

Jill: I'm excited to announce a new show, Just the Facts, with me, the Watergate Girl, Jill Wine-Banks. It's an interview show with some exciting guests. So far, I've had Sue Craig, Dean Obeidallah, and Michele Goodwin talking about some very interesting issues. Please watch on Politicon's YouTube channel every week.

Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. Barb will be back next week, and of course we miss her this week. Don't forget to check out the new T-shirt at our merch store. It's the perfect vibe for any season and we love seeing you wear them out and about. Just go to politicon.com/merch.

Now, we're going to have a really exciting show. We're going to be talking about new developments in Trump world and Georgia, Georgia on My Mind, maybe Kim will sing for us, and election disinformation. But before we get to those great subjects, I want to ask what each of you would use if you had 39 minutes just to sort of stand and sway to the music like someone else did instead of answering questions. So Kim, what would be on your playlist?

Kim: Yeah, well, I should start by saying I would never do it when it was my job as a candidate to answer questions from voters, even in a room full of, it seemed like, friendly voters. It looked like that room was packed a little bit, meaning it was stacked a little bit, I should say. I wouldn't do it then, because then I would look like I was unwell. But if I was at home after a long day. You know what's never miss for me is Sade. Sade is the GOAT when it comes to calming and relaxing music.

Jill: And Joyce, what would you have at the top of your list?

Joyce: I love listening to music. I have it on all the time when I'm working. And I sort of got caught this morning. I was doing for my other podcast, I was interviewing Marc Elias, the voting rights lawyer, and I had been sort of jazzed getting ready to do it, listening to my Taylor Swift playlist, which I forgot to turn off when I logged in to do the podcast. So everybody, our whole team and Marc, they started laughing because I had some sort of... some of the more bubblegummy Taylor Swift on my playlist.

Kim: Haters going to hate, Joyce.

Joyce: But it makes me happy.

Kim: Haters going to hate.

Joyce: It makes me happy. You're right, Kim. The haters are always going to hate. I'm a Swifty, loud and proud.

Jill: I might play either Hallelujah or Freedom right now, but actually the thing I would really, really play, and I hate to say it because Donald played it, is YMCA, and that's because when I worked in Japan where it's really popular to do karaoke, the only song that I could ever do was YMCA. Because if you just stand there and make the moves, you don't have to really have a voice. Everyone will sing with you. So it avoided the embarrassment of my voice.

Kim: So, wait, Jill.

Jill: So that would have to be top of my list.

Kim: Did we know you worked in Japan?

Jill: Sure you did.

Kim: Okay.

Jill: Well, maybe not. When I was... I don't know. Sorry. That just slipped out. What can I say?

Joyce: It's funny.

Kim: There's no job that Jill Wine-Banks hasn't had.

Jill: Yeah, Singapore too is big on karaoke. But really, my voice is so awful that I am embarrassed to sing. But you don't have to. You just lead them with the YMCA. And if you noticed, even Kristi Noem tried to get Donald to do the moves, and he just stood there looking blank. It was really embarrassing.

Hey guys, I am so excited. I'm trying new pots made by HexClad, and they are wonderful. First of all, they look beautiful. They really look nice leaving them on the stove, but they cook so wonderfully. It's just a delight. And they are supporting today's show, so I'm very excited about that.

HexClad revolutionizes your cooking experience. It is wonderful cookware, where innovation meets culinary excellence. HexClad cookware is designed to simplify your time in the kitchen and add elegance to every meal. HexClad has changed the cookware industry with an all-in-one hybrid pan that gives you the convenience and cleanup of nonstick. It has the versatility of cast iron and unmatched durability that lasts a lifetime. Really. HexClad cookware has a lifetime warranty, so whether you're elevating your cooking routine or hosting a decadent dinner party, do it with HexClad's unbeatable performance and style.

Kim: Yeah, Jill, I totally agree. As soon as we got some HexClad pots and pans, my husband Greg seasoned them immediately. It was super fast. And he has been cooking with them this week and he loves how quickly they heat up, how they really do have really nice nonstick power. Is it bad that I love that they're pretty? They look really nice. I took them out and put them on the stove and said, "Look how nice they look." That's important too, right? Anyway.

Jill: It is.

Kim: Well, Gordon Ramsay, who's pickier than that, he says he only trusts HexClad pots and pans in his home and Michelin star restaurants. If it's good enough for Gordon, you'll be satisfied too. There'll be no nightmare in your kitchen. For a limited time, HexClad is

10% off with our exclusive link. Just go to HexClad.com/sisters. Please support our show and check them out at H-E-X-C-L-A-D dot com slash sisters.

Joyce: Well, just listening to y'all talk about your new pots and pans is making me sad. I will not be checking out HexClad because I had them pulled out on my kitchen counter a couple nights ago when my oldest child, who's in the process of moving into his first, he's just become a homeowner, making that move, he looked at them and he was like, "Mom, these are great, but you've already got pots and pans. Can I have these?" And in a total moment of weakness, I did let him take them, so I'm going to have to wait for his report. But he seemed pretty happy about it. He is a good cook and seemed pretty psyched.

HexClad's versatile six-piece set is the perfect starter bundle for exceptional performance on any stove top, even my oldest kids. It handles all of your pan cooking, from searing steaks to delicate sauces, with three of their most popular pans and lids. HexClad's hybrid technology gives you the benefits of cast iron, stainless steel, and nonstick in each pan with patented laser-etched hexagonal steel ridges to boost your searing power. So declutter and revolutionize your kitchen. You'll replace sticking, burning, and uneven cooking with perfection and start unleashing your true creativity and skill. Plus HexClad is induction ready, dishwasher, metal utensil, and oven safe up to 500 degrees, with a stay cool handle for easy use.

Kim: Yeah, I really love that. I like cast iron, but it's like, "Oh, I can't wash it."

Jill: But cast iron is so heavy and this isn't.

Kim: And this, it's light and you could throw it in the dishwasher. It's really great. Thanks to a lifetime warranty, it's literally the last set of pots and pans you'll have to buy. HexClad's elegant design and durable construction make it the perfect choice for your entertaining needs all year long. Impress your guests with beautifully prepared dishes that look as good as they taste. And for limited time, only our listeners can get 10% off your order with the exclusive link in our show notes. Just head to hexclad.com/sisters. Support our show and check them out at H-E-X-C-L-A-D dot com slash sisters. Bon appétit. Let's eat with HexClad's revolutionary cookware. Elevate your cooking game to new heights with HexClad. The link is in our show notes.

Jill: Aside from Trump's 39 minutes dancing and his time off from 60 Minutes and CNBC, it's been a busy week for him, at least in terms of the D.C. federal election interference case pending before Judge Chutkan. She issued two orders, one on October 16th in connection with his request for more discovery and from a broader group of government agencies, and one the next day denying Trump's requested delay of releasing evidence filed by Smith to satisfy his burden to overcome SCOTUS's immunity decision. In addition, judge Chutkan got a response from Smith to Trump's supplemental to his dismissal motion. Let's talk about these in terms of what they mean for the case between now and the election.

Joyce, what did Trump want in terms of discovery, and what did he get and what didn't he get and why?

Joyce: Trump wanted more discovery than he had been given by federal prosecutors, and he also wanted to expand the number of federal agencies and offices that were included in the ambit of the prosecution team. In other words, the number of places the government had to search. But it was largely just a big fishing expedition not focused on the allegations in the case. Trump, like all defendants, is entitled to Rule 16 discovery, that's the federal rules of criminal procedure, and they set out fairly extensive requirements for the government to turn over evidence it will use in its case-in-chief, including expert testimony and any statements it has from the defendant. And beyond that, the government is required by case law that's developed over the years to turn over evidence a defendant could use to make out a defense or evidence that suggests that they aren't guilty, derogatory information about witnesses. And also prior to trial, not quite this early, but in advance of trial, prior statements that were made by any witnesses, including their grand jury.

So there's this huge universe of evidence that the government turns over to criminal defendants routinely in every case. But of course, Trump being Trump, he wanted to go on some grand fishing expedition for information that just wasn't relevant.

Jill: Kim, do you think that this discovery will be crucial in the short term, that is, before the election, or in an eventual trial, assuming Trump does not become 47?

Kim: I don't know really for either. I think that was the hope that Donald Trump could get this and get it as quickly as possible so he could flood the zone, to use one of his cronies' terms, and just sort of casting doubt and disparaging this entire investigation. And certainly, he'd want to try to do that if he thought in any way that it would help him stay out of jail if he is not elected. But I'm not sure that it really would. I mean, we've been talking in the past about how strong the case is, how careful Jack Smith has been, and I feel like this was just what Joyce said. It was a Hail Mary that had no catcher on the other side. It was just an effort to delay and or distort, and it failed.

Jill: Yeah. I can't actually see any possibility that his requests would've ever helped, because they seem so likely to be denied. They were so far out of the norm. And I think Judge Chutkan did a very careful analysis of the materiality of the request to discovery and of the likelihood that it would help Trump's defense. She also had to decide who Smith had to get documents from, and that was sort of an interesting analysis because it has to be something under the control of the prosecution. So Joyce, can you talk about the ones that she said that he, Smith, was going to have to search for documents from and why he would have to do that?

Joyce: Yeah. Trump had actually asked the judge to require the prosecution to search nine additional government offices that hadn't previously been considered a part of the prosecution team, and he wanted them to search for 14 new categories of information. Judge Chutkan said no to the fishing expedition, as we've noted. So she ordered them to search these additional areas. They of course only have to turn the information over if they find something. They may or may not.

But first up was materials that the Director of National Intelligence reviewed before an interview with the Special Counsel's team. Then there are records concerning information about security measures that was discussed with Trump in a meeting he had with Acting Defense Secretary Chris Miller and Joint Chiefs of Staff chairman, General Mark Milley,

days before the January 6th, 2021, attack on the Capitol. I think those are areas where Trump is looking to make an argument that there were valid national security concerns raised by the military and the intelligence community and his actions were a response to briefings he got on those issues. That's not going to fly. Let him try to do whatever he wants to do there.

And then the third category was evidence related to the unauthorized retention of classified documents by Vice President Mike Pence, and I would assume he's just looking for information that they might be able to use to try to impeach Mike Pence if he's a witness at trial.

So Jill, as you referenced, the judge also expanded the search zone just slightly, most explicitly requiring the government to search in the files of former employees or people who used to work on the case or the investigation but aren't doing that any longer. But frankly, it's not at all clear that the government hasn't turned over most if not all of this information. Previously, Special Counsel's Office lawyers had represented to the court that they had searched extensively.

What Judge Chutkan is doing here I think is very smart. She's creating a clear record so Trump can't complain on appeal if there's a conviction, because she's requiring the Special Counsel to file a signed certification that they've complied with her order completely by next Thursday.

Jill: Kim, let's move to the motion to delay that Trump filed. What did he want and what did he get?

Kim: Well, Trump tried to delay the release of the documents filed by Special Counsel Jack Smith in the election interference case. It's more than 1,800 pages of documents, which, surprise surprise, they were released. They were released just before we were set to record. So we've gone through them. I'm sure Joyce has read every word of all 1,800 pages.

Joyce: Yeah, no.

Jill: Come back next week for our analysis of the new information.

Kim: But that's what he got. He got a slap down by Judge Chutkan, is what he got

Jill: Actually, that's exactly right. So just sort of speculating, because obviously we have not been able to look at this, since we are recording when it was released, but is there anything that you expect will be in there that will be really exciting and interesting, or do you think it'll actually get delayed by his immediate appeal to the Court of Appeals?

Kim: Well, the whole thing was a delay tactic, right? That's all it was. It was him trying to push off the release that his attorneys asked that it would be released no earlier than November 14th, I believe. I wonder why. I wonder what's happening between now and November 14th. And then tried to say, "Oh, well if she releases it," Judge Chutkan releases it, then that means she's, quote, "evil." Called her evil.

Jill: Election interference is what they said.

Kim: That it would be... Yeah, well yes. But yeah, I was getting to that. I had to go with the evil part first, and then to say that she was actually interfering with the election by releasing it before the election. And Judge Chutkan was basically like, "Listen, kill that noise. I am running my courtroom. Yes, it is a principle that you don't do things purposely with an election in mind, but if an election is incidentally going on while I'm running my courtroom, that has nothing to do with me." I'm paraphrasing, but that was essentially her story.

Jill: In fact, I would say that the opposite would be true, that if she granted him a delay that she would not grant to anyone else just because he said it would have an election interference issue, that would be election interference. And he may not like that the courts are running on court time, but that's how they should be.

Joyce: Well, that's exactly what she said to him, right? She wrote in her opinion, she was talking about this presumption in criminal cases that everything should be made public. That's the rule in criminal cases. It's a First Amendment interest. And so she wrote, "It is in fact defendant's requested relief that risks undermining that public interest. If the court withheld information that the public otherwise had a right to access solely because of the potential political consequences of releasing it, that withholding could itself constitute or appear to be election interference." So she said, "I'm not going to consider any of that. I'm just going to handle this like any other case. Your election arguments are not relevant here, Mr. Trump." And I thought it was well done.

Jill: And exactly the right thing to do. Thank you Judge Chutkan.

Joyce: This podcast is brought to you by Aura, because it's crazy out there. Hackers may have just executed one of the largest data breaches in history, potentially compromising every single social security number. Another 2.9 billion plus records were stolen in an attack on National Public Data, a company that provides personal information to employers, private investigators, staffing agencies, and others conducting background checks. The stolen data includes full names, addresses, dates of birth, social security numbers, phone numbers, and even alternate names and birth dates. Alarmingly, reports suggest that the hacker group responsible put this information online for free. There's never been a better time to learn about Aura.

Jill: If safeguarding personal information wasn't a priority before, these incidents should serve as a critical wake-up call. The risks to personal security have never been more severe. That's why we're thrilled to partner with Aura. Aura offers comprehensive protection by monitoring the dark web for users' phone numbers, emails, and social security numbers, and delivers real-time alerts if any suspicious activity is detected. Additionally, in the event of a worst-case scenario, Aura provides up to 5 million in identity theft insurance to give you and your family a robust safety net.

Joyce: Aura goes the extra mile by scanning the dark web for your sensitive information and alerting you instantly if anything is found. So when ID theft strikes, don't panic. Aura's US-based 24-7 fraud resolution team works around the clock to fix it fast and get you back on track. Aura truly is the complete online safety toolkit thanks to credit and

transaction monitoring, virus protection, a VPN, a password manager, parental controls, and more.

Kim: And it comes in handy. You never know when you might need it. I needed it when someone tried to link a fraudulent account to my credit report, but Aura helped me clear it up in under 24 hours. In the past when bad things have happened, it took much, much longer. So you should get it. For a limited time, Aura is offering our listeners a fourteen-day trial plus a check on your data to see if your personal information has been leaked online, all for free when you visit aura.com/sisters. That's aura.com/sisters to sign up for a fourteen-day free trial and start protecting you and your loved ones. Again, that's A-U-R-A dot com slash sisters. Certain terms apply, so be sure to check the site for details and you can find the link in our show notes.

Well, it was a good week for voting rights in Georgia, a key election swing state. First, Fulton County judge Robert McBurney, who listeners know well because he also made some key rulings in Trump's state election interference case, as well as a recent ruling which, briefly anyway, halted the state's abortion ban. He slapped down an attempt by state election officials to be able to delay certifying election results if there are any claims of fraud or other shenanigans.

McBurney also halted a rule by the state's election board requiring three separate poll workers to count the number of election day ballots by hand to make sure that they matched the electronic tallies on the scanner. And then after that, Fulton Superior judge Thomas Cox Jr. made both of McBurney's temporary rulings a bit more permanent, striking them both down as unconstitutional, and ordered the election board to immediately notify state and local election officials that none of these shenanigans, there's going to be no hand counting, there's going to be no delaying of certification, there will be no nonsense. So Jill, what do you make of these legal developments down in Georgia?

Jill: Well, it gives me hope that the courts will continue to push back against election suppression and election interference. And that's what this rules were. First of all, they were adopted within a period that made it impossible to implement them. As Judge McBurney noted, you would need 1,200 more people to handle this to make the count, and this would be adding a burden onto people who already have been working since five in the morning at the end of voting to do this. And there would be no rules set up about where people would stand, who would do the counting, how they would do it. There was just no time to implement this in a fair and sane way. And so, I feel good that this decision happened. I worry what'll happen if it gets appealed higher up. I mean, voting has already started and they're trying to put new rules in place. That's absurd.

Kim: And Joyce, what do you think about these rulings? And can they be appealed? As we speak, there's less than two weeks until... or just over two weeks until the election.

Joyce: So look, I think that these are good rulings. For one thing, it's too close to election day to make changes. For instance, for the hand count rule adopted by the State Board of Elections, there wasn't going to be any training or provision of security, although that rule would've required every precinct to let observers from the public come in and watch them count the ballots. No security. I mean, there could have been a smash and grab and ballots disappearing. It would've been nuts to let that go forward. And it's good to see a

ruling confirming that certification is a ministerial duty. In other words, it is something that election superintendents shall do. They don't have any discretion.

Look, of course there are going to be appeals, and Georgia's appellate courts are full of Republicans, but these are basic issues of good election hygiene. And the organization of Georgia election officials opposed adopting these rules, I'm optimistic that the appellate courts will go ahead and do the right thing.

Kim: So Jill, I'm going to play devil's advocate here. Don't we want to know that the results of the ballots are right? And sometimes machines make mistakes. What are election officials supposed to do if there is a claim of fraud? Is there any validity in the arguments that the election board made in implementing these rules?

Jill: No, there isn't. First of all, we already know. There are multiple checks on how many ballots are cast. When you sign in to vote, there's a number. When you enter the machine, it counts a number. When you print out the paper ballot and have it scanned, there's a number. So we already know this. There is no need for a hand count, which is far more likely to be in error than the machine. This is like I always count my money when I go to the ATM machine. In all the years I've used an ATM, there has never ever been a mistake, but I can't break the habit of counting to make sure that it doled out the right number of \$20 bills to me.

Kim: Sometimes they're real crisp and they're stuck together. "Oh, my God, they've missed one." And you're like, "Oh, wait. No, they didn't."

Jill: Have they ever? No, they have never missed one, never, ever.

Kim: No.

Jill: And these machines are not going to make a mistake. It's so much more likely that after working for more than 12 hours, people will make a mistake. We know the number. If there is... By the way, the other major thing is there are alternative ways to do this. As Joyce mentioned, the law says "shall" and that means must. It doesn't mean may, it means must. And so there's no choice but for them to do it. And then it can be appealed or challenged before it's certified by the state. These are just the local election boards that are doing this. And so, there's plenty of ways to challenge it in court, not to give election poll watchers some authority to take on action. It is not up to any of the people who are handling the election day ballots to investigate this. There are all these other ways in the courts to challenge this. Report it to local law enforcement that would be appropriate to investigate. Don't do it yourself. There's no reason for it.

Kim: So Joyce-

Joyce: Hey. Yeah, can I just weigh on that too, Kim?

Kim: Yeah.

Joyce: Because something I want to remind our listeners of is that if you have any concerns on the day of the election, you will see 1-800 numbers posted by the civil rights groups, and

you can always call ACLU, Legal Defense Fund, Lawyers' Committee for Civil Rights. They'll all work together to make sure that any complaints are investigated. Your local US attorney's office will have a day of election officer. If you're concerned about something, if for instance, there were going to be armed men outside of your polling place, you could call that office and they would make sure that you were able to vote. These are really important sorts of concerns to get into the hands of the right people.

But I am very worried about this proliferation of stories about how unsafe the election is going to be or the fact that your ballot won't get counted. I think that's part of a deliberate narrative Republicans are using in effort to suppress the vote. We'll talk about that a little bit more, I just want to put that marker down here, so that people don't get worried and it doesn't keep them from voting.

But for purposes of Georgia, you need to understand what this hand count that the State Board of Elections ordered was. It was not about re-tallying the individual votes. They weren't going through and counting up who people voted for. It was literally a hand count of how many ballots there were in precincts. They were ordered to do them in stacks of 50. And that gets done, as Jill says, at multiple other points during the day. So play devil's advocate all you want, this rule was never going to prevent any fraud. It was duplicative. It wasn't doing anything that wasn't already done.

And as for certification, the law is clear that for these county election officials, it's actually a county Board of Elections officers, but they're called superintendents, the law is very clear that they don't have any discretionary role in determining whether the vote counts are legitimate. Their job is to certify what's handed to them. Because that's already gone through a process where representatives from both parties are sitting there while everything is reviewed and looked over to make sure that it's all correct. There are later points in the process where a candidate, for instance, is entitled to challenge votes under certain circumstances. There are plenty of protections on these elections. What this change was about was letting purely political actors, election deniers from the 2020 election, step in and prevent the vote from being counted in counties where Kamala Harris won. That's all that was going on here.

Kim: Yes, and they're trying to get around what protections were put in place by the Electoral Count Reform Act and do some other stuff, and I'm really glad that these courts shut them down.

A couple quick points to close us out. One, if you were wondering what that phone number is, if you have any trouble, if you are denied your right to vote, call 1-866-OUR-VOTE. And you can also say 1-888-VE-Y-VOTA on Espanol. Those are the numbers to call if you see anything or if anybody is trying to intimidate you or keep you away from the polls.

And also just one positive note. Since early voting began in Georgia, more than a million votes have already been cast in that state as of the recording of this podcast. It's just a reminder of just what's at stake here.

Joyce: Great sleep is critical to success, and there's nothing better for sleep than a Helix mattress. I first heard about them when they asked to sponsor our show, but we are very selective on #SistersInLaw, so I wanted to try one out. I took the quiz to tailor my

mattress to my sleeping style and got matched with the Helix Midnight Mattress. I must have aced that quiz because I've been getting the best sleep of my life ever since it arrived. After I tried it, my family was jealous of the way I was talking about the mattress, and I ended up getting a Helix mattress for everyone in the family. They love them too and maybe even a little bit too much when they hear their alarms go off.

Kim: Helix has so many options. They combine memory foam and individually wrapped steel coils for the perfect blend of softness and support. There are even enhanced cooling features to keep you from getting too warm when the furnace is blasting or if you are 51 like me and you're always warm or a heat wave hits. Both are frequent occurrences with climate change and getting older, so I'm definitely glad Helix has that feature.

Joyce: Helix has been a part of our sleep habits for almost two years now, and it has been a challenge not to sleep through the alarms, I have to say. I'm not sure if I'd want my law students calling me Rip Van Vance, but goodnight, see you at graduation.

Jokes aside, making the switch is such an upgrade. Since we've started telling people about Helix, there have been so many stories of people seeing transformational improvements in the quality of their sleep on their wearable devices. My husband wears one of those rings and it definitely proves out. Add that to Helix's quick and simple setup and no-fuss trial policy, and it's an easy choice.

Jill: And don't wait. This October, Helix has an incredible offer for our listeners. Sleep in ultimate comfort and get 20% off your forever mattress when you go to helixsleep.com/sisters. That's helixsleep.com/sisters to get 20% off your dream mattress. This offer won't last long, so start enjoying the best sleep of your life with Helix. The link is in our show notes.

Joyce: Well, with all of the different concerns about the election, the biggest threat may well be all of the disinformation that's in circulation. The challenge for voters is figuring out where and how to get quality information, how to find the accurate stuff. And for as long as I've been doing election-related legal work, which is coming up on three decades, both inside and outside of the Justice Department, there's been this fundamental tension.

Historically, Republicans use false claims of voter fraud to justify suppressing people's rights to vote. Of course, Donald Trump put that on steroids, and now it can sometimes be hard to know what to believe when you hear stories about election fraud and issues with the election.

Jill, many people, including me, I've written about this, believe that Trump's new big lie could be his claims about what he calls illegal aliens voting. And some of this I think ends up being a new version of his older complaints about caravans of aliens creeping up on the border, criminals taking over, and it's consistent with his general hatred of immigrants. DOJ has stepped in, and this is very unusual this late in the election season, but they've filed cases in Alabama and Virginia objecting to those states removing voters from the rolls. Large numbers of those people have already been determined to be legitimate voters, and it's too close to the election to be removing people from the rolls. Are Trump's claims about non-citizens voting, are they going to affect the outcome of the election? Is that actually true that non-citizens will cast votes?

Jill: No, it's not true. But yes, it might have an impact. And here's the reason. It's not true because it's already illegal for a non-citizen to vote and because we know from all the research that very few even legal aliens try to vote. They just don't. It's not worth it to them. It's a crime and it could jeopardize their standing in America and their chances of being admitted fully into America. So if you look at the numbers, in the 2016 election, the Brennan Center found that of the 23.5 million votes cast, there were only about 30 cases of non-citizens voting. I'm not-

Kim: Alleged.

Jill: ... good at math. Alleged.

Kim: Alleged.

Jill: Alleged.

Kim: Investigated.

Jill: Investigated.

Kim: Though we don't even know that they were all-

Jill: But even let's say they all are. What percentage... Someone tell me what 30 out 23 million-

Kim: Point zero zero zero a lot.

Jill: I don't know how many zeros. It's non-existent. It's just not right.

Joyce: There are more Republicans voting from homes that they don't own than there are non-citizens voting, apparently.

Jill: There are more of them in Congress than live... Okay, yes, that is also true. But it's also true, even in Georgia, which was a close state, there were... Secretary Raffensperger audited and found that in a period of 26 years, not one year, there were 1,634 ineligible non-citizens who tried to register and 100% of them were stopped. None of them got to register.

So this is not a problem. It is Donald Trump trying to find a solution to a problem that doesn't exist. And the fear I have though is that it is going to influence people. And also because they're getting purged, which is the other side of this, they're not going to get back on. And so people are not going to vote because they're afraid or because they got purged and they didn't get back on in time. So it could influence in an election that comes down to a handful of states and only a few votes per precinct. It can make a difference, and that is terrifying to me.

Joyce: Well, that sounds like a good reason for everybody to go out and vote and make the extra effort to me. And in Alabama, a federal judge yesterday ordered the Secretary of State to return the voters that he had removed to the rolls. I suspect we'll see something like that

in Virginia. There's a private case, not one that DOJ is involved in, in Arizona and their taking non-citizens off the ballot has also been prohibited. So I bet you we can expect to hear Donald Trump talk about this if he loses, to say, "Well, this is why I lost." But now you know the truth and I hope you guys will all push back with that.

But it's not just aliens voting. Kim, there's a Mississippi case now before the Fifth Circuit where the Republican National Committee is trying to stop counting of mail-in ballots, even if they're postmarked by election day, but not received until after five days from the election. That's what Mississippi allows. If you cast your ballot on election day, put it in the mail, get it postmarked, and as long as it's received by your county within five days after the election, it gets counted. Why is the RNC upset about this? I mean, this is the law. They're actually suing other Republicans in Mississippi over this. It looks like just another effort to get Americans to abandon confidence in the election. What do you make of it?

Kim: I think that's absolutely right. And it's also trying to ensure that as few people vote by mail, when people who vote by mail tend to vote Democratic, as few of their votes are counted. I mean, think about this. I just recently mailed something to a governmental agency that I had to mail it, and I got a notice that it was received a month later. The US mail is a mess sometimes. If you mail your ballots, I think five days is a more than reasonable amount of time to let the mail do what it does and to deal with any delays that can just come up from weather, from whatever. But this is a transparent effort.

But it's a dangerous one because this challenge to this Mississippi law means that other laws in 20 other states that are similar to this could also be in jeopardy because it is a federal appellate court that is taking up this challenge. And some of these are pivotal battleground states like Nevada and Virginia and Ohio. It could be really a big problem.

And so, arguments were already held on this case and the panel at the Fifth Circuit that is hearing this are all Trump appointees. So I am worried about this. This could be just a big problem. The argument the GOP is making, the lawyer for the GOP said on Tuesday that the consummation date, I hate that term, but the consummation date for ballot receipt should not be up for subjective interpretation, whereas the Republicans in the state who are trying to defend this law said the challenges aren't pointing to any actual law, any precedent, any anything. They're just sort of reaching for straws here. But that doesn't mean that the Fifth Circuit won't go along with it.

Jill: And can I add that this is not a new law, and for them to be challenging it-

Kim: Now.

Jill: ... so late in the day is really unacceptable and inexplicable and there is just no reason for this. And there's a long precedent of accepting ballots that are mailed by election day, but received within a set number of days afterwards.

Kim: There is. I mean, even when you mail your taxes, as long as it's postmarked by the day, it doesn't matter if it gets there four years later, it is still counted... Well, maybe four years is a lot. But it doesn't matter if it gets there later. It could be five days later. They still got to go by the postmark.

I will say just one more thing in this litigation is Don Verrilli is arguing on behalf of the DNC as an intervener. He's a former Solicitor General, whip smart, really, really good lawyer. And so that gives me a little bit of hope that it might be a little harder for this court to rule in a terrible way. But still possible.

Joyce: I used to work with Don and I agree with your assessment. He is whip smart. And one of the arguments that gets made I think is the ender on this one. These mail-in ballots already went out to Mississippi voters with instructions telling them that as long as they mailed it by election day and it arrived within five days, it would count. I don't know how you walk that back after they already have those ballots. And you know who some of those mail-in voters are? They are members of the military and their families who are stationed abroad protecting all of us, keeping us safe.

Kim: Irreparable harm.

Joyce: And you're telling me that Fifth Circuit Court of Appeals is going to take away their right to vote? I tend to think not.

So Kim, Neal Katyal wrote a piece for the New York Times earlier this week explaining his view that this election could result in a constitutional crisis. There's also a narrative out there that says, "Your vote won't count unless you live in a swing state." Do you worry about these sorts of arguments, even when they're well-intentioned, having the effect of keeping people from voting because they've come to believe their vote won't count and it's not worth the effort of getting out to vote?

Kim: I absolutely worry about this. I hear voters saying that they feel like their vote doesn't count. For any number of reasons, and all of them are bad for democracy, whether it's they think that politicians are all the same, or they think that nothing's going to get done. But certainly when it comes to them believing, "Well, my vote isn't actually going to be counted if I cast it," that makes them lose faith that they have a voice in our democracy. And that's a fundamental principle of it. You can't get the representation you want if you don't have a say.

And so, I do want to encourage people to vote. We do. We do. In this podcast, we tell people to vote I think almost every episode. You have to vote. If you don't vote, you're guaranteed to deny yourself a voice. I am someone who has always voted. I know a long time ago, I don't think it really exists anymore much, but there was this idea that journalists shouldn't vote because we're covering this stuff and that makes us personally invested. I have always thought it took not one but two constitutional amendments to ensure my right to vote. There are still people who don't believe that efforts to suppress my vote are underway, and I know that they are. And I will be darned if I let that right go unused. So I vote. I want y'all to vote. We can't get any change if we don't do that.

Joyce: I mean, there are at least-

Jill: Can I just add to that? I just want to add, Joyce, that even if you think it doesn't matter at the presidential level because you're not in a swing state and you know that the popular vote is going to go to the candidate of your choice in the state you live in, it matters to all the down-ballot races. And the Senate, the House, your local legislature, your governor,

your mayor, those are all critical to your life and to how the president will be able to make decisions and get legislation passed. But that's another reason why you must vote whether you're in a swing state or not.

Joyce: So what do y'all do? How do you sort through fact and fiction and opinion and put together what you believe is to be an accurate picture of going on so that you can understand the elections in context and sort of toss out these loose narratives that are being used to suppress voting. Kim, where do you go for good information? How do you do it?

Kim: Well, I subscribe and read Civil Discourse regularly.

Joyce: You are so sweet.

Kim: Because there's good stuff in there. I mean it. I listen to what you say.

Joyce: You're very sweet. Thank you.

Kim: I listen to what Marc Elias says. I listen to the smart people in the room.

Joyce: Jill, what do you do?

Jill: Well, I do exactly the same as Kim. I would add to my list, I also read Robert Hubbell and Heather Cox Richardson every day. But I also read multiple newspapers. And I read them online. I do get physical papers at my house because my husband likes to read a physical paper, but I click on the links in stories so that it's not just... I mean, we were talking about the Neal Katyal piece, and he has links in it and you can look up whether what he's saying is backed up by the links that he has.

And so, it's really worth spending the time. If I read something and go, "Wow, that's great. I really agree with that." I look to see does the Wall Street Journal, does some other paper with a different viewpoint than the ones that I would normally rely on for opinions and information, do they say the same thing? Or is this only in one place? If it's only in one place, it's probably not correct. And so I then keep looking. And there are websites that will check for fake news, and I can sometimes go to those if it's something really questionable. But it is really a question of using your common sense, but looking at multiple sources.

Joyce: Yeah, I think those are all great ideas. In addition, I'm a big fan of reading local newspapers. I subscribe to The Atlanta Journal-Constitution. I look there for my Georgia news. I subscribe to and read the Texas Tribune, which is a not-for-profit news shop in Texas, and read their really excellent reporting. And I try to do that across the country when I'm interested in a story. It's one of the few places where I'm maybe a little bit more spendy than my husband would prefer when he sees my credit card bills and asks why I'm subscribing to like 15 different local newspapers in places that we don't live, but I always view that as money that's really well spent. And also-

Kim: Yes, it is. Good journalism costs money to produce.

Joyce: Boston Globe. Girlfriend, I have a Boston Globe subscription too.

Kim: Yes. Good journalism costs money. Pay for it, people. Don't expect it to be free.

Jill: Yeah.

Joyce: This is true. And in addition, when it comes to elections, I read... And some of this is very readable. It's not technical stuff at all. But I pay attention to some of the leading experts on election law. There are law professors, both conservatives and liberals. Marc Elias, who we've talked about some, has Democracy Docket, which has some of the best information out there. Just Security, another online website that's related to NYU Law School, has got a litigation tracker with the most important election litigation cases on it. There is a lot of great information out there. You don't have to be duped by political narratives. I know our listeners are smart people. You guys can really look through some of the smoke screens out there and recognize the truth.

Jill: I love Blueland just because it does a good job of cleaning, whether it's my hands or my sinks or my toilets. But did you know your dishwasher detergent pods are almost always wrapped in plastic? Of course you did. That film around your pods is plastic and it's ending up in our oceans, rivers, and soil, and even in our bodies. It's killing animals and it's part of a big problem that's facing our planet. But if we want to make things better, it's up to all of us to make sustainable choices. We're committed to changing our habits, and I hope you'll join us by doing what you can. Thankfully, Blueland makes it easy to take action.

Joyce: This is apparently the episode of the podcast where I talk about my oldest kid's move, which I'm really excited about. In fact, the first thing I got for him when he closed on his place was a full set of Blueland cleaning supplies. Like us, he is very conscientious about being environmentally friendly, and he had heard, in case you haven't, that Blueland is on a mission to eliminate single-use plastic by reinventing cleaning essentials to be better for you and the planet with the same powerful clean you're used to. Their packaging is the perfect fit for my home and for his home and for your home. And I love how Blueland uses no single-use plastic in any component, including their bottles, tablets, wrappers, and shipping. Even the tablet packaging is fully compostable, and all of their products are effective and affordable.

Kim: Okay, I get to get in on this too because my stepdaughter, whenever she comes over, the last time she was here, she was like, do you guys have any Blueland you can give me? I really like that [inaudible 00:51:09].

Joyce: The kids know, right? The kids know about it.

Jill: And my goddaughter is so environmentally conscious, and I'm going to go stay with her when I do the exhibition of my pins in Milwaukee. I hope she's not listening. Oh, darn. If she is, close your ears, Jen, because I got her some Blueland and lots of different fragrances for the hand soap. So, I can't wait to give that to her because I know she'll really appreciate something that is so environmentally friendly.

Kim: Their dishwasher tablets are proven to perform on baked-on, burnt-on stains with no rinse aid needed. The clean is really, really good. I never have to run a load twice. And the fragrance-free tablets have become a real favorite because it doesn't affect how your food tastes or smells. It just keeps your plates and dishes clean. I speak for the sisters when I say I am not going back to expensive-

Jill: See what you did there.

Kim: ... to expensive, wasteful, plastic-coated brand. Even better, you can get more savings with Blueland by buying refills in bulk and setting up a subscription. Their subscriptions are customizable and convenient, so you never run out of your most used products. You'll want to try everything they offer.

Joyce: We trust Blueland. We trust having Blueland in our kids' homes. Blueland is trusted by over 1 million homes. And we are excited to share that Blueland has a special offer for listeners. Right now, get 15% off your first order by going to blueland.com/sisters. You won't want to miss this blueland.com/sisters. Again, that's blueland.com/sisters to get 15% off. Look for the link in our show notes.

Jill: It's time for our favorite part of the show, listener questions. We really love it because you're smart listeners and you send us really challenging, thought-provoking questions. And if you have a question for us, please email us at sistersinlaw@politicon.com or tag us on social media using #SistersInLaw. If we don't get to your question during the show, keep an eye on our feeds throughout the week, where we'll answer many more of the questions than we get to on this show.

And we have some great questions this week as always. And the first one is from Laura in Rhode Island. For Kim. Does the DOJ policy of not indicting a sitting president account for the clock running out on the statute of limitations while the president is in office?

Kim: Well, Laura, no, it does not. Because of a doctrine called tolling. While a defendant is unavailable, as he or she would be if in office, the statute of limitation is tolled until they are available again. So no, that's not a way to run out a count. Now, the only thing about this is that that is the rule for federal criminal charges. States may have different rules, but for federal criminal charges, the statute of limitation is tolled while the person is in office and unavailable to be charged.

Jill: And here's another great question. For you, Joyce, from Nancy. If the Eleventh Circuit, where you are very familiar with them, if the Eleventh Circuit Court of Appeals reverses Judge Cannon's decision on the classified documents case, can the appellate court use the fact that she is now handling the criminal case concerning the assassination plot at Trump's golf course as a reason not to send the classified documents case back to her?

Joyce: Yeah. Nancy, I think this is a really interesting question, getting at what sort of conflict of interest disqualifies a judge from handling a case. I think the example that you posit, this fact that she's handling the assassination attempt case, would not be a conflict of interest. Judges can routinely handle different cases involving the same parties, and there's no real

conflict of interest there. Because for conflict of interest, we're trying to get at bias on the part of the judge.

Where I think Judge Cannon would run into trouble under Eleventh Circuit law, and Jack Smith has not raised this. This is a court that has raised it on their own in the past, and they could choose to do that here. Sometimes they'll say, "If a judge has just struggled with a case and been reversed a couple of times, made multiple bad decisions, we will, out of just an abundance of concern for public perception of fairness, ask the chief judge in that court to reassign it to a new judge on remand. Nobody's being critical of anybody. No one's saying that there's a conflict of interest that wasn't disclosed. We're just saying that so the public can have confidence in the outcome, there should be a new judge."

That's what I think many people are hoping the Eleventh Circuit will do here. There are a number of amicus briefs from outside parties who have asked the court to do that, even though Jack Smith didn't formally make that motion when he filed his appeal.

Jill: And our last question comes from Philip. He asks, what are the differences between Trump's Agenda 47 and Project 2025? Are they the same? Well, Philip, I would say that even though Trump says he has nothing to do with Project '25, that he isn't involved in it at all, that it is exactly what his agenda would be. Remember, this is a party that doesn't always have a platform even. So it's very tricky when you see something that is labeled as the agenda for the next conservative president written by the people who served in the last Trump administration. The people who will be back in his administration. So I think that whatever differences he claims are not believable and that you can rely on all of the terrible things that Project 2025 promises as being how a second Trump administration would be run.

Thank you for listening to #SistersInLaw with Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. You can follow #SistersInLaw on Apple Podcasts or wherever you listen. And please give us a five-star review. It really helps others to find the show. And please show some love to this week's sponsors, HexClad, Aura, Helix, and Blueland. Their links are in the show notes. Please support them because they make this show possible. See you next week with another episode, #SistersInLaw.

Joyce: Well, y'all, I always get a little bit sad before the election because in Alabama, you only get one day to vote. It's tough to vote absentee. You have to certify under oath that you won't be in your home county on that day or you're too sick to vote. So I will be in line with many of my neighbors because my polling place has been consolidated with another polling place. Go figure. Two of the bluest boxes in Birmingham. And so we will all be out there. How do you guys vote?

Jill: I always vote early. And in Illinois, we have a couple of weeks of early voting. And I like doing it in person because I like talking to the poll workers, and I like meeting other people who are voting, and I like getting my "I voted" sticker from them. My husband voted by mail, and I am just a little nervous about mail ballots. Although in Illinois, you do get confirmation that your ballot was received. So that makes me feel a little bit better, because if you don't get that, you can then, I think, go and vote in person. I'm not sure on that.

Joyce: You can. You can go and vote a provisional ballot in that situation.

Kim: Provisional ballot. Correct.

Joyce: Yeah.

Kim: Yes. You sure can.

Jill: And Kim, what do you do?

Kim: I like the electricity of election day, so I always vote in person on the day. I like to see what's going on, how long the line is. Which is bad. Long lines on voting is not a sign of enthusiasm. It's a sign of voter suppression. Keep that in mind. People should be able to vote easily and quickly. But just see, just... I don't know. I like the energy of election day, and I'm usually working late that day because it's when the returns start rolling in. But I like going in the morning early and just seeing how it all shakes out, even though I live in a place where I get taxation without representation. But I can still vote for president. I got no representatives, but I carry that [inaudible 01:00:12].

Jill: In any event, I hope everyone who's listening has a plan to vote-

Kim: Yes. Have a plan.

Jill: ... because that's really important.