

Joyce Vance:

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Kimberly Atkins Stohr:

Welcome back to #SistersInLaw with Jill Wine-Banks, Joyce Vance, Barb McQuade, and me Kimberly Atkins Stohr. Just a reminder, we have a brand new, pale blue women's tee. I am wearing mine right now. And it's in the hashtag-

Jill Wine-Banks:

And it looks great.

Kimberly Atkins Stohr:

... Thank you very much. I love it. It's super comfy. And it's in the #SistersInLaw merch store. So you can go to Politicon.com/merch and get yours now. But hurry up because they're really going fast because they're fabulous. Today you all we are doing a deep dive into the Supreme Court confirmation hearings of Ketanji Brown Jackson. And as always, we'll be looking forward to answering your questions at the end of the show.

But I just wanted to start off in the chit-chat by allowing us time to acknowledge the passing of former secretary of state and ambassador Madeleine Albright. I had the pleasure to meet her briefly just one time. And so for all of us, we're all MSNBC contributors. And one thing that, especially for me as a reporter, that can be beneficial to that is that when you're in the green room, a lot of times you're in the green room with heads of state, elected officials, really important people.

I once met Jane Fonda. But particularly for the elected officials and particularly here in Washington, it's an opportunity to talk to them, to get an interview in sometimes that you wouldn't have otherwise known you could get. I've talked to members of Congress. But what often happens for the women is while you see the men having these conversations with them for long periods of time, while they're waiting for their hits, women are brought into a makeup room that is adjacent to the green room. And you're sitting in this chair for sometimes 10, 15, 20 minutes getting false eyelashes glued on you and whatnot.

And you hear the conversations that the other male journalists are having with these important people. And it just felt to me like just one of those little indignities that sexism puts on you, the fact that I need false eyelashes to give my views on television and I'm missing out on those opportunity. So one day that was happening, I was literally having a conversation with someone, and I got called into the makeup room and I knew that the men in that room would continue that conversation and I would miss out, and I was feeling some type of way about it.

I go into the makeup room, I sit in a chair, and I look to my left and sitting there getting her makeup done was Madeleine Albright. And I just thought, "Oh my goodness." And I said to her, it's like, "You know what, madam secretary, it's a pleasure to meet you." And I was just thinking to myself, "It's such a shame that I couldn't continue my other conversation outside because I'm a woman and I need to get foundation and all this stuff done to my face."

And I wish I remembered exactly what she said, but it was essentially like, "Yeah, we women have to endure all kinds of things. I've known that throughout my whole career." She was wonderful. She was warm. And we had a nice little chat while we were getting powdered and having lipstick

applied. But I definitely want to hear from Jill. I know how important she was to you. And just give me your thoughts about Madeleine Albright.

Jill Wine-Banks:

Well, I first met her during the Hillary Clinton campaign in Iowa. And as you described her, she is warm and gracious and kind, and obviously brilliant. And we had some very good discussions then. But when I started the other podcast that I do, iGen Politics, she was one of the people that I really wanted to have on both because she had just written a book about fascism. And it's really sad that we are denied her voice on a topic she knew so well at a time when we certainly need it.

But before I had the courage to call her to be a guest on iGen Politics, I was picking up at my post office box, which is where I get pins from fans and things. I had a key in my box, which means that there was a box that was sent to me that was too big for my little post office box. And I opened it up, and I took it out and I said, "Oh, someone who spells their name exactly like Secretary Albright has sent me something really large."

And then I opened it up and it was from Secretary Albright. It was her book, which of course I already owned a copy of. This is her book about pins called Read My Pins. Because like me, she has used pins as a means of communication. And this was how she used them as secretary of state to send a message to various dignitaries and heads of state that she was meeting with. And the book is inscribed to me saying, "Thank you for your service to our country. And I love," underlined, "your pins."

I mean, I almost broke down in tears reading that. And it has meant so much to me to have that inscribed copy, and that gave me the courage to invite her as a guest on iGen Politics. And she was of course brilliant and wonderful talking about fascism and pins. She's the real deal. And I think about her thoughts, about her family escaping Nazis, and her book on fascism and what she as secretary of state would be doing right now as Russia invades Ukraine.

Kimberly Atkins Stohr:

How about you Joyce?

Joyce Vance:

I had always admired her from afar. I was an international relations major in college. I was just this close to wanting to go into the foreign service, wanting to go to John's Hopkins for graduate work instead of law school. But my granddad had gently nudged me to continue on a path towards law school, so I didn't do that. But I found myself several years ago at the White House Correspondents' Dinner being introduced to her by a mutual friend.

It's the big Correspondents' Dinner with tons of really fascinating people there. And I'm just mostly sitting on the outskirt, sort of with my eyes wide open, seeing a lot of really interesting people. And what struck me, and Kim it's very much like what you said about her and what Jill has said, was she was really interested. She wasn't looking past me for the next conversation. She looked right at me.

We had an absolutely wonderful conversation that just confirmed everything that I had always thought about her from a distance. And it is such a terrible loss for us, but by the same token, we're so lucky to have had her guidance at an important point in time. And I loved President Clinton's remarks this morning when he talked not just about their friendship, but about how profoundly mentored and guided he had been by her. I thought it was sort of refreshing to hear a very powerful man acknowledging that women needed to have a seat at the table too. What about you, Barb?

Barb McQuade:

Yeah. I had a chance to meet her one time. I was at the Aspen Security Forum. I teach national security law, and when I was in the US Attorney's Office, I focused on national security law. There's this form of your ... It's in Aspen, which is not a bad place to go for a conference in the summer. And she is part of that group, and she gave a talk that summer at the event and talked about her experience as a refugee, which I also think is a really important perspective for somebody who is serving as a secretary state.

But I made it a point to go stalk her. I said, "I will meet her." And the conference is, it's a big conference, but it's small enough that people do kind of hang around and mingle a little bit. I scouted her out from the end of her talk and I followed her. And I had a chance to meet her, and she was lovely. Yeah, and she was very gracious to pose for a selfie with me, which I posted on Twitter this week.

And I went back and dug it out on my phone and found it. And at the time I don't remember noting it, but I did look to see what her pin was, Jill, and it was two owls, which I thought was very interesting. I'm sure there was a reason she wore the two owls that day. Maybe it was something that she talked about, but I enjoyed seeing that on her lapel. We lost a giant. She was a significant contributor to American history and world history. And boy, is her work to promote and expand NATO? Does that feel all the more relevant today?

Kimberly Atkins Stohr:

Yeah. Joyce, I hear that Magic Spoon has some yummy new flavors. Have you tried them yet?

Joyce Vance:

I've tried a few, but the person that I get my midnight snacking advice from is Barb McQuade. I'm interested to hear what Barb thinks about Magic Spoon.

Barb McQuade:

Well, Joyce, it's funny you should ask, because you know I am the master of the midnight snack. And when I go for a midnight snack, I go for Magic Spoon. I find cereal is like the perfect dinner. When, you guys have probably been in the situation, you get home late, you haven't eaten, you want to have something before you go to bed, but you don't want a heavy meal. I find that Magic Spoon is the perfect midnight snack. I consider it dinner just before I go to bed. And it's healthy. It has zero grams of sugar, 13 to 14 grams of protein. It has only four net grams of carbs, and 140 calories in a serving.

It's keto-friendly, gluten-free, grain-free, soy-free and low carb. You can even build your own box and create a custom bundle from Magic Spoon's delicious flavors. There's cocoa, fruity, frosted, peanut butter, blueberry, cinnamon, cookies and cream and maple waffle flavors. They're delicious, indulgent and healthy. You've got to try them. Go to [Magicspoon.com/sister](https://magicspoon.com/sister) to grab a custom bundle of cereal. And be sure to use our promo code sister at checkout to save \$5 off your order. Jill, I know you are a big fan of Magic Spoon cereal. Are you still eating it?

Jill Wine-Banks:

I am, and I am a big fan. But I love it because I don't think of it as a cereal. Even though it looks like a cereal, it tastes like a cereal, it's really protein. And I find that having protein for breakfast or as a snack really fills me up and keeps me going much longer. While you're having your midnight snack, I'm just getting going on work.

As you know, that's my time to really go on business. And I love to have that handy, because then I feel like I'm eating a healthy, low calorie snack that is protein and that will give me the energy I

need to get my work done. Magic spoon is so confident in their products, it's backed with a 100% happiness guarantee.

If you don't like it for any reason, and I guarantee that you actually will like it, they'll refund your money no questions asked. Remember, get your next delicious bowl of guilt-free cereal at [Magicspoon.com/sister](https://magicspoon.com/sister). And use the code sister to save \$5 off or look for the link in our show notes. Thank you, Magic Spoon, for sponsoring this episode.

Barb McQuade:

Well, sisters, I've been dying to talk with you at the end of this week when we saw the confirmation hearings for Judge Ketanji Brown Jackson to the US Supreme Court. It was quite a week. The hearings had a little bit of everything. And I'm dying to hear what you thought. I've got a few questions for you, but let me just start by asking you big picture. Was there something that struck you or a moment that you'll remember most, something that you thought about the historic significance of this moment? What's maybe one thing that really stood out for you? Joyce, I'll start with you.

Joyce Vance:

I'm going to say that my favorite thing about these hearings, and I wish I could be nice and tactful, but it's been a long week and I thought it was an emotional week.

And I loved watching a brilliant black woman, a brilliant appellate lawyer, a brilliant former defender smack people who asked her stupid questions, like they deserve to be smacked, in this brilliant, but very polite way, answering their questions, displaying the fact that they did not understand the sentencing guidelines nearly as well as she did, but always showing sort of that demeanor that you really want to see from a judge, somebody who behaves in a responsible, respectful way, even when the questions that they're being asked don't deserve that sort of respect.

And so my overall takeaway, the thing that made me feel pretty happy this week was seeing that a black woman, nominated to the Supreme Court of the United States, is sent great from central casting for what you want a Supreme Court justice to look like and behave like.

Kimberly Atkins Stohr:

Yeah, can I jump off of that? One thing that I noticed this week. And I think your right choice, she did do that particularly on Wednesday. But on Tuesday, I felt like there was this ... For her, she had to really swallow down everything that you know that she was really thinking in the face of these questions.

And it was infuriating to me for a lot of reasons, the most of which is there isn't a general expectation, of all women, particularly of black women, that we are supposed to face the indignities that we encounter with a smile, without saying anything, without talking back.

And I get in this hearing, it was important for her to show that judicial temperament, that, that was part of what she was being judged upon. But the fact that, that was required and that I was screaming at the screen on her behalf, and I know a lot of other-

Jill Wine-Banks:

Anger translator.

Kimberly Atkins Stohr:

... people were. Yes.

Jill Wine-Banks:

Exactly.

Kimberly Atkins Stohr:

Oh, I was totally her anger translator. And just thinking about how another nominee in 2018 yelled and screamed and threatened members of that committee in a way that was celebrated by the people in the party that nominated him, and that she did not have anywhere near the privilege to do anything like that.

Listen, I'll be honest. I don't think that Amy Coney Barrett had that full privilege either, although I think she had more than Ketanji Brown Jackson has. But the fact that, that was on display, really, yes, it showed how much poise and grace and how often she's faced this and how good she is at it. Go look at the Trevor Noah tweet at her facial expressions and you'll see that.

But it angered me that she had to have that. And I was happy that on Wednesday she pushed back a little more. And I was also happy that on Wednesday that Chairman Dick Durbin pushed back on her behalf a little more against some of the more ridiculous things that she was facing.

Barb McQuade:

You tweeted about that, Kim, and it really caught my attention. At one point you had said you were happy that she was letting a little bit of her impatience or her emotional response show. And I agreed with that. I thought that was an important moment for her to be her reserve dignified self, and still convey a little bit of, "Okay, you guys are out of line here." I like that.

Kimberly Atkins Stohr:

Yeah.

Jill Wine-Banks:

It's a very fine line for women to be able to do that. And as Kim said, especially for a black woman who will be labeled angry black woman. But it's true for all women, and I think you're right that even Amy Coney Barrett could not let loose the way Kavanaugh did, because it would have been exactly what they were looking for to say, "Oh, a woman is not qualified. This woman is not qualified." And that is horrifying. I'm sorry we're there.

And if I could add, in terms of what was let's take a happier moment, and I would say it was Cory Booker who really changed the dynamics. He did bring a tear to Ketanji Brown Jackson's eye, as anybody would have, because it was quite emotional. His praise of her saying you are worthy and you are here, it also inspired my choice of pins for today's show, which is dancing backwards in high heels because he said, "You deserve to be here, because like Ginger Rogers, you did everything Fred Astaire did, only backwards and in high heels."

And so I thought his remarks were really just right, and that you can't take the joy out of this event by your stupid questions from the other side. And they were really stupid, so many of them. But I know we'll get to talking about who our favorite bad person was during the hearings.

Barb McQuade:

Kim, what struck you most? What's memorable for you? What will you take away from these?

Kimberly Atkins Stohr:

Yeah, I was glad that for Americans who watched that hearing, despite all the shenanigans, they were able to see a woman who really is a shining star in our industry, in the legal industry, someone who has worked in places that other attorneys really don't want to. It's hard to get an attorney to be a public defender. In any sense, I knew in law school you all, I knew in law school I did not have the stomach to be a criminal attorney at all, so hats off to all of you.

And certainly not a defense attorney. I wanted to be that person because I knew. Exactly the importance that Judge Jackson talked about was the need for criminals. For defendants ... Let me say that again. I knew the importance of having criminal defendants have strong and zealous representation, regardless of what they are charged with doing.

It's super important for our judicial system, for fairness, and for our system of government to ensure that they are represented fully. And I wanted to be the person who could do that, but I knew I wasn't. I know my limitations you all. That would be hard. I would cry all lot. The kinds of the fact situations in these cases would be too much for me. I knew I was headed to the civil arena from jump, so I give her and all of you all that.

But to have that on the court, and for her to talk about and explain why it's so important, and meticulously go through how she handled each of those case was really important. I think that it is fair to ask her about her record. Again, we'll talk about how it's unfair to approach that, but she handled that so well.

It was wonderful to see her family. It was wonderful to see her parents. The point in this that felt the most personal to me was seeing her mom and dad sitting there. And I think about my mom and dad, and the sacrifices that they made for their six children, including me.

And I see her husband sitting there, and I think about my husband. And just seeing that she comes from this family who clearly loves and appreciates her, that she has worked all her life, that she's had these experiences where she didn't always feel like she felt in, but she persevered. And I'm so glad America got to see that.

Barb McQuade:

Yeah, I too was struck by her family. I was going to say her parents. Somebody captured a photo of them just gazing on with such pride. And she talked about how they went to segregated schools as children. And so in one generation they've seen from segregated schools to the Supreme Court is pretty remarkable. And I think not only does it show her incredible achievement, but I think it should reflect well on all of us in America.

I mean, shame and us that it's taken in 246 years, or whatever it's been, to get here, but we got here, which I think is part of the point Cory Booker was making. We should all be celebrating this. Anytime one of these barriers is broken by anybody, it's broken for everybody. You got to knock these barriers down so that everybody has an opportunity to serve and that our institutions can get better by having all of that talent and the benefit of everybody's talent in the court.

I thought that was a wonderful moment of celebration. I also thought that the lower some of these senators got, and they got so low some of them, the better she looked. I think if you're a casual observer of these hearings and you don't tune in often, it's pretty shocking to see what some of these senators are willing to do, and the misleading and argumentative nature of their questioning.

And so I think by maintaining her strength and her grace, and showing her wisdom and her patience, I think the contrast was so stark and just made her look all the better for the lower they got.

But speaking of low, I want to hear your nominations for the most outrageous moment award. What did you think was the, "Oh, come on," the over the top? Anybody have any nominees?

Joyce Vance:

I'm nominating Senator Cruz. He's my favorite bad guy in this one. He's reading a book about racist babies and holding up a child's book with pictures. I could see him writing the ad that he's going to use. "Well, you're not answering my questions." "Well, sir, that's because you're not letting me. You're cutting me off."

And that's an issue by the way that this Supreme Court has addressed. Women get cut off more than men. The women justices get cut off more than their male colleagues by both their colleagues and by advocates, which is just incredibly impossible for me to believe. I argued in the Supreme Court I would never, ever-

Barb McQuade:

I mean, I'm sorry. Jill, you've argued in the Supreme Court.

Joyce Vance:

... have interrupted anyone speaking.

Barb McQuade:

Oh my gosh, it's for every week.

Kimberly Atkins Stohr:

A day in the many careers of Jill Wine-Banks.

Barb McQuade:

Every week we learn about some ... That's a big deal.

Jill Wine-Banks:

And I won. I won.

Barb McQuade:

What was the case?

Jill Wine-Banks:

Yeah. No, it was when I was the solicitor general of Illinois. And it was a criminal case. No major significant legal issue, but it was important in the context of Illinois. And it was a big deal. I still have my quill pen that I got from that occasion. And it's quite terrifying. And the bench is a lot higher than you think it is. I mean-

Barb McQuade:

And really close, I hear, right?

Jill Wine-Banks:

... looking up and up and up-

Barb McQuade:

It's super close to you.

Jill Wine-Banks:

Yeah. It's closer than you would be in a normal federal court, but it's mostly its height is just ... I mean, you're really like ... And I'm not that short, but I really literally had to tilt my head backwards to look up at the justices and to appropriately address them. I mean, it was quite terrifying actually. And I've lost my thread on what I was saying about-

Kimberly Atkins Stohr:

That's all right. You were talking about Ted Cruz. I was going to agree with you. I particularly really thought that the, "Could I be an Asian man?" was probably a low point in the proceedings given that we've spoken about ... And he was certainly getting at laws meant to protect transgender folks, particularly transgender kids. And that just was a particularly low blow.

With the respect to the Antiracist Baby book that he was holding up, Ibram Kendi, who is the author of that book, who has won numerous awards for his work. It just made me that much prouder, that my project, the emancipator, the joint project with The Center for Antiracist Research and The Boston Globe. He's a co-founder of that, and I'm a part of that. I just felt proud. I was like, "Yes, Ibram." And-

Barb McQuade:

It demonstrates why you need it, right?

Kimberly Atkins Stohr:

... Yes. And book sales have soared. So thank you, Ted Cruz, for helping my colleague.

Joyce Vance:

I saw that. I thought that was fantastic.

Barb McQuade:

Is that your entry too, Kim, most outrageous moment was the-

Kimberly Atkins Stohr:

Yes.

Barb McQuade:

... Antiracist Baby?

Kimberly Atkins Stohr:

I would give the, "Am I an Asian man?" [crosstalk 00:25:34] Listen, they went to school together. He has known her for 20 plus years. It just demonstrates how disingenuous all that was.

Barb McQuade:

How about you, Joyce?

Jill Wine-Banks:

They were on law review together. It was inexcusable.

Barb McQuade:

What's your nominee for the most outrageous award?

Joyce Vance:

I think Jill's comment, "It was inexcusable," is so evergreen when it comes to this hearing. But for me the point, at which I really just couldn't take it anymore and was so impressed by the fact that her demeanor continued to be smooth throughout was Lindsey Graham on his second go round of questioning, it had become very clear that Lindsey Graham was not going to vote for her, and that Lindsey Graham was probably just cutting a commercial for his next reelection bid.

But he would ask her a question, he would let her say two words, and then he would cut her off and give another speech and ask another question. And she would say two words and he would cut her off again. And I thought it was so profoundly inappropriate. And then he gets to the end to that last question where Chairman Durbin finally just says, "Look, I'm going to let her answer the question, and you've said enough." And she starts, and he interrupts her again after he's out of time, and Durbin says, "We're going to just go ahead and let her answer."

And Graham sort of throws his hands up in the air and says, "Well, she wouldn't answer any of my questions." And it just was, it was really stunning because Lindsey Graham is many things. He's certainly had a lot of changes over the last few years, but he is a former prosecutor, he is a lawyer. He understands how the courts work. And for him to behave in that way towards someone who's eminently qualified to be a Supreme Court justice, I just thought it was really disheartening.

Kimberly Atkins Stohr:

Joyce, I want your opinion as to whether that qualifies as a hissy fit.

Joyce Vance:

I think that, that definitely qualifies the full meaning of the word hissy fit as my mother-in-law would've used it to apply to my very theatrical daughter when she was two or three. Sorry, Ellie.

Barb McQuade:

Well, I'll just wrap up by saying my nominee is Senator Tom Cotton, who did something I have actually taught my law students, "Don't ever do this in court. You will never get away with this in court," and that is to ask a question for the purpose of misleading. And he went through this whole series of things and said, "The average sentence in a murder case is 17 years," or whatever it was, "Is that too long or too short?"

There's no right answer to that, right? It's just there to be a got you question. And as she said, "That is not in my purview. That's a policy question. That's a question for Congress. That is just not in my lane. I stay in my lane as a judge," which is the perfect answer. And then knowing that's going to be her

MO, he still goes through the exercise of, "How about rape? The average sentence in a rape case is this." And he goes through this whole thing.

It's so disingenuous. And I have to think that anybody watching that would see that all he's doing is trying to play word games and catch her in a got you moment that he can use in a political ad somewhere down the line. In a court, and all of us come from this background of court, it matters that you not only be literally true, but you can't even be misleading. If you mislead a court, that is sanctionable conduct, and people just don't do it. It does not compute. And to see these people do it in Congress, I think is really disheartening, so I'll give him my nomination.

Joyce Vance:

So many worthy nominees for worst moment of the hearing here.

Kimberly Atkins Stohr:

Yeah, we don't have enough time.

Jill Wine-Banks:

Yeah, we can't let it go without mentioning Marsha Blackburn or Josh Hawley. Those two certainly-

Kimberly Atkins Stohr:

Honorable mentions.

Jill Wine-Banks:

... are up there. Yeah, they are definitely honorable mentions, for sure.

Barb McQuade:

And why are they so mean? Today's episode is sponsored by Honey. Joyce, I know you're a fan of Honey. Can you tell us about it?

Joyce Vance:

I am such a huge fan of Honey. I sort of forget that it's there. And then I'll be shopping, and I'll have decided that I want something, and I'll hit the shopping cart and Honey will pop up and save me money. I love Honey. How about you, Jill?

Jill Wine-Banks:

I've been using honey since long before they became a sponsor. They are a really great way to save money, and you don't have to, as you said, think about it. It just pops up. Once you put the app on, anytime you shop, it will find you savings anywhere on the internet. You don't have to go looking, they'll tell you. Kim, have you tried it?

Kimberly Atkins Stohr:

I have. In fact, just today, I got a coupon code from a store where I shop. I needed a pair of shoes, and so I bought some. I already had my coupon code, right? Not only did honey pop up and let me know that it would've given me that coupon code, even if the store didn't, it was like, "Oh, by the way, you also can

get cash back on this." So it's a twofer. I really think that honey is the best for shoppers like me who are always looking for a bargain.

And anything you buy is better when you get a bargain on it, right? We all shop online, and we can't help but feeling it when the promo code box taunts us at the checkout. But thanks to Honey, manually search for coupon codes is a thing of the past. Honey is the free shopping tool that scours the internet for promo codes and applies the best one it finds to your cart.

They support over 30,000 stores online, with everything from tech to popular fashion brands and even food delivery and shoes, like me. And so far, Honey has found it's over 17 million members, more than \$2 billion in savings. That's with a B. Tell us how it works, Barb.

Barb McQuade:

Well, I don't know about the three of you, but I am the child of two parents who were children of the great depression. And to them, the greatest value a person can have is to be thrifty. And it's not that it's bad to be cheap. It is good and virtuous to be thrifty. I'll be cleaning the table and scraping a plate with two kernels of corn on it, and my mother will say, "You're not going to throw that away, are you? That's good food. That could make a meal. That could be my lunch."

"Okay, mom, I'll get it out of ziploc. I'll save those two kernels of corn." So saving money has been a value that's been instilled in me all my life. Imagine that you're shopping on a shopping site, and when you check-out, the Honey button drops down and all you have to do is click apply coupons. Then you wait a few seconds as Honey searches for any coupons on the internet. And if Honey finds a working coupon, you will watch the price automatically drop. It's that easy.

Jill Wine-Banks:

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Joyce Vance:

Well, there were so many candidates for outrageous moment of the hearing award that it makes me want to go back to this notion of why we have Senate confirmation hearings for Supreme Court nominees at all. Jill, you played a role at the ABA, ran the ABA for a while. What's the role of the ABA? What's the role of the Federalist Society here? And what's the history for these Senate confirmation hearings?

Jill Wine-Banks:

Great questions. And I think it is important for our listeners to know what's going on there. Let me start with the role of the ABA, which is very different, completely unrelated to the role of the Federalist Society. The ABA is an independent, nonpartisan evaluator of the qualifications of candidates for all federal courts. They spend more time on evaluating, of course, a nominee for the Supreme Court, but they go through the same process and they evaluate their professional qualifications, their writings, their education.

They also look at their integrity and their judicial temperament. And I think we would all agree that on all three of those criteria, she performed admirably, beyond admirably. And she did earn their highest rating, which is highly qualified. But they do it through interviewing peers throughout the

country. They interviewed, they reached out to thousands of people, but actually had long interviews with 250 people in this particular case to come up with their highly qualified evaluation.

They only evaluate after someone has been nominated. The Federalist Society is a behind the scenes secret organization that makes recommendations to Republican presidents for appointing someone. Their role is evaluating for political purposes candidates who will support the Federalist society's viewpoints. It's very different. Now, you asked about when hearings started. And actually, the first member of the Supreme Court to be called before a hearing at the Senate was when Coolidge appointed Justice Harlan Fiske Stone, a graduate of Columbia.

And by the way, my law school, so there's some pride there. Even though he was appointed by a Republican and he was a Republican. And he was controversial because he had been the attorney general and had been pursuing indictments of a member of Congress. That member of Congress tried to derail his appointment, and that's what led to there having a hearing.

He was obviously ultimately confirmed. That was in 1925. It did not become standard practice until the '50s. I think it was around 1955 that it became standard practice to have the hearings. And they've pretty much gone downhill since. They used to be real inquiries about qualifications. Now they are, as I think Kim said, they're basically a way for people to make talking points for future political ads, and they are not really any way an investigation into qualifications. And so it's really too bad that we've gotten to this place in our Senate that it's not a legitimate use of Senate time anymore.

Joyce Vance:

Jill, can I just stop you and say, I had read an article that said the first Senate confirmation hearing for a Supreme Court justice was when Woodrow Wilson nominated Louis Brandeis, and that it was animated by antisemitic prejudice. Is that not correct?

Jill Wine-Banks:

That's so interesting. And I think this should be part of what we're talking about because I had heard that. But when I did the research, what it said was 1925, Calvin Coolidge and Harlan Fiske Stone. But I had heard that it was Brandeis, another eminent scholar who went on to be confirmed, and that it was based on his being controversial because probably based on religion. And so I could go with either one. I have read both, but the one that seemed to be the most convincing was that it was in 1925 and then in 1955 it became common practice.

Barb McQuade:

So Business Insider says-

Jill Wine-Banks:

But maybe one of our listeners can tell us. Yeah.

Barb McQuade:

... Business Insider says-

Joyce Vance:

It's fascinating to know the-

Barb McQuade:

... 1916 Woodrow Wilson was appointed-

Kimberly Atkins Stohr:

Both could be true.

Joyce Vance:

Yeah.

Barb McQuade:

... because of Jewish background.

Joyce Vance:

But it's fascinating to know whichever one of those is true, right? Whether it was the Coolidge nomination or the Wilson nomination, it's fascinating to know that it wasn't standard from the very beginning of the process, and that it evolved at some point and that it evolved for political purposes. And so now here we are today probably at the zenith of that, unfortunately.

And it's interesting because, Barb, we heard a lot at the start of these hearings about how dignified and respectful they were going to be. There was sort of this effort to draw contrast to the hearings for Barrett and Kavanaugh. And that lasted about under two seconds, right? It was anything but cordial.

And it was absolutely stunning to me that there was this effort to pay Judge Jackson back for the fact that there had been credible allegations of sexual assault lodged against now Justice Brett Kavanaugh, close in time to the date of his hearing. And that the white house refused to let those allegations be fully investigated by the FBI, which was what led to a lot of the ranker in those confirmation proceedings. And somehow there was this effort to play tit for tat in this case. What did you think about all of that? Were the hearings productive? Do you think we should even have hearings?

Barb McQuade:

Well, that's a very good question. I think the first part about just going down into the gutter, I just can't imagine how that appeals to voters, to any constituents. I suppose it does, or they wouldn't do it. But they're just so mean. I think about the tone of the questioning. I mean, maybe it's the idea of, "I need to express my victimhood," but it's just all so mean and sarcastic and snarky.

I just don't know how that seems appealing as political candidates. But as soon as you hear "This is going to be a dignified and respectful hearing," you think, "Uh-oh, here it comes," right? It's sort of like when somebody says, "With all due respect," you know like, "Oh boy, here comes the disrespectful comment," and that's exactly what it was.

It was like, "This is our chance to get payback for what you did to Brett Kavanaugh," which as you said, Joyce, was not the kind of, "I'm just going to use you as a pinata to bash your party and the president who nominated you," it was accusations about specific misconduct. And whereas really, I think, by focusing on child pornography cases, which is no more a higher position within her background of cases than any other kind of case and no different by the way than any other judge makes decisions in those cases.

But I think that there was this suggestion that we're going to use her as a vehicle for portraying Joe Biden and the Democratic party as a group of radical, left wing liberals who want to release all the violent criminals and child predators from prison. And they're coming after you, and they're coming after your kids. And they're going to eat your children and your dog.

Joyce Vance:

You could hear them say that. Willie Horton, right? I mean, they were appealing to the ghost of Willie Horton.

Kimberly Atkins Stohr:

I believe that it was Senator Cotton, although it may have been Senator Hawley. It's all running together now. I tweeted that. I'm like, "Something makes me think about Willie Horton." It was literally she was trying to be painted as somebody who would be dangerous to your nice, safe, white, suburban neighborhoods by releasing criminals more quickly than they should be when that was just factually untrue.

Well, there's two things about this that are particularly gross. One, this whole Kavanaugh grievance hearing thing, it's just really ... You can tell they're so angry that Brett Kavanaugh was prevented from ascending to the Supreme Court because of these allegations. Oh, wait, he wasn't. He's on the court. They won that battle, yet they are still mad four years later. Okay, that's point one. Point two, particularly by leaning in on this child pornography thing, let me say it again.

Judge Jackson said it herself, but I will say it again. Of the more than a hundred people who she sentenced, they kept going back to these seven cases. It's cherry picking at its best. But it's not just meant to scare voters, it's meant to appeal to a very specific type of conspiratorial QAnon, really heinous potential part of their electorate, that they clearly need to, they know they need to keep in line in order to win elections.

But that kind of stuff is what led to a restaurant here in Washington, DC, someone going into it and opening fire, because this person actually believed that Hillary Clinton was keeping child sex abuse victims in that pizzeria. I mean, the most bonkers stuff that you can actually think of, but that's who they are catering to.

Barb McQuade:

And are there enough of them of to carry their votes? Because I agree with you, Kim. I'm sure they're using polling.

Kimberly Atkins Stohr:

I think they need every vote.

Barb McQuade:

I'm sure they're doing polling.

Kimberly Atkins Stohr:

The Republican party knows that it's shrinking, and that tells you something, if they think they need to keep every vote. It's telling you one of two things, either these senators actually believe this conspiratorial stuff-

Barb McQuade:

I think so.

Kimberly Atkins Stohr:

... or they're just doing it for political reasons because they know that their numbers are ranking, that the Republican party is getting smaller every day. More of them are dying of COVID because they don't want to take vaccines or wear masks. And so they need-

Barb McQuade:

Well, so they have to gerrymander, right, to suppress other votes.

Kimberly Atkins Stohr:

... They need to gerrymander and they need to appeal to even the worst part of their base. I mean, that's what this is showing. This is so much more about the midterms in 2024 than it is about Judge Jackson.

Joyce Vance:

Well, how about it? I mean, we've talked about some of what was going on here that was bad in the political motivation. Is it unfair to say that what was happening was racist? That it was because she was a black woman that she was subjected to some of this abuse.

Kimberly Atkins Stohr:

It's all the things. It's all the things. Of course it was racist. Of course they knew that she didn't have the same privilege to clap back at them, that Brett Kavanaugh had to yell and scream. Of course they knew that this Willie Horton approach to questioning her would land in a different way to some of their supporters than if it was done to somebody else.

Of course they're labeling her soft on crime and anti-police. I mean, my God, she comes from a law enforcement background. But that was something that they did in terms of first responders. They did that to Sonia Sotomayor too. Remember? They made it seem like she was against firefighters. And this is the exact same-

Barb McQuade:

A former prosecutor.

Kimberly Atkins Stohr:

... Yes, a former prosecutor was soft on firefighters. I mean, they will go for whatever it is. But yeah, it has changed a lot. Also recall, Antonin Scalia, I believe, was confirmed unanimously. I think a handful, like maybe two or three people voted against Ruth Bader Ginsburg. This is a recent development. There was a time that advise and consent did not mean brutally, politically beat up the nominee, but that's where we are now.

Joyce Vance:

Well, what do you think? I mean, I'm really curious. This is something I've thought about all week, and I'm going to just hit you guys with it cold. This might be a little bit unfair, but is this just what we're

faded to have from now on in Supreme Court confirmation hearings? Is there any way to walk this back, or is this just our forever reality?

Kimberly Atkins Stohr:

I think it's irreparably broken, irreparably. I'm going to say the word right. I think it's irreparably broken. I think the system is irreparably broken. I don't know how we get it right.

Barb McQuade:

So should we end them? What about that?

Jill Wine-Banks:

We would have to get-

Barb McQuade:

End the hearings.

Jill Wine-Banks:

... We'd have to get back to bipartisanship to have any kind of hope of having decent kinds of hearings on almost any subject, because we are at a point where sound bites for potential political ads are more important than the facts being elicited. And that's really too bad.

Joyce Vance:

Barb, you asked the question, should we end them? I'm curious. What's your answer to the question?

Barb McQuade:

I don't know, because I do think watching them, I think there is a very cynical viewpoint at work here, which is I know most Americans don't have time to watch these hearings in their entirety, the way we do. We consume these things and we eat it up. Most Americans don't have time to watch that. They're at work during the day. They're not watching the gavel to gavel coverage, the 13-hour hearing that was held on Tuesday. And so they are looking for those sound bites.

And if they watch Fox News or they're looking on Facebook for Ted Cruz's feed to see what he's putting on there, what he tweeted about or what Marsha Blackburn tweeted about the definition of a woman. They know that's all they need. They just need one little nugget, one little got you moment. And it doesn't matter what her answer is, what matters was what the question was. I'm wondering if there isn't a different process.

I do think there is value. As Kim said earlier, there's some fair areas of questioning asking her about her record, asking about her sentencing decisions, asking her about other kinds of things. There's value in that, but it is so devolve into something else that I wonder if we shouldn't demand different rules or a different process for learning about the nominee.

I think America deserves to meet the nominee and to see what they're all about, because we want them to have faith in the system, in the justices, we're making these decisions. But I think the current-

Kimberly Atkins Stohr:

And it's lifetime tenure.

Barb McQuade:

... Yeah. But I think the current model is broken and we need to think about ways to fix it.

Joyce Vance:

It used to be that the Senate judiciary committee was the crown jewel of the Senate in so many ways. This place where Howell Heflin and Alabama Senator brought bipartisanship to the Senate. I think it's not impossible to get back to that, to be honest with you, at least for these confirmation hearings. There might be one place where the Senate could make progress, but it's going to take different senators on the committee.

It would take something like a gang of eight that would agree to set some boundaries and do these hearings in a more civil format. But I'll tell you, even with the problems, I really like seeing these hearings. And I think, Barb, your point is fair that not everybody gets to watch it like we do. But for me, you guys will be shocked to know that the entire hearing was made when Mazie Hirono asked Judge Jackson about her creative hobbies.

And she responded that she was a knitter, which listeners to our podcast already knew. And she acknowledged that she had a basement full of yarn. Knitters called out their stash. And we're very secretive about the size of our stashes. We don't really like for other people to know, so it was a remarkable acknowledgement.

But in that moment, and I heard this from a lot of people afterwards, in that moment, she was relatable. And it was a super important moment for black women and for black people in general, and for little black girls who could see themselves growing up and becoming Supreme Court justices. But it was also a moment that let white suburban women say, "She's just like me. She's got a basement full of yarn."

And I think that there are these moments of connection with the most important figures in our government. And when they happen, they're important. They help us stay together as a nation. They help us to be Americans. And so I'm going to be the Pollyanna here and say, "I hope that this Senate will fix this process because it can be really important for us

Kimberly Atkins Stohr:

Black girls knit.

Jill Wine-Banks:

Can I just add that I remember when there was bipartisanship, when the Senate Judiciary Committee was one that had, not only legitimate, honest inquiries into the background qualifications, but when votes were bipartisan, when even rejecting a nominee. I mean, I remember Carswell and Haynsworth who didn't make it, but it was a civil, rational, joint agreement.

And so I am like you, Joyce, a little bit of a Pollyanna in thinking that maybe there's a way to get back. But as long as we have news silos, as long as we have propaganda and disinformation on certain media outlets, we're not going to get there, because no one is listening to the facts. And you have to really care about the answers to ask ones that will elicit what you need to know. And so that's where my problem is, is that we're not in a place where there is honesty and truth and fact in all the media outlets.

Joyce Vance:

There was a great moment where Senator Ossoff, as all this bickering was going on early, he said, "You guys, the American people have tuned into this hearing. They're here to listen to us question the nominee. Let's table all of this conversation on controversy about procedure until the end," and I thought, Senator Ossoff, that guy, he could restore normalcy to these proceedings.

Jill Wine-Banks:

He was the adult in the room. Barb, a friend of mine just asked for her daughter who just had a child and is now looking for life insurance how she could find a good deal. Do you have any suggestions?

Barb McQuade:

Yeah, that's exactly where Policygenius comes into play. It's an app that helps you figure out the best price and the best product for your needs. Sometimes it can be really overwhelming, especially for a young person who hasn't shopped for things like this before to figure out how to make sense of all of this and what are all the deals. Policygenius is a one-stop shop to help you.

Life insurance can give you the peace of mind that if something happens to you or your loved ones should have something to happen to them, a financial cushion for rent or mortgage payments, loans, education costs, and everyday expenses can come in handy. And typically, life insurance gets more expensive you age. It's smart to get a policy sooner rather than later.

Policygenius is your one-stop shop to find and buy the insurance you need all in one place. And getting started is easy. Click the link in the show description or head to Policygenius.com and answer a few questions about yourself. In just minutes, you compare personalized quotes from all the top companies to find your lowest price.

Joyce Vance:

If you value being a smart shopper, you can save 50% or more on life insurance by comparing quotes with Policygenius, and their team of licensed experts will help you understand your options and apply for the policy you choose. The Policygenius team works for you, not the insurance company, and you can trust them to offer unbiased help and advocate for you at every step until you're covered.

They won't add on extra fees, require unnecessary medical exams or sell your information to third parties. And they've helped over 30 million people shop for insurance since, 2014 and placed over \$120 billion in coverage. Policygenius has thousands of five star reviews across Google and Trustpilot. You could be next.

Barb McQuade:

We like to have Joyce do these ads because we love the charming way she says insurance. Head to Policygenius.com to get your free life insurance quotes and see how much you could save. That's Policygenius.com, or look for the link in our show notes.

Jill Wine-Banks:

Let's hope and we, I think, all believe that Justice Brown Jackson will be Justice Brown Jackson. She'll move from judge. And let's look at what kind of court she's going to be facing, what cases is she going to be able to hear, what cases will she have to cues on, and what do we think the big issues that she faces are going to be. Joyce, you want to start?

Joyce Vance:

Well, one thing that we all know she'll face in this court will be continued questions about voting. The Voting Rights Act, as the court continues to restrict it, we saw just this week there was another shadow docket ruling from the court in the area of voting rights. This time it dealt with redistricting in Wisconsin. We got at least a per curiam opinion this time with a vehement dissent from the liberal wing of the court talking about the fact that Section 2 is being eroded.

This is the environment she finds herself in, on a 6-3 conservative majority with a trajectory where the court continues to erode voting rights. And I'll tell you, I'm not hopeful at all about what's going to happen with the law in this area. But something that I did learn from listening to this hearing that I didn't know beforehand about Judge Jackson is that she can explain complicated legal concepts in ways that non-lawyers can understand them.

And so as the court continues to make what I think will be a string of bad rulings and voting rights, at least having this powerful voice that can help the average American out there understand what's going on, I think that will be helpful. Barb likes to say that dissents are written for the future. I think she will write some powerful dissents.

Barb McQuade:

Yeah.

Jill Wine-Banks:

And Barb, do you agree?

Barb McQuade:

Yeah. And also I think we tend to forget that she's on the court now and she'll be in the minority, but she might be on the court for 30 or 40 years. She's 51 years old, but people live a long time now. And we've seen so many of these justices stay in the court well into their eighties. And so she's going to be there for a long time, and you never know how things can change on a dime.

I mean, remember when Justice Scalia died, that was so out of the blue. And so at some point we may even see her be in the majority. And so yes, I think her dissents are important. And today's dissent might be tomorrow's majority opinion. It gets people thinking about new ideas and outside the box. I think her job is very important, even though she will still be for now likely voting in the minority in some of those cases.

And don't forget, there's so many cases that are decided 9-0. It's these big cases that get a lot of news attention that are the 5-4 decisions or the 6-3 decisions these days. But I think in the long run, she will absolutely make her mark.

Kimberly Atkins Stohr:

And remember that when the justices make their rulings, they get together in a room. It's just the nine of them. There's not even a clerk in there. And they go through, and they discuss and they take that vote. And she will be at that table. And she will bring to bear her professional and lived experiences on all these issues, including I'm thinking about on the voting rights cases that we're talking about.

Famously in the Shelby County case, you had Chief Justice John Roberts essentially say, "Well, we don't need this stuff anymore. The country is not racist like it used to be." I think she will have

something. I think she would have a word on that topic and be able to talk to them about it in a way that will make them listen, to bring her experiences as somebody who grew up in a different part of the country.

She's from Florida. She will bring her experience as a defense attorney. There's so much more about this job than simply the opinions and descents, probably more descents than opinions, than she'll be writing, just on the substance of what's coming up next term that we know about.

We know that there is an affirmative action case in that this Supreme Court has chipped away at the ability of colleges and universities to continue to consider race as one of many factors and admissions down to its bare bones. And that was done by now retired Justice Kennedy, who kept the little bit of the legality of it, constitutional protection of it that exists in place, and that is likely going to fall by the wayside side. She was asked if she would recuse from that, I'm assuming because she went to Harvard, and I think that's an odd-

Jill Wine-Banks:

She's on the board of overseers.

Kimberly Atkins Stohr:

... She's on the board of overseers. Okay, that's a better reason. Thank you. Thank you, Jill. She said she will recuse from that. She won't have a voice and say in that. We'll have to rely again on Sonia Sotomayor who has issued blistering and moving dissents in the affirmative action cases, where in cases like in Michigan where it was rolled back. But we do know that she will not play a role in that.

But she will play a role in a lot of important issues, whether it's voting rights or whether it's things like gerrymandering, whether it's things about the administrative state and the ability of the executive branch to make regulations that regarding things from healthcare to the EPA. She's going to be on there considering the most important issues that face us. So even though she will sit out that one, she will be at least a voice in all the others.

Jill Wine-Banks:

It'll be very interesting because she really doesn't change the makeup of the court. She replaces a member of the 6-3 minority, and so it will stay a 6-3 majority conservative court. But one thing she will bring is she's well known as someone who is a consensus builder. And so maybe there's a way to make some of the decisions at least 5-4 by attracting one of the six to the minority position.

And maybe she can be even more persuasive and flip it, so that it's a 5-4 on the minority side, which of course wouldn't then be the minority, but on the more liberal side. It'll be interesting to watch how she impacts, even though she doesn't change the makeup of the court. And maybe she'll have an impact on talking about the shadow docket. We've talked about that a lot. Does anybody think there's any way that she can influence how many cases get decided on the shadow docket?

Kimberly Atkins Stohr:

That's a good question.

Joyce Vance:

I think the shadow docket in some ways is a necessary evil, right? Because Kim, doesn't it deal with preliminary or procedural matters that have to be dispensed with one way or the other?

Kimberly Atkins Stohr:

Yeah. There's always been a shadow docket. It often happens in capital cases, where they have to make a determination based on a petition that a death row inmate makes before that execution. That has always happened. What is different lately is that they are using this fast track way that avoids full briefing and full oral arguments to decide issues in a way that it's really a final ruling.

That really is for all intents and purposes on the merits in a way that sort of skirts around the accountability that a full hearing and a full opinion will bring. I mean, I think the Texas abortion law is the best example of this. That went into effect before there was any full briefing or argument on that, and that affects a fundamental constitutional right. That's where the shadow docket goes left. And so maybe she will be a voice to help prevent that from happening.

Jill Wine-Banks:

I think you meant goes off-kilter, not goes left. Definitely didn't go left, it went right.

Kimberly Atkins Stohr:

No. I meant what I said. Going left is vernacular. It doesn't mean politically left. It means when things go left, that means that things go wrong, right? That means that things go off the track, but it is the correct.

Barb McQuade:

That's a very [inaudible 01:02:01] view of the world you have, Kim.

Kimberly Atkins Stohr:

Ah, listen, that phrase came out of the black community is why I assure you it is not [inaudible 01:02:09].

Barb McQuade:

Joyce, I've always admired your hair. It's beautiful. I know sometimes you were referred to as Wednesday Adams at your old law firm when you were wearing black and long straight hair. But even Wednesday Adams was beautiful. What is your hair care secret?

Joyce Vance:

It was actually at the US Attorney's Office, where I worked for 25 years, and my colleagues would often make fun of me and snap their fingers as I walked down the aisle because I had super long black hair that I occasionally even braided. My current secret though is Function of Beauty. I'm so in love with it. I found it only because they're sponsoring the podcast. And I love having products that work especially for me. What about you, Jill? And thank you by the way, Barb. That's so sweet.

Jill Wine-Banks:

Well, how your hair looks is really important to how you feel and how you portray yourself to the public. Your hair is unique and it needs products that address its specific demands, and that's exactly where Function of Beauty comes in. It has worked for me beautifully. Function of Beauty is the world's first fully customizable hair care that creates individually filled shampoo conditioners, styling and treatment formulas based on your hair.

It's founded by a dream team of engineers and cosmetic scientists, and each Function of Beauty product is individually designed to be as unique as you are. Function of Beauty offers over 54 trillion

possible formulations, all vegan and cruelty-free. They never use sulfates or parabens. You can also go completely Silicon-free. Here's how it works. First you take the quiz. It's a hair quiz and it helps you to build your hair profile. And then you select five hair goals, like lengthen, volumize and oil control.

Kimberly Atkins Stohr:

I started using it for my hair. I was a little skeptical. I'm a black lady. The hair care products don't always work for us. And I really liked it. In fact, I liked it so much, I then ordered the shower gel and lotion, and I love them even more. There's a lot of things you can select from. And whether your hair gets frizzy in winter or oily in the summer, Function formulations are meant to be changed when your hair needs changed.

You can choose your color and fragrance, or go dye-free or fragrance-free. Then get your freshly filled formula delivered straight to your door and prepare for the good hair days ahead. Say goodbye to generic hair care for good. Today, go to [Functionofbeauty.com/sisters](https://functionofbeauty.com/sisters) to take your hair goals quiz and save 25% on your first order.

And that applies to your skincare products too. Go to [Functionofbeauty.com/sisters](https://functionofbeauty.com/sisters) and let them know you've heard about it from our show and get 25% off your first order. That's [Functionofbeauty.com/sisters](https://functionofbeauty.com/sisters) to take your hair quiz and save 25% on your first order, or look for the link in our show notes.

Now we've come to the favorite part of our show, which is answering questions from our listeners. If you have a question for us, please email us at SistersInLaw@politicon.com or tweet using the hashtag SistersInLaw. If we don't get to your question during the show, keep an eye out on our Twitter feeds throughout the week where we answer as many of your questions as we can.

I want to start out with a question from Kelly from Newport News, she asks, "Will the news about Ginni Thomas mean that Justice Clarence Thomas will have to recuse from future cases involving the January 6th committee?" Who wants to answer Kelly's question?

Jill Wine-Banks:

I'll answer it. I think that it should mean that if there were any rules of ethics that apply to the Supreme Court. Unfortunately as of this moment, the court that Justice Jackson will join does not have any ethics rules, so there's no way to force him to recuse himself. But yes, I think the tweets make a very clear and compelling case that her role in January 6th will at least create the appearance of impropriety if he sits in on any decisions involving subpoenas and criminality from that event.

Kimberly Atkins Stohr:

And I just want to say, this is the latest example of this, and it's bonkers, right? I mean, these texts that she was texting to Mark Meadows. And now as we're taping, we see new news that she was emailing members of Congress and such. I mean, talking about releasing the Kraken and how invoking Jesus. I mean, they're so off the rails, but they're so ... It makes it so clear that she is so deeply involved in the events leading up to January 6th that I think that Justice Thomas should ...

It should be a no-brainer that he should have recused in the first case that they decided about January 6th, document production, but certainly any future one. But it's important to remember, Ginni Thomas has been a part of the GOP advocacy apparatus for decades, and deeply involved either in organizations or in funding or in parties or people who show up as a Mickey in cases that go before the Supreme Court for decades. Right?

It's my opinion, this is just my opinion, that Justice Thomas should have recused himself from a number of cases, including and not limited to Bush V. Gore, Citizens United, the travel ban case, the Obamacare cases. Ginni Thomas was deeply involved in the organization challenging the constitutionality of Obamacare. This has been going on for so long and we should ... Jill is exactly right, that we don't have a rule that requires Supreme Court justices to recuse in those cases. There should have been those rules in place back then, and we may not be where we are right now.

Jill Wine-Banks:

Let me push back a little bit and just play the nerdy constitutional lawyer here, and say that the issue is a little bit complicated because of the balance of powers among the three branches of government. And one of the reasons historically that while we have ethics rules for the lower federal courts is that it's a more complicated issue when you get to the Supreme Court itself. And that's why Justice Roberts, I think, has advocated for this position of letting the court in essence police itself.

But Kim, I agree with you very strongly, that we are long past the point in time, where that makes any sense. The court has proved that it cannot police itself. And so I don't know whether Justice Roberts is going to have to craft some internal mechanism to the courts, where maybe you even give circuit judges or district judges a pop at Supreme Court judges on ethics issues, but something here is going to have to change.

The real problem is going to be crafting something that's enforceable, because right now, John Roberts can go to Clarence Thomas and beg him to recuse himself. And look, we know that happens at courts across the country, right, where you've got a judge who's maybe not hitting it on the straight and narrow, and the chief judge in that district quarter that court of appeals goes to one of their brethren or sister and says, "Listen, we really need to be concerned about how the community views us. And there's an appearance of impropriety if you sit on this case, and I wish you'd reconsider." And chief judges can make that ask, but they can't enforce it, so that's the challenge here for Chief Justice Roberts.

Barb McQuade:

I think one solution, if you want to police themselves is to adopt the same rule that is used in the lower courts, which is right now, as Jill said, the only prohibition is if your spouse is an actual party in a lawsuit, or is an officer, a director of a company, or you have a direct financial tie. And I do think it's important to recognize we are not our spouses. We live separate and independent lives.

But there are sometimes when there is the standard that would apply at the lower courts is either an actual conflict of interest, or an apparent conflict of interest. And that is one where a reasonable member of the public could fairly question the justices impartiality. And the reason that's a problem is it undermines the legitimacy of the court when a justice makes a decision that could tend to favor their spouse.

And in particular, it may not be every case, but case that was already decided in which Justice Thomas was the only dissenter, the case where Donald Trump was trying to prevent the National Archives from turning over White House documents to the January 6th committee.

It could very well be that the reason that he rejected, or that he was the dissenter in that case is he wanted to protect his wife and himself from having those messages disclosed to the January 6th committee. I think in that kind of case, there is a real conflict. There is one that could fairly cause people to question his impartiality and he is harming the court. I think Justice Roberts should push to have that broader standard for recusal.

Jill Wine-Banks:

It's really important right now where the opinion of the American public of the court has really sunk, and it's at one of the lowest points ever. A friend of mine, who's a lawyer in private practice said, "Why can't Justice Roberts just go to him and say, 'If you don't recuse, I'm going to vote against however you vote. And I'm going to say that the reason I'm doing that is because you are not recusing,' as a means of trying to embarrass him into recusing?"

I said to her, "That will never happen. It's not going to be." But it's a nice dream because it would certainly help the appearance, if it forced the recusal, it would certainly help the reputation of the court. And I, for one, would like to see the court be the respected institution that it needs to be as the final word on whether our laws meet constitutional standards. It's important.

Kimberly Atkins Stohr:

Bill from Albuquerque asks, "What is the significance of the new RICO lawsuit that Donald Trump filed against Hillary Clinton and others?" Barb, you want to take that on?

Barb McQuade:

Oh man, if I'm Hillary Clinton or Jim Comey or any of the other defendants in this case, I say, "Bring it." I think this is trying to do what John Durham's investigation has failed to do, which is to turn the tables and create a false narrative that it wasn't Donald Trump who was working with Russians in the 2016 election, it was actually Hillary Clinton.

I mean, really? Hillary Clinton? Are we still going after Hillary Clinton? But if I'm Hillary Clinton or Jim Comey, I'm saying, "You know what the first thing I'm going to do in this case is? I am going to notice up a deposition for Donald Trump. And I'm going to put him under oath and I'm going to ask him all these questions."

And you watch, this case is going to fizzle. It is not going to prevail. This is all about asking Volodymyr Zelenskyy, "I just need you to announce an investigation. Leave the rest of me." That's what this is about. It's a press release masquerading as a lawsuit.

Kimberly Atkins Stohr:

That is really great. I mean, we have already talked about rule 11 here, and I can talk about that all day because I'm a nerdy [inaudible 01:13:50] person. I didn't make it through deep enough into this complaint to see the attorneys who actually signed this complaint that was filed in a federal court in Florida, but all of them should be brought up for rule 11 sanctions. Basically, in layman's terms, what it means is you cannot file a lawsuit in federal court that you know is absolute BS or you can be faced with serious sanctions. And so I think that the sanctions need to fly.

Jill Wine-Banks:

And the other thing I do is I'd hire the most expensive attorneys I could, because I know that he would end up having to pay them under the sanctions.

Kimberly Atkins Stohr:

Legal fees.

Jill Wine-Banks:

Let's get right up there.

Kimberly Atkins Stohr:

All right. Our final question is from Jeffrey in Chatsworth, California, who asks, "Have you read Garrett Graff's new book on Watergate, called Watergate: A New History? If so, I was wondering what your thought about its accuracy." Jill, have you read it?

Jill Wine-Banks:

I think he must have meant that one for me. And yes, I have read parts of it. I wasn't going to read it because I thought, "Well, what is there about Watergate that I don't already know?" So I wasn't going to get it. And it's a very voluminous, heavy, big book. But a friend texted me that I was named a lot in the book, and so that I might want to read it.

I did order the book, it arrived. And of course the first thing I did, I don't think you'll be surprised, was I looked at the index, looked up my name and was immediately humiliated because one of the first topics under my name was the appearance of. I hope it meant my appearance on the scene. It didn't. It meant my appearance, as in it refers to my peaches and cream complexion, my mini skirts. It called me the blonde bombshell.

I'm now in a history book for my appearance. Now, if anyone thinks this is not sexism writ large, I don't know what else it is. It is extremely well-written. I will say from my skimming it, it's quite a readable book. It's not like a history book. It's written like a story, a novel almost.

And I am actually looking forward to delving into it. And after I have finished the 500 plus pages, I will tell Jeffrey whether I think it was completely accurate. The parts that I read are true. Unflattering though they may be, it's true. That was the first thing I looked up. And every other reference to me was actually accurate.

Barb McQuade:

Was he characterizing you in those ways himself or was he merely reflecting the way it was reported at the time in the 1970s?

Jill Wine-Banks:

Reflecting the '70s? It wasn't-

Barb McQuade:

So that is part of the historical content, I think.

Jill Wine-Banks:

... him calling me that.

Barb McQuade:

Okay. I'll forgive him.

Jill Wine-Banks:

Yes, it is. It is. But it's just a shame that's how I'm remembered. And he does quote from my memoir. Listen, if anybody picks up my memoir, The Watergate Girl, because I'm quoted in Graff's book, that's good, I have no complaints about that.

Barb McQuade:

You're memorable for many reasons, Jill. Thank you.

Kimberly Atkins Stohr:

You really are. You really are. Thank you all for listening to #SistersInLaw with Joyce Vance, Jill Wine-Banks, Barb McQuade, and me, Kimberly Atkins Stohr. You can send in your questions by email to SistersInLaw at Politicon.com, or tweet them for next week's episode, using the hashtag SistersInLaw.

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I did not want to say that in that segment, but I have to say, just ... I mean, I knew and respected Jill Wine-Banks before I ever saw you with my own eyeballs, right? But just seeing you on TV and certainly seeing you in-person, I don't think I've ever seen a more stylish person. It's even more disingenuous that people were hitting you about your appearance.

Because my goodness, a hair is never out of place. Even when you're in a T-shirt, in jeans, you are stylish. When we had lunch, holy moly, you looked fantastic. I mean, you're probably one of the most stylish humans on the planet. They're trying to hit you on that, it's like, "Please, what are you wearing? What are you wearing? Some polyester suit?" Don't do it.

Jill Wine-Banks:

You're right.

Kimberly Atkins Stohr:

Don't do it. Do not come for Jill Wine-Banks.

Jill Wine-Banks:

I know. It's just so embarrassing to have that be-

Kimberly Atkins Stohr:

I get it.

Jill Wine-Banks:

... part of my legacy. I mean, it's like news reports. I mean, it is accurate reporting. I'm not saying it's not accurate, it's-

Kimberly Atkins Stohr:

But it's also a hit from-

Jill Wine-Banks:

... that news reporting included that. I mean, it's-

Kimberly Atkins Stohr:

... But it's also like how Ted Cruz is in part, I believe, going after Ketanji that way because he's bitter because he was on that same law review and he is not being [crosstalk 01:19:18].

Jill Wine-Banks:

... Yeah, right.

Kimberly Atkins Stohr:

I believe that it's these men who knew is they could never look that good, and all they could do is hit you on it, right? It just, it-

Jill Wine-Banks:

Yeah. Yeah. But it's true. It's true. It's just something that I would like to put behind me at some point and move on.

Joyce Vance:

I feel as Cory Booker said, "Do not let them steal your joy." Refill your joy. Don't give them the oxygen. They don't get any oxygen. Refill your joy.

Jill Wine-Banks:

I know. And my father always felt that it was very important for him as a professional, he was a CPA, to dress really well, and to have really clean hands and nails. Because how would a client trust him to do their tax work if he wasn't dressed that way?

Kimberly Atkins Stohr:

Yeah, show respect for yourself. Yeah.

Jill Wine-Banks:

Yeah, exactly. I mean, I think that's an important thing. And I like being a girl. I like fashion-

Kimberly Atkins Stohr:

Me too.

Jill Wine-Banks:

... and lipsticks and colors and all that.

Kimberly Atkins Stohr:

100%.

Jill Wine-Banks:

I mean, I don't think there's anything wrong with that-

Kimberly Atkins Stohr:

There's nothing wrong with that.

Jill Wine-Banks:

... that's not inconsistent with a professional role. So yeah.

Kimberly Atkins Stohr:

Don't hate me because I'm stylish. Come on.

Jill Wine-Banks:

Right. Right.

Kimberly Atkins Stohr:

Don't hate Jill Wine-Banks because she's stylish.