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Joyce: Welcome back to #SistersInLaw, with Barb McQuade, Jill Wine-Banks, Kimberly Atkins Stohr, and me, Joyce Vance. So far this month, we've been to Chicago, Detroit, and to New York where we picked up our Webby Award. Thanks to all of you who voted for us.

This week, it's Boston Week. We're headed up there for our live taping Thursday night, and I hope we'll get to see all of you, if you're in the area. That's Boston on May 30th. You can still get tickets. Go to [politicon.com/tour](https://politicon.com/tour).

This week in the show, we'll be discussing the Supreme Court's latest assault on voting rights, that's the South Carolina case that was decided this week, and also the ethics issues with Justice Alito, which just keep on coming. We'll also talk about the latest in Trump's criminal prosecutions and a new lawsuit. DOJ has sued Ticketmaster for antitrust violation. It's time for all of the Swifties to get their revenge. So lots this week, but lots more coming in the week ahead, and I wonder y'all, we timed it just right when we planned this Boston trip, right? I mean, we knew that this would be the case. Do you think that we're going to be talking about a verdict in the Trump case Thursday night in Boston?

Barb: Ooh, I don't know. Verdicts are made for Fridays, don't you think, Joyce? When it seems so often, juries get a case and then they're deliberating, it seems like they're in there forever, and then magically on a Friday afternoon, suddenly they have a verdict. It's like they all decide they want to go home for the weekend. So Thursday might seem a little early if they're going to get the case probably Wednesday.

Jill: Yeah.

Joyce: Yeah. I think that that's right, and personally I've thought that they might even let it go over a weekend. 34 counts is a lot to consider. Kim, what do you think?

Kim: Yeah, well, they'll be just coming out of a long weekend. I'm sure that they're going to be thinking about it individually anyway. I think that this case was put forth in a pretty straightforward way, so I would guess that the jury would come back quickly one way or another. I don't know. What do you think, Jill?

Jill: It's of course possible to actually predict, but if we're looking at this, we think Tuesday will be closing arguments, Wednesday will be a little bit of the instructions, and then the jury should start deliberating sometime Wednesday. And I think Thursday would be really, really quick because of the number of counts, but it wouldn't be impossible, so it could happen. It could even happen while we're doing our show in Boston on the 30th, but I think that Friday is really a likely time. I think that'll be done by then.

Joyce: One thing that's for sure is we'll have lots to talk about Thursday night in Boston. I hope we'll see you there. If not, listen on Saturday morning.

Barb: Joyce, have you been studying for your Helix quiz?

Joyce: You know, I didn't have to study for the Helix quiz. I was an A+ student. You can find your perfect mattress for the best sleep of your life when you take Helix's two minute quiz, you don't have to study, and match with a mattress customized for your body type and preferences. When I first took the Helix quiz, I was a little bit skeptical, but I matched with the Helix Midnight Mattress and I like it so much that I ended up getting Helix mattresses for everybody in our house, and everyone loves them. Your sleep will be better than ever with Helix. So upgrade to a mattress tailored just for the way you sleep. You'll never go back.

Barb: The Helix lineup offers 20 unique mattresses, including the award-winning Luxe collection, the newly released Helix Elite collection, mattresses designed for big and tall sleepers, and even a mattress made just for kids. There's something for everyone. Helix Designs cradle your body for essential support in any sleeping position, with enhanced cooling features to keep you from overheating. And if your spine needs some extra TLC, they've got you. Every Helix mattress has a hybrid design combining individually wrapped steel coils in the base with premium foam layers on top. It's the perfect combination of comfort and support.

Kim: Helix knows there's no better way to test out a new mattress than by sleeping on it in your own home, and that's why they come with a 10- to 15-year warranty, and offer a 100-night trial to try out your new Helix mattress. The setup is fast and easy, and Helix mattresses get delivered in a box straight to your door for free.

Jill: Helix has been awarded the number one mattress by GQ and Wired Magazine, and leading chiropractors and doctors of sleep medicine use Helix as a go-to solution for improved sleep. Now, Helix is offering up to 30% off all mattress orders and two free pillows for our listeners. Go to [helixsleep.com/sisters](https://helixsleep.com/sisters). That's [helixsleep.com/sisters](https://helixsleep.com/sisters). This is their best offer yet, and it won't last long. With Helix, better sleep starts now, and I bet you know I'm going to say you can find the link in our show notes.

Robert Hubble in his Substack today called Thursday's Supreme Court gerrymandering decision in *Alexander V. South Carolina* and *WACP Alito's gift to racist legislatures*. And it is. But it is also just the latest in a long line of cases that have gutted the Voting Rights Act that became law while I was in law school. That law took almost a hundred years to pass after the end of the Civil War as southern states continued to deny voting rights to black citizens. In recent years, the voting rights won have been under attack. So Barb, let's start with what just happened in SCOTUS in order of further diminishing voting rights.

Barb: Yes. So South Carolina came up with a new map that eliminated primarily a black district, and the court below, a three-judge panel, struck it down, finding that it was a violation of not only the Voting Rights Act, but the equal protection clause because it was based on race. It diminished the voting power of black voters. And what the Supreme Court said was a while back in a case called *Rucho*, they said something that was really disturbing and alarming but is now precedent, and that is political gerrymandering is permissible, it is not judiciable. It's a political question, and so courts are unable to do anything about a district map that is based on favoring one party over the other. And so what South Carolina said is like, "No, no, no, this wasn't about race. This was just about

putting a thumb on the scale for Republicans, and that's okay. That's all we were doing here."

And so the Court overturned the lower court that had struck down the South Carolina maps, reinstated them finding that the court below, which of course, keep in mind, appellate courts are usually very deferential to factual findings of courts below, but found that their findings were clearly erroneous and that the plaintiffs have failed to show that these maps were based on race, and that we should presume state legislatures act in good faith. So as long as they say this was based on preferring the Republican Party and not preferring the white race, then that makes these maps okay.

Jill: And needless to say, this was a 6-3 decision, and there was a very vociferous dissent. Joyce, can you describe the dissent and tell us why they were angry about this?

Joyce: Yeah. Justice Kagan wrote in her dissent that the Court, that the majority appeared more concerned about challenges to racial gerrymandering, about alleging that legislatures were racist, than with the state legislatures that put these kind of practices into place. And I think that's the key to the dissent, right? Are we going to let people get away with racism in the guise of politics? So here's how Justice Kagan framed the issue. She noted that the map makers who weren't content with what the election data revealed also reviewed and heavily relied on racial data. And she points out that means exploiting the well-known correlation between race and voting behavior. So she concludes that if that's true, if they did that, the challengers have a good constitutional claim because the equal protection clause forbids basing election districts mainly on race in order to achieve partisan aims.

And so Justice Kagan says the key question for the Court is in drawing district one, did the map makers consider voting data alone or did they also closely attend and respond to which residents were black and which were white?

Of course, as she points out, that question was answered by the court below. Barb talked about this a little bit. That court heard testimony. I mean, they stared at the whites of the witness's eyes and heard it all firsthand in a way that the Supreme Court simply didn't have access to. But the Supreme Court, the majority disagreed with the fact-finder's conclusion, and Justice Kagan calls them out point blank for that, saying that normally, in any sort of a case, fact-finding decisions are deferred to, and only reversed when there's clear error, and then she goes through a litany of reasons about the court's pretzel logic in reaching the conclusion that there was error here when in fact there wasn't anyone. It's a pretty sharp dissent. She just really, I think, has done mincing words, and is very clear about how much she dislikes the approach that Justice Alito took.

Barb: Yeah, did you see her concluding comments, Joyce? She says something like "The American people, state legislatures in this court deserve better than what the majority decided."

Joyce: It's the third time that she has done that in a dissent. I think she's rapidly approaching the boiling point.

Jill: I think this was it, and it was a really, well-written, lots of quotable lines from that decision. But Kim, what's the history of how we got here? And is racial gerrymandering now okay, as long as the state claims it's just partisan? And why is being partisan okay?

Kim: Yeah. So first, I want to say as to Elena Kagan's dissent, not only was it perfect in its substance and also its blistering tone, but I'm glad that she wrote it. I know she often writes on voting rights issues, but of the three more liberal-leaning justices, I think it's important that the stakes that she laid out were done by her and not by Justices Jackson or Sotomayor. The burden of talking about racism shouldn't always be on those in the groups that have been historically marginalized. And it's nice when it's done by others. I know Justice Breyer used to be very good in his opinions, often dissents on voting rights issues too. So that was good. I think America needs to see that.

But anyway, yes, how do we get here? Yes. So as Barb said, there was a case called Rucho that came out a few years back, which came up with the absolutely mind-blowing conclusion that, "Hey, you know what? Partisan gerrymandering, which is bad, everyone, partisan gerrymandering is bad. Voting districts should be carved up fairly based on geographics and other factors. It shouldn't be carved up to purposely try to game the outcome of an election. That's not how democracy is supposed to work."

But anyway, that's been going on for a long time. And when a challenge came to say, "Hey, well this is unfair," the Supreme Court said, "Not only do we not think it's unfair, we can't even touch it." Because this is, as Barb said, a political question. So the first thing I said after that decision came down was you just wait, because very often, particularly in the South, but in other places in this country too, the Venn diagram between a racial gerrymander and a political gerrymander is a circle. And all people have to do now is say, "Oh, well this was a political gerrymander. It's nothing to do with race," even though we very carefully carved out tens of thousands of black people out of Nancy Mace's district and dropped them into Jim Clyburn's district. It was totally just about politics.

And up until now, there was at least a chance you could sue and go to court and try to prove that this was a racial gerrymander based on the data. Well, now, this opinion written by Justice Alito basically makes that all but impossible. You have to come up with an alternative map. The burden is on the people claiming that it was discriminatory to come up with some alternative map that would have met the other party's political needs without considering race. Why should that be their burden? That doesn't make any constitutional or legal sense, and also some other factors that basically makes it impossible.

So yeah, I agree with what you said, that this basically invites legislatures to racially gerrymander in a way that violates not only the Voting Rights Act, equal protection laws, but also the 15th amendment, in my opinion. And what's even harder about this is that it was written by Justice Alito, and we'll talk a little more about it later. But it's one thing to have a very conservative view about constitutional or statutory interpretation. It's another thing entirely when it feels like justices are outcome-driven and that they want to help Republicans win because they like what Republicans are doing. And that, to me, is exactly what this opinion feels like.

Jill: So Barb, there's one other opinion to talk about, and that was Clarence Thomas concurring in part. Can you describe what he agreed with and what he disagreed with?

Barb: Yes. This one's a real trip. So he agrees with the outcome here that this case should be reversed. But what he says is, "But not only are these maps permissible, but just like partisan gerrymandering, this Court should not look at racial gerrymandering either, because the argument is that these maps are diluting the black vote, and there's no such thing as the black vote. Because the constitution is colorblind. Diluting from what? What's the measure? What's the bar? What's the standard? So he would say that even racial gerrymandering is permissible under the Constitution. He even cites Brown versus the Board of Education as an example of where the Court overreached in remedies.

And so you guys were talking earlier about how the court, Kim, you were saying, takes one step and it's just one step of many of where we're ultimately going to go. So today, the majority says this map did not violate racial gerrymandering, but I think Clarence Thomas previews where we're headed next, which is racial gerrymandering is okay, which is really just made my eyes pop out of my... You talk about your eyes popping, ladies. My eyes were popping when I was reading the Clarence Thomas concurring opinion.

Jill: Yeah, it was terrifying. And remember, he predicted a lot of the outcome on abortion in that decision. So he's saying out loud what's coming next. And so that leads us to the question Joyce, is this the end of voting rights? It's created a very high bar for plaintiffs, and it's even said, if you don't have an alternative map, well then it's all over. And I can't even think of another case where the court has said, in future litigation, this is what your burden is. Can you think of anything? And is this the end of voting rights?

Joyce: Look, this is not the end of voting rights. This is one species of voting rights cases about gerrymandering, about how maps are drawn. It is a bad case, it's bad news. It makes it a lot more difficult and way more difficult than it should be to win a race case in gerrymandering. The case gives smart politicians, smart and corrupt politicians a roadmap for cloaking their racism in politics and getting away with it like the South Carolina legislators did. But it's not the end of voting rights. DOJ can still bring challenges under other provisions. One real problem with that is that the Supreme Court's trajectory over the last few years has been to narrow the scope of those challenges and who can bring them and what it comes down to. And I hate to make it a matter of politics, it really shouldn't be, but it ends up being one. As long as there's a democratic administration with a democratic AG, there will be voting rights challenges brought by the Justice Department.

I fear that that will not happen. I mean history shows it does not during Republican administrations. And to the extent that the court has begun to say that only DOJ can bring challenges under these statutes where it's very difficult for private parties to bring them, then in big part, the fate of federal litigation over voting rights will turn on who's in power in the White House.

But that's not everything, right? The most important way to protect voting rights is at the polls. Because if you elect state representatives who are more committed to the power of the vote than they are to their own personal power, elect state officials who are interested

in letting the voters pick their elected representatives, not in letting politicians pick their voters, then this problem recedes.

Barb's state of Michigan is a great example where they now have a nonpartisan commission that draws their voting maps. You don't have to vote for anyone who presents themselves on the ballot. You can actually go out and ask these folks, "What are your views on gerrymandering? What do you believe in?", and select your politicians based on their views, make sure that they understand that this is an important issue for you. So look, we need to do that everywhere. We need to focus on voting. I have a new motto when it comes to voting rights and just about everything else these days, and it's "Don't despair. Vote."

Jill: That is the best advice, for sure. And Kim, is there any legislative solution or anything besides voting? Which I agree, the advice I would give everyone is be informed, be involved, and get out the vote. Not just yours, but all of your neighbors and all of your friends, and all of your family. Get them to vote. But is there anything else to be done, Kim?

Kim: Well, voting is the legislative solution, because you'll be voting for lawmakers and demanding that they do something about this.

Jill: And it's already been mentioned that Alito wrote the majority opinion, and Roberts released it the same week that we learned he had flown two different flags over two houses that represented support for the insurrection and Christian nationalists. So let's talk about ethics again. What can we expect in terms of neutrality from a judge, especially a Supreme Court justice is saying out loud what we all knew he believed. Is that any worse than his deciding the case based on those beliefs?

Barb: Well, I think so. The ethics code, whatever they called it, that they adopted last year, it's not really enforceable, but one of the things it says is that they should conduct themselves in a way that does not cause the public to doubt their impartiality, or words to that effect. And I think that means that if you're justice Alito, you've got to think about things like the flag you're flying from your home. And first it was this upside down flag and his excuse was that my wife did it, which was a pretty sorry excuse.

And then he is got this other one, this appeal to heaven flag, which aside from its use at the insurrection, also suggests this idea that religion is something that is more important than the rules of government. And certainly he's entitled to his religious views, but when you are in the position of a Supreme Court justice, I think that suggests that you are making decisions based on one religion over the other, which is a violation of the First Amendment. And so I do think this is a problem. I don't know how we solve it other than finding some way to impose some enforcement mechanism for this ethics code. That was a good start. But obviously it's meaningless if there can't be any sanctions or enforcement when one of the justices violates it.

Joyce: So Barb, I know you've had some great results with Framebridge, using them to frame some art, like some national parks posters. I actually have some stuff lying around the house, a collection of old coins that belonged to my husband's great uncle that I'd like to get framed, and I'm wondering, can Framebridge do that too?

Barb: Ooh, what a fun idea. Yeah, Framebridge can do anything. If you're like me, every year I end up with even more frameable things. There are diplomas, wedding invitations, posters, travel souvenirs, paintings, and so much more.

Jill: I have a lot of art and memorabilia on my walls. There's nothing better than feeling the unique energy of your art and style throughout your home. That's why we're such big fans of Framebridge. Not only can they frame just about anything, but the process is super easy and affordable. Just upload a digital photo for them to print or mail your item directly to them using their free, secure, prepaid packaging. Then, FrameBridge custom frames your piece in their studio using the highest quality materials and ships it straight to your door for free, within days. You can easily order online at FrameBridge.com or visit one of their 20 plus retail stores in cities across the country, including mine, where experts are standing by to help. I'm very excited to get my sisters-in-law new live tour poster framed.

Barb: It's so much fun to work with one of their design experts to choose the perfect frame from Framebridge's curated selection. You can create your own personal gallery. Most importantly, the upfront pricing is fair and transparent, based simply on your item's size.

Joyce: Framebridge is great for gifts, and happiness is guaranteed. That means if you're not 100% happy with your piece, they'll make it right. See why Framebridge has been trusted to frame over 2 million pieces. Visit [framebridge.com](https://framebridge.com) or a local Framebridge store to get started and custom frame just about anything. That's [framebridge.com](https://framebridge.com). You can also find the link in our show notes.

Barb: Well, a lot of developments in the various Trump cases this week, especially the Manhattan trial involving election interference in the 2016 election, closing arguments in that trial in Manhattan will take place on Tuesday. Of course, the prosecution must prove beyond a reasonable doubt that Donald Trump caused the falsification of business records with intent to commit or conceal another crime.

One of the interesting things is that prosecutors can prove their case if the jurors find that Trump intended to conceal any one of several possible underlying crimes. Accepting a campaign contribution from Michael Cohen over the legal limit of \$2,700, accepting a corporate contribution from the Trump organization in the form of reimbursement to Cohen, failing to report the contribution, using Cohen as a straw donor, causing a false state income tax return to be filed. There's a whole number of possibilities. And so Joyce, I want to ask you, the law is particularly favorable here for the prosecution, because those underlying crimes are considered manner and means and not elements of the offense. Can you explain how that works in the jury instructions?

Joyce: Yeah. So it's important to note, we don't know exactly how the judge will instruct the jury. This is very frustrating. The judge is not releasing the jury instructions in advance of giving them. We'll have to wait until after he reads them to the jury, and hopefully, at that point, we will see them. So I just want to caveat this by saying I can't predict what the judge will say. There was extensive conversation during the pre-charge conference, but we don't know where he landed. But presumably he'll instruct the jury that the prosecution needs to prove that Trump had an intent to commit one of these object crimes, the campaign finance or the tax crimes, but it's not a mini trial about whether that

crime occurred. This means, as Barb says, that the prosecution's burden here is pretty slim.

I think about this, and I may have said this before, the distinction between trespass and burglary. When it's trespass, you only have to prove that somebody is on your property without permission to be there. But for burglary, the prosecution has to prove that they intended to commit another crime when they entered your property illegally. And that's how this crime works that we're looking at. This business records crime is a misdemeanor, if it's just causing false business records to be created. But if the prosecution establishes that Trump did it with the intent to commit another crime, then it becomes a felony. But don't think that that burden is any heavier than it is. It's really more of a manner and means of committing the crime than that substantive crime itself.

We will watch carefully for precisely how the judge instructs the jury on this. I'm sure we'll talk with you about that at the end of the week, because it will have a big role to play in the jury's deliberations. This is a very important point to pay attention to.

Barb: And this week, of course, the prosecution rested on Monday, and then the defense put on its case. They called only two witnesses, a paralegal regarding some phone records, and then Robert Costello, who was a lawyer for Michael Cohen. Kim, let me ask you about Robert Costello's testimony. I thought it was really interesting. What did you think of his testimony?

Kim: Yeah, so he was brought on, in terms of the substance, I'll get to the style in a moment, but he was brought on, as you said, he was a former attorney for Michael Cohen, and he was brought on because he was consulting with Michael Cohen at the time that this whole hush money scheme is alleged to have come together. And his purpose was to get on the stand and testify that, "You know what? When I talked to Michael Cohen, at the time in 2018, he said, 'No, no, Donald Trump didn't have anything to do with any hush money payments. I did it out of my own goodwill,'" or whatever. He said he was trying to deny any link between Donald Trump and the payments that were being made to Stormy Daniels. Of course, here we are now with Michael Cohen being one of the lead witnesses for the prosecution, and laying out that this all had to do with Michael Cohen, and it was meant to not only rebut the factual assertion, but also knock Michael Cohen's credibility.

Maybe he did that, he did testify to that, but he came across, so, I don't know, Trumpy. He's totally a guy out of Trump world.

Barb: Isn't he?

Kim: He gets on the stage, and he's being flippant, and he's muttering under his breath. He's talking back to the judge. And so Judge Merchan was like, "Just answer the question," admonished him a couple of times. But he kept doing it, also saying when someone object, saying, "Strike that," like he was the judge, right? And Merchan had enough. He cleared the courtroom, he got the jury, took the jury out at one point, even took the reporters out, and said to him, basically, I'm paraphrasing now, "This is my courtroom buddy, not yours, and either you act right, or I'm kicking you out of here, and I'm striking every bit of your testimony." And he said that to Trump's attorneys too. And even then, apparently, Costello was staring down the judge, and Merchan was like, "Are you staring me down?"



Joyce: Yeah.

Kim: It was like-

Joyce: You giving me the crook eye?

Kim: It's like something out of My Cousin Vinny.

Joyce: It really was.

Kim: I mean, it's crazy. So I can't say overall that this witness probably did the defense any favors. Like as we said last week, if you're a defense attorney and you are trying to rebut a case like this, very often the best thing to do is just to rest after the prosecution is done, because the burden's on the prosecution. If you don't know for sure you're going to help yourself, don't hurt yourself. And I think Costello might've hurt them.

Jill: Can I just add to that that, number one, I think he definitely hurt the defense. And secondly, I was lucky enough because I have not seen any witnesses in this case as none of us have because there aren't cameras in the courtroom. But I testified alongside of Costello before the Senate, I'm sorry, before the House Judiciary Committee, and I got a preview of what he was going to do. And I'm not sure that Michael Cohen was ever his client. He was trying to get him to be his client, and Michael Cohen showed the good judgment to say, I don't trust him. I'm not telling him anything about Donald Trump. I'm not going to... He held up what he called a waiver, and he waved it around saying, "I have a waiver of attorney-client privilege."

Kim: That's not how a waiver works. You don't wave it.

Jill: I didn't even mean to be funny.

Kim: Maybe he doesn't know that.

Jill: But it was not even on regular bond paper. It was on some kind of thin thing that in the old days was called onion paper or onion skin paper. And he's flipping it around there, and I'm thinking, I want to see that. I don't believe that this is an attorney-client privilege waiver, and I don't believe that Michael Cohen ever hired him. And he showed good judgment in not doing it. It was outrageous. And representative Dan Goldman, our old friend from MSNBC, really laid into him and did a great job saying, "You're in the wrong place. If you're going to be here to interfere in the trial that's ongoing and to assassinate the character of a witness who's testifying as you're doing it, then you should be there." And of course, he ended up there and it was a disaster. The last thing this jury had in its mind when it left for this long weekend was him being destroyed on cross-examination, and one of the best cross-examinations. I think all of us would agree, one of the best we've ever seen.

Barb: Yeah. On that cross-examination of Bob Costello, they were able to pull out all his emails about, like-

Joyce: Yeah, yeah.

Barb: "Don't forget, Michael, you have friends in high places. You sleep well tonight, my friend." It's like out of a mafia movie.

Kim: He's a bad one.

Jill: It was-

Kim: Oh my gosh.

Jill: And this is after he said, "I never pressured him." And there it is, right in the emails, to his son, to his partner. It was absurd and horrible.

Kim: Do you guys think that Trump made his team put... Because I can't believe, like Todd Blanchard-

Barb: Does seem Trumpy, doesn't it?

Kim: ... is not an idiot.

Barb: It seems Trumpy.

Kim: Do you think that was Trump? No. Put Costello on.

Speaker X: [inaudible 00:33:04].

Barb: He's tough.

Jill: You know-

Barb: [inaudible 00:33:06] central casting.

Joyce: And I hear Susan Necheles was moving further and further away from the rest of the trial team. She's the good New York lawyer in the mix. Pretty-

Barb: She's so dignified.

Kim: That floor opens up below.

Joyce: She's like, please God, make this end now.

Barb: Man. Well, Jill, let me get to the rebuttal case. We just talked about the defense case. The rebuttal case was very short. The one thing they put on was a screenshot from a TV clip showing Donald Trump with his bodyguard Keith Schiller at like 8:02 PM. Tell us about the significance of that and whether you thought that was effective.

Jill: I thought it was very effective. Here's why they did it. The defense had tried to take down the testimony of Michael Cohen about a particular phone call, he said, in which he said, "I told Donald Trump. I called Keith Schiller, and I asked him to put Donald Trump on

the phone, and that's when I told him what was going on, and that Stormy Daniels was taken care of." And the defense said, "You couldn't have done that in such a short phone call." And by the way, let's just take a pause for 90 seconds and everyone will see how long 90 seconds is. But aside from that, and they also had evidence based on emails that he had discussed a teenager who was harassing him.

And so they said, "Well, if you discuss that, then there wasn't time for you to discuss anything about Stormy Daniels. And besides, how do we know that he gave him the phone?" And at the very moment that that phone call took place, just before it, there is this picture of Keith Schiller standing right with Donald Trump, and it was very effective in showing that they were together at the right time, and that if Michael Cohen called Keith Schiller, yeah, he could have easily turned the phone over to him, and in 90 seconds they could have done absolutely exactly that. So I thought it definitely destroyed the cross-examination of Michael Cohen.

Barb: Absolutely. And haven't you guys seen that defense attorneys do this where they, "Aha, it couldn't possibly..." It's like an Encyclopedia Brown book, and they've caught Bugs Meany in a lie, and all those. Remember, because you lie about one thing, then the whole thing falls apart. Yeah, we can talk about two things in 96 seconds. Hey, boss, it's taken care of. That takes about what, five seconds? I think it's quite possible that that happened. So I think they really overreach there. Well, let's talk about the closing arguments. Those are going to be on Tuesday, and I'm just curious to ask each of you, maybe just one thing or one topic you might be looking for, or one strategy, whatever it is, either for the prosecution or the defense. Joyce, I'll start with you.

Joyce: Yeah, I think I'm the minority view that believes that the jury will have to accept Michael Cohen's testimony in order to convict. And I know a lot of people think that there's plenty of circumstantial evidence that would permit a conviction even if they reject Cohen's testimony, but I really think that in order for this jury to unanimously get together, they'll have to come to some understanding of why they believe his testimony on this particular matter is credible. So that's what I'm looking for from the prosecution. What sort of litany or narrative will they put together for jurors? What sort of ammunition will they give to jurors who can take this back into the deliberation room to use an argument with other jurors who may need more persuasion? I think this is one of the heaviest burdens on the prosecution going into deliberations.

Barb: Yep. Okay. Fair enough. Kim, how about you? What are you looking for in closing?

Kim: Keep it short. Just pull it all together. Draw the lines together. Keep it short. The jury's got this. They're New Yorkers. They know guys like this. They're intuitive.

Barb: Oh, interesting.

Kim: They got it.

Barb: Yeah. Okay. How about you, Jill?

Jill: Yeah, I think that the case, I disagree with Joyce in one of my rare disagreements with her, because I do think-

Joyce: A lot of people disagree with me on this, to be fair.

Jill: I mean, I think that Michael Cohen is important, and I believe that Michael Cohen is believable, and that his credibility was bolstered by Costello falling apart, by the photograph that showed that he was telling the exact truth. I think he came across as credible and that the jury will believe him, but I also do believe that there is enough circumstantial evidence that corroborates every single thing he said, except for maybe "I was in the room with Donald Trump alone." Okay, those are only him and him alone, but that is not necessary because there's so much corroboration.

I expect the prosecution will lay out all the facts, quickly summarizing everything they've proved, and affiliate them with the various elements of the crime that they have to prove. They will have to settle on one of the crimes that was the purpose of the false records, although they actually don't, because under the law, the jury can have three or four different views of which law was the intended target. It doesn't have to be that they all agree it was for New York State taxes or that it was all for New York State election law. So that'll be interesting.

The prosecution has nothing... I'm sorry, the defense. The prosecution has everything. The defense really has no defense. To the extent that they put on Costello. It worked against them, not for them. So the only thing they can do is attack the reasonable doubt standard and attack Michael Cohen, attack Stormy Daniels. But they came across very credible to me. So I don't see this as a very good case for the defense to be arguing. And they haven't done a very good job so far, so there's no reason to think that they're going to have a splendid closing argument that's going to go, "Oh, I see. I get it."

I think this is going to be a fairly quick decision, and the standard that we all go by is that the longer the jury is out, the worse it is for the prosecution. And I think in this case, I don't know, and I don't know what long is in this case, but if they go into a long time of the following week, then I'd be worried. But other than that, I'm very comfortable with what's happening and looking forward to the end of this trial and the end of the storm.

Barb: Well, for me, in closing arguments, one of the things I would be looking forward with the prosecution, and Kim, I think this goes back to your idea of keeping it simple, I remember going to trial school for new assistant US attorneys, and being told that when the government loses a case, it is usually not because the jury did not believe their case, it is because the jury did not understand their case. And so for that reason, it's always important to think about how to explain what could be a complicated, legally or factually, in a way that a jury can understand. And people are coming from all walks of life, they're not lawyers, although there are two on this particular jury. But you want to make sure everybody understands the legal theory here.

And so I can remember a case, I had a pretty complex money laundering case once, but I had this illustrator who worked for the IRS who made these beautiful charts for me that showed a big pot of money on a chart, and then how three different streams came out of that pot and went into different bank accounts, and she drew little bank buildings, and then from there, they all reassembled again in the bank account that belonged to the defendant. It was beautiful, and what could have been very complicated was suddenly incredibly easy to see, and a jury could understand it in an instant, in the same way I recall some colleagues trying a RICO case did something really brilliant, I thought, which

was in that case they had to find that two predicate crimes were committed to establish a pattern of racketeering activity, but they could be any two among a large selection, but the jury had to agree on which two.

So they referred to it as the Panera bread doctrine. That is you pick two, it could be soup and salad, it could be salad and sandwich. You pick two. It could be extortion, it could be arson, it could be bribery. You pick two. So I thought that was a really great way to sort of simplify it.

And similarly here, as Jill just said, the jury can find that any one of a number of several possible crimes were that crime that was intended to be concealed by Donald Trump. A whole litany of campaign finance violations, tax violations, and the jury need not be unanimous on which of those things it is. So in that way, the law is really stacked in favor of the prosecution.

So I think as long as they explain that aspect cleanly and clearly, maybe you use a little chart to show it, with a little umbrella or something, as long as they do that and the jury understands this, I think a conviction is highly likely here unless you get some sort of Trump holdout. Well, in other Trump news this week, if you can still keep up, there was a contentious hearing on Wednesday before Judge Aileen Cannon in the Mar-a-Lago documents case. Joyce, what was that one all about?

Joyce: Yeah. Go figure. Judge Cannon has been complaining that she can't try the case. She can't even set it for trial because of the backlog of undecided motions. But of course, that's totally her fault for not deciding any of the pending motions. On Wednesday, she set two of them for a hearing. The first was Walt Nauta's motion for selective and vindictive prosecution. And then there was sort of a technical motion about the sufficiency of how the indictment was pled. But the fireworks happened in the first one. One of Walt Nauta's lawyers, he's told this story before, says that prosecutors tried to sort of essentially bribe him into getting his client to cooperate against Trump. He claims that they reference the fact that he was up for a federal judgeship and suggested that it might go better for him if he cooperated his client.

In court, the prosecutor David Harbach dismissed those claims as nonsense, and he called it a garbage argument. He was pretty angry, telling the court that Mr. Woodward's story, that's Nauta's lawyer, Mr. Woodward's story about what happened at that meeting is a fantasy. It did not happen. So if that's the shot, here's the chaser. After scheduling the hearing and convention about the backlog of motions, Judge Cannon didn't decide anything during the Wednesday hearings. And in fact, when I checked the docket this morning, still had not made a decision.

Barb: Yeah, this reminds me of the Fani Willis Nathan Wade sideshow. Right now, they're going to try and make a sideshow about this conversation that apparently didn't happen about whether this guy was going to become a judge. Kim, let me ask you about another aspect that came out of this case. Trump also made a false accusation that an FBI document revealed that there was an assassination plot against him. What do you make of that claim and that effort?

Kim: Yeah, so not only Trump, but a lot of his acolytes have been forwarding this false claim that not just that there was an assassination plot on Trump, but that it was orchestrated by

Biden. That is a horrifically dangerous and very, very, very, very false claim. So this is what it comes from. When the search warrant was executed at Mar-a-Lago, to find these classified documents, that warrant contained language, including standard language, that defines the limits of what the agents conducting the search can do. And part of that language says "Law enforcement officers of the Department of Justice may use deadly force only when necessary, that is, when an officer has a reasonable belief that the subject of such force opposes an imminent danger of death or serious physical injury to the officer or another person."

People have been forwarding the language of that, only the first part. "Law enforcement may use deadly force only when necessary," but omitting the "only." So they're saying, "Oh, basically they could go in using deadly..." That is not true. So that's one part of the lie. Another part of the lie is this was done by DOJ. Joe Biden had nothing to do with it. There is a separation, in the Biden administration anyway, between the White House and DOJ. This was just a search warrant. The same language was used in Joe Biden's search warrant. The same language was used in Mike Pence's search warrant. So we're used to misinformation, disinformation. Barb wrote a whole book on it, but this one is so particularly horrific that I was really gobsmacked by it, and I would want... I don't know if there's anything that can be done to penalize somebody telling such an obvious lie, especially one that could incite violence and incite something terrible happening.

Barb: Yeah, I'm watching this one too, Kim, because this reminds me a lot of when Donald Trump falsely accused the FBI of planting evidence at Mar-a-Lago, and then the next day, a man posted on social media that we've got to go after the FBI. He went to the FBI with an assault rifle and was later killed that day in a standoff with police. So some people will laugh this off and say it's so ridiculous, but others will believe it to be true, and it will incite people to violence. So it's incredibly reckless.

And by the way, I'm sure some of you, Joyce, I'm sure you've seen these search warrant operations plans. They provide all of this policy stuff and all kinds of contingencies in case something goes wrong, like it'll have the nearest hospital on there, a bunch of different routes to get there in case there are road closures or some chaos ensues. And these policies are all there because there's a whole briefing that gets done for the team before they go in on a search to say, this is a reminder about this and this, so that they're ready for any kind of events that might transpire, including somebody fighting back.

In this case, of course, they alerted the Secret Service. They gave them a heads up. They didn't even wear FBI jackets. They wore polo shirts so as not to alarm people. They waited until Trump was out of town. It couldn't have been more of a soft touch than it was. And so that makes these-

Kim: And he could have just handed the documents over.

Barb: For 18 months.

Joyce: But it's an important point, right? This is standard policy on an ops plan, and the reason the deadly force advisory is included in the ops plan is so that if something does go wrong, FBI general counsel requires it. So they can say, "We briefed people." Joe Biden, right? They didn't have to get a search warrant for Joe Biden's homes because he voluntarily cooperated, but people from Robert Herr's team, the special counsel's team,

have revealed that the ops plan for the Biden search has also included a deadly force warning.

Barb: Yeah. Well, one last topic, Jill, you flagged something that was interesting in the Georgia case against Donald Trump. The prosecution apparently plans to appeal the court's decision to quash six of the charges in that case. You may remember that there were six that the court said there was a failure to state a claim as alleged. Do you think those appeals are likely to succeed and that it's worthwhile to appeal when they've got many other counts that still stand?

Jill: So that's a complex question. Of course, they have the most important, the RICO counts still stand. So do they need these? Probably not. But you never know what a jury is going to do. And so having more means that you are more likely to find a count on which there will be unanimity. The reason that it's strange is, one, it's a long time after the decision that they're now deciding to appeal. Number two, it guarantees additional delay. But countering that is the fact that there's already a delay because the court has granted permission to appeal the ruling that Fani Willis can stay on the case, that she is not forced to recuse in this case. So we know there's going to be a delay anyway. So maybe they weren't appealing earlier because they didn't want to delay it, but now that there is a delay, they're saying, well, as long as there's a delay anyway, I may as well get these extra counts put back in. But then there's one more question in my mind, which is why didn't they just specify more detail and redraft the indictment-

Barb: Yeah. Right? Just re-indict. If you're going to... exactly,

Jill: [inaudible 00:49:48].

Barb: ... all this delay.

Jill: That would've been-

Barb: They can handle it.

Jill: ... easier to me. So, as I say, it's not that clear a question as to why, but it's sort of like, well, why not get in more counts? But I would've probably, immediately after the decision, I would've re-indicted with more specificity. So I don't know why they didn't do that. Maybe at the time they thought, "Oh, it doesn't matter if we do that. There will be a delay because it's a new indictment." And now they're saying, "Well, as long as there's a new appeal that's going to delay the case to the point where it is almost impossible that it could possibly go before the election, we may as well do it."

Barb: Well, I know what we'll be talking about in 2025.

I don't know about you, but I have been the subject of identity theft more times than I can count. And now we're fighting back, which is why we're thrilled to partner with Aura. Aura is an all-in-one online safety solution that protects you by controlling what information about you and your family gets sold online without your consent. Data brokers are legally required to remove your personal information if you ask, but they make it extremely difficult. Aura automatically and regularly submits opt out and take

down requests on your behalf, reducing robocalls, telemarketing, phishing, text messages, and junk mail.

Joyce: They offer a whole suite of tools to protect you and your loved ones, including real-time alerts on suspicious activity, computer virus protection, a VPN, a password manager, and even parental controls. It's a comprehensive online safety solution that provides the tools you need, all in one place.

Jill: And that's not all Aura. Also monitors identity theft, financial fraud, and other online threats before they happen. With Aura, you can rest easy knowing that someone is looking out for you. Aura even scans the dark web to look for your email addresses, passwords, social security numbers, and other sensitive information. If anything is found, you'll receive a real time alert. When you're a victim of ID theft, their experienced white-glove fraud-resolution team helps you navigate credit bureaus, initiate credit freezes, and locks, and works with you around the clock to resolve it.

Kim: 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](https://aura.com/sisters). That's [aura.com/sisters](https://aura.com/sisters) to sign up for a 14-day free trial and start protecting you and your loved ones. That's [aura.com/sisters](https://aura.com/sisters). Certain terms apply, so be sure to check the site for details, and you can also find the link in our show notes.

Hey, Swifties, this one's for you. And also you Bruce Springsteen fans too. Thursday, attorney General Merrick Garland announced that the Justice Department is suing Ticketmaster and its parent company Live Nation, accusing them of having an illegal monopoly over the live entertainment industry. The DOJ alleges that monopoly not only causes concert ticket prices to be exorbitant, but it also puts artists over a barrel because there's really no other way to sell tickets to big venues in many states. That, plus its outdated technology causes fiascos. Like if you remember Swiftmageddon of 2022 when 3 million people tried to buy tickets at once and they all got bounced, but also somehow scalpers were able to get big huge swaths of them and sell them for outrageous prices.

So in full disclosure, the #SistersInLaw live podcast shows utilized a Ticketmaster sales and Live Nation venues for some of its stops. But when we're talking about this, our views are our own. So Jill-

Barb: And that's because we can't use any others because they have a monopoly.

Kim: All right, that might be an evidentiary point in this case. So Jill, the government has gone after both Ticketmaster and its parent company for a number of alleged transgressions. Explain what they are and also what the flywheel is, which is an important part of this complaint.

Jill: It is. And man, I had to dredge up my antitrust law from law school because I never ever used it, except my law firm did have a very big antitrust case. But in this case, Ticketmaster has what you would almost call a vertical integration, because they have everything from controlling the artist, controlling the advertising, controlling the venues, controlling the ticket sales so that you can't have a live concert without Ticketmaster, because they can say, "Well, if you don't use this part of what we own, then we're not



going to let you sell your tickets through Ticketmaster, which is the largest ticket sales operation." And the flywheel is basically a power-driving gear that drives these other parts. So it's the major portion, and for them, the major portion is the least profitable part of its operations, but it is essential to all of its other operations like the ticket sales, which are very profitable for it, like the venue.

And as Kim mentioned, we were in a Live Nation venue, and Ticketmaster handled our ticket sales. So we had the same issue that Taylor Swift had on quite a different volume scale, but I think this is one of those where they own so much of the live entertainment industry that they've become a monopoly, and prices have gone so high. I'm sure you all heard on MSNBC, many of the hosts saying, "Well, I flew my entire family to..." name a country, and even with the cost of flight and hotel and meals, the tickets were so cheap there compared to America that I saved money by flying my whole family on this wonderful trip to Paris." And someone else was heading off to London, which is an upcoming venue. So when we're in a situation where you can fly to Europe and buy a ticket, and the cost of your plane is less than the cost of the ticket, you know you have a problem. So this is interesting. It's going to be a very popular lawsuit.

Kim: Yeah, my stepdaughter just got back from Berlin where she saw Taylor Swift.

Barb: Wow.

Jill: Right.

Kim: It it's really quite something. So, Joyce, the DOJ has really been coming hard with antitrust lawsuits lately. As we've discussed before, they've sued Apple alleging that the iPhone was a monopoly that made Droid users like Jill previously was miserable.

Jill: And like Jill still wants to be.

Kim: And there were a couple lawsuits, not one, but two against Google, and this is after pursuing a number of criminal antitrust cases too, not just civil. What do you make of this big flex against the big corporate conglomerates?

Joyce: Yeah, this is sort of, I don't want to overstate it, but it's sort of business as usual in a democratic administration where the antitrust division at DOJ has more prominence. Every new Attorney general gets to establish their own priorities and decide where to put resources. And while no divisions disappear, except maybe civil rights during some administrations,

Kim: Oh my God.

Joyce: ... they get more or less emphasis placed on them. This has definitely been an administration that's placed a real emphasis on DOJ's antitrust division. Merrick Garland in his press conferences has really shown some frustration with businesses moving forward with no checks on them at all. His comment when he announced this case was, "It's time for fans and artists to stop paying the price for Live Nation's monopoly. It's time to break up Live Nation, Ticketmaster. The American people are ready for it." And I

think what that signifies is that it's one of his priorities that he believes people want him to more aggressively do antitrust work, and so we're seeing that happen.

Kim: Yeah, and he brought in the head of the antitrust division, Jonathan Cantor, who is really been focused on this. So right from the start, they made that a priority.

Joyce: Yeah, a great lawyer.

Kim: So Barb, as Joyce said, the DOJ wants not only to force Live Nation and Ticketmaster to change its practice, it's seeking an extraordinary relief remedy. And if you forgive me, << Garland wants to break, break, break, break, break. Break it up, break it up, oh, oh, oh >> He wants to break up the company. Reminds me of... Remember when they broke up the Bell Company, the Baby Bells back when I was like-

Jill: That was my law firm's suit.

Joyce: We are old enough to remember.

Kim: Oh, that was your... Of course, Jill Wine-Banks worked on that case.

Barb: Wait, did you work on it, Jill?

Jill: I did not. I did not.

Barb: You broke up my Bell?

Jill: No, it was-

Barb: You killed my Bell?

Jill: My firm did. Yes, we did. We represented Microsoft.

Kim: Was it Jenner and Block?

Jill: Yes, uh-huh.

Kim: Wait, Microsoft or the Bells?

Jill: Not Microsoft. Oh my God.

Kim: Yeah. AT&T.

Barb: My Bell.

Jill: Bill McGowan. Bill McGowan's company was the plaintiff in that. But yeah, anyway, yes, we were against AT&T.

Kim: All right. Well, now that we've gone into Adventures in Jill Wine-Banks, the most interesting woman in the world, Barb, why does the DOJ want to break up Ticketmaster in Live Nation? What do you think about it?

Barb: Yeah, the Bell analogy is actually a very good one. I remember that as well. Bell Telephone, it was an absolute monopoly over all phone companies in the United States. It had all of these little Baby Bells. And so it forced the DOJ, in 1983, brought a lawsuit saying that it was gouging customers, and that they had to break up. They were too big, they were a monopoly. And so they did, which is what gave us AT&T and Verizon and Sprint and T-Mobile and all these other phone companies that have to compete. And that's the idea between Live Nation and Ticketmaster, the idea that they're one and the same. So the concert promoter is also seller of tickets. And so because they are together, it makes it impossible for any competitors to come in.

Merrick Garland detailed some of these really heavy-handed tactics that were used during his press conference where he talked about how they go to smaller companies and threaten to crush them, and they won't let them play ball because only Live Nation and Ticketmaster are the only game in town. And artists can't contract with anybody else because these are the Bigfoots. So the only way, he said, to ensure a competitive marketplace is by breaking them up so that others can compete.

And he told a very sweet story. Kim, you hinted at this about Bruce Springsteen. He said he remembered when he was in college as a senior, and he attended a Bonnie Raitt concert. And the warm-up act was a young fellow by the name of Bruce Springsteen. And he thought he was rather talented, and he so enjoyed the live music experience that this suit is really brought on behalf of consumers who should be able to enjoy the opportunity to see live music, live performances at an affordable rate. And supply and demand is what it is, but this is really artificially raising that bar.

And I too was one of those sad consumers who sat there on the day the Taylor Swift tickets came out. My daughter had everyone in the family on the computer at 10:00 AM or whenever the tickets came out, and we all tried to get tickets and everybody struck out. Like, "Wait who is getting these tickets?" And all kinds of glitches, and it turns out that it's the ticket brokers who get all these things. So it's an effort to just avoid anticompetitive practices that are harmful to consumers.

Kim: And this is important not only to the Swifties, but also the boomers like AJ Garland who likes music.

Barb: Who like...

Kim: Music-

Barb: He likes his Bruce.

Kim: ... too, likes Bruce too. And apologies to all the Swifties, I'm not in my best voice today, so I hope none of you come after me. I love Taylor.

But do you know what Ticketmaster is really good for? Buying tickets to the Boston Show of #SistersInLaw. We're coming to the Schubert Theater on May 30th. You can go to Ticketmaster and get them.

Joyce: Y'all know that we love Thrive Causemetics, and it's important, I think, that we tell you exactly why. This is not just an advertisement for us. It's the makeup that we all use, not just on television, but also in daily life. And there's a big difference. On TV, I'm putting on makeup for the camera in daily life. I'm just trying to enhance what's already there and look my best, and Thrive works great for both of those purposes. Thrive Causemetics has a full line of show-stopping makeup to refresh your everyday look made with clean skin-loving ingredients. Their foolproof products are easy to apply. So take your makeup routine to the next level with Thrive Causemetics.

Barb: We love that cause is in the name for a reason. Thrive not only defines luxury beauty, but they give back too. Every purchase supports organizations that help communities thrive. With causes like education, cancer, research, and ending homelessness, you'll feel great and look great with Thrive. So far they've donated more than \$150 million of products and funds. It's incredible, and I'm so glad we're a part of it.

Kim: I really love Thrive's Brilliant Eye brightener. It's a luxurious highlighter-eyeshadow combo. It really makes your eyes pop and it's effortless to use. Whether you're preparing for a case, or hosting friends, or just enjoying the spring day, there's nothing better to give you a fresh vibrant look. There are 16 buildable shades to choose from and play with, so you can use as little or as much as you like. Just apply a light shade to the inner corners of your eyes to open them up and give you a glow. Right now, the Stella is my Go-to.

Jill: So Kim, it really showed. You looked fantastic when we were together at the live show in Detroit, and I saw how good that color looked on you. That eye brightener really, really worked.

Kim: Thank you.

Jill: And you can also use a metallic shade all over your eyelid and blend it with your fingertip for a bright or smoky eye. It's my secret for making my eyes pop when I'm on camera, but I use it every day in a lesser amount. You have to try it. And don't forget to protect yourself from sun damage with Thrive Sunblock makeup primer. I didn't do this when I was young, but I know better now and use it daily. Refresh your everyday look with Thrive Causemetics, luxury beauty that gives back. Right now, you can get an exclusive 10% off your first order at [thrivecausemetics.com/sisters](https://thrivecausemetics.com/sisters). That's Thrive Causemetics, Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S, [thrivecausemetics.com/sisters](https://thrivecausemetics.com/sisters), for 10% off your first order. You can find the link to your perfect daily look in our show notes.

Joyce: Well, now we come to what really has become the favorite part of the show for us every week, answering questions from our listeners. We've been spoiled the last couple of weeks getting to take your questions in person at the live shows. That's been a lot of fun. This week, we've got some great questions to answer, so I'll get right to it. If you've got a question for us, please email us at [sistersinlaw@politicon.com](mailto:sistersinlaw@politicon.com) tag us at [sistersinlaw.podcast](https://sistersinlaw.podcast) on Threads, or Tweet using the hashtag #SistersInLaw. If we don't get to your question during the show though, keep an eye on our Threads during the

week, because we'll answer as many of your additional questions as we can. This week, our first question comes from Sue, and she asks, this is a great question, "Once a jury gets the case and starts deliberating, do they only vote once? Did they do practice runs since it only takes one to sink the entire thing?" Jill, can you answer Sue's question?

Jill: I can, and I thought it was a great question, because we sort of take it for granted, but most people don't know how a jury works or how they think. And I've never been on a jury, although I would've loved to be on one. But no, the jury can vote as many times as it wants, and in fact, oftentimes votes many, many times until they get to unanimity, or, in some cases, until they get to be hopelessly deadlocked, in which case they will go out to the judge and say, "We simply cannot agree. We cannot get to unanimous." And the judge will give them what's called an Allen instruction, saying, "Look, no jury can be better than you. Please go back and try to listen to each other and pay attention to each other. Try to get to an agreement."

But when they first go in, they may all say, "Man, I know exactly how I'm voting. Let's take a vote right now." And they would vote right away. It doesn't usually happen that way because someone will say, "Well, we really should go over the evidence and the elements of the crime the way the judge said we should." And so they will do that, and they'll vote until they get to unanimous.

Joyce: I think it's a good point by the way, Jill, that we do tend to take for granted some of the practice points about how trials and court proceedings work. We love questions like this, so I hope if you have one, you'll share it with us. Our next question comes from Carol in Farmington Hills, Michigan. Kim, this one is for you. What are the rules about voting eligibility? If you own a house in various states, can you vote in each state? And I would add, if you've got kids who are students, this can become a very pressing question, if they go to school out of state.

Kim: Yeah, so thanks for the question, Carol. Were you in Royal Oak with us? It was just down the street. We hope you were. But if not, I'm glad to answer your question now. So, state and federal law allows you only to vote in one place. So the answer to your question is, if you have many houses, does each house get you a vote? No, the answer is no. You vote in the state that is your primary residence. Now, what determines what your primary residence is varies by state rules. So check, number one, find out what your rules are in your state. It's usually something to the effect of where you spend most of your time during the year. If you are a homeowner, where it is listed, the IRS lists your primary residence or state tax authority lists your primary residence. And this is important because, yes, if you have a college student or if you are a college student and you are living in a place other than where your family lives or where you grew up while you're in college, if you spend most of your time in that different state or different town mostly, and again, check your local rules, you can vote in that place if that is where you are living, if that's where you're spending eight, nine months out of the year.

But generally speaking, if it's more than half... Now there's also people who snowbird, spend part of the year in Florida and part of the year in New York. Again, it will be where you spend primarily most of your time in the home that is your primary residence. But check the rules because you don't want to violate them. You don't want to vote in the wrong place, not just vote more than once. Even if you just vote once in the wrong place,

that can make your vote not count, and in some places lead to some ridiculous penalties. So just be careful.

Joyce: And our last question, and Barb, this one goes to you, comes from Michelle in Austin, Texas. Michelle asks, "I am struggling to understand how some evidence can be considered overly prejudicial." Our listeners will remember that that's the standard that judges use for deciding what evidence can be admitted a jury in trial. So Michelle asks, "Are there any guidelines for consistency? How does a judge determine what is overly prejudicial and why?"

Barb: Such a good question, Michelle in Austin, Texas. I remember sometimes I would get an objection from a defense attorney who would say, "Objection, your Honor, that's prejudicial." You say, "Well, of course it's prejudicial. That's the whole point of bringing in evidence." If the witness says, "That's the robber right there," and points at the defendant, that's prejudicial. That's what it's all about. But the question is whether it is overly prejudicial. And actually, Michelle, there is a standard. In federal court, there's a rule of evidence 403, and most states have an equivalent version. But it's not just prejudice. It's far more than that. I'll actually read it to you. What it says is, "Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury."

And so it's not enough that it's prejudicial, not even overly prejudicial. It is whether the probative value of the evidence is substantially outweighed by the danger of unfair prejudice. So for example, some of the things that got, according to Justice Merchan in the Trump case, that got close to this line were some of the more lurid details about the encounter that Donald Trump had with Stormy Daniels. It was relevant to talk about the fact that she did make this accusation. That's why her testimony was relevant and why there was the need to pay. She was demanding money. It really isn't even necessary that this thing happened, but the judge did allow her to testify about some details because the prosecution argued that that would help bolster her credibility in the eyes of the jury.

And then she also testified about some of the details that suggested that Donald Trump may have even sort of coerced her into this sexual encounter, although she took full responsibility for her own participation in it. But that was where this idea of perhaps this was substantially more prejudicial than probative that could unfairly prejudice the defendant. At the end of the day, the judge let it in because he thought it was necessary to understand the whole story and to assess the credibility of Stormy Daniels as a witness.

Joyce: Well, that's the podcast for today. Thanks for listening to #SistersInLaw Barb McQuade, Jill Wine-Banks, Kimberly Atkins Stohr, and me, Joyce Vance. Going on tour together this month has been a lot of fun, and it's not quite over yet. We still have our last stop left, Boston on May 30th. Go and get your tickets at [politicon.com/tour](http://politicon.com/tour) if you're in the area. And please, show some love to this week's sponsors, Factor, Helix, Framebridge, Aura, and Thrive Causemetics. Their links are in the show notes, and they really do make it possible for us to do the podcast.

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Jill: Do you have something flying around your room, or...

Joyce: So do you guys remember last year, we had bees in our kitchen? Did I ever tell you this story?

Jill: Yes.

Joyce: We had bees in the wall that we took out. So, they're back in the kitchen. We've noticed a couple in the last few days, and now there's one here and it's right below the kitchen. And my husband thinks he's the smartest guy in America because he never re-sheetrocked the kitchen. I've been kvetching at him for months now, telling him, you need to fix my kitchen. And now he's like, I'm so smart, the bees are back and I'll just reach up in the hole in the kitchen and get them. And...

Jill: Was he stung?

Joyce: No. We just noticed today that they're back.

Kim: Joyce and the bee.

Joyce: Joyce and the bee. Y'all, I'm going to send y'all a picture of what the hole in the ceiling in my kitchen has looked like for a year. It's disgusting.