

Jill: Welcome back to #SistersInLaw with Kimberly Atkins-Stohr, Joyce Vance and me, Jill Wine-Banks. Barb will be back next week and we miss her today. The ReSiStance mini tote and t-shirt are selling out once again, so get yours now while they're still in stock. Go to politicon.com/merch. That's how you will be in style. And I know that because Kim, our fashionista tells me that these mini totes are the hottest thing going, so get yours now.

Kim: They are.

Joyce: Y'all, I have my knitting in one right now and I take my knitting when I go out to drink coffee. I had somebody earlier this week go, "Do you listen to #SistersInLaw?"

Kim: No Way.

Jill: And what did you say?

Joyce: I was dying. I said, "I do. It's my favorite podcast."

Kim: That sort of reminds me of a story. It's like in lore that justices Souter and Breyer used to get confused with each other all the time. Kind of like-

Joyce: Like me and Barb.

Kim: ... Joyce and Barb. Exactly. And so one day someone stopped Justice Souter is like, "Oh, Justice Breyer, I'm such a fan and I'm so in awe of your work and what's your favorite part about being on the Supreme Court?" And he said, "Well, working with David Souter, of course."

Jill: I love that.

Joyce: Okay. All right.

Jill: Well, okay. There's the podcast. And Joyce, did you get my little Instagram thing of a woman knitting during that heat wave in a basket, not a basket, a bucket standing in a beach?

Joyce: I did.

Jill: Okay.

Joyce: I have done that before. You put a little Tupperware tray in a swimming pool and put your knitting in it. Not nearly as stylish as the SistersInLaw ReSiStance tote, but it works.

Jill: I couldn't get over that. Someone sent it to me and said, "You have to send this to Joyce." Okay. Now let's get onto the show where we're discussing three hot topics.

First of all, we're going to, of course, discuss what's going on in Epstein because there's a lot of interesting stuff that we need to talk about. Then we're going to cover whether the Senate has totally abandoned its constitutional responsibilities in confirmation hearings and actually in passing laws too, in connection with Alina Habba.

And then we're going to talk about New York City being sued by the Trump administration as a sanctuary city despite the deal that they made with Mayor Adams, which was supposed to mean that they were going to cooperate, New York City was going to cooperate. But before we get to all those great topics, I want to talk about the first episode of the 27th season of South Park. Did you guys all watch it and what did you think? Joyce, so weigh in here?

Joyce: We are long time South Park fans in this household. Our rule when our kids were little... Well, I shouldn't say this, but I will. Was that it was okay for them to see violence on TV but not sex because we're weird that way. So we actually would watch South Park together after they went to bed on Wednesday nights. This is like the first season to decide if they could watch it on Saturday nights.

And so they were introduced to some very interesting topics via South Park. I don't know if anybody remembers the ATF Jack Booted Thugs episode, but mommy was a prosecutor and we introduced them to the idea that sometimes law enforcement overreached via South Park.

And so we have always viewed that as a very active political discourse in our house. And the whole thing with Satan getting in bed with somebody is a theme that has emerged in multiple episodes over the years. So this week's episode, man, it was just a stunner with Trump in bed with Satan, I thought was in keeping with their brand and in keeping with the moment and I am just an unabashed fan.

Jill: And Kim?

Kim: Yeah. I have to admit I have not watched South Park in many year. I used to watch it. It was a favorite of mine in law school especially, and for many years after I would always say, "Respect my authority," when I wanted people to listen to me. But I did see the clips on social media and what occurred to me is, wow, what a crazy time we live in when comic, cartoon sitcoms take better and more accurate aim at what's going on than some of our media organizations that seem to be caving and being careful not to upset a dear leader.

I think that that is a sad thing. So yes, good on South Park. They have the right to use satire to make political points. But, man, I really wish more folks in our corporations that govern some of our media organizations would do the same. I'm proud that mine does and I'm allowed to say exactly what I say and write exactly what I write as a columnist at the Boston Globe, but I hope some of my colleagues pick up that mantle a little bit.

Jill: I have to say that I don't think I've ever watched a full episode of South Park until last night and I searched to find it so that I could watch it after I heard all the controversy about it and I was amazed at its content, especially because they had just signed a \$1.5 billion renewal of their contract for five years with Paramount. Paramount who just fired Stephen Colbert and CBS who settled with him with Trump for \$16 million.

Now there's no way that in my mind, Paramount didn't know what this first episode was going to contain when they signed this contract. So I was really amazed. I also, because the focus has been so much on the satire about Trump that there was also the satire about

putting religion in schools, which of course is Trump, but it wasn't directly attacking him in the way the rest of it was and how they made fun of the PSA announcements that are going to be required by making their own PSA, which of course is a huge take-down of Donald Trump.

So I'm very proud of them for doing that. I'm happy that Paramount let them do that and broadcast it. Apparently they've had several episodes banned in past years and they have been on for 27, so there's a lot of things that have been banned and I'm not sure that this one won't be eventually, but it's so out there now in the atmosphere that there's no way that people aren't going to be able to get it and see it.

I have it recorded so any of my friends who want to see it could come over and watch. And I hope they'll enjoy the creativity of these masters of comedy in satire.

Joyce: You heard it here first, South Park party at Jill's house.

Jill: Yes. Exactly. I'm inviting all my friends.

Joyce: This episode of #SistersInLaw is brought to you by Wildgrain. If you're not familiar with Wildgrain, it's the first baked from frozen subscription box for artisanal breads, pastries and pastas. Wildgrain's boxes are fully customizable to your tastes and dietary restriction, 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 items bake up from frozen in 25 minutes or less with no master cleanup, but a lot of really good smells in your kitchen.

Jill: It is an amazing product and how fast it goes from box to table is just unbelievable. My husband and I enjoy the breads, pastas, and pastries and so do my guests. They are impressed and then surprised when I say it's baked from frozen not homemade. They often end up subscribing for Wildgrain delivery themselves. It's perfect for delicious meals or snacks now or for outdoor summer parties.

Kim: I love watching the color and flavor come alive when the Bavarian pretzel buns are heating up and you know what really... Isn't it amazing?

Jill: So good smell?

Kim: What really is the kicker in my household is whenever I make a croissant, I made a croissant this morning and whoever's home, if my husband comes down. Like, "What are doing? What you making?" It's like, "Would you also like a croissant?" Or my stepkids, it's a way, if nobody's answering you, put croissants in the oven and everybody will come down. And as soon as the smell reaches them, they'll be all at your feet. I guarantee it. I can guarantee that the chocolate croissants as well will always be a big hit.

Joyce: So look, we are croissant snobs in my household and we live very close to some really extraordinary bakeries that I'm very fond of. I've got to say that the Wildgrain croissants are really wonderful, a little bit of butter, a little bit of jam, and they are heavenly. So I

include them on my list of best pastries. And if you're ready to bring all of your favorite carbs and tastes 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. That's 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.

Well, Epstein, I'm still trying to figure out what DOJ is doing here because there's no case here. Jeffrey Epstein was indicted and he died and that ends that case. Ghislaine Maxwell, she's been prosecuted and convicted. Her case is on appeal, but that's done.

And DOJ came out in early July and said, "No more cases here, folks. Everything's over." So DOJ prosecutes cases, right? I mean, they investigate and prosecute when they believe that there's a criminal case, rarely when there are certain kinds of civil cases and they're acting like there's something going on here, but they're acting very, very irregularly.

So earlier this month, there's the announcement that everything's over and we don't know by the way why they said there would be no more prosecutions. That could have meant that there was a lack of substantive evidence on additional defendants. It could have meant that the statute of limitations had run, right? It's five years for most federal crimes and that has already run for any other potential defendants here.

It doesn't really matter which of those it is, but that's sort of the setting here. So Jill, before we dig into the legal issues swirling around Epstein this week, can we just start there? What's DOJ doing if there isn't a crime to investigate?

Jill: Boy, that is such a good question and I wish everybody would reflect on that because what they are doing is political theater and nothing more. There is no legal basis for them to be spending resources, time or to release any of this. We do not release information to the public about investigations that do not result in indictments. Evidence comes out in the trial of an indictment. We don't release other information.

And so this is not something that should be investigated. No time should be spent on it. And it of course is completely ludicrous that the person doing the further investigation are FBI agents who were forced to spend 24-hour shifts looking at the evidence. And I mean, this is all over. He died more than six years ago now, and it's hard to see how there could be anything else coming out of that.

So I think it's time to ask why the resources are being spent on this. They are trying to do something that will appease Trump's base and that's because Trump created this monstrosity. He said, "There's something there. I'm going to be transparent. I'm going to release it." And now his base thinks there is something there and that's why they're doing this and no other reason.

Joyce: Karl Rove said earlier this week, "Live by the conspiracy theory, die by the conspiracy theory." Which I think is really apt in this situation. DOJ's job isn't to educate the public,

that's Congress' job and Congress can do it. So this whole thing is weird. But Kim, despite the fact that there's no criminal case in the offing, DOJ has filed motions in three different courts asking for the release of Epstein's, some of his grand jury transcripts.

Why three different jurisdictions? And can you explain Judge Rosenberg's ruling in the southern district of Florida? I mean, this is I think another piece of the legal hash here.

Kim: Yeah. So the reason that there were three separate motions made is that they're in the courts where prosecutions against Epstein had previously taken place. So in addition to Florida, also to prosecutors in New York State were prosecuting him too. So there were grand juries were convened in those cases and testimony was heard. So they're asking for all of this grand jury testimony to be released.

Well, Judge Rosenberg in Florida, as you pointed out, denied that request saying, "Listen, the law is the law and the law that I must follow prohibits the release of grand jury testimony except in certain very limited exceptions which are not presented here." And so they denied that. But as we've explained before, this was part of the theater of all of this that Pam Bondi knew full well, that he and probably most of the judges in this case would deny this request.

And then she can just say, "Oh, well, we tried, but now these judges are standing in our way from getting at the truth." And the fact that Rosenberg was appointed by Obama probably makes that even juicier tale to tell for them.

I know that the rules, and I don't know the specifics about how grand jury release rules are made and how they differ from state to state. I have read that the rules are not as strict in New York State. So if those judges come to a different conclusion and say, "No. The grand jury testimony in these cases can be released." Bet that they will be so heavily redacted that they will provide no information whatsoever.

They will also pertain to the people who they're investigating. They would not be pertaining to other witnesses, which if you're looking for a client list or any other witness information, that's not going to be in the grand jury testimony anyway. So all of this is really stupid. It's not meant to do anything but give political cover.

Joyce: Yeah. It's politics. But Jill, how about it? I mean, Kim makes that interesting point about different laws. So the two cases that have not been decided by Judge Rosenberg's ruling in the southern district of Florida, those cases are in New York in the Second Circuit, could there be a different result up there? Is the law different?

Jill: It is different. The Second Circuit has a rule that allows public interest disclosures. And let me just expand a little on what Kim was talking about. Rule 6E, which provides for grand jury secrecy does say except in certain cases when it can be released. Those cases are very, very limited.

You can release it to another law enforcement agency, you can release it in connection with the judicial proceeding, and that's what we did in Watergate. We used Rule 6E's exceptions to allow the Judiciary committee in its impeachment hearings. We said, "It was a judicial proceeding and that we had an obligation to give them this evidence." And

the court ruled in our favor and we provided the evidence that led to the articles of impeachment.

That was a legitimate use allowed in the District of Columbia. It's broader in the Second Circuit where you can make an argument that it's in the public interest to release the information. That seems to me not covered by the actual language of the rule. So it'll be interesting to say, there's no saying what will happen or if this goes to the Supreme Court, what the Supreme Court will rule on whether it's legitimate to violate grand jury secrecy.

Joyce: So we get two different rulings in two different circuits, a circuit split. Kim, what happens when you have a circuit split? We've talked about this a lot before in other contexts, but let's rehearse it here. Would records get released some places and not others or how would that get worked out?

Kim: Yeah. I mean, these are different investigations, so I'm not even sure that would be considered a circuit split. It may be that some of the transcripts are released and others are not based on the findings in those cases. And again, they would be heavily redacted if they are released.

I think, honestly, if you come to these different conclusions, the biggest problem will be how does Pam Bondi explain when the other heavily redacted ones are released? Why were we going through any of this anyway? Does she think that that will... I mean, the people within MAGA who are so angry about this already called her out when she said, "Oh, they're on my desk."

And then they're like, "Okay. Where are they?" She's like, "Wait. No. I didn't mean that they were actually on my desk. There's no client list. Well, the file is there. I'm going to release it." And then when she did... I mean, they're calling her bluff every turn she makes, so I don't know how she gets out of that jam. I think that would create more of a political jam for her than if they all deny the request, then she can just say, "These bad judges are getting in our way."

Jill: Yeah.

Joyce: I mean, Pam Bondi has a lot of explaining to do, right? From the get-go, I thought she was going to be the fall guy here for all of this, but I think Trump wins, frankly, if there's a split in the circuits, right? Delay is always his friend in the court and maybe if he can delay this garbage with an appeal, then it drops off the public's radar screen.

So I mean, I think that that's interesting. And now we have this new sort of blip on the radar screen. Starting yesterday, it's Friday today, so starting Thursday, continuing today. Todd Blanche, who is the Deputy Attorney General, the number two guy in the Justice Department, and of course the president's former criminal defense lawyer. He's been interviewing Ghislaine Maxwell in a Florida courthouse close to the prison where she's incarcerated.

So I mean, Jill, you spent time like I did at Justice. Does this seem like part of the DAG's job to you?

Jill: Seem like? Not at all. It is so far from ordinary procedure. If a incarcerated pedophile was going to be interviewed or any other incarcerated felon, it would be by a line attorney who knew the case. That would be, for example, Maureen Comey. Oh, wait. They fired her. She can't do it. Sorry. Okay, but it certainly wouldn't be by the Attorney General, the Deputy Attorney General, the head of the criminal division. No. It would be a line attorney, a criminal prosecutor who had studied the case completely.

It certainly wouldn't be someone with a conflict of interest because he's looking at whether she will incriminate his former client and current employer, so that would be another reason why it wouldn't be him. It is not regular order and it is not proper. It is just the wrong thing to be doing.

The other thing, of course, is that this is someone aside from her felony convictions, was accused of perjury whose word cannot be believed and based on the statements of her lawyer following the interviews, he's saying, "Oh, she knows of no scheme. There's nothing here guys. She's been treated unfairly."

Now who believes any of that and why should she get any kind of hearing? What about the victims that the Department of Justice never spoke to? What about Donald Trump saying, "Oh, I wish her well." Did he take into consideration any of the harm to victims, one of whom died of a drug overdose, one by suicide? This is really just so wrong in so many ways.

Kim: You, guys. I am truly ready for the second half of the summer season because just today my Quince European linen structured blazer arrived and it's really perfect. There's a lot of events that you have to go to related to work and it's tough, especially when you're traveling because those clothes never feel truly great when it's a hundred degrees outside. But that's why I love Quince's linen because it travels beautifully.

It comes out looking great. It's a natural linen, so as soon as you put it on, the fibers just relax and you put it on and you look professional, but you're also super comfortable and elevated. I like putting a little belt over the blazer to give it a slightly more upgraded structured look, and it's really become a staple in my closet.

I have loved Quince since the pandemic when I started buying their cashmeres. The quality is way beyond what you expect for the price. It's the kind of wardrobe upgrade that it just clicks. Their clothes are timeless, lightweight, and far more elevated than anything else at their prices. It feels like our wardrobe matches our standard.

Joyce: Well, it must be Quince day for #SistersInLaw because my linen shorts came this morning just in time for vacation, and they're really great.

Kim: Nice.

Joyce: They look totally fabulous like they walked out of a much more expensive store. Everyone who's listening needs summer clothes. It's just so stinking hot out there and you will love Quince's European linen top starting at \$30. They have washable silk dresses and skirts as well as soft cotton sweaters, and they're versatile. They deliver warm

weather pieces that you'll reach for again and again even when it starts to cool off this fall.

The best part is that everything from Quince is half the cost of similar brands, and that's because they work directly with top artisans to cut out the middleman. That gives you luxury without the markup. I was reading one of the Substack fashion newsletters this morning and she was comparing some of the very high-end designers, people like Kate or the Row to some of the more discounted brands and Quince was right up there at the very top for her. This is one of the really smart fashion people. So I feel good about choosing Quince.

Jill: I'm so glad to hear this discussion because I just ordered some new Quince both cotton and cashmere t-shirts, and they are fantastic. I mean, they look professional and great and they feel wonderful. And like you, I love how Quince only works with factories that use safe, ethical, and responsible manufacturing practices to create the premium fabrics and finishes that make up their amazing offerings.

I have to say, everybody needs Quince's washable stretch silk blouse or the stretchable silk dress. The material feels amazing and the style is perfect for giving a speech, being on screen, seeing friends or heading off to exciting new places. And I'm heading to Washington this week where I get to see Kim and Greg. I'm so excited.

Yes. I might be wearing one of my Quince piece. I hope you'll wear your new blazer, Kim.

Kim: Oh, I get to see it.

Jill: Yes. I want to see it. There's nothing better for looking your best as the weather heats up and if you're prioritizing fitness, going into summer, the best workout motivation is new active wear from Quince so you look great while you're doing the workout.

Kim: And they have men's wear too, which we love, and they also have really great accessories. You really should check them out. Don't wait. Give your summer closet an upgrade with Quince. Go to quince.com/sisters for free shipping on your order and 365 day returns. That's [Q-U-I-N-C-E.com/sisters](https://quince.com/sisters) to get free shipping and 365 day returns. You get a whole year to decide if it's for you. But you know what? I bet you it will be. Again, it's quince.com/sisters. And as always, the link is in our show notes.

Jill: Well, to me, it looks like the end of the constitutional requirement of Senate confirmation. That's because in my opinion, they've given up a lot of their power by approving even unqualified nominations, anybody that Trump sends their way and passing laws that their constituents hate because Trump wants them to. But now Trump seems to be finding ways around their constitutional advice and consent duty.

Last week we talked about the New York Northern District Interim US Attorney John Sarcone. His 120 days were up and he wasn't confirmed. And the federal court judges who are the only other way that he could stay in that position rejected him and for good reasons that we talked about. I think it was in two weeks ago our episode, so go back to that, but now there's another way around it.

They named him a special counsel to the AG with the powers of the US Attorney and plan to have him stay. And now we have deja vu all over again as Yogi Berra used to say. And Kim, tell me about what's happening with Alina Habba, Trump's losing lawyer in the E. Jean Carroll case. She was the interim in New Jersey.

Kim: Yes.

Jill: What's going on?

Kim: And if y'all remember, if you were listening to this podcast at that time, Trump was complaining about her, real time. And I was just like, "Oof. I don't know. This doesn't bode well for her." But here we are fast-forward these years later, and I guess Trump is running out of attorneys in his inner MAGA circle, so she will have to do.

So the whole, I haven't checked the news in the last 10 minutes, but I'll tell you how it started and then we can get into how it's going. So Alina Habba, as Jill said, was the losing lawyer from E. Jean Carroll. She could have been appointed permanently by a panel of judges.

So the law requires when the Senate has not acted on a US Attorney nomination, there is a panel of federal judges who are empowered to appoint someone into that role when there are 120 day interim title runs out. The judges said, "Yeah. You know what? We're going to go ahead and appoint Desiree Grace." Who was the Deputy US Attorney in that office. Also, someone who is a career prosecutor who actually has prosecuted cases, understands how the US Attorney's office works.

From what I could tell, there are no reports of morale sinking in the office under her leadership as it has with Alina Habba. As I said, she's actually a prosecutor, which Alina Habba was not. And so the judges, they didn't have to give a reason. They just gave a short order that said, "This is who we are appointing."

Jill: So Kim, do you have some speculation on why she wasn't approved? Did she do some stuff while she was in the interim position that might've raised some questions about her competence?

Kim: Well, she began by saying when she was put in the interim position that her job was to help turn New Jersey red, which hate to break it to you. That's not the job of a federal prosecutor, like not at all. In fact, that's exactly the opposite of what a federal prosecutor is supposed to do. They're not supposed to politicize the office at all.

She also allowed the office the morale to fall as such as that career people were leaving or they were demoralized within the office. People have spoken about that as well. I don't know. Ordered the arrest of a member of Congress. I mean, there are so many things that she has done that I can imagine that the judges took into account.

Jill: Yeah. That case is still pending against a member of Congress who was exercising her constitutional and legal right of oversight at a detention center and she had the mayor arrested for the same thing.

Kim: Okay.

Jill: So yeah, there was plenty of reason for her not to be approved. There was a question, and Joyce maybe you can talk about this about the 120 days as to whether they were over or not and whether that matters. And so maybe mention that a little and then I have another question for you.

Joyce: Well, ask, tee them all up at once and I'll answer them all together.

Jill: Okay. Well, the main question is obviously because her time, whether it was over when they first announced Grace as the interim is definitely now over. And that means that Grace, Desiree Grace should be the interim, acting US Attorney. But did Trump find another way around this? Is her firing legal in terms of both civil service protections and anything else? What's going on? Is she acting as the US Attorney right now or is she fired?

Joyce: Yeah. I mean, that's the reason I wanted you to ask the question all rolled in together because it really... I mean, this is watching the sausage get made and it's very, very messy. So the woman that you're talking about in New Jersey, her name is Desiree Grace and she is a highly regarded 10-year veteran of the office.

She was the criminal chief until Alina Habba decided to make her, her first assistant. And in and of itself, that's sort of interesting, right? Alina Habba is arguably one of the worst qualified people ever put in the position of a United States Attorney. And typically, you see that happen, there's the senator's kid who gets the nod or basically the good egg who lacks experience.

And what Washington does in a normal administration in that situation is they give that person a very experienced first assistant to help them run the office. Normally, US Attorneys get to pick their own, in these rare cases though Washington sort of steps in and says, "Look, we really think you need this person to backstop you."

Well, Habba apparently had some good sense here, and she chose Grace to be her first assistant. I'm told by people who know her that she is a Romney Republican, a good egg, a straight shooter, career prosecutor. Before she was in the US Attorney's office, she clerked for the New Jersey Supreme Court and you know she's good because the federal judges voted to have her be Habba's replacement.

And how this works, I've lived through this twice, you have a US Attorney who's either... Well, usually who's an interim, and their 120 days, that's the statutory period for which an interim can stay in office. After that, they have to be either replaced by a presidentially appointed Senate-confirmed person or the district judges in that district get to vote and they get to select the US Attorney who will remain in place, again, until the Senate confirms a presidential nominee.

And so the judges here, or at least a majority of them voted for Grace. They did not want Habba. I think that's very telling. She's had a lot of trouble in her time in office. She's the one who first arranged for the arrest and indictment of a mayor in New Jersey, and that case she was forced to dismiss. The judges were very critical of her.

Now there's a New Jersey congresswoman under indictment from that same entire incident at an ICE immigration detention facility. So Habba has not had a term that shows good judgment and the court didn't want her in place. The legal issues here are ridiculously complicated. You can have interims or acting filling a vacancy, and even the leading scholars in this area don't really agree on how this all plays out.

I know it's shocking to everybody that there are scholars who focus on the Vacancy Reform Act and federal vacancies, but there are. And they are not in agreement about who will win here. So Habba says she has the job so does Pam Bondi. And Desiree Grace posted on LinkedIn and said she was delighted to have been selected and that she would serve. That means the courts are going to have to figure this one out and it's going to be awfully interesting. Get your popcorn ready.

Kim: So wait, what does the... I mean, Pam Bondi was just like, "Grace, you don't have a job." So how does that factor in? And Bondi publicly fired Desiree Grace. And that is why Alina Habba is declaring victory and saying that she will serve for the next 210 days as acting.

Joyce: There are issues about who can hire and fire an acting or an interim, and that's one of the areas of disagreement. I fear that Bondi may have the better of that argument. There has always been this notion, theoretically, the Justice Department could override the court's choice, but nobody would ever do that because DOJ litigates in the courts. You don't want to off the judges you have to appear in front of.

Kim: I just can't stress this enough. In a normal world this would be impeachable conduct on the part of Pam Bondi. You do not step in and override a panel of judges who say, "We are appointing this person." And do so clearly with political motives in mind. This is why you're supposed to have an independent DOJ. But this is such a corrupt move, whether the court's rule in her favor or not. This is something that an Attorney General should never do. Remember when everybody lost their mind?

Joyce: See, you're talking about soft norms, right? I mean, this is the conversation we had last time he was in office. These norms that we all respect because they make the institutions work.

Kim: Remember when Lynch had a conversation on a plane and everybody lost their ever-loving minds?

Joyce: You bet I do. You bet I do.

Kim: And this is where we are now. I mean, this is just, I need to reinforce how not normal any of this is.

Jill: And how abnormal it is that Congress, the Senate has under the Constitution the right to advise and consent, and they are being deprived of their vote on who will be the US Attorney because he keeps doing this.

Kim: Are they being deprive, Jill, or are they giving up that power in saying-

Jill: They have given it up. Yes. You are right.

Kim: And that's all right.

Jill: I take that correction. It is true. They have just abandoned their responsibilities and they're letting this happen.

Kim: That's right.

Jill: So as Joyce pointed out a week or two ago, it's not unusual that there aren't a lot more confirmed US Attorneys. It takes time. But the fact that they are letting the expiration of interims come and go and the interims are so bad that the courts will not approve them to stay, says a lot about who he's appointing and how much we need Congress to be reviewing and advising and not consenting to some of these horrible appointments. That's what this is really all about.

Kim: Yeah.

Joyce: Great sleep is critical to success, and there's nothing better for sleep than a Helix mattress. We first heard about them when they asked to sponsor our show, but we're very selective on #SistersInLaw, so we wanted to try them out. I took the quiz to tailor my mattress to my sleeping style, and I got matched with the Helix Midnight Mattress. And I must have aced the quiz because I've been getting the best sleep of my life ever since it arrived.

I talk about it to everyone. Like if someone says they're looking for a mattress, the next word that's going to come out of my mouth is Helix. And even though our kids all have the mattresses at home, our daughter who's just moved into a new place up in Maine called me this week and she was like, "Mom, do you have a code for the Helix mattresses from your podcast? I want to get one for my new bed." So she has proudly ordered a Helix mattress using the #SistersInLaw code.

Kim: Helix makes it easy. They have so many options and you'll love how 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 heat wave hits. It's important to have the heating and the cooling, especially if you're like me and you're in a mixed relationship and one of you sleeps hot and one of you sleeps cold, it really will save your marriage. I'm telling you.

I'm amazed that Helix has been a part of my sister's sleep habits for over two years. I'm actually not amazed because it's so great. 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 their Helix mattresses. Add that to the quick and simple setup and no fuss trial policy and upgrading to a Helix is an easy choice.

Jill: It really is, especially because right now, Helix has kept their incredible 4th of July sale for our listeners. It's still going. So head to helixsleep.com/sisters for 27% off site wide. That's an exclusive only for our listeners. Go there SistersInLaw listeners. That's

helixsleep.com/sisters for 27% off site wide. One last time, helixsleep.com/sisters. And the link is also in our show notes.

Kim: So it is time to talk about sanctuary cities and more specifically the lawsuits that are being filed against sanctuary cities. The latest is New York City, where the Justice Department allowed a suit claiming that these sanctuary cities are unconstitutional. Essentially now it comes after a terrible, terrible crime in which an off-duty immigration official was robbed in New York City while sitting in a park at night.

And this person who did it, he was shot and killed. And the person who did it was in the country illegally. It had nothing to do with this person's job, but the Justice Department has used this as an example that New York City is a place run amok and that they no longer should be able to have sanctuary city status.

So Joyce, I just want to start off with sort of getting the lay of the land of what exactly this lawsuit is alleging. They base it largely on the Supremacy Clause. Would you remind listeners as to what the Supremacy Clause is and what's your take about the argument the government's making here?

Joyce: Yeah. So that's exactly the starting point for this lawsuit. They've also sued Los Angeles, New York State, Colorado, Illinois, whole plethora of lawsuits on this same basis. The argument is that this is about immigration policy and that under the Supremacy Clause, which says that all powers not explicitly granted to the federal government by the Constitution or reserved to the states, that immigration is an area where the feds have preempted state activity.

And so the feds own the landscape and the states can't come along. States, I think colloquially because here we're talking about a city, but other units of government can't come along and override federal law. That's the notion of federal supremacy.

And so that's accurate, right? I mean, imagine a patchwork quilt of 50 states each with their own immigration policy in a foreign country like Mexico having to deal with 50 different state laws. It really makes sense for there to be federal preemption when it comes to immigration. But that starts to fray a little bit when you look at the government's argument.

Here's what they say. They say, "New York City has released thousands of criminals on the streets to commit violent crimes against law-abiding citizens due to sanctuary city policies." And they say that if New York won't stand up for the safety of its citizens, the federal government will.

And here's the problem. That sounds a lot like a law enforcement problem, not an immigration one. And that conclusion is underscored when you read the government's complaint because all of the relief that they ask for at the end, it has to do with enjoining and setting aside local laws adopted in New York City and not about federal immigration law.

Kim: Yeah. So what about that, Jill? Isn't law enforcement in contrast to immigration in the purview of local authorities? I mean, even the crime that Pam Bondi spent so much time

talking about in the press conference where she was announcing this lawsuit, and also threatening other cities including Boston, by the way, that they could be sued next.

The crime had nothing to do, an immigration official wasn't shot at the border or in the course of carrying out a raid, they were sitting in a park. So how does that square with this-

Joyce: Off duty.

Kim: Off duty, right? So how does that square with what Joyce said?

Jill: Well, you have it exactly correct. Law enforcement is completely a different subject, and the feds cannot use their resources for law enforcement in local jurisdictions. And that's what we were seeing when they sent people to Los Angeles. But in addition, this is a local issue and it should be left to New York to do its own policing and to follow its own laws.

And it's interesting because the law that they're using as part of their lawsuit was passed in 1996. It's a long time ago, and there's never been a Supreme Court decision about whether that law is constitutional or not. And that's what's being challenged. Does the 10th Amendment take priority here, giving states the right to do what they want to do or does the Supremacy Clause have something to do with this?

And for some reason there's been conflicting opinions in different districts, but there's been no Supreme Court case. And I don't know why it hasn't gotten to the Supreme Court, but to me, yeah, law enforcement as opposed to immigration is a local issue. And of course, this is an interesting one because of Mayor Adams supposedly got a good deal. His criminal case was dismissed because he was essential to enforcing the immigration laws. And now here he is, he's abiding by New York City's laws.

Kim: Well, what about that, Joyce? What about that sweet deal that Eric Adams cut to avoid charges related to allegations against his own corruption? He avoided Donald Trump's ire, we thought, but now here he is getting sued. How'd that all work out?

Joyce: Yeah. I mean, it's hard to remember this far back, but this was one of the early furors at DOJ, right? When the Eric Adams public corruption case, a very strong public corruption case gets dismissed by people like Todd Blanche, who we talked about earlier. Emil Bove, who's now been nominated to the Third Circuit, plays a big role in that.

And there are outraged resignations from people in the southern district of New York. What they said at the time was that this dismissal of Adams was politics, and there was reporting suggesting that there was a quid pro quo, that there was a swap that Adams walked away a free man, no more fear of federal prosecution, and that in exchange, he would help the feds out when it came to immigration policy.

And in order to complete that deal, when the government went to court to get the case dismissed, they asked the judge to dismiss the prosecution without prejudice. And that would've given them a sword to hold over Adams head. They could have reinstated those charges at any point in time, but the judge wasn't willing to play pool, and the judge

dismissed those charges with prejudice. Meaning that Adams cannot be reindicted, at least on those same charges. And so he's had a little bit of wiggle room and apparently the feds want to bring him back in line.

Kim: And he's not on the same page as his own city council. I mean, the city council is basically telling the DOJ like, "Get out of here. We have the 10th Amendment." And Adams is like, "Well, yes, there are things that we need to do, but we need to be tough." He's trying to walk the line somewhere in the middle, which I don't think is helpful.

So I'm going to pose one last question to both of y'all. And Jill, you can start. What really is the game here? We have all these lawsuits against all of these cities. I think I agree that the supremacy argument here really is weak when it comes to law enforcement capacity, but then again with the Supreme Court, you never know. What do you think the real game is here?

Jill: Well, part of it is with the Supreme Court, you never know.

Kim: Yeah.

Jill: And I will point out Illinois, Chicago and Cook County, were among the first to be sued for this as sanctuary cities. This is a question of delay, appeasement of the base, and getting compliance in advance just because it's not worth fighting. This is what's happening at Harvard. This is what's happening at Columbia and Columbia caved. I'm ashamed to say, my alma mater has caved.

Kim: You see, I did like Clarence Thomas and put a 15 cent sticker on my Columbia diploma.

Joyce: I saw that.

Jill: Oh, no. Really?

Kim: I did. I did.

Joyce: Kim's Instagram account. It's a small act of resistance there.

Jill: Oh, my God. I might have to go find mine to do that to it. Yeah. I mean, it's a shame. And I mean, it's what CBS did. How did they pay him for a totally risible lawsuit, one that had no basis?

Joyce: Awful.

Jill: It was awful.

Joyce: Awful.

Jill: Some of that is like some places will just go, "Oh, God, it's just not worth it. I'm going to let them do this." And so that may be why they're doing it. I can't think of any legitimate reason to be wasting resources once again on this.

Joyce: I think you're dead on the money, Jill. When they filed this lawsuit, Pam Bondi's press conference listed the jurisdictions that they had sued. And then the last sentence was, "Recently the mayor of Louisville revoked the city's sanctuary policy after the Justice Department threatened legal action." I mean, it could not be any clearer. They want everybody to bend the knee from states and localities to private citizens, and that is a challenge I believe that we can all rise up to.

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Jill: It's time for our favorite part of the show where we get to read your questions and answer some of them. 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 because we sometimes answer your questions there whenever we can.

And today, we have some really good questions. Kim, I'm going to ask you the first question. It comes from Laura in Quebec. So I'm glad that our Canadian friends are paying attention.

Kim: Yes.

Jill: Have the SCOTUS rulings on Trump's immigration policies contradicted each other?

Kim: Oh, that's a good question, Laura. Merci. So here's the thing, the Supreme Court, in particular, if you're talking about the immigration policies from Trump's second term, the Supreme Court has actually ruled on exactly zero of them. The Supreme Court has not decided whether the Alien Enemies Act is a basis to remove people and send them off.

The Supreme Court has not decided whether Trump can revoke birthright citizenship. The Supreme Court has not decided whether the other emergency powers that Trump claims under the Immigration and Nationalization Act are actually within his... They haven't decided any of that. They have issued a bunch of shadow docket orders, which are not supposed to have precedential value, but what have had the effect of allowing Trump to do just about everything that he wants, including violating lower court orders.

This week, there was a New York Times piece that pointed out that the Trump administration has violated or evaded court orders in one in three cases where they have faced federal judges. And when these judges try to impose injunctions or other things in place to sort of keep the status quo while these cases are decided, the Supreme Court has come in and said, "No. No. You got to lift those." And they've come in.

So they have not had to give a reason or consider the constitutionality or legality of anything that Donald Trump has done to date. That is what is so gobsmacking. So I can understand, given all these orders, how you might think that the Supreme Court is issuing all these rulings and they may not make sense. What doesn't make sense is that it's being done on the emergency docket. This is not how it's supposed to work.

Jill: I have a great question for you, Joyce, from Maura in Tennessee. She wants to know if the Comstock Act is resurrected, does that mean that the prohibition against birth control will be reinstated? So first of all, mention what the Comstock Act is and then answer Maura's question.

Joyce: So this is a really interesting question and a really depressing one because as everyone who read Project 2025 understands this is the ultimate agenda. This is taking America back to the 1950s where women stayed in their kitchens and didn't mouth off like we do here on this podcast.

The Comstock Act was named for a man named Anthony Comstock. He was once described by Colorado Congresswoman Patricia Schroeder, if you can remember that far back.

Jill: Oh, I loved her.

Joyce: She was great, right? She was talking about the act on the floor one day. She gave a floor speech. And she described him as one of these people who decided only he knew what was virtuous and right, and somehow he managed to convince all sorts of people that this was correct. Sort of sounds like somebody else we're dealing with. But anyhow, Comstock was a religious fanatic, and he spent his life in this sort of personal crusade for moral purity, which he defined.

And the crusade resulted in the arrest and imprisonment of a lot of Americans whose only crime was exercising their constitutional right of free speech in ways that offended Anthony Comstock. Women were a special targets of his. And he began to advocate for a ruling that would make it difficult, if not impossible, for them to talk and educate others about contraceptives. He wanted to prohibit women from talking about and debating matters that involved sexuality, and that included contraception and abortion.

So he convinces Congress to pass this just ridiculous act, which ends up in its full form, functioning as a prohibition on mailing not only equipment that's used for abortion or contraceptives themselves, but any matter that discusses their use or how to obtain them.

And although that law has been on the books for about a hundred years, it has, thank God, fallen out of use, as has Comstock who's many decades dead now. And here's the problem. There's talk of revitalizing the Comstock Act because it's still on the books. It was never repealed, and it would prohibit all of these things that we take for granted in modern society.

No more ordering medication, whether it's Mifepristone for a medication abortion, whether it's birth control pills through the mail, you can't even send information or equipment used in doctor's offices. Imagine a world where, for instance, stirrups, which can be used in an abortion can't be shipped through the mail.

So look, this is crazy sauce, but this administration is crazy sauce. And if you need a good reason to vote in the midterm elections to reestablish guardrails, vote for senators and members of Congress who will agree to repeal the Comstock Act because it richly needs to be repealed.

Jill: Bravo, Joyce. One last question comes from ReadMyTulips, spelled T-U-L-I-P-S. I love that name. And Tulips, he or she says, "I'm very worried about the criminal referral for President Obama made by Tulsi Gabbard to the DOJ. What do you think the chances are of charges actually being filed against him?"

Well, obviously there's no facts to support any possible charges, so the answer should be zero. But we've seen, just in today's show we've talked about cases that are being filed that have no legal basis but are being done to appease the political base. And so I can't guarantee you that they won't file charges, but they would be rich.

The other thing is, remember, Donald Trump got presidential immunity for anything he did in office. So isn't that exactly what would bar any charges being filed against former President Obama? He gets the same benefit as Donald Trump, so there really can't be, it would be dismissed.

First of all, a grand jury would be required and they will not file because I just don't think they will. I trust grand jurors. Secondly, it would be subject to an immediate motion to dismiss based on the Supreme Court's immunity decision. And unless the Supreme Court is even more devious and awful than even everyone on this show thinks, they aren't going to find that, "Yeah. You can indict Obama but you can't indict Donald Trump."

So I think, really, President Obama doesn't have much to worry about. And we saw him on his wife's podcast joking the day that this happened that she made this referral. And he was joking about in my household, no one over eight can use ketchup. And that's what the discussion was. So I don't think he's very worried about it either.

Thank you for listening to #SistersInLaw with Kimberly Atkins Stohr, Joyce Vance, and me, Jill Wine-Banks. Follow #SistersInLaw wherever you listen, and please give us a five-star review because that's how others will find the show. Also, please show some

love to this week's sponsors, Wildgrain, Quince, Helix, and DeleteMe. 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: No more chitchat. We're going.

Jill: No. No. The legitimate chitchat. Come on. Oh my God. Oh, no. Okay. So seriously. I'm bad at picking chitchat topics and I said-

Joyce: I thought this was a good one.

Jill: That's okay?

Joyce: Yeah.

Jill: Everybody's okay with that?

Joyce: That's great. Do it.

Jill: Okay. All right. Okay.

Kim: Man, when Barb's away.

Joyce: Y'all it's a whole different podcast, man.

Jill: Barb's not here. We can do it.