. These organizations, known as the European Sovereignty Network (ESN), constitute an informal association with which the Federalist Society will be cooperating in the years ahead to promote conservative and libertarian ideas throughout Europe. Today there are nine ESN members that were either established or significantly supported by the Society, four of which were added in the past twelve months. As of 2011 Poland, the Czech Republic, Hungary, Slovakia, Slovenia, Romania, Croatia, Bulgaria, and Serbia can all boast an ESN member group. By early next year new organizations will be online in Georgia, Macedonia, and Kosovo; and the Society is currently in exploratory discussions with leader prospects in Latvia and Lithuania as well.

In April, through the generosity of the Lynde and Harry Bradley Foundation, the Society hosted the 2011 Law and Economics Conference at Schloss Neuwaldegg in Vienna, Austria. This was the third in a series of Vienna-based conferences designed to introduce the "First Principles"



to Central and Eastern European law students and young lawyers. The conference

*Dignitaries of Hungary and Georgia, and U.S. Supreme Court Associate Justice Samuel Alito and Leonard Leo, Executive Vice President of the Federalist Society, met with participants at the Federalist Society's Law and Democracy Conference in Vienna, Austria.*

courses were led by Federalist Society co-founder, Board Chairman, and Northwestern University School of Law Prof. Steven Calabresi and Prof. John McGinnis, also of Northwestern, and Jim Kelly, Director of the Federalist Society's International Affairs Division. The lecturers led discussions on how legal systems promote prosperity, on the economics of American federalism, on the causes and effects of rent-seeking, and on the economic "global welfare state" arising from activities of the United Nations, the European Union, and various civil and non-governmental organizations.

The October 2011 Law and Democracy Conference also took place at Schloss Neuwaldegg. The highlight of the Conference was a roundtable discussion on the importance of an independent judiciary to a functioning democracy. The roundtable participants included U.S. Supreme Court Justice Samuel Alito, Judge István Stumpf of the Constitutional Court of Hungary, and George Papuashvili, President of the Constitutional Court of the Republic of Georgia. The Conference also examined fundamental democratic issues, including free expression, freedom of assembly, and the societal role of voluntary associations.

Throughout the year the Division worked to build relationships with leaders of legal and public policy organizations amicable to free markets and rule of law principles. In March George Mason University School of Law Prof. Nathan Sales and Jim Kelly participated in events on judicial reform and national sovereignty, sponsored by member organizations of the ESN, including the Bratislava, Slovakia-based Forum for Lawyers; the Zagreb, Croatia-based Iustitia; and the Bucharest, Romania-based Law & Leadership Association.

In April Mr. Kelly, sponsored by ESN member Ius et Lex, spoke on "The Future of Capitalism in the Age of Globalization and Transnationalism" before an audience at the University of Warsaw, Poland. From Warsaw, Mr. Kelly went to speak at Tischner European University in Krakow, and from there to Bratislava, where he addressed an audience of students, lawyers, journalists, and other professionals on behalf of the Central European Business and Social Initiative, another ESN member. In July

*Members of the French delegation at the 2011 National Lawyers Convention met with U.S. circuit court judges to consider judicial issues relevant in both countries. (seated) (left to right) Judge Brett Kavanaugh of the D.C. Circuit, Judge Jean-Claude Bonichot of the European Court of Justice, Judge Thomas Griffith of the D.C. Circuit, and Judge Jeffrey Sutton of the 6th Circuit. (standing) (left to right) Paris Chapter President Francois Briard, Judge Carlos Bea of the 9th Circuit, Judge Jerry Smith of the 5th Circuit, Judge Frank Easterbrook of the 7th Circuit, and Paul Falcone of the Paris Bar.*



Mr. Kelly, hosted by the Constitutional Court of the Republic of Georgia and Ilia State University, taught at the Summer School on Constitutional and Human Rights Law in Batumi, Georgia, giving a three-day course on the evolution of the social market economy and the impact of the nascent global welfare state on constitutional democracies.

The Society also continued to promote dialogue on national sovereignty, limited government, and the rule of law in Western Europe. Federalist Society Executive Vice President Leonard Leo, Paris Chapter President Francois Briard, and other members of the Society participated in the American Enterprise Institute's Transatlantic Law Forum, an annual conference that aims to create an international community of lawyers, judges, policymakers, scholars, and journalists interested in constitutional government. This year's Forum on "Constitutionalism in Crisis?" took place in October at Bucerius Law School in Hamburg, Germany.

In November of 2011 the Federalist Society welcomed over two-dozen prominent members of France's legal community, including Judge Jean-Claude Bonichot of the European Court of Justice, to the National Lawyers Convention in Washington, D.C. The Society was honored to host such a distinguished group of attorneys and jurists, and we look forward to welcoming future French delegations for years to come.

Later in the same month, in preparation for the International Division office's anticipated move from Vienna to Brussels—a move accomplished

in January 2012—Federalist Society Executive Vice President Leonard Leo, Mr. Kelly, and Ken Wiltberger, the Division's Deputy Director, traveled to Brussels to meet with conservative and libertarian members of the European Parliament (MEPs) and with the officers of New Direction, a leading Brussels-based policy think tank. Over the course of two days they met with MEPs Jan Zahradil (Czech Republic); Ryszard Legutko (Poland); and Nirj Deva, Ashley Fox, Daniel Hannan, and Roger Helmer (U.K.). All are prominent members of the European Conservatives and Reformists, a coalition within the European Parliament that promotes classical liberal policies and procedures.

In December the Federalist Society and the London-based Henry Jackson Society co-hosted a panel at the British Parliament on the compatibility of Sharia and Western legal systems. The panel featured Leonard Leo, in his capacity as Chairman of the U.S. Commission on International Religious Freedom (USCIRF); USCIRF Vice Chairman Dr. Elizabeth H. Prodromou, Assistant Prof. in the Department of International Relations at Boston University; Francois Briard; Lorianne Updike Toler, who is leading the Federalist Society's outreach at Oxford; and prominent British journalists and legal and public policy leaders. Following the event, Mr. Leo and Mr. Kelly joined Steven Calabresi in Paris. Prof. Calabresi, at the invitation of Francois Briard, spoke before the French Senate on the possible consolidation of France's three high courts.

The Society's on-the-ground work in Europe is reinforced by the Global Governance Watch® website, which follows the rising European trend toward global governance of business and finance, environment and health, human rights and development, and security. The site receives approximately 34,000 visits per month and has prompted emails from individuals across the world who are concerned about the global governance trend.

As our efforts in Europe and the United States indicate, the Federalist Society is dedicated to assisting new and existing groups of conservatives and libertarians in scrutinizing threats to the Western legal ideals that for centuries have inspired lawyers, lawmakers, and judges to pursue limited, constitutional government, thereby preserving liberty and justice on both sides of the Atlantic.



# Publications and Website: More than Mere Archives

Through its publications, the Federalist Society continues to provide members and the general public the opportunity to access commentary from highly-respected national experts on current legal issues and their societal implications. This commentary takes the form of a scholarly journal, three regular newsletters, a member magazine, and a number of White Papers on a variety of topics. All the Society's publications are available online on the Federalist Society website at [www.fed-soc.org/publications](http://www.fed-soc.org/publications). The Society's member magazine, *The Federalist Paper*, is also available in print to members only.

*Engage*, the journal of the Federalist Society Practice Groups, appears triannually in electronic format. Ideas for *Engage* articles are generated by the fifteen Practice Groups; and occasionally there are special issues framed around a single theme. Articles from 2011 discussed the internment of aliens during the War on Terror, considered what Chief Justice John Marshall would say concerning the constitutionality of the individual health care mandate, debated the potential effects of allowing state governments to select their U.S. senators, and questioned whether states should be allowed to declare bankruptcy under federal law. The National Lawyers Convention issue of *Engage*, which formerly presented the edited transcripts of the conference, is now dispersed among law reviews across the country. That change and other efforts begun in 2007 have placed nearly 100 transcripts of Federalist Society events in over 30 distinct law journals.



*State Court Docket Watch* is a quarterly newsletter, composed primarily by members of the Society's nationwide Lawyers Chapters, which reports on trends and cases in the state courts that are noteworthy or controversial. This year's subjects included the constitutionality of campus police at universities with a religious history, requiring police to give breathalyzer warnings in foreign languages, and the discretion of state attorneys general to litigate against the recent health care legislation. The Federalist Society also produced a special



issue focusing on recent state court challenges to legislatively enacted tort reforms.

*ABA Watch* is a semiannual newsletter published to coincide with the American Bar Association's mid-year and annual meetings. It provides an in-depth, independent look at the organization. The February issue featured articles on the ABA's Task Force on the Preservation of Justice, its Spirit of Excellence Award honorees, the ABA president's criticism of the vote in Iowa (the vote that caused three state supreme court judges to lose their seats), and an interview with incoming president Bill Robinson. The August issue provided a profile of the 2011 ABA Award recipients, discussed the scrutiny of ABA accreditation of law schools, and reported on proposals regarding the use of foreign law, gun control, duty of care, and judicial disqualification in the ABA's House of Delegates.



*Class Action Watch* exists to inform Society members and the general public about recent class action litigation. This year, articles in the newsletter discussed the ramifications of the Supreme Court's arbitration ruling in *AT&T Mobility v. Concepcion*, the rise in overtime exemption litigation against the pharmaceutical industry, a law changing the procedure for class actions in Mexico, and the Supreme Court's interpretation of the Anti-Injunction Act in *Smith v. Bayer Corp.*



*The Federalist Paper* is the in-house magazine of the Federalist Society, printed winter, summer, and fall. The magazine, which highlights some of the activities and events of the Society's Chapters, Practice Groups, and individual members, gives members a glimpse of what the various divisions of the organization are doing across the country. The National Lawyers Convention and Student Symposium are covered each year, and the State



Courts and International Law Divisions provide updates on their work as well. The magazine is now available on the Federalist Society website at [www.fed-soc.org/publications](http://www.fed-soc.org/publications).

For nearly a decade, the Federalist Society has published White Papers that seek to generate debate over a number of important legal issues. In 2011, the State Courts Project continued to inform the general public about issues involving the state judiciaries with papers on attorney general selection and challenges to state tort reform legislation. Other White Papers explored the possible tension between civilian lawyers and the U.S. military and recent conflicts in international tort litigation.

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



## The Federalist Society's Online Initiatives

In September 2011, the Federalist Society took an important step forward by hiring its first director of social media, Justin Shubow. A graduate of Yale Law School, an attorney, and a former editor of *Commentary* magazine, he aims to take our social media to the next level.

Through its social media outlets—its blog, Facebook page, and Twitter feed—the Federalist Society is finding new ways to extend the reach of its events, publications, and multimedia beyond its membership and to the general public. Through these outlets, the Society also seeks to inform its audience about some of the latest developments in the legal community and to spark debate on issues that currently impact the making and interpreting of the law.

*FedSoc Blog.* FedSoc Blog (<http://www.fedsocblog.com>) is the official weblog of the Federalist Society. The Society created the blog as an original source of news and information relevant to the legal and public policy communities. The blog links to papers and multimedia published by the Federalist



Society and to materials published elsewhere on the web, including news articles, blog posts, and videos of interest to our audience. It has been an effective means of advertising FedSoc's popular SCOTUScast podcasts. FedSoc Blog also serves to highlight upcoming event announcements, new publications, and other online features from the Federalist Society website. Keep your eye out for exciting changes to the blog in 2012.

*Facebook and Twitter.* The Federalist Society has been using Facebook and Twitter to vastly increase the reach of its publications, multimedia, events, and programs. The Federalist Society's Facebook fan page has over 104,000 likes, and it continues to grow in popularity as people from around the web receive alerts and updates highlighting legal news and opinion as well as various Society projects. Our Twitter feed has over 6,000 followers. Through both Facebook and Twitter, the Society is making an increased effort to engage its audience by encouraging input and debate on the issues we feature. The effectiveness of this effort is evidenced by the increase of our followers, allowing the Federalist Society to reach a broader audience than ever before.



# Donors Allow Federalist Society to Grow, Reach a Broader Audience

*The loyal supporters of the Federalist Society enabled the Society's revenues to keep pace with its programmatic growth in 2011. Reaching more students, faculty, and members of the legal community than ever before, the Society grew both programmatically and financially. This growth was possible only because of the unwavering support of many long-time donors and a growing number of new donors who recently joined the James Madison Club, contributing \$1,000 or more annually to the Society. In recognition of the commitment of those individuals, foundations, and corporations, a list of the current members of the James Madison Club appears below.*

## 2011 James Madison Club Roster

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*(left to right) Richard K. Willard of Steptoe & Johnson, George Terwilliger of White & Case, and Assistant U.S. Attorney Zachary Terwilliger attended the Madison Club Reception at the National Lawyers Convention in November.*

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*William J. Emanuel (center) of Littler Mendelson attended the Madison Club Reception at the National Lawyers Convention with Navin Chandaria (left) and Sunir Chandaria (right).*

Patrick M. Garry  
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A. Gregory Grimsal  
Alan Gura  
Sarah M. Hawkins  
James A. Haynes  
Gail Heriot  
James and Allyson Ho  
George E.B. Holding  
Nancy E. Hollingsworth  
Mark V. Holmes  
James L. Huffman  
J.C. Huizenga  
Thomas G. Hungar  
Charles Hwang  
David A. Hyman  
Jeffrey W. Jackson  
Gregory Jacob  
Erik S. Jaffe  
D. Lowell Jensen

William H. Jernigan  
Christine and Steffen Johnson  
Thomas M. Johnson  
William H. Jordan  
Thomas J. Kavalier  
James P. Kelly III  
Orin S. Kerr  
Jessica King  
Howard J. Klein  
Richard D. Klingler  
Jeffrey C. Kubin  
Raymond J. LaJeunesse, Jr.  
Grant Lally \*  
Glen Lavy  
Toni Lawrence  
David G. Leitch  
Harry D. Lewis  
Marc R. Lisker  
Elizabeth Locke  
Wendy E. Long  
David H. Martin  
Steve A. Matthews  
Randolph J. May  
Letty McAdams  
Sean M. McAvoy  
Robert D. McCallum  
Kevin R. McDermott  
Brent J. McIntosh  
Gregory S. McNeal  
John and Bria Mertens  
Adam Meyerson and Nina Shea  
Kenneth M. Minesinger  
Mark D. Mittleman  
Hashim Mooppan  
Richard T. Morrison  
Michael B. Mukasey  
Eric J. Murdock  
Douglas T. Nelson  
Dennis R. Nolan  
Eileen J. O'Connor  
John Ellis O'Neill  
Kevin O'Scannlain  
Thomas P. Ogden  
Mark R. Paoletta

Adam S. Paris  
John J. Park  
Nicole and Scott Pearson  
Eric J. Pelton  
Stephen D. Poss  
George Priest  
Alfred W. Putnam  
Michael D. Ramsey  
Alan Charles Raul  
Sara Church Reese  
Shelby Reitz  
Ronald D. Rotunda  
Charles (Rick) F. Rule  
Christopher P. Saari and Sarah A. O'Dowd  
Gene C. Schaerr  
Maimon Schwarzschild  
Donald E. Scott  
Jeffrey Thomas Scott  
Andrew Siff  
Brandon and Laurel Simmons  
Loren A. Smith  
John A. Smyth  
Abraham Sofaer \*  
John J. Soroko \*  
Cheryl M. Stanton



*Elizabeth Dorminey (left) of Wimberly, Lawson, Steckel, Schneider & Stine P.C. talked to Robert Bork, Jr. (right) of Bork Communication Group LLC at the 2011 National Lawyers Convention.*

Carla Kerr Stearns  
Edward E. Steiner  
John Stephenson  
Charles Henry Still  
Roger and Susan Stone  
Robert L. Strickland \*  
Daniel Subotnik  
J. Robert and Leslie Suffoletta  
Jeffrey Taft  
David H. Thompson  
Larry D. Thompson  
Donald Toumey  
Eric W. Treene  
Daniel E. Troy  
E. Peter Urbanowicz  
Brian Van Klompenberg  
Jeffery J. Ventrella  
Vincent J. Vitkowsky  
Michael B. Wallace  
John L. Warden  
Richard E. Weicher  
Hill B. Wellford  
Steadman H. Westergaard  
Ketia B. Wick  
Rando B. Wick  
Michael Wiggins and Erika Birg  
Richard E. Wiley  
Richard K. Willard \*  
Michael Williams  
William Reynolds Williams \*  
Edwin D. Williamson \*  
John P. Witten  
M. Craig Wolf  
Christopher A. Wray  
James W. Ziglar

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

# New Generation Contributes to Society Through Founders Club

With the goal of identifying and connecting our next generation of leaders, in September the Society launched the Founders Club. The Club is designed to be a group of young leaders, ten years or less out of law school, who understand the significant effect the law has on their lives and, most importantly, understand that they can and will play an important role in the direction of this country and of the conservative and libertarian legal movement. Founders Club members are asked to pay \$250 annually and have the opportunity to meet and connect with other young leaders at events throughout the year. In the four months since its founding, the Club has grown beyond what we had envisioned. Below, please find a list of the inaugural members:

## Inaugural Founders Club Members

Anonymous (4)  
Jason Adkins  
Karin Agnes  
Eka Akpaki  
Jason Alloy  
James Baehr  
Kathryn Biber Chen  
Rick Bold  
Jennie Bradley  
Alex Bucur  
Christopher Byrnes  
Nathan Cardon  
Craig Chosiad  
Matt Cooper  
Vanessa Countryman  
Alexander Cox  
Anthony Deardurff  
Nick Degani  
Jason Dexter  
Collin Dretsch  
Michael Ellis  
Blaine Evanson  
George Fibbe  
Brian Field  
Sarah Field  
Brenna Findley  
John Paul Fox

Miriam Glaser  
Catherine Glenn Foster  
Paul Griffin  
Jeffrey Harris  
Josh Hawley  
Andrew Hitt  
Brian Hooper  
Catherine Keller  
Scott Keller  
Eugenio Labadie  
Elbert Lin  
Justin Longley  
CJ Mahoney  
Hillary Maki  
Marisa Maleck  
Roman Martinez  
Daniel Mauler  
Steven Menashi  
Sarah Miller  
Peter Milligan  
Ben Moncrief  
Brian Morrissey  
Michael Mulvania  
Dennis Murashko  
Erin Murphy  
Maya Noronha  
Robert Numbers  
Michael O'Connor  
Kate O'Scannlain  
Matt Owen

Jesse Panuccio  
Bimal Patel  
Rachel Perez  
Kevin Plummer  
Harout Jack Samra  
Sean Sandomoski  
William Scharf  
Roger Severino  
Carrie Severino  
Randy Seybold  
Prerak Shah  
David Shaw  
Brett Shumate  
Lindsay Simmons  
Jonathan Skrmetti  
Brandon Smith  
Grant Starrett  
Daniel Suhr  
J.B. Tarter  
Mike Toth  
Misha Tseytlin  
Kevin Turner  
Jack Vrett  
Paul Vronsky  
Colin Watson  
Lindsey Weber Keljo  
Porter Wilkinson  
Beth Williams  
Seth Zirkle



(above) Christopher Byrnes (left), senior attorney at the U.S. Commission on Civil Rights and an inaugural member of the Founders Club, met with Prof. Gail Heriot (right) of the University of San Diego, member of the U.S. Commission on Civil Rights, and Dominique Ludvigson (center), counsel and special assistant at the U.S. Commission on Civil Rights, at the National Lawyers Convention. (below) Inaugural Founders Club member Misha Tseytlin of Gibson Dunn & Crutcher participated in the Dallas Law & Liberty colloquium on "International Law, Foreign Law, and the United States Constitution" in October.







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## REPORT OF INDEPENDENT AUDITORS

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Board of Directors  
The Federalist Society for Law and Public  
Policy Studies  
1015 18th St., N.W., Ste. 425  
Washington, DC 20036-5221

We have audited the accompanying statements of financial position of The Federalist Society for Law and Public Policy Studies as of September 30, 2011 and 2010 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, 2011 and 2010 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 'Brad Beebe'.

A Professional Corporation  
Bethesda, MD  
January 24, 2012

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, 2011 AND 2010

	<u>ASSETS</u>	
	2011	2010
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 3,932,052	\$ 5,512,646
Investments	2,232,733	2,568,860
Grants receivable	729,877	880,244
Contributions receivable	556,320	169,720
Other receivables	9,680	11,450
Inventory	56,879	69,783
Other current assets	104,922	96,001
	<u>7,622,463</u>	<u>9,308,704</u>
<b>GRANT AND CONTRIBUTIONS RECEIVABLE - LONG-TERM</b>		
Grants receivable	-	77,760
Contributions receivable	172,612	254,575
	<u>172,612</u>	<u>332,335</u>
<b>FIXED ASSETS</b>		
Computer equipment	187,750	181,089
Office furniture and equipment	96,289	95,690
Leasehold improvements	15,388	15,388
	<u>299,427</u>	<u>292,167</u>
Accumulated depreciation and amortization	(191,887)	(164,243)
	<u>107,540</u>	<u>127,924</u>
<b>OTHER ASSETS</b>	10,000	10,000
<b>TOTAL ASSETS</b>	<u>\$ 7,912,615</u>	<u>\$ 9,778,963</u>
	<u>LIABILITIES AND NET ASSETS</u>	
<b>CURRENT LIABILITIES</b>		
Accounts payable and accrued expenses	\$ 297,397	\$ 324,395
Accrued compensation	370,705	207,161
Deferred revenue	127,944	190,226
Deferred lease obligation	5,844	-
	<u>801,890</u>	<u>721,782</u>
<b>OTHER LIABILITIES</b>		
Deferred lease obligation - net of current portion	62,817	68,295
<b>TOTAL LIABILITIES</b>	<u>864,707</u>	<u>790,077</u>
<b>NET ASSETS</b>		
Unrestricted	5,342,659	5,194,825
Temporarily restricted	1,695,249	3,784,061
Permanently restricted	10,000	10,000
<b>TOTAL NET ASSETS</b>	<u>7,047,908</u>	<u>8,988,886</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<u>\$ 7,912,615</u>	<u>\$ 9,778,963</u>

See Notes to Financial Statements

**THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES**  
**STATEMENTS OF ACTIVITIES**  
**FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010**

	2011				2010			
	Unrestricted	Temporarily Restricted	Permanently Restricted	Total	Unrestricted	Temporarily Restricted	Permanently Restricted	Total
<b>REVENUE</b>								
Grants	\$ 3,474,201	\$ 1,803,725	\$ -	\$ 5,277,926	\$ 3,234,842	\$ 2,114,642	\$ -	\$ 5,349,484
Registration fees	472,588	-	-	472,588	421,738	-	-	421,738
Membership dues	202,224	-	-	202,224	200,336	-	-	200,336
Contributions	3,332,260	238,934	-	3,571,194	3,330,549	118,029	-	3,448,578
Investment income (loss)	(28,130)	-	-	(28,130)	159,293	-	-	159,293
Miscellaneous income	8,453	-	-	8,453	16,490	-	-	16,490
	<u>7,461,596</u>	<u>2,042,659</u>	<u>-</u>	<u>9,504,255</u>	<u>7,363,248</u>	<u>2,232,671</u>	<u>-</u>	<u>9,595,919</u>
<b>NET ASSETS RELEASED FROM RESTRICTIONS</b>								
Satisfaction of restrictions	4,131,471	(4,131,471)	-	-	2,858,197	(2,858,197)	-	-
	<u>11,593,067</u>	<u>(2,088,812)</u>	<u>-</u>	<u>9,504,255</u>	<u>10,221,445</u>	<u>(625,526)</u>	<u>-</u>	<u>9,595,919</u>
<b>EXPENSES</b>								
Program services								
General program	910,958	-	-	910,958	873,425	-	-	873,425
Faculty division	1,261,956	-	-	1,261,956	1,063,163	-	-	1,063,163
Student Chapter and Membership Services	494,240	-	-	494,240	435,122	-	-	435,122
Student Speakers Bureau	2,226,619	-	-	2,226,619	2,045,521	-	-	2,045,521
Student National Symposium	227,863	-	-	227,863	165,268	-	-	165,268
Lawyers Division Chapter and Membership Services	393,005	-	-	393,005	311,008	-	-	311,008
Lawyers Division Speakers Bureau	657,639	-	-	657,639	550,023	-	-	550,023
Lawyers National Conference	894,904	-	-	894,904	788,795	-	-	788,795
State Courts	968,784	-	-	968,784	891,258	-	-	891,258
Practice activities	1,909,384	-	-	1,909,384	1,423,444	-	-	1,423,444
Other conferences	247,488	-	-	247,488	223,528	-	-	223,528
	<u>10,192,840</u>	<u>-</u>	<u>-</u>	<u>10,192,840</u>	<u>8,770,555</u>	<u>-</u>	<u>-</u>	<u>8,770,555</u>
General and administrative	572,112	-	-	572,112	479,672	-	-	479,672
Fundraising	680,281	-	-	680,281	644,101	-	-	644,101
	<u>11,445,233</u>	<u>-</u>	<u>-</u>	<u>11,445,233</u>	<u>9,894,328</u>	<u>-</u>	<u>-</u>	<u>9,894,328</u>
<b>CHANGE IN NET ASSETS</b>	147,834	(2,088,812)	-	(1,940,978)	327,117	(625,526)	-	(298,409)
<b>NET ASSETS AT BEGINNING OF YEAR</b>	5,194,825	3,784,061	10,000	8,988,886	4,867,708	4,409,587	10,000	9,287,295
<b>NET ASSETS AT END OF YEAR</b>	<u>\$ 5,342,659</u>	<u>\$ 1,695,249</u>	<u>\$ 10,000</u>	<u>\$ 7,047,908</u>	<u>\$ 5,194,825</u>	<u>\$ 3,784,061</u>	<u>\$ 10,000</u>	<u>\$ 8,988,886</u>



THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES  
STATEMENTS OF CASH FLOWS  
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010

	2011	2010
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Change in net assets	\$ (1,940,978)	\$ (298,409)
Adjustments to reconcile change in net assets to net cash provided (used) by operating activities		
Depreciation and amortization	27,644	29,962
Net (appreciation) depreciation in fair value of investments	118,781	(61,342)
Donation of securities	(130,999)	(266,318)
Amortization of present value discounts on grants and contributions receivable	(10,367)	(23,809)
(Increase) decrease in		
Grants receivable	230,857	1,386,732
Contributions receivable	(297,000)	148,177
Other receivables	1,770	1,227
Inventory	12,905	42,580
Other current assets	(8,921)	48,114
Increase (decrease) in		
Accounts payable and accrued expenses	136,545	265,004
Deferred revenue	(62,282)	(20,791)
Deferred lease obligation	366	68,295
	<u>(1,921,679)</u>	<u>1,315,422</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Purchase of investments	(238,344)	(562,918)
Proceeds from sale of investments	586,689	934,017
Purchase of fixed assets	<u>(7,260)</u>	<u>(67,393)</u>
	341,085	303,706
<b>INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	(1,580,594)	1,619,128
<b>CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR</b>	<u>5,512,646</u>	<u>3,893,518</u>
<b>CASH AND CASH EQUIVALENTS AT END OF YEAR</b>	<u><b>\$ 3,932,052</b></u>	<u><b>\$ 5,512,646</b></u>
<b>SUPPLEMENTAL INFORMATION</b>		
Non-cash contributions	<u><b>\$ 130,999</b></u>	<u><b>\$ 291,023</b></u>

See Notes to Financial Statements

THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES  
NOTES TO FINANCIAL STATEMENTS  
FOR THE YEARS ENDED SEPTEMBER 30, 2011 AND 2010

NOTE 1: 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 State of Illinois, for the primary purpose of promoting intellectual diversity in the legal profession and the larger 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 Division

Provides programs for faculty to discuss their scholarship. Provides fellowship for 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 student and lawyer chapters. The chapters promote discussion of legal issues.

Speaker Bureau

A program which brings judges, lawyers and legal scholars to law schools, college and university campuses and other public forums 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 public discussion about issues of national importance. These programs include providing local accommodations for students.

State Courts

A program of periodicals and occasional white papers and planned conferences related to state courts.

Practice Activities

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

NOTE 2: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Basis of Accounting

The financial statements of the Society have been prepared on the accrual 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 contingencies at the date of the statement of financial position and revenue and expenses during the reporting period. Actual results could differ from these estimates.

Cash and Cash Equivalents

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

NOTES TO FINANCIAL STATEMENTS

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Inventory

The 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 5 to 10 years using the straight-line method. It is management's policy to capitalize fixed assets for which the useful life extends past one year.

Investments

Investments are presented at fair value, as follows:

- Common stocks, U.S. government and government agency securities and corporate bonds are valued using the reported closing price of those assets on the last day of the fiscal year, when available, or the quoted price of the assets, consolidated market data, indices and/or yield curves.
- Short-term securities and money market accounts are valued at cost, which approximates fair value.

Non-cash Contributions

Non-cash contributions are recorded at their fair value on the date of receipt. Certain non-cash items received are donated to the Society for charitable purposes.

Revenue Recognition

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

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

Registration fees are recognized in the period in which the event occurs.

Net Assets

Net assets arising from contributions are reported as unrestricted or restricted based on obligations of the donor. Unrestricted net assets are the portion of net assets that are neither temporarily nor permanently restricted by donor obligations or their use. Temporarily restricted net assets are the portion of net assets resulting from contributions or other inflows of assets whose use is limited by donor-imposed stipulations that can be removed by the passage of time or action of the Society by direct or indirect 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 receivables.

NOTES TO FINANCIAL STATEMENTS

NOTE 3: SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued

Advertising and Promotion

All advertising and promotion expenses are charged to expense when incurred. Advertising and promotion expenses totaled \$105,000 and \$80,840 for the years ended September 30, 2011 and 2010, respectively.

Subsequent Events

In preparing these financial statements, management of the Society has evaluated events and transactions that occurred after September 30, 2011 for potential recognition or disclosure in the financial statements. Those events and transactions were evaluated through January 24, 2012, the date that the financial statements were available to be issued.

NOTE 4: GRANTS AND CONTRIBUTIONS RECEIVABLE

Included in the grant and contributions receivable are the following unconditional promises to give as of September 30, 2011 and 2010, using the present value discount rate of 5.0%:

	2011	2010
Amounts to be received in:		
Less than one year	\$ 1,286,187	\$ 1,049,904
One to five years	180,096	289,189
	1,466,187	1,339,094
Present value discount	(17,288)	(217,733)
	\$ 1,448,899	\$ 1,311,361

As of September 30, 2011 and 2010, 10% and 50%, respectively, of the grants and contributions receivable are from law entities. Grants and contributions receivable are deemed by management to be fully collectible.

NOTE 4: INVESTMENTS

At September 30, 2011 and 2010, the Society's investments consist of the following:

	2011	2010
Corporate bonds	\$ 141,558	\$ 260,148
Government bonds	813,527	1,037,904
Common stock	1,177,862	1,205,819
Certificates of deposit	-	57,950
	\$ 2,133,947	\$ 2,561,861

Investment income (which is recognized in the statements of activities) for the years ended September 30, 2011 and 2010 was as follows:

	2011	2010
Interest and dividends	\$ 88,801	\$ 87,391
Net appreciation (depreciation) in fair value of investments	(178,791)	53,343
	\$ (89,990)	\$ 140,734

NOTES TO FINANCIAL STATEMENTS

NOTE 5: FAIR VALUE

In accordance with Generally Accepted Accounting Principles the Society adopted "Fair Value Measurements" as of July 1, 2009. Fair Value Measurements applies to all financial instruments that are being measured and reported in a fair value basis. Fair Value Measurements defines fair value as the price that would be received to sell an asset or settle a liability in an orderly transaction between market participants at the measurement date. establishes a fair value reporting hierarchy and defines three broad levels of inputs (the assumptions that market participants would use in pricing the asset or liability) as noted below:

Level 1

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

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 or inputs other than quoted prices that are observable or can be corroborated by observable market data for substantially the full term of the asset or liability.

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 internally developed assumptions, discounted cash flow methodologies, or similar techniques, as well as instruments for which the determination of fair value requires significant management judgment or estimation.

A financial instrument's level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. See Note 2 for more specific detail on valuation methodologies, which was not changed during the year ended September 30, 2011.

The availability of observable market data is monitored to assess the appropriate classification of financial instruments within the fair value hierarchy. Changes in economic conditions or market-based valuation techniques may require the transfer of financial instruments from one fair value level to another. In such instances, the transfer is reported at the end of the reporting period.

Management evaluated the significance of transfers between levels based upon the nature of the financial instrument and size of the transfer relative to total net assets. For the year ended September 30, 2011, there were no significant transfers in or out of levels 1, 2, or 3.

As of September 30, 2011 and 2010, assets measured at fair value on a recurring basis are summarized by level within the fair value hierarchy as follows:

	2011				2010			
	Level 1	Level 2	Level 3	Total Fair Value	Level 1	Level 2	Level 3	Total Fair Value
Corporate bonds	\$ 100,818	\$ 48,536	\$ -	\$ 149,354	\$ -	\$ -	\$ -	\$ -
Government bonds	-	\$15,507	-	\$15,507	\$13,527	-	-	\$13,527
Common stock	1,177,862	-	-	1,177,862	1,177,862	-	-	1,177,862
Cash and cash equivalents	5,535,353	-	-	5,535,353	5,535,353	-	-	5,535,353
	\$ 6,714,033	\$ 64,043	\$ -	\$ 6,778,076	\$ 1,191,389	\$ -	\$ -	\$ 1,191,389

NOTES TO FINANCIAL STATEMENTS

NOTE 6: FAIR VALUE - continued

	2010				2009			
	Level 1	Level 2	Level 3	Total Fair Value	Level 1	Level 2	Level 3	Total Fair Value
Corporate bonds	\$ 48,732	\$ 136,433	\$ -	\$ 185,165	\$ -	\$ -	\$ -	\$ -
Government bonds	-	1,037,904	-	1,037,904	-	-	-	-
Common stock	1,205,819	-	-	1,205,819	1,205,819	-	-	1,205,819
Certificates of deposit	-	57,950	-	57,950	-	-	-	-
Cash and cash equivalents	5,535,353	-	-	5,535,353	5,535,353	-	-	5,535,353
	\$ 6,830,904	\$ 1,194,387	\$ -	\$ 8,025,291	\$ 6,741,181	\$ -	\$ -	\$ 6,741,181

NOTE 6: TEMPORARILY RESTRICTED NET ASSETS

As of September 30, 2011 and 2010, temporarily restricted net assets of \$1,668,349 and \$3,794,251, respectively, were available for education and research projects. Net assets released from restriction during the years then ended were reinvested for those education and research projects.

NOTE 7: COMMITMENTS AND CONTINGENCIES

The Society has an office lease that expires December 31, 2015. Rent expense for the years ended September 30, 2011 and 2010 was \$208,587 and \$463,375, respectively.

The Society recognizes rent required under its operating leases as rent expense on a straight line basis over the term of the lease, with the difference between amounts recognized and amounts actually paid recorded as deferred lease obligation in the accompanying statements of financial position.

As of September 30, 2011, required minimum lease payments, are as follows:

	2011	2010
2013	\$ 217,007	\$ -
2014	223,347	\$ -
2015	225,814	\$ -
2016	236,411	\$ -
2017	24,217	\$ -
	\$ 926,896	\$ -

On December 10, 2011, the Society entered into an employment contract with the President of the Society to serve a term from January 1, 2011 through December 31, 2012. The terms of the contract provide the President of the Society an annual salary of \$400,000. In addition to the annual salary, the Society will compensate the President up to \$200,000 to purchase an annuity for retirement. This compensation will be net of any amounts contributed to the President's 401(k) retirement plan, eligible non-qualified deferred compensation agreement, long-term care insurance, and any employment taxes related to the purchase of the annuity.

As a result, an accrual of \$227,440 has been included in Accrued Compensation on the statement of financial position as of September 30, 2011.

NOTE 8: FUNCTIONAL ALLOCATION OF EXPENSES

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

NOTES TO FINANCIAL STATEMENTS

NOTE 9: THE FEDERALIST SOCIETY MODEL PLAN

Effective January 1, 2008 the Society initiated the Federalist Society 401(k) Plan which allows the Society to provide discretionary contributions to behalf of employees. For 2011 and 2010, the Society contributed 1% of eligible compensation to the Federalist Society 401(k) Plan. The Society contributions totaled \$147,410 and \$138,468 for the years ended September 30, 2011 and 2010, respectively.

NOTE 10: 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, 2011 and 2010.

The Society obtained its latest determination letter on August 4, 2009, in which the Internal Revenue Service stated that the Society, as then organized, was in compliance with the applicable requirements of the Internal Revenue Code (IRC) and it is 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 its positions taken by the organization and disclose in its liability if it is more likely than not that the position will not be sustained upon examination by the Internal Revenue Service. Management has evaluated the Society's tax positions and has concluded that as of September 30, 2011, there are no uncertain positions taken or expected to be taken that would require disclosure in the financial statements. The Society is subject to routine audits for taxing jurisdictions, however, there are currently no audits in progress for any tax periods. Management believes the Society is in no greater subject to income tax examinations for years prior to the year ended September 30, 2008.

NOTE 11: CONCENTRATION OF CREDIT RISK

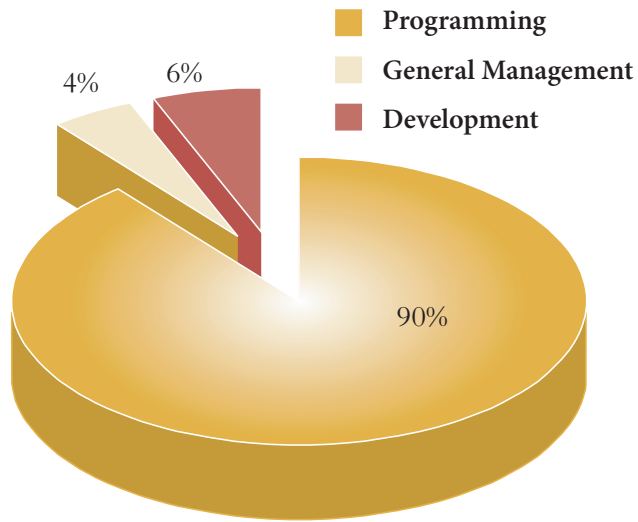
Financial instruments that subject the Society to concentrations of credit risk include cash and investments which are held by financial institutions. While the Society attempts to limit its financial exposure, its deposit balances with financial institutions may, at times, exceed the limits insured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

NOTE 12: RECLASSIFICATION

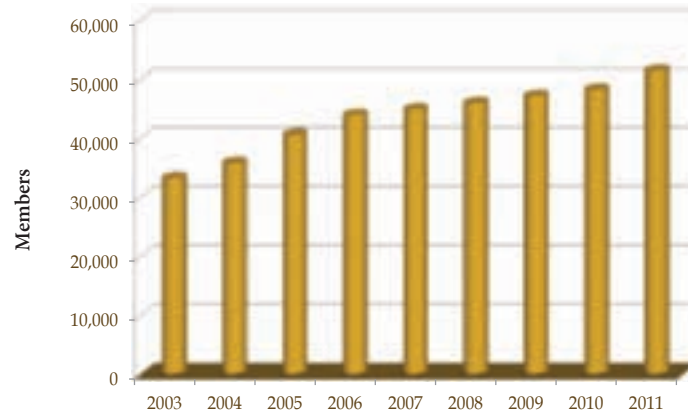
Certain items in the 2010 financial statements have been reclassified to conform to the 2011 presentation. For the year ended September 30, 2010, \$227,161 of expenses accrued for compensation were reclassified from accounts payable and accrued expenses to accrued compensation. This reclassification had no impact on the Society's amount of net assets as of September 30, 2010 or changes in net assets for the year then ended from amounts reflected in previously issued financial statements.

END OF AUDITED  
FINANCIAL STATEMENTS

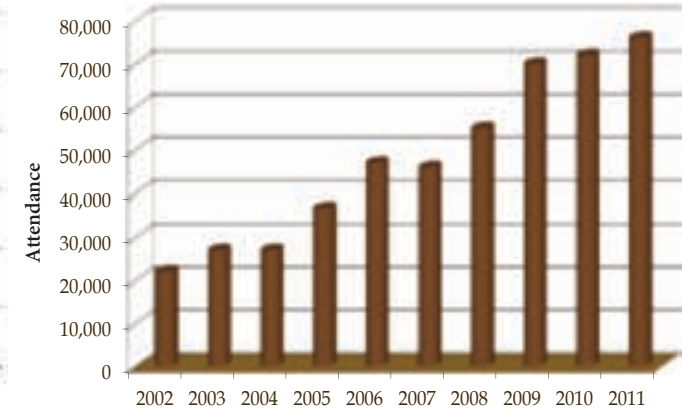
## Expenditures Fiscal Year 2011



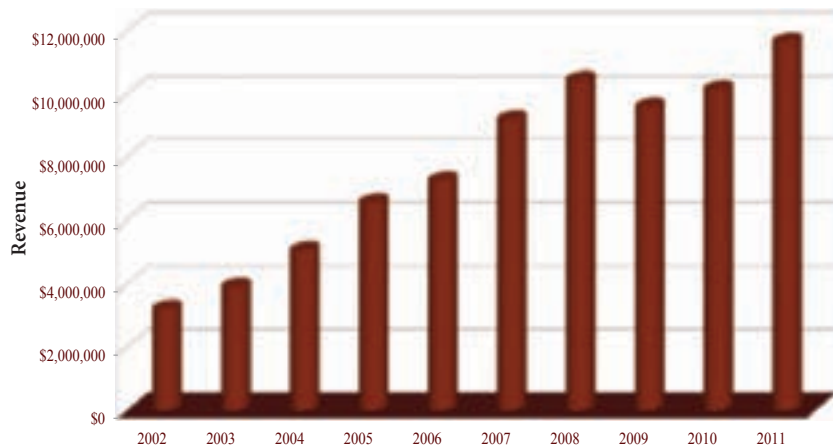
## Federalist Society Membership Growth Local and National Involvement



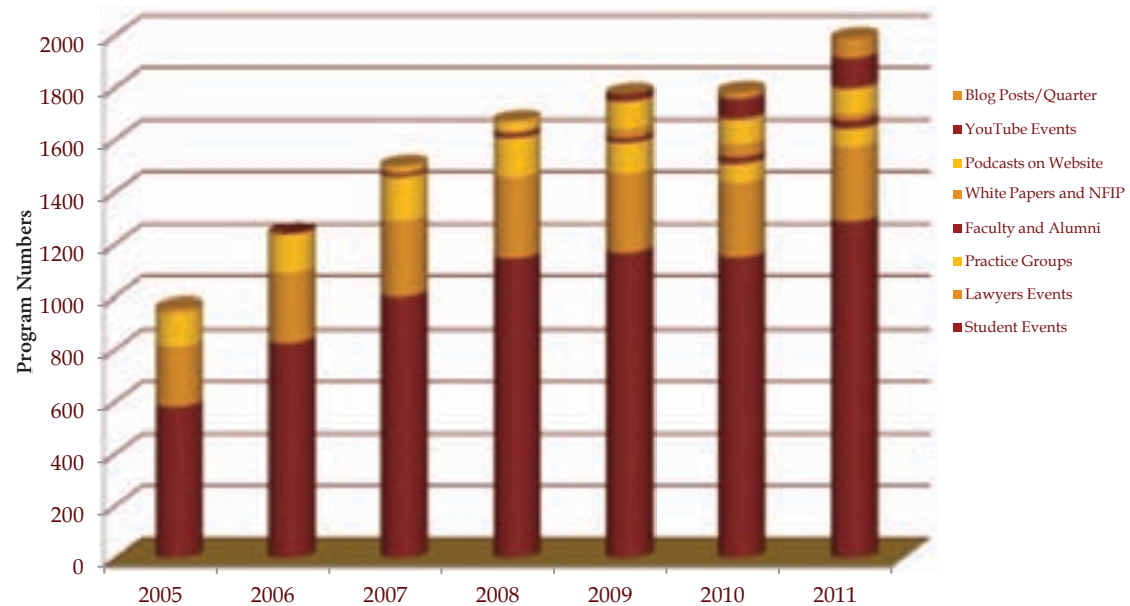
## Federalist Society Student Division: Total Event Attendance



## Federalist Society Revenue Growth



## Federalist Society Program Growth





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