

Kim: Well, hello Detroit, and welcome to this live episode of #SistersInLaw with Detroit and U of M Zone, Barb McQuade, the Watergate girl herself, Jill Wine-Banks, the Southern belle of the ball, Joyce Vance, and me, native Detroit and Wayne State grad, Kim Atkins-Stohr.

And boy, what a great crowd. This is such a special show. All of our shows are special but this one is especially so special to me because this is the first time I've ever come back for any professional event here in the state of Michigan. And I'm just thinking about little young me here in Royal Oak where I went to high school, just down the street at Shrine. And this is just such an amazing moment. And my family is here, including my folks. And this is also a very special event for Barb too, our other Michigander. I won't tell them what I had to do to win the spot at hosting Barb but-

Barb: Yes, Kim and I arm wrestled to see who would get to host the show in Detroit. And we kept, for weeks like, "Who's more Detroit? Who's got more Detroit roots? Who's got deeper Detroit roots?" And so Kim said, "Oh, well, I'm going to deck out. I've got my Wayne State, I've got a new yellow suit. I'm going to wear my Wayne State." Pretty impressive. But nobody can out Detroit me, Kim. I got this-

Kim: My mom's going to love that. My mom's a diehard Tigers fan. She's going to love that. She was very disappointed in me when I started rooting for the Red Sox. I don't anymore.

So we have a jam-packed show for all of y'all because it was a busy week when it came to the stuff that we usually talk about. But first we want to talk a little bit about being here with you, about Detroit and what a great place it is and the fun stuff that we have been doing and that we want to do.

So I'm going to start with you, Joyce. What about Detroit have you been enjoying and what are you looking forward to?

Joyce: So pre-pandemic, I used to come to Michigan but to the other Michigan, to Grand Rapids, every year because Grand Rapids, some of you may not know, is a mecca for knitters, right? And so I loved making that pilgrimage and I learned tonight that it's not just Grand Rapids, that it's Detroit too. Because when we were talking with folks before the show, people kept telling me their favorite place to knit, their favorite place to buy yarn. Some people brought their projects and pulled them out and showed me what they were knitting. Y'all are very knitting friendly here, and I am so sad that I don't have more time to spend and knit with y'all. We will have to come back.

Kim: Definitely. We will definitely come back. How about you, Jill? You didn't come from too far. Chicago, wonderful city where we were last week.

Jill: We had a great time there and we tasted Chicago dogs. Today I tasted a Coney dog. It was good but it doesn't have a seeded bun, and Chicago dogs have poppy

seeds and they're much better. But it was good. It was definitely good. I liked it. I liked it.

And I have a special feeling about Detroit because my first solo trial was here in Detroit in federal court. So I really have great feelings about it. I mean, this goes back more years than ... You probably weren't even born yet, [inaudible 00:04:52]. Sorry. But yeah, so it goes back a little ways, but it was a great experience and I loved trying cases here and going to the Anchor Bar. Does that still exist?

Barb: Oh yeah.

Jill: It was actually off limits for federal prosecutors, but I did it anyway. I was a bad girl just like Barb is.

Kim: And Barb, do you have any thoughts about Detroit at all?

Barb: Oh, just a little bit. I am so excited to be here in Royal Oak, Michigan, near Detroit, near Ann Arbor. I've got a lot of friends here tonight. Thank you all so much for coming out. And although you are all my sisters-in-law, my actual sister is here. And so how about a shout-out for my sister Kim who's here tonight?

And the beauty of a sister is they can say things to you like, "You're wearing that?" Or, "What's with your hair?" I get that a lot, on my wedding day, but it's good. You need that sort of candid feedback from a sister. But I'm so thrilled to be here in Detroit because where else is it socially acceptable for me to be on stage and wear this? For those of you watching or listening on the radio, I am wearing a Detroit Lions Barry Sanders jersey.

Kim: Still with the Tigers hat on.

Barb: Well, Kim, I will not be outdone in my Detroit fannage with you. So I've got to represent.

Kim: Listen, I've always been [inaudible 00:06:42]. I still have my notebook from elementary school with Barry Sanders on it.

Barb: Pretty good, pretty good.

Kim: So I'm true blue. I'm true blue.

We are here in Detroit and the weather is getting warmer each day. So you know what that means? Summer's here and the time is right for wearing Honey Love. It's time to socialize, go to live shows like #SistersInLaw and take vacations. And that's perfect for today's sponsor, Honey Love, and their amazing comfy shapewear. Their line has beautiful inspired design details and breathable fabric to keep you cool as the weather heats up, because it's like a heat wave. Sorry, it happens. When I'm in Detroit, I automatically sing Motown. Plus, even if you

have a super active lifestyle, it's the only shapewear that never rolls down. And for a limited time, you can get Honey Love on sale 20% off your entire order, in fact. But you need to use our exclusive link, [honeylove.com/sisters](https://honeylove.com/sisters). Support our show and check them out at [honeylove.com/sisters](https://honeylove.com/sisters).

Joyce: Enjoy comfort and confidence this summer with Honey Love's best-selling superpower short. It's the go-to thanks to targeted compression technology and signature X band that works with, not against your body, for maximum style, fit and comfort. Your outfit will stay looking sculpted and smooth across its coverage with the flexible supports hidden in the side seams and the boost bands give great lift too. It's cotton reinforced where it matters and it's easy to wear with the perfect amount of compression in all the right places.

Jill: But, Joyce, you know Honey Love has more than just sculpt wear. They have super comfortable bras, tanks, and leggings for everyday support. Their leggings are the best on days with lots of exercise or when you have a decadent day off at home or with friends and family. They're seriously so comfortable. No matter what life has in store for you, Honey Love is for you. Don't be stuck in your shapewear. Look and feel your best with Honey Love.

Barb: Shapewear shouldn't be hard. Treat yourself to the best shapewear on the market and save 20% off. At [honeylove.com/sisters](https://honeylove.com/sisters). Use our exclusive link to get 20% off, [honeylove.com/sisters](https://honeylove.com/sisters). After you purchase, they'll ask you where you heard about them. Please support our show and tell them we sent you. The summer vibes are getting started. So shape your life with Honey Love. Look for the link in the show notes.

Kim: Well, we are excited to be here but we are excited to get into talking about what y'all came here to hear. Just a little activity happening over in New York City. So, Joyce, why don't you kick us off? What's going on?

Joyce: I tried to think of something cute and fun to say about Manhattan, and then I just sort of gave up and decided the only thing to do was just to dive straight in. There's so much going on, so many conflicting feelings, right? It is great to see Donald Trump sitting in a courtroom with the justice system working how it should, but there are a lot of issues and we're learning a lot about the facts and the law. So that's where we'll focus tonight.

Kim, you wrote a great piece this week about Stormy Daniels. Why don't you talk about how you felt about her testimony and if you think the government is scoring points?

Kim: Yeah, I think this is really important. First, I'm going to preface because it can be dicey talking about some of the subject matter that has come up in testimony this week. Not to mention the fact that my parents are here. This is a family show, I'll remind you all, so I'll try to keep it very highbrow. But yes. So leading up to this entire trial, this hush money trial, the whole reason that it has that nickname which I don't like, I call it an election interference and fraud trial because that's what he's actually charged with.

It's as if this has been a Broadway show as opposed to a trial. And if there was a marquee, Stormy Daniels' name would be double billed in bright lights with Donald Trump, right? They were playing this like it was going to be this big bombshell, salacious, popcorn nibbling kind of moment when she finally takes the stand and is questioned about what happened between them in that Lake Tahoe hotel room back in 2006.

What actually happened when we listened, and we couldn't watch it, there are no cameras in the courtroom but, luckily, we all have really good support from NBC that was giving us real-time updates. And what I took from her testimony was not something salacious. It was something awful. It was something that seemed traumatic and it was very, very credible. And what had happened up until that point, which is a lot of our fellow, not us, but our fellow legal commentators, certainly people on Trump's legal team and even the judge had publicly questioned how credible she was as a witness before she took the stand.

And why is that? Because of her profession, something that she's never been ashamed of? She still uses her stage name. Her real name is Stephanie Clifford but she was asked on the stand how she wanted to be referred to and she said Stormy Daniels. She's not afraid of the choices that she made in her life. She owns them. And yes, sometimes when Donald Trump was attacking her publicly for years, she would attack back. She would counter punch publicly. She's not a saint. But because of that, that made her seem inherently incredible. She was something what's called an imperfect witness. Why? Because she's a woman? Because she's not a saint? The testimony she gave, to me, made her probably the most credible of any that we've seen take that stand.

So I think that is something that I hope the jurors see. I have a feeling that the women do, especially women who maybe not a situation that drastic, but how many women that you know have been in a situation that they got themselves into, not realizing that that was going to be a situation, found them in an uneven power dynamic and thought to themselves, "Oh, shoot. What do I do now? How do I get out of here?" So I hope that the men can find that same empathy because I thought that her testimony was good. It rung true. And I am really disappointed in some of the commentary about her and her credibility.

Joyce: Do you want to add on to that? What do you think were the high points of her testimony? Barb?

Barb: Yeah. I think I have a very new understanding of what happened between them than I had before. Certainly, there had been a story that they'd had this romantic liaison shortly after Melania Trump had given birth to their son, which seems so shameful. But hearing the details, this is like a Harvey Weinstein moment. She walks out of the bathroom and he's undressed and on the bed, and then he says, when she balks at it, says, "I thought you were serious about wanting to be on Celebrity Apprentice." I mean, this is the kind of stuff that Harvey Weinstein has gone to prison for. And so she said, "I wasn't drugged, I wasn't forced. He didn't use a weapon, he didn't threaten me, he didn't use physical force. It was my own choice, but there was a power imbalance." And that's what the Me Too

movement is all about are those power imbalances. And so, to me, thank you, yes.

To me, it's really important to the case because it demonstrates why he was so desperate to make sure that story never saw the light of day right after the Access Hollywood tape came out shortly before the 2016 election because it isn't just sex. It is now this whole power situation like Harvey that I think would've really perhaps ended his campaign. Remember, it was really on the rocks there for a moment with the Access Hollywood tape. Imagine if this comes along right after that. And so I think it provides strong evidence to support the theory of the prosecution that this was all about making these payments to make sure that it didn't get out because it was an effort to influence the election.

Joyce: Yes, something that's so interesting about that, Barb, is it actually doesn't matter if the jury believes Stormy Daniels or not. Even if they think she's not being truthful, the prosecution argued a little bit today, and they'll argue in closing argument that her story is important because it's what Donald Trump was trying to prevent from coming out. But I think y'all are absolutely right. She comes across as very credible, unashamed about her past, very clear about the choices she's made. She, I think, outperformed everybody's expectations for her as a witness. Didn't you think, Jill?

Jill: I think on day two especially. On day one, she was kind of nervous. And day two, she really calmed down and did a good job. I've always said she sounded credible to me. And I can't believe I live in a country where a porn star is more credible than the former President of the United States. When I first heard about Stormy Daniels, I'm going to divert from our actual question, but I was in a car going to NBC and I got a call saying, "We're changing your subject. You're going to talk about Stormy Daniels." And I said, "Why? She denies it and he denies it. What's the story?" They said, "I don't know, but you're going to talk about it and we're moving you up earlier in the show."

So I get in and, in those days, we worked in a studio as opposed to home, and we had makeup and hair, which we no longer have. And I said to the makeup artist, "You're going to have to do it faster because I'm on top of the hour." And she said, "Why?" And I said, "Stormy Daniel." She said, "I know her." I went, "You know her, Kelly? What do you mean?" She said, "Well, I used to work for the same company and I did her makeup." And so I was very calm. I said, "You did her makeup. Okay, was it face or body?" She said, "Both." And this was the most wonderful looking young lady I would've never noticed. She wore baggy clothes. And then she showed me a picture of her with Stormy, and they sort of look alike.

But anyway, she tells me that Stormy is one of the smartest, cleverest business people and that she's really nice. So I had a very favorable attitude toward her anyway, and her testimony, I agree with everything Barb said that it was really credible and that it was cringeworthy because it was like what it used to be like before we got the Me Too movement going. So I think it's really important to view it in that light. And I think that she did convince the jury, I can't believe

now, we didn't see them, but I really think that they will think that she was credible and will hold it in high esteem when they go to vote.

Joyce: This is one of those moments where we have to just pause and say that Jill Wine-Banks has a story for everything. Of course, she knows the makeup artist for Stormy Daniels, right? Of course. Every show we learn something cool about Jill.

Hey, so Barb, let's go from maybe the most salacious moment of the trial to some of the least salacious moments. I mean, the people have put on witnesses, somebody from the accounting department, somebody from Trump's publishing company. How is that testimony landing? Is that significant or is it just filler?

Barb: I want to talk about that but before I do, Kim, I'm going to up the ante a little bit because I want to show everyone that I'm also wearing my Detroit Pistons socks. Wait a second. What do you think? And believe me, this season it was hard to be a Pistons fan. Lot of suffering. Lot of suffering.

Kim: Well done. Well, those are some good-looking socks. I have to get myself a pair.

Barb: Yeah, thanks.

Joyce: I'm getting pretty nervous about what's coming next.

Jill: Well, we all know Barb doesn't do undergarments.

Barb: All right. Fair enough. But, Joyce, to answer your question, I think that sometimes the documents can be seen as the most tedious parts of a trial, but they're essential, especially in a case like this, where the case really is all about these false documents that were falsified in an effort to conceal the payments to Stormy Daniels with checks that were made out and then booked as if they were legal expenses.

So this is a really important part of the case, and I really like the way the prosecution has done this because it can be tedious. In some ways, there might've been a temptation to start the case with this, but I think it would've been a mistake because it is a little bit dull and tedious. It reminds me of a time when I brought my father-in-law to watch a trial my husband was handling in a case I thought was incredibly exciting. It was about a takeover style bank robbery with four bank robbers who went over the counter. So I dropped him off to watch in the morning, and I picked him up in the afternoon and said, "So what did you think of the trial?" And this is his own son trying this case, mind you. And he said, "Oh, I don't know. It was so tedious. And where were you when the person came in the door? And have you seen this document before? And let me show you what I've marked as exhibit number 31."

I think so many of us are conditioned by the cop shows and the court shows, it all wraps up in an hour and there's three questions and they're all very dramatic.

Kim: And it's exciting. I mean, even as a lawyer, I thought I was going to be Ally McBeal. And I go into my office and there's ... I mean I was in Boston. I really thought I was Ally McBeal. And there are these folders there that I have to read and stuff I got to write and filing deadline. There was no playful banter in a courtroom. I mean, very rare. And when I got to a courtroom, it was just in and out. Everybody has these delusions, even us.

Barb: Yeah. So this is a part of the trial that is especially tedious. I mean, the Stormy Daniels testimony was quite interesting. I thought they were smart to start the trial with David Pecker talking about the deal, the meeting in August of 2015 when they came up with this whole idea of being eyes and ears because that was interesting. And so I think they've done a good job of putting this kind of in the middle of the case so that it is not occupying a lot of time. And also, they've been kind of sprinkling it in as opposed to several long days of tedious documents.

But it's really critically important that these documents come in because they're essential exhibits in the case. I also think they're doing a very good job of laying the groundwork now before they call as a witness, Michael Cohen, who is going to be the person I think who ties all these pieces together. But if the jury has already seen all of these things through kind of neutral witnesses or even Trump organization witnesses, I think that they're ready to believe it, that you're not requiring Michael Cohen to do a whole lot of work to get you there, just to kind of connect the dots. And so this is kind of providing the dots that will later be connected.

Kim: But some of it is Trump's own fault, right? Some of the tedious stuff, because-

Joyce: All of it is Trump's own fault, come on.

Kim: Touche. But I mean there's something called stipulating, which when you have a trial, any litigator we've all done this, is before the trial starts both sides get together and say, okay, we're going to stipulate as to these facts and to this and that and the other thing so that we don't have to prove it in the courtroom, so that it doesn't have to be read into the record. Donald Trump, being Trumpy as he is, refused to stipulate anything. So that's why you have the Simon & Schuster editor who has no idea about anything reading parts of his book into evidence, because he wouldn't even say, "Yes, this is my book." So it's wasting a ton of time. It's bogging the jury down. And so that is terrible.

But on the other hand, it's not just tedious, I should say. It's damaging to his own case because they could have stipulated facts about Stormy Daniels that would've dramatically limited the amount of testimony she could give. They could have dramatically limited the testimony of a lot of prosecution witnesses just by saying, "Okay, this happened." He could have said, "This happened but I didn't pay anybody any money. I thought I was just paying Michael Cohen, attorney." But the reason that we got all this testimony is because he refused to play any part in this, and it's hurting his own case.

Joyce: His lawyers have to absolutely hate him at this point. I think you're right. His own worst enemy. But, Kim, you talked about the books and the publisher.

Somebody on the prosecution team, I think this was a move of just absolute brilliance, I didn't see this one coming. Using Trump's books against him, right? They're now reading stuff into the record. "Never trust your own people." Or, "Mind every penny." Well, gee, I think he minded \$130,000 worth of pennies. It's utterly good lawyering by the prosecution so far.

Barb, you talked a little bit about the buildup to Michael Cohen and, Jill, I wanted to ask you a little bit more about that. What do you think? This strategy, it's been called [inaudible 00:25:32] Michael Cohen. I think of it as their building up his credibility before he ever takes the witness stand because, boy, does Michael Cohen come with just a little bit of baggage wrapped around his neck. Are they going to pull it off? What do you think will happen?

Jill: I feel very confident in Michael Cohen, and I think partly the reason is because they have set up-

Joyce: Do you know his makeup artist?

Jill: No, but I have been on his show a number of times, as have you, and probably everybody else, right?

Barb: Not me.

Jill: No? Oh, well, Joyce and I have and I told him to shut up recently because I think that he is giving grounds for Trump to fight against him.

Now, the stuff against Stormy, I'm diverting from your question, but the lawyers today said you have to exempt Stormy from the gag order so that he can criticize her because she testified against him. Well, that's not how it goes, guys. And of course, the judge said, "No, you can't do that. She testified under oath in a courtroom. If you testify under oath in a courtroom, you can say anything you want about her, but you can't do on your social media feed."

So anyway, I think that Michael Cohen is obviously the witness who dealt directly with Trump, can talk about meetings with him. It's been corroborated by his assistant, Rhona Graff, that he met with her and by, what's her name, Madeleine, that he was at the White House-

PART 1 OF 4 ENDS [00:27:04]

Jill: ... what's her name, Madeleine, that he was at the White House-

Joyce: Westerhout.

Jill: Westerhout. Through her tears, she also said other things. And I think that everything that has been set up makes him credible and that, as Barb said, he's filling in the lines between the dots, and that he will be a credible witness. Yes, he's been convicted of a lot of crimes, including perjury, but Donald Trump may soon be convicted of even more crimes and be less credible.



So I don't think being convicted ... The prosecution doesn't pick the witnesses. The defendant picked them. The defendant is the one who hired him and used him for all these years. And yes, maybe he was mad that he didn't get made Attorney General and he has a vendetta. That's apparently what they're going to be claiming is that that's why he's saying all these things. "It's because he has a vendetta against me."

Well, I don't think that's going to sell. I don't think the jury is going to believe that. They're going to believe that he was the fixer for this man, and the man knew what he was doing the whole time, and that they will believe everything, especially because of how the foundation has been laid by the prosecution, to show that everything that he says has already been corroborated. So I think it's going to go really well.

Barb: Are you as bullish on Michael Cohen as Jill is, Kim?

Barb: It depends. I think it really depends on his testimony, how he comports himself. I don't think he's done any favor ... I mean I was gobsmacked at the amount of media that he did leading up to this trial. He's an attorney. He knows better. But he was there.

But also, on the other hand, these are the folks Donald Trump surrounded himself with. I mean, we're all like, "Oh, is this person's credibility good? Is this one?" No, nobody's are because these are the people in Trump's world. This is how he moved. You don't have upstanding lawyers who were fixing deals. This is the world but these are the people who saw him. And I think just that, the fact that these are his kind of folks, make them more credible, if that makes sense because they understand that.

Jill: And think about how many lawyers have been disbarred who are related to him. Think about it. I mean, you have Sidney Powell, you have Eastman, you have Giuliani.

These are the people that he hired. And, keep in mind, those are the people he's going to bring back into government if he is reelected.

Barb: I mean think about how many pled guilty!

Jill: So everyone here make sure it doesn't happen.

Barb: I mean a lot of them have pled guilty.

Jill: Yes, of course.

Barb: A lot of them have mugshots. That's more than being disbarred.

Jill: Yeah.

Barb: If I could add one more thing about Michael Cohen, as a prosecutor, one of the things that I thought made a witness credible when they had baggage, as Michael Cohen does, is that he himself entered a guilty plea to these very crimes.

Barb: Right.

Barb: And so he isn't making stuff up just to throw someone else under the bus to save his own skin. He went to prison for this. Remember, this is the scheme for which Donald Trump was named as unindicted co-conspirator number one in the federal case.

Michael Cohen went to prison for these things, and he admitted in court that he had done all of the same things that he's going to testify about here. So, to me, that adds a lot of credibility to the story he's telling.

Joyce: I agree. Yeah.

Barb: You know, doing live shows reminds me that I really always want to be on my game and also looking like I'm on my game. And whether I am preparing for our show and all the legal updates that are happening, I always want to look my best.

And this time we're in front of an audience. So after drying out in planes and hotel rooms, I'm so glad I brought the OneSkin Travel Kit with us on the road. The regimen works so fast and the formulas feel amazing to apply, especially on my forehead and around my eyes. Now I never go anywhere without OneSkin, and we know you'll love it too.

Joyce: Support for today's episode comes from OneSkin. Did you know your body starts accumulating senescent cells as early as your twenties? They're also called zombie cells. And these cells stop producing collagen and hyaluronic acid like they used to, and secrete an inflammatory substance that makes nearby cells dysfunctional.

Luckily, there's a solution for zombie cells, and it's not watching movies. It comes from our friends at OneSkin.

Jill: And I love the fact that this company was founded by an all-woman team of scientists. OneSkin is the first and only skin longevity company to target a key hallmark of aging called cellular senescence using their proprietary OS1 peptide. OS1 is scientifically proven to decrease lines and wrinkles, boost hydration, and help with a thinning skin that definitely comes with aging. Don't just take our word for it. They've got over 4,000 five star reviews for their full line of face, body, sun, and travel sized products.

Barb: For a limited time, you can try OneSkin for 15% off using the Code Sisters, when you check out@oneskin.co with OneSkin, your skin can stay healthy, strong, and hydrated at every age. OneSkin is the world's first Skin longevity company by focusing on the cellular aspects of aging. OneSkin keeps your skin looking and acting younger for longer. Get started today with 15% off using Code

sisters@oneskin.co. That's 15% off OneSkin.co with Code Sisters. After you purchase, they'll ask you where you heard about them. Please support our show and tell them we sent you. You can also find the link in our show notes.

Barb: So there's hard to believe, but there were more Trump-related legal events this week besides what was going on in New York. But before we get to that, I just want to give you guys a heads-up because when we say that your questions are the favorite part of our show, we really, really mean it and we love live shows because you get to ask those questions right here in real time. So after when I signal y'all a little later on, there are two mics here. I just want you to know that. So we're going to have you line up and I'm going to tell you in advance, we get a lot of people and we can't always answer every question. It will break our heart. But there is a point that we have to get out of this place, but we will answer as many as we possibly can. So on that note, Jill, what else was going on in Trump legal land this week?

Jill: Well, I'm going to take you South to Florida and Georgia. There's a lot going. Well, I know you want to know about what's happening. And so I'm going to start with Judge Cannon. She deserves it. She is. Yeah. She just announced that she was delaying the trial indefinitely, which is a violation of the job of a judge because one of the things that a judge is supposed to do is to make sure that there is a speedy trial for the defendant and for the prosecution.

The people's witnesses fade in their memories and evidence gets destroyed. You have to go ahead with it. But she said, no, it's too complex a case. Well, maybe for her, but I don't know her and I don't think she's dumb. There's a lot of evidence that she was smart and maybe she's a little too smart that she's using clever tactics to delay the trial and to put her finger on the scale of justice.

She set motions to have hearings until the end of July. Motions that should have been decided years ago. I mean, well, not years, I guess months ago. Decades. Decades, centuries ago. We knew he was going to do this before he got elected. So Kim, let me start with, is there any chance that this is going to go to trial before November?

Barb: Yeah, I didn't think there was a chance before. Certainly I don't think there will be a chance now. And one reason why that is just so problematic is recall this case is about the mishandling of classified information. I know this sort of gets set aside as the least important of the case. No, this is tremendously important. This is a former president and potential future president who can't be trusted with our nation's secrets. This is someone who has cozied up to Vladimir Putin and Xi Jinping and think that and Kim Jong-un. Oh my God, right? How there's so many of these awful strong men that I lose track. And this is somebody who is also incredibly indebted and needs a lot of money very quickly. And how valuable are the secrets in that classified information? So I think that the American public deserve to get to the bottom of that before this election. Judge Cannon disagreed. So here we are.

Jill: We talked about how bad she is and what damage she's doing, and one of her last decisions was, well, I'm not going to rule on this right now, but once we start the

trial and evidence comes in and double jeopardy attaches, by the way, I'll reconsider it. So Joyce, let's talk about that and whether you think that there's anything that Jack Smith can do or is this done? Could she be mandamus? Could she be recused? Could she do anything more to make it obvious that the 11th Circuit has to step in? What do you think?

Joyce:

Yeah, so I mean it's an important question and I think it's important to say none of us are happy to be bashing a federal judge. We are lawyers. It is ingrained in us to have respect for the judiciary. And sometimes you disagree with decisions that judges make, but you don't think that they're bad judges. And it's unfortunate here that her track record over time and how she has handled these cases has made it very difficult to have any confidence or any hope that she's acting in good faith. But I don't take any pleasure in saying that. And early on, and you'll recall the history here, right? There's a search at Mar-a-Lago, and instead of handling his objections to it like a normal person would, Donald Trump gets his lawyers to make up this sort of civil case that challenges the search warrant by going to a different judge than the judge who authorized the search warrant.

And that happens to be Aileen Cannon. And she mishandles it so badly that when it finally gets to the 11th Circuit, they deliver this really firm bench slab and they just tell her, you got this completely wrong. You handled something that you lacked jurisdiction to handle. I mean, that's really like telling a federal judge, you have no business being on the bench. So I mean really though it was embarrassing. It was an embarrassment for her, and then she draws the criminal case. I know you all remember the moment when we learned that and just thought that we were going to all pass out and collectively die, right?

My feeling was that in that moment, Jack Smith should have asked the 11th Circuit to recuse her. And there's a way to do it, by the way. You don't say she's a horrible person and a bad judge. There's law in the 11th Circuit that says, where a judge has made repeated bad rulings in a case, maybe it's in everyone's best interest to let another judge handle it, not a certain thing. But I thought that they should have tried it. They did not. To answer your question, you need a hook to go to the 11th Circuit. You can't just say, we woke up this morning and we decided it was time. Right? Maybe one possibility, but it's not a good one is a petition for mandamus. That's when you go to the 11th Circuit and you say there's something that this judge is supposed to do that they have not done.

It can't be discretionary. It has to be purely ministerial. So maybe Jack Smith could say she needs to set a trial date, but I'll just tell you that I just don't think that rings the bells for getting the 11th Circuit to rule right now. And so unfortunately, they're in a holding pattern. They'll need to wait until she rules on the motions about whether or not Trump can use classified material at trial. And if she rules in ways that Jack Smith doesn't like, then there's a statute that lets him take an expedited appeal to the 11th Circuit. And that might tee up a motion to recuse. But really at this point, I think that they are stuck with her.

Jill:

That's really bad news. And I think one of the problems is everybody worries: well, this will delay the trial if they do this. But I'd rather wait for a new judge than have her be the trial judge, because I'm really worried that she'll do

something horrible. And once double jeopardy attaches, once the jury is impaneled, there's nothing you can do. She can acquit him, she can get rid of him, and he can never be retried for that. But Kim, you mentioned something that I want to turn to our expert on national security, which is how much of a risk is this to national security? Do we even know if all of the documents he removed have been recovered, they've never searched his New Jersey club, what's going on? What do you think the risk is?

Barb:

Well, I think it's tremendous in light of the fact that typically during the summer, the intelligence community begins briefing the candidates for president. And so in an ordinary situation, they would be coming in and briefing him. And yet this is somebody who's under indictment for violating the Espionage Act. How is that supposed to work? We've certainly never seen that before, but I think that it cannot be emphasized enough, the seriousness of the charges. And I worry that when a judge slow walks a case like this and slow walks these motion decisions, which are they complex, they involve classified information. So in that way, they're sensitive, but they're not difficult. And I dealt with cases with classified information. You go before the judge, you make your case. They make a decision on how you're going to handle these in the trial. And so the idea that this has taken so many months to me is just baffling that aspect of it.

But I worry that this is something that we've seen Donald Trump do again and again, he's done it in the field of public corruption by granting commutations to people convicted of public corruption crimes. And now I think he's doing it in the world of national security. And that is diminishing the importance of those kinds of cases, suggesting that they are not problematic, that they're all about politics. And why that is a problem is that for all the other people who get charged with these crimes, people who are working in the intelligence community, people working in the military who do have to handle these secrets and be held to a very high standard, if they look at the president is able to do these things and not be charged with crimes or not be held accountable for his crimes, then why should I have to follow these rules?

And so it's very important that we do protect all of these things. And again, these are not technical. It's not like going 36 in a 35 mile an hour zone. These are military secrets. These are nuclear secrets. These are our defense plans if we are attacked by a foreign country, the idea that they're being stored in the bathroom at Mar-a-Lago when there's a wedding down the aisle is really frightening. And so I worry that it is this idea of just sort of diminishing in the same way when they want to try to impeach Joe Biden. It seems to me it is an effort to defang the concept of impeachment. Well, everybody gets impeached. It's just politics. And so the same thing when it comes to classified information, and certainly other people have been negligent, I would say, with handling classified information like Joe Biden and like Mike Pence, but only one of them lied about it, including to his own lawyer and refused to return boxes and boxes and obstructed an investigation, which is why charges were filed against Donald Trump.

Jill:

So I think we can all agree whatever you think of Donald Trump, he is the luckiest defendant in the world to get Cannon as a judge. And he's also, I mean, who remembers Teflon? Ronald Reagan. If this isn't Teflon, Don, I can't imagine

he is just getting away with murder. Well, he said he could get away with murder because remember, the immunity case is still pending and he says, well, I could kill somebody and I couldn't be held responsible. But let's move on to Georgia where again, there's been a bunch unforced errors that have redounded to his own benefit. That is too bad. The judge this week was ruled that they could appeal. He allowed them to apply for an appeal. He has now appealed, and the court of Appeals said they would take the appeal. So I'm going to turn to you Joyce because you're our appellate expert, and so talk about how long it's going to take and what's involved and what's the likely outcome of this appeal and how will it affect going to trial?

Joyce: How long is it going to take? A long time. Jill and I were talking this afternoon about something that is becoming increasingly apparent, which is that Georgia has some weird-ass criminal procedure. I mean, look, I live in Alabama. We have stuff like a scintilla rule that governs, I mean, we have some crazy stuff, but Georgia a special grand jury that takes an extra year. And this complicated appellate procedure, which when you think about it, is very sensible. This method where the court has to decide whether to hear the case and that takes a lot of time, is really meant to conserve judicial resources. And when you're talking about taking an interlocutory appeal, which is an appeal that happens before the trial, you only want to take the ones that are really necessary. So the process really does make sense, but as you say, it benefits Donald Trump.

Look, this is the appeal to the intermediate court of appeals in Georgia. It will take months. They do not have to rule before the end of the year. Maybe they'll be quicker, maybe not, but even after this appeal ends, whoever loses, whether it's Trump or the prosecutors in Fulton County, they will then appeal to the Georgia Supreme Court. This case is not going to go to trial before the election or before the end of the year. So as Kim says, these are issues that should have been aired for the American public and they will not be.

Jill: Yeah, and it will no matter who wins at the intermediate level, it's going to be appealed and it will further delay. Let me ask all of you, is this all an unforced error? Was the mistake that the DA made in terms of her relationships that led to a hearing that delayed things? Was it even because she indicted so many people? If she had just done what Jack Smith did and indicted just Trump, would that have helped? Would that have gone to trial further? Let's start with you Barb.

Barb: Yeah, I'd like to answer that question Jill, but before I do.

Jill: Oh no.

Barb: Allow me, it's a little chilly in here. I think I'm going to put them my Detroit Red Wings scarf.

Barb: Barbara McQuaid. That is so sweet of you. Roll Tide.

Joyce: Oh, very nice, very nice. Barb,

Barb: What was the score of the Rose Bowl?

Joyce: Oh. It is still too soon to be telling. Sorry, I'm sorry. But that's a good-looking scarf. Barb, if you pull an octopus out of that bag next I.

Barb: All I wore for the Chicago Show was a hot dog pin. I don't think it was an unforced error, Jill. I think that Fonny Willis charged the case that she thought she ought to bring on behalf of the people of Fulton County, Georgia. And there were 19 people that she believed committed serious crimes against whom she had sufficient evidence to prove her case beyond a reasonable doubt. So I think it was appropriate, I don't think she ever expected this to be a fast-track case. That was clearly Jack Smith's strategy charge only Donald Trump in hopes of getting the case tried before the election. I think she's in it for the long game, and I think she knew from the start that meant risking a delay because of all the defendants in this case. I think the only unforced error here was her relationship with Nathan Wade, which was a terrible mistake. And that is what has sidetracked the case.

Jill: Of course, even if it wasn't an unforced error, it does mean that if he is re-elected, I hate to say that, and I know you all agree with me, it shouldn't happen, but if it does, we're talking about four more years that it's not going to get tried because I am sure as president, he's going to be able to say, I'm too busy doing my job. And Westerhaus today actually made it sound like he worked hard. He takes phone calls at six in the morning. We know that's not true. He's still in his bedroom till nine or 10 o'clock. But anyway, that was the testimony today that he works really hard taking phone calls at six in the morning and working very late at night. So there's not going to be a trial if it doesn't -

Barb: It's hard work watching Fox News, come on.

Joyce: And calling Melania to the window so that he could see her. I mean, isn't he your wife? Why do you have to call her to the window from your office to see her? Can I say something that's a little bit of a counterpoint to this idea of unforced errors and whether that would directly link to Donald Trump being re-elected because these weren't errors, particularly in the Georgia case. This is a RICO case.

RICO cases take a long time to go to trial, even when there are not as many defendants as there are in this one. Even if it's a handful, five or six, and I expected, which I still expect a lot of these code defendants will in the plead out or something. I anticipate, I guessed at the beginning of this, it seems so long ago that by the end there might be six seven co-defendants as opposed to the boatload that there are now.

It takes a long time to prepare. It takes a long time to see the jury. All of the normal pretrial things that have to happen made me question whether this would get to trial before the election anyway in the best of circumstances. So I am not going to join the, well, it's Fonny Willis's fault train if it doesn't go to trial. A lot of other things happen including really vicious attacks on her, in my opinion, based on the fact that she is a strong black woman trying to uphold the rule of law and protect democracy in the face of the former commander in chief. So I'm

going to not say that the fact that this case in particular didn't get to trial has anything to do with her.

Jill: I agree with you and I agree with what Barb said that this was the right case to bring. I think there's a chance that there will be a trial minus Donald Trump at some point if the awful happens, which it's not going to happen because all of you are going to make sure that Michigan is blue.

Barb: We love Big Branch up in here.

Jill: I am so glad that Thrive is an advertiser because I started using them before they did, and I love Thrive Cosmetics. It has a full line of show-stopping makeup to refresh your everyday look with clean skin loving ingredients. Their foolproof products are easy for any skill level to apply, and they always take your self-care routine to the next level. Not only are their cosmetics great, but their skincare is great and they have a wonderful under the foundation sunblock that really works.

Barb: Well, I'm definitely wearing Thrive Cosmetics to our live show. I can't wait to see the show just stop midstream when people see the kind of mascara I'm wearing. We love that cause is in the name of Thrive Cosmetics for a reason. Thrive not only defines luxury beauty, they give back to every purchase supports organizations that help communities thrive with causes like education, cancer research, and working to end homelessness. You'll feel great and look great with Thrive. So far, they've donated more than \$150 million of products and funds. It's incredible. I'm so glad we're part of it. What's your favorite product right now, Joyce?

Barb: So strangely, I've always hated mascara clumps. It gets underneath your eyes. But since I started using Thrive's liquid lash extensions mascara, I've been really happy with how my eyes look. The secret lies in its unique formula that creates tubes around each eyelash to lengthen them. Plus it's filled with nourishing ingredients that support longer, stronger, and healthier looking lashes over time. I never want to take it off, in fact, but when I do, it's super easy to remove. All it takes is some warm water to slide right off.

PART 2 OF 4 ENDS [00:54:04]

Joyce: ... easy to remove. All it takes is some warm water to slide right off with no smudges afterwards. You should try it for yourself.

Kim: Thrive has so much to offer, so refresh your everyday look with Thrive Causemetics. Luxury beauty that gives back. Right now you can get an exclusive 10% off your first order at [thrivecosmetics.com/sisters](https://thrivecosmetics.com/sisters). That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S .com/sisters, for 10% off your first order. Or you can look for the link in our show notes.

All right. Before we go to our last topic, because stuff happened other than Donald Trump this week, if it's hard to believe, I just want to give a little public note. One thing we love to do at the end of every live show is to take a selfie with



the audience. We do it. We can do it. The only thing I need y'all to do is when all of the questions are done being asked, just hold tight just for a minute for us to finish up. And then we're going to bring up the house lights and we're all going to stand in front of you and get a picture with you. We don't want you to leave. We want all your faces in the picture, so just remember to stick around.

All right. One more topic. I'm an old, so I don't tick and I don't tock, but there was a pretty important lawsuit that was filed this week. Barb, tell us about that.

Barb: Yeah. A non-Trump topic, about TikTok. If you don't know what that is, ask a person who's much younger than you are. It's not about a clock, it's about a social media platform. And I'm going to talk about that, Kim, in just a minute. And Joyce, you might want to close your eyes, because...

Jill: Oh my God.

Barb: My God. I got the Michigan bling chain. The National Champion, Michigan Wolverines. Let's hear it for the National Champions. Go blue. I know we've got some Wolverines in the crowd. Go blue. I'm sorry. We were talking about TikTok. You know who makes a really good TikTok video? Those Michigan Wolverines.

TikTok has become this fabulously successful social media platform, they specialize in these short videos. There are all kinds of popular memes that get done on TikTok. Young people love it, they can't get enough of it. But there is one challenge. And that is their parent company, known as ByteDance, is a Chinese company. And in China, companies have no power as they do in this country, to push back against their government. And so if a company in China is told by their government, "You must do X, you must do Y, you must give us your data," they do not have the ability to fight back, or even tell anybody about that.

And so, for that reason, because so many people are downloading the app, and uploading all kinds of data, location data, private data, there is a great concern that China, who is one of our national adversaries, could be gathering information about all of us, our young people and others. And so, for that reason, Congress has passed a statute that said that ByteDance must either sell to a non-Chinese company within one year, or it will be banned in the United States. They've got one year to stop this.

Kim: I don't think any young people are clapping.

Barb: Yeah, no. The young people are like, "Don't take my TikTok."

Joyce: Oh, y'all, forget about young people. My husband will be heartbroken.

Barb: Oh.

Joyce: Yeah, yeah.

Barb: And so, in response to this, ByteDance and TikTok have filed a lawsuit against the United States of America. I think they named Merrick Garland as the Attorney General, because he is the enforcing official. And so, that lawsuit is out there. And so, I wanted to talk about that a little bit. And I think these are really complicated issues. It's one of the things I've always loved about national security, working in that space and teaching in that space, is it constantly challenges you. Because not only do the threats around the world change, but the technology is constantly evolving, and makes you try to have to think about, "How does this fit into the normal way we think about legal issues?"

Joyce, let me start with you and ask you about, just what are the national security concerns about having TikTok and ByteDance having all of our private data? Or your husband's private data at the very least. Chicken pictures.

Joyce: If you use TikTok, you should go on my account. I've only posted a couple of things. There's a great video of my husband showing a TikTok video to one of our chickens. Which is like, it's insane. It's a real thing that happened one morning, and I happened to have my camera turned on.

Kim: Wait, if he was showing that picture to the chickens, does that make it BickBock? I'll see myself out.

Joyce: Oh my goodness. She'll be here all week, ladies and gentlemen. But my silly husband looking at the videos with chicken illustrates the security concern issue here because...

Barb: Because he was a judge.

Joyce: China is collecting that data on Judge Vance. They know what he's looking at, what he's interested in, but also to have an account he's giving up personal identifiers. And so there's this concern on the one hand that they could be collecting data that they might use to hack or to phish. Business espionage, something that the Chinese are very good at. When Barb and I were US attorneys, there were indictments of Chinese entities for that.

And so that's one bucket of concern. And then there's a related concern that maybe if you have data on someone and they go to visit China, they could be subject to recruitment efforts. We think about Russia doing that a lot with visiting Americans. Well, that's a risk with any hostile foreign country. And so that's one bucket of security issues. But there's also something that falls dead within Barb's area of expertise, which is disinformation.

And we all know after the last two elections how vulnerable Americans are to manipulation on social media platforms. And it's bad enough when it's Facebook or TikTok. But now imagine a Chinese directed company that's engaging in that sort of manipulation, using the algorithm and what it's pushing out to certain people. It's not very tough to see the risk there. The question is whether this law that Congress has passed, whether it'll ring those bells.

And as Barb says, this lawsuit is such an interesting vehicle. It's filed directly with the court of Appeals in DC because of some weird twists in the procedure here. And Merrick Garland is the defendant because there's no agency action going on. The question is how do you stop the law from going into effect? The TikTok lawyers have seized on suing the Attorney general to say, "Don't enforce it."

Barb: Yeah, it would've been interesting if they filed the lawsuit in the form of a TikTok video. That would've been very interesting. Kim, you're our first amendment expert here as a columnist for the Boston Globe, as a journalist. There are definitely some First Amendment implications here. Both for the company, TikTok being banned, but also for the creators who use TikTok to express their messages. What do you think about the First Amendment implications here?

Kim: Yeah, it's really interesting. Long, long, long, long time ago when I was a law student, I wrote my cert paper, which for the non-lawyers, that's like the big project you have to do in law school, like a dissertation, on the issue of the First amendment and how will it adapt to emerging technologies. At that time, we were still dialing up on... Remember that noise that would make when we would get on American online? That was the emerging technology that I was wrangling with, and there were no answers. The technology was just moving so much faster than the law could catch up with it.

The same principles about the First Amendment were being applied to the new technology the same way applied to newspapers and other things. Well, here we are in 2024, 26 years later after I graduated law school, and we are still wrangling with these exact same questions as these technologies emerge. Yeah, there are First Amendment issues brought up for the reasons that you said. And the standards are still very old. They are the Pentagon Papers case.

Barb: Wow.

Kim: In which the Supreme Court held when national security was against the issue of the First Amendment. The First Amendment won, the Supreme Court. I mean, think about how extraordinary that was said to the Pentagon, "No, no, you cannot prevent newspapers from publishing leaked documents that have an important public interest even though you have a very valid and important interest in national security."

There's another Supreme Court case that challenged a law that made it illegal to send propaganda through the US Mail. And the US Supreme Court said, "No, no, yeah. Propaganda, disinformation is a big national security concern. But you know what? Americans have a First Amendment right to read propaganda, to send it through the mail to other people." The First Amendment has really strong protection. I think that it could pose a very big problem for this lawsuit.

Barb: Yeah, I think it's going to be fascinating to watch it play out. I mean, of course the First Amendment is not absolute. There's this concept of strict scrutiny that says that limitations may be made as long as they're narrowly tailored to achieve

a compelling governmental purpose. But so far we haven't seen actual evidence of China taking data and all this. It's really just a risk that that could happen. I think it'll be interesting to see the way that plays out.

Jill, I want to ask you about a different issue, which is also I think fascinating in this contest, which is the idea that you can force someone to sell their company. The legality of a forced sale. We think about takings clauses. What's your view about that? Is that something that's lawful, even aside from the First Amendment?

Jill: Before I answer, I just have to say-

Barb: Do you have a bling chain too?

Jill: No, but I do have, we discussed before the show what we were going to wear to the red carpet for the Webby Awards, which is next Monday. And Barb said, "I'm not wearing a sequined long dress." Barb, it's a creative cocktail attire. You're dressed perfect. This is your Webby's outfit for sure.

Barb: Perfect. Perfect.

Jill: Definitely.

Joyce: I double dog dare you, Barb.

Jill: Yes. As the wife of a small business owner who has an antique shop that was threatened with taking because they wanted to build fancier buildings, I'm very cognizant of what it means to take without due process. And so this is... And the Chinese government, by the way, said that they will never let them sell the business because they have a foundational interest in their algorithms and they cannot sell it. That that would be a violation and China won't let them sell.

And you also would have the problem of if TikTok refuses to divest, which could happen, what is the US government going to do? How are they going to enforce that? And that would be bad, but I am concerned about a taking without compensation. Obviously there would be compensation here, but what if they don't find a buyer who is willing to buy at a price that they're willing to sell?

I think although the First Amendment can be overcome by national security interests, the Supreme Court has, as Kim pointed out, had several decisions that say, "No, the First Amendment," and the right of people to get propaganda, which is the part of TikTok that worries me the most, is not so much that... I mean, we're all getting hacked all the time from any social media, but I am worried about the propaganda and people believe what they hear on TikTok.

Most young people get their news or what they think is news from TikTok. And it's not news. And a lot of it is propaganda from the Chinese government just like we had in the last election with Russia interfering. That worries me a lot. And I think that what they have done in passing this law, Trump tried this in '20. And

the courts said, "No, what you did is totally..." He used an emergency international business law and it doesn't fit into that. And so it was knocked down.

There's a better chance of this law surviving, but I'm not sure that it will. I think there are some real constitutional issues. I just was in Cuba where I was barred by the government. I could not access on my computer Zoom or Skype, let alone Amazon. I mean, it was ridiculous. And I don't want to live in a country where I am not free to get the information I want to get. And so I would be worried about the barring of getting information.

Mother's Day is coming up very quickly, and OSEA's skin and body care is the perfect way to honor all of the moms, mother figures, caregivers, grandmothers, stepmothers, godmothers, that's me. I'm a godmother, and Mothers-in-law in your life, and remind them to make time for themselves. This Mother's Day spoil the moms in your life with little luxuries from OSEA. Their clinically proven seaweed-infused skin care products have made my self-care routine the most relaxing and enjoyable part of my day. Right now, you can get 10% off your first order with our code Sisters at oseamalibu.com.

Joyce: I should be embarrassed to say this, but I'm not. I'm going to own it. I did not wait for Mother's Day. I have replenished all of my original batch of OSEA because I like it that much. And I especially love that OSEA has been making clinically proven seaweed-infused products that are safe for your skin and the planet for over 28 years. Everything is clean, vegan, cruelty-free, and climate-neutral certified. With OSEA, you never have to choose between your values and your best skin.

Kim: We all really love the indulgent, buttery rich texture of their Undaria Algae Body Butter. Its creamy goodness is next level, and it also smells so, so good. When it arrives, you're not going to be able to wait to put it on. Not only does it visibly reduce crepey skin, but it's also clinically proven to hydrate for up to 72 hours. It's perfect for transforming dry skin so that it's soft, smooth, and supple. I especially love using it when I'm traveling and my skin always looks and feels the softest it ever has. You'll feel like you have escaped to the tropics as soon as you put it on.

Barb: Well, it is rather ironic that we're talking about OSEA Malibu as gifts for Mother's Day, when every time I get new OSEA Malibu products, my daughter steals them from me. But between the Mega Moisture Duo, the Anti-Aging Balm and Undaria Algae Body Oil, there's so much more they have to offer. Pick your favorites and spoil the moms in your life with clean, vegan skin and body care from OSEA. Get 10% off your first order site-wide with code Sisters at oseamalibu.com. You'll get free samples with every order and free shipping on orders over \$60. Head to O-S-E-A Malibu.com and use code Sisters for 10% off. Give the gift of glow with a link in our show notes.

Kim: All right. Well, we are at the part of our show which really is our favorite, when we get to answer your questions. Usually we only get three in an episode for time, but we're going to answer as many as we can tonight. There are two

microphones right there. If you queue up. Now, I will respectfully ask that you ask a question, not give a comment. Think about your neighbors who also have questions too and keep it brief because we want to be able to answer as many of your questions as we can. We really do love it, so we hope so. I'm going to go back and forth one at a time. Starting over here. Let us know your name and what's your question.

Susie Groeningb...: Hi. My name is Susie Groeningboom and all of this scares me. I'm afraid all the time. I'd like to twist this and ask you if you had five or 10 minutes to be with President Joe Biden, what advice would you give him for his running for presidency?

Joyce: I think Joe Biden already has the advice that I would give him. And the advice is the thing that matters the most is voting. And his job as president is to express that to Americans, to make sure people have the facts and that they turn out at the polls.

Kim: I second that, but can I add something else? Let the world see what a competent, amazing and badass human being vice President Kamala Harris is. And we can put an end to all of this hand-wrenching every time the President coughs.

Jill: I agree with both of those, but I would add to Joyce's to make sure that the government is prepared to enforce voting rights because that will make a big difference.

Barb: Let me answer the question.

Carolyn: All right. Hi, my name is Carolyn. I just want to thank every one of you for the wonderful things that you've done. You are on the top of my list as a queen. And in honor of Jill, I have pens for each one of you.

Jill: Thank you.

Kim: Thank you. Thank you for that. No question. All right. There you go. Thank you so much for that. That's very kind.

Jill: I have to say, I'm wearing one of my mother's pens. It has her initials from before she married my father because Mother's Day is coming up so I thought that was right.

Kim: It is. I should have said that in the beginning. A shout-out to all the moms in the audience. We love and appreciate you.

Jill: Thank you, Carolyn. I needed just a little more bling. Thank you.

Kim: A shout-out to all the moms, especially mine. I love you, mom. Okay.

Monique Baker M...: Good evening. I'm Wayne County Commissioner, Monique Baker McCormick. I wanted to welcome you to back home, both Kim and Barb. And to Jill and Joyce.

I love Joyce's accent, by the way. I just love you. I'm a super fan too, by the way. And I just, I was wondering how did you all come together? This is a dynamic group of powerful Black... Not just Black women. I won't say Black women.

Kim: One quarter Black.

Monique Baker M...: But I got one. One. Yes. But women in general, and I just love your energy. And I'm just, how did you come together? That's what I want to know.

Kim: We are all MSNBC contributors. We often... I'm a political commentator, they're all legal commentators. But as a lawyer, I was often called to talk about the legal stuff that we're talking about. And it was actually viewers who really appreciated the commentary, not just from us but from other women like Maya Wiley and developed that hashtag, just started calling us #sisters-in-law. And it caught on and we thought, "Oh, if we do a podcast, maybe that would be fun." And we can take the conversation that we have in the green room amongst each other. Because when we see each other in the green room, it's like, "I really liked what you said about this. And that's really interesting and I haven't thought about that way." And if we can bring that conversation to the viewers and our listeners and we had no idea if anybody would care or listen and look at it now. We are very, very grateful to all of you.

Jill: And can I just add? Joyce and Barb are often mistaken for each other. Today I was mistaken for Kim.

Kim: Even today. I don't know how you are mistaken for me, Jill. I mean...

Jill: Front desk said, "Ms. Atkins."

Joyce: Jill is obviously a lot older than you are.

Kim: That's the only difference. All right.

Denise Allard: Hey. Hi, my name is Denise Allard and I'm from Royal Oak, Michigan. Right here. The Supreme Court is going to rule on Donald Trump's request for absolute immunity. And I'm not sure if he realizes that if he gets absolute immunity, that means Joe Biden also has absolute immunity. And I'm just like, "What the heck?" He could have him arrested and put away somewhere, maybe Guantanamo or something. I don't know. But I mean, I just don't understand why he's asking for absolute immunity because it could just be to his detriment. And also I want to know how many pens Jill holds.

Jill: Well, I'll answer your first question first, which is the difference is Joe Biden isn't going to abuse his power. Joe Biden isn't going to commit crimes in office that he needs immunity for. And also, there is no way that the Supreme Court is going to grant him total immunity. That's not going to happen. It may get remanded. It's not. Even the Supreme Court who I do not trust at all. Does anybody disagree that there will not be? No, there will not be absolute immunity.

Joyce: Hey, I'm with you, Jill.

Jill: Anyway, in terms of pens, I have hundreds and hundreds because how else would I find the right one? I lost one yesterday. I was wearing a stormy pen, a gray cloud with a yellow boat through it. And when I got to the restaurant after the TV thing, it was gone. So I went online and I've ordered three more. Different ones.

Kim: I was going to say...

Jill: I couldn't find the same one.

Kim: You might get one as a gift after telling that story. Just one thing I would like to add on is that to the point about Joe Biden having immunity too, if the Supreme Court rules in that way, a part of me wished that Elizabeth Prelogar, the Solicitor General, got up and the entirety of her argument was, "I wish you would."

Paul: Hi, my name is Paul. I'm Southgate, Michigan. I really appreciate what you ladies are doing. My granddaughter told me that girls are smarter than boys, but I made fourth. My question is, wouldn't any of you ladies sign the book? I would really appreciate it.

Kim: After the show. We definitely will make sure that we sign the book. Hold on to it for now, and someone will find you after the show and we will get it. We will be happy to. Thank you so much for coming. Thank you. Thank you.

Julie: Hi. My name is Julie. And thank you very much for your expertise. I really appreciate. I've always wanted to be a lawyer so I live vicariously through you all. Back to the Supreme Court. I am so dismayed by the Supreme Court and I don't know what to do. I want to ask you, I'd love to write a letter to the Chief Justice. Would it make a difference? What can I do that makes a difference?

Kim: It's an unsatisfying answer, but vote. Listen, every election, not just the presidential one, every federal election, every member of Congress, which they're up for every two years, every one of your congressmen and women are up in November. Senators every six years. They have tremendous control over the rules that the Supreme Court have to abide by. If you vote and make it clear to those campaigns, those offices that you want somebody who will hold the Supreme Court accountable, who will put in place really enforceable rules for ethics and transparency, that's where your power is. That's how the system was designed.

The check on the Supreme Court are the fact that Supreme Court justices are confirmed by the Senate, that Congress makes the rules that govern the Supreme Court. That's the check. You're the check. Think about it that way when you're voting in every single election. And also, think about the stakes about what the Supreme Court does. I'm so proud that the state of Michigan-

PART 3 OF 4 ENDS [01:21:04]



Kim: ... the stakes about what the Supreme Court does. I'm so proud that the State of Michigan, after the Dobbs opinion, protected abortion rights access. They, after the horrible voting rights opinion, shored up and created a system to put fair maps in place so that they wouldn't be gerrymandered. You all did that. You all did that with your votes. So don't say that it's not possible. Your votes really, really matter.

crowd: Voters are not politicians.

Kim: Voters not politicians, you bet.

Lucinda: My name is Lucinda. I'm from Coldwater, and the commissioner took my question. So I'll just say, it is a celebration. And from someone growing up in the '40s and the '50s, this is an unimaginable celebration, so thank you.

Kim: Thank you so much.

Lucinda: Thank you.

Kim: Thank you so much for coming. That means the world to us.

Lucinda: Thank you very much.

PG: Good evening to sisters-in-law. My name is PG. I live in Northville and I'm here with my handsome husband over there, the silver fox. I just wanted to say that we go to sleep with our TV on. So whenever AG McQuade, Ms. Winebanks, AG Vance come on and now he's getting familiar with you, he wakes up and he says, "Is that our girl?"

Kim: Thank you.

PG: I love you, baby. My question to you is, and it's a two-part question. Why wasn't Trump charged with insurrection? And if you look at any other crime that's created in the normal jurisdiction, like you go with your friend, he robs a bank, you're driving the car, you didn't know that he was going to rob the bank, but you become an accessory. Why is he not an accessory to the insurrection?

Barb: Great questions. I'd be happy to jump on that one. So that's a really great question, PG. I think you could charge him under the Insurrection Act. If you look at the crime, it's about inciting insurrection. However, I think it is likely that he would assert a First Amendment defense, which has been held by the Supreme Court to be at an exceptionally high standard. The standard in a case called *Brandenburg V. Ohio* is that the speaker intended to incite imminent lawless action and that the statement was likely to create such imminent lawless action.

Now, mind you, it kind of seems like he did. But I think what Jack Smith is trying to do is use charges that are slam dunk winners that will not bog down in litigation. Though maybe he should have seen that immunity defense coming. And so the charges he chose instead were conspiracy to defraud the United

States, obstruction of an official proceeding, conspiracy to obstruct an official proceeding and interfering with voting rights. I think that when you're choosing a charge as a prosecutor, you can charge lots of things, but you try to choose the ones that you think will be the most foolproof, easiest to prove and with the fewest obstacles.

But you also raise another good point, which is when you're charging these 1,200 or however many people have been charged with their violence at the Capitol, why isn't he who encouraged them also charged, as you said, as an accomplice, as an aider and abetter and an accessory? Again, I think in theory perhaps that could have been done. But looking for the cleanest charge, I think Jack Smith chose the ones that he did. So there's a phrase that prosecutors use, I'm sure Joyce has used this from time to time. "Just because you can charge something doesn't mean you should." What you want to do is find the case that will be the cleanest route to success and I think that's what Jack Smith chose to do here.

PG: Okay. And the second-

Joyce: Can I just add one thing onto that? Because I think Barb is dead on the money. This isn't a can you problem? This is a should you problem. And to charge insurrection, you've got to be able to prove that a defendant intended to use force. And I think that could have made this very messy, not just at trial, but on appeal and Jack Smith played it smart.

PG: And is this setting a new precedent for criminals to say, "The President got away with it. Why can't I?"

Joyce: I'm sure they will.

Kim: But the insurrectionists didn't get away with it. Right? They got convicted. And I hope there's not another President like this.

Joyce: But there's also a case-

PG: My husband and I had gotten gifts for all of you. They said that we could not bring them in so I'm a little toasty about that.

Barb: I'm so sorry.

PG: Thank you. Thank you for-

Kim: Thank you for coming. Thank you for the gifts. We appreciate the thought.

Joyce: It's the thought that counts. Thank you.

Kim: We appreciate the thought.

Barb: Was it a new car? Is that why you couldn't [inaudible 01:25:48].

Stuart Downey: Hi, Stuart Downey from Ann Arbor.

Barb: Hi Stuart.

Stuart Downey: Hi Barb.

Kim: One thing you all didn't know is Barb knows everybody from Ann Arbor.

Stuart Downey: We live a block apart and our kids went to school together. My question is, given that defendants claim selective prosecution, my question is how does the DOJ and federal prosecutors decide what cases to take? There's only so much time. How do they prioritize? And part two is for the prosecutors themselves. Besides pay, what things incentivize the prosecutor, things like reputation, etc.

Barb: Well, Stuart, I'll take a first stab at that and others may want to supplement. So selective prosecution as a defense requires proof that you charged me, but you declined to charge other people who have been similarly situated and that you have targeted me for an arbitrary reason. Maybe it's race, ethnicity, or politics. And so Donald Trump has claimed that he has been charged in the January 6th case and in the Mar-a-Lago case selectively, and that other people similarly situated were not charged. There is no one similarly situated for him to point to. So those will fail.

But to your larger question about prosecutorial discretion, it's a very good question. And as you said, prosecutors do not have the resources to charge every single case, and so they must prioritize. In the office when I was US attorney, we set what those priorities would be. We were looking at national security, public corruption, civil rights, fraud. Those were the big cases. And violent crime. Those were the cases we wanted to go after. And so sometimes a case would come in the door and we would say it's a righteous case, but we have to decline it just because we can't take on every case.

But we are looking for things like... There is a whole policy manual called the Justice Manual that has the principles of federal prosecution, and it lists all of the factors a prosecutor ought to consider in deciding whether to charge a case. I won't bore you with all of them, but it's things like the deterrent value, the value to public safety, the need to incapacitate somebody who is a threat to others in a community. So the need to promote respect for the law. So there are a number of things that prosecutors will look at there. And then finally, what is it that incentivizes prosecutors? It is the opportunity to serve your community and make an impact. And so prosecutors don't get any more pay by doing big cases. They don't get big bonuses at the end of the year. They work nights and weekends and holidays for no additional pay, but it's because the work is amazing and the ability to prosecute people who are harming others is a pride that you can't describe. To be able to go into court and say, Barbara McQuaid on behalf of the United States, still gives me chills.

Lucy: My name is Lucy and I grew up in Detroit, but I live in the Burbs now. And I just have a quick question here. Regarding packing the Supreme Court as a remedy

for the imbalance of power, what is your opinion of and the pluses and minuses of it?

Kim: I'll start briefly. I don't think packing in itself is a solution because it would just mean then it would just continue to get bigger and bigger, whoever was in power. And that just reinforces the problem of the politicization of the court.

Barb: I'd say today in a 55 to 44 decision, the Supreme Court...

Kim: But I do like the solution of phased in term limits. That would allow every president to get two nominations and something like an eighteen-year term. So the problem with that is one, Congress would have to vote in favor of it, and whoever's in power is not going to want to do that. And two, the only way you can do it fairly and constitutionally, you can't tell the people who now have lifetime tenure that, oh, sorry, we're going to cut you off at 18. So it would have to be phased in in a way that it would take a generation to make a difference. And so I think in that sense, changing the number of Supreme Court justices, even changing the term is a good idea. It's a good policy, but it's not really realistic that it'll be implemented and it's not a quick solution. It's something for the long term.

Jill: I would say there's a second part of that. I agree that that's a very good solution, but the country has grown, the number of circuits has grown, and nine was the number of circuits a long time ago. And so I think that you could legitimately say there should be a Supreme Court justice over each circuit. And so we could add some right now.

Kim: Yeah, but Congress would have to do that, which is the problem. Everything is so politicized, I don't think that Congress will do it if they don't think it'll advance their side, unfortunately.

Holly: Thank you. So my name is Holly and that was my question.

Kim: Think fast, Holly.

Holly: All I have to say is I'm from Ann Arbor, so hi Barb.

Barb: Hi Holly.

Kim: Thank you.

Deborah: Hi, my name is Deborah and I'm a proud graduate of Michigan State University.

Kim: Jill in her suit is our representative from Michigan State today.

Jill: I'm wearing your color.

Deborah: Thank you Jill for wearing the green. I'm thinking about all the terrible things that Donald Trump has done. To me, one of those horrible things was January 6th

because we can never say again that we've had a peaceful transfer of power throughout the history of our country. And so I would love for all four of you to tell us, how did you feel on January 6th when you were watching what was happening at the Capitol?

Kim: I live in Washington DC and I still have yet to set foot in the capitol. I used to work there, I used to be in there every day reporting and talking to lawmakers, and I loved that job. And I felt so... I still feel blessed to have the job that I have in our nation's capital, but it literally was traumatizing to me to the point that I can't even look at that beautiful dome where the city is laid out. I know if many of you have been to Washington DC downtown, like so many different roads. It was designed so beautifully by LaFawn who also designed Detroit so beautifully to just show that as a symbol for our democracy. So it's been terribly traumatic.

Joyce: I teach a seminar at the law school at Alabama on democratic institutions, and it's a really fun class, and I don't teach it the same way two years in a row. I update it every year. And so on January 6th following the election, waiting for the electoral college certification, I'm updating my syllabus for the semester that's about to start in a few weeks. And like all of us, I mean I'm watching in real time what looks to me like it's an insurrection or an attempted coup. And I just remember reaching this point of frustration very late in the day and just ripping up my syllabus and realizing that I could no longer teach the same class that I had always taught, that I had to completely revamp it to talk about the institutions. And it was like such a moment of profound sadness and I've always carried that sadness with me ever since. I really resent that quite frankly as an American.

Jill: I felt the same way I did on September 11th, that I really couldn't believe what I was watching. I was glued to it, but I was in total disbelief and shock. I still am not over that feeling, and I'm worried because there is another Supreme Court case that is raising the issue of whether the obstruction laws can be used against the people who invaded our capitol, defiled it. And that worries me a great deal that a legal technicality could get in the way. So I don't think any of us will ever get over it. If you were alive on 9/11, you still remember where you were, you remember where you were on January 6th, and we will never forget it and that's why we have to continue doing what we're all doing, which is participating in democracy and making sure that we get people of value and moral character elected.

Barb: I too remember where I was. I was working in a little study we have in our house and my husband came in and said, "Do you have any idea what's going on right now?" And I said, "No. What do you mean?" He said, "Come in the other room, I've got the TV on." And I saw what was happening and I was absolutely disgusted seeing those people going into the Senate chamber, the what do they call them? The QAnon shaman and putting their feet up. I mean, absolutely disgusted, so saddened and sick to my stomach. It was just so awful. And it actually inspired me to write the book that I wrote, Attack From Within, which is what that is about, using disinformation to motivate people to attack our own country.

And from a national security perspective, some of the things that happened in Russia, there was a Russian official that said, "The United States is no longer the model for democracy around the world. American democracy is limping on both feet." In China they said, "This is an example of why democracy doesn't work. It's better to have a strong leader in government who can deliver you prosperity because no one can agree when it's a democracy." And so that didn't just diminish our country. It diminished democracy around the world. And since World War II, it has been the foreign policy of the United States to lift up democracies around the world because when other countries are democracies, we have fewer wars, fewer refugee crises, and better trade partners. And guess what's happened since then? All of those things have backslid around the world, and so it was a profoundly terrible moment for the United States and the world.

Deborah: Thank you.

Kim: Thanks for that question.

Jill: There was a moment of my feeling better when the Congress got back together and did its job. I felt some pride and satisfaction. And when Republicans were saying, this is awful, this is terrible, and Donald Trump is responsible. That didn't last long, unfortunately.

Barb: Ordinary tourist activity.

Mike: Hi, my name's Mike from Farmington Hills. Proud-

Barb: Go blue, Mike. I like it.

Mike: My wife and I saw you speak in Ann Arbor. You graciously signed your book, so thank you for that. My question is, the Republicans seem to have made it their life's work to deny women reproductive freedom, and in the last Supreme Court hearing on that, there was talk about the Comstock Act, and I thought you might elaborate on that a little bit and what a danger that is.

Kim: Thank you, Mike. Go ahead.

Joyce: Yeah, so the Comstock Act is really old and has fallen out of use because it does such important work as preventing the mailing of any information that might tell American women about birth control or family planning or other spurious sorts of activities that women might engage in behind the backs of their menfolk. The Comstock Act specifically prohibits mailing information or tools used to perform abortion. And I don't know if any of you all are doctors, but some friends of mine who are OBGYNs have suggested that that might, for instance, if it were enforced again, prohibit mailing common medical devices used for purposes well beyond abortion.

So look, there are good reasons that this law is not used. It is clear that your assessment of the Republican agenda is correct and that we should be very afraid that the Comstock Act could come back into vogue. Nobody thought seriously

five, six years ago that Roe versus Wade was in danger. We have now learned that we were grossly negligent in our assessment of how far they were willing to go. And I think frankly, the vitality of the Comstock Act along with risk to access to birth control and lots of other things that we take for granted, it's all on the table if Trump wins again.

Kim: Okay, we are running out of time and I still see people standing, and so I'm going to ask you all to do a lightning round because we still need to... We want to get to that selfie you all, we mean it. So as quickly as possible, question.

Bethany: Welcome to Michigan. I'm from Troy. My name's Bethany. I went to Wayne State, but I went after my kids started high school, so I graduated at 40 something.

Kim: Wonderful.

Bethany: Went in the Peace Corps to Kazakhstan and came back. But anyway, I wanted to lighten it up by asking Joyce. I know one of your chickens is named RBG. When I was young and in 4H, I wasn't thinking about politics, so I named my two [inaudible 01:39:57] Frankie Avalon and Fabian Forte.

Kim: Okay. Just because we're running out of time, do your question.

Bethany: Okay, so could you name a couple of the other chickens for us?

Jill: Well, Dolly, Pickles is a family favorite chicken, and then we have Pepper and Pumpkin. Our other names aren't very political.

Bethany: Thank you.

Speaker 1: Hi, real fast. This might seem like a stupid question, but it's tortured me. How is it possible with all of the counts against him that Donald Trump is even able to run for president again? I mean, this is a sincere question. Wayne State, by the way. My son went to M. Law, so woohoo.

Kim: So in a nutshell, there is no constitutional prohibition that is triggerable. Yes, I am aware of the 14th Amendment's Disqualification Clause that prevents him from running. The qualifications to be elected president are you have to be 35 years old, you have to be a national born citizen, and you have to get the electoral vote count to go in. Now there is this unanswered question about the 14th Amendment's Disqualification Clause, but we've never been in this situation before. The Supreme Court would have to basically set the rules for how that works. And so we don't have rules and I personally don't want this Supreme Court to set those rules. So that is why we are in this position where he can run in a nutshell.

Speaker 1: Thank you.

Hannah: Hi, my name is Hannah. I'm from Royal Oak. I am a rising [inaudible 01:41:34] in the fall and I'm sorry this is a little off-topic, but I was wondering any advice that you had for people who are graduating and going into the legal field in this very tumultuous time?

Joyce: Be brave, be bold, do something that will be important and make a contribution. That's the best tradition of lawyering.

Kim: 100%. And no, it doesn't have to be practicing law. I feel like I've had a much bigger impact and my law degree has been put to better use after I left than when I was actually practicing. So the world of possibilities is open to you.

Jill: Good luck.

Barb: Good luck.

Kim: Good luck.

Hannah: Thank you. Thank you.

Audrey: Hi, I'm Audrey and I'm one of your friendly neighborhood abortion doctors. I was wondering if you could speak to kind of predicting what you think could happen in the terms of reproductive rights and reproductive justice with the two possible outcomes we're looking at in November.

Joyce: Trump bad, Biden better.

Kim: That's it in a nutshell. Right.

Joyce: Yeah.

Kim: Oh, I know you.

Trey Atkins: My name is Trey Atkins. I'm actually-

Kim: This is my nephew.

Trey Atkins: I'm from Watt Lake, Michigan.

Kim: Step a little closer.

Trey Atkins: I'm from Watt Lake, Michigan. I was curious, I noticed since Joe Biden has become president that the mainstream media outlets, even social media influencers like political commentators, both sides, both parties... How dangerous do you think that is? Because as flawed as the Democratic Party is, they're not fascists who want to overturn the government and do all these terrible things and the Republican Party is exactly that. So what do you think about that?



Kim: Yeah, I think that's a wonderful question, Trey. I think that the both-sides-ism is a tremendous problem. I think it speaks to, as a journalist on the stage, this old muscle memory about the way we used to cover campaigns, and you give this equal side and you call for the reaction of the other folks, and you can't talk about one without talking about the same thing about the other. That is not the world that we live in. I have refused to write or comment or anything on any platform that makes it seem that this is a normal election, that this is both sides are the same, that there is just a left and a right and we can all yuck it up and call the whole thing off, because one side is a clear threat to our democracy and the other side is not.

I think that the horse race reporting and every week there's a new national poll which measures nothing... The president is elected by electoral votes. The national vote isn't even measuring anything, it's just in fueling... Media companies just can't quit it. It's something that they can put up and get hits on, and it's so dangerous and it's not informative to the public. I want to inform my readers, my viewers, my listeners, and I take it upon myself to do that work and I wish more journalists did. Thank you.

Jill: Can I just add that I think facts matter, and that's where the problem comes on this two sides. There is no such thing. I used to argue to juries that no matter how thin the pancake, it always has two sides. I would never say that again because I don't believe it. There's one side that's facts and then there's the Kellyanne Conway alternate facts. There is no such thing.

Kim: All right, this is our final question, but I just want to remind you, stay put because we're going to get that selfie right after this. Go ahead.

Kim: All right. I'm going to close this out with a little bit of a nerdy question. I'm Kim the Wolverine from Plymouth, and my question is this. Can you explain to me how ByteDance, a Chinese corporation, the owner of TikTok, has a First Amendment right, that they can argue that we're protected? They're a Chinese company.

Barb: Yeah. To be able to get the protection of the constitutional rights in this country, you really only need very limited contacts. So if a foreign national comes to the United States and commits a crime, they have a right to counsel and a right to all of the same constitutional rights anyone else would have. And so because they have a presence in the United States, they still have those same constitutional rights as do the people who are users and content creators with TikTok accounts.

Kim: I get the part about the individual, but can you speak to the corporation's First Amendment rights?

Barb: Citizens united.

Kim: That's what I thought.

Kim: Well, on that cheery note, thank you all for joining us for this week's episode of Hashtag Sisters-in-Law with Barb McWade, Jill Wynne Banks, Joyce Vance, and me, Kimberly Atkins-Thor. And stand up and get ready for this selfie. I don't know what Jill was talking about. Chicago dogs being better than Detroit Coney's? I mean, who puts seeds on buns? You need the Frank on the bun and Detroit Coney sauce, fresh onions, and one line of mustard. That is hot dog perfection. Detroit wins.

PART 4 OF 4 ENDS [01:47:45]