

Joyce:

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Jill:

Welcome back to #SistersInLaw with Barb McQuade, Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. Today we'll be discussing our unique post-midterm analysis and what the DOJ is going to do now that the elections are over. And as always, there's more about pending investigations of Donald Trump and the Trump organization. And we also have some news about Twitter employees suing the company based on the WARN law, and that requires that they get notice 60 days before mass layoffs as just happened at Twitter. And as always, we look forward to answering your questions at the end of the show. On December 3, we will publish our 100th full episode. To celebrate this anniversary, we want to hear from you, our listeners, and invite you to answer this question.

Through our first 100 episodes, what is the most important thing you've learned from the #SistersInLaw podcast? Please share your biggest learnings or takeaways with us on Twitter and Instagram using #SistersInLaw 100. That's #SistersInLaw 100, 1-0-0. We'll be sharing some of our favorites on social media leading up to December 3rd and during the 100th full episode.

We have a lot to cover in today's episode, but today is actually Veterans Day as we record this. And so I wanted to talk to all of you. It became a sort of changed perspective for me when I was general counsel of the Army. And having grown up in the Vietnam era where I had one perspective of veterans and then having served with them came away with a completely different opinion and celebrate Veterans Day in a very positive way now. I'm just wondering about your own personal experiences and what you're thinking. Kim, let me start with you.

Kim:

Yeah, so Veterans Day has always been important to me because one of the best humans I know in the world, my father, is a Marine. He's very proud. If you pass by their house, there is a Marine flag flying out front. And it's always important it. He helped instill in me the value of understanding what service means to your country, service for something greater than yourself. And I've mentioned before that I've done some ancestry research into my family and found, for example, that my three times great grandfather fought in the Union Army for his and his family's freedom from enslavement.

And I just think about, even though I spend a great deal of time writing about and reporting on how the rights that are guaranteed in our Constitution have not protect everyone equally, I'm so grateful for people who... Even knowing people like my dad who knew people, certainly like my three times great-grandfather who knew that those protections wouldn't apply to them the same way as it applied to others, it was still important enough for them to serve on behalf of the country. So I'm very, very grateful to our veterans and I wish them all a wonderful Veterans Day weekend.

Jill:

And Joyce, what about you?

Joyce:

Like Kim, my dad was a Marine. My granddad was in the Navy and served in World War II. And my father-in-law also served in the Army and played a role as a military lawyer. Something that was really

special about living in Birmingham when our kids were little was that for many years, Birmingham had the country's biggest Veterans Day parade. It was serious business and the downtown would shut down. And so when our boys were little, when we just had our first two older boys, we'd take them down and sit on the sidewalk and watch the parade with them. I think it's important for us to celebrate the people who sacrificed their lives and the people who served so that we could enjoy the lives that we live.

And I appreciate that our country is imperfect in some ways, but I think it's important and Veterans Day is an opportunity to think about the fact that we can always aspire to do better. And the reason that we are the country that we are is because of the service of individuals like Kim's dad and Barb's dad, the service of people like you, Jill. And that's something important for all of us to honor.

Jill:

And Barb, what about you? Do you have a special connection?

Barb:

Yeah. Well, my dad served in the Army, so I grew up having great respect for people who serve in the military, and I still do. Just yesterday we had Chuck Rosenberg out to the law school to speak to our Military Veterans Society at the law school. We have students who are veterans and they're amazing, students who came to law school after being... One was a fighter pilot, one was a platoon leader overseas, one was an officer on a nuclear submarine. I mean, really amazing service. And I'm so proud of them and grateful to them for that service.

Earlier this year, I had a chance to travel to Normandy where they have all of those cemeteries of the various Allied soldiers who were killed on the beach landing there. And I found it so moving. One of the American cemeteries has more than 9,000 white crosses for people who died storming the beaches that day. And they knew as they were marching forward, people all around them were going down and your job was just to keep going, just keep going and sheer numbers would overwhelm the Axis forces on the other side. So I'm in awe of their bravery and their sacrifice, and I'm really grateful for it. So it's nice that we have a day when we can reflect on that.

Jill:

I'm very happy to say Happy Veterans Day to all of our veterans, and I'm wearing two Jill's pins today. One is the Army and the other is just a salute to veterans in general. It was an honor to serve in the Pentagon and to get to know so many active duty people and veterans as well. I'm old enough, of course, to remember when Veterans Day was still called Armistice Day, and there used to be people selling poppies. And that was, I guess, in relationship to the poppy fields that grew up around the areas where our soldiers had fought in World War I and II. So happy Veterans Day to everybody.

Barb:

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Jill:

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to do is click apply coupons, then wait a few seconds as Honey searches for coupons it can find for that particular site. If Honey finds a working coupon, you'll watch the prices drop.

Barb:

We can't believe how much we've been saving. I just saved \$20 on a 1/4-zip fleece. In fact, I have a whole wardrobe of these. My daughter saw it and I asked how she liked it, and she said, "That's the most you outfit I've ever seen." So there's that. And I know the other sisters have seen great savings too. It always amazes us how easy it is to save. Even better, Honey doesn't just work on desktops, it works on your phone too. Just activate it on Safari on your phone and save on the go.

Jill:

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Kim:

The midterms went off mostly without a hitch. And one of the big takeaways was the fact that when abortion was on the ballot, abortion protection won in a big way. Barb, I want to start with you and the ballot questions on abortion, including the one in your state. I will say this, I expressed skepticism. I think we talked about this before.

Barb:

We did.

Kim:

Yeah, after the Dobbs decisions dropped, I didn't say that it wouldn't have an impact at the polls, but I was unsure because we didn't see that same energy happen after Sandy Hook over gun control or after other big things happen and we thought there would be a big election backlash and it didn't turn out. So I just wasn't sure that this would happen either, but I was absolutely proven wrong and I'm glad I was. So why do you think it was different this time, even in states like Kentucky?

Barb:

Yeah, I think one is certainly people are really outraged by the Dobbs decision, and so I think that was a mobilizing factor. And I also think that in the time since Dobbs, there has been so much news coverage that I think has educated the public. So often, I think abortion is presented as a sexually promiscuous young woman who doesn't want to take responsibility. And I think in the time between Dobbs and now, there have been so many articles from... In Michigan, we have a lot of ads with healthcare providers talking about... It's not just life saving, but really important, complicated issues involving healthcare that are really nobody's business. And rape victims, no exceptions for rape and incest and other kinds of things.

And I think as people really start to think about what it means to have... In Michigan, we would've reverted to a 1931 law that made it a crime for caregivers to provide an abortion. I think people started thinking about that. I talked to many people who say, it isn't really a choice between do you like abortion or do you not like abortion? I mean, I wouldn't choose it, but should we make it a crime in light

of all of the possible circumstances where this issue might arise? No, I don't want to make that decision for people. And so we did see it passed in Michigan by 57% to 43%, which is a very, very sizable margin, and it had very long coattails. We saw a lot of Democrats elected and I think part of it was because so many people came out, young people and others, came out to the polls because of that issue.

Kim:

I think that that's right. And we saw so many young people turn out in these midterms, which I think made a big, big difference. Jill, what do you think?

Jill:

Oh, absolutely. And when you talk about young people, of course, I have to mention Victor Shi, my iGen Politics Podcast co-host who is all over MSNBC now, and who was really working hard with voters of tomorrow to get out that youth vote. And it really was a motivating issue for them was they realized that a right had been taken away for the first time in their life. It was a right they assumed they would have forever, and when it was taken away that really drove them to the polls. So it was really an important issue.

Joyce:

Victor has been great on TV, Jill, and I've been really focused on the youth vote in this regard because I think one of the great mirages of Democratic politics, it seems like in every election we say, "Well, you know, if only 10% more of people between 18 and 29 would vote, statistically Democrats would be winning more of these elections," and it never happens. So to your point, Kim, I think maybe Dobbs woke some of those voters up. Look, not all of them. I mean, in Alabama, Democrats were still winning elections in the high sixties. Alabama Democrats really stumbled and ran for governor against a very popular incumbent, ran a woman who was against abortion and said so during the campaign.

And so maybe that's reflected in those high wins that Republicans had. But I have this funny feeling that the silver lining of Dobbs is that it has awakened a sort of sleeping giant, and that young people who may not have been aggressively voting before this are going to realize how important their vote is and how powerful they are when they vote on important issues. I'm sort of optimistic despite what the Supreme Court did in Dobbs.

Kim:

Yeah, I think that that's true too. And listen, there were a lot of issues that were motivating voters, including young voters, but I think that made the difference. In The Emancipator, the journalism project between the Boston Globe and BU Center for Antiracist Research that I write for, there was a piece that talked about the other swing voter, and that is young people, particularly young people of color and their swing vote. The choice is not between Republican and Democrat, but between voting Democratic or not voting at all is the new crucial vote in these elections in a way. We've talked so long about these independents or these moderates that Democrats or Republicans try to woo.

And I think that that has shifted in a big way. And when you think about young people, I think about my stepchildren who are 20 and 22, and they didn't know 9/11, they didn't have the same perception of things. So when you have the Trump administration and you have an insurrection and you have the striking down of Dobbs, to them this kind of felt like a slow rolling 9/11. Democracy itself and personal rights at stake in a way that motivated them in a way that I don't think we all anticipated it would. So I think that that is something that we learned from this election, and it's an important election.

But Joyce, this was also the first general election since redistricting and in many states that meant gerrymandering. Of course, not in all states. There are some places in Michigan, Barb, we're just praising your state today, that did it right. But one thing that happened and I think made me not so optimistic about places like Florida is there was really successful gerrymandering done there and in other states. So what do you make of that?

Joyce:

Yeah. Oh, to be a Michigander, right? Michigan seems to be doing everything right. It's feeling pretty good to be here.

Barb:

Can I move? Can you find me a house in your neighborhood?

Joyce:

Yeah, of course. Look, after a series of Supreme Court cases, we know for a fact that gerrymandering is here to stay. It was already a feature of the landscape, but the court has ruled convincingly that it won't intervene in what it characterizes as political gerrymanders. There's still a little bit of space to intervene in racial gerrymanders, a little bit of space for state laws that are more restrictive than federal law when it comes to political gerrymanders.

But as we've discussed in past episodes, there are real reasons to be concerned about whether the court will continue to give section two of the Voting Rights Act any of the latitude we need it to have to protect people's voting rights. So for every Michigan, every state that we're celebrating in the wake of Tuesday's election, there's a Florida, there's an Alabama, there's a Mississippi, there's a North Carolina.

I wonder what those states have in common. In all of them Black voting power has been seriously diluted by gerrymandering. So here's a fun fact about gerrymandering, sort of a fun fact on a serious topic. The term gerrymandering comes from Massachusetts governor Elbridge... Do you know this? I love this story. Elbridge Gerry. In 1812, he backed a redistricting plan that would favor his own party, the Democratic-Republicans and one of the districts was shaped like this sort of strange salamander with wings flitting around in the state.

And so the press combined Gerry's name with salamander and ever since then, the practice of drawing these distorted districts has been called gerrymandering. And despite that very charming origin story, gerrymandering is a very serious business. It negatively impacts our politics, our political representation, it divides communities, and it really warps our national politics, it has a serious impact on the composition of Congress. And it's here to stay.

But I think that there's some good news in this space. This might be my day to be optimistic. And I think even though gerrymandering is difficult to beat, we have this smart generation of litigators who are out there doing the work. Barb's and my former boss, Eric Holder heads the National Democratic Redistricting Committee. They're doing litigation, important litigation and advocacy work in states. Marc Elias has become virtually a household name for his work in this area.

And these litigators are going to need to be able to harness better tools, expert testimony to make the cases that they need to make given what the Supreme Court has done to the law, if they're going to be able to successfully demonstrate bias in these districts. And the social scientists are really stepping up. There are some great new tools. There's a lot of technical terms that go into these redistricting cases, stuff like cracking. And so just one example, two scientists, social scientists at Harvard have come up

with this tool that lets them model districts where gerrymandering is not a problem, these so-called neutral districts.

And then it's a predictive model that they can use to compare future plans for redistricting. And they can come up with data that helps you identify districts that are being racially gerrymandered. And that evidence is very persuasive. It's already been used in a handful of court cases. I think we'll see more of these sorts of tools come into play. And so this ability to map out districts and arm the litigators with better evidence means perhaps we will be able to fight back even in this restrictive legal environment.

Barb:

And Joyce, can I just help make your point by giving an example of the opposite situation? So in Michigan, where in 2018 there was a ballot proposal to create an independent redistricting commission, and it was created, it took a long time to get the people on there. They drew up the maps, and this was the first election using these new bat maps. And I think it's no coincidence, for the first time in 40 years, Democrats took the state House and the state Senate. So that's what happens when you don't have gerrymandering.

Joyce:

I think that this is such an important example of why we need tech because of course, we look at that and we say it has right-sized the maps and Republicans look at it and say, Democrats have gerrymandered Michigan. And it's the social science data that demonstrates no, Michigan isn't gerrymandered, Michigan simply reflects its population now. I think the Michigan example is a really powerful one that I hope we'll see more states turn to.

Jill:

It's so interesting. I am fortunate to be on the board of the Better Government Association, which is a wonderful organization doing improvement of government. And one of the projects had to do with a fair map redistricting. And so I know from our research how difficult it is to draw contiguous areas that allow for the representation that you should have. In the existing circumstances we did a map and it ended up pitting your two favorite members of Congress against each other.

And that's just one of the consequences that happens when you do that. Eventually, of course, it works out and it's really, to me, it's one of the very important things for democracy. And unfortunately, the Supreme Court has allowed what I would call horrible maps to continue to be used. And I mean, Joyce, Alabama certainly was one of those that had a really terrible map, and they said, "Well, no, it's just too close to the election."

It was like, what, three months before the primaries? And a huge amount of time before the actual general election. It wasn't too soon. They just let it happen and they're gutting the Voting Rights Act by doing that. And that's very distressing because they have diluted the minority population vote by spreading them out into places where they won't have an ability to elect a candidate of their choice, and then compacting them into one district where they'll have one shot at it. So I think getting rid of gerrymandering, no matter how charming its origin story is, is really essential to democracy.

Kim:

And the Supreme Court's not done yet. We will talk about the cases that are still pending this term. Just one point about the charming story, the governor from Massachusetts, you're absolutely right, but he pronounced his name Gary.

Joyce:

Really?

Kim:

It's Governor Gary. So everybody's been mispronouncing his name, which I think is-

Joyce:

Isn't that just the perfect footnote to the whole thing?

Kim:

It is, it is. So anyway, Jill, the elections did go off largely without a hitch. There were no widespread reports of voter intimidation or protests or violence. And we even had candidates in both parties conceding when they lost early. And clearly, we had Republicans doing it like Dr. Oz. We had Democrats doing it, like Stacey Abrams. That's something that did not happen in 2020. Do you think this is a lasting change?

Jill:

It's so hard to say what's a lasting change in an era of Donald Trump, but it is a wonderful thing. It's something that should not even be noteworthy that someone concedes the election when it's obvious they've lost. That should be what happens. But you're right, it hasn't been happening. We're lucky that there was a real absence of horrible things happening this midterms that we've seen in the past. The violence didn't happen that we were worried about, concessions came in.

But as you've noted, and you wrote a wonderful column that everyone should read it, we should definitely have in our show notes. It's not just that, okay, we didn't have violence, but voter suppression efforts are still well underway. They are continuing, and the Supreme Court, as you've noted, is not helping us. We still have some things that we're going to have to back down before we can say that we are going to have really representative government.

Kim:

Yeah, I think that that is true. I was really disheartened in Florida and Missouri when state officials would not let the DOJ monitors in. DOJ monitors have been going to polling places since the sixties and they just said, nope, we're not letting you in. And they got away with it.

Jill:

That's what dictators in [inaudible 00:24:56] countries do. I mean, you send in [inaudible 00:24:59] and they reject them.

Joyce:

Imagine that. We don't want people to keep the piece. Stay away.

Kim:

Yeah. So I worry about what that is as a harbinger for the future, but I'm going to take heart for now that the midterms went off well.



Joyce, I'm tired because I've been traveling and sleeping in hotels and it's just not the same as when you sleep at home, is it?

Joyce:

It really isn't. I never sleep great when I'm away. Of course, when I'm at home, there are dogs and cats and truth be told, my husband snores a little bit. But my Helix mattress is really, really a day saver. It's a great mattress. It suits me just right because I took the test and I get a good, comfortable night's sleep now. To find your perfect mattress, take Helix two-minute sleep quiz and match with a customized mattress for your body type and preferences for the best sleep of your life. You'll get your personalized mattress, ships right to your door, free of charge, and they are fast and easy to set up.

Jill:

And for those of you who are skeptical, the test really works and it doesn't take any preparation. When I took the Helix quiz, I matched with the Helix Midnight Mattress, and it was exactly the perfect mattress for me. I've had great sleep ever since. So buy one tailored just for the way you sleep.

Joyce:

The Helix lineup includes 14 unique mattresses, including a collection of luxury models, a mattress for big and tall sleepers, and even a mattress made just for kids. Each one is designed for specific sleep positions and feel preferences. Imagine, pressure relieving memory foam for side sleepers, responsive cradling foam for stomach and back sleepers and enhanced cooling features to keep you from overheating at night. It's the perfect TLC for your spine. Test yours out for a 100 night risk-free trial and see how amazing your rest is. If you don't love it, and we know you will, they'll pick it up for you and give you a full refund. Plus Helix mattresses are American made and come with a 10 or 15 year warranty depending on the model.

Jill:

If you don't love it, and we know you will, they'll pick it up for you with a full refund. And Helix has been awarded the number one mattress picked by GQ and Wired Magazine. It is even recommended by leading chiropractors and doctors of sleep medicine as a go-to solution for improving your sleep. Helix is offering up to \$200 off all mattress orders and two free pillows for our listeners. Go to [helixsleep.com/sisters](https://helixsleep.com/sisters). With Helix, better sleep starts now. You can also find the link in our show notes.

Barb:

Well, now that the midterm elections are behind us, what can we expect from DOJ and Georgia regarding their investigations into Donald Trump? So first, Joyce, let me ask you about the Mar-a-Lago investigation. I noticed that DOJ recently added some new lawyers to their team. What do you know about those lawyers and what, in your view, does that possibly portend?

Joyce:

So DOJ did add two new lawyers to the team, and it's very interesting. This is speculation, I want to be clear that I don't have any insider knowledge about what's going on. But I can read a couple of tea leaves at DOJ. Barb, I suspect that you can as well. And here's the deal. The two guys who've come onto the team are both trial lawyers. That's what they're known for. David Raskin, who was in the Kansas City, Missouri US Attorney's office, he had been in the Southern District of New York.



He, I am told, had followed his wife there, that it was sort of a family move that took them out of that spot. But a good guy, a guy who knows his way around a courtroom. And then David Rody, who was in private practice, but also came out of the Southern District of New York US Attorney's Office, somebody who walked away from lucrative private practice to go back to DOJ. And look, these are not the kind of guys who show up on a team of lawyers just to shepherd a case to a declination to prosecute.

There's no way that we can say for certain that the Mar-a-Lago case will result in indictments. I suspect that that decision has not been made yet internally. But the fact that they felt the need to bring on two experienced trial lawyers, people who know how to look at the evidence and decide whether a case should be indicted or not, and people who know how to indict a case once it is brought, that I think is a powerful signal that DOJ takes this case really, really seriously. I think it's important for us to say, and we say this frequently, but we do not know sitting here what DOJ's evidence looks like. We know what the media is reporting.

DOJ probably has more evidence. That could be good evidence that makes the case stronger. It could be bad evidence that's exculpatory in some way. And so we have to think about that. But the Attorney General has committed repeatedly in speaking that he will treat Trump just like any other person who's under investigation, that he'll be treated without fear or favor or concern that he might bring an angry mob with him to the courthouse if he gets indicted. I think that they will make this decision based on the law and the facts without concerns about who Trump is. I bet we're going to be talking about this situation a whole lot more in the coming year.

Barb:

Yeah, I agree. I take the addition of these two trial lawyers also as a sign that this looks like they're going to war. You don't bring these guys in out of private practice and out of Kansas City where one of them practices, unless you're very serious and you think it's very likely that we need the A team ready to go on all of this, so I think so. But you also raise a good point, Joyce, which is there are things we don't know. And we've talked before on the show about thinking like a lawyer, and I think that for many, to look at these facts, you say, how can this possibly not be a crime? My gosh, the documents are in his basement. But you have to prove willful intent, which can be difficult to prove, that is that he knew what he was doing was wrong.

And you have to tie it to Trump himself. So if he's smart enough to delegate this stuff to some of his lawyers who may have been the ones making the representations in dealing with the government, it might be difficult to tie both the conduct and the intent to Trump himself. So those are things that these lawyers are going to have to pursue. But I agree, I think these two lawyers on the team are a very good sign.

Jill:

I don't want this to sound like an echo chamber, but I want to stress one point that Joyce made, which is how important it is to recognize that we only know what is publicly reported and that there could be exculpatory evidence that would change our perception of whether this is an indictable case. We don't know any of that.

I certainly have seen nothing that would persuade me not to go ahead with this case. Everything I've seen says this is a case that needs to be prosecuted if someone is going to be held accountable and if we are not going to be able to say that no one is above the law. So I think it's important though, to recognize that there may be something we don't know that would change that perception.

Barb:

Well, Jill, while we're talking, with the Mar-a-Lago investigation apparently heating up, do you think that that might distract DOJ from the January 6th investigation? I mean, in other words, you almost have this gift. You can charge this very discrete case that is relatively easy to put together, easier to understand. And then you've got this very amorphous January 6th investigation. Do you think that there's a possibility that the Mar-a-Lago case might just cause DOJ to focus there and ignore the January 6th investigation?

Jill:

I always hate questions that are, is there a possibility? Of course, there's a possibility.

Barb:

A probability. How's that?

Jill:

Okay.

Barb:

A likelihood.

Kim:

A certainty.

Jill:

I would say, no, there is definitely not a certainty, and there isn't probably a probability either. I think the Department of Justice is big enough and smart enough to be able to handle two things simultaneously. In fact, 800 or more things simultaneously just on the January 6th events. And yes, the January 6th has more complex legal issues and factual issues, proof issues, but there's a lot of evidence and a lot of witnesses, I think, that can make the case quite clearly. And having low hanging fruit in the Mar-a-Lago case does not mean that you should not pursue every other possibility, including January 6th and all of its component parts.

I hate that we keep saying January 6th because it's not just the insurrection on January 6th, it's all of the efforts to undo the election, to overturn our democracy that need to be investigated. And that includes what's happening in Georgia, but it also includes all the other elements of pressuring Pence, pressuring state houses, the fake elector scheme. All of those things are part of what the Department of Justice should be looking at.

Barb:

Yeah, I think you're right. The big question they always ask themselves is, first, is the evidence sufficient? But then there's always the question about is there a substantial federal interest to be satisfied with the prosecution? And boy, if ever there's been a substantial federal interest, it's got to be somebody who tries to overthrow democracy. So I think you have to be right there. Well, what about the investigation that's going on in Georgia? That one also relates to January 6th, but perhaps on a smaller scale. Kim,

what are your thoughts about what might be happening there? Do you think we might expect charges there sometime soon?

Kim:

I think it could be. On a smaller scale, but I think it's pretty big, and I think this might be the place where you see things happen more quickly. I mean, according to some reports including by CNN, there is a belief that the district attorney, Fani Willis, could begin considering indictments as soon as December. That's pretty fast, but it's important for our listeners to know the process, a little bit about the process in Georgia to be able to understand that. Because the grand jury that is comprised there now that is investigating and seeking the testimony from folks such as Rudy Giuliani and Mark Meadows and Lindsey Graham and Michael Flynn and others... By the way, they've all been subpoenaed, they've all been trying to fight it. And so far they've lost their bids to try to appeal those subpoenas and not testify, so they will have to.

But that is a special purpose grand jury, which has brought for the purpose of investigating a particular thing. In this case, it is the effort by Trump and his circle to interfere with Georgia's election, to look for those, we just need 11,000 and however many it was votes. 180, thank you, Barb. That pressure campaign. But I will say it's unclear legally whether that special grand jury can bring indictments. So far, the cases that have been considered, courts have ruled that it cannot, that only a regular grand jury can. So what I expect DA Willis is to do, if the evidence warrants it, is to call a separate regular grand jury in order to bring those indictments.

So that could take a minute to do, but I still think if that happens, that could happen faster than some of these other cases that we've been talking about. So in the meantime, I think we can expect that the testimony from some of these folks that I've talked about will be compelled, and if these reports are right, that even maybe by the end of the year, we may see some indictments out of Georgia.

Barb:

Yeah, well, interesting possibilities to come. Joyce, let me ask you this. There has been some speculation that Donald Trump may announce his candidacy for president in 2024, and wondering what wrinkles that raises. There's this DOJ policy about interference with elections, and I've actually heard some people suggesting that that policy could prevent DOJ from filing charges against him once he declares. How does that policy regarding election interference work, and do you think it would prevent DOJ from filing charges against Donald Trump at any point, whether it's Mar-a-Lago or January 6th?

Joyce:

No, I don't think so. Being a candidate doesn't mean that you're indictment proof. That can't be what it means if we're going to continue to live in a rule of law system. I think DOJ has a policy about how it engages when it's very close to an election. I don't think that that means that you can be a perpetual candidate and avoid prosecution by virtue of assuming that status. So I think the answer to the question is pretty simple. No, it doesn't exclude Trump from consideration.

Something that I found to be very interesting, I had gone back and read through some of what Merrick Garland had said and some of the policies that he had issued. And in May of last year, he issued a memo to DOJ employees, admonishing them about the importance of political neutrality as we headed into the election season. And I think some of the language that he used there is very telling in this context, even though when he wrote it, it was sort of coming from the other side. It was saying we shouldn't do anything involving someone who's involved in the election.

But this is what he wrote in his memo: "Simply put, partisan politics must play no role in the decisions of federal investigators or prosecutors regarding any investigations or criminal charges. Law enforcement officers and prosecutors may never select the timing of public statements, attributed or not, investigative steps, criminal charges, or any other action in any matter or case for the purpose of affecting any election or for the purpose of giving an advantage or disadvantage to any candidate or political party. Such a purpose or the appearance of such a purpose is inconsistent with the department's mission and with the principles of federal prosecution." So sorry, Donald John Trump, you don't get to insulate yourself from accountability for criminal conduct just by announcing your candidacy.

Barb:

I'm so glad you read that because I think many people tend to really overstate it. And then I think it creates an impression with the public that it's a complete immunity, inoculation from prosecution if you're simply a candidate. And so it's really far more limited than that, as it should be.

Joyce:

So to the point that politicians aren't insulated from prosecution, Senator Menendez in New Jersey, there's been news, not a lot of coverage, that he is under investigation. We don't know the contours of that investigation. The fact that he's a sitting senator, that he'll presumably be on the ballot again, doesn't immunize him from that process. And one presumes that if DOJ finds evidence to indict him, that they will. This is in fact his second go round in a federal investigation. He was previously under investigation, he was indicted, and that case went to trial. The jury hung, and he was not convicted. But the fact that he was a sitting politician, the fact that he was a candidate for reelection, did not prevent DOJ from proceeding accordingly.

Barb:

A related issue, Jill, let me ask you about this that's been coming up is there's been some reporting that DOJ is considering appointing a special counsel for the Trump investigations, I guess to insulate it from public concerns about partisan politics or something like that. What's your view as to whether a special counsel is necessary?

Jill:

It's a great question, and it's sort of a natural corollary to what Joyce said, which is there is no need to not investigate a sitting member of the Senate or a candidate for the presidency. But there are political considerations. So it's legally no problem, but is there a political kind of perception, public perception, which isn't reality, and does that require a special counsel? And my answer is absolutely not. Not in this case, for many reasons. One, let's stop saying it's unprecedented. It is unprecedented because no person has ever been as unprecedented in their behavior in the office of the president. And I say that having watched Richard Nixon do many unprecedented things, but nothing of the nature of what we're seeing now. But it would be a waste of time to have a special counsel.

It would take a whole new team to relearn what the Department of Justice already knows. It would be a waste of money when they've already brought in trial experts. And it would accomplish zilch, nothing, nada, because whoever the special prosecutor is will be villainized by the other side. He or she will not be viewed as any less partisan than the members of the team that's in place. If you remember, the Mueller team was called 17 angry Democrats.

Joyce:

And Mueller himself, right?

Jill:

And Mueller himself, who's a Republican. I mean, it's absurd. So having a special counsel isn't going to accomplish anything except waste time and money. And the other thing is, I think it demeans the Department of Justice, which in general acts in the most nonpartisan way that any government agency ever could, that the people who are making decisions do it based on the law and the facts, and they have no political motivation. I think one mistake that the Mueller team made, which was different during Watergate, was that they never talked to the press at all. And I'm not talking about talking about the case. That's completely inappropriate, should not happen.

But during Watergate, we were required to talk to the press so that the American people could get to know us, because the theory of our press officer was if they were going to trust us to bring a fair indictment based on the law and the facts, they needed to know who we were and that we weren't politically motivated. And the only person that you ever probably even potentially knew the name of is Andrew Weissman. And that's because he's now on MSNBC, not because you knew his name then.

They didn't talk to the press at all. And so I think it was easier for the Trump administration to call them those angry Democrats, which they weren't. And I think it's important that the people should have gotten to know them. But I can't say strongly enough that there should be no special prosecutor appointed here. It would accomplish nothing. And ultimately the burden would still fall on the attorney general to make the ultimate decision of whether to go or no-go under the current rules. And so what would you accomplish?

Barb:

Yeah, I tend to agree with you. I think you're absolutely right, especially that point about creating the impression of partisanship. Justice Department's already nonpartisan. And one of our colleagues, Joyce, one of our former colleagues, said that not only did they need a special counsel, but they needed somebody with Republican credentials. And I think that's just so harmful to suggest that prosecutors are Republicans or Democrats. They're not bipartisan, they're nonpartisan. And I think, Jill, you make a good point there. Well, let me ask one last question on this topic, and that is, meanwhile, there's actually a trial going on, a criminal trial against the Trump organization. It's resuming in state court in New York after a little hiatus. And Kim, can you give us any updates on any new developments there?

Kim:

Yes. Remember the trial involving the Trump organization and the Trump Payroll Corp. about the tax shenanigans that the organization was engaged in with creative valuations as Michael Cohen laid out, as well as allegations that top executives were getting free perks like rent-free apartments and luxury vehicles? That's still going on. That is, when the people involved are not getting COVID. So the case has been delayed because a witness got COVID, then the judge got COVID, then a court reporter got COVID.

But it's back underway now. And I think the big news out of that is that expected as soon as next week, we will hear testimony from one Allen Weisselberg, that is the company's chief financial officer. He too was a target of this investigation. And if he testifies, I think that will be something that is worth monitoring. And that will come, as I said, as soon as next week. So that is ongoing, it is back underway, and we will bring you more updates on that when that happens.

Barb:

Well, I am a disciple of Noom. I think Noom was life changing. I am eating better than ever. I feel healthy, energetic, and fit. And when we decide to get fit, it's not just a number on the scale. Whatever your reason is for wanting to make a change, Noom Weight is ready to help. Noom Weight's psychology-based approach empowers you with the knowledge and support to build lasting results. The Noom app has helped millions of people improve their health, and it's super easy to use.

And they know that every journey is different, so your daily lessons are personalized to you and your goals. I get great tips on there. For example, today I had one of the snacks I learned about on Noom. I sliced up some apples and sprinkled some cinnamon on them. It was an excellent crunchy snack that was better than, say, tortilla chips.

Kim:

Oh, that sounds really good. And this is the season for a really delicious apples too, so I'm going to have to try that, Barb. Noom shows you how to pursue the goals you set for yourself and make sure you reach them. It's about progress, not perfection. Noom Weight is about finding your balance and building better habits. That's the key to progress and success, and Noom truly gives you the confidence and knowledge you need to get there.

Barb:

You mentioned it's not about perfection. I was with Joyce last weekend, and we were a lot of not perfect, including having a delicious piece of cake. But it's okay because you get to have a piece of cake now and then. And then later in the week, I tried to not have cake every day. We all have a lot going on. So I love that Noom Weight gives you the control to decide how much time you use it. You can choose anything from a five minute check-in to an in-depth personal coaching. I can do the five minute check-in in three and a half. Active Noomers lose an average of 15 pounds in 16 weeks, and 95% of customers say Noom Weight is a good long-term solution. I've told you guys before, I lost 40 pounds in about six or seven months, and I've kept it off now for over a year.

Joyce:

And you look fabulous.

Barb:

So you get empowered.

Joyce:

Can I just say that?

Barb:

Thank you.

Joyce:

You really look fabulous.

Barb:

Thank you, Joyce. You do too. So get empowered and stay on track with Noom.

Kim:

I'm glad I'm not the only one who powers through those lessons in a little faster than they say. You know, I ditched my scale but I do notice that my clothes are looser. I do notice my husband telling me, "You look really good. You look very fit. You look very healthy." And so I do know that it does make a difference. And you can stay focused on what is important to you with Noom Weight's psychology based approach. So sign up for your free trial today at [noom.com/sistersinlaw](https://noom.com/sistersinlaw). That's N-O-O-M.com/sistersinlaw to sign up for your trial today, or look for the link in our show notes.

Joyce:

Twitter seems to be in some sense dissolving before our eyes these days. There is a lot of drama after the seven months of Elon Musk's negotiations and official takeover at the platform. But today, rather than focusing on the drama, I thought we would focus on a specific development, a lawsuit that Musk is facing in the wake of the overnight firing of approximately half of Twitter's workforce.

A group of Twitter employees filed a lawsuit against Musk the day before the firings, alleging in a class action lawsuit that he would be in violation of the Federal Worker Adjustment Retraining Notification Act, which is appropriately called by the moniker WARN, and similar state provisions that could have also been violated when he gutted Twitter's workforce. So Kim, can you talk with us a little bit about the laws that are involved here?

Kim:

Yeah, so this is a class action suit brought under both the federal WARN Act and the California WARN Act. The lawsuit was filed in California where a large percentage of these more than 3,000 Twitter employees who were summarily fired are based. And basically what it requires is if there is a mass layoff at a company that has more than 100 employees, but mass layoffs that affect more than 500 people, that these people be given notice, in this case, 60 days notice. And that the employer does not take away any compensation that the employees would otherwise be entitled to, severance or back pay or anything else that they were supposed to have. And these employees are alleging that that's exactly what happened. Basically, Elon Musk just showed them the door summarily, and they weren't given any of these things.

There was also an amendment to this class action that was filed later in the week after Elon Musk took to Twitter, and also sent a notice to employees that said, if you can access an office, if you're not in that office, we will accept that as a resignation. And so they amended the class action to say, no, no, that you can't do that either, that also violates the law. And it's interesting. So class actions, we've talked about them a little before, but they serve a couple of purposes. It not only allows a group of people who were allegedly harmed in the same way to seek action collectively as opposed to each individual one filing a lawsuit separately, which can be very costly and sometimes cost-prohibitive, but it's also aimed at stopping a particular action from happening, trying to stop an employer from these mass layoffs or not giving them the proper severance.

And I talked to the attorney who filed this class action suit, and that's really what it sounded like, what she said, it was after. Her name is Shannon Liss-Riordan, and she said, look, it's a way to hold companies accountable. We have the DOJ, we have state attorneys general, they do important work, but civil lawsuits can also serve to hold corporations like this accountable while also giving redress to those who were harmed.



Joyce:

So Kim, we have a treat for our listeners in this regard, and we'll put it in our show notes. But you actually did an interview on WBUR of that conversation, and I think it's always fun to go and listen to the primary sources. That's a great opportunity. Barb, as Kim points out, there's a little bit of rear view mirror on this, and we can evaluate now at least the filing of the lawsuit in light of how the firings of these employees went down. Can you explain what you see as whether or not this litigation is going to have to change and morph in light of the facts?

Barb:

Yeah. So the lawsuit was filed, as Kim said, as kind of a preemptive strike. And so some of the facts don't quite match up, but nonetheless, it does sort of put Elon Musk on notice that there will be damages to be paid and declaratory judgments unless he negotiates a favorable settlement with them. There's a lesson to be learned, I think, from the Tesla lawsuit that was filed. There was a very similar suit filed by Tesla employees, and in some ways that is seen as a victory for Elon Musk because the court there dismissed the lawsuit and said, you need to proceed by arbitration, because that is a clause in everyone's employment contract. That may end up being true here as well. But by going on the offensive, I think the employees have made it clear that we're not going to let you just slap us with the notice.

There are federal and state statutes here that are operational and we're going to hold you to them. And so I think what this goal is here is an effort to be treated fairly, let him know that we're going to walk away, we're not going to let you just throw us out the door without complying with our rights under the law. And so it may not look exactly like what they have originally requested, but I think it improves their negotiation position, especially when they get before the arbitrator.

Joyce:

It certainly expands the kind of claims that they have access to, breach of contract claims. You've got to wonder, though, for someone who's so wealthy and who's been involved in so many business transactions, I mean, Barb, when you looked at that, did it look to you like Musk got good legal advice? I mean, I have wondered in the back of my mind, why is he doing all this stuff that subjects him to the risk of litigation? Is it a strategy or does he just get bad legal advice?

Barb:

Yeah, I don't know. I tweeted today that these early days of Elon Musk reminds me a little bit of the early days of the Trump administration. There's a lot of chaos going on, a lot of crazy new policies, travel ban and all this. And in the end, accomplishing nothing and creating a lot of damage along the way. So I think it goes to this whole dotcom culture of, "You gotta break things," and, "I'm a disruptor." And I think that is just no way to run a utility, which is what Twitter is. So I don't know if this is a strategy or if this is just the chaos it appears to be, but I think in the end, it's not an effective way to run a business, at least one that is public facing.

Joyce:

I mean, I worry a little bit that Musk has been backed into a corner where there's no space for him to moderate his behavior. He has to double down or else he comes off as the loser. And so often, and something I would try to do as a prosecutor when you're trying to negotiate something is you've got to leave people with a way to save face. You've got to draw a circle that's big enough for everybody to

stand on it. And I think Musk has been so ridiculed and his management style has been so roughshod that I just worry that he'll just keep going and maybe the whole thing burns down. Which would be a shame because although Twitter is often criticized, in many ways it provides a really wonderful space for public discourse. And if nothing else, I get really good recipes and puppy videos off of Twitter and I think I would miss all of those.

Barb:

Yeah, I'm not going yet. I'll wait and see how it goes.

Joyce:

Nope. I'm going to stay and see what happens, right?

Barb:

Part of me thinks he's going to get tired of playing with his new toy in a couple of weeks and sell it off and be gone. It'll all just be a bad memory. We'll see.

Joyce:

From your mouth to God's ear, Barb. Hey, Jill, you've spent time as a business lawyer so you understand what the calculus looks like from inside of the company, this concept that Barb is talking about, maybe he'll just get tired of it. Companies do have to comply with these types of rules. Given your experience in business and thinking about how you, for instance, as a general counsel would look at these sorts of regulations and ensure compliance, did the sorts of allegations being made in this lawsuit make sense to you? Could Musk have actually violated these pretty clear laws when he fired his employees, and do you think the lawsuit succeeds?

Jill:

Well, there has been some reporting that would suggest not. There is reporting that in fact people were not fired as of that date, that they were fired effective 60 days later, that they were just put on, "You don't have to come to work," because... And let me just say from not as a lawyer, but as having been at Motorola and Maytag in a business role, that you don't want people you are firing to have two weeks on the job. They can do a lot of damage. So it is not unusual to say whatever severance you get will start after your departure, but you don't come to the office for the next however long the law says. And so it does seem like they have been offered severance packages which may not be quite as rich as they were told they would get. That's something that's subject to either negotiation, arbitration, or a lawsuit.

But that they weren't in violation of the WARN Act because they did in fact, get the 60 days that they are required to get, and in one case, 90 days, which is I think under the New York law, requires 90 days. Because when you first read it, you went, listen, he may be really erratic and acting wildly, but someone must be giving him legal advice and why would they miss such a blatantly clear law? And why would anyone allow him to say, "I'm firing half the staff," which is a huge amount of money if he had to pay damages. And I think in fact that the lawyers got into this and that there may be emails that say, "You don't have to come to work, but as of 60 days from now, you are terminated." And so he may have complied with the law.

Joyce:

So this, I think, is so important. When people file lawsuits, there's often the possibility of good faith disagreement about whether the law was complied with. And something I hope that we impart to our listeners is the importance of not being outcome oriented, not just picking your tribe and assuming that they're right. And as we look at this lawsuit and other cases, it's really important to consider the evidence and the law with an open mind. I'm sure that this lawsuit will continue to be in the news and we'll see where it leads, but I hope that from this discussion that you all can appreciate that we need to be objective observers. We need to engage in good, clear analysis and not always assume that the folks that we identify with the most are right, because in this case, it really remains to be seen.

Jill:

I just got something wonderful that I need to get framed, and it's going to be a little complicated. And I've heard about Framebridge, but I'm wondering if they can do a multi-part comic book in separate little segments in one frame. What do you think, Barb?

Barb:

Jill, you've come to the right place. Framebridge can do it all. And in fact, if you go to their website, you can even get their experts to suggest to you how it might look, some different options for how you want it to appear. I had Framebridge frame some posters for me from national parks and they came out looking great. Framebridge makes it easier than ever to custom frame everything that matters without ever leaving the house, which means you can easily give a thoughtful gift this holiday season. We've been lucky enough to have a ton of incredible experiences with the people we love this past year. And like us, we know you'd like to do something special for each of them.

Kim:

Yes, I think that would be a great, great gift. I was doing some fall cleaning and came across some photographs in my desk drawer, and I am going to take them to Framebridge because I live in DC, which is one of the places that they have shops in person. Framebridge is the perfect way to frame what matters most to you. So whether it's a selfie with your best friend or a game-winning jersey or a special anniversary dinner menu, consider framing it with Framebridge. And you can give it as a gift just as you can give it for yourself. I think the best Framebridge experience I've had, of course, is as I've mentioned before, Greg and my wedding pictures were done in Framebridge and we picked a trio and we used slightly different but complementary frames and hung them up together. They look really, really great.

Barb:

They're stunning. You have such good taste. Or maybe it was the geniuses at Framebridge, it'll be our secret. And Kim, you mentioned that in DC there's actually a store where you can go and bring your photos or items, which is great. But if you don't live nearby, there are still very good ways. You can just go to [framebridge.com](https://www.framebridge.com) and upload your photo. Or if you, like me, have a physical piece to frame like I did with my posters, they'll send you complimentary packaging to safely mail it in.

I got mailing tubes and I rolled them up, stuck the posters in there and sent them off. And then you can preview your item in dozens of frame styles and choose your favorite or get that free designer help. So the experts at Framebridge custom frame your item and deliver your finished piece right to your door. Instead of paying hundreds at a framing store, Framebridge starts at just \$39 plus free shipping. You can order online or stop by a Framebridge store near you to work with a designer in person.

Kim:

Get started today, frame your photos or give someone the perfect gift. Go to [framebridge.com](https://framebridge.com) and place your order today. That's [framebridge.com](https://framebridge.com) or look for the link in our show notes.

Jill:

One of our favorite parts of every show is to answer the listener questions. We love hearing from you because you really challenge us to think and you raise issues that we hadn't thought about. If you have a question for us, please email us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tweet using #SistersInLaw. If we don't get to your question during the show, keep an eye on our Twitter feeds throughout the week.

Sometimes we answer your questions there, the ones we can't get to during the show. And this week is no exception. We had a lot of really, really good questions. The first one that we're going to take is from Susan in Shorewood, Wisconsin, the home of my goddaughter so I'm really happy we took the one from Shorewood. And that question is for you, Kim. "How does a mere citizen of the country make his or her opinions known to SCOTUS?"

Kim:

That's a really, really good question. So the short answer is the way that the government is set up, the answer is there is no way, because the federal judiciary is supposed to be independent, meaning that it is not subject to popular opinion. Not the same way that the executive, which is led by a president who is elected or the legislature who are all elected offices. The federal judiciary is supposed to be different and the reason for that is these are lifetime appointments and we expect the people who are appointed to those positions to do their work based on the law and the Constitution, not based on popular opinion. Now, that being said, the justices of the Supreme Court are nine human beings.

Do they see what the public reaction is to their opinions? Of course, they do. Do they sometimes seek approval from certain circles? We see from the speeches that they make at places like the Federalist Society or the American Constitution Society, of course, they do. They are human beings. And so yes, if there is an uproar over a decision, I think they most certainly do know that. But it's important to remember that the way that the Constitution and our government is set up, they're not supposed to be affected by that.

Jill:

Great answer. And the next question is from... And I hope I'm going to say this right, I may have to spell it. It's from @Zibilith, Z-I-B-I-L-I-T-H, and it's one of my favorite questions of all time. Zibilith writes, "I have a use immunity question. What if Kash Patel gets on the stand and proceeds to speed talk through a litany of unrelated crimes in which he was involved? Would such a strategy work to shield him from prosecution for those crimes?" Barb, you want to take your hand at that answer?

Barb:

Yeah, I love this question too. Just imagine him getting on the stand and he testifies about this case, the Mar-a-Lago documents, and then he starts saying things like, "And I killed Jimmy Hoffa," and he has a whole long... Like, what? But fear not Zibilith, if I'm pronouncing your name properly, that's why they give use immunity and not transactional immunity. Transactional immunity would be immunity from everything. Use immunity just means you can't use the person's statement against them.

And so if there is other evidence that they committed that crime, then you could use it. So they can say all the things they want, but it's really neither here nor there. And in fact, in some ways it would be incriminating to go on and say that about them. So it doesn't really inoculate them to any sort of charges

that could be made with other evidence. So I don't think there's any advantage to somebody doing that, which is why they probably don't ever do it. But I like the way you're thinking, you're really thinking about this thing very strategically.

Jill:

Great answer. And our final question comes from Ninja Cat Cheryl, and I'm going to ask Joyce to answer this one. "In a case like the Pelosi attack where the alleged assailant has pled not guilty but has confessed and there is video of the crime, will it go to trial?"

Joyce:

This is a really great question. It helps us explore one of the ways that our legal system works. Most cases in the federal system, it's true in the state system too, most criminal cases are resolved on a guilty plea. And that's because prosecutors have their choice of cases to bring and typically you only bring a case when the evidence is really strongly indicative of a defendant's guilt. And so common sense can dictate a plea agreement when you've confessed and when there's videotape of you committing the crimes. Sometimes maybe there are legal issues that you want to explore. That might form a basis for a defendant proceeding at least long enough to test those sort of legal issues.

I mean, is there federal jurisdiction over the kidnapping in this situation or something of that nature? But in reality, defendants get a benefit from pleading guilty in the federal system. That comes at sentencing when their guideline range is lower, they get credit for acceptance of responsibility and it can impact the amount of time that they serve. Prosecutors may permit them to plead guilty to fewer than all of the charges against them, and that too can have some benefit for them. So there is a strong incentive to resolve cases on a guilty plea. Ultimately, though, that call is up to the defendant and a defendant cannot be forced to plead guilty. In fact, courts take guilty pleas during hearings, during a change of plea hearing, and there's a colloquy that the judge has with the defendant.

And part of the purpose of that colloquy is for the judge to determine that the defendant is pleading guilty voluntarily, and because the defendant believes that the government has sufficient evidence to convict them if the case goes to trial. And I have seen judges reject guilty pleas when they believe that a defendant is being coerced. Judges take this very seriously. So in this case, it will be up to Mr. DePape and only Mr. DePape, although he can certainly consult with his attorneys and family members and anyone else. Ultimately, he decides whether he pleads guilty or goes to trial.

Jill:

Thank you for listening to #SistersInLaw with Barb McQuade, Joyce Vance, Kimberly Atkins Stohr and me, Jill Wine-Banks. You can send in your questions by email to [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tweet them for next week's show using #SistersInLaw. Go to [politicon.com/merch](http://politicon.com/merch) to buy our pale blue T, our hoodie for the coming cold weather, and all sorts of other goodies. And please support this week's sponsors, HelloFresh, Honey, Noom, Helix and Framebridge. You can find their links in the show notes.

Please support them as they really help make this show happen. And remember, share your biggest learnings or takeaways from the show with us on Twitter and Instagram for our upcoming 100th full episode using #SistersInLaw100. That's #SistersInLaw 1-0-0. We can't wait to hear from you. To keep up with us every week 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. See you next week with another episode, #SistersInLaw.

Joyce:

There he is.

Kim:

Frisbee.

Joyce:

Frisbee is so excited about the hundredth episode.

Kim:

He really is, right? And he looks very handsome on the graphics.

Joyce:

I love that we have Frisbee on our graphic.

Kim:

I do too. Frisbee's opinions are important.

Barb:

In Hollywood, you only get your name credit if you have a speaking line in the movie. And Frisbee most certainly has speaking lines so I think Frisbee should appear on the graphics.

Joyce:

And he's got great timing.

Kim:

It's also a Hollywood maxim that babies and dogs always show you up. And Frisbee proves that to be true too, right?

Jill:

Yes, for sure. He is too adorable. He actually forced me off the air once. He was so loud, I could not hear the host asking the question and they couldn't hear my answer. I literally had to get up on the television screen and walk off and put him away.

Kim:

Frisbee felt strongly.