

Joyce:

Welcome back to #SistersInLaw with Jill Wine-Banks, Barb McQuaide, Kimberly Atkins Stohr, and me, Joyce Vance. There's no better time than right now to get your SistersInLaw merchandise because we have hoodies, t-shirts, and our new mug, which keeps selling out all in stock. We've just restocked the mug, so this is the time to dash over and get it at politicon.com/merch or just click the link in the show notes today. And we have a big show this week. I've decided that there won't be any weeks in 2024 that aren't full of legal news, but boy, is there a lot going on today.

First off, we'll be discussing the most recent developments across the Trump cases and then specifically developments in Fulton County where allegations of misconduct by DA Fani Willis have surfaced and she has confirmed that she has a relationship with one of the prosecutors she brought in from private practice. And finally, we'll talk about the proceedings before Judge Aileen Cannon in the Mar-a-Lago case involving the Classified Information Procedures Act. But before we get there, you all, I need some advice, or at least a little bit of humor to help me get through the weekend because our daughter is bringing her boyfriend home to meet extended family.

Barb:

Ooh.

Joyce:

I'm wondering what advice do you guys have for me? Bob and I are sort of wicked and we really need to be nice this weekend. So go ahead, give me advice.

Barb:

Oh, I'm going to give you advice that you gave me, Joyce right back to you. Some of our kids have brought home others, and you gave me some advice a while ago, which is based on your experience with your own mother-in-law, you said she was determined to be your best friend and you were very gracious. You're a lovely person. So I think any mother-in-law would be happy to have you as a daughter-in-law.

Joyce:

Oh, you are so sweet.

Barb:

But that you never felt judged, questioned, criticized, or in any way, any sort of vibes that you were in any way unworthy of your husband. And it's that person's choice. It's your child's choice who they want to choose as a partner. And so, you can get on board or you can get out of the way. You're not going to change their mind. And so, embrace him with your whole self, Joyce, that is my advice to you.

Joyce:

My mother-in-law was like the perfect. The thing is, Bob and I actually really like Ellie's boyfriend who we've met. It's going to be interesting to see the interaction with the entire family. Kim, advice, what do you think?

Kim:

Well, I'll start by my experience. So I'm the youngest of six, and the difference in age between me and my oldest sister is 17 years. So just keep that in mind. But, I remember the first time I brought a boyfriend home, I was in high school to meet my family and listen. So I was sort of concerned about my mom, but I was mostly concerned about my dad. My dad was a union official at a building trades union, a cement Masons union in Detroit. And I would remember when I would go to the union hall sometimes once I pulled up there to go see him, and one of the union workers was outside. And as I pulled up, he comes up, he's like, "Oh, well, hello young lady, how can I help you?" And someone shouts at him. He's like, "Man, do you know who that is? That's Atkin's daughter."

And the horror that descended on his face as he retreated it was as if I burst in the flame. He was so afraid. And I was like, "Oh..." My dad was, he was sort of built football player. He wasn't super tall, but he was a solid guy and he was this union leader when he was in the hall, he had this booming voice and kind intimidating. So before I brought home a boyfriend for the first time, I sort of told him, "Look, my dad's kind of tough. He may grill you. It'll be okay, but just keep it cool. It might be intense." So we come in and my dad comes out and he's like, "Well, hello, fella. How you doing?" Taps him on the shoulders. He was like, "Okay, you two, go have fun." And that was it. And then when we got home, it was a little late and I thought he's probably going to be staying up waiting for us. And I get home and he'd gone to bed. It's like, wait a minute.

Jill:

That's what happens when you're younger.

Kim:

I'm like, where's the intimidation? So the next day I asked him about it and he made two points to me. My dad said one, I'd made good decisions up until that point and I'd earned my parents' trust. And so, he trusted me. And point two, he was tired. He had been parenting for 30 some odd years at that point, he was tired of all the stuff. So trust your kids, raise them to make good decisions and then you don't have to worry about it.

Joyce:

It is so true. Our oldest is 33, I mean, he's a boy, stayed up until he got home from dates. Our youngest is 21. We're like, "Whatever, have a good time. Here's our Uber account, we'll see you in the morning." And so, I'm with your dad on that. I mean, there is a certain sense of I just need to go to bed. So Jill, what do you think? I mean, so far I think the votes are running pretty clearly that we should be nice to Ellie and her boyfriend. Anything different from you or the same?

Jill:

Nothing different. And not only that, but I can't imagine you or Bob being anything other than super nice. You're a gracious person who makes people feel really comfortable. The only thing I can say is just remember who's more scared? You or the intended. I would say it's going to be them, so don't worry about a thing. I made it easy for my father because as a girl in high school where boys... I'm using girl and boys deliberately picked up girls for dates. My parents had met Michael, my husband, when we were in high school and dating. And it was just, "Hello and how are you?" And they would leave. So when he then became my fiance, it was easy because they already knew him, so that was helpful. And you've already met. So it's just whether the rest of the family integrates well, and I'm sure that they will.

Joyce:

Well, I got to say, I would rather be a sister-in-law answering difficult questions on the podcast than dealing with what this young man is going to go through from her extended family and her godparents this weekend.

Barb:

Kim, the word glam conjures many things. For me, it conjures you. Tell me about glam.

Kim:

You are so kind. Barb, I would have no glam. But for Thrive Causemetics, I have been using their products, especially their wonderful mascara for years and years on air and off. It's really fantastic. And whether your style is fresh-faced, full glam, which apparently I am, or somewhere in between. You've probably seen Thrive Causemetics, viral tubing mascara. It's the one in the turquoise tube all over your socials. Thrive Causemetics beauty products are certified 100% vegan and cruelty-free. They're made with clean skin loving ingredients, high performance trademark formulas and uncompromising standards. It's easy to see why their bestsellers have gone viral with thousands of five star reviews.

Jill:

And it's not just the tubing mascara that deserves five star reviews. There are so many products to choose from. And another thing that makes Thrive terrific is that cause is in their name for a reason. Every purchase supports organizations that help communities thrive from education, cancer research and working to end homelessness. You'll feel great and look great with Thrive.

Joyce:

I use so many Thrive products, it's really become a part of my daily routine. But what I especially love is the brilliant eye brightener and I use it as an eyeshadow. In fact, I never use anything else when I want my eyes to pop on camera or at a party. The eye brightener is a highlighter stick. It's made to brighten and open your eyes, giving you an instant eye lift. And all you really have to do is apply it to the inner corner of your eyes and on the waterline. It'll make you look like you've had plenty of restful sleep even if you haven't, like one of my favorite sisters, Jill Wine-Banks, who is up all hours of the night, but you would never know it because she too uses Thrive. The waterproof foolproof formula makes it extremely easy to apply and blend any of the 16 shades. I know you'll find your perfect look.

Barb:

One of these days, I'm going to find out what a waterline is, but until then, here's the bottom line. Thrive Causemetics is luxury beauty that gives back. And right now, you can get an exclusive 20% off your first order at thrivecausemetics.com/sisters. That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S.com/sisters for 20% off your first order. You can also find the link to your perfect look in our show notes. Well, lot's happening in the world of Donald Trump lawsuits, litigation, indictments. And I want to ask you guys about a few of them. The one that I'm really waiting for is the DC Circuit Court of Appeals to issue its decision on the immunity issue in the federal election interference case. I mean, this seems like a relatively straightforward issue. I don't know. Joyce, you're our appellate expert. When is this decision coming? Let's go already.

Joyce:

I mean, it does seem like a relatively straightforward issue. And tick-tock ladies, I mean, clock's running. It's hard to say what's going on here? Look, there's just all sorts of possibilities. I mean, this is a serious issue, a first impression, somebody has to write this opinion and that doesn't just magically happen. That means that a judge has law clerks doing a lot of legal research, they're all working on it. And then you multiply the problem. You've got to have three people who hopefully are all in agreement because your goal is to have a unanimous decision, if that's possible. And that can break down in a couple of places. It might just be that people don't agree and you get a majority and a dissent, but sometimes you even get judges who agree on the result but not how to get there.

So there could be some horse-trading going on over how to get to this result. All that to say, we just don't know what's going on. I think we'll get some clues when we see the final opinion and see whether it's unanimous and see whether there are concurrences suggesting different reasons for saying no, presidents can't call in SEAL Team Six and have them knock off their personal enemies. But it is pretty frustrating, especially since they expedited the briefing and really set the expectation that they would move fast.

Barb:

I think that's the biggest thing, they did this expedited briefing, they did this hurry up hearing and now crickets. So Kim, there's this delay and every day that goes by means that the trial may be delayed even once the court decides this issue. Should we expect more delays if and when Donald Trump takes it to the Supreme Court?

Kim:

The answer is yes. And so, just to add to that, not only was it this expedited scheduled, but the three of them seemed in agreement during oral. It didn't seem like there were any big... I didn't see any break or schism or anything. So this delay is really hard to explain. But yes, I'm assuming if they rule in a way that it seemed like during the argument Donald Trump will appeal this. And so, of course, he has the choice of doing one of two things, either asking for en banc review, which is the entire panel of the DC circuit or going straight to the Supreme Court. I wouldn't put it past him to ask for en banc because then that gives him two bites at the apple and it stretches out the timetable. Now, the DC circuit could deny the en banc review, which I would suspect that they would and then he could go to the Supreme Court. But yes, while the appeals process plays out in this interlocutory measure, everything stays stopped. So yeah, this could cause big delays.

Barb:

Yeah, and I agree with you. I mean, his MO is all about delays, so he's going to at least I think, seek review at both of those stages. Whether the court's granted is another question, but every day is another day. He's on his feet ready to fight. Jill, I want to talk about the consequences of this. It requires a little bit of reading of tea leaves, but Judge Chutkan, the judge who is assigned to handle the trial is now saying that she's going to have no trials in March. This case was originally set for trial March 4th, and she also has set a different trial in another case for April, and I think she's got another one now in a different case set for June. So what does that tell us about when Trump's going to go to trial?

Jill:

Well, see Barb, as much as you hate talking about undergarments and toilet bowl cleaner, I hate making predictions.

Barb:

It can't be as much as I hate those other things, but go on.

Jill:

Maybe not. I don't know. But there are some clues and you've specified them because if you have a trial in April and in June and you have a trial that Smith has said could take many weeks, there's no time in between to do a trial. So that is kind of a clue. Judge Chutkan has delayed all proceedings, all motions, all decisions until this is decided. Now, the Supreme Court or the Court of Appeals could say that they agree one way or the other and he's appealing it, but that they could remove the stay on proceedings and let things start going forward. And that could be what's holding this up, that part of the decision.

Barb:

So that's a very optimistic take on it. Maybe they're just trying to figure out the logistics of lifting the stay. I like that theory.

Jill:

I'm Pollyanna and I like to hope that that's the case. But in terms of predicting when, man, it's got to be soon. And I think that the court must know that because if it gets too close to the election, then there's a real problem in starting the trial. If he should win the election, that's a real problem because he would then be in charge of the Department of Justice and the special prosecutor and it could terminate the case without any trial and that would not be in the public interest. So I'm hoping that this will end up being a trial that starts in April at the latest.

Barb:

And another thing about delay, people know that there is a defendant's interest in a speedy trial, but there's also a public's interest in a speedy trial. And Merrick Garland has said, people say, "Well, when you get close to an election, are you going to say we need to shut down because the Justice Department doesn't like to charge people or take action too close to an election." And he has said, "We took our action, we filed these indictments. The schedule now is on the court." So I thought that was encouraging that Merrick Garland doesn't think there should be any delay even if we get to election day when the trial starts.

Joyce:

Hey, Barb, can I just make one minor point if we're going to try to be a little bit optimistic here, which is that although Judge Chutkan has set, I think the first one, at least as a criminal trial, something like north of 90% of criminal trials don't happen, there end ends up being a plea. I think that there's still a lot of wide open ocean on her calendar where she can try this case.

Barb:

That's a really good point. Joyce, I don't know about you, but when I first started in the US Attorney's office, I was in what's called the general crimes Unit where I had a big docket of small-time cases. I shouldn't say small-time but smaller cases. And so, I had a lot of cases on my docket. I had a trial scheduled for every Tuesday of the year, and I knew that 90% of them would resolve, I just didn't know which ones. And so, that was sometimes stressful, but I knew that as the dates approached, they were going to shake out and they weren't actually going to go to trial. So same way. So that's a really good

point there. She probably knows that there is some chance those cases will go to trial. But many of those dates either get resolved or they get kicked down the road just like this one for various reasons. You have given me-

Joyce:

There we go.

Barb:

A source of some optimism.

Joyce:

Much more optimistic like us.

Barb:

I also have to say I really enjoy the fact that Jill uses the word man to emphasize her points because I do that too sometimes and I feel like a relic of the '60s, but I'm into the company.

Jill:

I am a relic of the '60s.

Barb:

Now you're the '70s, Jill. You're all about Watergate. All right, well, let's move north from Washington up to New York. Where Judge Arthur Engoron, is it Engoron or Engoron?

Joyce:

I say Engoron.

Kim:

I'm not sure I know.

Barb:

Read your book. What do you say? Joyce?

Joyce:

I say Engoron but I never sure if I say-

Barb:

I say Engoron.

Joyce:

... any of the names right.

Barb:

Well, Judge Engoron or Engoron missed his own deadline for rendering a verdict in that New York civil fraud case. He set the deadline. He said he would have the case decided by the end of January. January was a long month, but last time I checked, it's February now and there's reporting that says he's not going to issue the decision certainly by the end of January and likely not now until mid-February. We don't know. There's no publicly given reason. But Joyce, some people are speculating that the reason could be a letter that was submitted by the special master, a former Judge Barbara Jones, that has sort of changed the circumstances for him, which might explain why he missed his own deadline, that he's got new facts. Her letter said she found inaccurate and incomplete documents from the Trump Organization. Do you think those findings could have an impact on the decision and what would that be?

Joyce:

Yeah, I'm actually not persuaded that that has to do with this. Look damn, judges, they impose decisions on us as lawyers. If we miss a deadline, the world has come to an end. But they're much more lenient with themselves when they need a little bit of extra time. I think that that might be what's happening here. I have read all of Judge Jones, she's the monitor who was assigned to oversee Trump Organization payouts and pay ins while the litigation was pending. I've read her entire letter and she essentially takes a sort of a hands-off approach.

She says, "Look, I can't say whether there was fraud or not going on because it wasn't my job to monitor every transaction. I was just looking at some of the big picture issues." And there are a couple of places where she suggests there might be problems. But the judge already has the trial record in front of him. He is making a decision on these six outstanding counts, the dollar amount that Trump Organization has to disgorge all the other stuff based on the record in front of him at trial. So I think the delay, this is just a judge being a judge.

Jill:

So let me say two things, Joyce. One, I think that you're partly right and I know Judge Jones from her being chair of the committee looking at sexual assault in the military, and she's a very careful person. And she did say it with a-

Joyce:

This is a sign.

Jill:

... very careful letter. As she is. That's totally consistent with her personality as a judge and as a human being. But I think she did sort of give grounds for Judge Engoron or Engoron to say because this is basically a sentencing when he issues this decision, that this is an ongoing problem that requires maybe more looking at putting them out of business altogether because it's not just financial damages that are at issue here. It is also whether they will be allowed to continue to do business in New York.

Joyce:

But hasn't he already said he won't permit that he's going to pull their certificates? That's a corporate death penalty for them.

Jill:

It is. But this could help him in writing his opinion, saying why. And so, I think he may want more information. Of course, again, as I said, I hate predicting and guessing and speculating about what the judge is thinking is obviously impossible. So I am not reaching a conclusion. I'm just saying that I think it was a very careful letter and that it may be something that he wants to think more about in terms of how he crafts in the same way we're talking about the immunity, how they craft the exact language is something that he might be considering.

Joyce:

Yeah, that's a fair point.

Barb:

Well, I want to talk about that because I've been asked questions about what's taking so long. You either find people sometimes guilty or not guilty, it's liable or not liable. When the jury comes back, they stand up and they say the verdict and it's over in a matter of minutes, right? Like the E. Jean Carroll jury, they came back in nine minutes after it was announced they had a verdict. What's taking so long? And Kim, I thought maybe you could tell us a little bit about a civil bench trial, what a verdict actually looks like. This is not a simple liable, not liable verdict like the one a jury renders.

Kim:

Right? Well, in some ways it will be the same. So as we've mentioned, this is a bench trial. There is no jury and for most of what this order or decision will look like will be similar to what a jury might do. So if any of our listeners has been on a jury or seen a jury decision sheet in a civil trial, basically it's sort of like a worksheet on every charge. On every count, the jury either finds that the defendant is liable or not liable, and if there are charges which they are found liable for, then there's a worksheet underneath for damages where they work out what each damage it is. Its damages for compensatory damages, for pain and suffering, for punitive damages. So those elements are still going to be in this order that is handed down by Judge Engoron. I say Engoron because I used to play Zelda, the video game and there were gorons in it. So I see that, I think-

Barb:

Good enough for me. It seems like a good reason.

Kim:

So Engoron, it'll be the same, but they'll probably be a little more because he's the judge. He's both the fact finder and the finder of law. So he has the ability to write it out. So if you looked at, for example, the summary judgment in this case, the one where he found that Trump did commit fraud. It didn't just say, "Yes, he committed fraud and this is the consequences." He laid it out. It was like an opinion that you see in other cases, and this is important because when this is appealed, what will happen is at the appellate level, when there is a bench trial and a judge renders this ruling, there are certain inferences that the appellate court can make in favor of the judge when it comes to certain fact finding. Things like how credible a witness was or how much weight a particular piece of evidence is given, those sorts of things are evaluated under a standard called clear error, right?

Unless he made a clear error, I think the appellate judges are more likely to give him some deference that's different from the issues of law which will be reviewed on the appellate level anew. That's called de novo review. But in that case, it can make a difference as to whether this is a judge given ruling and a

jury given ruling. So I think that Judge Engoron is probably paying very close attention to that. And one reason for the delay is that he wants to write this decision very carefully.

Barb:

Yeah, I agree. I've worked as a law clerk for a judge, and I think people think, giddy up, let's go, what's the holdup? But doing detailed findings of fact, conclusions of law, citing all the cases that you're relying on, making sure there are no typos, all clear language, it takes some time. So my only beef with him is that he set a deadline and then missed it.

Kim:

He did.

Barb:

That strikes me. No, don't set a deadline if you can't meet it. That's why I want to give him some benefit of the doubt that something new must have happened here. But Jill, let me just ask you a different question. I'll use the Zelda pronunciation. If Judge Engoron sides with Attorney General Letitia James and orders discouragement of profits of up to \$370 million and cancels the certificates for doing business, what would that impact look like on the Trump Organization?

Jill:

Well, first of all, it could put the lie to his being a billionaire because he may not have the money to even post a bond to appeal the case. It could obviously end, as you said earlier, it's a death penalty for the company if he can't do business in New York, which is his principal place of business, he does have buildings in other places including Chicago, but that's the end of the company. If they cancel the certificates and they can't do business in the same way that he was put out of the foundation business because of his fraud with his own charity and he's not allowed to be on the boards of any other charity, that's the end of it. And so, that's what the decision is. How much will the damages be? And will he go ahead with the cancellation of certificates for doing business?

Barb:

Yeah. So maybe no more Trump Tower in New York. If you walk past Trump Tower on Fifth Avenue in New York, there are always tourists there taking pictures of it. I don't know whether they are Trump supporters or just curiosity seekers, but you see that a lot. So we could see the end of it. And for the record, Jill, I think it was Joyce who made reference to the corporate death penalty, which was a good reference, but I'm the one in Michigan and she's the one in Alabama.

Jill:

I know the difference. And let me just say that there's a Trump Tower in Chicago and it has had trouble selling condos. It has had trouble having the restaurant attract people because people here don't want to go to Trump Tower. And there's a big stink because it has the largest letters saying Trump and it offends people here.

Joyce:

Well, and just to go full circle, I think that's actually the property that's referenced by Judge Jones in her letter. And there's some concern-

Jill:

It is.

Joyce:

... over a \$48 million loan where she says, "Can't verify the loan exists, the dollar amount, what it was for." I think let's just put a pin in that maybe more about Trump Tower Chicago in a future episode.

Jill:

And speaking of disgorgement, they have been disgorging unsafe water into the Chicago River, and there's a big issue about that as well from the Trump Tower.

Joyce:

Wow.

Barb:

Geez. I don't know how this is all going to end, but something tells me that when all the facts are learned about the Trump Tower in Chicago, Jill Wine-Banks is going to play a role.

Joyce:

It has to be, right? I mean to be.

Jill:

I have to save the river at least.

Barb:

Yeah, I love it. It's going to be an interesting story. Well, now let's move on down south to Florida, the Mar-a-Lago case, the documents case. And I know Kim, you're going to talk about this a little bit later with the Classified Information Procedures Act, but I just want to ask you about this recent news that the FBI may have failed to search some secret hidden room at Mar-a-Lago. I picture it, if you press the bookcase, it spins around and it turns into the bat cave or something. And so, prosecutors have been asking questions about witnesses like, "Hey, do you know about a hidden room?" And maybe they refrained from searching or going back to search after they learned about it. And Joyce, I'm wondering if Jack Smith knows about this room, why did the FBI not go back and search every place that a document could be found?

Joyce:

This is some crazy stuff. This reporting comes from ABC, and it sounds like there's a closet. And when the FBI went to execute the search warrant, it was locked. And so, they just said, "Oh, okay. Nothing to look at here. A locked closet certainly couldn't contain classified material. We'll just keep going." And then there is supposed to have been, in addition what they called this sort of secret hidden room. It was a room with a small door, maybe it was behind a dresser. They couldn't see it there. But the Secret Service has certain responsibilities to protect the former president at Mar-a-Lago. One assumes that they had a complete roadmap, a complete layout of the building.

Barb:

Oh, for sure.

Joyce:

You'd think that the FBI might've asked, these agents are trained to detect secret rooms where people store stuff. I don't know. I mean, this is sort of crazy. It just sounds like some sort of mistake was made. We are all human, mistakes happen even among agents executing search warrants. I think what's interesting is Smith starts talking with witnesses about it down the road and learns that at the same time that Trump's lawyer was downstairs in the basement at Mar-a-Lago going through the only room where Trump had told him there might be classified materials, Trump has another maintenance employee at Mar-a-Lago change the lock on the closet. He insists that he should get the key. Previously it had been held by the Secret Service, and that's why when they execute the search, FBI comes upon a locked area that they cannot get into, but that they were entitled to search under this very broad search warrant that said any place in Donald Trump's control that could hold classified documents.

Barb:

So I know some people are saying, "Oh, it was locked. They need to get another warrant."

Joyce:

No, absolutely.

Barb:

Their warrant said... And that's very typical. If I'm looking for documents, I'm allowed to look anywhere documents could be stored. It could even be in the freezer or the refrigerator or under the mattress. Any place where you could find a document. You can't look for a stolen car under the mattress, but you can look for documents there.

Joyce:

I mean, the operative conversation is, find me the key or we'll break the door down. That's what the conversation is like with the FBI at that point.

Barb:

Yeah, under normal circumstances. So these were certainly far from normal circumstances. Kim, do you get the sense that this was just like Keystone Cops a mistake or they just didn't know about this room? Or do you think they were treating Trump with kid gloves because there has been some reporting that DOJ wanted to go in and do this search and FBI was very reluctant, wanted him to just produce the documents voluntarily. Do you think he's getting special treatment yet again?

Kim:

So yes, but I think it may not be as... So you all tell me if I'm off. It may not be as nefarious as, oh, well, the FBI just wants to handle him differently than every... Yes, they wanted to handle him differently, but I think this is why. We know, and even Christopher Wray has expressed the idea that the FBI conducts searches according to the situation. In this case, it is not a violent crime. It's a serious one. And we do know A, that Donald Trump and his lawyers were told before this search was executed that you need to produce every document or you are committing a crime. We do know from reporting just out this week

that that was the case. So they were aware, so they wanted to present this evidence. We also know that Donald Trump likes to victimize himself. And the last thing that the DOJ and the FBI wanted, I think was for him to say, "They raided Mar-a-Lago."

"They burst open door, they ransack the place. Look at it. Look at how they broke down this door." So what did they do? They acted carefully. Some of the FBI agents were in plain clothes so that it wouldn't look like a SWAT team was rolling up through Mar-a-Lago, while the other guests watched. They were very careful in how they did this. And so, they went through, they got the documents that they were able to get, they found this locked door and they made the determination that, you know what? Breaking it down might be more trouble than it's worth. If they don't produce all the evidence, we're going to charge them with a federal crime with a felony. And so, that ended up being what happened? What do y'all think? Am I crazy?

Barb:

No, I don't think you're crazy at all. I think that the FBI often thinks about the optics and it's not necessarily inappropriate. I just think that Donald Trump again and again ends up benefiting from all of this. If it's the wealthy people who benefit and not the street criminal-

Kim:

The powerful.

Barb:

... then you've got two different systems of justice.

Joyce:

Although, it's truly weird.

Jill:

You're right. But it is really crazy that they didn't ask the Secret Service where documents might be. It's really crazy when you see a locked door that you don't say, "Give me the key or I will break it down." And to me, it is more than just special treatment. I agree with you, Kim, that people coming in plain clothes, that's a smart thing to do. That's wise. You don't want to make a bigger stink of it. But once you're doing a search through a search warrant that says anywhere that a document could be stored, which means anywhere on the premises really, except maybe at the pool, I think you really have a right and should go through it. Okay, so if you miss the hidden wall to a secret room, the Secret Service could have told you. But okay, so you miss that one. But a locked door that you saw, that's hard to believe they skipped.

Joyce:

Well, and how did the Secret Service let there be a locked facility or locked closet inside of a facility that they were guarding that they didn't have access to? I mean, frankly, I think that the questions about the Secret Service continue to mount the more we learn.

Jill:

Yes.

Barb:

Well, Jill, let me just wrap up with you then. So you're Jack Smith, you find out there's some hidden room that the FBI never searched. I mean, can they go back after the fact? I mean, could they go back now or could they have gone back whatever point they found out about this?

Jill:

Well, they could even get a new search warrant, but then if they find stuff, what do they do with it? Do they issue a separate indictment? Do they amend this indictment and delay the trial on the ongoing case? I think it's tricky. On the other hand, I think that there's an obligation on the government's part to get back all of the dangerous documents that are classified and that could harm our national security. And so, we don't know what's there. On the other hand, Donald Trump, I was going to say isn't an idiot, but I might have to retract that statement. Donald Trump has had warning enough that he may have removed whatever is there and maybe even burned them or destroyed them or buried them. Who knows what he's done. So would they actually get anything at this point? I don't know, but I still think it's worth going back for the national security purposes. If not for amending the indictment, it's still worth it.

Barb:

Yeah, there's that theory about staleness that sometimes if your tip was that somebody had something many months ago, you have to be able to demonstrate to a magistrate judge that it is still likely, there's probable cause to believe that evidence will be found at that location. And I think you could still mount it. I mean, these are classified documents. This is not the kind of thing that people discard.

Jill:

You could, but you could also get a new one. That's why I said maybe they would get a new subpoena so that they don't run into that problem of staleness.

Barb:

So search warrant, right?

Jill:

Yeah, a search warrant.

Barb:

So probable cause is required warrant. But you'd have to have facts that are fresh that say they're still there. But I think you could get there today with a new search warrant by saying classified documents are of the nature that they have value, and it is unlikely that he would've discarded them. Let's get one. We can do this. Jack Smith, if you're listening, go get a search warrant, man. See how I use man there.

Joyce:

Barb, are you a Venus Williams fan?

Barb:

Oh, you know I am, Love Venus, love Serena, love the Williams sisters. I am an aspiring tennis player. My game is nowhere near the level of the Williams sisters, nor will it ever be. But I have a great group of

friends I play tennis with and I love it. It's a great sport. And so, you know what you need if you are a tennis player, aspiring to be like the Williams sisters. And that is Happy Viking tennis champion Venus Williams has served another ace with the delicious, Happy Viking protein and Superfoods Powder. Each two scoop serving is packed with 20 grams of plant protein, one full cup of fruits and vegetables, and the benefits of more than 60 Superfoods, vitamins and minerals. You'll feel better than ever and you'll never go back to tasteless powders with low quality ingredients.

Joyce:

It's the perfect way to start off a new year of eating well. And there are these delicious flavors. They sound good. I haven't had a chance to taste all of them yet, but there are six to choose from. Triple chocolate, vanilla bean, strawberry smoothie, green colada, iced coffee, and cookies and cream. They mix quickly and easily. And I think the one that I'm most interested in trying next is triple chocolate. You could even mix it with iced coffee for a tasty breakfast. It's no surprise that 93% of customers say Happy Viking is the best tasting plant protein powder they've ever had.

Kim:

It's rare to go wrong with chocolate. Chocolate usually gets you where you need to go, and I can't get over how much attention they've paid to quality ingredients. Happy Viking is everything you need in one plant-based shake. It has proteins, vitamins, minerals, probiotics, prebiotics, fiber, electrolytes, and more with only two grams of sugar. Staying healthy is so important and with every shake you make, you're treating your body well and setting yourself up to perform at your best. No matter what the day has in store, whether it's tennis doubles, or your day at the office, you'll be taken care of. Happy Viking helps boost lean muscles, sustain energy, give you better digestive health, better brain power, which I need for sure, and immune support. It doesn't get better than that.

Jill:

You do not need more brainpower, I can assure you that is for sure. But I think that the healthy parts of this make me want to gift it to some people. Happy Viking Protein and Superfoods Powder made by tennis champion Venus Williams is hands down the best plant protein powder out there. Visit drinkhappyviking.com and use the code SISTERS for 20% off your first purchase. That's 20% off at drinkhappyviking.com with code SISTERS. You can also find the link in our show notes.

Yesterday, Fani Willis filed her answer to a motion to dismiss the Georgia case that was filed by one of Trump's co-defendants and now has been joined by Trump. That motion alleges that she has a romantic relationship with Nathan Wade, the lawyer she hired as the lead prosecutor of the RICO case. Judge McAfee set a hearing on the matter for February 15th. This has certainly raised questions about whether these allegations will delay or substantially and substantively impact the trial. Moral and ethical concerns aside. Willis's reelection may be affected by those, but is there an entirely separate issue from whether it impacts the RICO case? And let's dive into analyze these two separate questions. And Kim, I want to start with you to talk about the facts, including what her response says about what we know and what we still don't know about the relationship and other relevant facts.

Kim:

So according to her statement, essentially what happened according to Fani Willis is this, she hired Nathan Wade to be the lead prosecutor in this case. Now, let's remember that Nathan Wade is a longtime attorney. He is a partner at his own firm. He had a history of doing defense work. Certainly, I don't think that the idea is that he's an unqualified attorney, but he did have really sparse prosecutorial

experience. So in that sense, that's part of what maybe makes this look not so great here. During the course of working together, a personal relationship did develop. Nathan Wade was also in the middle of a divorce, which is what spurred all of this. There was a filing as a part of that divorce that stated that among other things, he had taken Fani Willis on a vacation using the money that he was making from this job that Fani Willis chose him to do.

And that was made a political issue by Donald Trump's camp by saying, "Hey look, this person is biased. She and her boyfriend are not only out to get me, but they're also grifting the good people of Georgia." Now, of course, if somebody is in a relationship with somebody and they want to go on a vacation with them, they can go on a vacation. And how else will they pay for it other than with the money that they make from their job? But I digress that that has happened. So are there actual ethical concerns here? Possibly not. If he has and he can show that the work that he has done was completely uninfluenced by this personal relationship, then certainly not. But in the court of public opinion, maybe. I mean, I am one of the people that thinks, you know what? It's a bad look.

I understand emotions do what they do, but this trial is so important. The world is watching. You want to make sure that all your i's are dotted and t's are crossed and that it is unassailable. So wait until after the trial. Tell yourselves, "Look, I feel what's happening here. Let's put this off until all this is done. And then maybe we could do that later." Realize that there's a world of plenty and you can date other people, do something else. I personally would never, and I've never even been involved in a trial this high, I wouldn't hire my husband to do anything. I wouldn't have hired him to look at the books on my old-fashioned design business. It's just a bad look. You don't want to look like you're doing that. So is it problematic? Probably. But it doesn't necessarily sink the case, I don't think.

Jill:

And we'll look at that later. I do want to point out that new evidence shows that his mother may have been on those trips. And so, Joyce, when you were asking us earlier about advice about meeting someone, maybe you should ask her.

Joyce:

Take mama with you.

Jill:

So anyway, her answer does admit the relationship, but defends it on the grounds that he is qualified and that there's no reason to recuse from the case. And I think that sort of summarizes her response. And Joyce, you've written some articles with Barb and with Norm Eisen in just security that are really terrific. And I think we should put in the show notes. So you analyze the facts, is there anything you want to add about the facts?

Joyce:

Yeah, I mean, this is a matter of Georgia law. And Georgia law says you've got to have a financial conflict of interest in order to be disqualified from a case. That would be something like if Wade was only getting paid if he got a conviction.

Jill:

And we're going to talk about the law with Barb later.

Joyce:

And so, when we look at the facts in this situation and whether or not Willis has any unique knowledge that would aid any of this, I think the reality here is that the facts are what Willis has laid out in her affidavit, and they are very different from what those initial allegations in the Roman motion looked like.

Jill:

And her response did include an affidavit from Wade saying that the relationship started after he was hired, which is also after he filed for divorce, to the extent that that matters at all. But Joyce, I also want to look at, she was subpoenaed to testify in the divorce case and that was delayed until after Wade was deposed. And then it's been postponed because Wade and his wife have reached a settlement, at least about temporary alimony, but the divorce is still pending. So Willis, if it goes back to being a contested divorce, does she have any unique knowledge that justifies requiring her to testify regardless of the impact on her role in the RICO case?

Joyce:

Yeah, so this is a point that the judge made. I mean, the divorce is about the financial relationship between Wade and his wife Jocelyn, and who knows more about that than the two of them. And Fani Willis certainly doesn't know more than Wade does. That really makes this decision to try to inject her into those proceedings look more like political grandstanding than actual fact gathering.

Jill:

So Barb, let's move to the law and see if any of these facts impact the RICO case and the motion to dismiss filed by Roman and his and now joined by Trump and see what the law and ethics in Georgia are that might apply to this. So first, should the relationship have been disclosed either for political or legal reasons, and then I have a series of other questions for you.

Barb:

Yes. As a matter of professional ethics, an undisclosed romantic relationship can be problematic when you are supervising someone with whom you have a romantic relationship, that can cause problems. When I was US attorney, my husband was an assistant US attorney in the office, and for eight years he was sent to work in the northern district of Ohio so that I did not have to supervise him. He refers to that time as the time when he was a political prisoner in exile. That's a conversation for another day.

Jill:

That is love.

Barb:

It is love, isn't it? What he did for love. I am forever grateful. But it's because it creates an appearance of a conflict of interest. And in this case, not only is there potentially a conflict as a manager, but there is a potential conflict when she is authorizing payments to him and even benefiting from those payments by going on vacations. So ethically, yes, quite different from whether that has anything whatsoever to do with the guilt or innocence of Donald Trump and his co-defendants.

Jill:

So let's move. You mentioned conflict of interest and you and Joyce did write this article that analyzes that no, when you're on the same side, it's not a conflict of interest. It's not at all the same thing as if, for example, he as a defense lawyer had represented one of the defendants and now is going to prosecute that defendant. That would be a conflict. So Barb, let's look specifically, you mentioned conflict of interest and let's talk about whether there's anything in the conflict of interest rules or the ethics rules or the law of Georgia, that criminal law maybe even that would make this a problem. And in your article with Joyce and Norm Eisen, you really analyze the conflict of interest and say, "Hey, they're on the same side. That's not a conflict of interest as it would've been if he had, as a defense lawyer represented one of the defendants and was now prosecuting as in if his relationship was with the judge. That might be a different story." So talk about that and talk specifically about the Section 12 of the rules in Georgia.

Barb:

Yeah, so first let's talk about conflicts of interest. When I was practicing and trying to determine whether there was a conflict of interest in a case, the most helpful mechanism for me was always think about which side of the V is the person on. Because if you're on the same side of the V, it's like United States versus Trump, Georgia versus Trump. That's the V, the versus. If the lawyers are all on the same side of the V and they've got some sort of relationship, that's not a conflict of interest. It is when there is some issue that has arisen between opposing sides of the V that there could be a conflict of interest. So Fani Willis is dating Donald Trump's lawyer. Maybe that creates some issue because now someone wants to pull some punches or Fani Willis is paying somebody on Donald Trump's side of the V. Maybe that's a problem, right?

Because maybe they're going to try to curry favor with her in some way to keep the money flowing. But when they're on the same side of the V, that is not a conflict of interest that in any way affects the defendant's right to a fair trial. In fact, before I was US attorney, when I was an assistant US attorney in the same office with my husband, he and I were trial partners in the same case. It was disclosed and it was no problem whatsoever because we were on the same side of the V. No conflict. It was an alignment of interest. So this issue, Jill, you asked about this section 12 and how that relates. So there is a prohibition from county employees of accepting gifts from contractors. And that makes sense as a matter of ethics. You don't want to be hiring people on the condition that they give you some sort of kickback.

And so, that could be problematic and that will be part of an ethics investigation against Fani Willis. Now, when she filed her response on Friday to these allegations, she said that when they traveled together, they each paid their own way. So it appears that they may be able to rebut that allegation that she in any way accepted. But regardless, there'll be an investigation, I'm sure about her ethics on all of this. Regardless of how that comes out, it has nothing to do with the guilt or innocence of Donald Trump and should absolutely not be a basis for dismissing the indictment against him or his co-defendants.

Jill:

Joyce, I have had three sensational meals this week preparing really high quality ingredients and it's because of HelloFresh. How has your experience been?

Joyce:

It's great. I'm one of these people, I like to go to the grocery store and shop and cook meals, but HelloFresh has so much convenience and the meals are reliably good. Jill, I know you serve them for company and you have won me over. This is just such a great way to have convenience and good food at

the same time. With HelloFresh, get farm fresh pre proportioned ingredients and seasonal recipes delivered right to your door. There are no trips to the grocery store, no wasted ingredients and no menu planning or grocery lists. Count on HelloFresh to make home cooking easy, fun, and affordable. That's why it's America's number one meal kit.

Barb:

Yeah, the routine in my family is at about six o'clock every night, my husband or I text each other and say, "What do you want to have for dinner tonight?" And the other person would say, "I don't know. What do you want?" "I asked first. I don't have to decide. I was the first to stake my claim. I don't have to say." And with HelloFresh, we can get away from kind of the rut of our routine. In fact, just last night, I made sweet and spicy soy garlic barramundi. Have you guys had that one?

Jill:

No, that sounds great.

Barb:

It was so good. And what was so good about it also is it smelled really good because it's got onions and garlic, so the house smelled really good. So it's mouthwatering good. And so, instead of staring blankly into the refrigerator or like me into your telephone wondering what you're going to order for dinner, you have HelloFresh to try and dig into their biggest menu yet with more than 45 recipes to choose from each week, HelloFresh knows that everyone is looking to revamp their eating habits and get back on track at this time of year. If that's you, look to HelloFresh's wholesome health forward options like more than 30 recipes that are calorie smart and protein smart every week. You'll think every meal is as delicious as we do.

Jill:

So Barb, unlike you, I discuss with my husband, which HelloFresh meals to order each week. And that's the only discussion we have to have. It's picking out. And I do use the calories smart ones. I will only order those categories because I want to keep them low. And the low calorie does not mean low taste or small. They're really filling in wonderful and they work with your schedule. Their plans are flexible and you can change your meal preferences, update your delivery day and change your address with few taps of the HelloFresh app. Imagine getting fresh quality produce from the farm to your kitchen in less than a week so you can enjoy the flavors of the season right at home.

Kim:

Go to hellofresh.com/sistersfree and use code SISTERSFREE for free breakfast for life. That's one breakfast item per box while the subscription is active. That's a free breakfast for life at hellofresh.com/sistersfree with code SISTERSFREE. And you know where you can find the link to HelloFresh, America's number one meal kit in our show notes.

One of the things I love most about this podcast is getting a better understanding of some of the more complex and complicated parts of the Trump cases that we cover. So I would love to ask the three of you about CIPA, the Classified Information Procedures Act. It's a good time to do it as the schedule in the Mar-a-Lago classified documents case is set to heat up in the weeks ahead. So Joyce, can you explain to us what CIPA is and how it applies generally in cases involving classified documents as evidence?

Joyce:

Yeah, I mean, it's a great question, Kim, because unless you happen to have been a federal prosecutor, maybe a defense lawyer who's handled this very narrow kind of case, you're probably not going to have had a lot of experience with CIPA. It's a procedural statute and it helps government lawyers figure out how to handle their discovery obligations in cases that involve classified information. But it's not a statute that creates any new substantive rights for defendants. So here's what happens. After a criminal indictment becomes public, prosecutors remain responsible for taking reasonable precautions against the unauthorized disclosure of classified information during the case.

And CIPA is a tool for doing that, for instance, by permitting prosecutors to ask the court to exclude classified information from discovery or permitting them to provide unclassified summaries of information that can be used at trial. And all of this is left up to the consideration of the judge. They do that ex parte. That means in this case that the prosecutors will be meeting with the judge alone. Donald Trump won't be involved because obviously he would be receiving the disclosures that they're prohibited from making if the procedures weren't ex parte. So it's a very standard process set forth by the statute. And in a case like this one, which is about the unlawful possession of the documents, but not the substance of the documents themselves, it's pretty straightforward and easy to apply, or at least it should be.

Kim:

So Barb, Joyce makes it sound so simple, but it can be complicated. You have some experience in this area. What's it like to be a lawyer in a case that involves CIPA?

Barb:

Yeah, the first thing you say is, oh no, because it just means there's going to be needless complication that you didn't want to.

Joyce:

And the judge is going to be mad at you from the get go.

Barb:

Yeah, it's going to be a pain. There's going to be a mess. But in a case where you are charging willful retention of classified documents, it's a given that they're going to be classified documents that you're going to have to use in the case. And the goal of CIPA is to prevent the defendant from engaging in what's called graymail, which is, "Yeah, I took them, but you can't do anything about it. If we have a trial, all this classified information's going to get out." And that's the whole point of the prosecution is protecting this classified information.

Kim:

I see. It's not blackmail but graymail, I get it.

Barb:

Graymail, yeah. And so, in an effort to get rid of that graymail problem, they created CIPA in the 1980s. And so, what a prosecutor does first is they look through all of their evidence and sees whether there is any classified material that would ordinarily be produced in discovery. That is the disclosure of evidence and other items that are material to the defense in the case. And in a case, again, of classified

documents, of course, some of the evidence is even going to be classified. So if you determine that you need to turn over some of that stuff, your first step usually is to request a CIPA hearing, which Jack Smith did some time ago. And it's not until recently that the court has said, "We'll actually have this CIPA hearing." So there has been some frustration with that delay. But when the time comes for the CIPA hearing, the prosecutor will actually go into chambers with the judge and a court reporter. It is all on the record and will have the documents with them.

It may be necessary if the documents are classified at a certain level that this be done in a skiff, a sensitive compartmented information facility. But the documents are put before the judge and the prosecutor will go document by document about how they think this should be handled. Maybe this can be turned over to the defense with a protective order. Maybe it should be excluded from the defense altogether because it is not in any way helpful to the defense. Maybe there can be some sort of substitution or redaction from the document that can be turned over and used. So for example, oftentimes, the only thing about a document that makes it classified is the source of information. I heard this from Kimberly Atkins Stohr, and if the world knew that she might be in danger, so if we can just redact her name, that might be good enough.

Or it might be that the mere fact that this information gets disclosed means that everybody's going to know it came from Kimberly Atkins Stohr. Here's the way I usually illustrate this to my national security class. When I first became pregnant, I was very excited, but wanted to keep it private until I reached a certain point in my pregnancy. So I told my sister and only my sister about this and my mother, maybe a few other very close family members, and that was it. And then suddenly, I start getting all these calls of congratulations from all my friends, all the people my sister knows.

Kim:

Oh, no.

Barb:

Do you think I was able to figure out who is the source of that information? So sometimes the very nature of the information itself means someone dangerous is going to be able to know who said it. Sometimes it's the method of collection that needs to be protected. Maybe there is a listening device in a particular location and you don't want to disclose that. So sometimes you can deal with it with redaction. So that's where it gets complicated, is figuring out the way to ensure that the defendant gets a fair trial and sees the evidence and can cross examine witnesses while protecting the interests of the national security community. And ultimately, it's the judge that gets to decide.

And so, sometimes the judge says, "No, you cannot withdraw that." "You cannot redact that." "You cannot remove that from discovery." And if that's the case, then the prosecutor has to make a choice of either disclosing the information or dismissing the case or dismissing counts because sometimes the intelligence community will also be saying, "This document can never see the light of day." And so, those are some of the practical battles that occur when you are having those hearings and working through these tensions.

Joyce:

And can I just add, the courts understand that these are important decisions and that the statute is not easy in large part because people don't have constant familiarity with it in most districts. And so, there are built-in mechanisms for the judge to have sort of an advisor who helps. And you can also get informal advice from other judges who have operated under the statute to lot. So it's not like they have

to act in a vacuum. The sort of thing that might've caused Aileen Cannon to say, wait from December 20th when the government filed its last brief and not schedule a CIPA hearing until February 15th, there's just no excuse for that.

Kim:

And speaking of Aileen Cannon, the reason that we're talking about all this, Jill, is because there was a hearing this week between Judge Cannon and special counsel Jack Smith's team. We don't know what happened because obviously it involves classified documents, so it was closed. But why did this hearing take place and why is it important?

Jill:

It is exactly what Barbara described, which is it is the discussion of what you're going to do with classified documents, whether they are relevant, admissible and helpful, which is the standard that will be used as to whether they go to the defendant, whether they'll be redacted, whether they will be summarized in a way that protects the classified information. It's really important in part because time is ticking away, and if this trial is going to go forward in May, these decisions have to be made because one of the reasons CIPA exists... And by the way, it was sponsored by Joe Biden as a senator, that was how this came to be. So it's sort of an interesting, ironic twist on this.

Barb:

Interesting to know, wow.

Jill:

So I think the question is if these things are intended to be decided not by motion in limine, which for example was used in the E. Jean Carroll case where Donald Trump wanted to introduce things that he was not allowed to, there was a motion to limit his ability to use certain defenses. And the same thing is true here. This is a way of saying you can or can't use this, it will be helpful to you or not. And so, it's important to get it done faster, sooner so that the trial can proceed as currently scheduled.

Barb:

Jill, how is it? You always appear so calm and collected. What is your secret?

Jill:

Well, it's not the fact that I get in bed and my mind turns off. I bet a lot of our listeners and all of you are like me. You get in bed and your mind is racing and all of a sudden you look at the clock and you've wasted 45 minutes of potential sleep and your nighttime doom scrolling goes to watching your social media feed. What I do, and you should do is let Calm help you form new and healthy bedtime habits. Calm is the number one app for sleep and meditation, giving you the power to calm your mind and change your life.

Kim:

Calm recognizes that everyone faces unique challenges in their daily lives and that mental health needs differ from person to person, and that time for meditation may vary. Since self practices are so deeply personal, Calm strives to provide content that caters to your preferences and needs.

Joyce:

That's something I really appreciate about Calm. If I just have three minutes or four minutes, there's still something that I can do and it makes a big difference for me. The meditations cover reducing anxiety and stress, relaxation and focus, building healthy habits and taking care of your physical wellbeing. They even have sleep stories. Everyone knows we love them with hundreds of titles to choose from, including sleep meditations and calming music that help you drift off to dreamland quickly and naturally. We also love their expert led talks on topics like overcoming stress and anxiety, handling grief, improving self-esteem, caring for relationships and lots more.

Barb:

The Calm app puts the tools you need to feel better in your back pocket. If you go to calm.com/sisters, you'll get a special offer of 40% off a Calm premium subscription. And new content is added every week, stress less, sleep more, and live better with Calm. For listeners of the show, Calm is offering an exclusive offer of 40% off a Calm premium subscription at calm.com/sisters. Go to C-A-L-A.com/sisters for 40% off unlimited access to Calm's entire library. That's calm.com/sisters. Look for the link in the show notes.

Joyce:

Lots of really great questions this week from our listeners. It's actually very hard to choose some weeks and so, we'll try to answer as many of your questions as we don't get to in the show, but have time for on social media, on our threads and on the site formerly known as Twitter. If you've got a question for us, please email us at sistersinlaw@politicon.com or tag us on social media. You can also tweet your questions using the #SistersInLaw. Our first question this week comes from Gail in California. Kim, this one's for you. Gail asks, "Since age seems to be an issue, what happens to judgments against Trump and Giuliani if they or the people who were awarded money die during the appeal process?"

Kim:

That's a great question. So what happens to litigants who pass away is that their estates become substituted as litigants in those cases. And a great example of this is a case I covered earlier. Remember Anna Nicole Smith and her husband who passed away, and then there was a big fight, a bankruptcy fight over the estate between the two, it went to both federal court and bankruptcy court. Well, then Anna Nicole passed away, but that case carried on for many years after the death of both litigants. Not only did her former husband pass away, but his son who was suing her also passed away and the case still went on. So their estates are substituted in and any judgment that is made is levied against the estate.

Joyce:

Our next question is from lisabamasox and anyone who uses the handle, lisabamasox has a question for Barb McQuaide. So Barb, here's the question. "Why was the Carroll defamation case against Trump in federal court and not in state court?" It's a great question.

Barb:

Oh, I'm so happy to answer a question from lisabamasox. That's an awesome name.

Joyce:

Lisa, I love you honey. Roll tide.

Barb:

So if you remember, this actually was originally filed in state court, but William Barr was the Attorney General at the time said that this was removable to federal court because the original allegation was made when Donald Trump was President of the United States and said that it was covered even potentially immune because he was a federal official at the time of the statement. So it got removed to federal court. Eventually they worked through it and determined that he was not immune from the civil liability for his actions, but it remained in federal court. And then, of course, there were the two cases, the companion cases, they tried the second one first and then the first one second. So this is the one that pertained to Donald Trump's statements at the time he was president, so it was the removal based on Donald Trump's status as a federal official.

Joyce:

That's a great question. And Jill, the last one is for you from Kevin in Bloomington, Indiana. "What do you think," Kevin asks, "Are the implications of Texas ignoring the recent Supreme Court order regarding razor wire at the border, isn't Alabama essentially ignoring them as well in the gerrymandering issue?"

Jill:

Great question from my neighbor in Indiana. I mean, Illinois is right next door, and the answer is, I am extremely concerned about Texas's conduct, the governor's conduct. I just wrote a piece for MSNBC analyzing some of the concerns that I have about that, and I can put that in the show notes. And I think it's really a danger for any state to be able to ignore Supreme Court order. Now, there is a lot of debate about whether he is defying the Supreme Court because the Supreme Court said that the federal government has a right to be at the border and has a right to remove the razor wire, and they are removing the razor wire. And then he has said, "And every time they do, I'm going to put it back." To me, that is definitely defiance of the court order. Other people do not agree with me on that.

So I'm going to leave it to you as to whether you think that putting it back is a defiance of the order that they can remove it or whether that's a difference without distinction. And I think it's a danger when they are claiming that they have a right to defend themselves from an invasion, which by definition requires an armed invasion, not a group of migrants seeking refuge in our country under the laws that allow all countries to take in refugees from places of violence. So I think it's a really terrible thing. And yes, the same would be true in Alabama saying they aren't going to change the map even though the Supreme Court told them to.

Joyce:

Well, we're ending on a little bit of a sad note this week, but we'll be back next week with more. Thanks for listening to #SistersInLaw with Barb McQuaide, Jill Wine-Banks, Kimberly Atkins Stohr, and me, Joyce Vance. Remember that you can send in your questions for next week by email to sistersinlawpoliticon.com. You can also tag us at [sistersinlaw.podcast](#) on Threads or tweet using #SistersInLaw. Remember, if you want to snag a #SistersInLaw mug, go to politicon.com/merch right now to get your hands on it. And please show some love to this week's sponsors, Thrive Causemetics, Happy Viking, HelloFresh and Calm. You can find their links in the show notes. Please support them because they really do make the podcast possible. Follow #SistersInLaw on Apple Podcasts or wherever you listen, and please give us a five star review. It really helps others find the show. See you next week with another episode, #SistersInLaw.

Barb:

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So I found something really great online, which was court sketches of Jill Wine-Banks in the courtroom during the Watergate trial. Pretty cool stuff. Jill, do you have them framed or anything?

Jill:

I have not the ones that somebody posted that were available for \$4,500, if you can imagine, on eBay-

Barb:

That's Jill Wine-Banks.

Jill:

... those I don't have.

Barb:

[inaudible 01:14:17] for that stuff.

Jill:

It was wild. But I do have a different one that looks to me like it's the same artist, and so I will give you all a picture of that. I also have one of me cross-examining Jeb Magruder, one of my least favorite witnesses of the Watergate era, which I haven't quite found the sketch yet. I found a photograph of the sketch, but I haven't found the sketch. So yeah, it's kind of weird to see those pictures from 50 years ago, very weird.

Joyce:

Jill, only you could have a least favorite witness from the Watergate era. I mean, that is so cool.

Kim:

Literally.

Jill:

Oh, don't get me started, about Jeb Magruder, really?