

Joyce:

Welcome back to #SistersInLaw with Kimberly Atkins Stohr, Jill Wine-Banks, Barb McQuade and me Joyce Vance. Before we get started, we want to give another big thank you and a shout out to everyone who came to see us live on stage. We had so much fun and we really appreciate your support. Today we'll be discussing the most recent developments in the Mar-a-Lago investigation. And as the silly season edges closer, the political season, we'll take a first look at some campaign finance issues, a topic we'll undoubtedly be returning to over the next year. There's also the sudden indictment of Texas Attorney General Ken Paxton, who's been under indictment for almost eight years but who's counting? And as always, we look forward to answering your questions at the end of the show. But before we dig in, I've got something to ask my sisters about.

Earlier this week in the National Spelling Bee, 11 year old speller number 119, Sarah Fernandes from Nebraska spelled a word I'm not sure I'm going to pronounce it right, but she spelled the word leguleian wrong. It's a delightful word though. It means a lawyer whose methods are petty, underhanded or disreputable and it's spelled L-E-G-U-L-E-I-A-N. I was not familiar with this word before I read about Sarah's mishap, but I think it's a word I'm going to be able to put to use in the course of the next couple of months. But it also leads me to wonder, do you guys have favorite obscure words? I sort of like to hoard words for special occasions, I'm wondering if you have any to add to my collection.

Kim:

Oh, my goodness. I really love obscure words. It may stem from the fact that I was really good at spelling bees when I was in grade school. I did really well at them and I was a nerd, shockingly I was a nerd.

Barb:

No, you?

Kim:

Yeah, I know. So one of the ones that I really love and I've been thinking a lot about lately is persnickety. So as some of y'all who follow me on Instagram know, we recently rescued a dog named Snickers and it's funny that her name has snick in it because she is the least persnickety dog you ever had. My previous dog, Boogie, was very particular about everything. If the little plush throw that I put in his doggy bed was not perfectly smooth, he wouldn't get in. He would just stand next to it and look at it like, "Oh, no, this won't do." If I didn't put the right ingredients in his food, he wouldn't eat it. He was the most persnickety dog that ever lived. Snickers will eat. She doesn't even need a bowl, she'll just eat food off the ground. She will sleep anywhere. She's the opposite. And I think about the fact that her name kind of sounds like persnickety, but she's not persnickety. Anyway, I like that word.

Joyce:

That's a good one. Barb, what about you?

Barb:

Well, I tend to like these words that have a lot of different sounds in them because they're just fun to say like kaka, maybe and bamboozle. I like words like that. So a couple that I like are, one is the collywobbles. Do you know that?

Joyce:

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No.

Barb:

I bet our British producers know what that is. It means nervousness. Like speaking on this podcast with all of you gives me the collywobblers. I thought that was a-

Joyce:

I love that.

Barb:

Good one. But here's one that I don't know about the rest of you, but I use frequently and the word is scurryfunge. S-C-U-R-R-Y-F-U-N-G-E, scurryfunge. Do you know what it means?

Joyce:

Nope.

Jill:

Great sound.

Barb:

To clean the house when someone's coming over really fast.

Kim:

Scurry... Listen, I have friends coming over.

Barb:

Running around the house cleaning really fast. I scurryfunge anytime I have guests over.

Kim:

I'm going to scurryfunge.

Barb:

[inaudible 00:04:04] Up in the closet. We all scurryfunge.

Joyce:

[inaudible 00:04:08] Podcast. Me too.

Kim:

I do have people coming. That kind of reminds me of, I used hornswoggle when I was out with my family because we were traveling and it's like when someone comes up and starts making conversation with you, I'm like, "Don't let them hornswoggle you." It means to-

Barb:

I don't know that word. What does it mean?

Kim:

It means to rip off or to try to fool somebody, get their attention so that you can somehow try to steal from them or swindle them in some way. Hornswoggle.

Joyce:

Hornswoggle.

Jill:

These are all great words and we should put them in our show notes so that everybody can use them. And I think that the word leguleian is going to be the word to describe so many of Trump's lawyers that it's going to be a common word by the time we're done with this year. But as the wife of a bagpipe player, I have have picked...

Joyce:

Really.

Jill:

Yes, I have-

Joyce:

Yet another role for Jill Wine-Banks, wife of bagpipe player-

Jill:

Exactly. I picked skirl, S-K-I-R-L which is the loud, wailing sound that bagpipes make so I thought that was a good one. But I'm going to put a bunch of others on in the show notes because there were so many good obscure words. I actually did some research to find words I didn't know and some of them I can't pronounce but one other that I'm going to share is octothorpe. Anybody know what an octothorpe is?

Barb:

Sounds like eight of something.

Jill:

It's not. It's the pound sign.

Barb:

Really.

Jill:

Yes. Octothorpe-

Barb:

I'm going to start using that.

Jill:

Octothorpe.

Barb:

I'm going to start using. Yeah, my password is octothorpe8412.

Jill:

Yeah, well don't use it anymore.

Joyce:

Well look, Jill, I look forward to your list. We've got newt baby chicks at our house as of yesterday and I will be searching for names. So I'm going to consider all of these words and give my chicks some very obscure names.

Jill:

I go for a weekly manicure because I think having your nails look really good is very important, but I've started doing something different now. I have found the best nail polish and I bring it with me. It's Olive & June. Have you tried Olive & June?

Joyce:

I have and I love it. Jill, I wish I was you. I aspire to go and get a manicure every week, but I'm a gardener and gardening is a little bit tough on your hands, especially at this time of year, but there's nothing that's better than giving yourself the perfect home manicure and I like using Olive & June. They have everything I need for a salon quality manicure in one box, and you can customize it with your choice of six polishes. I love how their polish doesn't chip and how it lasts seven days or more. And when it comes down to it, you're getting great savings because you can manicure with Olive & June for just \$2 a manicure.

Barb:

And 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 what they call their Mani System. That means no appointments, no traveling to find a suitable salon, and that saves you money while putting your nails on your schedule. Your friends, family, spouses and co-workers will all be amazed. I know I'm amazed. I wouldn't think of having any of you use anything else before going on air.

Kim:

Plus they have amazing looking press ons that go on 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. That means a non-damaging mani in less than 10 minutes that go on much better than with gel. They're even an Allure Best of Beauty winner. And with their quick dry, you only have to wait a minute and can feel confident knowing they'll last for five or more days with only one or two coats.

Jill:

And that's true, Kim, even if you're a gardener because, Joyce, I also garden and it lasts through the gardening. So visit 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 in our show notes.

I considered another word for my obscure word, which is redux because we're back to Mar-a-Lago again. We've discussed it recently, but the newest revelation is too good not to talk about, especially for me who made my reputation with the presidential tape recordings almost 50 years ago. That one involved a gap. This one, a former president who surely wishes this one had been erased. I know all of our listeners know the facts of what Trump has reported to have said in a meeting at his golf club in Bedminster, New Jersey about attacking Iran, including sound effects of his showing a paper to the interviewers who were writing a memoir about Mark Meadows.

This was in a recorded meeting eight months after Trump lost the 2020 election and after NARA was already asking for the return of classified documents and presidential records. Joyce, let's start with the fact that Jack Smith's remit included looking at the Mar-a-Lago documents as well as election interference, but focus on the elements of the document's crimes that are at issue here and the kind of evidence that you need of the various issues like removal, retention, obstruction, espionage. What are some of the elements that will have to be proved by evidence?

Joyce:

Right, so this gets complicated as our listeners know by now to expect. But I think essentially prosecutors are considering six basic crimes in two big buckets. The first bucket is mishandling of government documents and the second bucket is obstructing the investigation into Trump's conduct. Each of the charges prosecutors are looking at or are likely looking at has slightly different elements. And it's important to think about the fact that each of those charges will have elements that prosecutors will have to prove. So there's variety. It's not like there's just one set of elements. It's also important to note that under the Espionage Act, which contains some of the big charges I think we're all expecting to see, and also under concealment of government records and also under theft of government property, those statutes won't require proof that the items were classified and that may permit prosecutors to skirt some of these issues about was it classified? Did Trump magically...

Kim, can you do your little genie imitation where you sort of cross your arms and wink your nose and the documents are no longer classified. So there are different charges in there that require different types of proof, but it can be for instances is the case under the Espionage Act, which is a statute that was written before the classification system was in use, that prosecutors might have to show that the items that Trump had were national defense related documents so lots of variation there. All of that said, the [inaudible 00:11:45] of whatever charges are brought is likely to be that Trump retained government property knowing he wasn't entitled to it and for the obstruction charges that he interfered with efforts to return it. We do not know. We all wish that we did, but we don't, precisely what evidence Jack Smith has. But in addition to charging Trump with retaining the documents, it's very possible that he could have evidence that Trump directed their removal.

It's possible that he could have evidence that Trump disseminated them to other people who weren't entitled to have them. And so there could be additional charges beyond this core. My suspicion is that this indictment may hold some surprises when we actually see it. I know, and I'd love to hear Barb's thoughts on this, but as a prosecutor I was always tickled to read the reporting on my cases before I indicted them because either they would be seeing in the news reports just sort of the tip of the iceberg or they'd be off center a little bit and our final indictment always had a surprise or two in store.

Jill:

So, Barb, that is a good question to talk about the differences between the different levels of classification. And Joyce also mentioned espionage, which raises the stakes in this dramatically and changes what the crime is. But it is also true that just presidential records which are government property and have no classification, could also be part of the document's cases that are brought. So let's look at what the differences are between the types of classification and what this tape recording, assuming as we have been hearing that it is accurate, assuming there is all of this being said, including the rustling sounds indicating he might have been holding up a classified document, how do they go to proving the elements of the crimes in the document case?

Joyce:

Well, there are various levels of classification and they all relate to the harm that would fall upon the United States if those documents were disclosed. Everything from confidential, which means harm to the national security to secret level, which means disclosure would cause serious harm to the national security, to top secret which means that exceptionally grave harm would fall on the National Security of the United States. So it has been reported that some of these documents are even at the top secret level. So this is a serious national security matter. And I also think that regardless of what's in the documents, it is likely to have a chilling effect on our allies who share with us classified information if they know that we do not keep people's secrets very well, that we have presidents who hang out at their golf club talking about what's in those documents, they are going to be less likely to share classified information with us and that will be an additional harm to the National Security of the United States.

But one of the things that I think this recording does that may make it powerful evidence is it shows Trump's knowledge about that classification system. The reporting is that he said, "I wish I could come out with this document about Iran where Mark Milley is saying we should attack Iran, but I can't. I should have declassified it while I was president, but I can't. Now I can't do it, it's too late." Because that shows that he knows how it works. One of the things that's required for these statutes is proof of willfulness. That is, not that the person just knew what they were doing, but that they knew what they were doing was illegal. And that's an exception to the normal rule that ignorance of the law is no excuse.

Most of the time if you violate the law, even if you didn't know it was a violation of the law, too bad for you, ignorance of the law is no excuse. But for some highly technical statutes, the tax codes, securities regulation, import/export and campaign finance and the Espionage Act and the mishandling of classified documents, requires this additional level of intent of willfulness, that he knew it was illegal. And that can be really difficult to prove because you can never read a person's mind. But this recording, this statement, I think really proves that Donald Trump knew what the rules were and he flouted them anyway.

Jill:

And that raises another question, Barbara, which Kim, I want to ask you which is, I've been a defense lawyer and in my opinion Donald Trump is the nightmare that you could ever envisioned for a client. And Kim, you've done a lot of civil cases, I bet you've had some nightmare clients. He can't seem to zip it up and he undoes any defense that his lawyers have formulated. Have you ever had or reported on a defendant who had no control and who got himself into more trouble the more he talked?

Kim:

Oh my goodness, no, I never had a client anything like this. So one of the things that I would advise my clients, whether it's before a deposition or trial or anything is just answer the question that is asked of you. Don't volunteer things, don't extrapolate, answer the question that is asked of you saying if you

don't know, saying, "I don't know" is always an option to you. But there's always also an option to say nothing at all. And Donald Trump always has the option of saying nothing at all. And frankly, in this case, if he had said nothing about this case, about what he did, this would've been a really, really hard case for Jack Smith to make because it's all about the C enter, that intent requirement that Barb is talking about that makes or breaks a charge when it comes to classified documents.

But because he won't shut up and because he couldn't shut up even when he was being recorded, it actually turns out to be a really strong case as far if this recording purports to have what it's reported to have, it makes the case so much stronger. It makes me remember, I think it was back in perhaps the first impeachment or the second impeachment, they all run together on there now-

Barb:

There's so many impeachments.

Kim:

But when his attorneys would complain about attempts to try to question him saying that it was a perjury trap, but that's not a perjury trap. That just means that your client won't stop lying even when he's under oath. So yeah, no, if I ever had a client like this, I would do everything that I could to stop representing that client because that is indeed a nightmare.

Jill:

Barb, this is pretty dramatic evidence as we've described. Who recorded this and why?

Barb:

Well, the reporting is that a woman named Margo Martin, who's a staffer for Trump, she's a communication specialist, recorded the interview and regularly recorded interviews that Donald Trump was doing for books. This one, as you said, was for a memoir by Mark Meadows. And so Trump would answer questions and pontificate and she would make recordings. And so it certainly raises the question, are there other recordings that Jack Smith might be interested in? And then, Jill, Shades of Watergate, right? I mean, did he learn nothing about keeping the recordings going to record for history? I'm curious about your thoughts about that. I mean, it just seems so unwise.

Jill:

Well, I was going to ask Kim that exact question about why don't presidents learn? And also what this tells us about why Trump refused to return documents and how a trial jury will react to this information?

Kim:

Yeah, I think that presidents in general do learn. I think that they did learn-

Jill:

Not from Nixon.

Kim:

This one. But for some reason Trump is a unique individual who honestly believes in a very Nixonian way, right? Remember that very famous interview with Nixon when asked if something was illegal, and he said, "If the president does it, it's not illegal." Which of course isn't true. This is a very Nixonian part of Trump that he seems to believe that if he's the president, he can with his mind, with telepathy, with whatever somehow become above the law in a way that just isn't true. But, and unfortunately, at least a significant part of his following seems to believe that is the case. And I think that's why he acts the way that he does. I think we are seeing others realize that that is not how this works. Hopefully future presidents will not react in the same way. But I think this is a very specific Trumpian, Nixonian trait.

Jill:

I agree with you completely, but I do think that this president, this former President Trump, did not learn from the experience of Richard Nixon. And that unless there's accountability for this president, then there won't be a learning that goes forward to any other future miscreant who may hold office. But-

Kim:

I agree with you.

Jill:

Andrew Weissmann said that this evidence was so compelling that it was game over if the reporting was accurate. I want to ask all of you whether you agree that this is really significant evidence?

Barb:

Yeah, it is very significant evidence because as we said, it goes to that intent element that can be very difficult to prove in it's why sometimes these cases can't be made. But I don't know that I'd go so far as game over because as Joyce said earlier, when you read newspaper accounts of a case that you're investigating, you realize they really don't know that much at all or they get really sidetracked by certain things. So there is certainly far more evidence in this case, maybe some of it damaging, maybe some of it mitigating, that we in the public just don't know.

And so I think we have to wait for it to run its course to see all the evidence before we can have a strong opinion about it. But I do agree that this is very significant evidence that will be very helpful to the prosecution. I think we've all known all along that when Trump said, "I can declassify" and all this stuff, that it was nonsense. But if he can say, "I didn't know how it worked and I thought that was the case," that actually could be a plausible defense. But I think this recording knocks that completely out of the park.

Kim:

I'm with Barb. I mean this was basically an admission. If these tapes are what they're reported to be, it's an admission on the hardest element of this charge to prove which is the intent. So I think that is really strong evidence.

Jill:

And Joyce, do you agree that this evidence is really compelling? And do you agree with Andrew Weissmann that it's case closed if it's true?

Joyce:

It is compelling evidence, but I think I'm in the Barb McQuade School of thought here. I always think about proof beyond a reasonable doubt as being a bundle of evidence. It's usually not one piece of evidence, it's all of it when you take it together. This is great evidence. You want to play this confession coming out of Donald Trump's own mouth for the jury if you're a prosecutor. But I used to do this sort of cheesy trick when I was closing in front of a jury where I'd have a stack of number two pencils and I would take the first one and I would say, "You know the government's witness has testified to X and X would be a pretty good piece of evidence." And I would say, "But if that's the only evidence we had, you might think it wasn't proof beyond a reasonable doubt."

And I'd sort of hold up the pencil and make a show of snapping it. And I'd say, "But that's not the only piece of evidence that we have." And I'd pull out a separate pencil for each piece of evidence. Now the government has this evidence that the defendant knew and this evidence and this evidence, and at the end you'd have this little bundle of 10 or 12 pencils and you'd sort of try to break it and you couldn't break it. And I would explain to the jury that's what proof beyond a reasonable doubt looks like, a combination of evidence that just makes it so very unlikely that the defendant isn't guilty. I think this is a very large number two pencil in this case.

Kim:

That is so good. Yes.

Barb:

It's such a great analogy, Joyce. Isn't it so good? But here's my fear. Despite my appearance, I'm deceptively weak. What if I tried that stunt and I couldn't break one pencil?

Joyce:

You know though, seriously, the best thing about snapping the pencil was if anybody was asleep, they woke up when you snapped the first one.

Kim:

That is so good-

Joyce:

You got him to pay attention at just the right time.

Kim:

On so many levels.

Joyce:

I stole that, I mean, I should say from a wonderful old timey prosecutor in the state system in Alabama who was consummate prosecutor. I saw Bob do that once and stole it from him shamelessly.

Jill:

Well, I would say I agree with all of you, but I am also a little bit more in agreement with Andrew Weissmann because I think that this is like the topping on the cake. It's the final piece of evidence. It

adds to all the other things we already know about this case. And it seems to me that it is really compelling. And it may suggest some reasons why he kept the documents. Was it to curry favor with the people who might pay for this document? Was he planning on selling it? It suggests some outcomes that are really awful and that could really be the final news. And Jack Smith has known about this since at least May 5th because that was the last day the grand jury met. And that suggests to me that he's working on something now and that we will know the answer to all these questions soon.

Kim:

Support for today's episode comes from Honeylove and the reviews are in, Honeylove came out on top for the best shapewear for special events. It's perfect for the season because whether you're going to a wedding or some other event or you just want a good, everyday fit, Honeylove is your go-to for all things shapewear. Honeylove has revolutionized compression technology so you no longer have to feel like you're suffocating while looking great and you'll immediately feel and see the difference. And we have an exclusive offer for our listeners. Get 20% off your entire order with the code Sisters at honeylove.com/sisters. Support us and check them out at honeylove.com/sisters and use the code Sisters.

Joyce:

Right now Honeylove's bestselling superpower short has targeted compression technology that distinguishes between areas that can benefit from more support and areas that need less compression. Their signature X targets and sculpts the midsection from stomach to thigh without squeezing. It's designed to work with the body not against it. The amount of compression means you won't ever have to worry about it rolling down, which is unheard of in shapewear thanks to the special side seams. And the piece also helps to lift your back. They have bodysuits with 360 degree bonded compression that smooth your tummy and hips, built in support that lift without underwire for people who want a little bit of extra.

Jill:

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Barb:

Treat yourself to the best shapewear on the market and save 20% off at honeylove.com/sisters with the code Sisters. Use code Sisters at honeylove.com/sisters. Everyone can find the link in our show notes.

Kim:

The 2024 election season is here, which means campaign finance laws already weakening by Supreme Court precedent are allegedly already being broken. The Federal Election Commission and state level complaints have already been filed against the campaigns of Donald Trump and Ron DeSantis. So I want to talk a little bit more about what's going on here. But for the purposes of our discussion, because I know campaign finance laws can be a little complicated. There are two things to keep in mind here. We're going to be talking mostly about two different kinds of campaign finance funds. One is by a candidate. A candidate can have, the presidential campaign of Ron DeSantis has a campaign finance account, and with that, that can accept donations from individuals. There's a cap to how much any

individual can contribute, and there are disclosure laws that cover it. Then there are Super PACs, these big super is a good word for them because they tend to be pretty big, funds that are run by outside organizations that also have some disclosure requirements.

They aren't quite as strict as the ones for campaign, but they are allowed under Supreme Court precedent to accept unlimited funds and to spend an unlimited amount of money. But one rule is that they cannot coordinate with campaigns, meaning that campaigns can't get together and say, "Okay, you run ads on this thing and we'll run ads on this other thing." That is prohibited. So that's kind of at the heart of what we're talking about. So Jill, with that in mind, what wrongdoing is Ron DeSantis accused of and in your opinion, do you think that there is some there?

Jill:

There's some there, there. And I just want to add a little history to this because in the era of Watergate, there were no campaign finance rules like this. There was unlimited money being contributed, in cash even you didn't have to even give a check and the White House safes were filled with cash. That's what paid for the Watergate break-in and many other dirty tricks and other plumbers activities. So to put a stop to that, one of the consequences of Watergate was the passage of federal campaign finance requirements that limited who could contribute. That was pretty much undone by Citizens United which said corporations are people and they can speak and they can contribute. So in this case, it really is when do you become a federal candidate? When does your campaign funding become the active group? And there's a period that's sort of testing the waters.

I'm waiting to see if I'm going to run, I'm doing some basic research to see how successful I will be. And it's in that period of time that it looks like Ron DeSantis may have stretched the limits to the breaking point by using what's now called soft money. And that's the money that as you're describing, goes into these political action committees. And he's taking campaign money that he raised as a state governor's for his state gubernatorial race and giving it to these PACs that are then spending them for his testing the waters and even now has the same money that he is an actual candidate. And that's where the problem comes in because those funds can come in unlimited amounts, not the 3,300 that is allowed for federal presidential campaign with the disclosures that are required.

The rule of the new campaign laws is that if we know who contributes, we can know what your policies reflect and that will help protect transparency is important and these soft money things hide the money, hide who's paying for it. And so it looks like there's coordination. It looks like the waiting period was stretched to the breaking point and there have been cases filed against both Trump and him. Trump filed a case against him, which is pretty much hysterical, I think. So that's what DeSantis is being accused of. And the FEC, which is now controlled by Republicans, is in charge of the answer. I don't know what the outcome's going to be.

Kim:

So yeah, wait a minute. I want to go to a point that you made, Jill, which is that one of the people accusing DeSantis of election law violations is Donald Trump, and that's the super PAC pot calling the campaign kettle black, right, Barb?

Barb:

Yeah, so it's kind of rich that Donald Trump is complaining about Ron DeSantis over this. For one thing in this whole testing the waters idea about there's no limits if you're just sort of putting a toe in and trying to decide whether you're going to be running for president. Donald Trump didn't announce his

campaign officially until November of 2022, but we all know that he's been running since he took office in 2017. He was nonstop fundraising with his Save America PAC. So he has been raising all of this money in his PAC, his super PAC all this time.

And the other thing is that it appears that he is under investigation for his super PAC. We know from the January 6th committee's investigation that Donald Trump was fundraising off of what we now know to be false claims about election fraud and telling people they needed to give him money so that he could save America from all of this non-existent election fraud. So he may very well face criminal charges for the way he's conducting his own fundraising. So I guess that has never stopped him from accusing other people of committing crimes. In fact, I think he is actually one of those, what do you call the word in psychology? Projection. I think when he says things that he accuses other people of, he is projecting because that is what he himself is doing. He's got that guilty mind. I accuse everybody of what, I assume everybody does all the same bad things I do.

Kim:

Yes, absolutely true. I think that that is great. So Joyce, there are also allegations that Ron DeSantis' campaign is conducting or has conducted a little in-state lobbyist shakedown, an alleged abuse of his power as the governor of Florida in his pursuit for higher office. What's going on there and why does that seem so shady?

Joyce:

Yeah, so this is pretty crazy. The allegation is that DeSantis has been using administration officials to pressure lobbyists for donations to his campaign. In other words, government employees, people whose salaries you and I pay are being used to fundraise for DeSantis' presidential run. An ethics official at CREW in Washington characterized this. I thought it was a great line, quote, "Pretty much blackmail." And he said that DeSantis is using the power of the governor's office to advance his political career, and that's dead on the money here. It's easy to understand what's wrong.

Prosecutors call this pay to play, pay up or you don't do business with our administration, whether it's the current gubernatorial one or a future presidential one. It's compelling people to donate to a campaign under risk that they will no longer be able to do business with the government. And it's just so onerous that DeSantis would do this, using people whose salaries are paid for by Floridians of all political stripes. Look, it's a very problematic course of conduct. I think the bigger question is whether anyone is going to do something about it. This news sort of burst on the scene and then two days later it was off the radar screen with no real suggestion that anyone's going after DeSantis for doing this.

Kim:

So I just want to end this discussion by sort of explaining to our listeners why all of this is important because I think a lot of times with campaign finance violation allegations in particular, it's sort of described as something like a paperwork mistake. And you all have in your discussions sort of hit a little bit about why this is important for democracy. Just sort of help our listeners understand why we have the laws that we have, the ones that haven't been weakened by the Supreme Court that remain, and why this is all so important.

Jill:

It's important to know who is funding the campaign because that will help you to understand whether the policies of the candidate are to the benefit of that person. And it also, by limiting the amount any

person can give, means that everybody has a fair shot at influencing the policies and that it can't be one company giving a hundred million dollars to a campaign. And in the case that we've been talking about with DeSantis and with Trump, we're talking about multiple millions of dollars. I mean, over a hundred million dollars is being talked about as being illegally contributed and spent.

And by the way, even in the testing the waters period, after you declare, you have to actually reveal who made those contributions. You can take them during the testing the waters. So both of them are now official candidates and they're going to have to account for that money even though they didn't before. So I think it's really important to democracy to know who's spending it and also to limit the amount that can be contributed so no one or no company has an undue influence on a candidate.

Barb:

It might be difficult to achieve that last part, Jill, the famed Citizens United case, the Supreme Court's decision in 2010 really opened the doors to all of this stark money and super PACs when they held that the First Amendment prohibits restrictions on corporations. Remember that they talked about corporations have First Amendment rights like citizens, corporations, unions and other independent groups from spending limits on political ads. So that really opened the floodgate. But I think you're onto it when you say, but the real change could come and comply with the Constitution by requiring disclosure. And there have been some proposals. There's one called the DISCLOSE Act that's been kicking around in Congress for some time, but there has not been the political will to pass it, but it would require that disclosure that you talk about, okay, maybe grandmothers for red, white and blue America, or whatever they call themselves, these patriotic names, turns out to be a-

Joyce:

Harlan Crow.

Barb:

Maybe we get to know that.

Jill:

Yeah, right. Or we see who is actually contributing to these organizations. It could be very revealing. We could identify conflicts of interest. We could see who's trying to push certain things. So I think that's where the real reform can be is in requiring disclosure.

Joyce:

But this whole conversation reinforces my longstanding belief that we need holistic system-wide campaign finance reform. To Barb's point, that's not a very realistic view, and the reason it's not a realistic view is that candidates predominantly on the Republican side of the aisle are getting away with murder here. I mean, this is a conversation about Republicans moving tens of millions of dollars in soft money into their campaign accounts. Democrats typically don't match that, at least at levels below the presidential level.

At some point, one would hope that there would be a return to sense in this country, perhaps even public financing of campaigns. Congress can certainly reverse Citizens United if it gets its act together. And if it's serious about holding free and fair elections that we continue to tolerate this system says to me that Congress is not concerned with holding free and fair elections. We see evidence of that on a lot of fronts. Campaign finance, I think is a big one.

Jill:

I have been getting a ton of notices that I'm sure are spam, but that suggests that someone has compromised my accounts and every once in a while I'll check it out. And it's mostly not true, but sometimes it is. And I'm sure you all know that your personal info is out there for anyone to find. Data brokers scrape public tax records and sell that information legally, making it accessible to anyone. We all need to fight back. Kim and Barb, I know you know how important that is.

Kim:

It really is. I mean, I've said before, I've had my identity stolen entirely before and people opened new credit cards in my name for tens of thousands of dollars and it was a real pain to try to get out of.

Jill:

And when privacy is paramount, we're thrilled to partner with Aura. Aura is an all-in-one online safety solution that helps protect you and your family from identity theft, financial fraud and online threats before they happen.

Kim:

With Aura, you can rest easy knowing that someone's looking out for you. The app scans the dark web to look for your email addresses, passwords, social security numbers and other sensitive information malicious actors might have. And if anything is found, you'll receive an alert in real time. If you're a victim of ID theft, their experienced white glove fraud resolution team will help you navigate credit bureaus, help you initiate credit freezes or locks and work with you around the clock to resolve it.

Barb:

The security is such a great feeling. An aura offers a suite of tools to protect you and your loved ones, including real-time alerts on suspicious credit activity, computer virus protection, parental controls, a VPN and a password manager. It's a comprehensive safety solution that provides almost every tool you'll ever need all in one place. Aura also helps reduce annoying robocalls, telemarketers and junk mail by sending takedown requests for you regularly.

Joyce:

That sounds worth it, just to get the junk mail reduced. And for a limited time Aura is offering our listeners a 14 day trial plus a check of your data to see if your personal information has been leaked online, all for free when you visit aura.com/sisters. That's aura.com/sisters to sign up for a 14 day free trial and start protecting you and your loved ones. A-U-R-A.com/sisters. Certain terms apply, so be sure to check the site for details and of course everyone can find the link to Aura in our show notes.

Barb:

Texas Attorney General Ken Paxton has been impeached. That news is newsworthy at this political time because he's a Republican and he was impeached by the Republican-led Texas State House. Joyce first, can you just remind everybody who's Ken Paxton and what's his track record as the Attorney General in Texas?

Joyce:

His track record is very poor. Ken Paxton is the attorney general in the state of Texas. He's been a real force in the culture wars, a real culture warrior trying to establish Texas's position in the race to the bottom. It seems to be running with Florida and other states, but Paxton is unusual. He gets indicted in his first year in office almost eight years ago, hasn't faced trial yet. He also was the subject of an SEC investigation, but those charges actually didn't materialize. They were related to the criminal charges that he's facing. Paxton has managed to delay this trial in all sorts of crazy ways. There was a lawsuit filed by one of his big contributors claiming that special prosecutors appointed to handle the case were being overpaid and that has managed to delay proceedings for a matter of years. Paxton, by the way, says that he is innocent and that the charges are politically motivated. It's a witch hunt. And last Saturday after a secret bipartisan investigation was conducted, he was impeached in the Texas house.

Barb:

Yeah, in addition, Ken Paxton is the one who filed that lawsuit in the Supreme Court challenging the 2020 presidential election alleging that a number of states, Pennsylvania and Michigan had engaged in fraud. So he's definitely carried the conservative water for a long time. He attacked the Affordable Care Act. He went after DACA. He has gone after hospitals that provide gender affirming medical care. So he's definitely a hard line right winger, which makes it really interesting, I think, that this Republican house has impeached him. Jill, tell us about the grounds for his impeachment.

Jill:

It's so voluminous that it's hard to summarize, honestly. There are 20 charges of impeachment and they, I would say focus in part on his relationship with a big donor who was a real estate developer, who may have or is accused of in these accusations of bribing him. It also came from his asking for 3.3 million in state funding to pay off whistleblowers, who I think that was really the final thing that got them. But let me just give you some categories. He's charged with disregard of his official duties. He's charged with misapplication of public resources, which is that he had people do a sham investigation of those whistleblowers. He is charged with disregard of official duties by these whistleblowers, but also of constitutional bribery because he was having an affair and he got this real estate developer to hire the woman he was having an affair with so that she would be closer to him and he'd have more access to her.

And constitutional bribery, obstruction of justice, false statements in official records, misappropriation of public resources by using employees of his to do things that were not part of their real job. Conspiracy, dereliction of duty, unfitness for office, abuse of the public trust. They're pretty generic, but also very specific to things. One of which actually relates to the case that Joyce was talking about, which has been held in abeyance for what is it, seven years now?

Barb:

Eight.

Jill:

Eight, okay.

Barb:

But who's counting?

Jill:

Who's counting? Right. And one of those counts has to do with that he abused the judicial system by getting this delayed to the point of ridiculousness. So there are a lot of really good counts against him. And the only thing really shocking is your first point, which is that he's a Republican being removed by a Republican legislature and we don't see that happening often, and it must relate to the fact that it's really obvious how awful he is, that one of the allegations is that the people were denied a right to know the facts before they voted for him a second time by his delay of this case and other means.

So I'm guessing he's not very popular in Texas. That would be my conclusion because if he was, this would never happen. It's a Republican governor and a Republican legislature and they wouldn't take action against one of their own. Now we haven't had a Senate trial yet, so we don't know what the outcome will be, but given what we've seen, it would be shocking if he's not convicted.

Barb:

Well, Kim, let me pick it up there. Paxton is presumed innocent of his criminal case and he still gets a trial in the Texas Senate, but he has been suspended as Attorney General in the meantime. What do you think is the significance of a GOP Texas House impeaching a GOP official, are politicians in Texas actually putting their state before their party?

Kim:

I don't know if they're putting their state before their party, but I think in any case there is a straw that breaks the camel's back. And I think in this case Ken Paxton may have found that political straw. Look on top of all of this corruption that we've been describing that he has been accused of since he took office, in the last settlement that involves this donor that Jill described, he entered a settlement and apologized for his actions and agreed to pay \$3.3 million. Well then he sought \$3.3 million in the state budget to cover this settlement, basically trying to get taxpayers to pay for the settlement, and I think that was the straw.

The Republican lawmaker said, "All right, we can hold our nose to all of your corruption being that, you are advancing the sort of MAGA policies and rhetoric that we like, but when you put us in political peril by asking the taxpayers to foot the bill for it, I think we can't do this anymore." And I think that is probably one of the many reasons, including just the sheer volume of what he's accused of doing, that got Republicans in Texas to say, "Okay, enough's enough, this guy's got to go."

Barb:

I hated that we live in this hyper-partisan time when we assume that members of one party would never impeach their own. There was a time, I think all of us began our careers in a time when we considered ourselves nonpartisan. It wasn't bipartisan, it was nonpartisan. You do your job, you focus on issues, and if somebody engages in misconduct, you remove them because it's harmful to the state and it taints the political reputation of everybody in office. But do you think that we're at any sort of tipping point in American politics? Or is this just an outlier?

Kim:

No, I just think in this one case that was just the step too far. Unfortunately, I really wish that this was a moment that people came together and say, "This is above politics." And Republicans in the same way that they did after Watergate, the Republicans in the Senate who basically told Nixon, "You got to go."

This is over." I wish it was a moment like that. I don't think it was. I think they were looking out for their own hides and this was the political calculation they made in this instance.

Barb:

What do you think, Jill? You've lived through both eras?

Jill:

Yeah, unfortunately I don't think we're back to Barry Goldwater entering the Oval Office to say, "You will be convicted." I would also note that one of the Texas senators who will be voting on the impeachment is Ken Paxton's wife who learned about the affair probably through these processes and they separated for a while. They're back together and she's going to probably not recuse herself. She'll probably vote. So it'll be interesting to watch how Mrs. Paxton, Senator Paxton votes against Attorney General Paxton. And I agree with Kim. I wish we were back to a bipartisan or nonpartisan evaluation of facts. We are not. This is a tipping point that could not be avoided because I mean we'll post all 20 counts in our show notes.

People will be able to see how extensive his wrongdoing is, including, of course, the criminal case that is pending and that he's used his powers to prevent going forward. He's had it transferred from one county to another county. He's done a million things, and I think it's really a shame that it isn't a done deal already and that he hasn't been voted out of office. But it is interesting that in the Texas Constitution, he's out of office until there's a vote. Whereas in our federal system, you can be impeached and you remain in office serving until after you are convicted.

Kim:

Jill, you know what I love and I often think about? Bacon. What are your suggestions of where I can get some really good bacon?

Jill:

Well, first I want to talk about why you're thinking about it so much, but I do have an answer and that is Moink. It is an amazing company that produces great food, great meat, and is helping to save rural America. We love how you can support small family farmers and reduce your environmental imprint all while enjoying the highest quality meat on earth. That's why we're so excited to tell you about Moink. That's moo plus oink. Moink is a meat subscription box company on a mission to fight for the family farm. They're located in rural America run by an eighth generation female farmer. Their animals are raised humanely, their employees are paid a living wage, and the quality of their product is better than anything you'll find in a store. Promise you, Kim, you're going to love their bacon.

Barb:

Moink delivers grass-fed and grass finished beef and lamb, pastured pork and chicken and sustainable wild caught Alaskan salmon straight to your door. Moink farmers farm the way our grandparents did, and as a result Moink meat tastes the way it should because the family farm does it better and the Moink difference is a difference you can taste. And unlike the supermarket, Moink gives you total control over the quality and source of your food. You choose the meat delivered in every box like ribeyes to chicken breasts, to pork chops, to salmon filets, and much more. Plus you can cancel at any time.

Joyce:

Shark Tank host Kevin O'Leary called Moink's bacon, the best bacon he's ever tasted and Ring Doorbell founder Jamie Siminoff, jumped at the chance to invest in Moink. Plus they guarantee you'll say, "Oink, oink. I'm just so happy I got Moinked." You'll love the bacon and all of the rest of the meat just like we do. It's the perfect option for a family meal or a dinner party.

Kim:

So keep American farming going by signing up at moinkbox.com/sisters right now. And listeners of this show will get free bacon with your first box. Free bacon, what better gift is that? It's the best bacon you'll ever taste for a limited time. Spelled M-O-I-N-Kbox.com/sisters. That's moinkbox.com/sisters. So start bringing better food to your table when you visit the site. We know you're as hungry as I am right now, so find the link in our show notes.

Joyce:

Well, y'all, Q&A is a little bit different than it is when we were doing the live shows where we had people streaming to the microphones to ask questions and there was a lot of energy and it was a lot of fun. But we've got some great questions this week from our listeners, so we'll take a stab at it. If you have a question for us, please email it to us at sistersinlaw@politicon.com or tweet using the #SistersInLaw. If we don't get to your question during the show, keep an eye on our Twitter feeds throughout the week. We'll answer as many of your questions as we can. Our first question this week comes from Sarah and it's for Kim. Kim, Sarah asks, "Do you think that the Supreme Court is resisting any ethical limits because some of the justices think they are paid too little for the special job that they do and they want to continue to supplement their incomes to maintain a certain lifestyle?" Very interesting question.

Kim:

Yeah, that's a really good question. I think the answer is no. I think the real reason that there is the antipathy toward ethical rules or abiding by the ethical rules that exist as is the case with justices like Clarence Thomas and Samuel Alito is because they believe that they are above the rules, that they haven't been made to do it up until now. There has been a culture here in Washington, for sure, of sort of deifying Supreme Court justices for decades and decades, and they've gotten used to that and they don't think that they're answerable to anyone, and it has nothing to do with income. I say that because look, Supreme Court justices write books. They do all kinds of things that earn them an enormous amount of money. They do speaking engagements, all of these things are allowed as long as they disclose it, and they do.

So I don't think it's a matter that they just want to live a lavish lifestyle and that they would do whatever they can to get to it. I believe that they believe those who flout these laws believe that they ought to. And then the last week or two, we have seen evidence. So Elena Kagan, for example, under the new rules, not new rules, but clarified rules, enunciated by the chief justice about a month ago, she started saying why she recuses from cases.

She would release a little statement when she recuses and saying why and in the most recent case it was because it involved a case that was before her when she was a solicitor general in the Obama administration so she chose not to do it. Meanwhile, Alito recused from a case and did not say why, and it took reporters to sort of poke around, didn't take long to see, in that case, he owned stock in one of the parties involved in the case. It's good that he recused. I mean, he didn't even have to do that under

the rules, but he didn't explicitly say why. That just shows you who understands these rules and who believes in them and who understands why they're important and who doesn't. I don't think it has anything to do with money.

Joyce:

It's interesting, right? The Supreme Court is not dropping off our radar screen anytime soon, although their ratings are dropping continuously based on their failure to do things like the simple statement that Justice Kagan made that Justice Alito declined to. Barb, going sort of 180 degrees, this question is from Kathy. It's interesting, it's a Texas question. She says, "Texas," of course it's Texas, "is trying to legislate the requirement of having the Ten Commandments posted in every classroom and replacing school counselors with chaplains." Doesn't that fly in the face of the establishment of no national religion clause? And I'm having flashbacks to Roy Moore in Alabama when he tried to keep the Ten Commandments, not just in his personal courtroom in Gadsden, but when he tried to haul in this big, huge, heavy rock that was a sculpture of the Ten Commandments into the Alabama Supreme Court.

Barb:

Yes. So the answer, Kathy, is yes, it does fly in the face of the Establishment Clause. The First Amendment says that the government should not establish any religion. And so when you favor one religion over another in a public place like posting a Ten Commandments in a school or replacing secular counselors with religious chaplains, until recently I would've said this is a certain failure in the U.S. Supreme Court. But those words, until recently, I think are the most important part of that sentence because this court with its current makeup, has taken a very different view of religious freedom. You may recall the case from last year, a case called Kennedy, where a high school football coach in the state of Washington won his case when he challenged the school for firing him, for refusing to stop engaging in prayer on the 50 yard line after football games.

And students would join him in his prayer and they said that was permissible and that his free exercise of religion was being violated when the school district tried to stop him from doing that. So that seems like a real shift in the way the court views these two clauses. In addition to the Establishment Clause, there's also the Free Exercise Clause that says the government can't interfere with someone's free exercise of religion. So it's still seems to me that posting the Ten Commandments in every classroom is an absolute violation of the law. Especially if the district is posting them as opposed to an individual teacher who wants to pray in class or whatever it is they want to do, like Coach Kennedy. So it seems to me that this is a flagrant violation of the law, but I think just as we're seeing in other realms like abortion and mifepristone and other things. I think people now feel empowered to take these cases before the courts in hopes that they'll get a different result and an overturning of precedent.

Joyce:

Well, that's incredibly depressing. Maybe Jill can leave us on an uplifting note with this last question, which comes from Curse 23. They ask, "With all these Trump connected lawyers, and especially former Assistant Attorney General Rudy Giuliani facing possible indictment, could the outcome, I think of criminal charges against Giuliani and anyone else have any effect on their past criminal prosecutions? Jill, we've all seen these cases where a police officer is prosecuted and all of their old cases get reversed. What do you think will happen here?"

Jill:

I don't think it will have any impact. I'm sorry to say, I'm not going to leave you on a happier note than the last one, which depressed me enormously because I still remember when "under God" was added to the Pledge of Allegiance, which I still oppose. But in terms of lawyers trying cases as prosecutors, it has to be related to the prosecution. If there's wrongdoing in connection with that, we've had plenty in Illinois where Chicago police have beaten suspects into confessing and those cases are thrown out. But in the case of Rudy Giuliani and other Trump lawyers, their crimes are their own and have nothing to do with their past prosecutions. And we can look to the Watergate example, Attorney General Mitchell, Assistant Attorney General Mardian were both convicted, but none of the cases that they had anything to do with at the Department of Justice was overturned. So I don't think there's any chance that any criminal convictions will be overturned because of these particular lawyers being convicted of crimes or being disbarred.

Joyce:

All right. Well, if we're going to close on an uplifting note today, I guess that means it's up to me and I will offer this challenge. I notice as I'm looking at the little boxes that we appear in on our screen that Kim is named Persnickety Kim, and I'm named Re-Joice. Next week, Barb and Jill, I challenge you to come up with more interesting names for yourself than Barb and Jill Wine-Banks.

Barb:

May I say though, I still find it amusing that Jill is not just Jill, but Jill Wine-Banks. She's sort of like Charlie Brown. You can only say her name is the full name always.

Joyce:

It's one of my favorite things, right? But still, that's not going to get her past next week's challenge.

Jill:

All right.

Barb:

But challenge accepted.

Joyce:

Okay. Well, here we go. Thanks for listening to #SistersInLaw with Jill Wine-Banks, Kimberly Atkins Stohr, Barb McQuade, and me, Joyce Vance. You can send in your questions by email to sisters-in-law-politicon.com or tweet them for us for next week's show using the #SistersInLaw. We love answering your questions. Please support this week's sponsors Olive & June, Honeylove Aura, and Moink. You can find their links in the show notes. Please support them. They're the ones who really help us make this 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 to help others find the show. See you next week with another episode, #SistersInLaw.

Jill:

Quadragenarian, do you know what that is?

Joyce:

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No.

Jill:

That's something that none of us is anymore. It's a person between 40 and 49.

Kim:

I was going to say that sounds like a quadra...

Jill:

Yeah, Kim, you just missed it. Sorry.

Kim:

I just left my quadragenarian life behind.

Jill:

There's also, and I can't pronounce these, falsiloquence, deceitful speech or vaniloquence.

Joyce:

That's a good one for Barb, falsiloquence.

Jill:

Yeah, that could be in your book.

Barb:

Maybe that'll be the title of my life.

Joyce:

I like that.

Jill:

Okay. Or how about this for Donald Trump? Vaniloquence, vain or foolish talk or larger loquacious, talkative, full of words. And here's one kakorrhaphio, I can't even begin to say it. I'll have to spell it. K-A-K-O-R-R-H-A-P-H-I-O phobia. Fear of failure.

Kim:

That could have been fear of something else.