

Barb:

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Kim:

Welcome back to #SistersInLaw with Jill Wine-Banks, Barb McQuade, Joyce Vance, and me, Kimberly Atkins Stohr. Today, will be discussing the 11th Circuit's benchslap of Trump and the special master appointment in the Mar-a-Lago classified documents case.

We'll also talk about the conviction of Oath Keepers leaders for seditious conspiracy. And we'll talk about domestic file and extremism, and what Congress and the FBI can do about it.

And this is our 100th full episode. So we have all of you to thank for that. It's so exciting. So to celebrate this amazing milestone, we'll be sharing some of the things you've shared with us, about all the things you've enjoyed along the way. There were so many, we can't get to all of them, but we're so thankful you joined us on this journey and that we've been able to share our passion, for our calling with all of you. And as always, we look forward to answering your questions at the end of the show.

I will say you can probably hear that I'm a little under the weather, but I'm recovering, so forgive the scratchiness in my voice this week. But we want to get to some of the comments that you all have been sharing with us over the past several days about what you've all learned. Barbara, I want to start with you. What have been some of the comments that you've really enjoyed?

Barb:

Well, I have noticed a huge number of comments talking about Jill's remarkable life, which is absolutely what I've most learned from 100 episodes of SistersInLaw. So I liked one of those.

So for an example, we received a lot like this. From Susan, who said, "We've learned about Jill's amazing life, Joyce's chickens, Barb's love of anything blue and pockets," So true, "and Kimberly's talent in decorating and sewing even her wedding dress." And I would add singing. We can always try to get you to sing an episode.

Kim:

Not today, but yeah.

Barb:

But if you want one thing that simply has to be my understanding of the law. Week after week, you've collectively taught us to be patient with the law. It has been hard for everyone, but now I understand how important it is, for prosecutors to get it right. There is so much more that you've taught us, but I've learned to understand that law can be complicated and we must be patient with it.

So Susan, you most certainly have learned some wisdom and we really appreciate that you have shared that with us and that you've been listening and enjoying our conversations as much as we enjoy having them.

Kim:

How about you, Joyce?

Joyce:

I love that comment that Barb just read because it tells me that we're doing what we really set out to do. We wanted to hang out with each other and have some fun, and we wanted to help other people understand the work that we'd all had the privilege of doing.

I've got to say, these comments have made me really happy reading them. And here's one of my favorites, it comes from Lorraine. She says, "I've learned how the law works and even how local state, and federal government work, from listening to you women. There is so much to think about. I often listen to a podcast more than once or even twice. My daughter, son-in-law, and two nephews are lawyers. Now I can engage with them on a more intelligent level."

So here's to the power we all have collectively, we ought to all understand and be able to talk about our government and the rule of law. Lorraine, I love that the podcast has helped you do just that.

Kim:

And Jill, our superstar.

Jill:

I loved every single one of the comments and it really did make me feel rewarded for what we're doing. And it was hard to pick just one or two or three or even 12, but I loved @rundownbye who said, "I found that your podcast helped keep me from getting overly anxious about all the chaos. It put things into perspective and made it make sense."

And that reflected what a lot of people said in their comments about helping them get through these really tough times. And to me, that's such a valuable use of what we do. So I was really pleased, and thank you rundownbye for having said that.

Kim:

Yeah, I agree with that. I have to say, even though I'm on the podcast, I appreciate all of you so much, each week for helping things make sense to me. And so I really understand that sentiment and I too have really loved reading these comments, including one from @Brian_M2 who wrote, "I've learned legal terms, stare decisis anyone? Patience," This is a theme, "waiting for the house to drop on Trump, how folks in different parts of the country fix hot dogs," Detroit does it the right way. I'm just kidding, Jill, "and that Jill has a pin for everything." And she really does, "This group of experts, I count on for your accompaniment on long walks." I listen to podcasts on long walks too, so I appreciate that too.

I just have to say, I am so grateful to have been on this ride so far on this with all of you. I've learned so much from you each week, and I'm lucky that it doesn't just end at the podcast. I think our friendships have grown stronger. So I text all of y'all individually about things, legal or otherwise, and it's really been wonderful to build that bond with all of y'all. Any other comments that come to mind? Anybody can jump in.

Barb:

I just want to point out that Kim just said, "All of y'all." so I think she spending a lot of time Joyce.

Kim:

Joyce's rubbing off on me.

Joyce:

My work here is done.

Barb:

To say that, now I want to express the same as Kim. How much I appreciate each of you. I love our conversations. We get to have them at the end of the week, late Friday afternoon, after these crazy weeks have gone by. And I really look forward to hearing what you're going to say about things.

I've read the news, I've thought about what I think and it's really great. Plus we share some laughs and I always know that I can count on you folks to give me candid feedback the way only a sister can. I have a sister, a biological sister who is the only person on earth who can say things like, at my wedding, "You're wearing that?"

Kim:

Oh my God.

Barb:

Or, "What's with your hair?" But it means, she means it, and I appreciate it. So I appreciate your candor, your love, and it's been a great ride.

One more that I found, Kim, was from Elizabeth who said, "What have I learned in this my 70th year on Earth? And because I love listening to SistersInLaw, I have realized that I should have studied law." Well, what I say to you, Elizabeth, is it's not too late. It is never too late.

You can go to law school if you like, but even if you don't want to go through formal schooling, you can study law on your own. There are lots of great ways to do it. Lots of great books to read and you can listen to our podcast and we will do our best to educate you. Because learning about the law is something all of us can always do and do more of.

Jill:

And let me just say, all of you have said it already, so there's no point in repeating it, but this is one of the best times of my week. Every week I look forward to. I also dread because I always have to work so much harder to keep up with all of you, and I just do the research before we go on air, and I love getting your insights and your opinions and your comfort and your strength. It's been just a miraculous thing to get to know all of you through this medium and then to be together in our live shows, which I look forward to even more so that we're together.

And here's one more from Jennifer that I really liked, because I think this is really important. She said, "I now attempt to read court decisions that are available publicly instead of just relying on the news. At the very least, I tried to read the dissents." And I'm so glad that people are picking up on that.

We don't just read the newspaper, we click on the links and we read the indictment, we read the opinion, so that we can talk to you about what it really means in our opinion. And everybody can do that. It's possible now with computers that you can know as much as anybody else and it's really an important thing to know. Facts still matter and the only way to get the facts is by reading the actual documents.

Joyce:

I love that so much. If we were going to have a tagline for the podcast, it could be #SistersInLaw, facts still matter. That really does say it all. At the risk of being sappy and making myself tear up, I'm just going to say, really, I think it crept up on me. I was so excited about getting to do the podcast with all of y'all. I knew it was going to be a good experience.

I think what has really surprised me, is how sustaining it is and how many times I'll read something and think, "Ah, I need to send that to Barb, or I need to see what Kim or Jill thinks about that." That happens to me all the time now. And we are lucky to have that, right? Sisterhood is something to celebrate. So I'm glad we're taking advantage of the chance to do that today.

Another one of the comments that I thought was really great, came from Emily. I teach democratic institutions, so I spend a lot of time thinking about institutions and their fragility, and Emily and I were sort of on the same wavelength. She wrote, "You ladies have taught me that democracy is unbelievably fragile. What I had taken for granted is, quote, "Laws turned out to be norms, predictions are simply expectations." Based on trusting government to be run by ethical people. I guess the best example would be ignoring subpoenas from Congress, who knew there is no way to enforce those legal requests." And I love how thoughtful this comment is.

I think it gives us sort of the path forward for the next 100 episodes, where for me, it feels a little bit like we turned a corner after the midterms. We have a little bit more room to breathe in, but now we have to work really hard to preserve democracy. And that's our path forward, is helping our listeners understand and think about how we protect and reinvigorate this fragile democracy that we've inherited.

Kim:

Yeah. That's really important. And @MarieBledsoe3, pointed out something that I think about a lot. She writes, "My favorite and most enduring lesson from this podcast is, I may not understand everything you say, but I always learn something new. I love when the sisters disagree, but it's always respectful in your shared values. Never change lessons for us all."

And I have to say, I really appreciate when I come to the podcast with a view on something and some of my sisters have differing views, I listen and it makes me think about. And we don't always agree in the end, but I listen to it, it makes me think about, think through why I believe, what I believe and it challenges me in a way that I'm really grateful for. And it is always done with respect because the respect that we have for one another is really wonderful.

It's been amazing so far. These 100, they've flown by, it's kind of crazy that we're already at 100 because yes, Jill is right. It takes a lot of work in preparation. Before each show we put a lot, we and our team, it's not just us, we have to say.

We have a team behind us that also works very hard to make sure that we are prepared, that it sounds great and that we get it to you quickly. And we're grateful for all of them as well. But it is a job, but it is also a pleasure, so thank you so much for being with us so far. And to the next 100 and beyond.

Barb:

I raised my cup of tea in a toast. You're here for a hundred and...

Jill:

I raised my SistersInLaw mug.

Barb:

Oh, well done. I told you guys earlier that this may look like a SistersInLaw T-shirt, but in fact I've had the logo tattooed on my chest.

Joyce:

That from the woman who won't talk about underwear. Miracle still happen on #SistersInLaw.

Barb:

Here's a comment that comes to us from @Persephone1, "I enjoy every second of SistersInLaw, but I have found the most enlightening, the insight into how DOJ works and the blow-by-blow of federal and SCOTUS cases." Thanks, Persephone. We love talking about DOJ and we're glad you like learning about it.

Joyce:

So Jill, like you, I find myself putting on makeup, two, three, sometimes even four times a day for television. And I have to confess, I don't love makeup. I'm not great with it. But Thrive Causemetics has made my life so much better and so much easier. I'm really happy with their products and how they work. How about you?

Jill:

Well, I have been a long time Thrive user and I've expanded the products. I started with just the mascara, which is the best mascara ever. But now I use their skincare products and I'm thinking of using them as gifts for this holiday season, for two reasons.

One is because they're a great product with a great selection of items, but also because it's Thrive Causemetics, which means they give back part of their profit to causes. And so I think it's a great idea to give a gift from a brand that gives back. And this season you too can give gifts that give back with 45% off Thrive Causemetics holiday sets. It's for a limited time only.

Thrive Causemetics makes high performance beauty and skincare products made with clean, skin loving ingredients, there are no parabens, sulfates or phthalates. And their products are certified 100% vegan and cruelty free. Cause is in the name for a reason. We love how every purchase supports organizations that help communities thrive.

Kim:

Jill, I totally agree. I started too using the mascara, several years ago and now I have moved on and used a bunch of products including the eye area highlighter, which I find is really nice. I tend to get dark circles, so if you just put a little bit on, it just deflects and it looks really natural and it doesn't look crazy, out in the real world. It's not just made for camera, and I really, really love that. That brilliant eye brightener, really is brilliant.

And there's nothing better to give you a fresh look after a long night of preparing notes for a big day ahead or a long night of preparing for the podcast. Not to mention it looks great on TV, but as I said, it also looks great in real life. It's a luxurious cream to powder highlighter stick that brightens and opens the eye, giving you an instant eye lift.

Use it as an eyeshadow for a perfect daytime glow or apply the metallic shades for an easy smokey eye. It's foolproof, and the eyeshadow highlighter stick makes it extremely easy to apply and blend. Just apply it to the inner corner of your eyes. I apply it actually just below my eyes where the dark circles are.

And you look like you've had plenty of restful sleep, even if you haven't. Something tells me, Jill's been doing it too.

Jill:

Well, let's not give away all my secrets, but let me say that it's certainly working for you. If you have dark circles, they are invisible. And I actually use that stick to line the inside of my lid. I use the white pencil for that and it really opens your eye up a lot. And again, it looks good on TV, but it also does not look unnatural if you then go from the studio. Well, when we used to go to the studio in those old days to just being outdoors. So I'm going to do TV tonight and then I'm going to a party, and I don't have to take it off because it looks perfectly natural.

So since we're on the subject of secrets, another one is Thrive's Liquid Lash Extension Mascara, which as I said, I have been using for years, way before we started doing this show. It's their best selling first vegan tubing mascara with more than 20,000 5-star reviews. The proprietary tubing formula dramatically lengthens each lash from root to tip, while mimicking the look of lash extensions, all without damaging glue or expensive salon pieces.

It's clean, nourishing ingredients, support longer, stronger, and healthier looking lashes over time and last all day without clumping, smudging or flaking, better yet, it comes off easily with warm water and a washcloth. No soap required and no messy, gunky, black smudging under your eye that requires waterproof mascara to remove. It's fabulous.

Kim:

So as you can tell, we can't get enough of Thrive, especially how they contribute to helping communities thrive, with every purchase through their Bigger Than Beauty program. They give to over 300 causes, spanning colleges, cancer research and homelessness, along with many, many more.

So celebrate the season of giving and try Thrive Causemetics today. Right now you can get up to 45% off their best selling products when you purchase select holiday sets, by visiting thrivecausemetics.com/sisters. That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S.com/sisters to start shopping for their holiday sets, or you can look for the link in our show notes.

Joyce:

Listener Julie wrote to us, "Discussing each week's show with my mother-in-law was an interesting way to communicate and bond during the pandemic. We continue to do so and we look forward to listening every Saturday." She recently wrote, "Thank God for SistersInLaw, brilliant, timely human calming and demeanor and reminds me why I became a lawyer." Thanks, Julie. I adored my mother-in-law too. And reading your comment made me so happy.

Jill:

All of you listening now know that Judge Cannon took a case brought by the former president that we all said she shouldn't have taken, and she used it to appoint Judge Dearie as a special master and to then tell him to slow down in reviewing the documents that had been taken from the White House to Mar-a-Lago at and then removed by the FBI after a legally authorized search, pursuant to a search warrant. DOJ appealed and we all told you they would win and they did.

The 11th Circuit smacked down Judge Cannon in no uncertain terms, they vacated her decision. Joyce, you wrote a really excellent analysis of the 11th Circuit's opinion. Tell us who was on the panel and what they said.

Joyce:

Yeah. So the court was, I thought, incredibly reassuring about the future of the rule of law in this country. They said it in short that they weren't going to write special rules for former President Trump. They said that they were going to follow well-established case law in his case, just like they would for anybody else.

What Trump always wanted in this litigation was something very unusual. He was seeking the ability to interfere in a criminal investigation before he was indicted. And the law is clear, you can't do that except in a very rare situation where you're able to show that the government has callously disregarded your constitutional rights.

Not only did Trump fail to show that, to prove that, he didn't even try. And that's because when you think about what was going on here, all that the government had done was to execute a judicially authorized lawful search warrant. In other words, they respected Trump's rights. There was no effort, nothing that even approached disregard of them, hence no justification for even filing this lawsuit. And that's what the three-judge panel the 11th Circuit said.

They said, "We're not going to write a rule that would let anyone who is under criminal investigation bring in the courts to supervise the Justice Department." Can you imagine the system would become unworkable if that was the rule? And that's what Trump was really asking for.

The court says, "That would violate separation of powers and it would just be a mess." And the court said, "We're also not going to create a special rule that's just for people named Donald Trump." He just doesn't get that as a former president. So the court said it would follow the law, which was what Trump did not want to hear. And it's really even a little bit sweeter coming from this panel of judges because two of the judges are Trump appointees, but it's the third judge who's really the most interesting to me.

William Holcomb Pryor, the chief judge of the 11th Circuit. He is an archconservative. He is a lifetime member of the Federalist Society. He is a former Alabama attorney general. And Judge Pryor was perennially on Trump's short list to be nominated to the Supreme Court.

So this isn't some judge that Trump will be able to write off. I'm sure that he'll be dismissive and derogatory towards the members of this panel, but that's just not going to work with Bill Pryor. And it's very sad that it needed to be said, but here we have somebody with straight-up conservative bona fides telling Trump, "No." And saying he's not above the law and doing it promptly. All in all, this is a very satisfying pro rule of law opinion to read.

Jill:

You can say that again and it is filled with some great language. And Kim as our favorite writer, I thought it would be good to ask you to talk about some of your favorite lines from the opinion itself, which of course, as has been noted, we hope all of our readers will actually read the opinion, but give them some highlights.

Kim:

Yeah, and I think, we will put a link to the actual text of the opinion because the thing that I really like about this, in the way the Judge Pryor approaches this, is that sometimes you get opinions that are written and you know the judge is just waiting for them to be quoted in the media. This really isn't like that.

Judge Pryor takes a really matter of fact, clear, point-by-point, just dissemination of the arguments made by Trump's team that is rooted in law, but it's also very plain and easy to read and easy to

understand. There's not a lot of legalese in here. So the journalist in me, would actually read this opinion and say, "Okay there, it's not like it's full of zingers." But the lawyer in me reads it and says, "Oh, this is clear for all the reasons that Joyce pointed out."

Judge Pryor is the conservative's conservative. The other two judges were appointed by Trump. And I just don't know, yes, Donald Trump can appeal this if he wants to, but to whom? He's already been shut down by the Supreme Court in trying to intervene in this. And he has probably the most conservative justices in the federal appellate judiciary, which just ruled on this case and it was against him, so I don't know where.

But the point that I'm making about the way Judge Pryor wrote this so clearly, is I really just picked that one quote, in which after he took apart each of the arguments and called them a sideshow, he really said at the end, "The law is clear. We cannot write a rule that allows any subject of a search warrant to block government investigations after the execution of the warrant, nor can we write a rule that allows only former presidents to do so."

And at the heart of all of Donald Trump's arguments is that because he's a former president, he should be given all of this special consideration. These documents may be important to him, they may be personal, they may be released to the public. He doesn't want that. That's the case with anybody whose information or property is seized by a lawfully executed search warrant. Of course, they're taking your stuff, that's how this works.

Of course, this is stuff that you don't want them to take. Of course, this may be stuff that belongs to you, and in this case it's a lot of stuff that didn't belong to Donald Trump. They're classified documents that belong to the federal government. So Judge Pryor was having none of it.

And so I think this is a really great opinion for people who aren't normally reading, who don't regularly read court opinions because easy to understand. We're talking about this podcast being a learning vehicle and this is a great one.

Jill:

Absolutely.

Joyce:

Kim, I'll just add to that, it's really interesting. This is a per curiam opinion. That means none of the three panel judges signed it. It's issued by all of them, but it does read a little bit like a Bill Pryor opinion. And to your point that people who don't normally read opinions don't have a legal background should read this one. It's really clear. And something that I love is the very first paragraph tells you how the court rules.

A lot of the time, you've got to get 20 pages into an opinion before it's clear what the court's decision is. Well, here you know it from the get-go and then he or whoever wrote the opinion proceeds to explain it. So it's a great opinion for our listeners to read. If you only have time for a little bit, just cut to the very last section. I think it's Roman numeral for around page 19 and read those last couple of pages for yourself.

Kim:

Yeah. That's really important, and thank you for that fact check, Joyce. It was a per curiam decision. I assume that Pryor wrote it and-

Joyce:

Well, I mean anybody who's ever read anything that he's written read it and was like, "Oh, Bill Pryor wrote this opinion."

Kim:

But we don't know that. I want to be, we are about facts here. So I appreciate that fact.

Jill:

This is the kind of inside information that our listeners get, exactly. So it's also, I mean I think, while you're right Kim, in terms of how it was written, I think when you read the whole thing, it's screaming that someone should file for Rule 11 sanctions for a frivolous lawsuit because there was no basis for this lawsuit to have ever happened.

But Barb, tell us what the decision means for the case against Donald Trump, and when do you expect a decision from special counsel Smith's grand jury on the Mar-a-Lago case?

Barb:

Well, the order will not be effectuated for a little bit of time because they're allowing Donald Trump an opportunity to appeal. He has the opportunity to ask the full court of the 11th Circuit. This was a three-judge panel to gather on bank as they say, the whole court and sort of reconsider, and it seems unlikely that will happen in light of this very strong decision, but then the next step would be to appeal to the Supreme Court. I imagine Donald Trump will do that.

They have decided many of these types of privilege matters and other kinds of things pretty quickly. So I'm hopeful that the Supreme Court will decide quickly. And then within I hope a few weeks finally the Justice Department will be back where it should have been in August, when it first executed the search warrant and moving forward on the case.

Now, they have been investigating in between, they have been putting people in the grand jury and interviewing witnesses and those kinds of things, but really reading the documents is important and they haven't been able to do that outside of the purview of the special master so far.

And so, one of the things they'll need to do is to have the intelligence community assess the sensitivity of these documents, which are the ones, if any, they want to use in criminal charges, because once you use documents in criminal charges, there are some risks of exposure of the content of those documents. And of course, the whole point of this case is to protect national security classified information.

Some of which is defined, classified information is defined as the release of which will cause harm to the national security. And if it's secret, it's grave harm, and if it's top secret, it's exceptionally grave harm. And so they don't want to use these documents as exhibits in the trial, if they might be disclosed in some way. So they have to go through those and assess which ones they can use.

Joyce, I know you've used this phrase before, Goldilocks documents. The documents that are just right. They're neither too sensitive to risk, even a law clerk seeing something that is, I can't even imagine what that secret would be, but secret's about our nuclear stockpile or something, our troop locations, the secret place where they take the president when there's a nuclear threat, whatever these things are.

Nor do they want to use something that looks so vanilla on its face that it will be difficult for a jury to assess the seriousness of it. For example, sometimes a document is classified simply because the source is someone whose identity you want to protect. Not that what they said was anything particularly remarkable.

So what they want to do is find things that kind of fall somewhere in between and then run it by the intelligence community or whoever generated it. NSA, CIA, the FBI's Intelligence Collection, DOD, wherever it came from and say, "It's okay, we're going to get a protective order, we're going to do our best to keep this secret, but this is one that we want to use in trial." And I think they have to go through that work.

So I know some people have been asking me, "So does this mean that the indictment's coming next week?" And I think the answer is no, because I think that work is going to take them at least several weeks. So I think, I can't imagine an indictment before the end of the year.

Kim:

So can I just ask this then, if this was meant to be a delay tactic, was it successful even despite the fact that we get this opinion and the very low likelihood of if there is an appeal that Trump will be successful? It seems in a way that he was.

Barb:

Absolutely, and I think delay is always his game. I don't know that he'll ultimately win this game because I think DOJ, if it chooses to file charges, can do so probably in early 2023, which will probably give them enough time to complete the case.

But you can bet, that if charges are filed, he'll file every motion under the sun. If he's convicted, he will file an appeal. And so he will keep pushing that until after 2025.

January 2025, we will have potentially a new president, potentially even a Republican president, potentially even a President Donald Trump, at which point he could pardon himself. So I think the longer he can delay it, the more he can perhaps get himself to that point before he ever has to go to prison.

Jill:

Okay. So I just have to say, one, I do not think he compartmented himself legally under the Constitution, and secondly, one of the good things about there being a special counsel is that he will outlast the Department of Justice, should there be a change in administration.

And therefore, even if there's been an indictment, but it hasn't gone to trial, it can still go to trial after the change of administration. So it won't ultimately mean that he wins. He may have won a skirmish, but he hasn't won the war.

Kim:

Here's a comment from listener Jen. "The most important thing I've learned from you ladies, is that Jill Wine-Banks has had the most interesting life imaginable." That's really true. Jen continues, "Also, trust that the wheels of justice moves slowly, but they do indeed move." Jen, as somebody who is impatient. I agree with that.

Jill:

I'm always looking for gifts of wine to bring to people's houses for holiday parties. What do you suggest, Joyce?

Joyce:

Well, Jill, I've become a big fan of Cameron Hughes, especially now that Alabama has new laws that let us have liquor and wine delivered in the mail. We didn't use to have that, so this has been a special experience for me. I've been able to get affordable world class wine delivered right to my door, in the comfort of my own home. And you can too with Cameron Hughes.

Cameron Hughes Wine has a unique business model that sources top rated wines directly from the world's best wineries. They get the best bottles and vintages from stellar producers that restrict their production to keep prices high. And so they're overaged under the Cameron Hughes label, making sure the finest wineries aren't left with unsold goodness.

You get the best wines from around the world all at a fraction of the cost. So we can just call it our secret. If you want the luxury wines produced at affordable prices, Cameron Hughes Wine is your personal sommelier, insider, and wine buyer.

Kim:

If you want to go to a party, you will be a hit if you take a bottle of the Minervois. The Minervois, see, I took French in school so I can say that properly. And they have that available in limited quantities, and in bottles it's a Lot 842 and it's a smooth savory syrah and grenache showcase from the southern region.

And it's only \$14 a bottle, that's less than half of what you'd normally pay for this wine, under its original label from your local wine shop. Plus they have the CAM Collection, Russian River Valley Chardonnay for sunshine in a glass, with notes of vanilla, butter and a kiss of oak. This high-end California producer is a steal at \$17 a bottle. I have to say we had it with some salmon and it was really, really fantastic.

Joyce:

That sounds really good. There's great news from Cameron Hughes. Today, they're offering a deal exclusively to our listeners, 20% off and free shipping on three or more bottles. All you have to do is enter our code Sisters at checkout, just in time for the holidays.

These wines are already an amazing value for the price. And today you can get top rated award-winning wines at an incredible savings. Save money and enjoy the best wines with your friends. Try wines that normally sell at super high-end prices for a fraction of the cost. They're incredible, but they will sell out quickly.

Kim:

Go to chwine.com today to get 20% off the already great prices and free shipping when you buy three or more bottles. Just enter our code Sisters at checkout. That's chwine.com with code Sisters, for 20% off three bottles or more, plus free shipping.

It's great wine at great prices delivered right to your door in the comfort of your own home or office. You can also find the link in our show notes.

Jill:

I love this comment from Caroline in Austin, Texas especially the first part, "The most important information I learned on SistersInLaw was the meaning of substantive due process. The principal is at the heart of an enumerated rights and will be at issue for many years to come." And that certainly is true, but she continues saying, "Another fact I learned while watching the Sisters live in Austin, was that they are just as impressive in person, they are also warm and gracious to everyone in the audience and each had a great sense of humor." So I hope that's going to hold true because as we go on the road with a live show, I hope all of you listening will come see us.

Joyce:

So in more good news for the rule of law this week, the Justice Department managed to convict every defendant in the Oath Keepers prosecution, this first case on one or more of the charges against them, but it's complicated.

I mean, Kim, this was a case with multiple defendants and multiple charges. The marquee defendant was Stewart Rhodes, the leader of the Oath Keepers, and the lead charge was seditious conspiracy. How did the jury sort it all out?

Kim:

Yeah. It was complicated. In fact, I made from news reports, I made my own little version of a jury sheet that kind of shows who was convicted of what, because it was very confusing.

So Stewart Rhodes, who is the head of the Oath Keepers, was the big fish in this and he certainly was caught. He was convicted of seditious conspiracy, as well as a number of other charges, including obstructing the certification of the election, destroying evidence in the case, obstructing an official proceeding. He was convicted of that, put a pin in that. We're going to come back to that in a moment. And as I said, destroying evidence in the case.

Some others, including Kelly Meggs, who leads the Oath Keepers Florida operation, was convicted of, actually Kelly Meggs was convicted of all the charges that he faced, including seditious conspiracy. Conspiracy to stop the election, to interfere with members of Congress, obstructing an official proceeding and destroying evidence. And the three other members of the Oath Keepers were also convicted on some charges, but acquitted of others.

Now, I'm coming back to that conviction that Stewart Rhodes had for obstructing an official proceeding. Stewart Rhodes was also acquitted of conspiracy to disrupt the election certification and also acquitted of planning to stop members of Congress from discharging their duties, which I found interesting, given the fact that he was convicted of obstructing the official proceeding and of course, of seditious conspiracy.

So the only reason I flagged that is, I have questions as to whether the jury may have thought or given at least some weight to one of the main arguments of the defendants, which was this was not a big plan to get together and go to Washington and stop this thing. We went to Washington for this rally, we were there, we went to the capital and things got out of hand, they just happened spontaneously.

So I wonder if that took hold with the jury at all. I know sometimes juries convict on some things and acquit on others and you never quite know. But that's the only thing that I would keep an eye on as we talk about what the ramifications of these convictions are.

Joyce:

I think that's a really good take, Kim, because the thing that it's always different what we hear in the media and what the jury is told in the courtroom, and the key part of a conviction for a conspiracy count is that the government has to prove that there's an agreement to do something. In this case, there was a lot of focus on agreement in advance, so I think your take is a really smart one.

As an appellate lawyer, I'm really happy to see some defendants be acquitted on some counts, because it lets me argue on appeal that the jury didn't just rubber stamp the indictment, that they weighed the evidence individually for every defendant in every count, and I think that plays well on appeal. But there were some losses for the government here. Barb, do you think that's bad for DOJ? I mean, where do you think this all goes from here?

Barb:

I think the outcome of this case is actually very good because everyone was convicted of a 20-year felony. So whether it was a seditious conspiracy for two of the defendants or obstruction of an official proceeding for the other three, they're all facing a potential statutory maximum of 20 years. So that's a big deal. So I think overall this case is good news.

I do think that the Justice Department needs to think about what might have caused the jury to find three of the defendants not guilty of seditious conspiracy, because it does have some more of these cases coming up. And so to the extent it can pinpoint, maybe how the evidence differed between Meggs and Rhodes and the other three defendants, that can be a learning opportunity for the Justice Department.

But sometimes juries just do goofy things, sometimes they just make compromises. Sometimes the evidence is so overwhelming against one or two defendants in a case, that it pales the evidence against the others to sort of pale in comparison. And so they think, "Well, that was clearly guilt beyond a reasonable doubt as to those two defendants." And since there was less evidence for these other three, that must be something less than guilt beyond a reasonable doubt. So you never know.

There's also, I think a little bit of illogic in the mix of the verdicts here, for example, Stewart Rhodes is found guilty of seditious conspiracy, guilty of obstructing an official proceeding, but not guilty of conspiracy to obstruct an official proceeding. So that means the jury thinks he did obstruct but didn't agree to obstruct. Usually, the agreement is kind of the first step toward actually doing it. So that strikes me as perhaps a little bit illogical, sometimes they even compromise.

One juror says, "Well, I think he's guilty of X but not Y." And the other juror says, "Well, I think he's guilty of Y but not Z." And then somebody else comes along. "Can we all agree that he's guilty of Q?" "Yeah. We can all agree to that." And everybody agrees to that. So I think sometimes there's some compromise that we don't see, but I think that DOJ is now positioned in a really strong place because they've got a couple more of these trials coming up.

Another batch of Oath Keepers is going on trial for seditious conspiracy, December 12th. And so I think with these convictions behind them, they are now in a superior position to negotiate guilty pleas, if any of those defendants are interested in either pleading guilty and possibly also cooperating.

And then right after that comes the Proud Boy's seditious conspiracy case with Enrique Tarrio, to the extent he thought maybe you can dodge conviction because you weren't physically present at the capital. Stewart Rhodes wasn't physically present inside the capital, he didn't go inside and he was convicted of seditious conspiracy. So I don't think that's going to be any inhibitor toward a jury finding them guilty.

So I think if I were a lawyer for any of these defendants facing trial in the coming weeks, I would be having a conversation with my client to say, "Look, we saw what happened in the Oath Keepers trial, it seems like a DC jury understands this charge and is willing to convict on this charge. There is some very significant criminal exposure here. Would you like me to go back to the Justice Department and explore a guilty plea and cooperation? And if so, what do you know? What do you have that I can offer?"

Joyce:

Usually in this situation, there's sort of a fight to be first for that sort of best deal, and I wonder if that's going on. Obviously this case has potential to have some pretty long legs and reach into other defendants.

Jill, Kim, what do y'all think about what this case pretends, not just for the future of the investigation, but for the health of our democracy?

Jill:

I think in terms of democracy, it's a really good win for the Department of Justice. I agree with everything Barb said, but I of course know as all of us do, that each case depends on the precise facts in the case. And it's not just the facts against one defendant, it's the total package of all the evidence against all of the defendants, which as Barb points out.

If it's so strong against one, someone can get acquitted, not because they're innocent, not because there isn't proof beyond a reasonable doubt, but because well, they're just not as guilty as the other guilty people. So in terms of the cases that are pending, which as Barbara said is there's another Oath Keepers trial coming up and then a Proud Boy's trial coming up for seditious conspiracy.

I think that if I were representing a defendant there, I would be saying, "If you have something that you can give, this might be the time to do it." I think that the government is in a stronger position. I think it is, it would behoove them to try to figure out what exactly went through the juror's minds as to how they had some seemingly inconsistent verdicts. And was it just that the three were acquitted because they were lesser involved than the other two? Why was Rhodes only convicted of obstructing but not of conspiring to obstruct?

Once they understand that, they will know how better to approach the next trial, and oftentimes jurors will be willing to talk. And so there's ways that they can find out and structure the new case in a stronger way, but they're in a strong position anyway.

Kim:

Yeah. I think that's absolutely right, what Jill said. I think sometimes we call verdicts mixed and losses, as if that is something to fall back on. I read this and after seeing the headlines about mixed verdicts and I thought, "Oh no, this is really great" I think fair is that weird thing that we've all talked about, this idea that Stewart Rhodes was convicted of doing something, but not conspiring to do the thing. And we don't know exactly. It depends on how the cases against the other defendants are being set up.

To learn exactly what the impact of that might be. But I think that this is good. I think all of them were convicted of really, these are harsh crimes as Barb said, obstructing an official proceeding. Every single one of them was convicted of that. And I think that it's important not just in this case, but in future cases to show that there are teeth to these laws and people who try to stop the levers of democracy, there'll be consequences for it. So I think that that's great.

Joyce:

Yeah. I think that's right. I'm struck and I think sometimes we get stuck in the weeds of the cases and it can be tough to back out and get the same sort of view that we'll get maybe in four or five years, looking at this historically. But this is a Civil War-era statute, right? Seditious conspiracy. It's meant from a time that the country broke out in open Civil War. It's a statute that DOJ has frankly had some trouble deploying, in other cases-

Barb:

Too soon, Joyce. Too soon.

Joyce:

I know. I'm sorry honey, but it's not your fault. We're talking about Barb's on Tarrio prosecution where a federal judge dismissed her case.

Kim:

Barb was a [inaudible 00:47:38].

Joyce:

And the judge was wrong. This was an Aileen Cannon level, judge.

Barb:

History wasn't ready for me yet.

Kim:

Correct.

Joyce:

But history now is ready for you, and I think that's the point. This is a jury of the peers of these defendants who have said, "January 6th, that was sedition. That was an insurrection against our government." And I think the country has to acknowledge that and come to grips with it before we can move on. That's been tough. So I'm glad to see that we're finally approaching that point.

Barb:

We also got a comment from Mark in Bournemouth, England, and I'm so grateful to hear from you, Mark, because I actually have ancestors and still have family in Bournemouth, England. It's a beautiful place. I've had a chance to visit there, and thank you for listening from all the way over there.

And Mark says, "The thing that I've taken away from the podcast is to try and put emotions aside and simply to have faith, that the legal system will prevail in the end. It's helpful and reassuring to hear from you each week, and I'm very much looking forward to the next 100 episodes." Thanks, Mark. I hope we'll all be here for another a hundred episodes altogether.

Kim:

You know what, Jill, I'm thinking a lot as I'm shopping during this holiday season and doing a lot of trying to shop at small businesses, they must have a lot of stress trying to get those packages out. I wonder how they do it.

Jill:

Well, you ask the right person, because my husband is a small businessman. As you know, he has an antique shop and he also is an artist who, mails paintings that he sells mostly online. And right about now, he is in already starting seasonal dread. I mean, it's exciting, but it is the busy season. And so especially for small businesses that don't have mail rooms, for example.

So whether you're running a small law firm or a small business like my husband, when your inbox is more like a blizzard than a winter wonderland, stop, sling through traffic to the post office. It's not too late to get your holiday mailing and shipping under control with stamps.com. Sign up now and you'll be printing your own postage in minutes.

Barb:

Stamps.com is your one-stop-shop for all your shipping and mailing needs. And for more than 20 years, stamps.com has been indispensable for more than a million businesses. You'll get access to the US Postal Service and UPS Services you need to run your business right from your computer, no lines, no traffic, no hassle.

Jill:

You can even save money with major discounts that can give you up to 86% off. That's 86% off on USPS and UPS shipping rates. It's the perfect stress-free solution for every small business.

All you need to print postage with stamps.com is a computer and printer. And if you need a package pickup, you can easily schedule it through your stamps.com dashboard, plus, if you're running an online store, stamps.com works seamlessly with all major shopping carts and marketplaces.

Barb:

This holiday season, trade late nights for silent nights and get started with stamps.com today. Sign up with promo code SIL for a special offer that includes a four-week trial, plus free postage and a free digital scale.

No long-term commitments or contracts. Just go to stamps.com, click the microphone at the top of the page and enter code SIL. You can also find the link in our show notes.

Joyce:

Another comment came from listener Shaw, who wrote, "What I've learned from the podcast is that I'm not a fool for holding out hope for American democracy. The meteor popularity of #SistersInLaw shows me that there's a groundswell of citizens who insist on accountable government and justice. Thank you." And thank you, Shaw and all of our listeners who join SistersInLaw in believing exactly what you wrote. This I think is who we are.

Barb:

Well, I want to talk about domestic extremism. We've been talking about sedition. According to FBI Director Christopher Wray, the top domestic threat comes from racially or ethnically motivated violent extremists who advocate for the superiority of the white race. In fact, he was here visiting at the Ford School for Public Policy today. I got to go, hear him speak, and he talked about this.

It is this group that has been the source of the most lethal attacks in recent years. And then this week we saw the Department of Homeland Security issue, a bulletin that warned of a heightened risk to the LGBTQ community and Jewish communities in particular.

Jill, it seems that the threat to Homeland Security has evolved from back when it was Al-Qaeda and then it was ISIS back in the day. Now, to domestic terrorism based on race, ethnicity, and anti-government sentiments. When it was Al-Qaeda and when it was ISIS, the United States government was very aggressive in combating it. We talked about the war on terrorism. Do you think that our government is currently taking this threat of domestic extremism seriously enough?

Jill:

I think there was a history here that they did not take it seriously enough. If they had, January 6th would have been reported in ways to authorities that would've been prepared to stop the violence on January 6th. So there's pretty good proof that they didn't take it seriously, at least in the last administration.

And the DHS bulletin that you referred to is trying to warn of a threat, but I think some of the things that they say in it, make me feel like it isn't a strong enough effort on their part, because they talk about kind of things that people can do to protect or that the department is doing, they say, "We are continuing to share information." Well, what do they mean continuing to share information? They didn't share the information about January 6th, that was or should have been in their possession.

And so I am a little bit frustrated by that and a little bit less than optimistic than I usually am, about whether the government is taking it seriously enough. And I think particularly as I look at what's happened to the LGBTQ+ community and the recent shootings, but also as someone who is very interested in what the ADL is doing to protect minorities and religious groups, I think there's a real threat here that needs much more serious attention.

And in the bulletin, they say things like, "Well, we have paid money to harden the targets." Or, "We're telling targets to be prepared and to have a plan." That's not enough. I just feel like we need to have much more done by the government.

Barb:

Joyce, there is of course another side to this when it comes to domestic terrorism, right? It's more challenging to investigate domestic terrorism because of some of the history we've seen at the FBI with overreach and abuse and First Amendment, civil liberties concerns. Do those obstacles you think make it impossible to stop the threat? Or is there more we can be doing?

Joyce:

So I'm going to acknowledge that I may be an outlier here, but I think what's going on, and others may quibble, is that this is a failure of will and a failure of leadership in this area. If the FBI from the very top told the field that this was a number one priority focus on domestic terrorism, then that would be the priority. And the FBI would do it very well along with other agencies.

But it has been difficult for federal law enforcement to focus on white domestic supremacist terror in the same way that they have on, say, international terror for some reasons that are obvious and others that just maybe have a little bit more of a tortured history here. But if nothing else, it was clear that a sea change was necessary at the FBI after the Trump administration, and probably at some of the other agencies, the Secret Service as well.

And that sea change just really hasn't come. And so a problem that had already been a problem in previous years, really became entrenched in the culture, in the law enforcement agencies, that I think has made it very difficult to use the legal tools that are there, the laws and the investigative authority, in the ways that are necessary to take this problem on.

Barb, I've heard you comment on the fact that you'll hear folks at the FBI say, "Well, we couldn't go out and look at social media." And of course, that's not true. They do have that authority. They simply have made an internal decision not to use it.

So law enforcement needs to embrace the fact that this is not about politics. It's not about their politics, it's about crime. And whether Chris Wray, the current head of the FBI is up to that challenge or not, I think is something that people have begun to question, but it's something that's going to have to be pursued, whether it's under his leadership or whether there needs to be a change.

Barb:

Yeah. It's a tricky question. I teach this course on national security and civil liberties where we explore the tensions. And the FBI has a really shameful history where it was investigating Vietnam War protestors and Martin Luther King and civil rights leaders, because they believe that they posed a threat to domestic security or something along those lines.

And so the FBI put all these obstacles in place, internal policies. They have the thing they call the DIA, Domestic Investigations Operations guide, that says you can't investigate someone solely on the basis of First Amendment protected activity. And I think that's where they get very squeamish about looking at social media and online, but they do it for ISIS, even Americans who are expressing support for ISIS.

And I think you can distinguish between that, which is First Amendment protected. "I love ISIS." "I love," Whatever, "Oath Keepers." Whatever is the group. But when they start talking about threats and violence, that is certainly something that the FBI can be looking for. So I think it's harder, but it's certainly not impossible. And I think, like you, Joyce, my instincts are to be maybe a little more aggressive in this space.

Kim, let me continue talking about domestic extremism, but I want to discuss it in the context of the January 6th committee. It's gathering to prepare its final report. The committee is no doubt going to be disbanded when the new Congress gets sworn in January. And Liz Cheney has said she wants to focus solely on the conduct of Donald Trump.

There's been some reports of some internal disagreement about that, despite the fact that there were other teams as part of that January 6th committee staff that investigated other aspects, like lapses and security to the building and this threat of domestic violent extremism. What's your view on the Cheney approach versus the other approach of discussing some of these other threats?

Kim:

Yeah. So there was a Washington Post report and there has been some other reporting since then, about this tension that there are staffers on the committee who have been putting in time, looking at all of the things that the committee was charged with investigating, whereas the leadership seems to want to really focus this final report primarily if not entirely, primarily on Donald Trump and holding him accountable.

And according to this reporting, it's really Liz Cheney that is running the show. Even more so than Bennie Thompson who is the chairman of this committee, she is the vice chair. And if that is true, that gives me pause, that gives me concern. I do think that making it very clear, what the culpability and the accountability of Donald Trump is, I think that's really, really important.

I don't take away from that, but I think this committee needs to do both end. I think they need to clearly show what Donald Trump's role was in January 6th, and also clearly, also identify their other charges, which include all of the factors that led to January 6th, which includes domestic extremism and the role that served. We just talked about the Oath Keepers as an organization and the convictions that were there because of their part in this.

This is not new. Domestic extremism has been the biggest terrorism threat to Americans for years and years and years and years. And I think if you talk to most Americans, they don't recognize that. During the Trump administration there was an active effort within the DOJ to suppress that fact, because they thought that, that would be politically disadvantageous to Donald Trump and that is reprehensible. You had people like Bill Barr saying, oh, "I've never, I don't even know what you're talking about." At least here, Christopher Wray has been say, who was a Republican, has been saying clearly from jump, that this is the number one threat to Americans.

Now, what has his agency done differently to address that? That's a good question. I do not know because that is not clear. But I think that is something that the committee needs to address squarely. Also, law enforcement, the failure on law enforcement on that day that they were caught unprepared, flat footed. That should never happen certainly with any law enforcement organizations, specifically capital police, should not have been in the position that they were in. And that's really important to know. So I really hope that this committee gives a full throated examination of that in this report as well. In addition to whatever they show about Donald Trump.

I don't care if the report is a thousand pages long. I know there's a concern that they don't want another Mueller report that nobody reads. You know what? Give us bullet points. Make it easy for us. Give us another video montage that includes that. Put it in whatever form you want, but don't dismiss this.

And what I was concerned about is reports. Again, this is a report from the Washington Post, that some of this work is just not being included at all. I hope that the attention that this has gotten is making them change their mind because this is all really, really important.

Jill:

I think to your point, Kim, that the reason that you have executive summaries is so that you can include part one, the case against Donald Trump. Part two, the case against the FBI, the Pentagon, whatever, or law enforcement there is. But also I want to make sure that they redefine the January 6th committee as not being the violence of January 6th, but the efforts to overturn the election, which includes of course, the fake elector scheme, the state legislature pressure, the pressure on Vice President Pence.

All of those things are really an important part to saving democracy and to future legislation, which is of course what they should be focusing on is what laws do we need, so that we don't have a repeat of this or have any areas that have unclear legal restrictions.

The Electoral College Count Act, needs to be looked at and how can we strengthen it so that no one can say, "Oh, well it's legal within the Electoral Count Act to do this." No, it isn't. And so I just want to make sure that they include, I agree with you that I would like to see more included. It can be 750 pages about Trump and maybe a few hundred pages on the others, but it has to include all of them.

Kim:

And one other final point that I'll make and agreeing with Jill is the reason that it needs to, my fear is also that if this is focused primarily on Trump, it can be effectively dismissed as a political stunt, which is what Donald Trump has claimed, this is the whole time. That this is just about him. It's just about Cheney trying to launch her political career. If it's thorough and backed up and involves all of the things we've talked about, makes it a lot hard to make that case.

Barb:

I can see that this committee is having the same kind of creative differences the Beatles had, right? You've got, on the one hand, you've got the politicians who want to tell compelling story for political reasons perhaps, but also accountability reasons.

And then you've got the wonks, back who are, they think every detail matters and it does. And one wants to tell a compelling story. And I also think the point about, "This can't read like the Mueller report, nobody read it. It's so dry."

Kim:

I love it.

Barb:

And it says things like-

Kim:

I really like the Mueller report.

Barb:

"... We're not saying he was guilty, if he was, we'd say so we're not exonerating, they on the other end."

Kim:

I read it twice the day it was released.

Barb:

It's horrible.

Kim:

No.

Barb:

But I do think you can do... As you said, Kim, I think your key phrase was both end. And I think they do have an obligation to have the historical record of all of this somewhere.

Look at the 9/11 commission report. That's hundreds of pages, but it's really well written in a way that's very compelling, but I also think you can have some sort of executive summary, video summary, whatever it is that does make a compelling case in a much more concise way. And maybe that part can focus on the role of Donald Trump and the fake electors and all of the things that we're part of the plot to steal democracy.

So what they need there is a good boss to come in and make sure everybody gets to say their piece, and so maybe Bennie Thompson needs to kind of wrestle back control of this committee here-

Kim:

So is he Paul?

Barb:

... from Liz Cheney.

Kim:

And Liz Cheney, John?

Barb:

I was thinking he was Ringo, but...

Kim:

Oh!

Joyce:

Mr. Chairman, if you're listening to this, I'm sorry we've gone wild, but-

Jill:

I disassociate from these comments.

Joyce:

Barb, your point is really a good one because it sort of made me flinch. I read the Mueller report carefully. I know you did too, because we testified together in Congress about it. I think it points it has really great explanations of crimes and their elements and how they work so good, that I cut parts of it and make it available to my first year law students and say, "Here's a really great explanation of the elements of this crime and how we should view it."

But why I think I have to agree with you, despite my sort of preset bias, is look, these decisions and these reports, they're not written necessarily for you and me and they need to be written in a way where everybody can pick them up and read them and understand what's being said. So I think you're right. Kim's point about bullet points is a good one.

Let's get this information out in a form where people can read it and understand it and use it, and then most importantly, we can move forward as a democracy. So maybe it is up to the chairman to wrestle back control and make sure we end up with a living document here.

Barb:

(Singing). Sorry. I'm not Kim.

Kim:

Here's a comment from listener Cynthia. "Women from different ethnic backgrounds, different generations and different interests can find common ground in the US Constitution and the law. I love the way you all support one another. Uplifting women is a beautiful thing. Thank you, and #goblue." I guess that's for Barb. I mean, I came from a-

Barb:

Go blue!

Kim:

... Michigan State household and a Wayne State household, but okay.

So I think the only thing that most of us like, less than talking about shapewear is actually wearing it because it's often such terrible. We are told that we have to wear these things that suck us in and make us uncomfortable in order for our clothing to look right. I did it for years and years until I got exasperated by it and just stopped.

And then I tried. I have to say I tried Honeylove, and they make shapewear that doesn't make you feel like you're a stuffed sausage, like you're suffocating. You can actually go about your life and that's why I really like it.

Honeylove is on a mission to create the most comfortable and effective shapewear for all of us out there. And when we get body conscious or if we're wearing something. So the last time that I really thought about this again after years of not wearing it at all, was before my wedding. And it wasn't that I

was unhappy with the way that I looked, but I just wanted that garment to lay in a particular way, and I was glad that I did. I wish that I had Honeylove then because that's better than what I actually used.

But every now and again, you just want to look your best and you still want to feel good and go about your business. And I think that's where Honeylove excels. Their shapewear really has you covered.

Joyce:

So the Honeylove experience sounds perfect for me too. And for our listeners who deserve to save big this holiday season for a limited time, you can get Honeylove on Sale. Get 20% off your entire order with the code Sisters, when you go to honeylove.com. Support our show and check them out at honeylove.com and use the code Sisters.

Reflecting on this year, there's a lot we're thankful for, family, friends and much more. And one of those is learning about Honeylove. There's nothing better when you're back with people at parties or with family and you want to feel your best than comfortable products that make you look good.

With Honeylove we all can feel on top of our game. You'll be bringing your best self. After all, this year's holiday season is all about taking care of yourself, and there's no better way to do that than giving yourself an upgrade of comfort and confidence with Honeylove's elite products.

Kim:

Yeah. And the thing that I like about it is that we shouldn't beat ourselves up. We shouldn't try to fit some unrealistic standard. We just want to feel our best and also feel good, feel comfortable. And Honeylove's best selling SuperPower Shorts, targeted compression technology, distinguishes between areas where you want to support in areas that need less compression. So it's technology at work.

Their signature X targets and sculpts your midsection without squeezing your natural curves or making your internal organs scream for mercy. It's also perfect how they're designed to work with your body and not against it.

Joyce:

Honeylove has more than just sculptwear. They have really comfortable looking bras, tanks, and leggings for everyday support. The CrossOver Bra is the most popular bra they have and it looks like it gives all the support of traditional bras without any underwire.

We all have our favorite go-to bra. Honeylove might just be your new one. It looks comfortable and it looks like the kind of bra you can wear all day long without any pain. Honeylove could be a great gift for yourself this holiday season or for friends, whether it's for a wedding holiday event or an everyday boost of confidence.

Treat yourself to the best shaper on the market and save 20% off at honeylove.com with the code Sisters. Use code Sisters at honeylove.com. Feel and look great these holidays with Honeylove shapewear. You deserve it. Look for the link in our show notes.

Jill:

And another great comment comes from Brenda. "I'm not a lawyer but have written and produced two legal drama series in Canada." That sounds pretty interesting. "What you've taught me is to be patient with the law. Justice takes time, but justice will prevail, love your optimism and have taken a page from you, women should rule the world." Thank you, Brenda.

Kim:

We have come to what really truly is our favorite part of the podcast, which is answering our listeners questions. If you have a question for us, please email us at SistersInLaw at politicon.com or tweet using #SistersInLaw.

If we don't get to your question during the show, keep an eye on our Twitter feeds through the week when we can, we answer a lot of our questions there.

So our first question comes from David who asks, "Our term limits on justice is possible. What would it take for it to be enacted?" Barb, do you have an answer?

Barb:

Yeah. It would be a simple act of Congress. Congress could put term limits on justices. Of course, like all federal judges, they currently serve for life, but it doesn't have to be that way. In fact, there has been a proposal to put an 18-year term on Supreme Court justices.

Now, there's some downsides to that. I think people like the idea of a life term because it's supposed to remove political pressure. You never have to worry about your next job, if this is going to be the one that you get to have for the rest of your life.

But I think that there is a legitimate concern that once justices lock up their spot on the court at a young age, some of the recent justices came on in their late forties, they'll sit on the court for 40 years. That maybe it's healthier in a democracy that 18 years or so is enough. And then the new president, whatever party they're on, gets to pick a replacement. And so all it would take, David is an act of Congress.

Kim:

Yeah, and I think it's important to note too, that that proposal has really broad support throughout the ideological spectrum. So it's a good idea. The problem with that is, whatever president and whatever Congress is in power at the time, doesn't want to do it, right? Because they don't want to give that power to the next opposing party, which is why our system is broken.

So our next question comes from Richard, who asks, "Can the vice president break a committee tie?" I think he means a congressional committee tie. Jill, do you have an answer for that?

Jill:

I do. And unfortunately the answer is no. But the voters of Georgia in this particular election in the runoff can do that, because there is an equal number of Democrats and Republicans on every committee in a 50/50 Senate, but if it's 51-49, then the 51 gets to have the majority of every committee and therefore you would be less likely to have a tie.

So the election, the runoff means that if Warnock wins, the Democrats are not going to have as many ties as they might be without his winning. So he becomes more important than just being another Democratic senator.

Kim:

Thanks, Jill. Our last question this week comes from Michael in Nevada, California. I hope I'm saying that right, Michael, "What are the reasons a justice might recuse themselves? Can we expect this from any justices in the current era?" Forgive me from chuckling, but Joyce, do you have an answer to that question?

Joyce:

It was like a sad chuckle, right? You had laughs that you wouldn't cry. I mean, for so long this was something that we took for granted. It was easy. Judges and justices are supposed to recuse from any case where they have an actual conflict of interest or where their participation in the matter could make people believe that there was something improper going on.

The rule is intended to ensure that people have confidence in the Supreme Court as an institution and in its impartiality, because we trust it to decide our most difficult disputes. And so justices were meant to err on the side of caution to make decisions. For instance, if your wife was involved in advocacy for a certain form of political action, you might avoid-

Kim:

Hypothetically.

Barb:

Hypothetically.

Joyce:

... Clarence Thomas. You might avoid sitting on any cases that involve that. And so the principle is pretty easy to explain and I think that we all know it.

The question is whether the court will experience a return to normalcy. And I'll say for the second time in this episode of the podcast, that it's largely a question of leadership and will. It's not easy to be the chief justice and to force the other justices to do something.

You don't technically have the authority to order them to do something, but a strong leader and a good leader will find a way to bring the justices back into balance on these really important ethical issues, otherwise, the courts, the confidence of the public in the court and the court's ability to continue to act as a cohesive institution, I fear is going to be really badly damaged.

Kim:

Thank you for listening to #SistersInLaw with Jill Wine-Banks, Barb McQuade, Joyce Vance, and me, Kimberly Atkins Stohr. We're so glad you've been with us for 100 full episodes, but the work goes on and there is so much more to cover.

We hope you will keep joining us every week as we continue to explore the intersection of law, politics and our future. You can send in your questions by mail to SistersInLaw at politicon.com or tweet them for next week's show using #SistersInLaw. You can also go to politicon.com/merch to buy our tees, the cozy hoodie as the temperatures are dropping, they're great and other goodies.

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Joyce:

It's so weird, the seminal memory of my high school years going to Disneyland when I was in high school at summer debate camp and dancing to Fleetwood Mac covers all night long at one of the places.

Kim:

All right. This, We need to hear more about this.

Barb:

You're such a geek Joyce. I'm sorry, what? Debate? Summer debate camp?

Joyce:

I went to-

Barb:

And when was it?

Joyce:

... summer debate camp because I debated in high school at the University of Southern California. It was a great debate camp, but we would go on little outings to Disneyland, as one did. And it was just a great place to go out and dance with friends and they used-

Kim:

And you dance to Fleetwood Mac.

Joyce:

I'm of that age where they played Fleetwood Mac, and that's just sort of like the lingering-

Barb:

I love it.

Joyce:

If I had sort of a, I don't know, a cover photo for my high school years, that would be it.

Barb:

I love it. Don't stop thinking about tomorrow, Joyce.

Joyce:

Yeah. Yeah, man and write-

Kim:

You could go your own way.

Joyce:

There such great songs, The Chain.

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