

Andrew Zucker: I'm Andrew Zucker, the host of The Golden Age with Andrew Zucker, a weekly podcast where I sit down with people who are shaping our world today at the intersection of politics, culture, and media. I've been covering this intersection as a contributing editor at Town & Country and freelance writer for outlets like The New York Times, Washington Post and Vanity Fair. The Golden Age gives you a front row seat to the discussions that are defining our moment, whether it's talking about conservative dating apps or learning more about JFK Jr. New podcast episodes drop every week on YouTube, Apple Podcasts, Spotify, or wherever you listen. Subscribe now because the conversations we're having today are the ones that we'll define tomorrow. This is The Golden Age with Andrew Zucker, join the conversation.

Kim: Welcome back to #SistersInLaw with Joyce Vance, Barb McQuade, Jill Wine-Banks, and me, Kimberly Atkins-Stohr. I'm so happy to be back. I've been gone for two weeks and it felt like forever.

Barb: We missed you. Yes. Great to have you back and the whole gang.

Kim: Yes. Yes.

Joyce: This is our first time all together for a while and-

Kim: I know.

Joyce: ... it's [inaudible 00:01:17] week for it.

Jill: And that's why I love it. We're laughing so much and having such a good time.

Kim: All right. And don't forget, you guys, the Resistance Mini Tote and T-shirts are bestsellers. They're really great, but they're selling out fast. So get yours now at politicon.com/merch and now let's get on with the show because my goodness, there's so much to discuss from the redistricting wars to all the things that the DOJ has been up to, including executing a search warrant on a Trump enemy. And also let's not forget the New York verdict for fraud that was rendered against Donald Trump. That for now has been upended on appeal. So much to get to, but I want to start out by asking you guys something that's been on my mind. Ever since I was a preschooler, I have loved back-to-school shopping season. Yes, I have not been in school for a very, very long time, but I may still be known to hit a back-to-school shopping sale because I love things like a fresh notebook or I just got a fresh bunch of highlighters and it makes me feel like I'm in elementary school again.

I get so excited about back-to-school shopping and that's let alone what there is to be said about clothing. So, I wanted to ask you guys, are you back-to-school shoppers or were you back-to-school shoppers and what were some of the things that you guys like to buy? So, Barb, you're a professor, so I'm sure you have to buy things to go back to school. What about you? What do you like most about back-to-school shopping?

Barb: I love this question. I'm such a back-to-school geek. I love office supplies. I love them as a kid and my mother would take me and my sister to get back-to-school clothes, which didn't interest me all that much. We got back-to-school shoes every year, a new pair of shoes for the school year that didn't do it for me, but the school supplies, you know what I used to love? They used to back in the day have what they called a cigar box. Do you know what that is?

Kim: Yep. Yep.

Barb: It wasn't really cigars in it, but it was the shape of a small box that opened and you kept all your little things in there like your... In those days, they didn't even have the glue stick. We had Elmer's glue, the little scissors with the rubber handles, some pencils, the kind of eraser that you stick onto the end of your pencil.

Kim: Yes.

Barb: I had a few of those. I love that. So, now that I'm a professor, the law school has available to me anything I could possibly need. They have a supply room where they have folders and other things, but I still go to the office supply store because I'd rather walk up and down the aisles and pick what color are my notebooks going to be for this year. So, I already picked out my notebook for my fall national security class. It's going to be blue this year. I use a variety of colors every year, often fond of blue. I know that will surprise some of our listeners, but I love it. And I got some tab dividers because I got to have different sections for different types of papers that will go into my notebook. So, also lots of Post-it notes in various colors.

Kim: Oh, my goodness, Barb, I love this. So, I too loved shopping so much for back to school and I would love it when the notebooks were pristine and so I almost didn't want to use them. And I actually still have a notebook that was purchased when I was in elementary school and it has Barry Sanders on the front of it.

Barb: Oh, excellent.

Kim: I'm sure I could probably sell it on eBay or something, but I will never get rid of this pristine.

Barb: Oh, that's great.

Kim: It's right in my desk, in my office right here.

Barb: That's great.

Kim: But I had not written in, so I feel you, Barb. What about you, Jill?

Jill: Well, it's a really, really long time since I did any back-to-school shopping, but when you asked that question, the first thing that flashed through my mind was not just my giant box of Crayolas, which I really, really loved that-

Kim: Wait, the 64 or?

Barb: Or the sharpener in the back.

Kim: Yes

Jill: Oh, I'm old enough. There was no such thing as a sharpener. I'm sorry about that, but-

Kim: [inaudible 00:05:22] the sharpener built in-

Jill: ... what I really loved was clothes shopping, and I really still can remember getting pink suede loafers once. That was a big thing when I was in grade school and I can remember certain dresses and Poodle skirts. That was a big thing when I was in high school. I love and I still love clothes shopping and like you, Kim, I also love going to vintage stores and finding old stuff that just really not only reminds me of stuff, but I think it's still great style. So, I am a big shopper. I do like shopping, I have to admit.

Kim: Yeah, Jill, you've always had fantastic style. I bet even when you were in the second grade, you had fantastic style.

Jill: I don't remember that far back.

Kim: Joyce, what about you?

Joyce: I'm like you and Barb. I love shopping for supplies. I like the organizational details, but my mom was a preschool teacher in one of the Johnson Great Society programs for kids, usually from single parent, from one parent families that were struggling a little bit, and my mom who did not make a ton of money as a preschool teacher, as you might imagine, spent a lot of money on supplies for her classroom. And so, what I do now that I can't really buy supplies for myself like Barb, the law school gives me more than I could ever use. I like looking online for these teachers who they do, it has different names. Sometimes it's clear the list and they write a list of supplies that they want for their schools and you can go in and clear out a teacher or a whole elementary school, which I did one year. My husband was sort of perplexed by that. But it's really, really great to do that in areas that you know and are familiar with. And so, maybe it's scratches the shopping itch a little bit.

Kim: That's a great idea. I have seen people in my circles or on social media with teachers who have lists because there are so many teachers who they make so little, but they still devote some of what they make to making sure their students have what they need. And so, they create these lists on Amazon and elsewhere. So, that's a really great way if you like back to school shopping, but you're not in school, that's a good place to put that energy. So, thank you for that, Joyce.

Our listeners can't see, but I'm batting my eyelashes at Jill because I'm wearing my Thrive mascara as always.

Jill: Me too.

Kim: And you know summer is all about looking and feeling your best without piling it on. And that's why we want to tell you about Thrive. Thrive Causemetics is your go-to for simple, clean and radiant summer looks, minimal effort, maximum impact. Every product is 100% vegan, cruelty-free and made with clean skin-loving ingredients that work with your skin, not against it.

Jill: I am so with you, Kim on this. I have loved Thrive way before they became an advertiser. I was thrilled when they wanted to advertise with us because then I could tell everyone about how great the product is. I love Thrive's vegan tubing liquid lash extension mascara. And there's a reason it has over 40,000 five-star reviews. It's perfect for a salon look without the damaging glue or excess prices. Better yet, it's sweat-proof for the summer with six shades that last all day without clumping, smudging, or flaking. It's amazing how it makes your eyelashes look extra long by wrapping around each lash from root to tip with easy removal just with water. I use a special little soap for my whole skin and it works just perfectly on getting this off. It slides right off with warm water without yanking out your natural lashes. Plus its nourishing ingredients support longer, stronger, and healthier looking lashes over time. As soon as I found out about it, I started using it. It's the perfect way to make a big impression.

Barb: Jill's eyelashes look so long with Thrive Causemetics that she could braid them if she wanted to.

Jill: As a child, I did have braids.

Barb: Not on your eyelashes.

Kim: On your eye lashes?

Jill: No, I worked. No, my hair was braided.

Barb: Well, we love that Cause is in the name for a reason. Thrive not only defines luxury beauty with clean skin-loving ingredients and uncompromising standards, but they give back too. Every time you use your favorite Thrive Causemetics product, you're doing more than enhancing your glow. You're helping others shine too. With more than \$150 million in product and cash donations to 600-plus giving partners, your purchase directly fuels real impact. Imagine making a difference in things like education, the fight against cancer, stopping domestic abuse and more with every purchase. That's beauty with purpose.

Joyce: So, don't wait. Maximize your look with minimal effort. Go to thrivecausemetics.com/sisters for an exclusive offer of 20% off your first order. I love that mascara so much that I keep it in my purse and truth be told, I've got tiny little eyes, some days I just need a second coat middle of the day. It's good stuff. That's Thrive Causemetics, C-A-U-S-E-M-E-T-I-C-S.com/sisters. The link is in our show notes.

So, as we all know, a major battle line for the coming election has been drawn. Republicans made a power play to change the balance of power in the House of Representatives with a very unusual mid-decade redistricting effort that was just a pure political ploy. Donald Trump came right out and said it. We can redistrict in Texas and get five more Republican seats. Well, Democrats seemingly for once responded in kind and for many of us, that was welcome news and very refreshing. But let's push the politics aside for a moment and assess where we are in this first very important skirmish ahead of 2026. Jill, can we start with the state of play in Texas? How does everything end up there?

Jill: Well, let's start first with saying this was a strategy that was never going to stop the redistricting that the majority in the Texas legislature wants. Ever since the Supreme Court said political gerrymandering is okay, this was inevitable. It's something that's been in the works for years. Republicans have focused on the courts on taking state control of both the executive and legislative branches and now they're implementing everything Project 2025 threatened us with. And they're moving ever closer to what I would consider one-party, one-person government. But to answer your question specifically-

Joyce: Can I just jump back in though and say I agree with you 100%. This is the Rucho case that we talk a lot about where the Supreme Court says it won't intervene in the case of a pure political gerrymander, only a racial one, total abdication of responsibility, one of the early signs that this Supreme Court was off the rails.

Jill: Absolutely. And of course, that's why the Republicans in Texas are saying it isn't racial, it's partisan because partisan is according to Supreme Court a legitimate grounds. I think that's ridiculous. And of course, I think the evidence here is that it is racial, so we'll get into that. But the Texas House did give final approval to the GOP map this week, Wednesday. So, a few days ago. And the Senate voted out the map the following morning and it got full Senate approval. This morning, hours before we recorded, I suspect by the time that this episode airs on Saturday, the governor will have signed it and that court challenges will already have been filed.

I think there's a number of voting rights groups that are ready to challenge this as racially discriminatory as well as politically. But the Republicans are fighting back saying, "No, it's really not." And I just want to point out a statistic which is that under this map, it's estimated that 445,000 white residents of Texas will have the power to elect a representative, but it would take 1.4 million Latinos and 2 million black Texas voters to get one representative. That shows how racially skewed this is. And I think that that's what we need to focus on.

Joyce: So, let me ask you this. I know that there's a detail involving the way this whole thing played out with Texas legislators leaving the state to... And by the way, doing an extraordinary job because as you say, everyone knew that ultimately they couldn't hold out. What they did was they drew the nation's attention to what was going on in a powerful way that has provoked the response that we'll talk about in a minute. But I know that there's a detail involving a Texas legislator named Nicole Collier that's very much been on your mind. She's the legislator who refused to sign the little permission slip that would've let secret spies

accompany her around after she left the floor of the legislature. Do you think that the way she handled that situation has any legs? Is this only the start of a quiet, peaceful rebellion?

Jill: First of all, Joyce, thank you for asking that question because it really has been on my mind as has all of the resistance that people are finally doing. It made me proud that the Democrats left the state and held up the vote. They knew that they couldn't move away from Texas and still hold their seats, so they were going to have to return at some point. They also had families there and other things going on. So, it was never going to ultimately prevail, but it did make the nation aware of what is happening and drew attention in a very good way.

So, for me, I think that it was the right thing to do and I kept asking by what authority do Republicans have the right to order any member of the legislature to sign a permission slip to allow the invasion of their free speech and free privacy? And also at one point Representative Collier was on the phone in the bathroom off of the Senate chambers and somebody came in and threatened her with a felony if she didn't hang up the phone. Now I want to know what felony, I did some research and honestly I can't find a felony for using your phone in the bathroom, and-

Barb: Can I just interject here?

Jill: Yes.

Barb: It should be a felony to use your phone in the bathroom though. I just need to... I hate that, but go ahead.

Jill: Okay.

Barb: I digress. Go on.

Jill: That's a different story. I mean, really just think about it. She was on the phone with the Democratic National Committee and they heard this intervention. It was unbelievable. I mean, it's such an invasion and I also have to say, doesn't law enforcement in Texas have something better to do than following members of the legislature around to make sure they come back? And what is their power to make her come back if she doesn't want to show up? That's how she represents her constituents and she should be allowed to do that. I think it's a total misuse of law enforcement and I just think drawing attention to this was a really powerful thing and that it's time for Democrats to start finding ways like this to make Americans, Democrat and Republican, Independent, aware of the terrible authoritarian tactics of the Republicans.

Joyce: Absolutely. I mean, these legislators did their job. The irony of this situation, as you say, is that they were being accused of not doing their job. These folks are heroes, which takes us to California, Barb, right? Because California responded in kind. The governor, Gavin Newsom fun fact who I actually heard speak. He was the speaker at my oldest child's law school graduation at Berkeley. I forget

what job he had. It was a lower ranking job in the state and we were so impressed we'd never heard of him before. We were super impressed when he spoke. So, I feel like first impressions are telling, but his proposal is that California should balance out Texas and the mechanism is a little bit different there. It's not like the state legislators in Texas who just go to the floor and pass maps. So can you explain how that is expected to work, please?

Barb: So, first, I am always a little unhappy with any kind of gerrymandering whatsoever. I think gerrymandering is a terrible thing. I am reminded of, we were talking earlier about the Rucho decision and I'm reminded about what Elena Kagan wrote in her dissent. Remember she wrote that great dissenting opinion in Rucho where she said that gerrymandered districts, I look this up, are anti-democratic in the most profound sense and imperil our system of government. And then she ended it with, "With respect, but deep sadness, I dissent." And so, I worry that fighting fire with fire just makes everything burn. And so, this idea that we are going to fight gerrymandering with more gerrymandering, I really worry it creates this arms race that is going to have very anti-democratic problems. But I will say that this is an interesting strategy because what I really think they're trying to do is show Republicans that the strategy is not going to work in an effort to deter them from going down this path.

And in fact, in California there is voter input into this decision. And so what they're doing isn't implementing redistricting, they're seeking a ballot initiative for a special election in November that would allow voters to approve a plan of redistricting that would offset the five seats that are going to switch parties in Texas. So, it does empower voters to take control of the situation. In that way, it's very different from Texas, but I just think gerrymandering is gerrymandering and an eye for an eye leaves both eyes blind.

Joyce: It's a really interesting situation that my take on it is this. I don't love the race to the bottom, the downward spiral aspect of any of this, but in my view, the Democrats have had a very different approach from the Republicans. The Republicans were the one who came up with this crazy idea. Were not embarrassed to announce that it was about gaining an advantage in the House of Representatives. And the response by Democrats has been very measured. They have used it in essence as a shield and not as a sword. And so I have to say I'm sort of a fan of the approach that they've taken. Our former boss, Barb, Eric Holder, put out a statement and he is usually a pretty measured guy, but here he believes that the Democrats are on the right track. What was his point and do you agree with him?

Barb: Yeah, so since leaving office, Eric Holder has fought against gerrymandering around the country. That has been his cause. And one of the things he said in his statement was to make the point you just made, which is California's measure is in stark contrast to what Texas is doing. Texas is trying to grab power to just switch five seats from Republicans to Democrats. What California is doing is to just try to fight back and neutralize that and they're allowing voters to have input into that decision. So, ultimately the goal in California is to prevent people from losing their voting rights. And I think they are taking drastic action in an effort to

call attention to the craziness in Texas in hopes of maybe if not stopping what's happening in Texas, maybe stopping it from happening in other states.

Joyce: Yeah. Well, so Kim, you know nothing is ever over in this country and until the courts sing, right? And curious about how this ends up. Will that be the case here too? We know what the Supreme Court did in Rucho. Will courts step in and render decisions before any of this is final?

Kim: Well, Republicans of course have already filed suit to block the California redistricting.

Joyce: Good for me, but not for thee.

Kim: Right, exactly. Because you're not allowed to do that. What do you mean? So far the state Supreme Court has denied the petition, so as of now, it seems that the special election will take place and that this would go to voters. Now keep in mind, one of the reasons that the Texas Democrats went back to the district is because they knew this California plan would be in place. They went back, yes, you're right, they couldn't have stayed there forever, but they realized that there was a countermeasure happening in California and California sort of gave them cover in a way to say, "Look, we're going to keep the worst case scenario from happening in the short term. Put this again in the hands of the voters," which I'm with you, Barb. I don't think that we should do a redistricting arms race anymore than we should do like a court packing arms race. But this is an emergency happening.

And the Texas Republicans did this undercover of night with nobody including the Republican voters having a say in this. And so, as a short term, keep democracy from falling completely apart, I'm behind this California plan, especially the fact that it gave the Texas Democrats cover here. So, so far everything seems to be a go, but you never know, as you said Joyce, what the courts would ultimately do.

Joyce: Yeah. Well, the law and the politics here are just inextricably intertwined. But let's go straight back to the politics of it all because Newsom is clearly considering a run for the presidency. I mean, he may have already decided to make that run, right? He's out there mocking Trump on social media and on Thursday in one of the most recent volleys, he posted in all caps, "TODAY WE WILL MAKE THE MAPS GREAT AGAIN." He's been very effective at making fun of Donald Trump. Do you think it's a good strategy or do you think he's taken it a little bit too far for your taste?

Kim: Listen, I'm not a fan of politics by Twitter account. Yes, you want to have a Democrat. Is it helpful to have at least one Democrat one who knows that they could get under the skin of Donald Trump trying to match him at his own game? Okay. But I didn't love that back when Marco Rubio was making cracks about Donald Trump's hands. So, I don't know that that is the way. Certainly I wouldn't want that to be the new Democratic strategy writ large, but if it's one person who thinks he can get under his skin in doing that, sure. Does a potential presidential campaign out of that make? No, I think what we need is somebody to be a

counter to Trumpism that puts democracy first, puts the people first and who runs on making this country economically a place where you can get by economically, a place where your rights are respected and a place that welcomes the humane treatment of human beings. I think that should lead first as opposed to all cap Twitter spats.

Joyce: I would vote for that policy platform. Kim, when are you going to run?

Kim: You could not pay me. My God.

Joyce: Okay. Y'all, I mean, what do you think, Jill and Barb, I feel like I know where you guys are on this, but let's play it out. Fans of what Newsom is doing? Do you think that he's running a little bit rough shod here?

Jill: My first reaction, Joyce was revulsion that it was just going too low. I have since re-evaluated that because it seems to be effective and not just because as Kim said, it's getting under Donald Trump's skin, but because it is making Democrats proud that someone is standing up to Donald Trump and showing the ridiculousness and the irony of all this, of course, is that the Republicans are going, "That is so not gubernatorial. It's really bad behavior for a governor," when they applaud Donald Trump doing the exact same thing and are missing the fact that this is just mimicking Donald Trump. So, I'm sort of okay with it. And lately have been thinking we need someone to stand up and fight back on fair grounds.

And although I agree with Barb that you poke out one person's eye and an eye for an eye means two people are blind. Burning the houses down means everybody's house is gone. But I agree with Kim even more that we are at an existential threat for our democracy and something seriously and strong needs to be done. And I think what Gavin Newsom is doing is working and that I'm applauding it.

Joyce: I'm not going to lie. It has also made me laugh a time or two to see him doing it. And then I felt a little bit sad about myself because I hate the way that Trump does this with his followers, but I think Newsom is doing it. He's not serious. He's clearly mocking Trump. He's clearly trying to cheer all of us up in a moment where we need it. I'm sort of where you are too. I started out a little bit distasteful about it, but now as long as he continues to do it in this nuanced way, I think I'm okay with having a cheerleader for Democrats. Barb, what do you think?

Barb: Hate it. I think leaders should be grown-ups and I think mocking and all of that just brings all of the discourse down to a level of degradation. So, I don't like it. I think that the more we do it, the more we normalize it and that just becomes the way of politics. It becomes more polarizing. I'm looking for leaders who will unite us and not divide us. Where's George W. Bush when you need him? Isn't that his campaign slogan? "I'm a uniter, not a divider." Remember that?

Kim: I was just thinking about that today. I was just thinking about W today. But can I just add one thing to what I said about Newsom? I like the action. So, one thing that's helping me tolerate his tweets is the fact that he's doing things like putting

redistricting in the hands of the voters in an effort to try to save some semblance of democracy before it's all destroyed. So, yeah, give me that. But just before the redistricting gambit, I was really down on him too. I was basically where Barb is because I was like, "This is the last thing that we need." But if he's taunting while also actually taking action, which we have not seen enough in my opinion from Democrats in this moment, then I'll give him more slack.

Jill: I agree with you, Kim. He's taking effective action. And Barb, doesn't it make you feel a little better? I agree. I don't like the discourse that Donald Trump engages in, so I don't like it when Gavin Newsom does the same thing, but because it's clear he's doing it as satire, it makes it less unpleasant to me. And he is mixing it with actual policy statements about what the Democrats need to do and how they can serve the American public. And so he's balancing his ridiculous mimicry with actual good statements that make me think that he is a powerful Democrat. So, it makes me feel better. Does that help you at all, that it's mixed?

Barb: Not really. I know many people who study authoritarianism, Ruth Ben-Ghiat and others say that ridicule is a way to defuse the power of an autocrat. And so, there is some of that to ridicule and expose to the public how absurd all of it is. I know that there's a role for that, but I like my leaders to be serious people and I don't like the cheap shots.

Joyce: This episode of SistersInLaw is brought to you by Wildgrain. Wildgrain is the first baked from frozen subscription box for artisanal breads, seasonal pastries, and fresh pastas. Plus all items conveniently bake in 25 minutes or less. Unlike store-bought, Wildgrain uses a slow fermentation process that's easier on your belly, richer in nutrients and antioxidants and made with simple ingredients that you can actually pronounce. Wildgrain's boxes are fully customizable and they're constantly adding seasonal and limited time products for you to enjoy. In addition to their classic box, they now feature a gluten-free box and a plant-based box so there is something for everyone because you are going to want some of this stuff.

Jill: You certainly will. It really is wonderful how fast it goes from being frozen to on your table. My husband and I have enjoyed all of their different breads, pastas, pastries, and their butter, which is unbelievably yummy. And we do customize our box. From week to week we will change what we ask for just to try all of their different breads. And my guests are really impressed when I serve them this bread. They think it's homemade and can't believe when I tell them it came from frozen. And because they have enjoyed the bread so much, many of my guests have ended up subscribing to Wildgrain just like I do. It's wonderful for meals, snacks or summer parties.

Barb: Yeah, I'm a big fan of those chocolate croissants. Those are really something.

Joyce: Oh, yum. They're so good.

Barb: Yeah, you put them in. You can watch the color and smell the smells coming alive. Those Bavarian pretzel buns if you had those, that's another one.

Joyce: Yes.

Barb: The aroma of fresh bread and pastries coming from the oven is incredible. And don't get me started on how good the cheesecake is. If you guys had that, let's just say that you'll never have to call everyone when the food is ready. As soon as the smell reaches them, they'll come running, especially on game day. Wildgrain items are delicious, super high quality and easy to make. I can guarantee you the chocolate croissants will be a big hit.

Kim: Listen, whenever I need people to pay attention to me, I put the chocolate croissants in the oven because that's the way everybody-

Barb: The tactic.

Kim: ... Everybody comes running. So, this fall, treat yourself and your loved ones to warm sourdough bread and seasonal baked goods from Wildgrain. Rumor has it, they have apple cider donuts and pumpkin cinnamon biscuits.

Barb: Whoa.

Kim: So, get them before the seasonal items sell out. They're only for a limited time and for a limited time, Wildgrain is offering our listeners 30 bucks off the first box plus free croissants in every box. I need a siren sound, free croissants. Thank you, Barb. When you go to wildgrain.com/sisters to start your subscription. You heard me, free croissants in every box and 30 bucks off your first box when you go to wildgrain.com/sisters. That's wildgrain.com/sisters. Or you can use promo code, SISTERS at the checkout. Don't miss their seasonal products. And look for the link in our show notes.

Jill: Seems like we talk about something DOJ did wrong every single week. Something that disturbs all former DOJ attorneys because it is the opposite of what justice and the rule of law should mean. Today. I want to dig into some of this week's Department of Justice wrongdoing, starting with breaking news that we all woke up to today. The FBI searched John Bolton's home and office reportedly under a search warrant. Bolton of course, is a frequent Trump critic after serving as his national security advisor in the first administration. His security clearance and his protective detail were withdrawn on day one of Trump's second term. And now this. Kim, what do we know about what the FBI was looking for? And does this look like a legitimate use of DOJ powers or is it part of Trump's promise to, "be your retribution?"

Kim: Yeah. So, I'll answer the second part first. It looks like not only despotism, which is the misuse of power against one's enemies, but petty. I mean, the way he's going about it, "Oh, let's see if he has classified documents." Because Trump is a classic projectionist. What happens to him is what he does to other people. He's not even that imaginative with his retribution, right? He just goes back and tries to do to other people what he sees as wrongly done to him. But in this way he did it very differently. Recall during the Mar-a-Lago investigation into him mishandling classified documents, which we know he actually did. When you are

no longer president, you can't just pack up classified documents like souvenirs and take them with you and store them in the bathroom of your resort estate. That's not how the law works. But even in that case, there was an ongoing discourse between Trump's people and the DOJ. They were trying to be as accommodating as possible. It was not federal agents bursting into the doors of Mar-a-Lago or showing up early in the morning.

It was a very organized, and we wouldn't have even known it had taken place if Trump hadn't tweeted about it, recall, right?

Jill: That's right. Yeah.

Kim: This is very different than showing up at someone's house early in the morning with only apparently we'll get to this later, but a conservative news organization getting the heads-up beforehand, that seems to be something very different. And again, the claim is that he had classified documents in his home. Recall that Bolton left the White House six years ago when he was last a White House advisor and he was an advisor for Donald Trump. But since then, he has become a very frequent Trump critic, like you said. And most recently he's been very critical of Trump's approach to the war in Ukraine and his handling of Vladimir Putin. So, to me, this feels very retaliatory. I acknowledge that for this search to have happened, a judge had to have signed off on a warrant. So, that's something, I don't know what the DOJ presented to get that warrant, but this feels very petty and retaliatory to me.

Jill: And some commentators are saying, Kim, that they are shocked. Are you shocked?

Kim: No.

Jill: Me either.

Kim: Not the least. This was-

Jill: I agree.

Kim: The least-

Jill: This is predictable.

Kim: ... distracting news ever.

Jill: Totally predictable.

Kim: Yes. Yes.

Jill: And Barb, so Kim mentioned that there was a search warrant, which the FBI seems to have confirmed, but we aren't really positive of. But was Bolton detained or charged with anything? Is there even a possible crime? As Kim said,

he left office six years ago, his book, which is a place where he was accused of publishing classified information, came out more than five years ago, and the statute of limitations is five years. So, is there a possible crime or could this be a continuing conspiracy or is there some recent leak that he's accused of making or is this just an attempt to recover classified documents?

Barb: Yeah, we don't know. So, all we know is that the search was executed at his home. We have not seen the affidavit, which is typically something that is sealed and we wouldn't know that. One of the things, you mentioned the statute of limitations, which I think is a very good thing to mention, he has been out of office for more than five years and for most of federal offenses, five years is the statute of limitations. There are a few offenses that are longer. And so, to the extent this has something to do with the publication of his book, I don't think that is something that would be fresh enough for a crime. But if the argument is that he possessed classified information, information relating to the national defense outside of the proper handling channels, right? So, if he's got it in a desk drawer and it's not in a government SCIF, if he took things home with him when he left his job, those could still be fresh because possession is a continuing offense.

It isn't necessarily the day he took them, but if he still possesses them, then the statute of limitations is still fresh. It's as fresh as today. You'd say that on today's date he possessed documents he was not entitled to possess. There also seems to be some sense based on what I've read in the media, that he may be suspected of leaking classified information to members of the press. So, that would also be a problem if he kept some of these things at his home and he shared it with someone who's not authorized to have classified information, that could be a basis as well. But I think what this case comes down to for me is it could be rock solid that they've got a great case on John Bolton, but the likelihood of the coincidence that the person that Trump said he was going to go after, a person who shows up in cash Patel's government gangster's book as a member of the deep state and for the exact same crime for which Donald Trump was charged and had his home searched. Lo and behold, John Bolton has done the same thing.

I just think that this Justice Department has lost any presumption of regularity, any good faith, any benefit of the doubt they might otherwise have had. So, we don't know what has happened yet, but boy, I look at this with a lot of suspicion based on all those factors.

Jill: Well, we certainly have moved to an era where it is not a presumption of regularity but of irregularity. And this is another example of irony or projectionism as Kim described it, because it is exactly that and it's ironic that this is what they are going after Bolton for even if there is a legitimate thing. Let me ask a different question related to it being sort of maybe it's different, but isn't it different than the search of Mar-a-Lago and Joyce talk about how it's different from that?

Kim: Or even, and I don't mean to interrupt, but even different than with Joe Biden or with Mike Pence. This is not the first time this has happened, but it generally doesn't go down like this.

Joyce: So, I think it's an important question, and I think Barb says exactly the right thing. We don't know the details, we don't know the allegations. We don't know what the evidence that supposedly amounted to probable cause in the affidavit accompanying the request for a search warrant was. We do know that a federal magistrate judge in Maryland signed off on it. And I presume that any judge who had this search warrant land on his desk understood that this was going to be a high profile case and that his decision would be second-guessed and scrutinized. So, I suspect that the judge took his or her time with the affidavit and made sure that there was probable cause. And something that's really important here, Barb, I know you remember this, right? If you were doing a drug case and wanted a search warrant, that probable cause had to be really fresh. The drugs really had to have been there within the last few days. But judges will give more leniency with documents because they sit around for a longer time without being moved.

And so, that probable cause can sometimes be a little bit fresh. Frankly I'm very curious to see what's in the affidavit. I don't know how quickly we'll find out, but there have to be allegations that at least were enough to satisfy this judge. But it's very true that the situation is different with Trump. And again, we don't know all of the facts here, but if Bolton was not asked to return these documents in advance like Trump was, that would be a real bright line distinction. It would certainly impact the government's good faith, right? You find out that you're missing classified documents, the first thing you really do is go to the responsible human being who was by the way, Trump's national security advisor and ask him to give them that.

And if you don't do that and you go straight in with a search warrant, the government's criminal prosecution really could have difficulty because there's such a high standard of mens rea, the state of mind that Bolton had to be acting with to ensure this kind of a prosecution is successful, that I think they really sort of hamper the viability of their own prosecution by going straight in. I mean, we don't know for sure. Maybe there's a witness who's going to say... I will speculate wildly, right? "Bolton had these documents that somebody who's there currently gave to him and he's been leaking them to the press." Maybe they've got direct evidence of that, great. But if these are older documents that Bolton had retained, they're going to have to show that he was in essence intentionally trying to impair the security of the United States of America. That it was deliberate, intentional activity, not lazy or sloppy, the sort of allegations that we saw in the Biden and Pence cases.

So, this could be a bad move by the government. It really looks like a revenge sort of a step more than a legitimate one towards the prosecution.

Jill: It does make it look more like revenge. And it also does, as you said, make it harder for the government to prove mens rea because if they had asked him, it shows that he knew that he had them. He might be unaware that he has them. And this is why I am going to go back to Watergate. When we first found out about the tapes, we immediately wanted to subpoena them. And Archibald Cox said, "No, you should ask for their return, for the delivery first. Go to the president and make a request." And we all thought, "That's ridiculous. It's a waste of time. He will never give them to us," which of course was true and he didn't.

But now that I look at it through this perspective, it was the right thing to do. You ask before you subpoena the president to do something, or even the former security adviser to the president.

So, I think that that's a huge difference. So, Kim, both from your position as a journalist and a lawyer, what did you think of some of the social media postings? Cash Patel and Bondi have been posting stuff. Patel said-

Kim: He said, "NO ONE is above the law... @FBI agents on a mission." He didn't name anybody, but come on. Literally, he posted that right as the news was breaking. Then Pam Bondi responded to his tweet and to boot miraculously somehow The New York Post got the exclusive about this search at his house that cited a source, but also quoted Patel's tweet. Have we all forgotten, James Comey? You are not supposed to talk publicly about an investigation while it is ongoing, there's also the president today who he was asked about it and he said, oh, he knew nothing about it. But-

Jill: Yeah. Right.

Kim: He said, "But I am the top law enforcement official in the federal government." Which okay, maybe technically as a head of the executive, the executive is the branch that enforces laws, but you are not a cop and you certainly should not be directing prosecutions of your political enemy. He claimed not to know anything about it, but then sort of kind of claimed responsibility. I mean, it's a mess and it's breaking every norm that was in place at DOJ. But that's the problem with norms, right? If it's not something that they could be directly, somehow kicked out of office for, they have no problem in doing it. So, everything about it stinks. Is it unconstitutional? Probably not. Is it really, really bad for democracy? Absolutely.

Jill: Yeah. I'd like all of you to weigh in on that last part because to me this looks like a significant step by DOJ against those that Trump perceives, we've been saying enemies, but they're perceived as enemies by him. The grand jury was authorized to look at Trump-Russia origins, and now this search of another perceived enemy. Do you think this is a really authoritarian move by the Department of Justice? What do you all think? Joyce?

Joyce: Well, we're taping Friday afternoon. I'm sure that by the time this episode airs, there will be more information, but there are some early reports that the FBI left without taking anything from Bolton's home. I think his office was being searched too. I mean, if they come up empty-handed on this, I think that will be a factor that will tend to weigh in on the side of this being very performative, very much the attorney general and the head of the FBI operating to impress the president rather than acting on behalf of justice and the American people.

Jill: Barb, you want to weigh in on this?

Barb: I'm just reminded of that executive order that talked about how the Biden Justice Department had weaponized government when there's absolutely no evidence that that's what happened and that now they needed to hold accountable all of the

people who participated in that weaponization. It really feels like classic disinformation to me, accuse your enemy of doing exactly what you are now going to do to make people think that, "Oh, yeah, this goes on all the time, and they're just righting wrongs." And so, I want to emphasize, we don't know all the facts that are going on in this Bolton case, but boy, it sure stinks to high heaven. And I think that there is going to be lasting harm to the Justice Department because in future administrations, Republican or Democrat, people are going to have a hard time believing that their activities are not colored by politics.

Jill: And hopefully they won't be going forward in a new administration. And this is only one of the bad things that DOJ did this week. And Joyce, I want to ask you, because you and Barb both had the honor and privilege of serving as US attorneys in the Obama administration. So, I want you to talk about the importance of the role of the US attorneys and the importance of having qualified nominees for the position and what's going on with Trump nominees.

Joyce: Yeah, I mean, the 93 United States attorneys are each the top law enforcement officers in their respective districts. And I had sort of an interesting experience early on as a US attorney. Like Barb, I was career in the office. And so, I had been first aligned prosecutor trying cases, and then I was in the appellate division and the appellate chief. So, I always had relationships with the SACs, the special agents in charge who ran each of the law enforcement agencies that we worked with. And it was a collaborative relationship. And I didn't really see that changing when I became the US attorney. I mean, I still thought of us as a team and we were over at the FBI office doing a community panel. It was the head of DEA, the head of ATF, the marshal and the FBI special agent in charge and me and people in the audience were asking questions, "What's the relationship like? What do y'all do?"

And the head of DEA looked at everybody and he said, "You don't understand. Joyce is the boss, and when she tells us what to do, we line up behind her and we do it." And they went on to say nice and very flattering things about, of course we do that because we trust her leadership and her expertise. But in that moment, I really realized, I think in a way I hadn't before that you were that single point of failure, right? You were the person who was responsible for not letting anything, for instance, that was an injustice happen on your watch in your district. It was the buck stopped with you. That requires somebody who has expertise as a prosecutor or if not as a prosecutor, as a defense lawyer. You can only have people who understand the playing field doing that job.

And yes, sometimes there are folks who show up who are young or inexperienced. And when that happens, main justice typically insists on the insertion of a very qualified first assistant, the primary deputy in the office to keep that person on the path and help them learn the job. I mean, we all learn the job while we're doing it to some extent. But having that background is important. And Donald Trump, like he does in all other regards, he is only looking for people with personal loyalty to him. That's not a qualification to be a United States attorney.

Jill: Yeah. And many of them have run into problems getting confirmed. A US Attorney is a presidential appointment that has to be confirmed by the Senate. So, at the end of the administration, the last administration's US attorneys resign, and then someone has to run the office immediately upon that resignation. And that happens until the President's nomination is approved. So, who's now serving in those roles, Barb, and how long can they serve? Because it looks to me like many of them have exceeded the duration of their temporary service without confirmation.

Barb: Yes. So, typically what happens is when the US attorneys leave at the end of an administration, their first assistants will serve as acting US attorneys until a new US attorney is appointed and confirmed. And these are career people. These are people who are not political appointees. They're usually among the most senior people in the office. They have institutional knowledge. They're widely respected by members of law enforcement, by the people in the office, by the courts, and they can handle the office while they await a new US attorney. You're a little bit in limbo during that time. And so, there's usually a hope that there will be a confirmed US attorney at some point, but sometimes it can take as much as a year to get somebody in place. What we're seeing in this Trump administration that is very, very different is that he is appointing new people to serve as interim US attorneys. Rather than rely on those career people, he is choosing people that he is satisfied with, that he has interviewed to be interim.

There's a statute that allows for the appointment of interim US attorneys. This is just basically to fill emergencies. The duration of those appointments is 120 days, so that's four months. And if there is no nominee appointed by the end of that 120-day term and confirmed then that person's term expires. What happens next to fill the vacancy by statute is that the court in that district selects an interim US attorney to fill out the rest of the time until the President appoints and the Senate confirms a candidate. The reason for that is to prevent the President from being able to simply keep re-upping new interim appointments without ever going through the Senate confirmation process. Because of course, the Senate confirmation process is there to make sure that people are qualified and that they are not simply political activists serving in that role.

And so, that's what is supposed to happen. But of course, what we're seeing now is the Trump administration looking for various ways to disrupt that with Alina Habba in New Jersey and with a US attorney in interim in the Northern District of New York where the judges refused to appoint him. And so, the Attorney General just said, "Fine, I will appoint him a special assistant to me and he can serve as US attorney with that title." So, they're taking a lot of different steps to circumvent the Congressional advice and consent rule.

Jill: I just want to emphasize how important that is that this is a way to gut the power of the Senate. You don't need Senate confirmation if he gets away with this and is able to appoint an interim and then an acting and then a special counsel to him. And then with Habba special counsel with all the powers of the Attorney General. So, let's talk specifics, Kim, and let's talk about Alina Habba. She was the interim for New Jersey, but her 120 days ran out and the federal judges in the district refused to approve her to stay, and they named another person, the career

first assistant. And then to evade the rules, that first assistant whose last name is Grace was fired by Bondi, who then named Habba a special counsel with all the powers of a US attorney.

And that was about a month ago. And just yesterday, we're recording on Friday. So, on Thursday, a federal judge ruled that Alina Habba had been serving as New Jersey's US attorney without legal authority for that period of time, that month. And that thrusts the state's already-paralyzed federal court system deeper into disarray. What are the consequences to trials that are scheduled, to grand juries that are underway? What is DOJ and Habba's response?

Kim: Yeah. So, right now, the US attorney's office in New Jersey is making Newark look like it's being run smoothly because what Judge Matthew Brann said is that Alina Habba has been operating without authority since July 1st. So, for almost two months now, everything she touched, everything she signed off on is considered void. The judge said himself that anything for the past seven weeks may be declared void, and Habba must be disqualified from participating in any of the office's cases as a leader. Now, keep in mind, this is affecting thousands of criminal and civil cases. Basically, the office is paralyzed until there is a valid US attorney in place, and Habba has vowed to fight.

She says she's staying right where she is because that's what people in Trump land do. They just dig in and fight. And I have to be honest, a lot of times that's an effective strategy. But I mean, I don't know. I'm the non-DOJ alum of the group. I just can't imagine what that must feel like for the line prosecutors and other attorneys in that office who right now just have no idea what the state of any of their cases where that have seen any action in the last seven weeks is.

Jill: So, there are so many other things we could talk about, including Ed Martin and his new role and a US attorney who resigned after one month after being appointed, which no explanation, so I'm suspicious. But let's end with just talking about what I think is a really important question of what we've been talking about is will this opinion from Brann be appealed and will it be upheld potentially placing limits on the President's power to choose his own top federal prosecutors without Senate confirmation? Or will it get overturned and eliminate the Senate's role in confirming US attorneys? What do you think, Joyce?

Joyce: My crystal ball is a little bit dirty when it comes to predicting what this Supreme Court will do when it comes to presidential power. So, instead, I'm just going to say what should happen here. This is a decision that should be affirmed. This is a judge who far from being the sort of political dingbat that Habba accuses him of being is a card-carrying member of the Federalist Society, a conservative. And the fact that he looks at this confirmation process and finds it to be unusual and irregular and sufficient to divest her of her authority, I think is very telling. Now, look, I'm not certain that if she is divested of authority, that it makes everything that has happened in the district illegitimate because there are still fully competent qualified prosecutors signing off on indictments, for instance. So, that's something that a court is going to have to parse carefully. But the notion that she can't remain in office indefinitely without Senate confirmation, the Supreme Court has to stand for that principle. It's constitutional, it's necessary if

the Senate's going to be able to continue performing its advice and consent function.

Kim: With summer ending, well, it's not over yet, but you can see it on the horizon, I'm all about refreshing my wardrobe with staple pieces for the season ahead. And Quince nails it with luxe essentials that feel effortless, look polished, and are perfect for layering and mixing. Their styles are so versatile, and I find myself reaching for them again and again. It's the kind of wardrobe upgrade that just clicks. Their clothes are timeless, lightweight, and far more elevated than anything else at their prices. Y'all know I like to shop, but one thing that I appreciate about Quince is that their prices are so reasonable for the really beautiful products that they have. I just bought a pair of leather shoes that I've already gotten a ton of compliments on. They're made with real leather. They're very comfortable and they're just a great wardrobe staple.

Joyce: You always look and feel great in Quince's chic cashmere and cotton sweaters, and they start at just \$40. Washable silk tops, classic denim pants, it's all fabulous. They're all timeless styles you'll keep coming back to, but here's the best part. Everything with Quince is half the cost of similar brands because they work directly with top artisans to cut out the middleman. That makes my husband happy because he is, for those of you who know him, not the guy, he likes to spend a lot of money when he buys his clothes and he loves what he can find at Quince. That's how Quince gives you pure luxury without the markup, cut out the middleman.

Jill: My husband got the pants from Quince and they fit him perfectly and they are comfortable and they look great. In addition, we 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, everyone needs Quince's washable stretch silk blouse. The material feels amazing and the look is perfect. I happen to love wearing a silk blouse under jackets for a speech or for just whatever I'm doing, and they also look great just with a pair of pants. It makes you all dressed up. It's fabulous. The style is perfect for whatever you're doing, whether you're just seeing friends or running off to an exciting new place. There's nothing better for looking your best as we get closer to the fall season. And if you're prioritizing fitness this year, the best workout motivation is new activewear from Quince.

Barb: Don't wait. Elevate your fall wardrobe essentials with Quince. I love those Quince sweaters, those cashmere sweaters. I think they look great under a suit jacket, and that's going to be my fall look. So, 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 to get free shipping and 365-day returns. Again, quince.com/sisters. The link is in our show notes.

This week an appellate court in New York upheld the verdict finding Donald Trump and the Trump Organization liable for civil fraud, but throughout part of the penalty, including the \$500 million disgorgement order. Let's break that down. First, Jill, can you please remind us of this lawsuit? It goes back some time

and then there was a trial that occurred in 2024. Remind us what that was all about.

Jill: I would love to, but first I want to praise you for having correctly stated that this is not a total victory because the verdict remains only the amount of the damages or of the penalty were upheld and thrown out. The suit was called New York versus Trump, and it's a civil case under New York's business fraud laws, and it was for falsifying business records by misstating property values to potential lenders and tax officials. It was filed by Letitia James, the Attorney General of New York several years ago. The defendants were citizen Trump. He was not president and three of his children, the Trump organization and several others, including of course Weisselberg and others that are familiar names. It was a non-jury trial before Judge Engoron and resulted in a guilty verdict and penalties of not being allowed to do business in New York and in order to discourage \$364 million, that was the original verdict, but then it's accrued interest so that it's almost half a billion in ill-gotten gains as a result of the financial fraud.

Barb: Well, so thank you, Jill. Joyce, now on appeal, we've got this weird four to one split decision running 323 pages. Now I know you as the appellate nerd have read it all, but can you just give us a summary of the bottom line of what the court decided and what it means for the case?

Joyce: It's sort of a funny thing. When you see a decision that's that long, when you open it, you know that something funky is going on, right?

Barb: Yeah, I was looking for an appendix. I go, "There must be some massive appendix in this thing [inaudible 01:06:06]." I know. I know.

Joyce: They attached all the evidence and then you go, "Holy, [inaudible 01:06:12]. These judges didn't agree about anything in this case." So, look, it's a four one split as you mentioned, and the disagreement is mostly about the penalty, disgorgement of ill-gotten gains. So, the decision ends up leaving Trump liable for fraud, but the appropriate penalty will be the subject of further review. There's a lot of judicial harrumphing going on as judges complain about being able to agree on a decision going forward. But look, folks, it's your job, right? Pick a side and rule. That's why the citizens of New York pay you money.

Let me read the relevant language from the decision. It's brief, and I think it helps us understand this very unusual ruling. The judges write, the judge is in the opinion that ends up being sort of a, I don't know if it's a majority or a plurality, whatever it is. "While the injunctive relief ordered by the court is well-crafted to curb defendant's business culture, the court's disgorgement order, which directs that defendants pay nearly half a billion dollars to the state of New York is an excessive fine that violates the 8th Amendment of the United States Constitution." So, you see the dichotomy, Trump is liable for civil fraud, then we're not going to make him pay this much money.

Barb: All right. Well, we've got that, but one of the arguments that was raised on appeal was that the case was tainted from the start because of some of the campaign statements made by Attorney General Letitia James about Donald Trump. You

may remember she said she was going to hold him accountable and go after him. Kim, what did the courts say about that aspect of the case? Was that a basis for overturning this penalty?

Kim: Well, despite what the President said, claiming that he was totally exonerated because he thought that this was a witch hunt, that is not at all what the ruling held. In fact, only one of the judges, Justice David Friedman, who's the only Republican appointee on this panel said that he thought that this case was politically motivated and that the voters had already decided this when they re-elected Donald Trump. He also said, "Another trial would disrupt the political life of the United States and would undermine its national interest, particularly at a time of high global tension." Nobody else joined him on that. Nobody, this is not a plurality, this is not anything but I guess a concurrence if you can call it that. But that was not in any way the overall basis of this action.

Barb: Yeah, it's interesting. In fact, the two judges who wrote the first opinion really took that judge to task saying, "Look, this has been before us before. We've already decided that. What are you talking about, man?"

Kim: Yeah.

Barb: So, I always blanch at that a little bit lest I quote the name of the Deputy Attorney General. Whenever prosecutors-

Kim: Oh, I see what you did there. Yeah. Yeah. Blanch, blanch.

Barb: Politics and prosecution just do not go hand in hand. And so, I didn't like it when Letitia James talked about going after Trump. I don't like it when this Justice Department talks about going after Trump's rivals because I think it makes the whole thing subject to second-guessing. But what the court said here is, "Look, she had the goods, she had the receipts, she had the evidence. And so even though she did make these ill-advised statements, there is nothing here to think that this case was based on anything but the evidence." Jill, Trump, of course, is spinning this decision as a total exoneration. And I knew he would because it's easy to say that when there's a reversal of an opinion that the public will not examine the details. But do you see it as a total exoneration of Donald Trump?

Jill: Well, I absolutely do not. And the headlines were so misleading that I'm outraged. The disgorgement amount was what happened here that was said to be excessive. But the verdict and the penalty about not doing business in New York was upheld. Trump is still guilty of financial fraud and the headline should have read Trump Fraud Conviction Upheld, He's Barred from Doing Business in New York. That's what the headline should have been, subheadline, Penalty of Half a Billion Not Upheld. That will be reviewed for some other penalty to be substituted. But I also want to note too other things. His lawyer in that case was Alina Habba.

And I think we need to point that out. She's now the US attorney under question in New Jersey, and I want to remind everyone that she filed a document

consenting to a non-jury trial and then said, "Oh, no, no, no, we want a jury trial." And of course it was too late. They had a non-jury trial. And the second thing is, a month ago, the Attorney General, Tish James sued the Trump administration again this time for gutting some critical social services. And of course she is now the target of a DOJ investigation, which goes back to our earlier topic of is this retribution, it's for mortgage fraud, which several others are being looked at. Somebody on the federal board and Adam Schiff for the same exact thing, it's just it has to be retribution. So, there you go. I think this is really evidence of misuse of the Department of Justice once again.

Barb: Yeah. As an alum of the Justice Department, it's really painful to see all of these, at least red flags we'll call them.

Jill: Yeah.

Barb: Well, Joyce, what happens next? So, this is just the intermediate appellate court in New York and they've got these goofy names, right? The Supreme Court's, the lower court, the Court of Appeals is the highest court, and this was an intermediate court. So, what's next? Do you think that an appeal to New York's highest court is likely?

Joyce: Yeah, I mean, you're right. We always have to remember that New York is different, right? The trial court, which we would call the Federal District Court, is the Supreme Court in the State of New York. Their trial court is the Supreme Court. Go figure.

Jill: It's wrong. It's just wrong.

Joyce: No, make them change it. I convinced the Yankees.

Jill: I'm a New York lawyer and I got to say it's right. That's what we learn in law school, Supreme Court, Appellate Division is next. And then the Court of Appeals. It's ridiculous.

Kim: As someone else who passed the New York bar, I think they just do stuff like that to make it harder for people not from New York to pass the New York bar.

Jill: Yeah. There you go. There you go. It's an antitrust violation is what it is. Trying to keep it-

Joyce: The name of the trial court is wrong. They call their intermediate appellate courts the appellate division, and then of course their high court is called the Court of Appeals. So, I think this is just Yankee nonsense. But look, everybody involved in this case is going to appeal, right? Tish James isn't going to be happy with this outcome because she wants the benefit of her bargain. She wants the full disgorgement. Trump and all of his cohort they're going to appeal to. So, it's going to be appellate soup for a while longer here.

Barb: Yankee nonsense and appellate soup. That is why we love the homespun jargon of Joyce Vance. That's fantastic. So, Kim, help our listeners understand this. Could this case go to the Supreme Court, the state court, state law violation, but there's also an 8th Amendment implication here of excessive fines. What do you think?

Kim: It could. I mean, if the Court of Appeals, again, the highest court makes its ruling, then could a party appeal it to the US Supreme Court? They could appeal it. Would and should the Supreme Court touch this-

Barb: You're right. That's a different question.

Kim: ... with 10-foot pole? I can't imagine, especially since it's a civil case, especially since it's not involving any apparent circuit split or state split. I think that they have enough smoke. There's enough on the Supreme Court's docket, which I'm sure we will talk about in the weeks ahead coming up that I'm thinking John Roberts maybe doesn't want the smoke right now.

Jill: And could I just add that Engoron didn't pick this number out of a hat. He based it on evidence that Letitia James prosecutors put in. So, it is based on not... It may be excessive because he did it excessively, but it isn't ridiculous-

Kim: Yeah, but not zero.

Jill: Yeah, right?

Kim: And that's the thing. Listen, if you only find people negligibly, then what's the point of fraud law? The point is to make people stop doing it and be a deterrent for it in addition to making people whole. That's why you have punitive awards. Otherwise, people would just pay out whatever the compensatory award is and keep doing the fraud. That's the whole point of this.

Jill: 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 since we're very selective about stuff like this, we decided we wanted to try them out. So, I took their quiz to tailor my mattress to my sleep style. I got matched with the Helix Midnight mattress, and I aced the quiz because I've been getting the best sleep of my life ever since it arrived. We like it so much that our whole family has them. Our daughter who likes a really firm mattress just ordered one maybe about a month ago. She's been sleeping on it since then. She is ecstatic. She loves her new perfect bed.

Kim: Helix can be a marriage saver because of the way they have so many options and they combine memory foam and individually wrapped steel coils for the perfect blend. So, whether you like a soft support or a more firm support, they also have this cooling features that keep you from getting too warm if you run hot or too hot if you run cold. And so really it helps me and my husband cohabitate. It

really... Thank you, Helix. Thank you, Helix. Four years of marriage and it's partly because of you.

Barb: Well, I've been amazed that Helix has been such a part of my #Sisters sleep habits for more than two years now. Making the switch is such an upgrade. Since then, we've heard so many stories of people seeing transformational improvements in the quality of their sleep on their wearable devices thanks to 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's especially easy because right now Helix has an incredible Labor Day sale for our listeners. Go to helixsleep.com/sisters for Helix's best of web Labor Day offering running from August 15th through September 8th, and you will get 27% off site-wide exclusive for our listeners of SistersInLaw. That's helixsleep.com/sisters for 27% off site-wide through September 8th. Make sure you enter our show name after checkout so they'll know we sent you. Again, that's helixsleep.com/sisters. The link is also in our show notes.

Kim: And here we are at our favorite part of the show, which is answering listener questions. If you have a question for us, please email us at sistersinlaw@politicon.com or you can tag us on social media. You guys know what to do because you already send us so many really, really good questions each week. And if we don't get to your question during the show, keep an eye out on our feeds throughout the week where we will answer as many of your questions as we can. So, first up is a question from Wendy who asks, "If Trump runs for president again in 2028..." Sorry, I was just digesting that. "What are our legal options?" Barb, you know constitutional law, but what then, Barb?

Barb: Remember when there was a time when we didn't have to think about these scenarios? What if the Earth opens up and swallows us all? We can just talk about the problem. But Wendy is a legitimate question that I do think we have to worry about. I mean, Trump has already floated this idea of serving three or four terms, even though there is a constitutional amendment passed in the wake of the fourth term of Franklin Roosevelt to prevent anyone from being elected more than twice. The problem is they phrased it elected. They did not prohibit someone from serving more than once. So, I don't think Trump can run for president again in 2028. Now, because it says elected, I think we could run into some of those same legal challenges we saw with the 14th Amendment. Remember when there was the insurrection clause of the 14th Amendment that says nobody can be president if you participated in insurrection before.

And one of the things the Supreme Court said then was only Congress could be the ones to decide whether the president has met that standard and to say when that cutoff occurs. So, he can't be elected to serve. So, does that mean he gets to be on the ballot? But if he wins the election in November, that only then is there a remedy? I don't know. I would think that because of the 22nd Amendment however, even the Republican Party would say if he wins an election he can't serve, so he should not be on the ballot as the president. Now that doesn't end the matter because there has been some ideas floated about how Trump could still

become president another time. One is he could be the running mate of a president like JD Vance.

Kim: Can he though, because then he's still running?

Barb: Well, yep. Yep.

Kim: I'm sorry, I didn't mean to interrupt.

Barb: Yep. So, I will explain. He would run as the vice president. There's nothing about that. There is a provision in the 12th Amendment that says a person cannot serve as vice president if he cannot meet the qualifications to serve as president. He does meet the qualifications to serve as president, which is US citizen, native-born, over the age of 35 and been in the United States for more than 14 years. Because they use the word elected in the 22nd Amendment, I think that if you ascend the presidency by some other method, it's permissible. Or some people have said a new president say JD Vance gets elected, appoints Trump, Speaker of the House, that's third in line for the presidency. President and vice president resign. So, as we said, this is like talking about the plot of a monster movie. We're going to hope this doesn't happen, but it could. And if there were to be some path like that, I think it probably is legally permissible. And so, I think it is up to the good people of democracy to exercise our voting rights and ensure that some monstrous thing like that does not happen.

Kim: Oh, good grief. And even if it's an open constitutional question, it sounds enough to me for five justices of the Supreme Court to hang their hat on, I suppose. All right. I'm going to sleep well. Okay. So, the next question is from Jenny in Los Angeles who asks, "What is a line prosecutor? And is that the prosecutor who's actually going to do the trial in court?" Joyce?

Joyce: Jenny, this is a good question because something that we are all guilty of is assuming that everybody knows what we know. So, we throw these inside of government terms around without bothering to explain them. And I appreciate the opportunity to talk about line prosecutor and to be more thoughtful about this in the future. But a line prosecutor is what you think it is. They are the people in the criminal division who take cases, cases are assigned to them. They work the cases, they investigate, they indict, they prosecute, including taking the case to trial. There are typically more and less experienced line prosecutors in any office. There are a couple of layers of supervisors, deputy chiefs, and then of course a criminal chief or a civil chief who runs those divisions. So, that's sort of the lay of the land there.

Kim: And our final question this week comes from Mary from the Bay State, also known as the Commonwealth of Massachusetts, a place I love very much. And this one's for Jill. "The Trump DOJ seems determined to file a number of frivolous lawsuits. How is frivolous defined and what is the penalty for lawyers who file such lawsuits?"

Jill: So, I love this question because in my youth in law school, I actually helped the professor who had written our civil procedure book, professor Rosenberg. And under the Federal Rules, Rule 11 defines what it's all about. And it says that you can't do certain things like you can't present a motion or a case for an improper purpose, such as harassment causing unnecessary delay or needlessly increasing the cost of litigation. And you have to be careful about that because there are sanctions and the sanctions can be imposed by a motion from the opposing party and can include financial penalties, including reasonable expenses including attorney's fees for defending against anything frivolous. And it can also be brought by the court on its own motion, not on a separate motion in certain limited conditions. And it is intended, of course, to deter any repetition of the conduct.

And it can be non-monetary. You could even be held possibly in contempt, but the payment is a real thing that would stop people from doing this. You can file something to extend existing law if it's reasonably possible, but you can't be ridiculous. And of course, that's only the financial penalties. You can be disbarred, but not by the court because courts do not have, and this is a common misunderstanding. The courts can't disbar. It is bar associations who have discipline committees and they will consider the accusations. We've seen Rudy Giuliani disbarred for frivolous lawsuits involving the 2020 election and others have been sanctioned. Sidney Powell wasn't disbarred, but was sanctioned. So, it is a very serious thing that lawyers should not do and frivolous is where there is no legal or factual support for the action that's being brought.

I think that that is the simplest way to put it, is there has to be some fact that you can prove that supports what you're saying or some law that supports what you're saying. You can't just make stuff up. I had one frivolous lawsuit when I was in private practice where someone sued a movie company because a airstrike prevented the delivery of the film. And in those days it was an actual film in those big canisters that was delivered to a movie theater. And so, they went dark rather than putting a substitute film that they could have shown. And they claimed damages for that. And it was ridiculous because of course it was an act of God that there was a strike and it wasn't a fault of anybody, but we had to go ahead and defend it and that cost a lot of money. So, that was frivolous. That's a good example of what is ridiculously not based on fact or law.

Kim: Thank you for listening to #SistersInLaw with Joyce Vance, Barb McQuade, Jill Wine-Banks, and me, Kimberly Atkins-Stohr. Don't forget to follow Hashtag SistersInLaw wherever you listen to your pods and give us five stars because if you can believe it, there are still people who don't listen to this show, but that will help them find it. And show some love for this week's sponsors because we love them. Thrive Causemetics, Wildgrain, Quince and Helix. The links for all of them are in our show notes and they make this show possible. They're a friend of the show and they are a friend to you and we vouch for them. See you next week with another episode, #SistersInLaw.

Jill: Oh, God.

Barb: Everything is so stupid.

Jill: Everything is so stupid. That is the motto of our times. Everything is so stupid.

Joyce: Everything-