



## Conservatives let themselves dream big about Scalia's replacement

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November 18, 2016

As President-elect Donald Trump considers the current Supreme Court vacancy, Justices Samuel Alito, Clarence Thomas and other legal giants kicked off a conference bringing together judicial conservatives from all over the country.

What a difference a few weeks makes.

The subject of the conference, sponsored by the conservative Federalist Society, was the jurisprudence of the late Justice Antonin Scalia. But the talk in the hallways was devoted to the unexpected election results and the pending Supreme Court nomination -- expected to be a conservative who would continue Scalia's legacy.

Indeed, several of the judges Trump is considering for the Supreme Court were milling about in the hallways, dodging journalists and moderating various panels.

"It's not the wake we thought it was going to be," said Randy Barnett, a professor of Georgetown law who was an architect of the first legal challenge against the Affordable Care Act.

John Malcolm of the conservative Heritage Foundation said that when he was planning to come to the conference a few weeks ago, he thought the lawyers might join together to "commiserate" Clinton's win.

Instead, he said, "we are here to celebrate."

Luther Strange III, the attorney general of Alabama spoke about the dozens of lawsuits he and other Republican state attorneys general filed against the Obama administration in areas such as immigration, transgender rights and the Clean Power Plan.

"We are no longer the last line of defense," Strange said. "We are now the spear."

The annual event, always popular, held several panels with standing room only crowds. Malcolm pointed to attendees wearing lanyards attached to event ID cards and joked that some of the people populating the rooms should have their resumes attached to the lanyard.

"Many are surprised that they have a shot at a position in government," he said.

Leonard Leo, executive vice president of the Federalist Society, met with Trump in New York on Wednesday.

After that meeting, Leo offered few clues to the gathered journalists outside of Trump Tower.

"I would say that he's looking for someone who is independent, courageous, smart, very high quality," Leo said. He added that he thought Trump would move forward "as swiftly as he can to make sure that the court's full 9-member bench is restored."

Trump has often repeated that he will seek a nominee in Scalia's mold to take the seat. He's released a list of 21 potential successors -- all of whom are very conservative.

Of that list, a short list is already being circulating in judicial circles emphasizing two qualities: a commitment to principles of limited government and experience outside of Washington.

"All the people who I know on the short list are going to be sympathetic to interpreting the Constitution according to its original meaning," said Barnett.

Ilya Shapiro, who works for the libertarian Cato Institute noted that the event would have been very different had Clinton won.

"It's cautious optimism now," he said. "We dodged one bullet, and things should go in the right direction now."

Judges Diane Sykes, William Pryor, Thomas Hardiman, David Stras and Joan Larsen moderated panels but they kept their comments to Scalia's jurisprudence.

In his remarks Thursday morning, Alito highlighted his late colleague's contributions, not only in the areas of constitutional interpretation and the structure of government, but also Scalia's impact on hot button issues such as the Second Amendment and freedom of religion.

"We've had 26 argument days" since Scalia's death, Alito said. "On every single one of them there has been a palpable emptiness."

Thomas was more forward-looking in a speech Thursday evening. Reading through some of Scalia's most well-known opinions, Thomas suggested that his late colleague's words should carry on.

"Justice Scalia has done his part," Thomas said. And then he charged the audience with the responsibility of ensuring "that these words spoken and written by Justice Scalia" not be "the final words."

"Rather, they ought to be a prologue," he said.