

Barb McQuade: Welcome back to Hashtag Sisters-in-Law with Kimberly Atkins-Stohr, Jill Wine-Banks, Joyce Vance and me, Barb McQuade. The big news for us this week is our new Resistance Mini Tote. It is now ready for pre-order. I am told that the Mini Tote is the hot new item in the world. I don't know about such things, but that's what I'm told. And you can get your own Resistance Mini Tote by going to politicon.com/merch to get yours now.

Kim Atkins Stoh...: And I'm just going to say it's cooler than the Trader Joe's ones. The Trader Joe's ones are over. The resistance ones are the hot topics, so say me, wait until you see Anna Wintour carrying one. It'll be on.

Barb McQuade: Well, Kim is our fashion correspondent, so I'm going to take my advice from her. Get your Sisters-In-Law Resistance Mini Tote now. Today we will be talking about the latest in deportation news, Trump's efforts to block transgender soldiers in the military and his new executive order creating chaos in voting. But first, I want to ask each of my sisters something. Do you each remember when you took the oath to become a lawyer? Because there's a movement afoot on May 1st, which is law day for lawyers to reaffirm their oath to serve the public as a member of the legal profession. Do any of you remember the first time you took the oath to become a lawyer?

Kim Atkins Stoh...: I certainly, certainly do. I was sworn in to the bar of the Great Commonwealth of Massachusetts. And the swearing in ceremony, very wonderfully took place in Faneuil Hall, the old hall that dates back to revolutionary times that sits right in downtown Boston. My mom was there, as were several of my friends. They broke it up according to the alphabet, so it was like A through D or whatever. And I was there, and I specifically remember getting chills as I raised my hand and recited that oath to become a member of the legal profession and an officer of the court. That meant so much to me. I still think about it. I actually mentioned it also when I talked to a former Attorney General Scott Harshbarger on my other podcast, Justice by Design, this week.

It was such a momentous moment and I really wish more lawyers would think about that oath. I think, I might ... in honor of law day, print it out and put it right in front of my desk and just to remember how important it is that in our profession we don't just do our jobs, we vow under oath to do them in accordance to the constitutions of our states and our nation.

Barb McQuade: Yeah, how about you, Joyce, do you remember?

Joyce Vance: So I've taken the oath twice, in the Commonwealth of Virginia and then, in Alabama both times with a group of folks, the first time group of folks that I took the bar with, friends from law school, the second time friends in Alabama who I practiced with, and it is incredibly moving when people become lawyers because they take an oath to uphold the rule of law. Something that in past years has maybe been taken for granted but no longer and the time ... And Barb, I bet this will resonate with you and Jill too, that I remember the most that I took an oath was when I became a federal prosecutor in the northern district of Alabama. I took the oath with three other people.

Three of us had started on the same day, the fourth week later, we were sworn in by a federal judge in her courtroom. She had been a federal prosecutor and she compared that oath we were taking to the oath that we took, when we became lawyers and talked about how it was a solemn obligation to represent the people of the United States and both my very young stroller baby and one of my colleagues who became one of my closest friends, his stroller baby, they were in the courtroom with us watching that happen. And it is one of those moments that sort of indelibly ... If you'll permit my use of that word, indelibly imprints on the brain.

Because I think we, far too often, take for granted what should be among the most meaningful sort of obligations that people can take on to protect democracy. We take democracy for granted. We take the oaths for granted. Now, in this day and age, I think we have to revitalize and restore them.

Barb McQuade: How about you, Jill?

Jill Wine Banks: I've been sworn in four times, actually because I did take the oath as a Department of Justice prosecutor and also first in Illinois, then in New York. Actually then first in New York, then in Washington, and then in Illinois. Illinois, it was a single thing with a justice of our Supreme Court. The first time, it was ... Again, I was in Washington, so I wasn't with my bar colleagues and the only thing I remember was waiting for the bar results and how anxious I was to get the New York paper as soon as I could in Washington, which was at a newsstand by the Willard Hotel. And that was so exciting. And literally, I was sworn in a few days before I argued my first case in a court of appeals.

So that was very exciting, and my mother and my aunt came to watch me argue that case and that was thrilling. So I loved it and I am celebrating on May 1st with a reaffirmation of my oath because I think it's so important that the rule of law is in jeopardy right now in America and that we all must reaffirm our commitment to the Constitution.

Barb McQuade: Yeah, we'll put a link in the show notes where you can find either a local ceremony or you can also do it online if you are not able to get to a ceremony. You can also just do it yourself. So we'll post the link that's got a little kit and it has the oath from every state so that you can reaffirm your oath if you're a lawyer and want to do that. I remember when I took the oath, I must have been like 26 and there's a picture of it in my parents' home, still there in my childhood bedroom with me in my brand new suit. I went to the Wayne County Circuit Court where they had one of these mass swearing-ins, but the judge I was clerking for, the wonderful Bernard Friedman, came and made an individual motion for me.

So I've got a picture of me with him and my hair is still ... Even though it was 1991, the hair is a very 80s-esque kind of style. I'm usually a decade or so behind the times. And I'm wearing what I thought was just this magnificent new suit, but it has quite enormous shoulder pads.

Jill Wine Banks: So did mine.

Barb McQuade: But I thought I looked like a million bucks that day and I remember taking the oath and my parents were there too, and I remember thinking what a big deal it was and I won't read it, but most of the states are very similar and I just want to share a couple highlights of what is in the oath so people maybe who are not lawyers will know what it is that every lawyer, swears to do and not to do, support and defend the constitution of the United States and for us, the state of Michigan, to not bring any suit that is unjust, to not raise any defense that unless we honestly believe, that it is a fair argument under the law to protect client confidences and also to never reject the cause of the defenseless or the oppressed, or to delay any cause for malice or for ... they use the word lucre for money, right?

For some sort of profit motive and to conduct oneself personally and professionally in the highest standards of the profession in exchange, as a condition of the privilege of practicing law. So it seems that so many lawyers in the news are not upholding those high standards, but I'm really glad there's an opportunity for every lawyer to reaffirm that oath and remember why it is we entered this profession in the first place. Doing laundry doesn't have to be a chore. You can make laundry day your favorite day of the week. All thanks to Egyptian rose and other fabulous scented laundry detergent pods from laundry sauce.

Their powerful pods are packed with bioenzymes that wipe out stains and at the same time, leave your clothes with luxurious long-lasting scents that light up your senses the second you experience them. There's like an alpine one that I just love. It makes me feel like I've been walking in the forest all day.

Jill Wine Banks: You are right, Barb. All the laundry sauce scents are amazing and you're certainly right about Egyptian rose, but there are so many other equally wonderful scents including Indian tuberose, and surprising one to me, it's sort of along the lines of what you mentioned, Siberian pine, all of those contribute to a fresh green floral vibe. Add a spicy kick of nutmeg for warmth and depth to set the stage for something truly special. Then throw in Damask Rose, Honeyed Hawthorn, Cinnamon and Clove for the perfect mix of floral and spice. The result of laundering with laundry sauce is elegant, intriguing, and just a little mysterious. Think Old Hollywood glamour meets a daring secret agent.

And as the scent settles in, it gets even better. Vanilla bourbon and Velvety Musk, create a smooth warm finish while Haitian, Vetiver and Virginia Cedarwood at a rich sophisticated touch. The result is a bold central fragrance that lasts leaving an unforgettable impression along the way.

Joyce Vance: This is so for real. I love laundry sauce because it's not this sort of brash chemical smell that's overpowering. It's a really nice understated light scent. I don't typically like to use scent in anything, but I'm really hooked, although I have not tried the Indian tuberose yet and I'm eager to-

Jill Wine Banks: It's my favorite.

Joyce Vance: I grow tuberose and they smell wonderful, so that's next up for me. If you live scents that make a statement, Egyptian Rose, my personal favorite right now is for you. It's made for people who are confident, adventurous, and always leave an impression. Ready to elevate your laundry game, try Egyptian Rose from laundry sauce for a limited time only. Our listeners get 20% off their entire order, using code, Sisters at laundrysauce.com. That's 20% off your order at laundrySauce.com with promo code Sisters. For a limited time only our listeners get 20% off their entire order. When you use code, Sisters at laundrysauce.com, that's 20% off your order at laundrysauce.com with promo code Sisters.

I know I'm saying it a lot. It's really worth it. I really love it and I think you will too. After you purchase, they'll ask where you heard about them. Please support our show and tell them hashtag sisters-in-law sent you. It's time to make laundry day the best day of the week. The link is in our show notes, like always.

Kim Atkins Stoh...: So we are recording this at a time that it is a great time to ask are we in a constitutional crisis yet? Because as we record, just hours ago, a Wisconsin Judge Hannah Dugan was arrested. Yes, arrested and charged with obstructing federal immigration enforcement. This arrest comes because the FBI claims that she allowed someone who was under investigation or under ICE surveillance to leave her courtroom after ... because what is she going to do hold them hostage? But they left the courtroom, they were apprehended afterwards, but then the FBI filed a criminal complaint against this judge.

This is the first time that that has happened and I want to get you guys' reaction to this. As I said, this is fresh for us. At the time of this, she had been released to appear later for proceedings, but I'll start with you, Barb. What is going on? Is this the constitutional crisis and what's going on?

Barb McQuade: Boy, it's the kind of thing where I'd like to see more facts before I can give a full opinion about it, because judges are not immune from the law. They must obey federal law and they can be prosecuted if they commit a crime. But there is also a great deal of respect in normal times for federalism. That is that judges are allowed to enforce the laws of their own state free from interference from the federal government. And that's where I think this is so troubling. If she did something to actively obstruct the arrest of an immigrant and knew that there was an order for him and she took active measures to prevent his arrest, that's one thing. If she simply conducted a hearing, the way she ordinarily would, that's quite another.

And no matter which it is, the idea that she was arrested to me is what is so absurd because when the FBI decides whether to arrest someone or not arrest someone, the default is to not arrest. Because when you arrest, it means you need to bring a lot of officers. It puts people in danger because somebody might do something foolish like try to run away or do other kinds of things. And so, if a person can self-surrender, that is kind of step one. Can this person self-surrender safely? The idea that they instead chose to arrest or strikes me as an effort to put spectacle over genuine law enforcement interest. So at least that fact to me is very suspect. Joyce, what do you think?

Joyce Vance: Yeah, like Barb says, the decision to arrest is the tip off here, right? This is a state court judge. She's not going any place. They could have indicted her and had her appear, which I'm sure she would've done or her lawyers would've had conversations with them about the process. And if you need a second tip off that this is about political showmanship, not law, it's the fact that Kash Patel, the director of the FBI, tweeted about the arrest going far beyond what DOJ is permitted to do at the time of charging, referring to her as the perpetrator using the kind of language, DOJ is specifically prohibited from using because it can prejudice jury pools.

It can prejudice defendants' rights, and it is strictly forbidden to the point where he had to take that tweet down. Like Barb says, we're taping Friday morning. It's about 11:50 Eastern Time. The affidavit that the FBI filed to obtain the arrest warrant is only just coming down. I've had time to read about half of it, but I'll tell you what jumps out at me. This is an FBI agent who says he works on a public corruption team. They prosecute corrupt public officials. And the fact that he's now working immigration cases is consistent with Pam Bondi's direction that the department should shift its priorities. So this isn't a corrupt judge who was on the take. This isn't a judge who was trading results in cases for special favors.

This is a judge who did it, unless I'm mistaken what judges are permitted to do. She dismissed the defendant or rather the person who is alleged to not have legal immigration status. She dismissed him from her courtroom. Many courthouses have long had a policy that doesn't permit ICE to even enter their courthouses because it does really bad things. It makes people not want to show up. It makes victims of domestic violence not want to report to law enforcement. It prevents people from acting as cooperating witnesses and so many state courthouses, including the one that my husband sat in for many years, didn't let ICE come inside. This is a new world now where the federal government is asserting its ability to make these arrests in courtrooms.

It's a terrible idea for public policy purposes. It's very easy to understand why this judge and other courthouse personnel would've wanted to coordinate and confer about what they were going to do in this particular situation. The idea that the federal government had any business making an arrest, let alone charging is way out of bounds here. And I just think it's further evidence of the fact that the Justice Department as we knew it, as we loved it, is a thing of the past.

Kim Atkins Stoh...: Jill, what are your thoughts?

Jill Wine Banks: My sisters are so on target, that they've said everything that needs to be said on this. It is an appalling situation and only in a Trump administration with Kash Patel as the director of the FBI, could this have possibly happened?

Kim Atkins Stoh...: That's absolutely true. As I said, this has never happened before. This is wild, folks. That's why I'm asking for this case and also some others, are we in the constitutional crisis yet? Because it feels like it. Literally, hours after we recorded last week's episode of Sisters-in-Law, the Supreme Court issued an order halting deportations from a Northern Texas facility to El Salvador until further notice. Alito and Thomas were all in their feelings and dissented in that case. But Barb,

there seems to be evidence that this administration has not halted. That they may be readying more deportations despite not just the Supreme Court's order, but several district court orders telling them not to. Are we in a constitutional crisis yet?

Barb McQuade: I think we are. First, I want to say, just a word because that opinion from the Supreme Court came out last week after we were done recording. It came out on Saturday morning and the court was otherwise unanimous. Seven of the justices said, "Look, due process matters here." Stop deporting these people to El Salvador under the Alien Enemy Act. We need to look at this, legally and right on cue, we see dissents from Justices Thomas and Alito. You could say it's Saturday and Thomas and Alito would dissent. I think.

Joyce Vance: That is so true.

Barb McQuade: My gosh. It's really become just a running joke. But Kim, to your point, it does appear that the Trump administration is readying more people for deportation. They've been moving people from places around the country into places in Texas at a detention center there, which appears to be preparing people to put them on planes and send them out of the country. I think if they do that in defiance of the Supreme Court's order, that would be a full-blown constitutional crisis because we now have an order, saying they cannot do that. To date, I will say the Trump administration has not said, "We are defying this order outright or you can't stop us." They've tried to dance around it a little bit, now in ways that are certainly not credible.

They've said things like, "Well judge, when you put that language in your order, that was only spoken and not written, and we didn't think that counted," which is absurd, or they said things like, "You said, facilitate his return to the United States." We don't think that means taking efforts to get him out of custody in El Salvador. We just thought that meant if he should somehow find his way to the border of the US, we have to let him in. That's all facilitate means.

Kim Atkins Stoh...: If he teleports back into the US.

Barb McQuade: Exactly, and the judges have said that's ridiculous. Facilitate is an active verb. It means you've got to take steps to make this happen. And so, they've danced around it, which to me, shows at least some semblance of the idea that we need to make it look like. We at least need to talk about it, that we think we're complying with the law. I mean, they've used every excuse except my dog ate my homework, but I think if they take action in defiance of a Supreme Court order, the crisis is here and I think we're like one tweak away from that.

Kim Atkins Stoh...: So Jill, another court has ordered the administration to facilitate the return of another wrongly deported person. What happened there and are we in a constitutional crisis?

Jill Wine Banks: Yes, we are. I agree with everything Barb said, and we have ... Frankly, I think there should be concern about everyone who has been deported and the use of

requirements that people file individual suits. Yes, there's another one. Another Maryland person, and again, a Maryland district court ... Not Maryland District Court, US District Court judge, who was appointed by Trump, has said, "You've got to bring this person back." He was deported in violation of a binding court approved settlement agreement that said that anyone who came in under what is basically DACA, came in as an unaccompanied minor would not be deported until their claims were fully adjudicated.

And this person's claim for asylum has not been adjudicated. There's a slight difference from Abrego Garcia because he does have, I believe, a misdemeanor conviction. But that is not relevant here. The only thing relevant is that he was being taken out of the country illegally. We think he is at least Venezuelan, which is one of the criteria, supposedly they were taking Venezuelans. But the government is arguing basically that, "Oh, the new Enemies Alien Act is taking over at the bar on deporting people who didn't." So they're arguing that there is an exception to the settlement and that he can be deported. I think it's ridiculous and that they're going to have to comply with that too. And facilitate, as Barb said, is an active verb and we can't keep dancing around it.

And there is no legal reason for holding them in a foreign country at all except that we're paying that country. It's a contractual relationship. This is not foreign relations.

Kim Atkins Stoh...: Joyce, do you think that when it comes down to it ... So far, the Supreme Court has weighed in. I feel like it's an increase in urgency a little bit from the original order in the Abrego Garcia case that clarified that everybody has the right to a hearing and notice before facing deportation, to the most recent order that was like, "Okay, you all stop deportations that you're ... If you're putting people on planes, stop it." Do you think that the SCOTUS has, once this really gets before them, not just these emergency petitions. Do they really have the stones to stand up to this President?

Joyce Vance: I'm so sorry that you asked me that question because I really don't want to answer it. I hate reading the tea leaves as you know. I have had concerns about the Supreme Court. So I'm going to answer your question this way. Was it Joe Biden who said, "It doesn't take all of us to keep democracy, it just takes enough of us." I think that that was the former president. And I'll have that response about the Supreme Court. It only will take just enough of the justices, that's five of them. And I'm hopeful that there's still five votes for democracy on the Supreme Court. That's sort of a terrible thing to have to say, but we've seen the 9-0.

Decision in Abrego Garcia, the 7-2 decision in the Alien Enemies Act cases. I think when push comes to shove, if for no reason other than the fact that the Supreme Court doesn't want to rule itself out of existence and make its role and the role of the inferior courts irrelevant that it will draw the line here, it's sort of sad that you have to ask the question and that I have to answer it this way, because this should all be 9-0 stuff, right? This is all about a president who's trying to seize power from other branches of government. He's trying to tell the press, the legal profession, universities. He's trying to create a general environment of fear.

The Supreme Court should be standing up to him. And so, I think it's a sad state of affairs that we have to question whether they have the stones to do it

Kim Atkins Stoh...: Well. We will all hope that Joyce is right. I think it will be on the hearts of Justices Kavanaugh, Barrett and Gorsuch and how this goes forward, and we will see how that goes.

Jill Wine Banks: Because so many people no longer trust the media, except of course for Sisters-in-Law, I have been looking for a way to help them evaluate the news they get so that they know what is real and what isn't. The fragmented media environment obviously causes a problem, and the media is meant to inform us, but how you know what's real and what is fake? Well, I found a solution that will help you see through the misleading media narratives. It's Ground News, a platform that makes it easy to compare news sources, read between the lines of media bias and break free from algorithms. Unlike the mainstream narrative coming from the usual suspects, Ground News puts you in a position to choose and compare.

The news you want to read while giving you a peek into what's being reported on opposite sides of the political spectrum. Nothing could be better to help you figure out for yourself what's true.

Joyce Vance: With Ground News, get details, the source, its political bent, how reliable the reporting is and who owns them. You'll be empowered to compare how different global news sources cover the same story and figure out what's really going on. And with over nine and a half thousand five-star reviews of their app and website, Ground News is a great platform for discovering how any news story is being covered and getting every perspective all in one place.

Barb McQuade: I'm obsessed with the concept of disinformation, and one of the hazards of disinformation is that the public ultimately believes nothing. And that's where Ground News comes in. When Newsmax claims that the White House swats fake NPR report on Hegseth or Axios calls out the scandal while giving the straight details about how the White House denies reports that it plans to replace Hegseth, the choice is clear. When you're looking for the truth, Ground News makes it easy to cut through the noise. It's time to expand your view of the news. Sign up for your Ground News account today and get access to the mobile app, website, browser extension and exclusive newsletters so you can have a well-rounded view of the world, think critically about what you read and find common ground between perspectives.

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Jill Wine Banks: Once again, Donald Trump has gone to the Supreme Court in an emergency application, and we've already talked about how unusual arresting a judge is. While it's also unusual to have this many emergency appeals to the Supreme Court. This one is from a nationwide injunction from a federal district court in

Washington state, and there are other cases also pending in DC and New Jersey. And this one had to do with his desire, Trump's desire through an executive order to bar all transgender people from military service. This case involved several service members who would be kicked out of the service. And Kim, what's the deal here?

Kim Atkins Stoh...: Yeah, so the Trump administration, again, as it tried in the first administration, is trying to kick trans people out of the military. The argument is that somehow that they will create a distraction, that it will harm military readiness and cohesion, whereas the people who are challenging this order are saying that it is a direct violation of the constitution and federal law. It's discrimination on the basis of gender, something that the Supreme Court, at least in terms of employment has found is unlawful. And they are not doing it. The difference between now and if you recall the first time the Trump tried this, one of the big differences now that I think is more applicable is that at the time.

Secretary Mattis, the Secretary of Defense, did not support banning trans people from the military. He gave guidance to the White House saying, no, no, you don't have to do it that way. If you want to tweak it, you want to limit some certain kinds of deployments or something like that, maybe we can talk about that. No, there are trans people serving in the military. They're among our best troops and fighters, and it's causing no problems at all. This time we have Secretary Hegseth, that's going to do anything that the President wants. There is no guardrail from within the Pentagon. So I worry a lot about this case because I think while it was blocked and sort of fended off by courts for a while, the first time before it very briefly went into effect before Biden won and lifted it again, I think we're in a different spot right now.

Jill Wine Banks: So Barb, what did the judge rule in this case?

Barb McQuade: Well, this is a judge named Benjamin Settle, and I hate that we live in an era like this, but I guess it is important to point out that he was appointed by President George W. Bush. So he's hardly some left-wing radical as judges often find themselves called whenever they rule against the Trump administration. But Judge Settle said that transgender service members who had sued had raised serious questions about the ban as to their constitutionality under the equal protection Clause, which says that we can't discriminate on the basis of sex. They're due process rights, which is a procedural right, but also a fundamental fairness right and their First Amendment rights.

And so, he said that the balance of hardships tipped sharply toward these plaintiffs who will suffer not only the loss of their employment and income and reputation, but also, a career that they have dedicated to military service. So based on the facts, based on the findings, this judge thinks that this conduct is illegal. And I will also say that from a policy perspective, how just foolish this is? Remember during Pete Hegseth's confirmation hearings, when he kept talking about ... there were actually a lot of questions about his views of women in the military, and there were a lot of questions about that, but what he kept saying is, "Senator, we have standards.

And he would raise his hand pointing maybe the way one might point to the water level. We have standards and he would raise his hand kind of about to his forehead, and anyone who can meet those standards will have a place in the military, but we're not going to have preferences. Fine, but there's nothing about these people that says they are not fulfilling the standards that we need to have military readiness. Instead, it really is about culture wars, I believe and diminishing the role of transgender Americans in society. I'm often reminded of a conversation I had once with a former colleague, where it was back in the 90s when there was the debate about whether we could have LGBTQ members in the military remember that with a don't ask, don't tell us where Bill Clinton landed.

But even before that, this was a big debate and every argument really gets tossed out in terms of its conduct versus identity, right? What if somebody attacks another guy in the shower? Well then they're out, right? They have not complied with the conduct. It's not like ... Everybody wants to attack every guy in the shower. It's ridiculous.

Kim Atkins Stoh...: And not to mention ... And none for nothing, there's a lot of attacking going on in the military, in the way that's not being addressed at all. So if that was a real concern, then you all have plenty of cases not involving trans people to deal with, so come on.

Barb McQuade: Yeah, and finally, after knocking down every one of these foolish arguments, it came down to, I just don't want to see one more barrier knocked down that legitimizes these people in society. And that to me is what it really is about, isn't it? That if transgender people can serve in the military, then they will be properly hailed as heroes the way we regard members of our military. If they can meet those standards, right? That's what it's all about. So I think this case, at least in the lower courts, has been successful. We'll see what the Supreme Court has to say about it.

Jill Wine Banks: What is the argument even possible? What is the government arguing here, Joyce?

Joyce Vance: Yeah, so the Solicitor General's brief basically makes the argument that the executive branch gets to decide who can and who can't serve in the military and that they're saying transgender people can't serve. Their argument is that they hurt military effectiveness. They are bad for lethality and readiness. In other words, they're making arguments. I mean, I can't just say what the arguments are and leave it at that, because they're so clearly disproven by the trajectory and the performance of transgender people in the service, even in the prior administration where there was this notion ... That the prior Trump administration, where there was this notion that, okay, transgender people can serve as long as they serve in the gender that they were born into and that they don't use public funds for surgery.

Even that was a step back from where Trump is now. And to Barb's point, this really is about the culture wars, right? This is really because the Trump administration doesn't want to pay for surgery, for transgender people on their watch. And if you're a member of the military, the government covers the costs

of your medical surgeries. So it's important to remember that behind the marquee policy and the headlines, there's this just really cruel, harmful, hateful policy that singles out transgender people. And yet, at the same time, these people have the audacity to argue that the policy doesn't violate the equal protection clause, which it clearly does.

Jill Wine Banks: So this is going to be an interesting case to see resolved. I can tell you from my service on a Pentagon Commission during the Obama administration, looking at sexual assault in the military, that service members are quite comfortable serving with gay, lesbian and trans people. They think they do a good job. There's no evidence that they hurt the unit effectiveness or lethality. And so, I think this is one of those things that is, as Barb said, a societal issue, not a legal issue, and that they should prevail. Whether you love a simple mascara and gloss or like to play with bold colors and shapes, Thrive Cosmetics has a trusted favorite perfect for you.

Thrive makes certified 100% vegan and cruelty-free products you can depend on for everything from simple daily wear to show-stopping self-expression. Plus everything from Thrive uses clean, skin-loving ingredients, high performance and trademark formulas and uncompromising standards that you'll be proud to wear.

Joyce Vance: I love Thrive's Liquid Lash Extensions Mascara. True story, the only makeup I have on right now is my Liquid Lash Extensions Mascara. I had to run out in the rain to chase chickens around and get them back in the coop, and it's like raining like crazy down in Alabama right now. While we're taping, all of my other makeup was washed off of my face. My mascara is still there. There's a reason this stuff has over 40,000 five-star reviews. It's perfect for a salon look without the damaging glue or excessive prices. Better yet, you can pick from five shades, they last all day, even in the rain, without clumping, smudging, flaking, and they slide off with just warm water, a washcloth, no soap required.

One thing that's truly amazing is how its nourishing ingredients support longer, stronger and healthier lashes over time. And meanwhile, the Flake-free tubing formula dramatically lengthens and defines your lashes from root to tip. I really like using it. It makes a big impression.

Jill Wine Banks: Another thing we love is that cause is in the name for a reason. Thrive not only defines luxury beauty with their clean skin-loving ingredients and uncompromising standards, but they also give back. Every purchase supports organizations helping communities thrive. Thrive donates to eight major causes, including the fight against cancer and domestic abuse. Veteran and education organizations, and many more. I am very proud and glad that we're a part of it.

Barb McQuade: Try your new trusty favorites with an exclusive set for our listeners. New customers can get the Liquid Lash Extensions Mascara and a mini-sized brilliant eye brightener at a special set price with free shipping available at thrivecausemetics.com/sisters, or save more than 20% off your first order at thrivecausemetics.com/sisters. That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-

C-S dot com slash sisters for 20% off your first order. The link is in our show notes.

Joyce Vance: Well, Thursday was a bad day in court for the Trump administration. All of the rulings centered on Trump's efforts to assume power that doesn't belong to the presidency, and the courts told him no, for the most part. There were adverse rulings on his efforts to withhold funding from so-called sanctuary cities. There was an adverse ruling on his efforts to revoke funding that gives immigrant kids, including toddlers lawyers, to represent them in deportation proceedings. In the deluge though of court news and especially all the goings on around deportation, one of the important decisions that didn't get the focus it should have beyond just the raw headline, involves Trump's executive order on voting and elections.

So I thought we'd talk about that just a little bit in depth today. That executive order ran into trouble in court yesterday, still in a very early stage of the case involving a partial injunction, but it's an important deal. Kim, can you remind us what does the executive order do? What does Trump think the president's role should be in controlling elections?

Kim Atkins Stoh...: Broader than what-

Joyce Vance: I want to ask you pointed of a question, right?

Kim Atkins Stoh...: No. Well, Donald Trump thinks his power should be something that is not envisioned by the Constitution. In fact, it's absolutely expressly prohibited by the Constitution. Nonetheless, I will summarize it and I will also drop a nice little explainer from the Brennan Center in our show notes as well. But essentially, Donald Trump thinks he can in an executive order, direct a division of an election commission on the federal level that is really just meant to facilitate the carrying out of federal elections, was not meant to have some sort of authority to change the law, but directing it to require for anyone to register to vote that they show official documents like a passport or a birth certificate in order to be able to vote.

And if they did not do that in their original registration, which most states did not require that, so most people did not do that, they would have to re-register presenting these papers ... It's a show me your papers registration requirement or else they will not be able to vote in future elections. Now this puts anyone, I've told the story on this podcast about the fact that my father who ran a union, who was educated, who was going through the world and lived it fully for every one of his 84 years. He didn't have a passport. He didn't have a passport. He didn't travel internationally. He never needed one until they changed the rules at the US-Canadian border after 9/11.

And it took because of the documents necessary, I had to go on a ... I had to be basically a private investigator and find a copy of a school record that had burned down in his one-room classroom in Arkansas, but that was somehow kept on microfiche in a library, in Arkansas. Now imagine how many people might have obstacles like that to getting a passport or imagine if you like me, took a long time to get all your documents updated with your name after getting married and

changing your last name, and I did, I did. I did get my passport though. But it's a lot of work and it's very expensive. If you just got married and your passport or your birth certificate ... Well, your birth certificate never would, but doesn't match these documents. You might not be able to vote. Are you kidding me?

And it seems pretty backwards, right? Because you would think that taking your husband's last name is something that the conservatives would want you to do, but if you do, you might not be able to vote. So it's really bad. The president, if you didn't know under the Constitution, has no authority over elections. None, zippo, zilch. It is congress, but it's majority up to the states to set up election rules. So yeah, this is way out of pocket.

Joyce Vance: Okay, so given all of that, and Kim, thanks for referencing the amazing work of my colleagues at the Brennan Center who've done a fabulous job of explaining this. I echo Kim's recommendation that you look at that for a deeper understanding. So Barb, we have this order. It's horrible. It gets challenged. There's a ruling yesterday. This is of course an injunction. So it's important to remember that this is that and not a substantive decision on the merits of the case itself. Can you help us understand all of that?

Barb McQuade: Yes, and I like to think of this as not a bad week for the Trump administration in court, but a great week for justice in the courts. And our courts have been really knocking it out of the park, I think. And here's another example of a court standing strong. So there was a challenge to this executive order in court seeking a temporary restraining order, and this is injunctive relief. So as Joyce says, it is not a final decision. There will be a trial ultimately to make a final decision, but what an injunction is, is an order by a judge to block an action and pause and preserve the status quo so that there can't be harm while the parties work out the litigation.

But in order to obtain an injunction, the plaintiffs have to show a substantial likelihood of success on the merits of their case. They have to show a risk of irreparable harm if the law goes into effect or the action occurs. They have to show that their own interests, balance of interests of the parties favor the plaintiffs. And they also have to show the public interest favors blocking this action. And so Judge Colleen Kollar-Kotelly found in this opinion that all of those factors weighed in favor of the plaintiffs. And of course, as Kim said, it's because it is not the President who gets to monkey around with the rules for voting. As the judge said in her opinion, our constitution entrusts Congress and the states not the president with the authority to regulate federal elections.

And so, all of these things that Kim just talked about, about proof of citizenship and other kinds of things, those are decided by the States and by Congress. And in fact, she pointed out that Congress is currently debating a federal act to talk about voting rights. It's their job. And how about this? Remember last in the Biden administration, when the conservative justice movement, especially when it came to elections, were all about something called the major question doctrine. Am I crazy to remember that?

Kim Atkins Stoh...: Yeah, I remember that?

Barb McQuade: The major question doctrine and it was that, "Oh, no, no, no. We can't let agencies interpret the law unless Congress has very meticulously delegated to those agencies the power to do that." And on major questions, we have to make sure Congress is making those decisions. So it's not just contrary to law, it is so hypocritically contrary to law to say that, well, when a Republican is in office, they can do whatever they want with executive orders, but Democrats can't. I think we should ... Regardless of who is in power, we should follow our three separate branches of government and let them do their jobs. Congress makes the laws and the executive branch executes them. From time to time, they need to fine tune some things because it's not clear what Congress meant. But you can't just write an executive order, sign it in your big black Sharpie and say, I've changed the law.

And that is what happened here, and that is why the judge has entered this injunction to block this executive order to going into effect until this litigation can play out.

Kim Atkins Stoh...: And you know who loves the major questions doctrine? The majority of the justices on the US Supreme Court love it. The conservatives on the SCOTUS love the major questions doctrine, by the way. So can't wait to see them weigh in.

Joyce Vance: Well, I can't believe that we've forgotten that the major questions doctrine applies only when you're trying to keep a democratic administration from doing something. I mean isn't how the principle is stated. It of course will not apply to the Trump administration for whatever reason, Justice Alito or Justice Thomas can summon when they write for the majority.

Barb McQuade: That sarcasm is so thick, it's dripping through my computer, Joyce.

Joyce Vance: I have rarely heard you as animated as you've been today, Barb, and I think it's important for us to acknowledge ... and Kim certainly your question, are we in a constitutional crisis weighs in here. This is serious times. This is dark times in America and we joke and we're all trying not to be doom and gloom. We're trying to think through the problems analytically because we're lawyers and we're trained to do that. But this is going to be a tough few months, maybe a tough few years for our country to hold onto democracy. I don't think that we should lose sight of that. At the same time, I'm just unwilling to let Donald Trump absorb all of the joy that I'm entitled to in life.

And so I'm glad that we're still able to laugh and be sarcastic, but I don't do that in any sense because it's not serious. I mean it is. And this issue involving Trump's executive order, it's still live. It's still on the table. This is just an early ruling by one district judge. So Jill, what happens next? What do you think the path forward looks like? If you don't mind me asking you to crystal ball a little bit.

Jill Wine Banks: A little bit is okay in this case, so first of all, there's not a ruling on the merits. There'll be a ruling, there'll be an appeal, but there is also another effort to get the SAVE Act passed. That's the Safeguard American Voter Eligibility Act. An act based on absolutely no evidence because there's no evidence that there is any

kind of fraud in elections. But it did pass the house in the last time and was narrowly saved in the Senate because the Democrats controlled the Senate. This time, it's now passed the house and we're waiting to see what's going to happen in the Senate. But the judge wrote a great order. It will be hard to challenge the ruling because it makes sense.

So even the Supreme Court who we never like to predict is likely to say it's the right ruling. Her ruling was not 100% not in favor of the applicants. And so, I think there's a good chance, and the Constitution couldn't be clearer in saying what the role of the states is in creating election rules and only in the case where Congress can sort of challenge them on some things, but it's only Congress. There is absolutely no role for the president. Which if we remember back to the impeachments and things, it was like why is he trying to do something in Georgia about the election? He has no role in this. This isn't his role, and so let's keep that in mind. It is just one more power grab to make him the king, a dictator, a tyrant.

Joyce Vance:

So you all voting really is the right that unlocks all other rights and the coming fight that we're going to have is the midterm elections. I don't believe Donald Trump will be able to cancel those elections. They will take place. The question is will they be free? Will they be fair? Making it hard for people to register and to stay registered to vote has always been a part of the Republican suppression of voting rights game plan. But now, we're seeing Donald Trump put that on steroids just like he put complaints about election fraud on steroids. And that means we all have a job. Our job is get registered early, play their game in this sense, get your identification.

If you don't already have real ID, go ahead and get it. I'm from Alabama. I know a poll tax when I see one. Making people get their original birth certificate or a passport is a poll tax. There are groups that help people obtain those documents. There's a great group called Voter IDs that you can find online, but find a way to help elderly family members, younger kids, everyone that you know, get the documents that this administration is going to try and require them to use to get registered. Great sleep is critical to success. And there's nothing better for sleep than a Helix mattress. I first heard about them when they asked to sponsor our show, but we're very selective on #sistersinlaw. I mean, we do try everything out.

We only advertise stuff we like. I took the quiz and I tailored my mattress to my sleep style. I got matched with the Helix Midnight Mattress and I must've aced that quiz because I've been getting the best sleep of my life ever since it arrived, even with a large German Shepherd sleeping next to me. After I tried mine, I ended up getting Helix for my whole family. We are a Helix dedicated family.

Barb McQuade:

Helix has so many options. They combine memory foam and individually wrapped steel coils for the perfect blend of softness and support. There are even enhanced cooling features to keep you from getting too warm when the furnace is blasting or a heat wave hits. Both are frequent occurrences with climate change. So I'm definitely glad Helix has this feature. I'm amazed that Helix has been part of my #sisterssleephabits for almost two years now. Making the Switch is such an upgrade. Since then, we've heard so many stories of people seeing transformational improvements in the quality of their sleep on their wearable

devices thanks to the Helix mattresses. Add that to the quick and simple setup and no fuss trial policy and upgrading to Helix is an easy choice.

Jill Wine Banks: And what makes it even better is that right now Helix has an incredible deal. For our listeners, go to helixsleep.com/sisters for 20% off site wide. That's helixsleep.com/sisters for 20% off site wide. Again, that's helixsleep.com/sisters. And of course, the link is in our show notes.

Barb McQuade: And now, comes our favorite part of the show, the part where we answer your questions. If you have a question for us, please email us at sistersinlaw@politicon.com or tag us on social media using #SistersInLaw. If we don't get to your question during the show, keep an eye on our feeds throughout the week where we'll answer as many of your questions as we can. Our first question comes to us from Scott in Chicago, Illinois. Scott asks, how common is it for judges to find defendants or lawyers actually in contempt? Is this tracked anywhere? Joyce, do you have a sense of that?

Joyce Vance: This is a great question, Scott. I mean, we're all used to these dramatic made for television moments where a judge says, "You're in contempt, sit down." And that doesn't really happen very often in real life. Of course, the federal system is always a little bit more rarefied air than state systems to the extent that contempt findings happen. There are more likely in state court. In my experience in federal court, it really is a rare thing. I'm not sure if those numbers are tracked anywhere. I'll take a look and see if I can find out, but I have not ever seen them. At least in the federal courts, the judges are very hesitant to hold parties in contempt.

They really try to give them every opportunity to do the right thing. And they reserve contempt findings only for people who just refuse to make the effort. There's sort of a counterpart, it's called Rule 11. It's a sort of a proceeding that's used when lawyers engage in filing frivolous proceedings. And look, we all see some of these complaints or motions where we roll our eyes and say, they really should be sanctioned for that. But again, the judges use that sort of a procedure very sparingly, really reserving it for the most deserving cases. And I think that this is all because the federal courts are aware, they don't have an army to enforce their orders. They're not powerful in that sense. Their power is held because they are careful, they are reserved.

And when they are doing things right, they diligently protect the integrity of the court. So no one can question when they issue a ruling. I mean, I think that's why we've all been talking so much about ethics lapses and Justices Thomas and Alito for the last year. And so your question really for me brings into focus how important it is for the courts to marshal their integrity and the public's confidence that they're acting in a fair and a just manner so that when they need to enforce their orders, they have the moral force to do so.

Barb McQuade: All right, our next question comes to us from nellieby666@bluesky.social. And Nellie asks, can Trump preemptively pardon his entire administration from contempt, from anything? From everything? Jill, you're sort of our expert on presidential pardons. What do you think about that question?

Jill Wine Banks: I think it's one of the most depressing questions that has ever been asked of us because the answer is, yeah, he probably can. There's been some history of that. And we think it might actually work, and the sad thing is that if he gets away with it, he's already immune from criminal actions that he takes as part of his constitutional responsibilities. Although I think there are none that should be part of his constitutional duties, that we could have people below him carrying out his orders even though they are illegal orders and even though the conduct is criminal and the President has unfettered power. So we might have to look at some kind of constitutional amendment when you have a criminal president to stop him.

I mean, remember my book was called Something About a Criminal President, and it wasn't at the time Donald Trump, but it could apply.

Barb McQuade: Our next question comes to us from Parkin in South Carolina. What do you think of the possibility of the Republicans packing the court? How hard would it be to do? Kim, you're our Supreme Court expert, what do you think?

Kim Atkins Stohr...: Yeah, it'll be pretty hard. Packing the court or adding more justices to the court would require an act of Congress. That's it. It wouldn't require constitutional amendment or anything. It's happened multiple times over the course of our nation's history. But you need to be able to pass the bill. And right now, with such razor-thin margins, even if they were able to squeak one by in the house, which is a big if, they do not have the 60 Senator majority to pass it in the upper chamber. So that's just not going to happen right now.

Barb McQuade: Thank you for listening to #SistersInLaw with Kimberly Atkins Stohr, Jill Wine-Banks, Joyce Vance and me, Barb McQuade. Follow #SistersInLaw wherever you listen, and please give us a five star review. It really helps others find the show. And please show some love to this week's Laundry Sauce, Ground News, Thrive Causemetics, and Helix. The links are in the show notes. Please support them because they make this podcast possible. See you next week with another episode, #SistersInLaw. Joyce, I finally cooked up that Dreamland barbecue that you sent me when Michigan defeated Alabama in the bowl game. I had a house full and we had a big feast and it was delicious.

And now, I can't wait. I'm coming back June 23rd and you're going to moderate a book talk for me in Birmingham. Can we eat more barbecue?

Joyce Vance: I'm so excited that you're coming to Birmingham. But you know what people don't know about my adopted hometown is that it's a major foodie city. We have great restaurants. In fact, we had friends in from out of town last weekend. The husband had clerked here many, many moons ago, and he was stunned by the growth in restaurants. So we're going to have a lot of choices. I might need to take you to barbecue for breakfast, which is a thing here.

Barb McQuade: I'm in.

Joyce Vance: Take out someplace else the night before. But yeah, if you're in Birmingham or if you're in the Southeast, come and see Barb McQuade at little professor books in Birmingham. What's that date again, Barb?

Barb McQuade: Monday, June 23rd.

Joyce Vance: I can't wait.

Barb McQuade: Barbecue. It's not just for breakfast anymore.