

Kim: Welcome back to #SistersInLaw with Joyce Vance, Barb McQuade, and me, Kimberly Atkins Stohr. We miss Jill because she's out this week, but she'll be back soon. We are so excited at seeing so many people wearing our ReSiStance t-shirts and sending pictures and tagging us. You all look fantastic, and the good news for everybody else is we've ordered a lot more so you can go to politicon.com/merch to get yours now. You can also find that link in our show notes.

Today, we have a jam packed show, where we will discuss the Supreme Court weighing in on deportation cases, challenges to Donald Trump's executive orders, and the end of a crucial voting rights case in Georgia. But before we get to that, these are very complicated and difficult times, and I have found this week that taking a moment just to enjoy the simplest of pleasures has really been good just to help keep me focused, to help keep me calm and together. And one, I was cooking dinner the other day and I'm like, "You know what? I'm going to put my phone down. I'm going to take the AirPods out of my ears. I am going to pay attention to each ingredient I chop, to each stir that I stir, how the food starts to brown." I reminded myself that I love cooking. I love dealing with spices and ingredients.

Barb: Will you cook my food?

Kim: Anytime.

Joyce: This is like #SistersInLaw the live house with Barb not doing any of the cooking.

Kim: But, yeah, it just made me think of simple pleasures like that that are really important. What are some simple pleasures that you guys have found are giving you peace these days?

Joyce: Well, I could talk about gardening or chickens or hanging out with my pets, but I'm going to tell you something that has brought me so much pleasure. I don't know if it's a simple pleasure. Passover starts Saturday night. I really love Passover. It's my favorite holiday in the Jewish calendar. My family maybe is not as into it as I am because I'm sort of obsessive. Usually, we focus on the story, which involves the Jews leaving bondage in Egypt where they were enslaved people. But this year, I decided to focus on a different part of the story. I'm focusing on the plagues and the notion that a vengeful God can visit plagues on a leader who tries to take advantage of people.

I have been collecting plague items. I have these cute little mats for the wine glasses and they have the names of all of the plagues and you stick your fingers into your wine and you flick at each of the plagues so it ends up decorated, but I sort of went on from there. I got little wind up frogs to scatter across the table because frogs are one of the plagues. I have little finger puppets. I bet you've never seen lice finger puppets before, but I'm now the proud owner, and I even have hand-decorated marzipan from this wonderful guy on Etsy. He did little squares of marzipan for each of the plagues. Probably too much information, but I have to say it's brought me so much pleasure. Happy Passover to all of our listeners who celebrate.

Kim: Yes and a joyous Passover to you, too, Joyce. What about you, Barb? What are some simple things that are making you happy?

Barb: Wow. Now I feel completely inadequate, because I was just going to say watching baseball.

Kim: Well, if that's-

Joyce: You don't have wind up frogs all over your baseball table?

Barb: Not yet. Not yet, but I'm inspired. It's early yet. That was inspiring, Joyce. For me, simple pleasures... I'll tell you a couple of things that are giving me joy these days. One, watching the Tigers play baseball. They're playing well. But I love having a baseball game in the background while I'm doing other things, like I'm reading or whatever it is. Having the game on, whether it's on TV or on the radio in the background, is the best. I just love it. It is the soundtrack of my life and so that makes me very happy. That is a simple pleasure.

Speaking of cooking, my friend Mojo gave me a cooking lesson just the other night. She had me over to her house and cooked a delicious meal of salmon and fresh vegetables, and she showed me some tips and tricks, so we had a wonderful time. Cooking and I'll tell you what else these days. I just said this to my husband the other day. Gives me pleasure, an unhurried morning. For many years... Well, all my life, really. You have to get up and hustle to school. You have to get up and hustle to work. I still work hard in very long hours, but because my teaching schedule is in the afternoon, I can get up and sip some coffee and read in the morning. The unhurried morning is a very simple pleasure.

The last one, dinner with friends. Isn't that the best? We had dinner with friends last weekend and we just laughed. Shout out to Wendy and Chris. Just joyful company to be able to just laugh, share, tell stories, have a good time. It is a delightful and really important simple pleasure.

Kim: It is indeed.

Barb: Spring is here and it's the perfect time to refresh your kitchen and elevate your cooking game. Whether you're looking to eat healthier, save time, or make every meal feel special, HexClad is your kitchen's new best friend. Say goodbye to those scratched up pans and mismatched tools and say hello to cookware that's as stylish as it is functional

Kim: HexClad has completely redefined the game with their hybrid technology by combining the durability of stainless steel, non-stick ease, and the versatility of cast iron. Better yet, it's all wrapped up in one gorgeous sleek design. This cookware isn't just a kitchen essential, it's a kitchen upgrade. It certainly was for us. My previous pots and pans were, shall I say, well-loved and it's such a joy to be... I feel like I'm a professional chef or something with the HexClad.

Now, since we're hyping HexClad, I need to tell you about their pepper mill. It has the perfect mix of precision and elegance, so you'll feel like a pro every time you season your dishes the same way I feel like a pro. If it's good enough for Gordon Ramsay, yes, that Gordon Ramsay, you know it's top-notch. He will not yell at you if he sees it in your kitchen. He trusts HexClad in both his home and Michelin star kitchens, and your sisters

do too. Plus, with their lifetime warranty, you can rest easy, knowing you're investing in cookware that will really last a lifetime. Don't wait, because for a limited time, our listeners are going to get 10% off your order with our exclusive link. Just head to hexclad.com/sisters.

Joyce: I wish that I could be one of the cool kids with HexClad on my cooktop, but sadly my oldest child swiped it pretty shamelessly after I had used it only a couple of times. He had just bought a new apartment and he was like, "Oh, look, mom got me new cookware. You like your old stuff, right, mom?" And off he went with it. I know that he likes it very much and I have a birthday coming up. I'm hoping that there's some HexClad in my future, but you should join my family. Skip delivery and become a chef. After all, spring is the time for fresh starts, so why not kick off the season with an upgrade, I know I want to, to the best cookware on the market? For a limited time only, our listeners get 10% off their orders with our exclusive link. Just head to hexclad.com/sisters. Support our show and check them out at H-E-X-C-L-A-D.com/sisters. Make sure you let them know we sent you. Bon appétit. Let's eat with HexClad's revolutionary cookware. The link is in our show notes.

Barb: Well, this week saw two opinions from the Supreme Court involving the Trump administration's immigration work. Let's talk about each of those, shall we? First, the case of the mistaken deportation. Have you guys ever forgetting something like you left your phone behind, you couldn't find your keys, you accidentally deported somebody?

Joyce: No, I've never done that, Barb.

Barb: Yeah, funny because the US government has. In fact, they admitted to sending a Maryland man, his name is Kilmar Abrego Garcia, to a prison for terrorists in El Salvador through a "administrative error." He has now been there for 27 days and the government keeps saying they can't or they won't bring him back. First, a lower court judge had ordered the government to "facilitate and effectuate his return." Let's pick up the story there, shall we? First, Joyce, can you just tell us a little bit about the backstory of Mr. Abrego Garcia?

Joyce: Yeah. The judge, Paula Zinnis, did a really great job of laying out his backstory in her original order. I sort of ran everything down in it because I was curious about who Mr. Abrego Garcia was. He's from El Salvador, which separates him from most of the people that Trump deported on these three airplanes. Most of them went under the Alien Enemies Act and they were Venezuelans allegedly gang members, but he is actually from El Salvador. His family owns a small pizzeria, which is sort of like a sandwich shop. He was being harassed and threatened by a gang and his family moved three times trying to get him away from the gang.

Finally, they realized it wasn't going to work. There were death threats and they sent him to Baltimore to live with a brother who's an American citizen. He's living with a brother. He's working as a day laborer. One day, he gets arrested and he gets slated for deportation, but here's the beauty of due process. He gets the opportunity to appear in front of a judge and his lawyers explained that he was being harassed and bullied and that he is really at risk of being killed by this gang if he's returned home. The judge enters an order withholding deportation.

Now, remember, this isn't the Alien Enemies Act. This is just a normal Title XIII deportation proceeding. These withholding orders can be entered when somebody is, for instance, seeking asylum for reasons like they would be in grave physical danger if they were returned home. That's sort of his status, but there's a little bit more to the story, and I think that this is an important thing to know.

The government has made a lot of the fact that he's a terrorist. Well, let me tell you what the evidence that he is a terrorist consisted of, because the immigration judge who entered the withholding order dismissed it as simply not credible. This is the evidence. He owned a Chicago Bulls sweatshirt and hat. Sound like anybody we know, Barb. I bet you have some sports teams.

Barb: Well, they're not welcome in Detroit if it's Chicago Bulls, I'll tell you that.

Joyce: But you've got some sweatshirts and hats, right? So there you are. That's item one. And then an anonymous witness thought he might've been a member of an MS-13 branch. That's one of the big, very violent gangs. Their western branch is based in New York. He thought that Abrego Garcia might be a part of it, sort of one problem. Mr. Abrego Garcia had never been in New York. So he gets arrested, his five-year-old autistic nonverbal child is in the car with him at the time that he's arrested and is subjected to all of this. He was clearly not deportable. The government knew he wasn't deportable. That didn't stop Donald Trump's government.

Maybe if I could, the last thing I want to say is this. I'm a career federal prosecutor. I believe that if people are deportable, it's appropriate to put them in deportation proceedings. I believe that if people of committed crimes, they should face prosecution for them. That's not what this case is about. The Trump government said that they were going to deport violent, bad people. Well, they are having trouble meeting their quotas and that's why they're picking students up off the street. That's why a father of three kids who has an order saying he can't be deported gets spirited away to a foreign prison and it's appalling.

Barb: Yeah, thanks for that background. And I agree with you, Joyce. I think that this is sort of the government spin. He was improperly deported. He had an order of removal that was withdrawn because of that persecution he might face in El Salvador from that other gang. End of story, right?

They want to keep dirtying him up by saying, "Well, he's a gang member." It doesn't matter. One, it's not substantiated, but even if it were, I don't care how bad he is. He can't be deported on that basis. You want to charge him with a crime? You've got evidence? Go for it. But you can't just say, "Well, we don't have to go get him anyway, because he was a bad guy." We don't know whether he is or isn't, but it's irrelevant.

All right. Well, thank you for the backstory. Now, Kim, on Thursday the Supreme Court acted in this case. What did the Supreme Court decide when the government said, "We can't bring him back, my dog ate it," whatever their excuse was yesterday?

Kim: Yeah. The district court had ordered the government to effectuate his return back to the United States and the government, as you said, went to the Supreme Court saying, "Now,

we really don't want to do that." So there. The Supreme Court, even though it was given an opportunity to speak clearly and unequivocally about the need for the government to undo what they have done, instead issued an order that limited the scope of the lower court order.

It said it had a problem with the word effectuate, because that suggested that his return was entirely in the United States' control, which it isn't. And so it instructed the lower court to use different language, which in my opinion basically is the beginning of a wink saying, "Okay, well, if the government just comes back and says that they can't, what do you want us to do," and could potentially be letting him off. That's why I'm disappointed with the wording of this ruling. I also hated how this little bit of emphasis in the order, which said "the district court should clarify its directive with due regard for the deference owed to the executive branch in the conduct of foreign affairs."

I'm sorry. The breath that the president has in the conduct of foreign affairs includes falsely deporting people, taking them away without full due process I don't like that that was centered, but I think this is a way to read between the lines on this court as to whether there'll be any kind of check on the Trump administration, even in cases that are just gobsmackingly awful like this one.

Joyce: Kim, you and I were chit-chatting while we were waiting on this order saying, "What's taking so long?" Nothing good happens when it takes you three days while a man is sitting in a terror prison in El Salvador. I think this order fully bears that out. A lot of people have been saying, "Oh, it's a great order. It's 9-0," and none of that. As you say, it just winks at due process and that's about it.

Barb: Yeah. I don't really disagree, but I do want to make a point. Under our constitutional separation of powers, the president does have control of foreign affairs and diplomacy and military matters and national security. Although I agree that it's important that they get him back... I mean, they send him there. They can get them back. Kristi Noem can walk around there with her \$50,000 watch. If she can do that, they should be able to go retrieve a man they sent there inappropriately. I was disturbed by the lack of urgency in that language. But I do think that they are writing not just for this moment but for all moments. They have to anticipate this case being used in the future in other situations where there might be a request and there needs to be a respect for the way the three branches do their work, so I think that's right.

Kim: But you think that's what this is? Because first of all, this is an order, so it's not presidential at all. Secondly, that sentence to me didn't sound like it was for the ages. It sounded like it was a direct slap back to the district court. It basically was the Supreme Court saying, "Watch yourself."

Joyce: Yeah.

Kim: [inaudible 00:17:28]

Joyce: It was an invite to the Trump administration, the way that I read it. And I think actually we're on pretty common ground, right, Barb? Because I agree with your baseline principle-

Kim: Me too. [inaudible 00:17:39]

Joyce: ... which is that we have to worry about separation of powers. We can't do anything to take away the executive branch's ability to conduct diplomatic relations. Here, though, I feel like that just becomes a little hook that they're letting Donald Trump hang his very ugly hat on because this isn't about diplomacy. The United States is contracting with El Salvador like it's a foreign prison company, right?

Barb: Yeah, I agree. They said, "Yeah, you can go facilitate this return." I also think, though, there is a difference between the words facilitate and effectuate. Facilitate means do everything in your power to get this guy back, effectuate means make it happen. Now, again, I would've liked to see stronger language about facilitate it and make it happen and don't give us lip service that you're making it happen. But what if El Salvador just says, "Screw you, Donald Trump. We're not giving him back. You gave us \$6 million to house these prisoners and now he's ours." Do they have to send in the military? Do they have to kill people? They can't make it happen if El Salvador resists, so I think Donald Trump-

Joyce: This gives them an [inaudible 00:18:47]

Barb: I mean, Donald Trump is not that weak. He cannot accept being that weak, right? That would be such a huge loss of face for him.

Joyce: Sure.

Barb: And here's the other thing I would say. If they can let the secretary of DHS go inside of that prison for a photo opportunity and secure her release back out of the prison, then they can get this guy out. I think what Kim and I are reacting to, and Kim correct me if I'm misstating your view, is that it would be purely pre-textual for the United States of America to say, "We can't get this guy who was deposited by mistake back out of the prison."

Now, I think we're going to hear the government talk about national secrets and we can't tell you what went on and I think we may hear an argument that, well, this guy is an El Salvadoran citizen, and once he's in El Salvador's prisons, we lose all control over him. But that really is aside from the point of how he got there and the relationship between the United States and El Salvador. El Salvador's President Bukele has made it very clear he's interested in the United States' money and goodwill. I think that they can get their guy back.

Joyce: Yeah. I agree with everything you just said, but I just think that in terms of separation of powers, you can tell them to facilitate it, do everything in your power to bring them back, but to say you must make this thing happen.

Kim: No, that's not what I'm asking for. I just think they did it in a way that kicked it back down to the lower court with, I think, a "watch yourself" message and also gives Trump an out to defy the order without the Supreme Court having to say, "Oh, they defied our order."

Barb: Yeah.

Kim: [inaudible 00:20:30]

Barb: Well, and it also allowed to spin it as victory, right? "Oh, the court has affirmed our power to blah, blah, blah."

Joyce: Right. Yeah.

Barb: I mean, if the administration was operating in good faith, everything would be good. I fear nothing good follows from this order and we're just going to see another round. Well, and we already have, right? Because on Friday... The Supreme Court rules on Thursday and then the district court immediately says, "Okay, they told me I had to modify my order to explain effectuate. Tell you what, I'm changing the order. It's just facilitate."

Joyce: Yeah.

Barb: "Now, please go tell me how quickly you can do this." The government files a brief and says, she says, "I want to know by first thing Friday morning what you're going to do, 9:30 AM Friday morning. Tell me your plan for getting him back." And they write, "Could we have until Tuesday?"

Kim: [inaudible 00:21:16]

Barb: [inaudible 00:21:16]

Joyce: It's not, "Could we have until Tuesday?" It's the most horrible thing I've ever seen the justice department file. It's like, "Judge..." It makes me think of Saturday Night Live, right? "Jane, you ignorant slut. You should have known that we couldn't file this in this amount of time and we need until a week from..." I mean, I think that this is no good [inaudible 00:21:45] punished.

Kim: This man is [inaudible 00:21:47] prison.

Joyce: At some point, the court is going to have to decide. Can Donald Trump do whatever he wants to do or are we really going to be an independent judicial branch and set some limits based on the law?

Kim: I fear it. They've already decided and the answer [inaudible 00:22:00]

Joyce: I know.

Barb: Well, let's move on to the case of the Alien Enemy Act then, shall we? Somewhere in this conversation, I do want to ask us to define due process, because we're hearing so much about that and I think there are a lot of people who pay lip service to due process without really understanding what it is. Let me give you a little background on this one and then maybe we can talk about that.

You may recall that this is the case, the Alien Enemy Act case, in which Judge James Boasberg in Washington D.C. had blocked the deportation of more than a hundred men alleged to be non-citizens and members of a Venezuelan gang under the Alien Enemy Act. Some debate as to whether it is the Alien Enemy Act or the Alien Enemies Act, but regardless everyone agrees it is a statute that allows the president to expel foreign citizens during times of war, invasion, or predatory incursion by a foreign nation, which we are not experiencing at the moment.

Judge Boasberg's order was upheld by the D.C. Circuit Court of Appeals and the case reached the Supreme Court this week. I found the headlines quite misleading, suggesting that this was a win for the Trump administration. But let's unpack it a little bit, Joyce, what did the Supreme Court order in this case?

Joyce: This decision was... I mean, this is preliminary. This is not a final order deciding everybody's rights and legal arguments in this case. The court's decision was about the right way to sue. In other words, the procedure, not the substance of the issues involving the Alien Enemies Act. I think it's important that the court stood up for due process. They said that lawyers needed to bring habeas cases in districts where the plaintiffs were being held. That was the procedural hook. You sued in the wrong place, you got to do it again. And they really did invite the plaintiff's lawyers to refile, but at the same time, they affirmed this commitment, this notion that people who weren't citizens were still entitled to due process.

Barb: Yeah. Kim, maybe you can help us break down due process. What do we mean when we say due process? People throw that term around. It's certainly there in the fifth Amendment, but I'm not sure people understand exactly what that means. What does it mean in this context?

Kim: Well, due process is essentially an opportunity to have the charges against you, presented you to be able to engage in some sort of process to plead guilty or not guilty, to make whatever assertions that you need. The specifics of what is required varies depending on the circumstance, but the Supreme Court, in this case, said that due process meant proper notice and also the ability to be heard before a judge in this case. But that these people who have been detained have to do it through the process of habeas corpus, which we talked about last week and what that means.

It's very specific for immigration hearings, but this is where, Barb, I disagree with you, that this was not a win for the Trump administration and the Supreme Court, throwing rocks while hiding its hands. It said, "Well, okay, this case is a challenge to our detention under the Alien Enemies Act." This is a specific challenge, a constitutional statutory challenge. This is not a habeas decision. Habeas proceedings only happen when people who are detained for being in the country illegally are contesting their detention.

In this case, they were not contesting their detention. They were saying, "We don't think that the president has the power to send us to El Salvador. We're Venezuelans in America. We have nothing to do with El Salvador." That's not what this act gives them the power to do. It's a wartime act that was instituted so that people who are from a country we are at war with can be swiftly deported. This has nothing to do with this circumstance.

But what the Supreme Court did was say, "Well, we don't get to that question, because we're going to say your only avenue is habeas corpus." You can bring up the constitutional challenge one by one in your individual habeas cases, but you cannot right now as a group challenge this law. I think that was the biggest win for the Trump administration, because it lets the Supreme Court avoid the issue outright and it just makes it so much tougher to make these cases under the rules of habeas than it would've been for the Supreme Court to just pull up its pants and make the ruling about the Alien Enemies Act and whether it was properly applied.

Barb: Yeah. Well, for sure. I mean, it's definitely a setback for the plaintiffs in the case, but it's not devastating, right? Because these plaintiffs, number one, we know... They said we make no finding regarding the use of the Alien Enemy Act. And number two, they're all entitled to due process. Those are two big wins right there.

Kim: And you're right. They say-

Barb: [inaudible 00:27:19] come back tomorrow. It's like, "I know your house is on fire. You call the fire department because your house is on fire, but you know what? We're at lunch right now. Do you mind calling the other fire station and start over? Because maybe they can help you."

Kim: There's that, Barb, but there's also the fact that, unlike this case, which was initially brought in the D.C. District Court, when you have habeas petitions, the court also held the Supreme Court that you can only bring it in the venue where you are being detained at the time. That is why, if you ever wondered why you hear of people being apprehended all over the country, but ending up in Texas, ending up in Louisiana, that's because those are jurisdictions which, A, have really massive detention centers located there, and, B, have judges that are much, much more likely to just say "Nope," and just rule in the favor of the administration like a rubber stamp. It's giving Donald Trump essentially everything he wanted.

Barb: Yeah. Although we saw just this week that courts in New York and in Texas have entered temporary restraining orders on the habeas cases that are coming before them. Maybe it's not the rubber stamp that we fear. All right. Well, stay tuned because the saga of deportation is not over.

I think one point that we're all saying that I think is so important is Donald Trump ran on a campaign promises of mass deportations and people voted for him, so at least some people wanted that. But it isn't so much the what he's doing, it's the how he's doing it, because he has to follow the law. Due process, not using the Alien Enemies Act, all of these kinds of things are really important to the rule of law. These aren't just technicalities, these are the law, and he needs to follow it.

Kim: It doesn't really feel like it right now because I'm sitting in a sweater shivering a bit, but spring actually is here. That comes with the spring social season kicking off and it is in full swing. Whether you're attending outdoor parties or weddings or a special birthday, it's time to start getting dressed up again. That means a great outfit with great shapewear foundation. And for that, we recommend Honeylove. No one has time for restrictive or uncomfortable shapewear. Luckily, we don't have to settle. Today's episode is brought to

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Joyce: Well, I couldn't agree anymore. For a limited time, you can get Honeylove on sale. Save 20% off your entire order with our exclusive link at honeylove.com/sisters. Support the show and start your spring off right by checking them out at honeylove.com/sisters. Speaking from experience, this is not hypothetical, Honeylove is the perfect pairing with exercise and outdoor activities. I love how comfortable their leggings are and they're my go-to for everything from yoga to taking care of my chickens.

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After your purchase, they'll ask where you heard about them. Let them know about our show and tell them that we sent you. Experience the new standard in shapewear with Honeylove. The link is in our show notes.

Kim: << Old man Donald had a pen, E-O-E-O-E-O-E-O-E-O-E-O-E-O >> He's doing nothing but signing executive orders.

Joyce: Can't even sing the song right?

Kim: Listen, you have to laugh to keep from diving into despair, but this is a really, really serious topic, some of the impact of the executive orders that are coming out of the White House. But Barb, the Associated Press score to win in its challenge to one of those orders, barring the news organization access. Tell us about that and what do you think may happen as this case continues to make its way through the appellate process?

Barb: Yeah, this is a great victory and everybody should be happy about this and I hope this is inspirational. In fact, every entity so far who has challenged one of these executive orders for retaliation, whether it was the Associated Press or the law firms, is winning. They're getting temporary restraining orders and, in the case of the AP, restored to the press pool at the White House.

Now, remember what this is. The Trump administration banished the Associated Press, this huge network wire service that supplies newspapers all over the country with reporters and photographs. Banned them from the White House press pool, banned them

from the Oval Office, banned them from flying on Air Force One, and what was their sin? They refused to change their style book, which is an industry standard, to reflect Donald Trump's preference to call the Gulf of Mexico the Gulf of America.

In their legal filings, the judge who is a Trump appointee, by the way, I know Joyce, you hate it and I do, too, to refer to judges as who appointed them because it suggests that it's all political somehow, but it is significant.

Joyce: But it's not wrong.

Barb: I think that this isn't someone that Trump can dismiss as a left-wing radical whatever. Judge Trevor McFadden in DC said he made a finding that this was the reason. In fact, the government offered no alternative explanation. There wasn't even a pretext like, "Yeah, you bet we banned them for this." They said under the first amendment, if the government opens its doors to some journalists, it cannot shut those doors to other journalists solely because of their viewpoints based on the first amendment to the constitution. An

He restored them immediately and the case... This is just a temporary restraining order, so it will continue. Actually, I take that back. It was a preliminary injunction, which is one step more valid than a... I shouldn't say valid. One step along the continuum of injunctions. You have TRO, you can run in the door without even providing notice to the other side or having the other side present and get a temporary restraining order.

Preliminary injunction means the parties have been there, after two weeks there's been further discussion, and the judges entered the order. That's where we are. And then there will be litigation on the case, perhaps a trial, perhaps joint motions for summary judgment, and the judge will issue a permanent decision. But he found substantial likelihood to succeed on the merits by the Associated Press under this first amendment challenge. I'm very proud of the Associated Press because so many entities, the media, law firms, universities, are just crouching and saying, "Oh, make it all go away. We're scared. What can we do for you, sir?" They stood up to them, they filed a lawsuit, and they won. Of course they won.

They may continue to take some hits. I'm sure Trump will be mean to them when they show up at the press conferences, but was really important, not just for them but for the whole industry, for the free press in this country, for them to fight this battle. They did and they won and we should all be grateful to them.

Kim: Joyce... Well, before I go onto Joyce, I really agree with you. This is really a very, very important win. It's good to see that the First Amendment is still being protected. Joyce, we've discussed a lot of executive orders over the past few weeks, so many that I have been tagged on social or emailed with listeners asking us what exactly are executive orders. We've sort of explained it, but I think people are still really confused as to what are the limits. Can the president, with his pen, just do what he wants like a king?

Joyce: I'm so old that I remember when Republicans used to complain about Barack Obama using executive orders, which he did on more than a few occasions, and he did it because there was gridlock in Congress and it was his way of trying to get some of his policies

across the finish line in that very difficult political environment. That feels so quaint to refer to that as a difficult political environment.

But look, executive orders can only be used in very limited ways. They give the president the ability to order the executive branch, the administrative agencies that are part of his domain in government, to do something or to not do something. He can use an executive order to tell an agency to take action or to withhold a certain action.

For instance, Donald Trump cannot order law firms to bend the knee to him, but he can order executive agencies to stop doing business with certain law firms or to take away security clearances for their lawyers. A really great example from the past couple of weeks is this executive order that he issued on voting rights. The president does not control how the states conduct their elections. So what he did in that executive order is he told executive branch agencies to withhold funding from the states if they won't conduct their elections the way that he wants them to.

This is skating on some pretty thin ice and we're going to see lawsuits that will challenge the validity of these executive orders. As Barb has pointed out, at least in the early procedural skirmishes, he has not done so well. I think, in some of these cases, he will have the ability to do these things and others courts may tell him that he is overbroad. But in any event, executive orders aren't like having a magic wand to change the world. You can only use them if you're the president in your very limited domain.

Kim: Yeah. And speaking of what is and is not the president's domain, Barb, what about the executive orders that are causing all of this market instability with the tariffs? Those are being challenged, too, but isn't Congress's in that [inaudible 00:38:56]

Joyce: Oh, somebody took constitutional law in law school. Yes, of course.

Barb: Wait, didn't we all? I'm pretty sure we all did. Yes, there are certain powers allocated to Congress and one of them is the power to levy taxes and a tariff is a tax. However, Congress has delegated that power to the President under certain circumstances. One of those is in cases of a national emergency. One of them is a statute known as IEEPA, the International Emergency Economic Powers Act. That's one that also allows the president to impose sanctions. In my career as a prosecutor, sometimes prosecuted cases where the president had issued sanctions against a foreign country and people were selling them equipment and night vision goggles and other kinds of things that made a crime. But IEEPA also allows the president to declare a national emergency and take measures necessary, including taxes and tariffs.

That is the basis for which the president is using these tariffs. However, it doesn't seem like this is the kind of emergency for which IEEPA was designed. It is supposed to be when we are facing some sort of military threat, some sort of global threat. We've had them against Iraq during wartime when they had weapons of mass destruction. We've had them against Russia when they've interfered with our election. There is some question as to whether this is an appropriate use of IEEPA. There's also some question whether tariffs are allowed under IEEPA, that sanctions are. I think it's fair to say... I was going to say gray area. I'd say of dubious legal authority. If someone were to file a challenge against this, I think that there is a decent chance that they could prevail.

Kim: And just thinking about how that would even get to the court and in what posture and who would have standing, that makes my head hurt. But Joyce, another one that really made my head hurt is the latest order going after former aides who went on to become Trump critics. Tell us about that. Haven't we said a time or two that the DOJ is not supposed to be used by the president to prosecute his perceived enemies? Did we say that?

Joyce: We have said that, Kim, but you know who doesn't get that?

Kim: Yeah.

Joyce: Pam Bondi. I don't think she took constitutional law, to Barb's point. This is very hard, I think, to talk about because it's painful, it's dangerous to democracy, and it shouldn't be happening. I mean, I want to make it very clear that in a week full of horrors, this is really serious stuff. What Donald Trump did was he issued two executive orders in each of them. He singled out a former employee of his first administration. One was for Chris Krebs and one was for Miles Taylor. They both were loyal not to the president but to the constitution. Public servants.

Krebs led the Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, CISA, during the first administration. Famously after the 2020 elections, he was the guy who stood up and said that the election was secure and that there was no widespread fraud.

Miles Taylor was the chief of staff at DHS and he saw a lot of Trump's erratic behaviors and spoke out. What has happened here is Trump is now trying to get revenge upon these two guys because they did not show personal loyalty to him. He's done that by, among other things, stripping them of their security clearances and directing Pam Bondi to investigate them for violating the law.

Now, look, let me not mince words here. Barb, maybe you disagree. I'm curious to see what you think. If I'm Pam Bondi, the minute these hit my desk, I say publicly, "Absolutely not. This is wrong. This is an abuse of presidential power, Mr. President. I cannot comply with these orders." And then you either let him fire you or, if he insists, she resign. This is not the kind of thing that you can take lying down. This is the White House directing criminal prosecution, not because there's any evidence of criminality but because the president doesn't like two guys who used to work for them and wants to make their lives a living breathing hell. That's what dictators do.

Kim: Oh, Joyce, Joyce, Joyce. Dear Joyce. It's so quaint.

Barb: It's so Obama administration of you.

Kim: You're absolutely right.

Joyce: We're laughing because what else can we do? It's horrible.

Barb: Oh, I mean, the principles of federal prosecution say partisan politics may never play a role in initiating a criminal investigation or in any charging decision, any case decision

whatsoever. That's everything what this case is about. I don't think it's going to happen, though, based on some of the things that Pam Bondi has said.

Joyce: You don't think Pam Bondi is going to resign on principle?

Barb: No, don't hold your breath.

Kim: Well, let me just ask one final question, both of you, because there was a point that with the DOJ and other agencies, I was thinking, "Gosh, it's going to take so long to repair what has been broken." And now I find myself thinking, "Can it be fully repaired to what it was before?" I mean, just the kind of damage that this does, can you both just speak a little more to it as DOJ alums? Is there any solution to it? Is there any way to stop it?

Barb: I worry that good people of integrity will leave and they will be replaced by people who are willing to fulfill these orders. That's my worry. Once they're there, it's very difficult to remove them.

Joyce: Something that I really think is a mistake is for us to insist that federal employees, particularly justice department employees, line prosecutors, bear the burden for all of the failures of this government to do what it's supposed to do. A line prosecutor in Louisiana shouldn't be bearing the burden of senators who lack the moral courage to vote to impeach. I am very torn because I know that good people in the federal bureaucracy are going to stay at their desks, they're going to try to do the right thing, they're going to try to undo as much of the damage as they can because that's what they are. They're good public servants.

At the same time, I deeply resent on their behalf that they're going to have to go through this. But until the midterm elections, it seems to me that, as a country, we have to limp along. We each have to do whatever we have the ability to do to try to preserve as much as possible in hopes that the country, which saw this pretty clearly in 2020 and then screwed it up in 2024, will understand that we are playing for keeps in this next election and that it's an all hands on deck maneuver.

Kim: There are only two things in the world that I am seriously dangerously allergic to. One is lobster. Strangely enough as all the decades that I've been connected to Boston. The other is cat. I have not had the pleasure of owning a cat, but I have still gone to friends' houses with their cats. I just kept Benadryl in my purse and did that.

They have raved about the cat food from Smalls. They actually talk about it. We're talking about it on the show today. This podcast is sponsored by Smalls. Smalls cat food is made from protein-packed recipes with preservative-free ingredients you'll find in your fridge and it's delivered right to your door. That's why cats.com named Smalls their best overall cat food.

To get 35% off, plus an additional 50% off your first order, head to smalls.com and use our promo code Sisters for a limited time only. That's nothing to meow at, Barb.

Barb: Meow. Smalls was started back in 2017 by a couple of guys home cooking cat food in small batches for their friends. A few short years later, they've served millions of meals to

cats across the USA. Plus, Smalls works with The Humane Society, donating more than a million dollars worth of food through them to help cats. They even give you a chance to donate a checkout whether you donate \$5 for flea and tick medications or \$7 for vaccines. But don't just listen to us. Smalls customer, Jennifer M. said, "After every feeding, he gets this burst of energy and starts running around the house and his fur is softer and more vibrant with higher contrast. Honestly, I wouldn't recommend anything else."

Joyce: One of our cats, my 18-year-old Maine Coon cat, Harry, really, really loves Smalls. Harry has a healthy appetite for an 18-year-old, but something that we've noticed since we've started feeding him Smalls, which is all that he eats these days, is that he has a lot more energy. He's taken back to jumping up on the kitchen counter when he wants food and meowing very loudly for it. Not like your delicate little meows, Kim and Barb, but a very, very loud one that I won't try to imitate. But so look, we're really, really happy about this. We like it for all of our cats, but especially for Harry. It matters so much to see him looking happy and healthy and being really excited about it.

What are you waiting for? Give your cats the food they deserve. For a limited time only because you're a #SistersInLaw listener, you can get 35% off Smalls plus an additional 50% off your first order by using our code Sisters. That's an additional 50% off when you head to smalls.com and use promo code Sisters. Again, that's promo code Sisters for an additional 50% off your first order plus free shipping at smalls.com. The link is in our show notes and your cats will thank you.

Well, in June of 2021, if you can remember that far back, the justice department filed a voting rights lawsuit against the state of Georgia. You may remember those visions from the elections, long lines, people without water, people wrapped around buildings. At the time the lawsuit was filed, Merrick Garland took the important step of announcing it himself. He stood on a podium flanked by the deputy attorney general, the associate attorney general, the head of the civil rights division, and he announced the lawsuit. It was the sort of heavy-hitting press conference that signifies a case of enormous importance.

The case had been moving forward slowly because these sorts of civil cases do move slowly, but that has all come to an end now, because Attorney General Pamela Bondi has put an end to the case. Barb, as we have a burial, sort of a requiem for this lawsuit, can you talk with us about what the case was about? What did DOJ allege that Georgia did that violated the law?

Barb: Yeah, so this goes back to 2021. You may recall that Georgia was a political hotbed in the 2020 election. This is where Donald Trump asked the secretary of state to find him 11,780 votes. The governor there said that the election was free and fair and accurate. Nonetheless, we saw massive changes in their voting, because not only did Joe Biden win that state, but you may also remember that Raphael Warnock and Jon Ossoff also won. And so that case, that state became very blue.

In fact, quick aside, did you ever see that skit on Saturday Night Live called Blue Georgia, about how Georgia had gone woke? Pretty, pretty hilarious. The waitress in the diner said, "My name's Sheila, my pronouns are she/her or she/ma'am. My pronouns are she/ma'am."

But immediately in 2021, after that election, Georgia passed a law that had some dramatic changes to the way people could vote in their state, banning mailers for absentee ballots, finding third-party groups that helped with rounding up absentee ballot requests or absentee ballots, changing the voter ID requirements, making people show up with a photocopy of their ID if they wanted to request an absentee ballot. The new deadline for requesting absentee ballot got moved up to 11 days before election day. They cut back dramatically on the number of drop boxes that were available in certain areas. They even banned groups from providing food and water to voters facing long lines at the polls.

The justice department said that due to disparities in the social and economic conditions caused by historical and ongoing discrimination, they had data that showed this would have not just a disparate impact on Black voters, but that it was designed to suppress the votes of African American voters. For that reason, they filed a lawsuit under the Voting Rights Act and it was pending. You may remember at the time when this came out, people were appalled by these changes.

In fact, Major League Baseball moved the All-Star game from Atlanta that year to Denver as a protest over this change in the law, which the Department of Justice alleged was not just going to have the effect of harming the rights of Black voters in Georgia but was intended to do that.

Joyce: Barb, that was a question made for you because you are the only person I know who could find the intersection between civil rights law and baseball.

Kim: There you go.

Joyce: But there we have it.

Kim: There you go.

Joyce: I think it's a really important point that this was not insignificant. This was not an inconsequential lawsuit. This was the kind of lawsuit that people took notice about. Kim, what happens now? I mean, Bondi dismisses the case. She's the attorney general. She can do that. Is Georgia free to continue with this kind of conduct and did Georgia voters have any recourse?

Kim: Well, these are two very good questions. I'll take the first one first. Is Georgia free to continue this conduct. In a word, yes, for the time being. Because what happened here is really the de facto nullification of another part of the Voting Rights Act, because the Voting Rights Act is only as good as its enforcement. Part of that enforcement, not all of it... Part of that enforcement comes from the justice department and it seems pretty clear from this. It's a good clue that enforcing the Voting Rights Act in the face of discrimination is not going to be something that is going to be prosecuted often, if at all.

Now, do Georgia voters have any recourse? Well, yes, but not great because the Supreme Court has already made it a lot harder for individuals to bring voting rights claims based on racial discrimination. It raised the evidentiary standard that has to be shown before even the case even is able to be brought, not even just before a decision is reached even to bring the case at all. Meanwhile down in Georgia, the secretary of state, Brad

Raffensperger, as part of the litigation that's ongoing in this case, put forth a novel idea about how the VRA ought to be enforced. He says that section I talked about, section two, should be reduced again because it was last ratified in 1982 and things have changed since 1982. They should not be held to the same standards for racial discrimination now as in then. Does this sound familiar to you?

Joyce: It sort of sounds like Shelby County versus Holder, doesn't it? When the court gutted section five of the Voting Rights Act.

Kim: Yeah, he is no stoop. He is going to try to tee this issue up to the Supreme Court in a way that might make it really hard for them to resist. And that's exactly what he's doing. So in that case, man, this doesn't just wreck voting rights in Georgia. It wrecks voting rights, period.

Joyce: If there's a silver lining in this whole situation, it's that by dismissing this case, Pam Bondi has gutted the ability of people to raise those sorts of arguments and speed them on their way to the Supreme Court. I'm always cognizant of the fact that the cases that gutted section two that you're talking about, Kim, like the Brnovich case, those were cases that were, instead of being used to vindicate the rights of voters, ended up being used to rule them back. Maybe part of the answer here is that no good deed goes unpunished, and this is a time to not let these cases go to the Supreme Court. Thank you, Pam Bondi. It's small comfort, but I'll take what little I can get.

But Barb, do you have a judgment about whether this is limited to just this one case or is Bondi going to do this in others? And do you think that there are other likely candidates for cases that she'll dismiss? I note that, today, I just saw an article that, in Alabama, they have dismissed a consent decree in this notorious environmental justice case where a Black community in South Alabama was just very heavily hit with pollutants and dirty water. It had been a big deal to get DOJ to force a cleanup and now that's evaporated out the window. Do you think we'll see more of that?

Barb: I do. I can't tell you what specific cases, but I can tell you areas. I think that anything that relates to environmental protection is likely to be gone. Those can be very lengthy cases where courts are involved in consent judgments and other things. I think any of the police department consent judgments, where there have been findings of patterns and practices of unconstitutional policing and an agreement reached to provide technical assistance, the hiring of a monitor, to help those departments change their practices and policies.

I think we can see the plug pulled on those kinds of cases and there were a number of successes in the last administration. I know Pam Bondi has already said that she's dismissing cases that she calls promoting DEI, but cases alleging discrimination in the hiring of police departments and fire departments that she has dismissed. I think anything in the realm of equal rights in the employment, unconstitutional policing, and the environment is got to be right at the top level for picking off.

Kim: Crypto enforcement?

Barb: Yeah. Oh, yeah, corruption.

Joyce: They're just banning that. They're not doing that anymore.

Barb: [inaudible 00:59:36] public corruption.

Kim: Oh, right. Right.

Joyce: No more public corruption. No more-

Barb: No more financial fraud. No more...

Joyce: I mean, Kim, I like hearing you chime in on this because something that I always like to do is to touch bases with you for a reality check, because you see the legal and the journalistic aspects of these issues. What do you think, what's the message that voters take away from this? How is this landing? Are people pissed off or people just resigned that this is what the future looks like? What's your sense?

Kim: Well, I think the message that's coming from General Bondi is for three different audiences. For one audience, it is, "Look at me. I'm doing just what you sent me here to do and we're cracking down on the illegals and we're shutting down this DEI and all this stuff." Then there's another category of folks who she just doesn't care or she's saying, "Suck it. You lost." But I think there's another third group of people who are seeing, "I liked what Trump was talking about or I didn't want to vote for Kamala or whatever, but I don't like what this is. This seems cruel. This seems maybe not really smart if you're looking at what's happening to the markets all over the world. This is not what I signed up for. This is just more of that. Can you please maybe start fixing the problems of our nation instead of causing chaos?" I think that's the group of folks that she and the rest of the folks in the administration should be worried about.

Joyce: Well, none of us really getting older. I mean, we don't like the prospect of more hair in the drain or a wider looking part, suddenly looking at photos and wondering if your hair was always this thin. That's why I was so excited to get a package in the mail last week that's letting me try out OneSkin's new product. We love what OneSkin is doing for our scalps and our hair.

Their OS-01 peptide has already been transforming our skin here at #SistersInLaw, but with the new scalp serum called OS-01 HAIR and the amazing tool that they send along with it, it's sort of like... I don't know if you've ever done these facials that are microdermabrasion, where you sort of roll a pointy roller over your face and then put your syrups on. This is the same thing for hair and it's really cool. You use the scalp serum called OS-01 and it combats hair loss, thinning, and shedding. I've been using it for a week and a half. I'm excited to see progress.

Kim: Yeah, I am at the age where hair loss starts happening, so I am really, really in love with this product. It's easy to put on. There are some other things that go in the hair and it either feels sticky or bad, but this just drops right in. I've noticed, especially more now since my hair is up in braids, I can really see the new hair beginning to come through and my hair getting noticeably thicker. It's really, really a great product.

Why would a skincare company create a scalp treatment? Well, that's simple. Our scalps are part of our skin and, just like the rest of our bodies, it experiences cellular aging. But instead of wrinkles, aging messes with your hair follicles and natural growth cycle, which can lead to hair loss and thinning. OneSkin's OS-01 HAIR is the first scalp serum provided by OneSkin's OS-01 peptide and designed to target aging cells called senescent cells. It's scientifically proven to help your hair cells do what they're meant to do, grow fuller, denser, healthier hair. So don't wait. Get to the root of hair loss and thinning with OS-01 HAIR hair and you'll save 15% on your first purchase with code Sisters at oneskin.co.

Barb: This is a product that works for men and women. It's truly an incredible product and, between us, OneSkin is such a confidence booster. Whether I'm out in the wind or warming up next to the heater, I use OneSkin's OS-01 face topical supplement to fight back against dry skin. Now, my skin looks fresh and is ready for anything Michigan throws at me. I especially love that OneSkin's regimen works fast and the formulas feel amazing to apply. I'm certain you'll be a big fan, too.

OneSkin is founded and led by an all-woman team of skin longevity scientists and is redefining the aging process with their proprietary OS-01 peptide. Get 15% off with code Sisters at oneskin.co. That's 15% off oneskin.co with code Sisters. After you purchase, they'll ask you where you heard about them. Please support our show and tell them we sent you. Invest in the health and longevity of your skin and scalp with OneSkin. Your future self will thank you. Look for the link in our show notes.

Kim: Now, we've come to the part of our show that we love the most, and that is listener questions. If you have a question, you know what to do. Email us at sistersinlaw@politicon.com or you can tag us on social media. Make sure you keep an eye out on your social media feeds, because we sometimes just answer your questions right there. I've been doing that. I've been trying to do that a little more, even if we don't answer them on the show. Let's get to our first question.

It is from John in Denver who asks, "Could complaints be filed with the DC bar against justice department lawyers who are acting in an unethical or corrupt manner?" Barb, what do you think?

Barb: Yes, John in Denver, you are correct. There are a couple of things that you can do when a Department of Justice lawyer engages in misconduct. One is DOJ itself has an Office of Professional Responsibility. That is supposed to be the main place, because not only does it require compliance with ethics rules of the bar, but it has even more stringent rules for DOJ lawyers to comply with. I don't know that this DOJ has a particularly rigorous professional responsibility office, so that's one thing. But you're right that state bars are a place where every lawyer who is a member of the bar must comply with those ethics rules.

Interestingly enough, when you are a federal prosecutor, you need not be a member of the bar of the state where you practice, but you must be a member of a bar. For example, where I practice in the Eastern District of Michigan, although many of us were members of the Michigan Bar, we also had people who were members of the New York bar, the California bar, the D.C. bar, other places, because that is where they got licensed and they can practice in federal court anywhere.

However, you also must be a member of the bar of the federal court, so you have to be sworn into the Eastern District of Michigan. And if you violate their ethics rules, you could also be suspended from the practice there. Absolutely with regard to the US attorney in the District of Columbia, he is a member of the bar in Missouri, and so I believe there has been at least one ethics complaint filed against him for a conflict of interest for representing a client on both sides of the case, both sides of the V, as we say. But the DC federal court could also have a role in regulating misconduct there, so, yes, all of the lawyers are subject to those rules.

Kim: All right. Our next question comes from Katherine in Greeley, Colorado, who asks, "What will happen if we choose not to file or pay taxes that haven't already been deducted? Hasn't there been a breach of promise that warrants a strike of sorts?" Ooh, a taxpayer strike, Joyce. Talk about that.

Joyce: Well, look, Katherine, I want to be careful about how I answer your question because I don't want to give anyone legal advice. That's not what I'm doing here. I'll just talk about the legal principles that are involved. Here's the reality. If you do not pay your taxes on time, Uncle Sam can and will come after you. Now, there's all sorts of asterisks to that statement this year. I mean, we've seen all sorts of crazy stuff happening at the IRS, but the bottom line is that, as individuals, we can't decide that the government has violated its promises to us and that we're not going to pay our taxes. There are other ways to do that, but your obligation to pay taxes comes due, unfortunately, whether you like how Uncle Sam is using your money or not,

Kim: And our last question this week comes from Hyatt who asks, "Can Congress members sue when Trump exceeds his authority by usurping Congress's power, for example, by imposing tariffs?" Oh, Hyatt, if only it were that complicated, honestly, because suing would mean that Congress would be engaging in the judiciary. Oh, no, there is a power that they can use when Trump exceeds its authority all within itself. It's called impeachment. But they have decided after two tries that they just chose instead to nullify the power that they have to make him stay within the bounds of the constitution.

It's also important to say that if Donald Trump does something that he thinks is out of bounds, they can also pass legislation, making it really clear that what he did is out of bounds. Both of those things, legislation, impeachment, this is parts of checks and balances. It only requires the will of members of Congress to do it, but they can do it all by themselves.

Thank you so much for listening to #SistersInLaw with Joyce Vance, Barb McQuade, and me, Kimberly Atkins Stohr. Don't forget to follow Hashtag #SistersInLaw wherever you listen, and give us a five star review to help other people find us, and definitely show some love for this week's sponsors, HexClad, Honeylove, Smalls, and OneSkin. The links are all in the show notes. Please support them because they make this show possible. See you next week with another episode, #SistersInLaw.

Barb: Here's my objection to swearing. I think that we are better than that. I think that societal discourse is better than that. And I think every time we say a swear word, we just sort of dumb down everybody else. We're normalizing it. I've heard it before, I've said it before, I'd rather not, but I think that it's a cheap crutch for people to rely on when they can't think of the right word. We're wordsmiths, so let's do better.

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Kim: (beep) you, Barb.