

Jill: Welcome back to #SistersInLaw with Joyce Vance, Kimberly Atkins Stohr, Barb McQuade and me, Jill Wine-Banks.

There is big news, guys. The new Resistance Mini Tote is ready for pre-order and if you want to be a fashionista, you have to have a Mini Tote. I didn't know that until I got my Mini Tote and everybody said, "This is what everyone is using." And it also expresses your political views because it's ReSis, for the Sisters, Resistance, and you will love it. Go to politicon.com/merch to get yours now.

Now, let's get onto the show where we are going to be discussing a recent slew of pardons by Donald Trump, a recent attempt to stop courts from being able to issue contempt orders for violating any of their orders, and what's going on at Harvard and the lawsuits that are involving the Trump administration.

But before we get to all that really important stuff, I want to talk about something equally important, which I am very excited about, and that is that Barb McQuade's book is coming out in paperback on June 3rd, and it's so exciting and you can pre-order it now.

We've all posted on social media a link to buy her book in paperback and you will love it. It is so important. I was at a big event yesterday for the Smithsonian's New National Women's Museum and I was telling everybody there about it and people... I'm sending them the link and they are ordering your book, Barb. So I'm pre-selling your book for you.

Barb: No, thanks so much, Jill. Yeah, in fact, I'm excited. We'll put a link in the show notes to order the book if anybody doesn't have it yet. But I'll be in New York on Tuesday. In fact, I'm doing an event with Loretta Lynch, the former Attorney General of the United States, and Joyce, my former colleague, she was the US attorney in Brooklyn before she was the AG. We're going to be in conversation at NYU on Tuesday evening. So if you're in the New York area, I hope you'll come out and join us. Admission is free, but you do have to register in advance, so I'll put a link to that in the show notes as well.

Joyce: Okay, but wait, you're going to be with Loretta, but then you have an even more exciting date to talk about the book, don't you?

Barb: I do. In fact, on June 23rd, I'm going to be in-

Joyce: It took you a minute.

Barb: Only a minute, Joyce.. I'm going to be in Birmingham, Alabama with Joyce to see if people can tell us apart, and we're going to have a great book back there at the Little Professor Bookshop in Birmingham. And I'm doing a swing all through the great state of Alabama, Birmingham on the 23rd, Montgomery on the 24th, and Mobile on the 25th. So I'm going to be Alabama through and through that week.

Joyce: You're going to be in three different countries for those trips.

Barb: I can't wait. Thanks for doing it.

Jill: Did you know FastGrowingTrees is the biggest online nursery in the USA with thousands of different plants and over 2,000,000 happy customers? They have all the plants your yard needs, whether it's a fruit tree, a privacy tree, flowering trees, shrubs, and so much more. For me, that's hosta and green velvet boxwood. But whatever plants you're interested in, FastGrowingTrees has you covered. FastGrowingTrees makes it easy to get your dream yard. Find the perfect fit for your own climate and space. Order online and get your plants delivered directly to your door in just a few days without ever leaving home.

Kim: Their Alive and Thrive guarantee ensures your plants arrive happy and healthy. Plus, get support from trained plant experts on call to help you plan your landscape. Choose the right plants, and learn how to care for them.

Joyce: FastGrowingTrees offer 6,000 plants to provide the perfect choice for you. They've got everything from indoor plants to fruit trees, full-size privacy trees, lots more. Just follow their 14 point quality checklist and FastGrowingTrees will help you care for each plant individually. Everything from watering routines to maintaining the correct sunlight exposure becomes easy. That means you'll be giving your plants the care they deserve the moment they ship to your home. And with so many different plants, the choice is yours. The first tree that I got from FastGrowingTrees, long before they advertised on the podcast was a Meyer lemon tree, and I have maintained that tree and added to it. I have a couple of them now over the years, but there is so much more that I'm seeing right now that I want to buy, y'all. It might be a gardening summer for me.

Barb: Well, it's been three, four weeks since I planted my lilac shrubs that I got from FastGrowingTrees.

Joyce: Have you killed them yet? Have you killed them?

Barb: I haven't killed them yet. I looked at them today and they seem to be thriving, despite my best efforts. They look pretty good. I'm an occasional waterer. I thought, "Oh, man, I haven't watered those things in while, I'd better get out there." But they look good. So I haven't managed to kill them just yet. But with FastGrowingTrees, you can talk to a plant expert about your soil type, landscape, design, how to take care of your plants, and everything else you need. No green thumb required, I can attest to that. So don't wait. As spring goes into summer, they have the best deals for your yard with up to half off select plants and other deals. Listeners to our show get 15% off their first purchase when using the code: SISTERS at checkout. That's an additional 15% off at FastGrowingTrees.com using the code: SISTERS at checkout. Again, that's FastGrowingTrees.com, code: SISTERS. Now is the perfect time to plant. Use Sisters to save today. The offer is valid for a limited time, terms and conditions may apply. The link is in our show notes.

Well, pardon me, Sisters, but this week... You see what I did there? This week, we saw a new flurry of pardons and commutations by President Donald Trump. The list includes a bribe-taking sheriff, an embezzling nursing home executive, and a couple who are reality TV personalities. And what is to explain this surge in pardons in May of the President's first term? Could it be the President's new pardon attorney? Perhaps it is. Remember Dana Carvey used to do that thing as the church lady? Could it be maybe the devil? Is there a difference?

Jill: There isn't a difference between the pardon attorney and the devil.

Barb: Well, let's get to the conversation. Joyce, tell us who is the President's brand new pardon attorney. And what is his role in all of this?

Joyce: The president's brand new pardon attorney is "Eagle Ed Martin," the guy even Senate Republicans were unwilling to confirm to be the US attorney in the District of Columbia. And somebody who, not for nothing, has absolutely no experience with the pardon process. He is terminally unfit for this job.

He's also the head of the weaponization task force, but it seems like he is more interested in weaponizing the Department of Justice than looking at problems.

So the Office of the Pardon Attorney is something that Barb and I actually both have some experience with because while we were federal prosecutors, there was a change in the sentencing rules for people convicted of possessing and trafficking and crack cocaine. And that led to a very healthy consideration of pardons for people who had previously been sentenced but weren't getting the benefit of these new laws passed by Congress.

And that means that the pardon attorney in that office, which is pretty small, has interaction with all of the 94 US attorneys offices across the country. They interact with the different divisions in main justice. It's a big job. It's not just like there's a pardon handed out here and there, and the Office of the Pardon Attorney assists the president in the exercise of the clemency power that's granted in the Constitution.

It's an unrestricted pardon power. The President has the ability to do pardons, to offer sentence commutations and other relief, and the pardon attorney and staff are responsible for helping the President administer that process consistent with federal regulations.

The devil actually is in the details on this sort of thing. So here's the problem, right? We've got a president who's issuing pardons via whim at best, right? Whim at best. Maybe there's something else motivating him in some of these cases.

There's no longer anyone with institutional knowledge. They've fired the most recent pardon attorney, Liz Oyer, because she had the temerity to give advice about a case. And so now we've just got somebody who's a sycophant, not somebody who's an advisor or counselor to the President of the United States who will encourage him to use the pardon power the way it's meant to be used for justice and mercy.

Now it's just another political tool in Donald Trump's wallet.

Barb: Yeah, I recall, Joyce, when I was US attorney, we would get requests. "There's been an application for a pardon from defendant so-and-so, can you please provide us with the following information?" And they would ask a lot of very specific questions. We would share information about that. Sometimes we supported it, sometimes we opposed it. It was ultimately the President's decision, but we would provide information that was requested. They would also reach out to the judge that handled the case and imposed the sentence to get their view about the person. So I can't imagine that Ed Martin is going through that process.

Joyce: Can I just go back and say, it's an intensive process. It's the original prosecutor, the judge, the victim, US probation. Sometimes they talk to community leaders, like mayors. It's not a lightweight process. They're really trying to decide, this is someone who's fair and square convicted in almost all cases. The question is, did they deserve a second chance?

Barb: Mm-hmm. And just to put a finer point on the point you're making about how now the pardon attorney is just one more political arm of the White House, did you see what Ed Martin tweeted this week upon taking on the role of pardon attorney? "No MAGA left behind." So what does that say? If you're part of the team, you get a pardon and you get a pardon. Everybody gets a pardon as long as they're part of the team MAGA. Well, Kim, I mentioned... I want to talk about a couple of these cases. I mentioned that one of the recipients of the pardon was a nursing home executive. Can you tell us a little bit about his case and the circumstances surrounding his pardon?

Kim: Well, yeah, so this was a nursing home executive of some sort. His name is Paul Walczak and he was convicted, in fact, he entered a guilty plea I think in the end for evading tens of millions of dollars in taxes. I mean, just being a total tax cheat. He had to serve some time in prison and he had to pay back, I think a substantial amount. For some reason, it was not \$10,000,000, but he had to pay back 4,000,000 or something like that in restitution. But then, all of a sudden, his mother began frequenting Mar-a-Lago and being very generous with fundraising donations there for Donald Trump's PAC, you know, the one that can raise unlimited dough for him.

Joyce: So we know where the rest of the \$10,000,000 went?

Kim: Right. And I think, in fact, Paul Walczak had submitted right after the election, pardon requests, but there was no action on them until after this fundraiser, which took place a few weeks back and all of a sudden, now he's free. So again, church lady, how convenient.

Jill: How profitable for that family. They take 10, they pay 1,000,000 to attend a dinner, they save themselves having to make restitution. Seems like it's a very good deal for them.

Barb: Well, when everything's a transaction, there's always a deal to be made, right? Jill, you pointed out another one that was noteworthy out of Chicago, a former Chicago gang member. What do we know about him?

Jill: So why with everyone that Donald Trump could have pardoned, he pardoned drug kingpin and disciple gangster, Larry Hoover, is not really known except that there was a meeting in the Oval Office at which Kanye West tried to influence him to do that. He said, "You should pardon this man." And that was said in front of Larry's lawyer and it happened in the White House. So we don't know what happened, but we know the result is that he got pardoned.

Barb: Pardons for the friends of the rich and famous. Joyce, let me ask you, do you see any through lines in these pardons? And anybody else who has a thought about this, what do we take away? We've had Ed Martin on the job now for only a week or two. There's been 24 pardons since he took office. Are you seeing any through lines on who is receiving pardons?

Kim: I thought of it like a bad... Like an extra evil Monopoly game where one player gets elected, another one gets a get out of jail free, but everybody else pays taxes but them. It's like some kind of... Of course, it's just a coincidence, how convenient that, well, after President Trump was elected, his donors are getting pardons because there's such important cases in crying out for clemency. What did we do when the Chrisleys we're off the air for a year while they were in prison?

Jill: We really needed the-

Barb: I never heard of the Chrisleys before. I missed the whole show. Wasn't it Keeping Up with the Chrisleys? Or Chrisley Knows Best.

Kim: Yes, Chrisley Knows... Yes, but it's basically the same thing. It might as well be called Keeping Up with the Chrisleys. Yes, but we need that back. We need that back for the culture, I guess. I don't know. I don't know. Of course it's because they're donors, in my opinion.

Joyce: It's such a coinkydink, right? Such a coinkydink. I mean, Barb, you asked about through lines. I think there are a lot of them. Kim hits on the big one. But also, Donald Trump never saw a defendant in a public corruption case who he didn't want to give a pardon to.

Rod Blagojevich in his first term, and just this week he has pardoned, I'm not sure if it's a pardon or a commutation, but Connecticut's former governor, John Rowland, who is convicted on corruption charges.

I think though that there really is something darker to it. Trump is unhinged from any accountability, right? The Supreme Court saw to that. He's got this unrestricted pardon power. And for years, the understanding was that one of the very few restrictions on the pardon power was a president couldn't take a bribe in exchange for a pardon. The pardon itself would still be good, but the people involved could be prosecuted.

That's how we all thought the world worked until last term, the Supreme Court told us that that was not the case. And that means that we don't know and probably will never find out what's behind these transactions, starting with the Chrisleys, their daughter becomes a big Red hat MAGA type. She's all over doing the loyalty dance for Donald Trump. And they get this pardon. And their crimes were serious. It wasn't garden variety, white collar fraud. It was millions of dollars in tax fraud. They were serving serious sentences in excess of 10 years.

I think in some ways, it's about loyalty, the January 6th defendants. Donald Trump is cementing people's loyalty to him using pardons. That should be offensive to everyone who believes in law and order. And one of the most offensive ones is this sheriff in Southwest Virginia. All of his co-defendants, they're being sentenced or have been sentenced, going to prison for their crimes. He gets a break because political connections and someone whispered in the President's ear.

So the question I think we have to ask is, what comes next? The New York Times is already reporting that there's a White House team in place that's focusing on what they characterized as clemency grants that underscore the President's own grievances. It's just

nuts. I mean, I can't believe we're actually talking about this like normal people and that every Republican in the Senate has not just stood up and said, "No, no, no, no, no, you can't do this or we will impeach you."

But of course that's not the world that we live in.

Barb: Yeah, I think I see a couple through lines, including the ones that you've mentioned. So as Kim said, the naked, "If you give me a big donation, you'll get a reward." There's certainly that appearance. And then, Joyce, this comment about normalizing corruption. I think that's a big part of it too, that bribery and fraud and tax cheating and those kinds of things. Those people get pardons because those aren't real crimes and so, well, it's just white collar crime, nothing to look at. Everybody does it.

Kim: It's also projection.

Barb: It's not violent.

Kim: What was he convicted for, right?

Joyce: When he does it, it seems less serious because all these people have gotten pardons. I mean, violent crime.

Kim: But I think it's projection. He now sees any prosecution of some corporate type for tax fraud or corruption or all the things that he's been charged with as inherently a political wrong. So they must be free... I think in his head, he's actually-

Joyce: Well, DOJ does not do that anymore. That's Pam Bondi's day one memos, right? I mean, we're not doing public corruption.

Kim: Right. And so he sees... I mean, as wild to us, the idea that the clemency power should be used to give folks like this a break on their sentences, really that they should be the last people getting it. I think in his mind, he does see them as oppressed, as politically targeted in that he is doing some sort of righteous thing in his own mind based on who he is.

Barb: I think you're giving him too much credit. Well, I think one of the things-

Joyce: I think he's playing a game. It's a game.

Barb: ... I think one of the things we've seen is, in many of these pardons, he says things like they were persecuted by the corrupt Biden DOJ. And then some of the people in their gratitude to Donald Trump have said that, like, "I was a victim of Biden's corrupt DOJ and I'm grateful to President Trump."

Kim: Yeah, I think he believes it. I think he believes it.

Barb: Yeah, who knows what that man believes. It's really hard to get in his head, but it's certainly part of the pattern. Well, Kim, what do you think about the consequences of these kinds of pardons? What could he have for the criminal justice system?

Kim: I hope it's not too devastating, and I only say that because I think the clemency power has a long way to go to reach its... Already had a long way to go to reach its full potential, which is supposed to be giving people a second chance after they've paid their dues, which is supposed to be to reward repentance and also certainly in the worst of cases, to correct an injustice. And I don't think that that is at all at play here, but the problem was, it really wasn't working to that end anyway. And so I'm not sure... In a perfect world, I'd be saying, "Well, it just diminishes this really important power." But just given the mess of reentry programs or lack thereof and the racial inequities, it wasn't working anyway. Well, actually, I don't think that it will do any damage to it. It's already pretty bad.

Joyce: Can I piggyback on that? Because I think Kim is pointing to something really important. I expected to spend the first five, 10 years after I left the Justice Department working on criminal justice reform because we have a long way to go in our criminal justice system.

It is in many ways badly broken, unfair, doesn't serve the purpose of rehabilitating people and making our communities safer like it could. And I mean, we know what the tools look like that we'd make it better. It's a matter of developing political will to put them in place. The pardon power is part of that. Pardon Office was backed up. It was under-resourced. There were really, I think tens of thousands of petitions when Obama left office. We didn't get to all of them. We should have.

And so something I really resent about Donald Trump, and I may have said this before, so I apologize for using you guys for therapy, I resent the fact that democracy is fighting for its life instead of us having a chance to fix these other things that would've made it even better. And I hope people will think about that. And when we vote in a year and a half now and when we hopefully vote again in the next presidential election, we've got some work to do in this country. We don't need to be playing Donald Trump's games anymore.

Jill: I want to add something to what Kim said that if I understood correctly, I'm not sure I agree because I think it has serious consequences that he is doing these pardons, and particularly in conjunction with Pam Bondi having eliminated prosecutions for the same types of crimes. He's basically saying foreign corruption and fraud and tax evasion, "Oh, those are all okay and we aren't going to prosecute them. And if you got convicted of it, we're going to let you go." And I think that that is something that undoes the laws that Congress has passed, undoes the protections that we had from those laws, and that it is a serious consequence that he's doing this and sending a message, "Hey, it's okay. If you do it, I'll pardon you. It's okay."

Kim: Yeah, I mean, I don't disagree with anything you said, Jill. What I'm saying is, I think that was by and large the system anyway, people who... Why is nobody from the financial crises in jail? Because there has always been protection for those kind of people in the criminal justice system on that level. And then you have on other levels what the criminal justice system's pardon and clemency power is supposed to do, it's not doing. So I don't disagree with a word you said. I wish I could say, "Oh, it's going to be devastating to the system." The system's already so broke, it's barely going to be a ripple.

Joyce: Well, I look forward to the future where we can do a whole episode talking about criminal justice reform and getting damn Congress to amend its statutes so federal prosecutors can prosecute these folks because oftentimes it's so difficult to prove intent

that even when you have a strong belief that a white collar crime has been committed, you don't have that proof beyond a reasonable doubt that you would need to get a conviction. There's a lot of work that we can be doing to make all of this work better if we weren't fooling with this crazy guy. Yeah, too much time playing defense.

Kim: I didn't realize that the cat food most people rely on has questionable ingredients. What is up with that? That's why we are so glad this podcast is sponsored by Smalls. Smalls Cat Food protein packed recipes are made with preservative-free ingredients you'd find in your fridge and it's delivered right to your door. That's why Cats.com named Smalls their best overall cat food. And right now, you can get 35% off, plus an additional 50% off your first order. So just head to Smalls.com and use our promo code: SISTERS, for limited time only.

Barb: Have we become a stereotype by advertising for cat food? Just wondering.

Joyce: Absolutely, us and Taylor Swift.

Barb: Yeah, cat ladies. Well, 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 World for Animals, donating more than \$1,000,000 worth of food through them to help cats. They even give you a chance to donate at 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: So look, I have another review for you. Bob and I have four cats. Our cats love this stuff. They gobble it right up. And I'm going to overshare a little bit and confess to the fact I've got a freezer in our basement that doesn't store food. It stores my yarn because yarn is vulnerable to moths, and so putting it in the freezer makes it safe. I don't let anybody put anything in my yarn freezer, but I have cleared out an entire shelf that I've got stuff for our dogs and our cats on. And I sort of laid in a stock of Smalls because we go through it at a pretty good clip and I have a very demanding 18-year-old Maine Coon cat who got super pissed off at me about four weeks ago when we ran out. And it was clear to me he did not want the kibble, he wanted the good stuff. So now-

Kim: He said, "What is this?"

Joyce: I mean, it's really good. Harry, bless his heart. So that's way too much, but I say that because I want y'all to understand just how great this stuff is. And you can even add other cat favorites, like amazing treats and snacks to your Smalls order for a total feline feast.

Jill: What are you waiting for? Give your cats the food they deserve for a limited time only because you are a SistersInLaw, a #SistersInLaw listener. You can get 35% off Smalls, plus an additional 50% off. That's really incredible. 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. And of course the link is in our show notes.

Kim: We rarely talk about things like budget bills in Congress on this podcast. But the funding bill currently being vetted by lawmakers, you know, the one Trump calls a big beautiful bill, has a very interesting provision. "No court of the United States may enforce a contempt citation for failure to comply within an injunction or temporary restraining order if no security was given when the injunction or order was issued," the provision said. To put it more bluntly, it means that federal judges would not be able to enforce contempt orders against parties that flout their orders unless the other party has posted some money that they could lose if they go on to lose the petition for the injunction. And here's the kicker, it gets better, it applies retroactively. So Barb, I'm going to ask you to put your professor hat on. Let's begin with a little primer in civil procedure. That was one of my best grades in law school, Barb. I like civil procedure. Thank you, Professor Bone, Professor Robert Bone. Like you. Anyway, what is Rule 65(c) and how is it meant to operate?

Barb: Yeah, I like civil procedure too, and criminal procedure and evidence. I liked all the rules-based classes.

Kim: Yes, me too.

Barb: I'm a rules girl.

Kim: Admin, I loved all that.

Barb: Yeah. So it's a rule of civil procedure that says that when a court issues a preliminary injunction or a temporary restraining order, it may do so only if the moving party, the plaintiff, gives security some amount of a promise, a bond in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongly enjoined or restrained.

And then it creates an exception for the United States, which is not required to give a security. So in other words, if a judge is going to issue a temporary restraining order to say, "I'm going to block the construction company from using the wrecking ball to knock down your house because you've shown me that you have a substantial likelihood of success on the merits and that there would be irreparable harm, I'm going to make you... But it's going to cost them every day of delay. They had the machines there ready to go, it's going to cost some money. So I'm going to make you post a bond, a promise to pay, I don't know, \$100,000 and maybe you got to put up 10% of that. That's to make sure that if, at the end of the day, you lose, the defendant will be made whole."

And it also provides an incentive, I think for a plaintiff to come before a court only if they're ready to put some skin in the game and gamble that they're going to be right on this in the end. So that's what the rule provides for.

However, it is mostly honored in the breach. Most often, judges do not require such a bond, especially when the United States is the defendant because the United States has deep pockets, it's the government.

And I think that this rule is kind of exploiting that reality by making it retroactive. I mean, a judge could start issuing these injunctions with assurity going forward, but

there's nothing you can do about the ones that have already been entered that failed to comply with this rule, which is kind of horrible.

Kim: Yeah, that would be crazy. And it's worth noting that it's expressly exempted, the government is expressly exempted from Rule 65(c), so people seeking... Because I mean, that makes sense, right? If somebody wants to right a wrong that the government is doing, it seems against policy to be like, "Well, you got to pony up first before you do that." But that's what this provision seems to be doing. So Jill, it seems to me that a certain president might have something to do with this provision in his big beautiful bill. Am I right?

Jill: You are so right. He started this whole thing because he issued an executive order to require that that be the case and it would make it prohibitively expensive to bring a case against the government.

And the government doesn't have to put up any bond when it sues because Rule 65 exempts the federal government. So it would really change things. And he issued the order and now this is what they're doing. They're going to make it law if they can and think about all the civil rights cases to the extent that there is any civil rights enforcement anymore in this country.

But in the past, civil rights cases and cases where real wrongs are being done, where people are being whisked away, kidnapped, disappeared, and how are they going to be able to afford to put up the money to bring that case to court?

In effect, of course they have been winning so that this would not ever come to pass that they would have to pay, but they would have to pay in advance to be able to do this. And most of the people bringing the cases and most of the organizations bringing them are non-for-profits. They don't have the funding, they cannot do this.

This is a way of killing the cases period.

Kim: And that's such an important point, Jill, that this kills the cases before they start. I personally, I don't know by the language of the provision, but would it apply to states, like State Attorneys General? Would they have to pony up money for... Because they do a lot of litigation.

Certainly a lot of the litigation is done through non-profit organizations who they know cannot afford to do this. But don't forget, we're talking about these big cases where injunctions are sought. Injunctions are also sought in the government by individuals who have had their civil rights violated as well, and they certainly are not in a position to be able to pony up money.

I think this seems to me, in my opinion, based on this executive order, which just so coincidentally seemed to come out at a time where Donald Trump and his administration are being hit left and right with injunctions and they want to stop that because they want their policies to go through that this is suddenly in his big beautiful bill. I just feel like that that is more than a coincidence.

So Joyce, talk more about the practical implications of this. Do you think that this will be chilling the full-throated effort that's been happening so far in trying to push back against these policies? Is there enough money to fight with a gamble that the money they pony up may or may not come back?

Yes, Trump by and large has been losing a lot of these fights, but some of the attempts, some of the temporary restraining orders have been overturned and some have been denied. So it still would be really costly.

Joyce: Yeah, I mean, I think that there are serious reasons to be concerned about the impact of this measure if it passes. It's an anti-democratic measure designed to distort the balance of power between the different branches of government, the way it's set up in the Constitution.

If it goes into effect as written, it restricts the authority of federal courts to hold government officials in contempt when they violate court orders. And without that contempt power, it becomes a lot easier for the government just to violate court orders at will.

And that would be one thing if this was happening in a vacuum. Given the context, it's hard to view this as anything other than a deliberate effort by the administration to get away with breaking the law.

I think that's sort of period, end of story here, and it's probably why the Trump administration is playing for time in all these other cases. They walked into court this week in one case where they were supposed to be prepared to advise the judge about status and they said, "Judge, we need another 30 days." They didn't give a reason, they just said that they needed it. Well, here's the reason.

If the Senate doesn't reject this measure when it comes to them expect lawsuits, maybe the Supreme Court will decide to draw a line at expanding presidential power so far that their own power as a branch of government becomes meaningless.

This group of conservative justices are sort of crazy. They believe in the unitary executive and the expansion of presidential power even, even when it constrains their own power. So I got to say, it's tough to have confidence in them, but maybe when their own self-interest is at stake, they'll finally draw a line in the sand for Donald Trump.

Kim: This episode of #SistersInLaw is brought to you by fresh, delicious-smelling and tasting croissants. That's right. This episode is brought to you by Wildgrain. And if you're not familiar with Wildgrain, where have you been? It's the first bake from frozen subscription box for artisanal breads, pastries, and pastas. Wildgrain's boxes are fully customizable to your tastes and dietary restrictions. And there's some exciting news. In addition to their classic variety box, they recently launched a new gluten-free box and a 100% vegan plant-based box. Best of all, Wildgrain takes the hassle out of baking since all the items bake from frozen in 25 minutes or less with no mess or cleanup. And I have to say, we are full Wildgrain participants in this household. The food is really, really good. And what's great about it being baked from frozen is if friends pop over or you want to do

something easy for dinner, they're a great crowd pleaser. So I just can't say enough about it.

Jill: Kim, when you said there's new stuff, have you tried the butter, which is my favorite of all?

Joyce: And French butter.

Kim: I want to eat that butter every day.

Jill: French butter, fantastic.

Barb: It's so good.

Joyce: I'm eating it with a spoon right now.

Jill: Have you tried their pasta sauce, guys? They also now have a frozen pasta sauce that's really good. I tried their marinara, very, very good because I love their pasta. The pasta is just... You can't go back to the boxed dried stuff after you've tried their pasta. No way. And it's amazing how fast Wildgrain goes from the box to our table. My husband and I enjoy many of the breads, pastas, and pastries, plus the butter and the pasta sauces, and so do my guests. They are impressed and surprised when I say it's baked from frozen, not homemade. And they often end up subscribing for Wildgrain themselves because they've loved it so much. It's perfect for delicious meals or snacks now or for outdoors, if summer ever comes to Chicago. I'm not sure it's going to, but maybe.

Joyce: So I'm the Sister who likes to bake. I do a lot of our baking, but I am a convert to Wildgrain. It is absolutely fabulous. And I've been writing on Deadline the last couple of weeks. Our youngest son has taken over dinner making responsibilities. He's home from college. Turns out, he's a great cook. He learned how to cook in college, but he's not a baker and he's so grateful for Wildgrain. It means that we have really good fresh bread every night for dinner. I love watching the color and flavor come alive when the Bavarian pretzel buns are heating up. They are one of my favorites. The aroma of fresh bread and pastries coming out of the oven is incredible. I never have to call everyone when the food is ready because everyone smells it throughout the house and shows up for dinner on time. Wildgrain items are delicious, super high-quality, and a cinch to make. I guarantee, those chocolate croissants will be a big hit.

Barb: Yeah, I've made those, Joyce, and I like them. And tell me, what's the difference between a chocolate croissant and pain au chocolat? Which is fun to say. Are they the same thing?

Joyce: I have absolutely no idea what the difference is.

Jill: Oh, no, I don't think so. I think that a croissant is always that flaky, crusty stuff that's so good. It's like a regular croissant.

Joyce: Well, you know it's that dough that's pulled, right? You have to pull it and fold it back in on itself. And that's what's so impressive about Wildgrain is that they do the dough right.

Barb: Well, I don't know what to call it, but it is delicious. And so if you're ready to bring all your favorite carbs right to your doorstep, be sure to check out Wildgrain so you can begin building your own box of artisanal breads, pastas, and pastries. For a limited time, Wildgrain is offering our listeners \$30 off the first box, plus free croissants in every box when you go to wildgrain.com/sisters to start your subscription. You heard me, free croissants in every box and \$30 off your first box when you go to wildgrain.com/sisters. That's wildgrain.com/sisters. Or you can use promo code: SISTERS at checkout. Look for the link in our show notes.

Joyce: Veritas, y'all. Only Donald Trump could do something that would convince Yale and Princeton alums to donate to Harvard of all places. But I'm hearing a little bit of gossip that that's what's going on.

Donald Trump has declared war on academia and some schools, here's looking at you, Columbia, have caved in in hopes of saving their endowments. But Harvard hasn't. They were, in fact, the first university to sue the administration and they now have at least two lawsuits pending against the Trump administration.

The second of those cases, they were in court on it on Thursday and it was this amazing split screen where their students were graduating and applauding their president who's become extremely popular in the wake of how he's handled this at the same time that the school was in court.

Kim, can you talk about that case? I think about that as the second case. It was the second lawsuit that the university filed. Can you talk about where it stands and how it's impacting Harvard's student body?

Kim: Yeah, so this action by the department, Homeland Security, announced by Secretary Kristi Noem, revoked the certification that Harvard needs in order to accept international students in the program. It's called the SEVP, the Student Educational Visa Program, I believe is what it stands for.

But a US district judge said, "Oh, not so fast," and blocked that from going into effect, granting a preliminary injunction that will continue to allow international students and faculty too, it also impacts them to be able to come here.

And the lawsuit there is basically based on two things. One question is, is the government just revoking this student loan program for the right reasons? Is it under the law? Does the government have any basis to revoke Harvard's participation in the program? And whether if they give a reason, that reason is pretextual.

So that is what the courts will be deciding. I personally think that this is a pretty strong challenge, given the first lawsuit that we're talking about, which I think bears heavily on the issue of pretext.

Joyce: Yeah, I mean, it's so interesting, right? Something that fascinates me about the Trump administration, not in a good way, is the fact that when under the Administrative Procedure Act, they could get away with doing things that they want to do if they did it the right way, back to you and Barb talking earlier about how much you guys are process

geeks. They could actually do some of this stuff, but you have to jump through a bunch of hoops under the Administrative Procedure Act. They didn't do that here and that really killed them. They were forced to send a letter to the Harvard plaintiffs, just I think a couple of hours before they went into court sort of conceding that and it became a foregone conclusion that this-

Kim: Yeah, and it was a stupid thing. All they had to do was, first, give a 30-day... Not all, I don't know all the ways they may have violated the APA because they don't seem to always be following the rule of every procedure, but in this case, they gave Harvard 30 extra days to respond because that's one of the things that the APA requires and they didn't do it in the first place. So they were just trying to keep the case from being kicked out completely on a technicality.

Joyce: And you know how that played out, right? It's like what we were talking about with the pardons, the importance of institutional knowledge. Somebody went in and had to tell the attorney general Pam Bondi, "Hey, we screwed up. We're going to lose if we don't do this." This is the gang that couldn't shoot straight, and if it wasn't so serious, it would be funny. The horrible thing, though, is that it impacts students. It impacts the lives of real people in just an unconscionable way. I mean, the cruelty is the point, as it so often is with these folks.

Okay, that's lawsuit number two. Barb, lawsuit number one, it's the earlier case that relates back to Trump's early anti-DEI pronouncements. Can you talk about the specifics of that one and how would it change the face of academia if Trump were to win?

Barb: Yeah, so this was the case where the Trump administration froze funding from Harvard that is used for its medical research, scientific research. And Harvard filed a lawsuit alleging that that was a violation of their first amendment rights of free speech because of academic freedom, of free association, of the right to petition the government, also of its due process right under the Fifth Amendment, they just did this arbitrarily without giving them any opportunity to work it out. And that it was, this is my favorite, *ultra vires*. It's a Latin term that means "beyond the power." The President just can't do this. You can't just take this away.

And the reasons that were given is they wanted to audit the viewpoints of people on campus at Harvard and suggested that its DEI programs were illegal, that they objected to its hiring, its admissions, and its teaching methods. And all of these things, of course, are protected by academic freedom. It's what makes Harvard, Harvard. It's what makes universities great, the ability to attract some of the best and brightest in the world and let them explore ideas.

And I think if this were to succeed, this effort by Donald Trump, I think, one, we could see an end to the kind of funding that we have relied upon for medical research, scientific research, as Harvard says in its lawsuit, life-saving research. And I think that we could see, if the strings are attached, that people will have to obey and say what the Trump administration wants them to say, hire only who the Trump administration wants them to hire, admit only the people the Trump administration wants them to admit. And I think our higher education would be unrecognizable.

So it's interesting that he picks the fight with Harvard, which certainly by many measures is the biggest, most respected university in the country. It has this multi-billion dollar endowment. It's one of the oldest universities in the country. It is certainly extremely prestigious, but I think one of the things, Joyce, one of our friends pointed this out to us, why pick a fight with the biggest and best? Because it is a fight you can have and claim you are fighting on behalf of the little guy, and it's these elites that are leftists and Marxists and look down upon you. And so you can rile up your base that, "I am fighting for you."

But of course in the end, it is biting off our noses to spite our faces because we rely on all of these big universities and the research grants they get to do the kind of research we need for breakthroughs in science and medicine.

Joyce: Yeah, I mean, this is the culture wars incarnate, right? This is all about Trump not wanting people who are capable of thinking for themselves, teaching our nation's children. This is about being upset that universities now welcome Black people and women and all sorts of inclusivity that creates more viewpoint diversity from inside of academic institutions.

Something that I love about teaching is I certainly teach at a law school where there are a lot of different people with a lot of different views teaching fascinating classes. And it's such a joy to get to exchange with folks and hear their views and hear their ideas and sort it out for yourself. And I guess that's how this strikes me, is something where they don't want to let people sort it out for themselves. They want to be able to dictate what they should think.

And they sort of do it by claiming, "Well, the left has captured universities and it's terrible, and now they must admit more students with different views or hire more faculty with different views." And as Barb says, that's just a real encroachment on academic freedom.

But there's something else at work here too, and Jill, this I think is something really, really troubling. Anti-Semitism has become one of Donald Trump's chief foils here. Can you talk about his claims that he's doing this to protect people from anti-Semitism and whether there's anything to that?

Jill: So this is a fraught question, as I'm sure you're aware, and I want to make sure that everyone understands. I'm trying to answer this carefully and just don't parse individual words and get my overall intent. A direct answer is yes, he's using anti-Semitism and it will end up hurting Jews in America. We are going to get blamed for everything that happens as a consequence of his bad conduct. But I think there's a lot more to the question than that.

First of all, Harvard had a study done, it came out in April, and it basically says, "Yes, there's anti-Semitism at Harvard." There were hate crimes, there was violence, but that's true across the country. I mean, the ADL has huge reports about how much anti-Semitism is expanding. And if we don't define when we talk about anti-Semitism, whether we're talking about anti-Jewish people, anti-Israel, anti-Israel's conduct after the October 7th attack, and I don't know, anti-Zionism, I think we need to understand what we're saying when we say that.

And it is true, for sure, no other group has ever been told that its history is a sham. But it's also true that it's not just Jews on the campus who have felt discomfort. Palestinians say that they feel at risk on campus. Why aren't we taking that into account? Why isn't Donald Trump taking that into account?

And then there's the real question, which is whether what Donald Trump is doing with his executive orders and his attack on Harvard have anything to do with anti-Semitism. And I think we've already been suggesting that it doesn't, that it has to do with academic freedom and to putting in place the elite universities. And now he's given 30 extra days and Harvard has, even before that 30-day grant, had responded to their requests.

And so there's a question of whether Harvard's response is enough, but even if it isn't, is this an appropriate thing for the federal government to be doing? Should they be imposing rules about activism on campus, curriculum, admissions, faculty hiring, the language that's used in teaching? And the answer is clearly no, in my opinion, that whatever the cause of this is, the government does not have the right to intervene in our universities.

Joyce: I appreciate how nuanced your answer is because this is an issue that has become so divisive, the whole issue over Gaza after 10/7, and I appreciate the thoughtfulness that you put into that. And it seems to me that this is Donald Trump scapegoating Jews just in a new way, sort of by trying to give us a benefit, right?

At the same time, Harvard, when it did its reporting, and I wrote about this last night in my newsletter, I'll drop a link in our show notes, but Harvard also looked on campus, as you pointed out, they looked at problems that Muslims were experiencing and that Palestinians were experiencing and also Arabs. They sort of made these subtle distinctions between different groups of people and how discrimination and hate crimes impact them.

And it seems to me that if Donald Trump was serious about pushing back on any of that, including anti-Semitism, he would not have gutted the part of the civil rights division at the Justice Department that prosecutes hate crimes. So I see it all as just being extraordinarily insincere and hypocritical.

So look, I mean, the bottom line is, Trump wants to make Harvard pay for something. I'm just wondering, what do y'all think about what this costs us as a country long run? Beyond how it impacts Harvard students and Harvard alums, will it impact all of us at the end of the day?

Barb: Yeah, I think so. I mean, one is, don't you think that there's just a little bit of divide and conquer going on here? Trying to get curry favor with the Jewish community by calling this all anti-Semitism? It's like all disinformation, right? There's some truth there. There is anti-Semitism, and so nobody's going to deny it. He knows. And yet, so now you're pitting Jewish people, some of whom are Democrats, and are opposed to this idea of the Trump administration taking over Harvard. And then you've got people like the ADL, organizations like the ADL, who their biggest cause is fighting anti-Semitism.

So it is dividing even the Jewish community and it's dividing the Jewish community and the Arab and Muslim population. So I think there's a divisiveness about all of this that is part of the whole divide and conquer.

And then there's also the idea of controlling academia and controlling thought. I've been trying to find the great quote as we've been sitting here, and maybe one of you knows it, but one of my favorite Americans in American history is Justice Robert Jackson. He was the Nuremberg prosecutor. He was an attorney general of the United States. He wrote a very famous speech called The Prosecutor that every assistant US attorney knows very well because he talks about the values of a prosecutor. But he also was a Supreme Court justice.

And I have found that quote. Robert Jackson said, "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." It's the idea that we all have the freedom to think what we want to think, to say what we want to say, and that includes our universities.

And if the President and the administration gets to control who they hire, who they admit, what they teach, then we have violated that fixed North star in our constitutional constellation.

Jill: So Barb, do you think that applies to the federal government hiring? Because you've probably seen that Vought has issued new rules for hiring that require writing essays about your beliefs, and it applies to the SES as well as to just low level civil servants. It's really repulsive.

Barb: I have. In fact, we should put a link to that list in our show notes.

Jill: Yes.

Barb: If you want a job with the federal government, you have to say, "Which is your favorite of Donald Trump's executive orders and how will you work to fulfill it?", as well as some other essay questions you will be asked.

Joyce: This has been a week where we could have had 12 different topics for the podcast. There's so much that's been going on, but I think you're right about these larger constitutional implications. I worry about the practical implications of these grants being cut. These are researchers at Harvard who were doing cutting edge work on childhood cancers and Alzheimer's and all sorts of diseases, and that work is out the window. And y'all know like we do, you can't just jump start that stuff off. You can't cut it off and then turn it back on and continue to go on your merry way. And we are going to lose, I think, a decade of scientists and a decade of science, and I don't think any of us will be better off as a result of it.

Jill: You are right, Joyce. But in addition, it's going to hurt the campus culture. The international students bring a value, not just their intellect and their work and the work that they would do if they stayed and graduated and contributed by using their academic

learning, but just in enriching the lives of American students. It's really bad in so many ways beyond what we're talking about.

I've been looking for a way to help students, young people, adults evaluate their news. Many no longer trust the media, except of course for us, because of the fragmented environment and conflicting info they see on the news. And news is meant to inform us, but how do we know what is real and what's fake? We have a solution that will help you see through differing media narratives and evaluate what's misleading and what's fact. It's Ground News. That's a platform that makes it easy to compare news sources, read between the lines of media bias, and break free from algorithms. Unlike the narrative coming from the usual suspects, Ground News positions you to choose and compare the news you want to read while showing you what's being reported on the opposite side of the political spectrum.

Joyce: Now, Jill, the way you started out, I thought that this was an ad for the paperback edition of Barb's book on disinformation, *Attack from Within*. But really, I'm excited that we have Ground News to offer to our listeners because it's very much got that Barb McQuade vibe going on. With Ground News, you get details about the source, political bent, and how reliable the reporting is, also, who owns them. The same sort of stuff that Barb has been preaching all along. You'll be empowered to compare how different global news sources cover the same story and find out what's really going on. With over nine and half thousand five-star reviews of their app and website, Ground News is the number one platform to discover how any news story is being covered and get every perspective in one place. That sounds really great right now.

Barb: I appreciate you, Joyce fans. When The Daily Caller claims in a headline, Trump Considers Pardon for Men Caught in FBI-Backed Whitmer Kidnapping Scheme, and blames the FBI, you'll want to know that NBC News explains why in their headline, Trump Says He Will Take a Look at Possible Pardons for Men Convicted of Plotting to Kidnap Michigan Governor Gretchen Whitmer. And Ground News balances his extreme claims. The choice is clear. When you're looking for the truth, Ground News makes it easy to cut through the noise.

Kim: 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 newsletter so you can have a well-rounded view of the world. Think critically about what you read and find common ground. Go to groundnews.com/sisters today to get 40% off the Ground News Vantage plan and get access to all their news analysis features. That's groundnews.com/sisters for 40% off the Ground News Vantage plan. For a limited time only. Again, groundnews.com/sisters. The link is in our show notes.

Jill: As you all know, it's now time for our favorite part of the show, and that's answering your questions. We love the thought you put into them and how you provoke us to think about things we didn't always think about. If you have a question for us, please email us at sistersinlaw@politicon.com or tag any of us on social media using #sistersinlaw. And that means that if we don't answer your questions on the show, we may answer them in our feeds throughout the week. So go there to check us out and see if we answer your questions. And we had some really, really good questions. Very hard to pick the ones that we would answer on the show. First, I'm going to go to Joyce, a question from Professor Judy. Seemed appropriate to go to you. "Since Tommy Tuberville is running for Alabama

Governor, is it possible to flip his current Senate seat blue? He was a bad football coach and a worse senator." That's not my comment. That's from Professor Judy.

Joyce: Well, I mean, it's a fascinating question. Apparently yesterday, Tuberville announced he was running for governor and he had the biggest one-day hall in history. I don't know if that was for Alabama or any place, but apparently he did really well.

Already announced for his Senate seat is our Republican Attorney General, Steve Marshall. There will be other Republicans who will run for that seat. And look, frankly, based on the numbers in Alabama, it's a heavy lift for a Democrat to win right now. Democrats don't hold any statewide office in Alabama.

And I talk with a lot of people who say that they won't run or people shouldn't run. Doug Jones' name comes up a lot because it's not winnable. I have a contrary view. My view is that Democrats have to run strong candidates in every race every time, and now more than ever because you never know what's going to happen, come the November of the election.

In Alabama, we won a Senate seat when Doug Jones won because during that campaign, very unsavory facts about his opponent, Roy Moore, came to light and Doug ended up winning a narrow victory. Now Donald Trump is in the White House doing crazy stuff all the time, and you don't really know how that's going to land with the American people.

I mean, so far the fever dream has not broken, but maybe it will before the midterm elections and a strong Democrat running might be able to win. I think we should always be ready and people who love democracy should always be ready, be willing to sacrifice, be willing to get in these races and work in these races. That's what democracy is about, putting up candidates you believe in and working for those ideas.

I'm a realist. I understand what the odds look like, Judy, but I think that we should always be willing to play the game.

Jill: Barb, I have an equally great question for you from Sarah. She asks, "Can a US Attorney General be disbarred while serving as the Attorney General? If so, who is the final authority in the disbarment?"

Barb: Very interesting question about that. I think that a US Attorney general can be disbarred while serving in that capacity, but I don't think that would mean that they would lose their job as the Attorney General.

So let me explain. So Pam Bondi is the Attorney General of the United States right now. My guess is that she is licensed to practice in Florida, which is where she served as the Attorney General of that state. So she has a bar license there.

Now, if she should do something that someone thinks is unethical or a violation of the rules of Florida, somebody could take up a grievance against her and she could even be disbarred. That doesn't mean she would lose her job as the Attorney General, though.

That's because the Attorney General is appointed to that position by the President with the advice and consent of the Senate. There's nothing in the Constitution that says that person must be a lawyer, let alone a lawyer who is licensed and in good standing.

Now, the tradition has been that it be a person "learned in the law" and when the Senate confirms that person, they do question them about their qualifications and they want to know that they've got experience as a lawyer.

But I think that a US Attorney general could be disbarred by the state or District of Columbia, wherever they hold their bar license, and it would not affect in any way their ability to continue to serve as the Attorney General of the United States.

Kim: Do you know what position, another position that does not require you to be a lawyer?

Joyce: Supreme Court justice.

Kim: Correct.

Joyce: Come on.

Kim: You do not need to be a lawyer to be a Supreme Court justice.

Joyce: Or to be a district judge, for that matter.

Barb: Really? So we could have Justice Donald Trump someday?

Joyce: You bet.

Kim: We could.

Jill: Yes. Oh, that would be so great.

Barb: Wow.

Jill: So Kim, I have a great question for you too from Vicki. "Is the point of REAL ID to restrict voting?"

Kim: Ooh, that's a really, really good question, Vicki. The answer is no. The law that requires REAL ID was one of the recommendations that came out of the 9/11 commission after the terror attacks that was aimed at finding ways to boost security, particularly security in travel, air travel. And it was a way to encourage, prod, require states to issue licenses that had a higher level of security checkpoints. And so now, 20 years later, it's gone into effect based after a lot of stops and starts and delays. But that was the purpose behind it.

It is important for everyone to know that there is not a requirement to have REAL ID to vote in a federal election, not in any of the 50 states of these United States of America. So don't allow anyone to tell you that you need REAL ID to vote. You do not. You have to do whatever your state's regulations are, but none of them requires REAL ID. So that's really important to know.

Now, will it functionally be seen or potentially be a barrier to voting? Quite possibly. But that wasn't the design, one of the few things that I don't think actually had that in mind. But it could be some effect, but that's not why.

Jill: Thank you for listening to #SistersInLaw with Joyce Vance, Barb McQuade, Kimberly Atkins Stohr, and me, Jill Wine-Banks. Follow #SistersInLaw wherever you listen, and please give us a five-star review because that's how other people will find the show. And please, show some love to this week's sponsors, FastGrowingTrees, Smalls, Wildgrain, and Ground News. The links are in the show notes. Please support them because they make this podcast possible. See you next week with another episode, #SistersInLaw. I'm wondering if pain au chocolat is a different shape because online, it looks like it is.

Joyce: She's [inaudible 01:09:37] and she can't stand it. That is true, Jill. A pain au chocolat is a rollover and that's actually what we get from Wildgrain. A croissant is more of a twisted rondelle.

Jill: Right. I think that is the-

Barb: I think the Wildgrain thing is more of a pain au chocolat?

Jill: Yeah, I think it is. I think it is.

Joyce: I think that's right. I'm going with you, Barb.