

Joyce:

Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Jill Wine-Banks, and me, Joyce Vance. Barb is away this week. It's almost here y'all. It's the #SistersInLaw Live Tour. We start our tour next week in Portland, Oregon, on May 12th. The following week will be in New York City on May 19 and Washington DC on May 21st.

And we are looking forward to meeting as many of our listeners as possible. The shows are mostly sold out, but you can still buy tickets at [politicon.com/tour](https://politicon.com/tour), where they're available, and you can also find that link in our show notes. But y'all, I have to ask, are you excited? What are you doing to get ready for the live shows, Kim?

Kim:

Oh, my goodness. I'm so excited that the next time we chat, we will be together. It has been way too long, and it'll be really, really fun to do it in front of an audience of our friends. You know, I'm bringing my excitement. I haven't thought that much more beyond it. The energy is always so great when we're all in person. It has been for years. It started when we would see each other in the green room at MSNBC, but it's great to get together and do the show live and feel that energy. I'm just super excited. What about you, Jill?

Jill:

I'm super excited, and the one time that we've all four been together in the same room was last fall in Texas, and it was so special to have that vibe that we have. I mean, right now, we see each other on camera. Even though our audience doesn't get to see the video, we at least can see each other when we're talking.

But being together is so special. I am worried about what to wear, and I need to know what the stage is like, whether it's going to be... I've had to get on stage, where you're on these really high chairs, and it's really awkward, so pants are a much better option than a skirt. But once I figure that out, I'll handle packing, I guess, pretty well.

Joyce:

You know, I'm the same Jill, and just these days, I only travel with a carry-on bag, so I think I'm going to roll up a pair of black pants and a black sweater. I had a little bit of luck shopping for new black pants, and I'll look the same every place, but it means I'll have room to bring my knitting in my suitcase, which is always my priority. Kim, I love that you mentioned talking in the green room the way we used to get together pre-pandemic, which feels like another lifetime because that was really the origin story for the podcast-

Kim:

Yeah.

Joyce:

... was sitting around talking in more detailed than we could on MSNBC and thinking, "Wouldn't it be fun to let people have a window in?" And so we've gone a long way from those old green room days. So before we get on the road, we've got one last show for you, and it's a big one because there is a lot of news.

We actually had to set aside things that we wanted to talk about to settle on just three topics for today. We'll be discussing the verdict in the Proud Boys case, a new case the Supreme Court has agreed to hear on the authority of executive branch agencies, and we'll talk about the ongoing ethics drama at the Supreme Court. And, of course, we'll be answering your questions at the end of the show.

Kim:

Former Proud Boys leader Enrique Tarrío and three other members of the far-right extremist group were convicted of seditious conspiracy by a jury in DC this week. Jill, I usually build up in our segments to the big questions, but this time I just want to start off with the question that I think most people have in the wake of the news of this verdict, and that is what does it mean for Donald Trump? Does this change whatever criminal liability he might face in relation to January 6th?

Jill:

So that's a great question, and it is the question that everybody wants to know the answer to. I actually, as a criminal prosecutor who's done a lot of conspiracy cases, don't think it does because it wasn't a surprise to me that you don't have to be there to be guilty of the crime that is committed. So, for example, if you're the getaway driver in a bank robbery, you aren't inside the bank. And if someone accidentally kills someone while they're robbing the bank, you're guilty of the murder and the bank robbery even though you were in the car the whole time.

So it doesn't surprise me that the fact that Tarrío, who was barred from being in DC because of an unrelated crime, he was not allowed to go there. He was nowhere near the capitol. He was nowhere near there, but he's the planner. He was part of a conspiracy, and it does give hope, and it shows that a jury can understand that exact charge, which is that you don't have to be physically present to have been part of the conspiracy. And that means that Donald Trump and many others, I mean, Roger Stone and the whole Willard Hotel crowd, they're all not necessarily at the Capitol. But they were the promoters of the whole thing. And so all of them could be guilty of the seditious conspiracy and other crimes as well.

Kim:

Joyce, I want you to weigh in too. What do you think Jack Smith is looking at right now in determining whether he brings charges against Donald Trump?

Joyce:

Yes. So Jill is referencing in part something called the Pinkerton Doctrine that says that, "Once that you join a conspiracy, you can be held liable for all the reasonably foreseeable results of that conspiracy." And that's a well-established doctrine. I have a little bit more of a hesitation here, not on the Pinkerton end of things, but on the proving that people joined a conspiracy. So I think it's less likely that Trump would be thrown in the mix with the Proud Boys. In fact, he wasn't indicted in this case. But it's not impossible that after people are convicted, they could decide to cooperate to try to minimize their exposure at sentencing time, and we might learn new information about other people that they were involved with. So sometimes, people are incentivized to do new and different things post-conviction.

But what I think this conviction or these convictions point to is the fact that it's very likely that there were multiple conspiracies at work here, right. That seems, I just think, axiomatic. You've got the Proud Boys conspiracy, the Oath Keepers conspiracy, and you have Donald Trump surrounded by a bunch of Rudy Giuliani lawyers talking about fake slates of electors working with pushing the big lie. And the

ultimate goal of all of this stuff is to interfere with certifying the Electoral College Vote for Joe Biden. And so prosecutors, when they have these messy situations, there's a very live robust conversation. Do we have one conspiracy with multiple sort of wings? And sometimes you'll charge it that way, and other times you'll view separate conspiracies with separate counts, which I think is what's more likely here.

The thing about this is it wasn't just a seditious conspiracy conviction for the Proud Boys. There was a different conspiracy that people were convicted of too, and that was the obstruction of a government function. That's the conspiracy that I suspect Smith is working on, where Trump is involved and in the mix because you don't have to prove an agreement to use force. You just have to prove an agreement to interfere with a government function like Congress's certification of the Electoral College Vote. And to me, that seems like a very good fit for at least the publicly known evidence.

Jill:

So, Kim, if I could say I agree with Joyce's last point, and I did not, in my comments, mean to suggest I thought that Donald Trump was part of the Proud Boys conspiracy or the Oath Keeper's conspiracy. I think he's involved in his own conspiracy, maybe alongside of the Willard Hotel conspirators, as someone who was trying to overturn the election, interfere with Congress doing its duty.

And so it may be a separate one. There's the wheel and spoke theory of conspiracy, and it doesn't matter which one you go on. I think he's part of a conspiracy. The point is that this conviction shows that you don't have to have been at the Capitol to be responsible for what happened at the Capitol.

Joyce:

I have a Pavlovian response every time somebody says Willard Hotel because literally since the point in time that we found out that they were running war rooms at the Willard Hotel, people like Boris Epshteyn and Mike Flynn was there. You don't have war rooms if you don't mean to go to war, right. The election was over. It was a done deal. So what was going on there? And I agree, Jill, that, to me, is the missing piece.

The boring appellate lawyer in me feels obligated to point out that what seems obvious to all of us and what frankly looks obvious to me still requires prosecutors to go back and make sure that they have proof beyond a reasonable doubt for every element that the statute requires them to prove, to obtain a conviction. So they have to be able to prove that an agreement was formed before they can charge a conspiracy. It can be formal, right. People never write signed agreements, "Hey, let's have a conspiracy together."

It can be informal. It can even be inferred from activity together. They'll have to prove that they had a goal or a series of goals that they had jointly agreed to try to achieve and to show that there was an intent here to corruptly interfere... a corrupt intent to interfere with the transfer of power. But I think that's where we all see them focusing, don't you, Kim?

Kim:

Yeah, I think that that is right. I think that that is right on the money. But on this issue of conspiracy, Jill, what do you make of the fact that one of the defendants in this case, Dominic Pezzola, was acquitted on Seditious Conspiracy on that charge? He was convicted of other felonies, but he was acquitted on that. What does that tell you about any of this? What the jury might be thinking? What clues do you take from that?

Jill:

Well, first of all, I think it's always a good thing in a trial that's complex where the jury shows that it viewed each defendant independently and that it could distinguish the evidence against each of the defendants. And they saw Dominic as being a latecomer to the conspiracy. That doesn't mean he wasn't part of the conspiracy, that he wasn't guilty, that they weren't right to indict him and try him for that.

But it does mean that, to Joyce's point, you have to prove that you have joined up with the conspirators. And he was convicted of a lot of serious other felonies, just not this particular one. And it just shows that the jury was very careful in evaluating each piece of evidence in connection with each particular defendant and that that's a good thing.

Kim:

And Joyce, Attorney General Merrick Garland took a bit of a victory lap after that verdict.

Joyce:

Just a bit, right?

Kim:

He was pretty excited about it.

Joyce:

He's cute. Yeah.

Kim:

But the truth is, groups like the Proud Boys and the Oath Keepers, they have less of a national profile. I believe that for both of them, their national charters were dissolved after January 6th, but they are thriving as independent local organizations. They're doing things like getting on school boards and county commissions and elections boards. They're still terrorizing LGBTQ folks and people of color.

The reason that Tarrío couldn't get into DC is because the last time he was there, he was a part of a group that took down a Black Lives Matter sign from a church and set it on fire. They're still an issue. So what do these convictions mean in terms of the ongoing impact of groups like this? What happens? My fear is that Trump, once again, tells them to stand by. Do these convictions make a difference there?

Joyce:

Yeah, so it's a good question, and it's a difficult question. My background doing, we didn't used to call it domestic terror. When I first became a prosecutor, we talked about white supremacist groups. And for instance, Eric Rudolph, who was the bomber of both the Birmingham Abortion Clinic, but also the Olympic Park in Atlanta, identified as a Christian Nationalist, which is about as Christian as some of the groups that are Jihadi or Muslim, right. It's a perversion of religious doctrine for a violent ideology. And the problem with those groups is that they're nimble. They know how to reform.

When the Ku Klux Klan was damaged in a civil lawsuit, they reemerged as groups like League of the South. So I think your concerns are really well warranted, Kim. And the problem is that our national problem with domestic terror groups hiding in the shadows. It's not going anywhere. It is something that we need to understand. I think law enforcement is beginning to embrace the problem, but there's still this notion that it's tough to see criminality in people who look a lot like you. So I hope Chris Wray, the

FBI director, is listening to the podcast and taking affirmative steps to address the issues within his own ranks.

We saw most recently, right. We've got a former FBI agent and not just an agent, a supervisory agent who worked domestic terror, who was arrested for being at the Capitol on January 6th and for calling Capitol police officers Nazis. So yeah, we have a problem. These convictions may make folks like the Proud Boys and the Oath Keepers less likely to show up and respond to a call to violence because I assume that they're smart enough to figure out that they don't want to spend 20 years in prison.

And we've heard a lot of them saying things like, "Wow, I wish I'd had a mask on that day." Right. But they're learning that the FBI has resources and is doing a good job of identifying people over time. But look, at a minimum, these people are building local political power, and local political power can be used to do a lot of things. Kim, you point out it can be used to harass people in the LGBTQ community. It can also be used to run local elections. And I think it's something that we all need to be very much on guard against in our own communities.

Kim:

Yeah, I am concerned about that, and I think people do need to watch that carefully. One last question for both of you. These convictions, the ones for seditious conspiracy, are or have been at least very rare. These are the first ones in a generation, despite the fact that Barb brought these charges in a case involving a Michigan militia member in 2012, but the judge threw that charge out.

But given the history of seditious conspiracy and what it's meant for, what lessons do you think can be learned from this trial? And do you think that this is a way that prosecutors, in the future, should any of the bad things we just talked about come to pass, use this charge again after these cases?

Jill:

I think the answer is yes. But I hope that the lesson that we learn is the wrongdoers learn that they can be charged with very serious felony, 20-year penalty, and that they will think twice before they use violence to overturn an election or to in any way interfere with the function of our government.

Joyce:

Jill, I agree with that. And I think something that I've thought about a lot is that it's a good thing that there aren't a lot of Seditious Conspiracy prosecutions because if there were, we'd be in a place of deep trouble in this country. So that, I think, matters that it's a rare situation. Barb's case that you referenced, Kim, it sort of drew the ire of the judge because they thought the case was too far left of boom, that the agents jumped in too quick, and that there wasn't clear evidence that these defendants would've gone ahead. And, of course, that's the problem that you always have in these situations as an agent.

The public safety concerns are your primary concern. Prosecutors are always thinking after Barb's case involving the Hutaree militia, "Well, gee, if we jump too early, we won't be able to prosecute these guys, and they might be free to go back out and do it again in a more sophisticated way." So there is some issues here. But when terrorists are going to use violence to achieve their goals, this is really one of the best statutes that we have available if they're trying to interfere with the United States government. I don't think it should be overcharged.

I'm not advocating for that in any way, but I think it should be used appropriately. And the great thing about these convictions both here and with the Oath Keepers is now prosecutors will be able... Me, as a line prosecutor, I could have gone to my supervisor, the criminal chief, and said, "You should let me

charge this. My case is as strong as the ones in Washington. I think that we'll win. And that really will make it easier to bring these charges."

Jill:

Kim, I've been using an app called Honey, and it is saving me so much money on things that I already planned to buy, and it happens automatically. Have you tried it?

Kim:

I have. I downloaded the app on my phone, and I don't even think about it. Whenever I'm shopping for anything, the Honey app comes up on its own, and most of the time, I save money. You know, today's episode is sponsored by Honey. The easy way to save when shopping on your iPhone or computer.

It feels great to know you're getting a deal, and it also means you're smart. Saving is the perfect gift to yourself when you're the type of person who loves to maximize their opportunities. And I know I am. Thanks to Honey, manually searching for coupon codes is a thing of the past. Honey is the free shopping tool that scours the internet for promo codes and applies the best ones it finds to your cart.

Jill:

Just imagine you're shopping on one of your favorite sites, and when you go to checkout, the Honey button appears, and magically, all you have to do is click, "Apply coupons." Then wait a few seconds, and Honey searches for coupons it can find for that particular site. And if Honey finds a working coupon, you'll watch the prices drop.

Joyce:

Recently I saved while shopping for a few things to wear for our live shows in the next couple of weeks. And Honey made it easy. Best of all, Honey doesn't just work on desktops. It works on your iPhone too. Just activate it and save on the go.

Kim:

So if you don't already have Honey, you could be straight up missing out. And by getting it, you'll be doing yourself a solid and supporting this show. Get PayPal Honey for free at [joinhoney.com/sisters](https://joinhoney.com/sisters). That's [joinhoney.com/sisters](https://joinhoney.com/sisters). And you can also get that honey by using the link in our show notes.

Joyce:

Last week, the Supreme Court agreed to hear a case next term that set the nerdy legal world of administrative lawyers all abuzz. The case is about Chevron deference. This one is a little bit inside baseball, but it's also very significant. So to understand what's going on, we'll have to go to a little bit of law school 101 here. Kim, that means I'm going to start with you first, the resident civil lawyer. Can you talk a little bit about the case that the court agreed to hear and explain what Chevron deference is?

Kim:

Yes, and I will try my best to say it in layman's terms because I'm [inaudible 00:20:30]-

Joyce:

Yeah. Good luck with that.

Kim:

... law. Yeah. I'm an admin law geek, like administrative law was my best grade in law school because I'm a total nerd. And this is really nerdy in the weed stuff. But essentially speaking, the way to think about this is we have federal agencies that govern just about every part of American life, right. How much pollution is allowed to be in the air? What sort of safety standards that just about any product you buy has to adhere to? How your utilities are regulated. So many things and a lot of these things are very technical. So you have these agencies where experts who make the rules that govern all of this, but they're able to do that because at some point Congress passed a law that allowed them to do it. Now, every now and again, the law that Congress passed may not speak specifically on an issue.

And what courts have found with the Supreme Court ruled way back in the 80s was that okay, if there is some ambiguity in the law, we're going to give deference to whatever the agency says the law is, right, because they're the experts there. Judges can't be expected to understand exactly how drug labeling works or even members of Congress. What's reasonable? So long as the interpretation by the agency is reasonable, we'll defer to you. Well, increasingly, over the years, conservatives have not liked that. They think that the executive branch is overstepping its power that these administrative agencies have run amok and are overstepping their constitutional balance essentially. And so they have been pushing for the Supreme Court to reign in this rule and take that deference away.

And recently, you have several justices, including Neil Gorsuch, including Brett Kavanaugh, who have expressed an appetite to overturn that precedent that would take that deference away. The results would be... could be really dramatic if they do that. All of these rules to think that a judge can go one by one and decide whether these rules that these agencies put into place should stand or not. It could really be disastrous just from a logistical standpoint, if not from a standpoint of people who are really concerned that that can lead to efforts of judicial overreach. I mean, just think about when that one judge handed down that Mifepristone ruling, how much that upended things. Imagine that by a hundred. So it's a really big case. As technical as it is, it really will affect a lot of people's lives.

Joyce:

So I'm sure we'll have a lot of opportunity to talk about it as it moves through the court. But just as a broad brush, Jill, I mean, Chevron deference sort of evolves from a 1984 Supreme Court case, and it's been around for long enough for us to have a sense of how it has worked or not worked in practice. What do you think is a broad-brush assessment? Is the doctrine a good thing, or is it a bad thing?

Jill:

For me, it's a good thing. And I can see where those people who are bound and determined to eliminate the administrative agencies of the executive branch would think it's a bad thing. But let's face it, the executive branch cannot do everything. And so it sets up agencies with special expertise and knowledge, and they make decisions based on a broad delegation of authority to them by the legislature. And it seems to me that, in general, it's a good thing, and the doctrine does not eliminate them ever being able to do that.

It just sort of says, "Well, if their decision is reasonable, which is a pretty low standard and one that could easily be met, then we'll defer to their expertise." And as Kim mentioned, of course, in the Mifepristone case, obviously the expertise of the FDA certainly exceeds that of any judge in any court anywhere and should be abided by and whether or not they interpreted how to approve a drug was within their expertise, not the court's expertise. So I think that giving deference to the expertise of administrative agencies is a good thing and that the doctrine was a reasonable accommodation.

Joyce:

Yeah. Kim, what do you think? Is it a deep state, or is it a bunch of experts? I mean, I think that's the question, right? In some ways, conservatives are saying, "We don't trust the deep state," and in some place, progressives or people who support the Chevron doctrine are saying, "You know it's not a terrible thing to have scientific experts." Is that where this debate is posed, or is there something else going on here?

Kim:

Well, I think that there is something else. For a long time, there was not this partisan divide over how administrative agencies worked, right. And presidential administrations of both parties used all kinds of agency rulemaking and supported this idea that their rulemaking should get... be deferred to when there are challenges made to court. So I think this increased antipathy that conservatives have for it is politically based. They don't like the fact that the EPA is increasingly regulating greenhouse gases in a way that they think is anti-business.

They don't like that it... they're regulating wetlands. They don't like that they're putting increased rules that they see are burdens... are burdensome to people and businesses in their interests. So they're trying to attack their ability to do that. So I think that's underlying it. It's not a pure constitutional debate over separation of powers and checks and balances, right. If that were it, reasonable people can come together and say, "Okay. Yeah, give the agencies, give the experts some deference." But that deference isn't unlimited if they can't come up with really regulations that go super far beyond whatever law was passed that gave him that.

And in that case, it's okay for a court to roll it back, but that doesn't mean that you have to take all of their deference away in a way that really puts all this regulation in the hands if Congress doesn't do it, which of course, they can't. They can't regulate with that kind of granularity. Then it's up to judges. Judges are going to be, in a sense, the executive branch making this decision. That doesn't make any sense. But I think there is a political will behind this that is pushing it, and I think that's why we are where we are.

Joyce:

Yeah, I mean, I think that that's absolutely right. And it takes me to another question that maybe is doing an even deeper dive into the nerdy aspects of administrative law, so coming right back at you, Kim. We've talked in the past about something called the Major Questions doctrine. It came up, for instance, in the context of mandatory COVID vaccinations. Can you explain that doctrine and how it might come into play here?

Kim:

Yeah, so you can think of the Major Questions doctrine, in a way, as an exception to the Chevron deference rule. What that holds is essentially that when there is an issue that is a major economic or political question, the presumption is that you should not defer to an agency's interpretation. You really have to understand what Congress meant by it and what Congress meant has to govern. So in those cases, even if the agency gives a reasonable explanation, they don't get that same kind of deference as they would under Chevron.

That sort of, to me, is a check that the court has already put on Chevron, which to me, makes it less necessary to consider overturning it. And the fact that the court took up a case to consider whether to overturn it says to me that they really want to, because the Major Questions doctrine, which I think is



overused as it is, already provides so much of a loophole around Chevron that, I think, it would allay any concerns that people have about administrative overreach. But that sort of makes me think, "Uh-oh, I think that Chevron is not long for this world."

Joyce:

Okay, so put a pin in that because I want to ask you about that in a second and what you think the outcome is. I've got one question for Jill before we get there, which is this. And Jill, we've referenced Mifepristone. I think that that's a case that makes it really easy for people to understand the significance of the Chevron doctrine in their daily lives. But let's... Oops, sorry about that. We're joined by my cat Dingus momentarily. But let's just sort of underline that point because I do think administrative law can be sort of heady stuff that it's hard even for lawyers to wrap their arms around.

But in the Mifepristone litigation, this notion of whether there can be a nationwide ban where a judge steps in and says, "I and I alone can fix this." Right. "I'm smarter than the FDA, and I can see problems here that no one else has assessed." What's the intersection in the Mifepristone case with Chevron, and how could curtailing the doctrine make it possible, as Kim is saying, for people to advance purely political concerns, sort of doing, I think, sort of a disgraceful job of pretending that they're talking about legal doctrine when really they're just talking about politics. Is that the risk here?

Jill:

That is definitely the risk. But let me answer it in a slightly different way because I think, let me just put in context what this particular case going up is. And it involves herring fisherman and a rule that was put in place that they had to have a monitor on board to make sure they didn't overfish and destroy the fisheries of America. And then the agency said, "And that means you ship owners have to pay for that monitor."

And so the real questioning is whether the agency is the expert to determine whether or not the monitors are paid for by the fishermen owners, the fishing boat owners, and these are commercial fishing boats. This isn't individual fishermen. And so you can see the difference in my mind. To me, it's obvious that the expertise of the FDA in determining what drugs are safe for Americans to take is so clearly within the FDA's expertise, and cannot be handled by Congress, cannot be handled by the courts. Whereas the question of who is intended to be the person who pays the monitors that must be on ships, that's more of a question that, "Well, Congress could have decided and made clear who should pay for it, and they didn't."

So is the agency the best person to determine what Congress meant, or is a judge a better one?" That puts it into the context, I think, of the Chevron doctrine, which makes it something that the courts have a right to look at and determine whether the interpretation is reasonable and within the statute. So that's how I think it all comes together, but I think it helps to have the facts in the case to understand the answer to that question.

Joyce:

Yeah, I think that's a really important point to make that each of these cases turn on the agency, the statute that authorizes it to act, the facts of the individual case. And that's what makes this, in some ways, difficult to get our minds about because we have an abortion case or an EPA case or an FDA case, and those are all Chevron deference cases.

So that, I think, really helps set forth the landscape. So, Kim, Jill's comment takes me to the last question that I had for you that I asked you to put a pin in just a second ago. I mean, we are seeing the Supreme

Court take up a case that there's not really a reason for them to take unless they intend to do away with Chevron. Do you think that they'll go all the way? Is there perhaps an intermediate step in the work here? What does your crystal ball say?

Kim:

Yeah, my crystal ball in some reporting that I've done this week on this issue from attorneys and people who've submitted briefs in this case who are a lot smarter about it than me sort of pulled me from the ledge a little bit. There are some people who are not coming from a political standpoint, who want the court to move carefully in this area and that say, "Yes, there are times that administrative agencies go overboard." But you can give courts the ability to intervene in those cases without upending this precedent.

And not only would that provide more certainty to all the industries affected, it could also go some distance in not eroding this court's public opinion and its own institutional integrity even more, given everything that's going on. Overturning another precedent would be real perilous business for this court right now. And so I think they're making that appeal to say, "Hey, tread carefully here. There are ways to reign in the administrative state, if that's what you want to do, without destroying precedent and in the process further destroying the court's own reputation." So I'm hoping that they listen to that.

Joyce:

You are so optimistic here, and I needed to hear that because as I look at this, I think that the court may not outright do away with Chevron deference. I fear that what they will do is they will put some sort of nebulosity into the whole legal standard that will permit results-oriented federal judges to do exactly what Judge Kacsmaryk did in Texas and rule in results-oriented ways where they're so inclined.

And I mean, that goes to this whole issue of the legitimacy and the credibility of the federal judiciary, which is sort of having a pivotal moment at this point in time. Jill, what do you think? Where do we end up here?

Jill:

I'm hoping that, at worst, it's what you're saying, and I think that is a logical outcome for the reasons you stated. One, the Court is in a perilous condition, as we will talk about when we talk about ethics in the next segment.

But in addition, this is a really big bite to take if they were to get rid of the deference due an administrative agency. So I think that they may fudge it to give Kacsmaryks of the world the opportunity to do the wrong thing for the wrong reason, but I don't think they'll just say, "No, we're never giving up deference at all."

Kim:

Joyce, your nails always look great. What do you do?

Joyce:

You know, I love getting a manicure at home. I just don't have time to go in and get one in the salon very often. And so I've been using Olive & June lately. I really like them. When I say lately for about the past year, which means I've given it a really good test drive, and I'm super pleased.

Nothing is better than giving yourself the perfect home manicure with Olive & June. You get everything you need for a salon-quality manicure in one box, and you can customize it with your choice of six polishes. I love the fact that the polish doesn't chip, and for me, it lasts seven days or longer. Olive & June also gives you great savings. It can break down to as little as \$2 a manicure. Compare that to salon prices.

Kim:

Yeah, I like Olive & June. It saves not just money but a lot of time. And time is money. We all know that. Not only do you get salon-worthy nails at home with Olive & June, you'll immediately notice the difference you get when you craft your perfect nails with their mani system. That means no appointments, no traveling to find a suitable salon, and saves you money while putting your nails on your schedule.

Your friends, family, spouses, coworkers, and sisters-in-law will be amazed. I wouldn't think of using anything else before going on air. Plus, they have amazing-looking press-ons that go on really quickly. They look so real and last so long, and have any size you can imagine. So you know you're going to get the perfect fit.

Jill:

Olive & June is such great polish that I now bring my own polish. It not only is non-chip, the colors are spectacular. By using them, I get a non-damaging manicure, and you can do it in less than 10 minutes because it dries fast and that it goes on much better than anything you would do with gel, for example, which hurts your nails. They're even an Allure Best of Beauty winner. And with their quick dry, you only have to wait a minute, and you can feel confident knowing they'll last for five or more days. And they do last for more than that, for sure, with only one or two coats. So visit [oliveandjune.com/sil](http://oliveandjune.com/sil) for 20% off your first mani system. That's O-L-I-V-E-A-N-D-J-U-N-E.com/sil for 20% off your first mani system. You can also find the link, you know where, in our show notes.

Last week while I was on vacation, you talked about Clarence Thomas, Ginni Thomas, and the letter Justice Roberts sent in lieu of showing up to testify before the Senate Judiciary Committee. That should have been enough, as we say at Passover Seders, but it isn't because we cannot ignore the news since our last show about Justice Thomas receiving perhaps up to \$150,000 in private school tuition for his grandnephew from the same Harlan Crow, who gifted him with luxury travel yachts and private planes and bought his mother's house, repaired it and let her live there rent-free. And who we just learned roughly 15 years ago, donated much of the budget of a political group founded by Thomas's wife, Ginni, and paid her \$120,000 salary. And by the way, when Harlan Crow was asked, "Would you be friends with Justice Thomas if he wasn't Justice Thomas," he said, "I don't really know."

And then in addition, we learned about some significant income that was funneled in secret from Leonard Leo, who is, as you know, the person in the painting of Crow and Thomas at the Crow Resort. It was funneled through Kellyanne Conway while she was a Republican pollster before entering the Trump campaign and White House, and it went to Ginni Thomas. So those are some pieces of news that make my skin crawl. And Kim, you wrote two excellent pieces that are in our show notes about SCOTUS Ethics. And so I want to start with an interesting point you make in that... in those articles, or at least in one of the two articles, about how the news media is complicating the story by conflating Jane Roberts and her job as a legal recruiter.

She's the wife of Justice Roberts, and she's earned more than \$10 million in commissions over an eight-year stretch by matching top lawyers whose firms then go on to argue before the Supreme Court and

conflating that with Ginni Thomas, who's been involved in efforts to change the election results. And Justice Thomas, not recusing himself when that exact case comes before the court. And you suggest that the press attention on so many SCOTUS Ethics issues actually muddies the waters. And I thought that was an interesting perspective, and I'd like you to talk more about that.

Kim:

Yeah, so I think that the fact that we have had such good investigative reporting from outlets like Politico like ProPublica is so important because we don't have an ethical body looking into what the Supreme Court is doing. And so the fact that we know the impact that for years that Harlan Crow has had on Clarence Thomas, the lavish vacations, the funneling of money, buying the house that Clarence Thomas's mom lives in, paying for his grandnephew's tuition, and now being a part of money going directly to his wife through Leonard Leo, who... It's to even explain who Leonard Leo is.

Leonard Leo is the architect of the rightward shift of the entire Federal Judiciary. He will admit as such. And that he has created and used dark money groups, groups whose donors don't have to be disclosed under the Citizens United Ruling to push this agenda for years. You've done it for a long time. So the fact that you have these kind of people not only influencing and in close contact with Clarence Thomas but actually funneling money into his household is outrageous. And I'm very grateful to the news organizations that have uncovered this because that's important for the public to know.

But at the same time, as someone in the news media, I understand that once a beat gets hot, and especially something like the Supreme Court, which not a lot of people often get scoops out of, scoops become a premium. There is like a bounty on a Supreme Court scoop. So everything. So there was a story in Politico about Neil Gorsuch selling his house or a house. It wasn't even his house. It was a house he had a partial interest in. And the buyer, turns out, was the head of a big law firm, which among other things, has a Supreme Court practice.

Neil Gorsuch didn't know who bought this house. He clearly wasn't influenced by this fact. And so that I fear something like that, which yeah, if there are clear disclosure rules, Neil Gorsuch would have to disclose that, and we would know it in the first place, and then we can ask questions about it and decide whether there's any there there. So the fact that there aren't these rules and we find out about this, it feels kind of gotcha. But I don't want anybody conflating that house transaction with the Clarence Thomas house transaction because there is a world of difference between them.

I don't want someone conflating the fact that the Chief Justice's wife, Jane Roberts, left her career as a practicing attorney once he became Chief Justice to avoid conflicts, right. Went to the judicial conference and asked for an advisory opinion about whether legal recruiting would be an ethical problem, and they got an opinion that said no and then went on to have a career and make a living. Supreme Court Justice's wives should be able to make a living. Should they be paid by the conservatives who are trying to influence the court? No. Should they participate in trying to overturn the results of an election? No.

I want to make sure that, in the public's eyes, those two things are really clearly different. And I fear that in this push to get the next Supreme Court scoop that it's all getting muddied, and it's also fueling the Republican talking point right now that the Left and the media that supports the Left are just picking on the justices because they're mad about Dobbs, right. And that's not true. People in emails and tweet messages, I've been told multiple times about how I hate the court, right. They see what I write as me hating the court and trying to beat up the court. I love the court. I respect the court.

I'm attorney. I was an officer of the court. I've spent a ton of time, work, and money being in this legal profession. And so, of course, I want the court to be respected. I want the court to work well. I want the

court to... the court's legitimacy to be unquestioned. That's why I'm writing about this, right. And so it's important to me that the media at least contextualizes these things well, but it's more important that there is actually an ethical body whose job it is to hold the courts responsible so that we don't have to rely on reporters to do it.

Jill:

Well, I agree with you, and that's why I asked you to expound on what you had written because I thought it was a very worthwhile point and a very interesting perspective. But Joyce also, while I was on vacation last week, I, of course, listened to the last SistersInLaw episode. I couldn't miss that.

And it did include a discussion of SCOTUS Ethics and the Roberts letter in lieu of appearing to testify as requested. You all, that you, Barb, and Kim were all critical of his failure to appear and help restore public trust in the court. But I had a question about the letter that was left unanswered, so I want to ask it this week. And that is why did the three Liberal Justices sign the letter?

Joyce:

Yeah, so this is such a good question. We don't know for certain. They're not saying. So anything that we say in this regard, I think, is speculative. But look, if you're the Chief Justice, it's important to you that in a time of trouble, the court show a united front when it comes to responding to these sorts of requests. And if that's the case, and if Roberts can be that persuasive with members of the court, then perhaps he would do better to use that persuasiveness to ask Clarence Thomas to clean house rather than roping in the liberal wing of the court. But that said, I want to underline something that Kim said. I think it's really important.

Sometimes I think people hear criticism of the court as an institution, and that's not what I think is going on here when we talk about it. The criticism comes from a deep place of love. This is an institution that I not only have cherished for many years in my career as an appellate lawyer. But I think is deeply important to American society. If we don't have a Supreme Court that can decide controversial issues where Americans can't agree, like the Florida election, right. Al Gore, I mean, there's this dispute who's won, Bush versus Gore. The Supreme Court decides, and Americans, even those who disagree with the ruling, sit down and accept it because they have confidence in the court. Without that kind of confidence, we are in deep trouble.

And I remember, as a young lawyer, really early in my career, I had a case where there was a cert petition, and I needed to be admitted to the Supreme Court of the United States so that I could work on that petition. And knowing that your Supreme Court Bar Admission Certificate is unlike anything else. Anything else, you get a certificate of admission to the Alabama Bar. It's just signed at the bottom by somebody from the Alabama bar. But when you apply to become a member of the Supreme Court Bar, they send you back this big certificate, and it has a line in it that actually has the name of the person, the lawyer, who vouches for you and moves that you be admitted to the court.

And so I walked, whatever it was back then, blocks from my office to my father-in-law's office, where he was a judge. And I actually got him to sign my papers because I was aware that somebody's name would be on that certificate that still hangs in my office, and I really wanted it to be him. And I tell that sort of silly story just to say how important the court and everything about litigating it is to lawyers. And if I had a plea to the justices, it would be just come up with a way to restore our confidence in you. And what would go a long way would be adopting disclosure rules like everybody else in the government. Not where you're going to Justice Scalia for advice and saying, "How much can I get away with?"

But over-disclosing. Who's giving you money? Where it's coming from? Whether they have litigation in front of the court. I think this is a moment where transparency is going to be necessary. And although Jill, you ask about the nine justices signing the letter, and that signifies a certain level of uniformity and universal agreement, I just don't think that this court, from their little bubble up on Capitol Hill, fully appreciates the damage that's been done to their institution and the need for them to band together to restore their credibility, not just to write little, "You can trust us" letters.

Jill:

So I would go a little further than [inaudible 00:50:10] because I think it's not enough to adopt disclosure. There is actually the law since Watergate requires disclosure. What's not required is recusal. And I think we need an independent arbiter to evaluate whether there is. But I really want to go to Kim on that because, Kim, you talked last week about the Bipartisan Bill in the Senate that would require the Supreme Court to adopt an official Code of Ethics and to appoint an independent Arbiter of Compliance and to publish an annual report.

But I had several questions that, if I had been there last week, I would've asked. But okay, the subject is still hot this week. So do you think they should be able to dilute the rules that every lower court judge must abide by and basically every other government employee and the legislative and executive branches and change it? Or do they have to just say, "Okay, federal appellate court judges, federal district court judges, we're going to take the same ethics code as you have?" That's my first question, and then I have a second.

Kim:

That's a good question. I do believe because the reason that the Court adheres to Financial Disclosure Rules the rules that, Clarence Thomas has apparently broken for the things that he's failed to report. It's because, in 1991, the Court back then, under Chief Justice William Rehnquist, made a decision. They passed their own resolution that they would follow the same financial disclosure rules as other judges. So they on themselves took it upon themselves to be bound by that. They did... have not done the same thing with the Judicial Code of Ethics that covers things like recusals.

And the reason that they haven't, some of the justifications they have is, for example, if a judge on a Federal Appellate Court recuses himself or herself from hearing a case, they can put another judge on. The Supreme Court, you only have the nine. There's nobody else to come and take their place if they start recusing. Now, I say there's an easy fix for that. We have a whole bunch of retired Supreme Court Justices, and we can pass a rule that allows them to essentially ride circuit on the Supremes.

If somebody can't... recuses himself, they can ask Justice Stephen Breyer or Justice Anthony Kennedy, or somebody else to come in just for that case. That would be an easy solution to that. But that's one reason that they can't, [inaudible 00:52:33] saying that they can't. So I think that's why they won't. I don't see themselves... If they won't even do that, if they can't even hold themselves to the same standard as other judges, I find it hard to believe that they'll say, "Okay, well, we'll do these couple little things to make it better."

It's clear that there is no appetite on the part of this Court to do anything. I think that that statement that was signed was a compromise. I think it was the best that you could get nine people who feel very differently about something to say. And the Chief Justice wanted not just to speak himself but wanted to speak as a unified body. And that was the best he can get, and that's why I didn't say anything.

So just that alone tells me they're not going to pass any rules. There is really no incentive. And I think it only can be done by Congress. I believe that Congress has the power to do that. There is some

disagreement, but I stand with Judge Michael Luttig, who I respect, and he says he believes that the Congress can. And after all, the reason we have nine justices is because Congress has decided that. But I think that's where it has to come from. I don't think the court's ever going to do it.

Jill:

Yeah, it doesn't seem likely. But okay. So my second question based on what I heard from the last episode was there's this argument, and it's come up today, separation of powers prevents the Congress from imposing on them. But there is an oversight. There's checks and balances.

So why is it that the Supreme Court is able to say, "No, we're not touchable." But the Court of Appeals, oh yeah, they can have a code of ethics. So why don't they get to have oversight just the same way that the executive branch has oversight by the legislature? Why can't the courts?

Kim:

Yeah, I think they can't. I mean, that was sort of what I was saying at the end of the last answer that I gave is there is this idea that constitutionally Congress does not have the right to tell the Supreme Court what to do. And there are experts that explained really well during that hearing. It's like when it comes to how the Supreme Court decides cases, you are absolutely right. Congress has absolutely nothing to say about what the Supreme Court rules. Congress has nothing to say about the fact that the Supreme Court overturned Roe versus Wade.

Now, does Congress have a power to pass a law in response to that? Yes, but they cannot say, "No Supreme Court. You cannot rule in that way." But what they can say is, "This is how you operate. This is how the administrative part of the court works" because they've already done it. We have nine justices because Congress said so. The Supreme Court meets beginning in October because Congress says so.

The Supreme Court administers a bunch of functions about the federal courts, including the SCOTUS. So they can totally say, "Oh, by the way, you also have to adhere by these ethical rules. Things like disclosure, things like recusal." I think they do have that. Of course, it'll be challenged if they try, and who decides then? The Supreme Court? That's an inherent problem. But I do believe that they have that power.

Jill:

So Joyce, that brings us to another question, which is whatever you think about the appearance of impropriety and conflict, it's clear that disclosure is mandatory even if you can't enforce recusal. So why is Thomas, for example, getting away with not reporting gifts and real estate transactions? And I will note that although he didn't report the 150,000, which we're estimating based on some information, how much it was. He didn't report it.

But he did report an earlier gift of tuition from someone else, not from Harlan Crow, of \$5,000. And so that makes it sort of clear that he then said, "Oh yeah, that was okay because that was a good person. But I don't want people knowing that Harlan Crow is giving me money." So how is he getting away with not disclosing this?

Joyce:

Yeah, so it's precisely the point that you and Kim were just making, which is that it's possible to force the court to adopt a code. It's possible that Congress might pass some laws in this area. The problem is who enforces them. And like so many of our institutions are, our legal system is predicated on this notion that people are good actors, that people who become presidents or Supreme Court Justices want to

uphold the norms and will comply and will avoid the appearance of impropriety. And this whole deal that's going on with Clarence Thomas suggests that Supreme Court Justices are given far too much deference, and they don't necessarily merit it because sometimes you're going to have a Clarence Thomas come along and take advantage of that situation.

I think if Thomas is not forced to resign or impeached, it's going to be very difficult for the court to recover its legitimacy because there is just this issue of why is he getting away with something that everybody knows no other judge in the country would be able to get away with it. But the question is, where does accountability come from? We haven't seen it so far. Could some of this stuff rise to the level of criminality? I suppose that there's maybe predication here to investigate whether tax violations occurred, but we don't really know enough yet to make an assessment about whether that's a realistic prospect. There was a Supreme Court Justice named Abe Fortas, who resigned when it came to light that he had accepted a retainer that was worth about \$20,000 a year.

And there's been a lot of debate since he resigned about whether he needed to or not. But the fact is that he did, because he cared about the court. He cared about the court's reputation. And ultimately, I think the sad ending to the Clarence Thomas story is that he doesn't care about the court's reputation, or he would not have let this drag along for so long. Ultimately, he has the ability to fix this situation. He could come forward truthfully. He could correct his forms. He could promise to send no more, and instead, he, in essence, has thumbed his nose at the American people and said, "Hey, I'm supreme."

Jill:

Yeah. So that takes us to another question, Kim, and you are sort of our Supreme Court guru and inside the Supreme Court person. So I want to ask you a sort of a double-edged question about Justice Roberts. Does he have any actual power to control the other justices in terms of somewhere in writing or by precedent, or is it just that, as the chief, he has a bully pulpit and some PR value, and has he ever used any of that?

Kim:

Yeah, so the answer to those questions are no, and not anymore. So in terms of his actual power on the court, outside of some additional administrative duties, he doesn't have any more power than any of the other eight justices on the court. His vote counts as one vote. He is not the boss of them, and so, in that way, no, he cannot force any justice to do anything. He is... He sits at the center of that court, and we call it the Roberts Court. The Chief Justice is seen as a figurehead for the court, and I think that there was a time that he could have.

That he have used his influence in order to try to find some way to bring the court together and to speak in favor of protecting its own integrity. I think that changed with the appointment of Donald Trump's third justice on the court when the court shifted so much. Not only ideologically. But I think ethically, honestly, because I think Joyce is right that Clarence Thomas doesn't care. I think, based on his own statements, that Justice Alito thinks he's being persecuted in some way.

I think you have a court where people don't believe they need to be accountable to anyone, and there is nothing that John Roberts can do or say that's going to change their minds. I think that this was a different court a few years ago and that John Roberts could have done that, but I think those days are over.

Joyce:



So Jill, I am really excited about seeing you guys for the live shows next week, but I have to say I'm going to miss sleeping in my own bed just a little bit. We made the switch and got a Helix mattress, and I have never slept this well in my whole life. What do you know about Helix?

Jill:

I know a lot about Helix because they have a system that lets you find your perfect mattress. You take Helix two-minute sleep quiz, and you match with a customized mattress for your body type and your preferences for the best sleep of your life. That's why you're getting the best sleep of your life.

I took the Helix quiz and I matched with the Helix Midnight Mattress, and it was exactly what I needed. I've had great sleep ever since I got it last year, and my husband loves it as much as I do. With Helix, buy a mattress tailored just for the way you sleep. It's been the best sleep of our lives.

Joyce:

Helix knows there's no better way to try out a new mattress than by sleeping on it in your own home. That's what sold me. So test yours out for a hundred-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.

Kim:

Everybody is unique, and everyone sleeps differently. That's why Helix has several different mattress models to choose from. Each is designed for specific sleep positions and feel preferences. Their memory foam layer models provide optimal pressure relief if you sleep on your side.

And it cradles your body for essential support in any sleeping position from back to stomach, with enhanced cooling features to keep you from overheating at night. And if your spine needs some extra TLC, they got you. Every Helix mattress has a hybrid design combining individually wrapped steel coils in the base with premium foam layers on top. It's the perfect combination for comfort and support.

Joyce:

Helix has been awarded the number one mattress by GQ and by Wired Magazine. Leading chiropractors and doctors of sleep medicine use Helix as a go-to solution for improved sleep, and now Helix is offering 20% off all mattress orders and two free pillows for our listeners. Go to [helixsleep.com/sisters](https://helixsleep.com/sisters). This is their best offer yet, and it won't last. With Helix, better sleep starts now. That's [helixsleep.com/sisters](https://helixsleep.com/sisters). You can find the link in our show notes.

So we had great questions this week from our listeners. It shows how engaged you are and how truly interesting the times that we are living in are. There has certainly not been any dearth of legal news these last few weeks that really intercepts where we are politically and where we are as a democracy that's still struggling to move past the fragility of the Trump years. And so, we have a number of questions that we'll answer today.

But if you've got questions for us, please do email them to us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) or tweet them on Twitter using the hashtag SistersInLaw. If we don't get to your questions today during the show, we keep an eye on our Twitter feeds, and we try to answer them throughout the week. This week, Kim, I think I'll start with a question for you from Rich. Rich asks, "Why was Justice Roberts, quote, invited to voluntarily testify, close quote, before Congress? Can't Congress subpoena members of the court?"

Kim:

Ooh, that's a good, good question. So the technical answer to that, can Congress subpoena members of the court is yes, and we know because it happened, but it's only happened one time. It was in the 1950s when a Supreme Court Justice, Justice Thomas Clark, was subpoenaed to appear before the House Un-American Activities Committee. So that was a really bad look, and that's probably one of the reasons why it never happened again. I want to be clear. Supreme Court Justices can testify before Congress. They testify before Congress all the time. You see them testifying before the Appropriations Committee, for example, about the budget of the Supreme Court.

You see them testifying in other areas, mostly about administrative functions of the court. And what this would be is essentially an administrative function of the court. They can't be called in to testify about how they rule. That would be a violation of the separation of powers. But just in itself, are they immune from subpoenas? No. No, they're not. I think the reason that they're not subpoenaed is a matter of respect to the court and the fear of blowback that lawmakers have if they were to take that step.

Jill:

And don't you think it's also because there's not usually the kind of issues that are existing right now that make you want to have them testify? It doesn't usually happen.

Kim:

Yes. No, we are... there seems to be a fever pitch right now of ethical issues surrounding the court that is drawing the attention of Congress. Yes, you are correct.

Joyce:

I mean, that's maybe something that we haven't focused on enough, right. This is a unique moment in the court's history. I don't really think... I don't recall seeing anything like this happen, at least, in my time, as a lawyer.

Kim:

No, me neither.

Joyce:

Yeah, it's something else. Hey, our second question comes from @rmthorkelson on Twitter, and he says, "I always thought in a civil trial, each side could call anyone involved. Why can't E. Jean Carroll call Trump as a witness, or can she?" And it's a really interesting question. It's sort of a sophisticated, nuanced question about trial strategy because E. Jean Carroll could absolutely have subpoenaed Donald Trump as a witness, and her lawyer, Robbie Kaplan, who's an extremely skillful litigator, chose not to because she said she was happy with what she had from his deposition, which was videotaped.

It's Friday afternoon, around four o'clock central time right now. Parts of that videotape deposition are now being released. And I'm actually seeing them flooding Twitter, and we're learning why Robbie Kaplan, Carroll's lawyer, probably made a smart strategic move, and it's because Trump is killing himself. Essentially, this was a long, slow acknowledgment that he raped Carroll on videotape in the course of this deposition and his efforts to explain away the Access Hollywood tape, which is just really a confession about how he operates. It's just sort of doubling down on what he said originally. "This is how it's always been. So yeah, of course, this is what I did."

My favorite part of that videotape deposition is the part where he's shown a photograph of Carroll, and he identifies her as his second wife, Marla Maples, and I think if you're Robbie Kaplan and you've got this stuff on videotape and you can play it for the jury, why run the risk of putting Trump on the witness stand and letting him come up with an explanation? He's entitled to testify voluntarily. And in fact, Judge Kaplan, who is not related to Roberta Kaplan, the lawyer, but he has now given Trump the opportunity to reconsider and come in and testify. I don't think he will, but he certainly has that opportunity.

Our last question comes from Wendy Kim and Jill this question is for you. Wendy asks, "With regards to the federal investigations of the former president, does the DOJ bring all the charges at one time, or will they charge them separately? And because this is a former president, do you think the case or cases against him will have to be airtight before the DOJ will charge?"

Jill:

Great questions, and I'm going to start with a second one first, which is, do the cases have to be airtight? And having prosecuted the president's top men and naming the President Nixon as an unindicted co-conspirator, I can say that we held ourselves to a much higher standard than for ordinary people on the theory that a jury is going to give a break to people of that caliber and that in order to overcome that and to end up with a conviction, you want to make sure you have super strong evidence. So yes, they're going to look for a lot. When you say airtight, there is no such thing as an airtight case. There just isn't. But it will be a strong case, or they won't bring it.

As to the other part of the question, it's really up to the strategy of the prosecutor. Sometimes you think you are done and you have everything you need, and you've selected what you want to indict for, and you go ahead with that. And because we don't go to trial the next day or the next week or even the next month, in the subsequent months, you may, for example, have extra discovery requests. And you may find really strong evidence of additional crimes or stronger evidence that you knew about the crime, but you didn't think you had enough to go on, and so you might amend the indictment and add more.

There are a lot of advantages to trying all the charges at once. It's a much more efficient strategy in terms of economic efficiency and time efficiency. But you do have the opportunity to amend indictments and add charges or to do them separately. If you do them separately, a defendant is probably going to move to consolidate them into one case, but it won't always happen that [inaudible 01:11:10] we've been talking about E. Jean Carroll. And I believe she wanted to have her original complaint of defamation tried at the same time as his subsequent post-presidency complaint, and the judge said no. So it doesn't always get consolidated.

Joyce:

Well, that's all we have time for today. Thank you for listening to #SistersInLaw with Jill Wine-Banks, Kimberly Atkins Stohr, and me, Joyce Vance. We are so eager to have Barb back next week because we will be on our live show at that point in time. You can send in your questions by email to [sistersinlawpoliticon.com](mailto:sistersinlawpoliticon.com) or tweet them for next week's show using #SistersInLaw, and we'll be answering those questions from the road. I feel like I've said that a whole lot, but I'm actually pretty excited about seeing my sisters next week and seeing all of you.

Come and join us as we record the podcast live on stage. We'll be discussing the legal topics of the day and answering your questions. We start off in Portland, Oregon, on May 12th, New York City on May 19, and Washington, DC, on May 21. We hope you'll still be able to get tickets. We know that they're almost sold out, but take a peek if you're still looking. Go to [politicon.com/tour](http://politicon.com/tour) to get your tickets, so we'll have

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We really appreciate your support for our sponsors. They make the show happen. To keep up with us every week, follow #SistersInLaw on Apple Podcasts or wherever you listen, and please give us a five-star review that really helps other people find the show too. See you next week with another live episode, #SistersInLaw. Where does that leave us? You've suggested you think that Chevron deference might be just about at the end.

Jill:

What is that? (singing)

Joyce:

Hey, Siri, stop. I have a HomePod like... I don't [inaudible 01:13:10] you can see it.

Kim:

[inaudible 01:13:10] what did Siri think you told her?

Joyce:

... right there and it totally just came to life very loudly.

Jill:

What did you say to provoke her?

Joyce:

I don't know. Usually, you have to say something to set her off. Like I'll be on TV, and I'll say something, and she'll think it's, "Hey Siri," and she'll [inaudible 01:13:39]. Okay. That was scary. Let me ask... Let me just ask that again.