

Jill: I love it. I didn't even say anything and you're cheering. Welcome, Chicago. This is such a... It is such a special honor for me to host my sisters in Chicago, to have served them hot dogs from Wiener Circle, and to welcome all of you. I feel like I know everyone in this audience, and I can't be more excited.

Barb: Actually, she does.

Jill: I packed the audience. It's true. So I want to start tonight by first of all saying, there are microphones at both sides of the stage, and we're expecting lots of questions. We're leaving extra time. As you know on our podcast, we only answer three picked from one of the social media sites, or texted or emailed to us. But tonight, you get to ask your questions. So start thinking about what you want to ask us, and then you'll get a chance after the show.

And I'm going to warn you in advance before you leave. We want to take a picture of us with you. So don't leave. We want you to stand up, and we're going to turn our backs on you so that we can be the front of the audience. So just keep that in mind, and don't run out of here. And we want to start, of course, we always start with our chitchat. And tonight, of course we're going to talk about Chicago. And so I'm going to ask, obviously Barbara is currying favor with all of you by wearing her Cubs hat.

Kim: I'm sorry to the White Sox fans. I'm sorry.

Jill: I was going to wear my winning Cub pin, but I'm wearing a hot dog pin instead. Sort of the same thing. So Barb, what's your favorite thing other than Wrigley Field?

Barb: Well, it's wonderful to be here in Chicago. We did enjoy some Chicago hot dogs backstage, which were delicious. Hats off, Jill, they were as good as advertised. But I'm a baseball fan, which for our listeners who can't see this, I am wearing a Chicago Cubs cap. I have a lifelong quest to see a game at every major league ballpark. I have been to Wrigley Field before, which is a good thing because as I said earlier today, the good news was that the Cubs were winning. The bad news was that they were playing in New York. So I did not get to see a game today, but I did go to the pro shop, and I got myself a cap. And I think it's a nice match with the outfit, so I was very pleased to wear it tonight. But baseball is great in Chicago. I've been to Wrigley Field, I've been to... It used to be called Comiskey Park, but I think it has a new name now. Comiskey Park, two great teams, two great stadiums. And so that's my favorite thing about Chicago.

Jill: And Kim, what about you?

Kim: Well, I love Chicago. I have been coming here. I feel like it's a second home for a long time because I have a lot of friends here, some of whom are here tonight, which I'm really excited about. And I actually will tomorrow for the first time, go to Wrigley Field. I have not been to Wrigley, but I do love ballparks. I don't currently have a favorite team. I used to root for the Red Sox, but Fenway is so

great, but I've heard so many wonderful things about Wrigley and the history there I'm super excited about.

Jill: Joyce.

Joyce: So my mom was raised in Chicago, loved Chicago, raved about the food. I was all set to go out and explore a little bit after I got here, but I made this incredible discovery. There's a bar in Chicago, not-

Jill: What?

Joyce: Y'all, y'all, seriously give me more credit than that. There is a bar not too far away from us, and it is called, and this is so appropriate to the week that we're living through, Hush Money. So I was very taken with that. I dragged Kim down, and we took a picture in front of the sign, which was like 12 feet up on the wall for some reason. So we had to contort ourselves to try to get a decent picture. And I will carry that with me always. Thank you, Chicago.

Kim: I am famous for taking a billion pictures on my phone, and until now, they just sort of died in the cloud and I would forget they happened. But I'm so happy that I found Aura Frames. So now they live and show me my favorite moments from my life right there, right on my desk. Are you looking for the perfect gift to celebrate the moms in your life? Well, let me tell you, Aura Frames are beautiful, Wi-Fi connected digital picture frames that allow you to share and display unlimited photos. All those photos that live in your phone or live in your cloud, now they can be right before you every day. It's super easy to upload and share photos via the Aura app. And if you're giving an Aura as a gift, you can even personalize the frame with preloaded photos and memories that I know the moms in your life will love.

Barb: Yeah, I'm a mom in your life, Kim. And I love it. I have Aura Frame in my house, and it's the greatest because I actually change it every month with a set of photos from that month throughout my kids' lives. So I've got very young baby pictures all the way up. But if it's spring, there's spring pictures. At the holidays, it's holiday pictures. They're really great. And it is a perfect gift for Mother's Day. You'll gift the memories you share with someone you love, and it creates a special space for your relationship and those you care about in the home. For my mom, I might preload it for her, but with a few photos of the same things, family photos. And what's fun about it is, it cycles through them and moves. And so it always catches me by surprise when I see a new one and say, "Oh man, I remember that." So it's a really great gift, and I'm thinking... I hope my mom's not listening, but I'm thinking I might get her one for Mother's Day.

Joyce: You know, if I didn't already have an Aura Frame, that would be my first choice for a Mother's Day present. But for the same reasons that you like yours, Barb, I like it when the unexpected memories catch me. I'll be cooking or walking through the kitchen, which is where ours is, and it always makes me super happy. The truth is whether you're thinking of a grandmother, godmother, stepmother, new mothers, aunts, even the friends in your life, every mom loves an Aura Frame. And you can save on the wrapping paper. Every frame comes packaged

in a premium gift box with no price tag. You'll love the look on the recipient's face when they do the unboxing. Aura Frames are easy to set up, it just takes about two minutes with the Aura Frames app.

Jill: It's no surprise, Aura Frames was named the best digital photo frame by Wirecutter, and selected as one of Oprah's Favorite Things. And in Chicago, which is where we are right now, that means a great deal. After all, Aura Frames are guaranteed to bring joy to moms of all ages. And it's a great gift when you go to someone's house and you're staying over for a weekend, perfect house gift. And right now, Aura has a great deal for Mother's Day. Listeners can save on the perfect gift by visiting [Auraframes.com](https://auraframes.com) to get \$30 off plus free shipping on their best-selling frame, that's A-U-R-Aframes.com, and use the code Sisters at checkout to save. Terms and conditions apply. And of course, as always, you can find the link in our show notes.

So of course we have a great show for you tonight, and I'll bet you can guess what some of the topics are. So there's Trump, and there's Trump. And so we'll talk about the trial, then we'll talk about the gag order, and then we're going to go to abortion because that's been big in the news this week. And so we're going to talk about those three topics. And Barb, why don't you lead us off with the Trump trial?

Barb: I will. First, I will doff my cap. I'm going to put it right here as like a little shrine. Well, good. Well, thank you. Well, we're in week two now of the Trump trial in Manhattan.

Joyce: Is it only week two? Mine feels like a couple of years.

Barb: It seems about two months, doesn't it? Or has it been two years?

Jill: It's been a long time coming.

Barb: Well, it really has. I mean, this is the one of course that goes back to the 2016 presidential election. So I know we've all been watching it pretty closely. Just wondering if you could share maybe your top-level takeaways based on what you've seen so far. Why don't we start with you Joyce?

Joyce: It's not necessarily a legal observation, but to me, Trump looks very small in the courtroom. He is diminished. And I think what it says to me is, we've had so many doubts, we've lived through this period of time where he seemed to always at the last minute, find some way of ducking accountability. But I think as slow as it's been, painfully slow in some ways, rule of law is coming for Donald Trump, and we're seeing that.

Barb: How about you, Kim? What's your topline takeaway so far?

Kim: Yeah, I think it's sort of a spin-off of what Joyce said about him seeming small. I often think of Trump in some ways like Oz in The Wizard of Oz, he's the man behind the curtain. But when you take the big machinery away, when you take

away his rallies that he manufactures around himself, when you take away his social media platform. And he has to sit there in an actual courtroom and face accountability, you see that he is the man, the little man behind the curtain that you should pay no attention to, other than the fact that he can ruin our democracy.

But it's just how he's doing about, there are not crowds of people in New York City and lying and saying, "Oh, they're blocked..." And it's like, no, no, you can walk right up to the... Square right across from the courthouse. These crowds aren't coming. A member of his family only showed up to the trial for the first time this week after two weeks of media constantly saying, "He's got no family here, he's got no friends here. He's here by himself." So finally, Eric's like, "All right, I'll show up for one day." So it just shows when he's actually faced with the music, with reality, not his contrived reality, how he is defenseless. Even his poor lawyer was looking like he was hating life this week every time Trump opened his mouth. So I think just that visual of that is really remarkable.

Barb: How about you, Jill? What's your topline takeaway?

Jill: I would say as a prosecutor, that I'm fascinated by how the prosecution is building its case. They have laid out a framework that they're going to start filling in. They have pre-corroborated all questionable witnesses, which is what you have to do. And I think we're having a... You're going to ask a question about witnesses, so I won't go... Okay, because I want to talk about Michael Cohen. But I think they've done a very good job of letting the jury know, this is not a hush money trial, even though you were at the Hush Money bar, it is an election interference.

Joyce: Next, I'm going to find the bar that says, Election Interference.

Jill: Good idea. Because we need to call it what it is. And if we diminish it by calling it a hush money case, it doesn't show what is important to the American voter. And that's that, he tried to conspire, and conceal, and cover up information that the public should have had before they voted. And so I want to call it an election interference case. And I think they've done a very good job of that. And they've done a good job of saying, "Okay, we have some sleazy witnesses. They aren't our witnesses. It's either people he did business with, he picked them." And so I think they've done a very, very good job. And so far, the defense maybe today when we get to the gag order, did a little better. But in the trial, they are not doing a good job.

Barb: Well, my topline takeaway really is just that it's really happening. I don't know about you guys as prosecutors. I mean, really in every case, it always struck me as a minor miracle that the case was actually happening. Because in many cases, there are these pre-trial delays. Some motion gets filed at the last minute, the defendant wants more time, somebody's sick, whatever it is. You prepare and prepare and prepare for a trial. And very often, you're told, "Come back tomorrow, come back next week, come back in 30 days."

And with regard to Donald Trump, who has built in so many delays, I mean, that has been the strategy here. The fact that we really started, I think, is a real testament to the rule of law, like the law's coming. And here we are, and it's a very routine trial. The case seems to be coming in well so far. Of course, we haven't seen the defense case yet, but witnesses are testifying. They're telling their story, and we are learning more details about what happened. So I think the mere fact that this is happening is a great thing for the rule of law.

Jill: Agreed. Barb, my favorite delay tactic was, I was trying a mafia hitman who ran in front of a car because he didn't want to go to trial. And he got injured enough that he had to go to the hospital. And the judge said, "I'm not having any of this. Call the doctor, find out what he needs." And the doctor said, "Well, he just has to have his leg elevated." And the judge said, "Fine. We'll give him a chair with a pillow. He doesn't have to stand when I come in." And we went ahead with the trial.

Kim: Well done.

Barb: We could use some of that justice these days. Well, Joyce, let's talk about the theory of the case here. I know there have been some critics who have said that the legal theory in this case is somehow flawed. I don't think so. But can you just explain in simple terms what the legal theory here is about what Alvin Bragg's prosecutors are trying to prove?

Joyce: Yeah. So I think the legal theory increasingly is well-known, right? Alvin Bragg has indicted a false business records case. Making false business records is a misdemeanor in New York, but if you do it to conceal or aid in the commission of another crime, then it becomes a felony. So that's the allegation here. And I think the context is very important because early on, Trump and his supporters tried to claim that this was unusual, that it was a witch hunt, that they'd used this statute in a way that was designed to get Donald Trump. And what we've learned over time is that, that's not the case. This is a bread-and-butter statute for the Manhattan DA's Office. They are very committed to protecting the integrity of the markets. Wall Street is at the heart of this district attorney's office.

And so they frequently, hundreds of times a year, will use this very same statute because people who are creating false business records typically are not doing it just for fun. They're doing it to deceive people, which is the core purpose of the statute that was passed. So I think it's both understanding that two-step legal mechanism, and then seeing this for the important priority for this office that it is, that really helps us understand the case. No, it's not about January 6th. Accountability for that will have to come elsewhere. This is an important principle for this particular district attorney's office.

Barb: Huh, so that sounds like it makes a lot of sense because I've heard it's a witch hunt.

Joyce: Yeah.

Barb: Huh.

Joyce: I heard that too, but it's not true.

Barb: Well, Kim, let me ask you this. As in every criminal case, the prosecution bears the burden of proof of guilt beyond a reasonable doubt. The jury must decide guilt unanimously. And the system is designed on the theory that it is better that 10 guilty people go free, than that one innocent person be convicted. And so it's a heavy burden that the government has to bear, and they welcome it. But it means there's always the possibility that there could be a verdict of not guilty, or a hung jury if they don't get a unanimous jury, which is a mistrial. What do you think would be the consequences to Trump and the rule of law, if this jury should return a not-guilty verdict?

Kim: Well, what I, in this particular case, worry the most about, particularly no verdict, right? A hung jury, especially if it's just one or two jurors. And that we don't get to the rule of law at the end of the day, is that everything we talked about before, it seems like it's proof of. That this wasn't really a serious prosecution, that it was just motivated by Alvin Bragg's political motives. Or even worse, I mean, Donald Trump keeps saying that it was done somehow by Joe Biden, when it's a state case. And it makes no sense, the Justice Department has nothing to do with it, even let alone the president. But that gets reinforced in people's minds.

I'm not talking about the most fervent Trump supporters. They're going to believe what they believe no matter what. But for the greater public who don't pay as close attention as the four of us, or even any of you who are here. Who say, "Oh, that didn't sound like that was really important, that sounds like that was kind of Trumped-up," for lack of a better term.

Joyce: Trumped-up?

Kim: Yeah. So that's what I really worry about in this case. But more broadly, I do worry that this statute is there for a purpose. This is another way, just like Trump has already been found liable for in a civil court, of swindling the people of New York State. This is why these laws are on the books, it's to keep businesses honest, to keep people from defrauding people, and to keep the voters from being deprived the information that they need to make informed choices. It's so important, the principles behind them, that I think particularly a hung jury and a mistrial will do a lot to make it much harder for people to understand that.

Barb: Mm-hmm. Yep. Well, we hope the prosecutors are doing an effective job. To me, so far, it seems that they are. But that's how our system works. And the jury gets the final say. Well, Jill, let me follow up on something you said. You said, "This case isn't really about hush money," but we're hearing a lot of testimony about the National Enquirer and is kind of sordid. And today, they were talking about extortion and some other kinds of things. What is it about, if it's not about hush money and extortion, and the shady dealings of the National Enquirer? I mean, I can remember as a child, walking through the checkout stand with my mother, and reading that, "Princess Diana had a spacey alien's baby." So I know what

they write there is true. So how do you see this case if it's not about hush money and-

Jill: Well, as I said before, I see it as an election interference case. I see it as what they have charged, which is they did false records to conceal the fact that he had paid money to multiple people to keep them quiet. And it's not just about keeping them quiet, because keeping them quiet isn't a crime. Paying hush money is not illegal, but paying hush money to prevent the public from knowing things interfering in an election, is a violation of the election. As is the donation from the National Enquirer who paid money to Karen McDougal, but then said, "Okay, we've done it once. We're not paying a second time." And that's what got into the problem of Michael Cohen writing the check to Stormy, and getting reimbursed for writing the check to Stormy Daniels. And what a world we're living in, where the President of the United States is less credible than Stormy Daniels. Really? I mean, it's hard to believe.

Barb: Joyce, let me ask you about a question that's been gnawing at me a little bit. After last week, we saw the New York Court of Appeals overturn the conviction of Harvey Weinstein in his sexual assault cases. Yeah, that's deserving of a boo, isn't it? Harvey Weinstein. But Alvin Bragg says they'll try him again. And the issue that came up there is what the rules of evidence referred to as Rule 404(b), which is, at the trial, the prosecution put in, and the court allowed too much evidence of other bad acts, other rapes and sexual assaults that were not at issue in this case. And for that reason, they thought he was denied his right to a fair trial.

It seems that in the Trump case, similarly, prosecutors are bringing in some extra evidence about Karen McDougal and the doorman, when this case is about payments to Stormy Daniels. Do you have some of those same concerns? And maybe you can explain how that rule works and is supposed to work, and whether the Weinstein reversal gives you any pause as a former appellate lawyer.

Joyce: Yeah. So this is interesting timing, isn't it? Almost like the New York Court of Appeals, that's their highest court. They're crazy in New York, their trial courts, that's the Supreme Court. What we think of as the Supreme Court, that's the Court of Appeals. If you watch Law & Order, you probably know that. But so the Court of Appeals reverses Weinstein. And this basis that Barb has identified, it's the federal rules of evidence that we practice under, New York has something parallel to that. They have it named after a case that the Court of Appeals decided, called Mulleneaux.

And essentially what it says is this, "You can't use evidence that a defendant did other bad things to show that he has a propensity to commit crimes, right? You can't prove that somebody has bad character." However, there is an exception that swallows that rule. And it says that, "You can use that kind of evidence of other bad acts or crimes to prove motive, intent, opportunity, a common plan if someone carries out crimes the same way repeatedly."

And so in the Weinstein case, evidence was used from other women who he wasn't charged with assaulting. And the Court of Appeals said that the DA, this

same district attorney went too far, and reversed the conviction. So Barb, to the point of your question, am I worried that that'll happen again in the Trump case, where there was a Mulleneaux hearing before the case started? And prosecutors are able to use a lot of very interesting evidence, some evidence from the E. Jean Carroll trial, for instance. There has even been a request by the DA's office to use evidence about Trump violating the gag order.

Here, I think is why this case, the rulings that have been made are okay. I don't think that this case is in any trouble. Judge Merchan, the judge in Manhattan is a very middle-of-the-road jurist. He calls the balls and the strikes, some for Trump, some for the government. He's never one-sided about these rulings. And the problem in Weinstein was the other crimes evidence that the judge let in was very different from the charged acts. Without getting too graphic, the charged acts in Weinstein involved women in long-term relationships, who continued those relationships after they say that they were-

PART 1 OF 4 ENDS [00:25:04]

Joyce: ... to continued those relationships after they say that they were assaulted, the crimes that they were convicted of. And the women who were the other crimes evidence had maybe had just one, brief incident that involved an assault. And the court of appeal says it's not enough alike. I think the judge, in this case, the Trump case, has been very careful to only include similar settings evidence, and the prosecution is now on notice, right? Better to be cautious, better to put maybe a little bit less evidence in and be safe on appeal.

Barb: Yeah, we used to always say, you don't want to win the battle and lose the war.

Joyce: Absolutely.

Barb: My favorite example of 404(b) evidence, I use this to discuss with students. Yeah, and the idea, as Joy said is, if you can show prior bad acts with a person used the same MO, it makes it more likely that they committed this crime as well. And here's a reference to a Chicago-area movie. Anybody ever see the movie Home Alone?

Jill: Yes.

Barb: Maybe a few of you? Where's that set? It's filmed somewhere around here.

Jill: Very near my house.

Barb: Where is it? Is it out...

Jill: Yep.

Speaker 1: Either that or Winnetka.

Barb: Winnetka? Okay, Winnetka. Does anybody remember the name of the burglars that they gave themselves? The Wet Bandits, right? So this is the greatest example. Because they would turn on the water and leave it running when they left, and so it would flood the house. So, by that evidence, you could prove that they had done all of these robberies. And so, if you're looking to prove the MO, it's the unique signature by which a person commits a crime. So The Wet Bandits is the perfect example of 404(b) evidence. I'm sure that's what they had in mind when...

Well, let's get into some of this stuff about Michael Cohen. Kim, inevitably, the jury is going to hear from Michael Cohen, who I think undermines his own credibility every day when he appears on television talking to the media. And the defense will certainly try to portray him as the star witness. And certainly, as Jill said, the prosecution has been working to try to bolster his reputation even before he takes the stand. I always called that pre-bunking, right?

Jill: Uh-huh.

Barb: We want to debunk anything that's going to come later. We're going to pre-bunk anything that's going to come later. Do you think that they have done an effective job so far? I mean, I guess we won't really know until after we've heard his testimony, but what do you think about this strategy?

Kim: Yeah, that's, when you have a witness that isn't going to be particularly likable to a jury, you try to just state that out front. It's also called drawing the sting. I think so. The thing about Michael Cohen is, for anybody who's paid attention to anything about Donald Trump at all, Michael Cohen was a known commodity. He's not somebody who was new. As you said, he's been on TV a lot. I think he finally said he was going to stop doing TV, because he realized that it was undermining his credibility.

And also, I'll call her Stephanie Clifford, because she wants to be called Stephanie Clifford now, is also not doing TV appearances anymore, leading up to this trial. But the more, I was more concerned about how Michael Cohen would come across and how that might undermine his credibility or the case before the trial got going. And what this trial is really, the picture that the prosecution is painting is that these are the kind of guys that were in Trump's world. These were... David Pecker, Michael Cohen, all the people in his world were sleazy. That's how he moved.

And so if they are the people who, even they are just like, "Yeah, what he did wasn't right." If they are the character witnesses against him, I actually don't think that that's going to be a problem at all. In fact, I think it makes their testimony more believable and more credible, because who else are you going to call on? Standup people weren't the people who were seeing what Donald Trump was doing. So the more I watched the trial, the less I'm worried about it.

Barb: All right. Well, Jill, let me get back... Jill, let me end this topic with your thoughts about this. I want to hear your thoughts about Michael Cohen, but also the way the prosecution has done this pre-bunking. We started with David

Pecker, from the National Enquirer, testifying about this meeting in August of 2015, with Trump and Cohen that begins this whole conspiracy. We've heard from Keith Davidson, who is the lawyer for Stephanie Clifford and Karen McDougal. We've heard from a lot of records custodians to get in video, and depositions, and phone calls and text messages. So what do you think of this strategy? And do you agree with Kim that this has helped to bolster the testimony of those who come later?

Jill: I think it definitely does, and I think that to the extent the defense has had any impact, it has been they are attacking Michael Cohen a lot. And I just want to say, when I was listening today to some of the attack on him, and they're saying he had a vendetta against Trump and he was horrified that he wasn't being brought to Washington to be the attorney general. It sounded to me like Deep Throat in Watergate, because one of the reasons that he became Deep Throat was because he was mad that he wasn't appointed the FBI director when Hoover left, and he was angry about that.

And so he, doesn't mean it's not true just because he's angry. And yes, Michael Cohen may be angry and may feel hurt that he didn't get to be attorney general. It doesn't mean that what he's saying isn't true. I think it is true. I did his, he has a podcast, called Mea Culpa, and I was a guest on that a few days ago. And before we went on, I was saying, "So Michael, how do you feel? You nervous?" He said, "No, I'm more anxious than nervous. I don't know when I'm testifying and it's hard. Because, I don't know if it's tomorrow or if it's a week from now, and the anxiety of that." And so he's a normal guy.

I tried to ask him about was he going to shut up. Because, one of the big issues-

Barb: Only Jill Wine-Banks can ask Michael Cohen-

Jill: Well, this wasn't on air. This is just us.

Barb: Were you successful?

Jill: No. Well, I don't know, he hasn't been talking.

Barb: He hasn't been on.

Kim: No.

Joyce: She did the podcast.

Kim: Yeah.

Barb: Well, thank you, Jill Wine-Banks.

Jill: No, I mean I think it is important because one of the things in the gag order, which we're going to get to next, is really that he's provoked into doing this, because you have both Stephanie and Michael Cohen defaming him, or not

defaming him, but speaking ill of him. And so, he feels he has to answer it. And I think there's some, maybe, validity to that that requires that they step back, and both of them are. So that's a good thing.

But going back to your other question, I mean, we've had a very good narrator at the beginning, which was David Pecker. I mean, we all feel that Michael Cohen is the through line of this case and that he will be a narrator. But you've had narration from someone who runs a sleazy operation, but who was perfectly comfortable with it, as is Stormy Daniels, when she's Stormy Daniels. She's perfectly comfortable with what she does. She's not embarrassed, she won't be ashamed on the stand. Whereas, Daniels seems, the lawyer seemed to be ashamed that he was involved in so many sleazy operations. And they started playing semantic games. And I'm just sort of, I'd like to ask all of you how you think that's going to play to the jury, where they're arguing about, well, it's different to have a relationship than to have one-night sex. I don't know how the jury's going to respond to that. Or, when he argued, "Well, I wasn't extracting money." They didn't use the word extortion, because that would be wrong, but they said extracting. He said, "No, that was in consideration for a civil settlement." And I don't know if the jury's going to like that part of his defensiveness.

But basically, I think they've done a good job and they've set the table, and they have pre-rebutted all the bad things. They didn't bring out everything bad that Davidson did, which I think was a mistake. As a prosecutor, I always wanted to ask my witness to say everything bad they had ever done so it didn't come out on cross-examination. Because, when it comes out on cross, the jury goes, "Oh. Whoa, that's bad." But if it comes out in direct, it's like, "There's the facts, we're putting it out in front of you." So I would say that's what I would say.

Barb: Is this the point where I should confess all the bad things I've ever done?

Jill, did you know that FastGrowingTrees is the biggest online nursery in the USA? They have more than 10,000 different kinds of plants and more than two million happy customers. It's crazy, they have everything you could possibly want. There are fruit trees, palm trees, evergreens, houseplants, and so much more. You'll definitely find the perfect fit for your climate and space. Whatever you're interested in, FastGrowingTrees will have it for you. And, at this time of year, the Midwest, here in Chicago and back home in Michigan, is so beautiful with flowering trees. I'm actually in the market. What's a good choice?

Jill: Well, let me just tell you. I just got a package, packages, because they're big, of some boxwood shrubs that I just had planted. And hopefully, the weather stays good enough in Chicago, because we can get snow in April and May, and they look fabulous. They come in the most perfect condition. They're amazing. FastGrowingTrees makes it easy to order online and your plants are shipped directly to your door in one to two days.

Plus, they have a 30-day Alive & Thrive Guarantee, and offer free plant consultation forever. I love how you don't need to have a yard or a lot of space. You can grow lemon, avocado, olive, or fig trees inside your home, and I think,

Joyce, that you have done the lemon tree for sure. In addition, they have, of course, a wide variety of houseplants and all the outdoor things you could ever want.

Joyce: We absolutely love FastGrowingTrees. We've got a couple of five-year-old Meyer lemon trees, a kumquat tree that we added the first year that we were doing the podcast, when FastGrowingTrees started advertising with us, that's laden with kumquats every year. Now that the spring planting season is here, it's the perfect time to create the perfect environment for you and your family, whether they're looking to add some privacy shade or natural beauty to your yard, FastGrowingTrees has in-house experts ready to help you make the right selection. I'm excited for all the new things I know I'll be ordering this year so I can watch them grow.

Barb: I'm not sure I've ever uttered the sentence, "laden with kumquats," but I like the way you say it.

Joyce: Laden with kumquats. I mean, I've picked those things for weeks. They're always ripe in late December, just when you want them.

Kim: And this spring, they have the best deals online, up to half off on select plants and other deals. And listeners to our show get an additional 15% off their first purchase when using the code, Sisters, at checkout. That's an additional 15% off at FastGrowingTrees.com, using the code, Sisters, at checkout. Again, that's FastGrowingTrees.com, code, Sisters. This offer is valid just for a limited time and terms and conditions may apply, and you can also find the link in our show notes.

So another big thing that we saw this week was finally some action when it came to holding Donald Trump in criminal contempt for violating his gag order. Now, keep in mind, if you, just to remind everybody, the gag order prevents Donald Trump from speaking publicly in an intimidating way or a threatening way about any witness in the case, about any of the court's personnel, and about attorneys, except for the DA. Alvin Bragg is excluded from this, as is the judge, Judge Juan Merchan. So Trump can talk as much as he can about the two of them, but no witnesses, no courtroom staff, and no other attorneys.

Jill: And no jurors and no jurors.

Kim: And no jurors. Right, correct. Jurors, that's very important. So, of course, he can't help himself and he has repeatedly, on his website, in his social media posts, and I think also outside the courtroom, repeatedly done so. So first, Barb, tell us about the order that Judge Merchan issued finding him in criminal contempt. Explain what that was about.

Barb: Yeah, so the prosecution had listed 10 incidents that they said violated this gag order that Kim just described. Many of them were targeted at Michael Cohen in particular. Some were directed at jurors. Democrats are sneaking onto the jury, there was some of the allegations like that. And so, the case came before the

judge, he had a hearing, and he issued an order. And one of the defenses was, "Well, he didn't say those words himself, he was just repeating what someone else said." Yeah, the judge didn't think that one worked either. I just retweeted it. "I just re-truthed it on Truth Social. I didn't say it."

Kim: Just quoted somebody.

Barb: "... I was quoting... like some of the kids down the hall were saying. I'm just repeating what I heard at school, the big kids on the playground." No good. And so, the judge was pretty no-nonsense. There was one, the judge found Donald Trump in contempt for nine out of the 10, and one was a statement responding to Michael Cohen, who has been talking a lot in the media. And so, the judge found that that one was fair game, because it wasn't clear that Donald Trump was speaking about Michael Cohen in his capacity as a witness, but in his capacity as political flamethrower.

And so the judge said, "I'll give you that. I'll give you a free one for that." I would've said that about him myself. But he did find him in contempt for nine times. The statute permits the judge to fine the offending party up to \$1,000 per violation or 30 days in jail. And that's really the only choice the judge has. And so he did fine him \$1,000 for each of these nine violations, \$9,000. And he also wrote that further violations could result in incarceration. So a big shot across the bow here.

And then, of course, later that day, Trump did it again four more times. So now there's going to be another, there was another hearing today about these additional four. And one hopes, although, I will say Trump has been reigning it in a bit. So it may be that the gag order is having some effect on it. But it's the judge's job to make sure that the integrity of this trial is protected and it's not tried in the press, that the witnesses feel safe and not intimidated, that their testimony is not chilled, and the jurors feel safe in this capacity.

Kim: And Jill, to Barb's point, before these original nine violations were adjudicated by Merchan, he was already off with more violations, which the district attorney asked for sanctions for those too, and he's still been doing more since then. But there was a second hearing. So as Barb said, the judge has said that jail time is on the table, but these were in between those two things. Give us your take about this second hearing and also what might the consequences be? Do you think that Donald Trump might actually be jailed at some point?

Jill: So the first thing I would say is New York has to change its law. A thousand dollar fine is pretty puny, 30 days in jail is a lot. There has to be some way that you can escalate the monetary penalty, and it's up to 30 days. So you could give him one night in jail, one day in jail, home confinement. I think there needs to be some way that New York can do a better job of balancing a thousand dollars against 30 days. Doesn't seem fair to me.

In terms of the second hearing, it was more interesting. And I think, for example, the comment that is charged as another thing was him saying that David Pecker was nice. And that's different than saying he'd better be nice, which you often

hear in mafia cases and in other organized crime things. Saying he's nice is a harmless statement, and I think they'll have trouble getting that one to be held, to be in contempt.

Kim: But Jill, did he mean it like, "You got a nice house there, it'd be a shame if something happened to it." Like, "He's nice"?

Jill: It is in the interpretation, no question, but I still think that's one that he might get away with. And it's, again, Juan Merchan is being very even-handed. And so, I think he's going to balance this out and I think, in balance, that particular statement may not. The other three maybe. Is he going to put him in jail right now? This happened before the decision on the gag order, number one. So he wasn't completely warned.

I don't think the next time he speaks it will be. I think this time will be another financial penalty. Which, because he raises more money than the penalty, from every one of these things, isn't going to hurt him at all. So in order to hurt him, I think he is eventually going to have to be incarcerated or have an incarceratory penalty, as Judge Merchan said, Justice Merchan. So I think we'll eventually get there because, as you said, he can't seem to help himself.

Kim: So speaking of being held accountable, there is a debate in the legal community as to whether this violation of his gag order, being held in criminal contempt, is a violation of his terms of release. Keep in mind, in the three other cases, the federal case in New York, federal case in Florida, and the state case in Georgia, all of them have the same terms of pretrial release, which includes not breaking any local, state, or federal law. I think the contempt order is technically a violation of a state law, New York Judicial Code. I believe it's 170. So Joyce, what might the penalties be, or what might the consequences, if any, be in these other criminal cases he's facing?

Joyce: I like Kim's interpretation of this so much. Unfortunately though, I don't think that the courts will apply it this way. This is very familiar to Barb and me, from our work as federal prosecutors. If you had a defendant and if he committed a new crime, pretrial release was done, right? You get pretrial release pending trial, on the condition of good behavior. And if you behave badly, you go into custody until the trial is over.

But typically, that involves committing a new crime. Kim is right by the way, about the technical language that gets used in terms of violating laws. And you could make a pushy argument here and say that what Trump was held in contempt for, that's breaking the law in the State of New York. Unfortunately though, it's not the kind of crime that gets, for instance, put on your record in the national crime registry.

This isn't criminal contempt. New York has a statute where you can go to the grand jury as a prosecutor, obtain an indictment, and try somebody in front of a jury on contempt charges. That's not what happened here. This is under a separate part of New York's laws, the judicial statutes. And they're really about how are judges supposed to act to ensure the integrity of the proceedings in front

of them? We've heard the judge use that language, "I'm here to protect the jury. I'm here to make sure that the trial is fair and impartial." So it's different from a new crime in that sense.

Judge Chutkan could decide that she's going to haul Donald Trump in front of her and ask him to explain why she shouldn't revoke his bond. She would be within her rights to do that. I just think that we will not see this. Judge Merchan wants this case to go to a verdict, and wants that verdict, if it's one of guilt, to get affirmed on appeal. And so, I think that we will see the judges try to stay away from these fringy views, as satisfying as that would be. I mean, wouldn't we all go home and feel happy?

Kim: Well, I think there was one thing I wrote in my column this week, in the Boston Globe, if you haven't read it.

Joyce: You quoted me, didn't you?

Kim: I did.

Joyce: Cool.

Kim: Well, I think one thing that the... I think you're right, I think the judges won't do anything, a), because they don't want smoke, and b), because they don't want to interfere with this. But, one thing they could do, which doesn't interfere, is to revise the terms of the pre-release agreement. A judge can revise and change the terms at any time, and they can make clear, if you specifically keep making comments that are violative of this gag order, if you keep talking about witnesses in that trial, if you keep talking about other folks, then first order of business when this trial is done, you will be hauled into our courts to explain why we should not order you to be detained immediately. And maybe that, not just the prospect of spending some time downtown in New York, in a jail cell, but that his release, he may not be able to go back to Mar-a-Lago, might serve as a bigger deterrent. Well, maybe Judge McAfee can do that, because I don't think right now Judge Chutkan has jurisdiction over her case until the Supreme Court.

Joyce: Well, she still has jurisdiction over the terms of release-

Kim: Got it.

Joyce: ... even the case [inaudible 00:48:01]-

Kim: Even though that's Supreme Court.

Joyce: So she [inaudible 00:48:03]-

Kim: I'm not going to-

Joyce: Yeah.

Kim: ... wait on what Judge Aileen Cannon might do. But Judges McAfee and Chutkan, if you're listening, look into that.

Jill: I'm told they do listen every week, those two judges, yeah.

Kim: Yeah. Really?

Joyce: There are good reasons to worry about your children being online. Lots of dangers lurk in the digital shadows. Securing your family's online experience isn't just essential, it can be an urgent need. And that's one of the reasons we teamed up with Aura. It's an all-in-one online safety solution built to shield your family from digital threats. Aura's parental controls are the protective force every parent needs to ensure their children's online safety.

Aura empowers parents to guard their kids from online predators, cyber bullying, harmful content, gaming addiction, and privacy issues. When Aura takes charge, your kids stay safe while navigating the digital landscape. There are features like content filtering, activity tracking, and customizable time limits. Aura even empowers you to regain control by setting daily time limits, customized for specific apps or categories. And you can pause the internet on your child's devices with a click.

Kim: Aura even has a new game-changing feature for the gaming enthusiasts in your household. You'll get real-time cyber bullying alerts and 24/7 in-game voice and text monitoring for over 200 of the most popular PC games. More than 19 million kids face bullying in the gaming world, and Aura fights back by instantly notifying you if you detect any cyber bullying. It feels so much better knowing that Aura is protecting the digital spaces that your family will use online. And we know that you will appreciate it.

Jill: For a limited time, Aura-

PART 2 OF 4 ENDS [00:50:04]

Jill: That you will appreciate it.

Barb: For a limited time Aura is offering our listeners an exclusive opportunity to explore the effectiveness of Aura's parental controls with a free 14-day trial.

Dive into the world of online safety for your family. Visit aura.com/sisters. That's aura.com/sisters to sign up for a 14-day free trial and start protecting your family. That's A-U-R-A dot.com/sisters.

Certain terms apply, so be sure to check the site for details. You can also find the link in our show notes.

Kim: Time to talk about abortion a little bit.

Joyce: Yeah, I mean, when has this topic not been on the front burner? Ever since the Supreme Court did away with Roe v. Wade, and here we are with abortion on the front burner again this week, and I think it's important to understand the legal dynamics of these issues.

I was talking with my sisters while we were eating our Chicago hot dogs before the show about what's going on in my home state, Alabama, where you may know that there is now no more abortion because life begins at conception. You can't even get IVF treatment in Alabama.

And so Alabama women who needed or wanted abortions, were going to Florida, we have a common border, drive down to the beach in Florida and get your medical care away from home. But that changed this week. A new law has gone into effect in Florida restricting abortions.

Jill, do you want to talk about that law and whether you expect that one to stick around?

Jill: It's so hard to predict what this Supreme Court will ever do. It doesn't seem to respect precedent. It doesn't seem to have to be consistent. So I think, I can't tell you it will get appealed. Obviously it will end up in the Supreme Court, but for now it's in effect and there is no more place for Alabamans to go. They will have to go, what did you say, three states away in order to have any kind of medical care.

And so think about what happens when there's an emergency when you are bleeding and you're in the emergency room waiting and the doctor turns you away. Sort of the same things happening all over the country where doctors are afraid, even where they think it might be legal, even where they think it could be within the law, not within a law that says conception is personhood that ends that.

But in Florida, maybe it could be for a little while, but I think we're in real trouble. And for those can afford to travel, unless the state adopts what some states have done, which is to say you cannot travel for this or let's face it, what the project 2025, which is the new Donald Trump, if he is reelected, he says that he will allow any state that wants to monitor a woman's pregnancy and to make sure she doesn't go somewhere. And to persecute, I would say prosecute maybe is the right word, those people who terminate a pregnancy out of state.

And so I think we're in for a lot of trouble on the things that are in the 2025 projection and the people he will surround himself with to enforce all of that.

Joyce: So Florida voters will have the opportunity in November to vote for a constitutional amendment that would protect abortion in Florida. It'll take about 60% of the vote for that to pass. And the polls that I've seen say that about 56% of Florida voters think abortion should always or almost always be available. So that one's sort of a squeaker. There are interesting political questions that are a little bit out of our lane about whether that drives the vote for Democrats or for Republicans in Florida, but it's not just a Florida issue, right, Kim? I mean, Jill's

talking about Project 2025, how does the Florida law ripple out and what do you think will happen if God forbid Donald Trump does win again?

Kim: Well, I think either because he's lying, go figure Donald Trump would ever lie, or because he doesn't fully understand what his supporters want to do, that Donald Trump can say as much as he wants. Well, we'll leave it up to the states. The states can decide. I think that's how it will be.

Well, it won't be that because his backers are very, very much interested one way or another in imposing nationwide restrictions on abortion access. They will do it in a multitude of ways. People keep saying, well, there's no way that that would pass in Congress. And I think they're right. I don't think that there's any way that a nationwide ban at any point in a pregnancy will pass in Congress. But they have other things like this very ancient law called the Comstock Act that was passed in the 1800s for the purpose of making it illegal to send pornography through the mail like that.

We talk about a targeted statute meant at something very specific, but there is a plan by his supporters to use that to claim that anything that has to do with an abortion, any machinery, any materials, anything being transported interstate would violate federal law.

We're talking specula, we are talking stirrups. It could be anything. And so it won't just restrict access to medical abortion. It could make it much more difficult for doctors to perform actual physical examinations and give care, not just for abortion, but reproductive care, any kind of care screening for cancer. I mean, it could be anything. And it will desperately, of course affect women and people with a uterus.

So what will happen if he is elected is so far beyond what he's speaking. And I think some people are going to miss that. And I think every time when he began saying this, once he realized that Dobbs was a problem, and first he was kicking around like, I'll negotiate. Maybe it'll be 15 weeks, maybe it'll be 17 weeks. Once he realized that that was bad for him politically, he backed off and said, you know what? I'll let the states do it. And there was this flurry of headlines, Donald Trump backs off support for a nationwide ban.

And I'm like, no. And that's inaccurate because Donald Trump's presidency promises nationwide restrictions. It just does. His supporters have said it is a part of this big plan for his return. So don't miss that. If he is re-elected, we will see nationwide restrictions.

Joyce: Gee, thanks Kim. I'm back out on the ledge.

Kim: Did I say that 14 times? By the way, if Donald Trump is re-elected, there will be nationwide restrictions. I can't say it enough.

Joyce: Yeah, I mean I think that that's just absolutely the reality.

Arizona sort of a mixed bag. You'll recall that they had their sort of old zombie anti-abortion law that had gone back into effect. This week, the legislature voted to strike that down, and that has made some people very happy and other people very unhappy. And that means that in Arizona we'll see an effort at new legislative measures and into that breach steps, a lot of disinformation. Fortunately, Barb McQuade is our expert on disinformation.

So Barb, I'll pitch to you the question. We are all informed citizens, active voters, what should we be on the look for in this area of abortion? What disinformation is coming down the pike? What do we do about it?

Barb: She means, of course, not that I traffic in disinformation. Just that I've studied it.

Joyce: If you have not bought Barb's book on disinformation, you should do it. It really is a great book.

Barb: Thank you.

Joyce: I believe it's called Attack From Within.

Barb: Thank you. Thank you both.

So in all of these areas in society that are hot button cultural issues, these are the wedges in society where people who are seeking political power will push. They don't even care the outcome. Does anybody think for minute that Donald Trump cares at all about abortion? No, but he sees this as a way for himself to gain political power, and that's what disinformers do. Find people on opposite sides of an issue where they have genuinely strong beliefs and then push and push setting up false accounts online and looking like somebody who cares about a cause and then saying outrageous things so that people on the other side of the debate say, see, look at how unreasonable these people are.

But in Arizona and all these other states, I think that Dobbs decision that overturned Roe v. Wade has predictably created this chaos because one day the law says one thing in one state, it says another.

In Arizona right now, with the repeal of this 1864 law, we now revert to the fifteen-Week abortion ban in Arizona. But the repeal of the zombie law doesn't go into effect for 90 days. And so people don't even know what the current law is. And so they're very susceptible to false claims and figuring out just what the law is.

The other area of disinformation that's really going on now that recently came across my radar is on contraception. And so these twenty-something social media influencers, attractive young women who go on Instagram and they sell products or they unbox other things, one of the things they're doing now is going on and saying things like, I used to use birth control but I don't anymore because it caused me to gain a lot of weight, or it's not nearly as effective as the rhythm method. So that's what I recommend instead.

And young women who see this and say-

Joyce: We usually cannot get her to talk about these kind of things, I don't know what's going [inaudible 01:00:44].

Barb: Disinformation damn it, Joyce.

And so like all other areas of controversy when it comes to abortion care and contraception, we are seeing people dive into this and to exploit the people for their own political ends.

Joyce: It's so helpful to have you discuss that dynamic because we do have beliefs that we hold very strongly. And understanding that important issues like abortion can be used as wedge issues to divide people and inflame passion, I think is something that we should all carry forward and take home and share with our friends, even while we're in the middle of this very difficult debate about abortion and what the law looks like. So thank you for that.

Barb: Thank you, Joyce.

Joyce: Thank you for making me say rhythm method out loud.

Jill: So we kept warning you that it was going to come time for you to ask questions. And remember, there are microphones at both sides of the stage, so start lining up and ask your questions.

Kim: And we really do believe that this is the best part of the show.

Jill: This really is our favorite part of the show.

Joyce: Yeah, this is. This is a lot of fun.

Jill: It is really fun for us.

Kim: Y'all ask great questions by the way.

Jill: You do.

Kim: It reminds me that Americans, we are smart, inquisitive people.

Jill: All right, let's get started so we can get as many as possible.

Kim: Okay, I can see you. So go ahead.

Speaker 3: About the Supreme Court.

Kim: Go ahead.

Speaker 3: How come they don't go after the income tax feature against Thomas and Alito, particularly for receiving those gifts? That's the most obvious if people in business, no, if they get a gift from a provider, they have to pay tax on it.

Kim: So the Supreme Court technically is covered by the same conflict of interest rules as other federal judges. But the difference is the decider for their conflicts of interests is them. That's what the law is set up for. And the honor system is the only thing that binds them and they're just refusing to abide by it. The long and short of it is that's the answer.

Until Congress acts to change the laws, the rules that govern ethical consequences for judges, including the Supreme Court, they will continue to be their own deciders about what is right and what is wrong. And even the rules, the guidelines that they put out for themselves, they're violating that now. They're supposed to say if they were recused from a case, why? If they have a financial stake or something, they still recusing and not saying why. Well, at least Thomas and Alito are recusing and not saying why.

So there's no consequence, there's no penalty unless Congress acts to change the law.

Speaker 3: That leads me to the second question.

What as citizens can we do to protest the Supreme Court? Because besides going on the steps or talking to your senator, how can you-

Kim: Vote for members of Congress that will pass a law that will hold the Supreme Court account?

Speaker 3: That's really indirect.

Kim: That's the way the system of government is set up. The Congress is the representative government.

Jill: Voting, getting out the vote is not indirect.

Kim: And it's important that's used our representative government.

Joyce: But you know what you didn't mention in all fairness is that if Justice Alito had not taken that flight, the seat on the plane otherwise would have gone unused. I just want to clarify that.

Kim: Was conservation. All right.

Joyce: Okay, next question.

Speaker 2: Hi. Whoa. I really enjoyed your talk, not why I'm up here. Perhaps I'm misinformed and correct me if I'm wrong, but I have yet to hear a white male politician, pro-abortion say what we would do with these millions of unwanted or

seriously ill children, the burden it would place on this country monetarily. I see you're raising your hand.

Kim: Yes. So actually-

Speaker 3: I never hear them. They don't say anything about that.

Kim: Well, maybe this is one reason because at the time before Dobbs, I think it was after Dobbs was leaked, but before it actually came out, I believe it was the.. Was it the governor of Louisiana or Mississippi? Mississippi, who was on Face the Nation or something and saying, "Well, we are gearing up our foster care and our child protective services units to care for these children who mothers may not be able to care." So literally saying, we are getting ready to put these children in protective custody and make them wards of the state when they start being born against the will of their parents.

Speaker 3: And thats-

Kim: When they do speak, that's the kind of stuff they say. So maybe that's why they don't speak.

Jill: The bottomline is they do not want white to be the minority of this country. It's as simple as that. Do you agree?

Kim: I can't speak on that.

Barb: Well, remember that Justice Amy Coney Barrett said adoption was the answer when the argument--

Kim: She said give abandonment was the answer. She suggested-

Barb: Adoption. I would say.

Kim: She suggested that there are safe harbor laws where you could leave your child at a... Anyway at a fire state.

So I'm going to say, and I'm breaking the rule myself by talking too much, but just because there's so many people, one question and quick no comments. So let's get everybody through.

Joyce: As Barb and I say to our students, we're here for your questions, not your comments.

Speaker 4: Oh, shucks. So if we didn't have Trump and abortion, what would you be talking about? What were the most issues you'd be talking about?

Joyce: I'll take that one.

Jill: Go ahead, Joyce.

Joyce: No, maybe we can go--.

Barb: We have the same answer, I bet.

Joyce: Homelessness, immigration, climate change, artificial intelligence.

Kim: Non-disclosure agreements, gerrymandering. Every week we make a list of things that are potential topics and they all get thrown out because of what Trump does.

Barb: And I would add to that criminal justice reform. The fact that we have not reformed our justice system, which I thought would be priority number one for the post-Obama era. That I think is a stain on us and that's a responsibility that Donald Trump bears because he has diverted us so that we're worried about whether we will wake up in November and still have a democracy. We don't have the luxury of working on these other things right now.

Joyce: And I would add voting rights to that list that we should be talking about.

And protecting the Department of Justice, although that is the same as talking about Trump because he's the only one threatening the Department of Justice with being an arm of his to use against his opponents.

John Griffin: Hi, my name is John Griffin. I think my sister Kathy comedian. Anyway.

Jill: Oh my gosh. Seriously?

John Griffin: Yeah, she's my sister.

Jill: Wow.

John Griffin: So my question for you is, I know nobody ever thought that the Supreme Court would take up the immunity case, but if you had to bet the house and the lot, where would you think that that is going to fall?

Joyce: I think we all have the same answer to that one. It's probably going to end up remanding. There's no way it will grant, this is the good news. It will not grant absolute immunity on all things. There's no way that even this court could go that far.

I think that they might. I am the Pollyanna of the group, so that's why I'm saying this. But I do fear that they will remand it.

I think Judge Chutkan would do it quick order. She'll do the hearing and say no way that any of these things charged, they're all crimes. They cannot possibly be within the parameters, even the outer parameters of what is his official duties under the Constitution. And so we can go ahead with the trial and-

Jill: And then he'll appeal again.

Joyce: Yes, of course. So it is going to cause a delay no matter what they do, unless they have some quick decision, which the fact that they phrased the question the way they did, the fact that they took it, the fact that they waited until April 25th to have the arguments and that we haven't got an answer yet in Bush v. Gore, in Watergate, it was decided quickly, it was taken quickly. They didn't need to even allow time for briefing. The case was fully briefed at the Court of Appeals. They didn't need time to re-brief it for the Supreme Court.

So I am worried about what they're going to do. They clearly in the argument, made some ridiculous, they accepted ridiculous arguments that I couldn't believe what I was hearing and that worried all of us for sure.

John Griffin: Thank you.

Joyce: Thank you.

Jill: Thank you. Go ahead.

Speaker 5: Thank you for coming to Chicago.

If a fetus is granted personhood, does that then limit or allow the government to step in and tell women what they can and cannot do? In other words, can they say at some point you can't drive or that you can't go to work, or that you have to eat this special diet or you have to have this special healthcare?

Jill: Well, if you're the state of Alabama, then you can prosecute pregnant women for endangering the life of that fetus. And that has all sorts of bad implications. Then things that you as a pregnant person choose to do can be criminalized, like using drugs, something that would normally carry some criminal consequences, but maybe not cause you to be locked up for the remainder of your pregnancy so that the state can oversee you as a pregnant person.

I think that there is bad potential for using these laws in the hands of people who, to Barb's earlier point, aren't interested in societal values, don't really care about the lives of babies that are carried to term. What they're interested in is political power, and that means exerting that power at the expense of women.

Joyce: Go ahead.

Speaker 5: Hi. Thank you all so much for coming.

I think a lot of the media and talk right now is about the criminalization of pregnancy and abortion, and there's a lot of talk about what defense attorneys can do to defend people who are facing that criminalization.

I guess my question is about what do you think the role of the prosecutor is in defending abortion rights and what prosecutors can do to help the cause?

Barb: Well, I'll take that one.

I think that what I've seen in my state in Michigan, we have now passed a constitutional amendment to protect the right to abortion. You have that here in Illinois too, I believe. Same right in Illinois?

Jill: We do, but there has been, for example, in Florida, prosecutors have been fired because they didn't prosecute. And part of the Project 2025 is that he would definitely remove any federal prosecutor who didn't prosecute anyone he picked on, anyone he said you must prosecute this person. And so it's a very dangerous possibility.

Joyce: But it does depend on the state. And in some states where there is a law in the books, prosecutors typically work at the county level. And so I know there have been a number of county prosecutors or state attorneys general who have said, I have discretion to decide which cases I'm going to prosecute and which I'm going to decline. And that's true. Prosecutors do not have the resources to prosecute every crime that occurs. Otherwise they'd be busy all day prosecuting every littering case. They choose their priorities.

And so prosecutors can say, I don't think that is a significant crime. I think our resources are better spent on other things that affect the quality of life, and I'm going to decline any case of prosecuting a person.

The challenge, of course, is that if you are a doctor and that law is on the books in your state, I think there is a concern and a chilling effect. Even if you do have that assurance from a particular county prosecutor or a state attorney general, they can be replaced. They leave office from time to time, and as long as the statute of limitations says not run, their successor could prosecute you. And that's why those laws are so insidious. It has a chilling effect on medical professionals.

Speaker 5: Thank you.

Speaker 6: Good evening. Thank you for all that you do. I admire you so much. I came from San Fran to hear you and to see you this evening.

Jill: Wow.

Joyce: Thank you.

Barb: Thank you so much.

Kim: Thank you.

Speaker 6: I just have a follow-up to the first questioner.

You didn't talk about impeachment of a Supreme Court justice. Could you address that a little bit, if there would ever be a possibility, including post-Trump, if Trump doesn't win the election and we're still seeing so much crime and unethical activity.

Jill: Supreme Court expert.

Kim: Yeah. So yes, Supreme Court justices can be impeached. If two thirds of the house bring up articles of impeachment for high crimes and misdemeanors, it's the same standard. And if they're convicted by no three quarters.

Jill: Three quarters, right.

Kim: Three quarters of the Senate.

Politically, that just isn't going to happen. It never has happened. Well, it did happen a really long time ago, and I used to know off the top of my head the circumstance that a judge was removed under the impeachment power.

[inaudible 01:14:57]

Yeah. Yeah. It was something that was-

Barb: Judge Hasty or Hastings.

Kim: Yeah. It was-

Joyce: Alcee Hastings wasn't a Supreme Court.

PART 3 OF 4 ENDS [01:15:04]

Kim: Yeah.

Jill: Alcee Hastings wasn't a Supreme Court justice, but he was...

Kim: Same rules. He's a judge.

Barb: He's a judge who was removed. And what I take away from that case, my father-in-law, who is an 11th Circuit judge, was involved in the Judicial Inquiry Committee on that one. Typically, federal judges only get impeached if they commit a crime.

Kim: Crime, right. Something really... And also other non-Supreme Court federal judges have other consequences before that. I just don't think that there is any... If there was any political appetite for that, which I don't think that there is. The impeachment power has been so broken by the misuse of it in the past several years that that's no longer really a guardrail anymore. So yes, technically yes, that's an answer. Practically, it just isn't.

Audience 1: Thank you.

Kim: Go ahead.

Audience 2: Hi, big fan. So happy to see you guys here. I had so many questions, I didn't know which one to pick. But immunity question was something that interests me. We talk about it being remanded to Judge Chutkan. And Judge Chutkan may be entering an order and then the trial will never happen because it's going to be too delayed. What do you think the chances are that she'll actually hold an evidentiary hearing, in which case a lot of the evidence that would be introduced at trial would be introduced. And it is something that could happen before the election.

Jill: I think we'd all say yes. Right? Yes, yes and yes. That a lot of the evidence that I think America needs to hear before the election could come out in that evidentiary hearing. So it's a loss, but it's a win. It's not the same as a trial where there is a jury verdict of guilty, but at least it gets the evidence out. No evidence, even a guilty verdict will not change the minds of the loyal MAGA Trump supporters.

But for all of those who are Republican or independent who are persuadable, a conviction would be very helpful. The polls all say that if he's convicted, it would change my mind about how to vote. But I think even without a conviction, even with just an open hearing with the rules of evidence applying, it would be a good thing. And I think that when everybody said, "Oh, the remand is a horrible thing." It has a little bit of a silver lining.

Audience 2: Thank you.

Barb: Can I also just say with regards to that question, I think ultimately no matter when it is 2024, 2025, there will be a trial. And I think based on the evidence that we have seen, I think there's a very high likelihood that Donald Trump will be ultimately convicted. But I think we're all trying to use the courts to save us from a second Trump presidency. We have the power to save ourselves from a second Trump presidency through the ballot box.

Audience 4: Hi. As a voter, my opinions don't always line up with my party's affiliation's point of view. And my question for the four of you is, is that true of you as legal analysts? Is there times when you are on air stating opinion that's not necessarily in line with your personal beliefs? What's that like? And is it easy to compartmentalize between the two?

Joyce: Well, if I understand your question right, and I might be taking it wrong, so feel free to jump back in. But I think our job as analysts is to air our views and we don't always agree precisely on legal issues. Sometimes we'll just see them differently. I think that's what makes this so interesting. These are sophisticated issues. They don't always have clear-cut answers. And one of the most valuable things that we can do is publicly disagree. Not by being disagreeable. Right? But just by sharing our analysis. And then you get to make up your own mind based on the information we convey.

Kim: And I think the closest I can come to, if I understand what you're asking, is if your personal view and our legal analysis diverge? I don't think that I have an

example of that happening since we've done the podcast. But a good example I can think of that I can see is, yes.

When I covered the Supreme Court as a reporter, there was a case about the Westboro Baptist Church. Remember that awful, they're not a church. It was of one family that went around yelling horrific, awful slurs at Gold Star families at the funerals of their kids. And they went all the way to the Supreme Court for their right to yell these obscene, awful, homophobic, just awful things. And they won.

And coming into this, I thought, "Okay, these folks are crazy." And also the daughter from the family was the one who did the argument at the court. And she got up there with her first amendment argument and I was like, "Oh dang, she's going to win." And it's true. The First Amendment is broad enough to protect something that awful. You don't want that to happen, but that's what the First Amendment... So yeah, sometimes there are situations like that where you see this is what the law requires, even if I think it's reprehensible.

Audience 4: Thank you.

Kim: Go ahead.

Audience 5: So my dear and smarter than me sister sent me with a question about alternate jurors. In the state where she lives, alternate jurors are not informed at the outset that they will be alternates. But we see that that's different in this Trump case. So could you provide some education about that?

Jill: Sure, that is true in this case. The first 12 that were seated are the jurors. The other six are alternates. The reason that some states allow no one to know who's a juror is they think that everyone will have more of a vested interest in the outcome. They will pay more attention. As opposed to if you're the sixth alternate, the chances of your getting onto the jury are pretty small. So you may not pay as much attention.

I personally believe deeply in the jury system. I believe that they will all be paying attention. But I do like the idea of not having the alternates identified. I also wanted to say, I believe that even if there's a MAGA on this jury right now in New York, if you all remember the Manafort trial. There was a MAGA juror who afterwards, talked to the press, and she said, "I believe everything Donald Trump says, I believe in everything he does. But I took an oath as a juror to make this decision based on the evidence presented in this courtroom. And I voted to convict him on every single count because the evidence showed that."

And so I think in this New York case, are you worried about one juror? Yes, of course I am because that means a hung jury and a retrial. But I think that even the single MAGA who might be on this jury could be persuaded by the evidence. So I'm going to trust in the jury system, including if you identify alternates as alternates.

- Audience 6: All right, really quick. Given all that we know and all that we've talked about, why do you think Trump is ahead in the polls?
- Jill: I don't think any of us wants to answer that because it's unimaginable.
- Kim: I think because as hard as it is for folks like us to believe it, a lot of people are tuned out. I talked to someone in a restaurant, where was I? Pennsylvania, where was I? I can't even remember. But they were asking me, "Oh, who do you think the nominees are going to be for president?" And I'm like, "What?" I just think people are checked out and I think polling is difficult. It's more difficult than ever.
- Barb: I think that's the point too. Polling is difficult. I think it's things like, "Well, we've found 200 people and all the people who answered their phone on their landline said they're voting for Donald Trump."
- Kim: On Tuesday night.
- Barb: So I'm not sure polls are as reliable as they once were because I think people are just not reachable in the same way. So that's what's giving me some hope.
- Jill: Next question.
- Audience 7: You all are keeping me sane, so thank you for that. In particular, Joyce, I am a subscriber to Civil Discourse. You are my voice of reason. You are absolutely keeping me sane. You all talk about going off the ledge as if it's a place you can come back and forth from. And that is not, I'm looking for the window back into off the ledge.
- That said, I almost fell off the ledge last week when Justice Alito gave his upside down, you want immunity if you are President of the United States. And it felt to me like as Kimberly said earlier, he was talking to Joe Biden and he was saying, "You know, Joe, nice freedom you have here. If you really want to keep that, if you lose to Trump, you might want to back off this case." Am I wrong? Is that what he was kind of saying here?
- Kim: I explained Alito twice last week, so I'm not doing it this time for one of you all.
- Barb: Look, I'll just say, when I heard those words come out of Justice Alito's mouth, I worried about that same thing. But something that you see as an appellate litigator is that the justices are sometimes trying arguments on for size in oral argument.
- They're supposed to be asking the lawyers questions, but really they're trying to get a sense of their colleagues on the court to figure out where the votes are and who's going to accept what position. And so I was pretty far out on the ledge by the end of that argument. But then I reminded myself that it's always smart to wait for the opinion. And so that's my posture. I'm waiting for the opinion before I jump off the ledge. My voice of reason.

- Audience 8: Thank you so much for coming. My question is also about the Supreme Court immunity. It's very legalese, but I was wondering, since the presidency has an interest in this outcome. Why isn't the White House counsel or someone from representing the presidency also have standing in that particular case?
- Kim: They do. The Justice Department represents the administration in that case. So when you see the Solicitor General up there arguing that they are a representative of the White House by extension.
- Barb: Yes. So the Department of Justice is our nation's litigator. At least that's what was on the brochure the summer I took the internship. But it is the Justice Department that represents the United States in all matters of court. So White House counsel provides legal advice, but it is the Justice Department, or in this case the special counsel that represents the interests of the United States.
- Kim: And I believe that was one of the first questions that Dreeben said during the argument when they asked, "Do you represent, not just the special counsel, but the Justice Department?" He says, "Yes, he represents the administration."
- Audience 9: Good evening Roll Tide Joyce. Roll Tide, you mentioned justice reform and I was wondering if you all had one criminal justice reform you could make, what would it be?
- Barb: I would do sentencing reform. We incarcerate far too many people for far too long.
- Kim: Just one off the top of my head because I'm writing about it. Very much restrict the use of facial recognition in criminal justice.
- Joyce: I would do what Illinois has done and eliminate cash bail.
- Kim: All right, we can get to you all if you ask us quick, 10-second questions with 10-second answers.
- Audience 10: Okay. I'm concerned that the Supreme Court will not remand the immunity case. So considering that they're trying to craft an answer for the ages, why would they bother? Why would they bother since they've killed precedent? Can you help me understand?
- Barb: Well, I'll take this one. So I agree with you. I was deeply troubled when I heard Justice Gorsuch and Justice Kavanaugh say repeatedly, "Well, I'm not concerned about this case. We're worried about deciding this case for the ages." And I am reminded of a phrase written by Chief Justice John Roberts, who once wrote, "If it is not necessary to decide an issue to decide the case, then it is necessary not to decide the issue to decide the case."
- And so that means just decide the case in front of you. So I think there are four justices who are a lost cause. Alito and Thomas, forget about it. They're a lost cause. In this case, Kavanaugh and Gorsuch were talking about this case for the

ages, so I'm worried about them. I think Kagan, Jackson and Sotomayor were asking very sound questions, seemed to be lined up in favor of the special counsel.

I'll tell you who surprised me, Amy Coney Barrett. She's like taking the deposition and getting ready to decide this today. She's like, "Mr. Sauer. Do you concede that when Donald Trump asked Brad Raffensperger to find him 11,780 votes that that was a private act?"

"Yes."

"All righty then, I think we're in business."

And how about this? She went through the allegations. She was ready to pin him down. And then her time was up and Justice Kagan goes, "Picking up where Justice Barrett left off." And they got as many as they could. So I think Barrett is in with those others. So that's four votes. The real mystery one to me is Chief Justice Roberts, who... Chief Justice Roberts, if you're listening-

Kim: Where's the ledge?

Barb: Yeah. Remember those words about if it's not necessary, because in this case it is not necessary to decide the case for the ages. He also said, to the extent there are allegations here that do relate to official acts. Like dealing with the Justice Department and dealing with Vice President Mike Pence.

If those are to be truncated, he said, "Yeah, but if you have a bribery case." A president gets bribed to appoint an ambassador, you got to hear both pieces because otherwise it's like a one legged stool. And so I have just a glimmer of hope that Chief Justice Roberts might remember his own words and decide this case on the merits and send it back to court.

Kim: All right, so the folks in charge saying we have to do lightning fire now. I would just say one point of technicality, you talked about remand. Unless the court finds that Trump is immune from all of his charges, it will be remanded. It'll be remanded no matter what. That's just the next step in the process. So

Audiene 11: Love you all, love Joyce's chickens. Bock, bock, bock. Say hi for me. And I love Jill's pins. So we have Durbin. He's the chair of Senate Judiciary. So as citizens of Illinois, what can we do to buttonhole him because we like him, but he's very centrist. And he's playing by the old rules, the old genteel rules. And of course, now that's all out.

Kim: 10-second answer.

Barb: So how do we do it?

Kim: So we have one more.

Joyce: It's hard because I admire Senator Durbin enormously. I think it's always helpful to let a member of Congress know how you as his constituent, and everybody in this room is his constituent. How you feel about this and what you think they should do. I personally don't want him to go beyond, when Michelle Obama said, "When they go low, we go high." Maybe I don't agree with that, but I don't think we go as low as they have gone. I don't think we win democracy by going low because what applies to us will apply to them and they can't be trusted with it.

Audience 12: Thank you. So I'm a 20 four-year-old, trying to figure out my path. And you mentioned how contraceptives online are being pushed away right now because it affects women's bodies very negatively.

There's another trend on social media called the 4B movement, and I think it was based in Korea. And it's basically just turning away marriage and sexual relationships with men because women don't have control of their bodies. So I'm curious what you think the implications of that would be if that translates to the United States. I don't know if that's a 10-second answer, but?

Kim: That's something. I don't know what that is. Birth control should be available because it saves lives and health point-blank period.

Audience 13: Hi ladies, thank you very much for coming. My question relates as well to Supreme Court and the recent use of the EMTALA topic amongst the Idaho case. As a physician and a practitioner outside the state of Illinois, I'm somewhat confused as a layperson, as they're sort of splitting hairs on EMTALA. The contradiction with their state laws versus EMTALA being the stop-gap in the women's health. And the saving of their health as used from the sum of the justices, that it would be the answer to the same problem that they're presenting.

And why is that such a question for me is, when we talk about physicians not knowing how to behave or what to do or what they're challenged with in care. It's not just physicians. It's a facility and how EMTALA interacts with facilities. And the availability to the supporting cast into the delivery care and the access to the operating room, the equipment and everything that goes with it.

Kim: I think we got it. Yeah. Joyce?

Joyce: I think Barb's [inaudible 01:32:35].

Barb: Yeah. The answer is long. Since we're in the lightning round, I'll just say one of the goals of people who are anti-abortion is to create uncertainty and fear, which means services aren't available. That's what the EMTALA case was designed to combat. These facilities that were afraid to act, the federal government filed this lawsuit to tell them, "No, you have no choice. You must stabilize patients. And if that means providing abortion care, you must provide that care."

Look, I listened to the argument, I thought the Solicitor General, who is brilliant, was just dead on the money, every step along the way. The reality is that DOJ will lose that case, and my hope is that they will lose it in the narrowest way

possible that does the least damage. The goal is a good one. We need certainty about what care is available. We do not live in an environment where we have it.

Last question.

Kim: The finale.

Audience 14: Great show. Little suggestion. There's a lot of great beer in Chicago to go along with the hot dogs. So this is probably a tough question for the lightning round, but I was hoping that you guys would talk about the case in Louisiana about the voting rights where it almost seems like-

Jill: We almost talked about that it was between abortion and that.

Audience 14: It almost seems like if another side wants to bring up a case, then it seems like it stops something in the tracks, and who knows who's going to win. So I'm just curious to your opinion on that.

Kim: Gerrymandering is one of the most destructive forces to democracy that we have, literally. And Republicans have figured out that it's also really effective. And it's one reason why we have... There was such a strong movement to ensure there were so many conservative judges in our judiciary so that they would keep issuing rulings like this that put back in place.

So for people who don't know, Louisiana had a congressional map that was deemed a legal gerrymander under the Voting Rights Act. It takes all of the Black people in the State, most of the Black people in the State, but a third Black and packs them into one of the four congressional districts. So they really have no power in the other three. A new map was drawn, which created two districts where Black people could have the power to elect a voter of their choice.

Before that even happened, it was on hold while the Supreme Court decided a case out of Alabama. So that gerrymandered map was used in 2022. Well now, a federal court just ruled this week that the new map was racial gerrymander against white people, and so they threw that out. And so now it can be taken directly up. Now districting questions get taken directly up by the Supreme Court, so it will go to the Supreme Court. But I don't know. I was shocked by Milligan when they actually enforced the Voting Rights Act instead of striking it down.

Barb: Well, that one wasn't for all time, right?

Kim: Right.

Barb: Brett Kavanaugh said, I might change my vote and be in favor.

Kim: Which is precisely why this is happening. So it's a horrific, ingrained problem that has happened since the beginning of our nation, and there's no easy answer to it. But it is destructive.

Audience 14: Thank you.

Joyce: That was a great last question.

Kim: It's showtime.

Jill: I am so excited that you're all in Chicago, my hometown, and I thought the show was great. What'd you think of the food?

Joyce: I have to say, Jill, you really delivered with the Chicago hot dogs. Delicious. The Sport Pepper makes it.

Barb: I'm looking forward to the competition in Detroit. What are your hot dogs going to taste like, Kim?

Kim: I know we're going to have to bring it right, because the bar is high, but I think the Coney will do it.

Jill: Well. I'm looking forward to tasting a Coney, but I will always love a Chicago dog.

PART 4 OF 4 ENDS [01:36:38]