

Kim (00:00)

Welcome back to Hashtag Sisters-in-Law with Barb McQuaid and me, Kimberly Atkins-Stor. Due to the shutdown, we had to let Jill and Joyce go until ~ we are fully funded again. No, I'm just kidding.

Barb (00:28)

they not essential workers? Not essential to the stock.

Kim (00:30)

No!

Of course they are essential to this podcast. And we are only joking. They both are away this week, but we can't wait to have them back. And in the meantime, don't forget Joyce has a new book out. It's called, Giving Up is Unforgivable. And she's actually out on her tour, signing books for readers. And you should get it. It's so great. And really, I agree with what Barb said. Not reading Joyce's book is un-

And also make sure you go and get the brand new Sisters Resistance hoodie, which is now available to order. Let me tell you, it is so cute. It is so soft. I really can't manage to get out of it. It's really one of my favorite pieces of clothing and it's perfect for this time of year with its short and sassy look. So check that out at politikon.com/slash/merch. I'm actually a little chilly and I am putting mine on.

Barb (01:30)

And

you're full of costume changes today. This is like your third costume. I will second that. I got my ~ resistance hoodie and it is quite nice. Designed by Kim ~ for the proportions, the style, the short style that's so in and it looks great.

Kim (01:47)

Well, thank you. Thank you so much, Barbara. I know you look great in it. But we still have a jam packed show even though we're down half our sister team. But we're going to talk about Trump's tariff gambit as it lands before the Supreme Court. Also state attorneys general suing over SNAP benefits ending. And is marriage equality in peril again? Well, at least in Texas.

But before we get to all of this, our listeners are hearing this the day after Halloween, which I also call the second best candy sale day of the year, right after February 15th. And so speaking of Halloween candy, which may be leftover or on sale, what, Barb, do you think is the best candy? Like, what was the candy that when you got it or your kids got it?

It just made them so happy. And what made them basically say, you could have just given me a rock like I was Charlie Brown.

Barb (02:49)

Well, my kids all have different tastes. four of them. We would sort of pick through and say, you're gonna eat that, you're gonna eat that and grab some things. Yeah, my favorite, I think it's a close call. I've always enjoyed the Reese's Peanut Butter Cup, especially the one shaped like the pumpkin. That's pretty good. But I gotta go, my all time classic is the Milky Way. Love me some Milky Way. The caramel, the Snickers bar's okay and no offense to your dog.

Kim (02:55)

But my-

Well, the car won't.

Barb (03:18)

The caramel, the nougat, the chocolate I find perfectly proportioned. So that'd be my favorite. How about you?

Kim (03:25)

So I, despite the fact that I, yes, I named my dog Snickers, because it fits her very well. ~ The best all time for me is always the Reese's Peanut Butter Cup. And the original, okay, they've tried to do the giant stuff, the fins, mess with that ratio, no. The original ratio, ~ Reese's Peanut Butter Cups is the best. And the worst, the worst, I will die on this hill.

Barb (03:43)

This show's very important to me.

Kim (03:55)

is butterfingers. If you give a child butterfingers, you just, that's like an insult. That is chocolate covered bark. Like what are you even doing?

Barb (04:05)

I'm butterfinger. ~

Kim (04:08)

Your dentist probably likes everything that he-

Barb (04:10)

What

even is a butterfinger by the way? Chocolate barque? No, it's like a... What is it supposed to be even? Is it supposed to be butterscotch? What is that thing in there? I like it. It is kind of a

weird thing now that you mention it, barque. I kind of like the flavor of it, but I don't know what it's supposed to be.

Kim (04:14)

That's a covered burp.

I don't eat them because I think they're gross.

Barb (04:34)

I

don't know. Butterfinger. Is it a buttered finger? I don't think so. It could be. It's insane. Yeah, I've never questioned the butterfinger, Kim, now that you put it in a holy light. I do enjoy eating them, though. The thing that I hated was, did you ever get that thing in your bag when you got home and poured it out on the living room floor? That thing that looked like a peanut? Like, what was that?

Kim (04:56)

~ yes, those soft things. Circus, circus. ~ those are disgusting. You just like throw that away. That's like the bad stepchild of peeps. it's just why do we have them to peek and win? They're just wrong. ~ my goodness. Well, we hope everybody enjoyed their Halloween candy and got just what they wanted and no candy corn. I also don't like that.

Barb (05:00)

Yeah, what?

Again, I like the candy corn pretty good. Yeah, I guess I'm a weirdo. Love the candy corn.

Kim (05:27)

Candy, you're a weirdo!

You know, fall feels like a reset, and it is, but there's still a lot to be done between the back-to-school hustle and busier routines and shorter days. Finding time to cook can be tough, and that's why we had to tell you all about how much we love Factor. Their chef-prepped, dietitian-approved meals make it easy to stay on track and enjoy something comforting and delicious, no matter how hectic the season gets.

Barb (06:11)

There's

so much variety and so many meal options. Every week, it seems like they have a wider selection of weekly meal options for you to choose from, including premium seafood choices like salmon and shrimp at no extra cost. Factor is also perfect for supporting your wellness goals since you know exactly what you're getting and the nutrition it

contains. You can even enjoy GLP-1-friendly meals and new Mediterranean diet options packed with protein and good-for-you fats.

Speaking for Jill, one of the best parts of the Factor selection is how you can savor global flavors. And now for the first time, they have Asian inspired meals with bold flavors influenced by China, Thailand, and more. With Factor, you get more choices and better nutrition than any other service. That's why 97 % of customers say that Factor helped them live a healthier life.

Kim (07:04)

You know, if Jill were here, I'm sure she would tell you the story about when she was in Thailand and she struck up a conversation with a chef about how fantastic Factor was and she couldn't believe it because, you know, Factor is the sponsor and it was, what are the odds? You know, you can really feel the difference no matter your routine. Just think of how much time you'll save with Factor's two-minute meals. That's right, I said two minutes. They're restaurant quality and come ready to heat and eat.

It's great to have easy snacks, smoothies, and more waiting for you whenever hunger strikes. In fact, I'm planning on enjoying the fantastic roasted garlic chicken with gravy, chive Yukon mash, and green beans very, very soon. I highly recommend it. You'll be amazed by how quickly the time and money you save add up. Should I set an extra seat at the table for you, Barb?

Barb (07:57)

Well, you know, it sounds pretty good. Now that you mention it, I'm thinking Factor might be perfect for tonight. You know, it's Halloween, so I want to have a quick meal. And I got to say, you had me at two minutes. ~ There's something about having a healthy and delicious meal in two minutes that's very attractive. You too, dear listeners, can eat smart at factormeals.com slash SIL50off and use code SIL50off to get 50 % off your first box.

Free breakfast for one year. Did you hear me? Free breakfast for a year. That's code SIL50OFF at factormeals.com for 50 % off your first box, plus free breakfast for one year. Get delicious, ready-to-eat meals delivered with Factor. This offer is valid only for new Factor customers with a code and a qualifying auto renewing subscription purchase. The link is in our show notes.

Well, Kim, we have a very big week coming up in the US Supreme Court, big case on tap when the justices will hear oral argument about Trump's tariffs. First, let's remind our listeners about the facts of these cases. Remember, Trump has announced Liberation Day and he's had reciprocal tariffs. What did the president do regarding tariffs and what were his stated reasons for doing so? ~

Kim (09:29)

Boy, so since about February, ~ President Trump has been levying a series of tariffs against various countries for various reasons. Some of them he refers to as trafficking tariffs. Those are the ones that targeted Canada, Mexico, and China because ~ according to Trump, those countries have failed to do their part to stop the flow of fentanyl and other drugs.

into the United States. So he imposed tariffs on them. Then there was a second category of emergency tariffs he imposed, which are called reciprocal tariffs. And they have a baseline of 10%. But on almost all of the countries, he at some point levied even higher tariffs against them on top of that 10%, some from 11 % to

I have a report here that says up to 50, but I recall him threatening like China with like 250 % error and all this. So he's been using it to threaten countries before he actually comes down on a number and imposes these tariffs. So that has been going on, as I said, since about February.

Barb (10:45)

Yeah, and he calls them reciprocal tariffs. I'm not sure they're reciprocal to anything. He claims that they are just matching the tariffs of the United States. But of course, he's done things like say, ~ he's imposing a 50 % tariff on Brazil because he doesn't like the way they've treated former president Jair Bolsonaro. So I'm not sure.

Kim (11:02)

And he

a tariff. Didn't he impose one tariff on like an Antarctic island that doesn't have any people? Like it does not seem to have. Yes, there are only.

Barb (11:13)

Penguins or something. Penguins?

Kim (11:18)

So this doesn't seem to be super targeted to either be reciprocal in terms of what he says the deficit in the trade agreement between the countries or something, even though the formula that was used, if there is a formula, economists have been pointing out that there's really not, they can't figure it out if it is actually trying to purport to be reciprocal of anything. So that's a point.

Barb (11:39)

did see someone on social media claiming that for Halloween, they were going to be Trump's reciprocal tariffs. Because remember when ~ he first announced him, he had that big chart that he held up with the

list. was like a sandwich board with the reciprocal chart, which I thought was a pretty good Halloween costume.

Kim (11:56)

That's, that, that, yes, that's creative.

Barb (11:59)

Yeah. All Let's talk a little law here for a second. Now, if I remember correctly from law school, the Constitution gives the power to lay and collect taxes to Congress. But these tariffs were imposed by the president, who is, of course, the head of the executive branch. What authority did the president purport to rely on to impose these tariffs?

Kim (12:21)

Yeah, so I'm glad that you started with Article 1 because that's an important grounding principle here. This is supposed to be under the purview of the legislature, but the legislature can do, among other things, pass laws. And they did pass a law in 1977 called the International Emergency Economic Powers Act. It's shortened to AIIPA, which I just like, I just kind of like saying AIIPA. I'm gonna go.

Barb (12:44)

Pretty fun, Aeepa.

Kim (12:46)

Well, there's some of the some of the acronyms in law and sometimes they don't you know, like Ralupa I don't know how to say Ralupa. Right, right, right. It doesn't really spell a word, but AIPA works very nice. ~ And so that law allows the president to quote, deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States to national security, foreign policy or economy.

of the United States. ~ President Trump is purporting that under this law, if he declares an emergency, if he says that there is an emergency, he has to be able to act swiftly to deal with trade policy. And that is the power under which he is claiming the ability to levy these ~ unprecedented unilateral terror.

Barb (13:37)

Yeah, and we've seen the use of IEPA in the past. IEPA is the law that the president uses to impose sanctions, like in wartime. ~ I've even prosecuted violations of IEPA when we've had ~ sanctions against Iraq, making it illegal to sell certain kinds of goods or equipment to Iraq. had a case involving a small company in the Metro Detroit area that was selling telecommunications equipment to Iraq during the regime of Saddam Hussein.

an IEPA violation. So you see it in those instances or imposing

sanctions on Russia for interfering with the election, those kinds of things. ~ But here we've got arguments by the plaintiffs ~ that IEPA doesn't quite do what the president is ~ purporting to do here. There are two groups of plaintiffs who filed these lawsuits. ~ They're small businesses, one who sells educational toys, another small business that sells women's cycling apparel.

I wouldn't mind checking out their website, but I suppose those tariffs make their goods prohibitively expensive, which is they say. Also some states, some state attorneys general have said all of these tariffs are adding to the costs of these individual small businesses or businesses within their states that can even threaten to undermine the existence of these business. And so what they are arguing is that AIIPA doesn't permit the tariffs that Trump is imposing. What's that argument they're making there, Kim? Why not?

Kim (15:03)

Yeah, so they argue, among other things, that usually when ~ Congress intends to allow the president to do something under a statute, they're pretty good at saying so, right? But nowhere in IEPA is the word tariff or duties even used. So it's clear from the text of the law itself that Congress did not intend to delegate that kind of authority.

to the executive branch, as you said, according to article one, that is something that has largely been within the realm of the legislative branch. They also point to some constitutional problems. Even if the law said, had tariffs in it and had taxes in it, like, well, we're still not so sure the president would have that power because constitutionally there's something called the major questions doctrine. And that doctrine holds that Congress must explicitly say,

when it wants to give the president power to make decisions with vast economic or political significance. And in this case, again, because levying these tariffs are such a big deal, that is such a big policy move that if Congress intended for the president to do that, they've got to be pretty specific in the statute. And as we stated, the statute doesn't even talk about tariffs or duties. The second constitutional issue they bring up is the non...

delegation doctrine. Now this one's even bigger. And if the court goes along with this reasoning, no matter what the statute says, the president would lose here because that says that ~ Congress cannot delegate its power to make laws to other branches of government. This seems like legislating to me. This seems like legislating from the Oval Office. And if the court finds that this is the president taking on a duty

of making new taxation law, making new tariff law, then the president can't do that anyway, even if Congress claims it gave him that

position. So those are basically the argument of the challengers.

Barb (17:08)

Yeah,

they're all interesting questions. I wanted to follow up on the major questions, Dr. Nair, that you mentioned, because you and I have discussed this before, that like, we don't remember talking about this in law school when we went to law school, because it wasn't a thing. Right? They didn't start using this until 2022. Yeah, it's And it really has this feel of it was an effort to stop anything President Biden wanted to do. Correct. By saying, oh, forgive student loans. Well, you know, if Congress had meant

for the president to be able to do it. They would have said so and they didn't, so it's down. And so we're going to use this thing now, starting now in 2022, called the Major Questions Doctrine. I will be very curious to see whether they continue to rely on that or if that was not one size fits all. If that was something that was unique to that moment. I think that'll be really interesting.

Kim (17:58)

Yeah, the goose is meeting the gander. Yeah, the goose is meeting the gander.

Barb (18:02)

Is this thing real? ~ So pretty interesting. So the government, of course, responds by saying, IEPA should be read to permit the president to impose tariffs, even though the statute doesn't say so. Hello, textualists. Again, I hope the textualists will be intellectually honest here and say, it's those who say it must be in the text will not now somehow imply it from the text. ~ What's your sense,

how the court might view this case. It's a little bit interesting in that, ~ you know, it's one that traditional conservatives, of, you know, ~ chamber of commerce conservatives probably don't like because they favor free markets. And yet, you know, we've got, you know, Trump certainly favoring it. I think populists probably disfavor it because it tends to add to the cost of consumer goods.

So this one kind of defies politics. What's your sense of how the court might view this case? ~

Kim (19:03)

think that it's really interesting. the government ~ is basically saying it's using the words ~ to regulate importation in IEPA to hang a whole lot. They're trying to make those words do a lot in saying that they have this tear of power and they need to act in the form of

an emergency. One thing that I found interesting about the filing by Solicitor General John Sauer is that it started with the same kind of language that Trump has been using in his

public appearances saying it'll be a catastrophe if we end the The tariffs have pulled in so much, but if we give that, the economy will collapse, okay? Like there won't be a country. Either we have a country or we don't, and without the tariffs, we don't have a country. That's exactly-

Barb (19:43)

Can I just put a pause for a second? so sorry. The Trump voice was phenomenal. What our listeners cannot see is that you're also doing the Trump accordion hands, you know, like together and out and together and out. That was just so good. SNL is going to be calling, looking for you.

Kim (20:03)

while

in my thing two costume, because it's Halloween. ~ But that's what Sauer argued in his brief, which I thought was kind of crazy. Like he basically said, this guy is, well, if you rule against us, the economy will collapse. And the interesting thing is, as you point out, not only have there been a lot of ~ friend of the brief, ~ friend of the court briefs filed on behalf of conservative, like the Chamber of Commerce and.

other conservative folks from places like the Cato Institute and the Competitive Enterprise Institute. These are conservative folks who don't, you know, who normally are not big at going against filing friend of the court briefs against the administration. But here they are. And economists too have been saying, ~ yeah, it'll be a loss of revenue, but the government will just have to do things to make up for it. The sky's not going to fall. The economy will not collapse.

They'll just have to, it'll be, may be, it may be a challenge to, you know, refund some of these. Like who do you refund it to? Because this is also the brunt of this is being paid, a large portion is being paid by consumers and by business owners. So who do you refund? ~ Tariffs too. That's probably the biggest issue, but it's not going to collapse the economy. So I think I'm not going to make any predictions, but I think that this is probably of all the Trump cases before the court.

Barb (21:15)

How do you unwind it? Yeah.

Kim (21:30)

as a matter of legal and constitutional interpretation, this is probably the hardest one for Trump to win.

Barb (21:37)

Yeah, I think you're right. you know, ~ on the one hand, we get the catastrophizing by the government about what would happen if these tariffs are struck down. But I also think about what would happen if these were permitted to go, because not only, I think, will we see these tariffs remain intact, but it sends a message, does it not, to President Trump that there is no limit to his power. You know, law professors, I have learned,

are a lot like ~ sketch comedy and comedians. It is all about ~ posing hypotheticals that take a ~ basic proposition and then extend it to its most absurd ~ iteration. So that's how a comedy sketch works. And so in law school, what you try to do is say, all right, let's take this situation and now let's project what could it look like in its most absurd exaggeration. what if, for example, President Trump said, ~

I find it in the best interest of the United States to impose tariffs on Canada because whenever their ~ hockey fans boo the US national anthem at a hockey game, it damages our status in the world. Therefore, if Canada boos the national anthem of United States, ~ we are going to impose a 200 % tariff on them. Right? It just can't be. It just can't be.

And so if you think about it that way and it makes the questions easier to answer, right?

Kim (23:08)

You know, I hope, and I hope the justices think about it in that way though. That's the thing. I feel like so often they contort themselves into some sort of argument that allows them to completely ignore the way things happen in real life. You know, like when we talked about the voting rights stuff last week, you know, how they're just like, ~ you know, things will be fine when we just stop using race as a fact. It's like, excuse me, have you lived in America? Like, what are you talking about? So I hope they actually see the rational side of this.

And, you know, ask themselves, do they really think this is what this statute meant? Yeah. ~ no.

Barb (23:47)

Just a little message to our ~ justices of the Supreme Court. You're welcome to use my proposed hypothetical during oral arguments, should you wish. My dad was famous for telling like a bad dad joke. And then as we groaned, following it up with, you may use that, which made it even, caused us to groan even louder.

All right, know, Kim's in a zany mood today. We're without our other

sisters and she is gonna make up for the laughs on her own because when we tuned in, she was wearing her Halloween costume, this thing too. And now she appears to be wearing her Lola blanket over her head ~ as part of, I don't know if this is costume or comfort. What is it Kim?

Kim (24:38)

It's definitely comfort. know, in my radio days, I learned that putting a blanket over your head gives you really nice sound. And I have my Lola blanket here and, you know, I'm often found underneath it because I tend to be chilly this time of year. And I figured I'd use it both to keep myself warm and to give high quality sound for the podcast listeners.

Barb (25:01)

Sounded pretty good.

Kim (25:02)

Thank you. You know, after a long work day, my favorite part of the night is finally winding down and getting cozy. And lately, I cannot end my day without my Lola blanket. In fact, I might be found under my Lola blanket in the afternoons, late morning, any time of day, really, because I'm obsessed. The moment you feel it with your own hands, you'll understand why. And so will your pets. It's instant luxury.

They're incredibly soft and they make your space feel warmer and more put together. There's no pilling or shedding, just pure comfort. And we've all seen Lola online and exploding all over Instagram. But I actually discovered them right here on hashtag sisters-in-law first and ever since. It's really hard to get me off my couch with my Lola blanket. Just ask Greg, he has a difficult time.

Barb (25:55)

The Lola blanket really is the best. They're crafted with luxury vegan faux fur and a signature four-way stretch that somehow makes them feel both plush and light at the same time. They're machine washable, double hemmed for durability, and even after countless washes, they look brand new. Not only that, they make the best gifts. And I can't wait to surprise friends and family with them for the holidays. There's a reason they're called the number one blanket in the world. Lolas are always a hit.

and they get used and loved right away with more than 10,000 five-star reviews. The love for Lola is real. My friend Marissa sent me message recently saying, thank you for introducing me to the Lola blanket. It's the best, she loves it. And it's not surprising. The story behind it makes it even more special. Lola was founded by two brothers inspired by their mom who found comfort in her favorite blanket while living with breast cancer. And their mission is to bring life-changing softness to others.

It is woven into every stitch.

Kim (26:55)

I love that story too. And Barb, if you're giving out gifts, I could use one in brown.

Barb (26:59)

I'll keep that in mind.

Kim (27:02)

Thank you. You know, you could treat yourself or someone you love. For a limited time, our listeners are getting a huge 35 % off their entire order at lolabankets.com by using the code SISTERS at checkout. Just head to lolabankets.com and use the code SISTERS for 35 % off. After you purchase, they will ask you where you heard about them. Please support our show and tell them we sent you.

Wrap yourself in luxury with Lola blankets and look for the link in our show notes.

Well, the shutdown shows no sign of ending. And the federal government had announced that as of the day this podcast episode drops, November 1st, it would suspend benefits under the Supplemental Nutritional Assistance Program, the nation's largest anti-hunger program that serves nearly 42 million people.

It's formerly known as food stamps and SNAP provides electronic benefits to low income individuals and families who need help purchasing food. But this week, 25 states led by Massachusetts Attorney General Andrea Campbell sued the federal government, claiming that suspending the program for the first time in its decades long history is impermissible bar.

What are the attorneys general in these ~ half the states of our nation seeking in relief and what are they claiming?

Barb (28:45)

Yeah, so the ~ food stamp program, I'll use the term food stamp because I think that's how most people think of it, ~ has ~ emergency funds, like essentially a rainy day fund that it sets aside for an emergency. And it says that before you tell people we're turning off your source of food, this is an emergency and we will tap into those funds so that we can continue providing food assistance for as long as possible. They say tap into the funds and the Trump administration says,

This isn't an emergency. Emergency, it's like a natural disaster or something. This one doesn't count. So, nope, we're not going to turn it off. And so that is the point they're raising. You have the money.

You have a legal obligation to use the money. This is an emergency. And you should release those funds so that people can continue to put food on the table.

Kim (29:38)

So let me get this straight. This is a president who has declared an emergency to Levitaros, declared an emergency to fortify the border, declare an emergency to bomb boats from Venezuela. Like he's declaring emergencies for everything, but 42 million people perhaps not having enough food to eat starting on November 1st, not an emergency.

Barb (30:04)

No,

no, no. ~ dear.

Kim (30:06)

Okay. So as you mentioned, the federal government has these rainy day funds. ~ What does the government say is the reason that they can't tap into these funds?

Barb (30:18)

Yeah, they say that's not what it is intended for. They say that ~ this is part of a ~ response to a natural disaster, for example. So ~ if there were to be a hurricane or mass flooding or other kinds of things like that, that is what the law means when it says there's an emergency. Because this was manmade and politically made, it doesn't count. It seems to me, if I may opine, that...

This is perhaps an effort to blame the Democrats in Congress for taking food off the table because they are refusing to open the government. It really seems like our citizens are being used as political pawns in this political game. Of course, the reason that Democrats have shut down the government, don't know if it's even fair to say Democrats shut the, there's a impasse.

Kim (31:13)

Republicans are in control of both houses of Congress and the White House.

Barb (31:18)

But the reason they are not bending is that Republicans want to severely increase the cost to take away tax credits that will make premiums for healthcare under the Affordable Care Act skyrocket. And so this is such a disingenuous argument. ~ But I'm pleased to see these attorneys general take it to the courts to say,

Hey, I don't care if it's manmade. There's nothing in here that says it has to be a natural disaster. This is an emergency. You've got the money. Pay up.

Kim (31:54)

Yeah, I'm glad you pointed that out, Barb, because to me this feels like the government is playing a game and Republicans in Congress are playing this game of chicken, but they're not the ones standing in the streets. They're putting the American people out in the street to see if they get hit instead with this political game of chicken. And it's so gross. It's just, it's really, it's really ~ upsetting to say the least. So ~ in just days, Barb, not one, but two federal judges

issued rulings within minutes of each other. Do you think they coordinated? Anyway, judges in Massachusetts and Rhode Island issued within minutes of each other a pair of orders that basically granted the states their wish. Tell us a little bit more about what these judges did.

Barb (32:40)

Yeah, and no, I do not think they coordinated. mean, I you never know what does or doesn't happen.

Kim (32:44)

each other and be like, okay, I'm resmine.

Barb (32:48)

Do you ever watch, I watch a lot of football, I know you watch some football. Do you ever notice when the kick after a few, know, a kick after, a point after a touchdown or a field goal kick, there's a referee on both sides of the uprights because you know, sometimes it goes like right over the top and it's hard to tell. So they're there to judge. What they always do is they look at each other before they put their arms up to signal that it's good. it was good, right? You think it was good?

Kim (33:22)

Okay, I'll let you run too.

Just to be clear, judges do not do that. They rule based on when the decision is done, when the order is done, they issue it. That's how judges work. We are only kidding.

Barb (33:29)

Yeah, that is funny.

Yeah. Nope. So we did see a ruling in the plaintiff's ~ favor on Friday. As you said, two judges ruled ~ nearly simultaneously that the Trump administration must continue to fund food stamps using these contingency funds during the government shutdown. I mean, they have the money and they have to pay it. ~ And they said that... ~

even if we get to a point where the government cannot afford to cover

the costs, there's a process to follow rather than just simply suspending all the benefits immediately. And so one of the arguments the government had made is if we can't pay everybody 100%, it's too hard to pay anybody less than 100%. And what the judge said is that's just not good enough. Like do the math. Like, you know, you may not have enough to give everybody everything, but

That doesn't mean you withhold all payments from everybody. And so there's something like \$5 billion in contingency. The government says it costs \$8 billion a month, but she said, get that \$5 billion out there. And so ~ I don't know whether we'll see an appeal. That does happen quite frequently with this administration. But ~ at least in the first instance, argument seems to make sense, right? You've got \$5 billion for an emergency. This seems like an emergency. Don't let these people go hungry.

Kim (35:03)

So yes, as you say, this could ~ go up the appellate chain. It seemed really interesting from both these orders that were issued as well as the oral arguments that took place beforehand on Thursday that you're right, Barb, that these judges were really having a hard time with the government's argument that no, this isn't an emergency. No, those funds aren't meant for that. Especially when we're talking about this isn't some sort of

infrastructure project, not to say that those aren't important or something like that. This is people being able to eat. This includes, and there's a lot of misinformation about who is covered by the SNAP program and what the SNAP program does and whether there's waste, fraud, or abuse or these things. Are there some people who have SNAP benefits when they also have a job? Yes. You know why? Because those jobs don't pay a living wage and they don't make enough to be able to feed their families.

That's what we should be outraged about. But you know, this is where we have this political, know, the use of those people as a political pawn is really gross. So that kind of gets me to the next thing I want to talk about, a little bit. We've talked about state attorneys general a bit and the role that we played. We certainly talked about specific ones like New York's Letitia James, who ~ is certainly well known. But generally speaking, these are

~ They play a really crucial role in protecting people's rights from actions taken by a host of people, whether it's companies or even the federal government. Talk a little bit about the importance of the role of state attorneys general.

Barb (36:47)

Yeah, ~ it's a really important job. I like talking about it mostly because I like to say the plural, attorneys general, and show off that

I know that it's not attorney generals, it's

Kim (36:58)

I

also like, I like saying to the one, especially the ones that I know who I've known like long before they were, ~ attorneys general, I like calling them gently. If I see Andrea Campbell, I say, hello, general Campbell. And I'm not sure she loves it, but that's the, but that's the title. She gets to be general Campbell. think that's cool.

Barb (37:15)

But a big part of the role of being the attorney general of the state, and there are a number of them, they give advisory opinions on the law, they advise the state about legal issues, they defend the state when the state is sued, but a big part of their job is protecting consumers in their state, protecting the rights of people in their state. So you'll see states frequently involved in ~ lots of cases.

They were involved in the birthright citizenship cases, for example, because they said citizens of their state might lose their citizenship ~ if the definition is changed. ~ Children of people living in their state might lose the ability to be citizens if that definition is changed. And similarly, in this instance, people who are entitled under federal law, a federal benefit, who are in their state might be harmed by this arbitrary change in ~

in food benefits. And so they have the ability to bring lawsuits to protect the rights of their citizens. That's what gives them standing to do this. And if I may add, Kim, in this second Trump administration, we are seeing so much more burden put on state AGs because of the ~ change in viewpoint of so-called big law, the very large law firms during Trump's first administration.

Big Law did a lot of pro bono work, free work, on behalf of individuals who were suffering or small organizations, nonprofits and others, and they would represent them for free. They're not doing it anymore. They have signed these agreements with the president. They seem afraid to come into his crosshairs, and so they're just lying low doing their thing. And so instead, we are seeing a greater burden on small and medium-sized firms and state AGs who are really stepping up and bringing a lot of these lawsuits around the country.

in many instances with great success.

Kim (39:10)

Yeah. And that is a shame. I'm glad you brought up the pro bono work that big law firms did. I know that's something that most people probably didn't realize before ~ Trump started targeting law firms is that they would devote a substantial amount of their time and energy,

which is extremely valuable to helping causes for people who could not otherwise pay for that. And now so many of them cannot do that. So many of those hours have been ~ taken up by these agreements for them to work.

basically for president. And it's just, really such an awful thing. ~ we will continue to watch this ~ closely, because it's an interesting case where ~ you have the states using a tool to fight back and protect their citizens. And so far, it's being successful.

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Barb (40:44)

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Kim (41:19)

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Barb (41:58)

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first payroll. That's three months of free payroll at g-u-s-t-o dot com slash sisters. One more time, gusto.com slash sisters. The link is in our show notes.

Well, for those of you who thought marriage equality was decided with the Windsor and Obergefell cases, guess again. This week brought news of a story out of Texas where the state Supreme Court added some guidance to the state's judicial code that says judges may opt out of performing same-sex marriages. Now, this all has kind of a convoluted procedural history, but Kim, let me just ask you, what was the concern of this judge who raised this issue?

Kim (42:59)

Yeah, so a judge, this is really interesting. There was a North Texas County judge who was the original ~ person involved in this case. And he was concerned because another judge from Waco was sanctioned because he conducted marriages. Now let's be clear.

Judges don't have to officiate marriages. This is something that's optional that they can do if they want to. They don't have to do it at all. But this judge specifically chose to officiate weddings, but only those ~ in male-female couples. He refused to do it for same-sex couples. And so he faced a sanction ~ because of that difference. And so this other judge...

from another part of Texas, North Texas, said, well, I don't want to be sanctioned. So he filed this challenge, ~ which sort of ended up, it's a strange case, which ended up going up the chain. And at some point, the Fifth Circuit...

Barb (44:04)

Yeah, yeah, it does look a little convoluted.

Kim (44:08)

Fifth Circuit somehow says, huh, do they really sanction people for not ~ officiating same-sex marriage if they do so with opposite-sex couple marriage? So they asked the Supreme Court of Texas. I don't know how, I don't know if this is only in Texas, the way things like this work, or if this happens in other states. But it sounds, Barb, and maybe you understand it little better.

It sounds like it was almost an advisory opinion they were seeking from the Texas ~ Supreme Court saying, really? If somebody, if a judge refuses to officiate same sex marriages only, is that ~ actionable? Mysteriously after this.

Barb (44:57)

Yeah, I know, right? So it used to be you couldn't do it. And then we get this challenge and now we've got a changed in policy.

Kim (45:06)

So we get this comment that appears and it looks like honestly, it looks like when you're writing an essay, we should put the link in the show notes. When you're writing an essay and then you edit it and you put like a note in the bottom, the official policy, judicial canon was changed to specifically say, if you wish not to perform marriages due to ~ a sincerely religious beliefs.

You will not be sanctioned. So this other judge's sanction gets rescinded.

Barb (45:42)

Yeah. It is, so, you know, I don't know how it works in every state. It does work differently in different states. I know that there are, like in Michigan, there's a state bar ethics committee that writes ethics opinions. And they do give kind of advisory opinions that, know, this, we had this weird situation arise and we've got this rule of ethics that says you should do this or you shouldn't do that. And we're not sure like what the right answer is. Will you ethics committee write an advisory opinion so that

Kim (45:42)

It's so crazy!

Barb (46:10)

everybody else who encounters the situation will have the best guidance we can have. That's how it's supposed to work. So I kind of think that's what happened there. They've got this canon four of the judicial code and the-

Kim (46:21)

And Canon Four is basically the conflict of interest ~ rule that judges are bound by, which is you have to act in a way that's impartial, even in your extrajudicial actions, so that you don't draw the appearance ~ of a conflict of interest in your work on the bench, which is important, right?

Barb (46:43)

Yeah, but the fact that a judge was sanctioned for refusing, it made sense to me that that was a violation of law. Yeah, clearly. what happens if you have a case before you where there's some LGBTQ issue before you, right?

Kim (46:58)

There are so

many of those challenges being made. Yeah, so if you know this judge won't yeah

Barb (47:05)

have a sincerely held religious belief that I can't possibly conduct a wedding and now, guess what judge we drew in our case. Are you gonna feel like, I'm gonna get a fair shake from this judge? So it's the old guidance made sense to me, the new guidance does not make sense to me. ~ So just to get this straight, a judge who has a sincerely held religious belief against same sex marriage.

can now be allowed to decline to provide a service to a couple who does have a right to marry under the U.S. Constitution. ~ How does that work? For now.

Kim (47:44)

We don't know. A judge can do that under the rules of Texas, which could spur yet another challenge. And then guess who will be, ~ whose job it will be to decide whether a judge can make this kind of distinction under the U.S. Constitution. Eventually that would fall to this majority of the U.S. Supreme Court.

I'm gonna guess based on past precedent that they're gonna find a way to say, oh yeah, it's totally fine, sincerely held belief, they gotta give you a carve out there or something.

Barb (48:24)

Remember when Clarence Thomas spilled the beans in the Concurring Opinion in the Dobbs Act? I sure do. Remember, I already said like, ~ this only has to do with abortion. It doesn't have anything to do with other ~ substantive due process rights. And he's like, hey, while we're at it, let's get rid of same-sex marriage and ~ contraception. all that sort of stuff. And there actually is a potential case. I don't know if they'd like to take this one up. But did you read that?

Kim (48:43)

Everything else

Barb (48:53)

Remember that clerk in ~ Kentucky, Kim Davis, who was refusing to give out ~ marriage licenses to same sex couples? She's at it again. She's like, all right, maybe now I got the right justices on the court. She has filed a petition ~ asking the court to challenge Obergefell. And in fact, the court apparently is going to consider it during their conference on November 7th, which is a week from Monday. Do you think that has any legs?

Kim (49:20)

Listen, I'm not ruling anything out. It is true that it was just 10 years ago, just 10 years ago that the Supreme Court ruled in that seminal case authored by ~ then Justice Anthony Kennedy, who is now retired, that there is a constitutional right to same sex marriage.

It's found in the same ~ substantive due process concept that used to enshrine the right to have access to an abortion.

that was found in Roe versus Wade, but that was since overturned. They found it to be an inherent liberty right that allowed people to marry who they chose. Well, after that, you recall, Kim Davis from Rowan County, Kentucky began refusing marriage licenses because she said that it would violate her religious rights. So at the time, it didn't work out. She had to either issue those licenses

or lose her job. She also had a jury award issued against her for emotional damages and attorney's fees for the people to whom she refused those licenses. Well, now she wants to get that verdict overturned claiming that it violates her First Amendment free exercise rights because same sex marriage goes against her religious beliefs.

And she's asking the Supreme Court not just to give her a carve out, but to overturn that decision in a Burgerfell v. Hodges all together and to undo the constitutional protection for same sex marriage to everyone. Can I just talk for a moment? Because we talk a lot about where the religious freedom in the constitution ~ bumps up against the civil rights protections of others often. And the thing that I find

And listen, in the Constitution, there's naturally ~ tension there in granting broad rights against people, of people who have been marginalized, but also protecting the rights of religious people. That's the job of judge. You're supposed to be able to draw those lines, hear it, and figure it out. And in cases like this, what I think the framers meant was you find solutions that cause the least amount of harm. So if you want to give this lady some sort of carve out,

I mean, I personally don't agree with that. But if that's better than declaring that, you know, all these people, millions and millions of people don't have the right to marry who they want to, that seems like a reasonable accommodation. But that's why I just feel like it's so disingenuous that now she's trying to smash a BurgerFell entirely, which would, the scariest thing about that is there are still zombie laws in about 35 states that if a BurgerFell is overturned would immediately

immediately nullify or cause the states to stop recognizing these marriages that already exist. It's such a gross thing that I hope that the Supreme Court says they don't want to touch this with a 10-foot pole when they meet in that conference, but I don't know. We already have one justice on record claiming that he wants to see it overturn. So you only need four to grant cert.

Barb (52:38)

Yeah, reliance on a court's ruling is supposed to be one of the major

factors in deciding whether to overturn ~ precedent. so it would really, I talk about ~ chaos that would ensue based on a court's decision, as we did earlier, ~ that one would be very chaotic. Unbelievable. You suggest this idea of giving Kim Davis a carve out or something. But as the point you made earlier with these judges in Texas who you don't have to perform marriages, you don't have to serve as

of the court. are lots of ways to ~ make your living in this world. it's part of job. It's part of the job.

Kim (53:15)

Yeah, within the government, do something else. You can do something else that doesn't require, you know, and even when she brought this, ~ when this case happened the first time around, people pointed that out. They're like, you don't have to issue the licenses. There's like, well, I'm the Kirk of the court. So like, my name is on the, my name is on the letter. Like she was.

Barb (53:39)

got an easy solution. I got an easy solution to that. Yeah, I mean, listen to this. It's all about my sincerely held religious belief. Like, okay, you want to practice your religion. That's great.

Kim (53:49)

my god, it's just it's such a ridiculous and again, you know, she it's not she's not doing this alone. She's backed with conservative religious rights, legal folks behind a lot of these challenges, whether they're brought in the name of free speech rights or or something else. This is not just her the same way that affirmative action was not really about Asian students claiming they got a bad shape. This was a concerted effort by conservative legal

Barb (53:51)

Great in Kentucky.

Kim (54:19)

folks to bring these challenges. So yeah, I hope that the Supreme Court says, you know what, we're getting enough smoke this term. Yeah, let's leave this alone, but you never know.

All right, we've mentioned a few times that fall is here and I've mentioned a few times that it is my favorite season now. And you know, one thing I love about it is dressing and making myself up in the spirit of fall and thrive always has my back. You know, it's time to rediscover autumn colors and bring cozy back. And one of the small traditions of personal care that helps me get in the autumn spirit is my makeup and thrive cosmetics.

has you covered because when the seasons change, you can change up

your look too from a simple, just have to get out of the door routine to the festive fall glam, know, holiday parties are already coming, Barbara, we've already gotten a couple invitations. And Thrive is your go-to of completing any fall or holiday look.

Barb (55:28)

Well, not only are their products great for your skin, they're great for the planet too. We love how every product from Thrive is 100 % vegan, cruelty-free, and made with clean, skin-loving ingredients that work with your body, not against it. And we know you will too.

Kim (55:44)

I'm a big fan of Thrive's Infinity eyeliner, mostly because it stays put all day with high pigment definition. There's nothing worse than you pass a mirror and you see that your liner's smudged down your face and you had no idea until you saw it. This won't happen with this. Not only is it completely waterproof and smudge-proof, it comes with a built-in sharpener for ultra-fine lines and angled smudge tip for effortless blending.

It even glides on smoothly across your top lid or bottom lash line, and it's just one of those products that pulls any look together. Plus it comes in eight bold and classic neutral shades that complement every eye color and skin tone.

Barb (56:27)

Built-in sharpener that reminds me of the Crayola box of 64. I'd get it just for the build.

Kim (56:33)

just knew nobody could tell me nothing when I got the 64 box. just knew I was the coolest kid on the block.

Barb (56:41)

The built-in sharpener was always my favorite feature. Well, let's talk about the cause in their name. For every product purchase, Thrive Cosmetics gives back. With more than \$150 million in product and cash donations to 600-plus giving partners, your purchase directly fuels real impact. Choosing Thrive means you're choosing to make a difference in education, joining the fight against cancer, the effort to stop domestic violence, and other critical causes.

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Kim (57:41)

Now we have reached our favorite part of this episode. I don't know,

this has been a fun episode to do.

Barb (57:47)

Yes,

I've been having fun with you. Yeah, you and me more often.

Kim (57:51)

Yeah, you know, it's like the it's like the Ren and Stimpy show or something. I don't know. All right, here we go. If you have a question for us, please email us at sisters in law at politicon.com or tag us on social media using hashtag sisters in law. If we don't get to your question during the show, keep an eye out on your feeds throughout the week.

We answer questions there when we can. So our first question today is from Kelly who asks, can you explain what the Hatch Act is and how it gets enforced?

Barb (58:27)

yes, Kelly, this is a great question. So the Hatch Act, of course, is ~ a law that says federal workers cannot engage in political activity while they're on the job. And certainly that could undermine public confidence that they are exercising their ~ authority in a manner that is even-handed and unbiased. You can't have bumper stickers of a candidate in your office.

campaign buttons, you can't use your email or your letterhead for fundraising and other things like that. it's an important way of separating governing from campaigning. And the penalties, it's not a crime. The penalties are civil. ~ can get a reprimand, you can get ~ suspended from your job, you can get fired, you can even get assessed a civil penalty.

of up to \$1,000. But here's the rub and one of the challenges we've been seeing, I think, during the Trump administration, when I think these lines get blurred a lot. Remember the 2020 COVID year when the Republican convention was held on television, I think Democratic as well, because of COVID. It was all televised. It was all like from home. Much of it was done from the White House, which in my view is a gross violation of the hashtag. So how is that allowed to happen? ~

I think it's because it gets enforced by an office called the Office of the Special Counsel. That's different from Special Counsel Jack Smith. It is an office that is designed to look into unfair labor practices for federal employees and violations of the Hatch Act. Of course, that is the office from which President Trump fired its head, Hampton Dellinger. It's currently without a leader after Trump's nominee, Paul Ungracia.

flamed out for saying on social media or I guess in text messages that he has a bit of a Nazi streak. ~ So the office is vacant. So only if someone in the Trump administration decides to enforce it will there be any penalties. And so ~ as a former federal employee, I really find it disheartening because I will tell you, we worked very hard to make sure that everybody was in compliance with this. We had training and it was unthinkable. Like you knew, you just couldn't mix politics with

your work and that was just a given. And now we're really seeing a big blurring of those lines and I think it's unfortunate because I think it causes people to think of everything their government does as being politically motivated instead of being driven by people who want to serve the public for the public good.

Kim (1:01:12)

All right, our next question comes from Anna, ~ who asks, now that the East Wing has been demolished and ~ mega donors have paid for the new ballroom, ~ does that mean the White House is now owned by Trump and is no longer the people's house? I worry that he is taking private ownership. So Anna, the White House is not owned by Donald Trump. The White House is and will always be owned by the American taxpayers. That's why it's called, it's nicknamed.

the people's house, as you stated. Now, while in the past, this is not new in terms of private funding. There have been private funding for things in the White House as well as for other publicly owned ~ institutions within the federal government. The easiest example is the Smithsonian, right? People will donate things to the Smithsonian private.

collections, private funding, all sorts of things. It's still a public institution, but it receives private funding. And at times the White House has received items from private funding or had certain ~ smaller projects. But never before has there been a demolition of a big part of the structure that is privately owned. I think that the worry here, Anna, isn't that Trump will claim ownership of the White House itself.

The worry here is what are those deep-pocketed funders who are ponying up for this, it's not just a ballroom, ponying up to rebuild a huge portion of the White House stand to gain? What are they getting out of this? This is precisely the reason why we have regulations about what people can accept in terms of funding. This is why we have the emoluments clause.

because people should not be coming money bags in hand to the president trying to get favors for doing things like, you want a fancy White House with a ballroom here? I will help you pay for that. ~ you know, let me come and pay for to stay in your hotels or do all these other things. This is a conflict that puts not only

the White House up for political sale, so to speak, if not actual sale. It can also cause a lot of other problems. I national security issues by making the president beholden to these people. So I think it's a really bad idea, not for the reason that you state, but for some other really important reasons. And our final question today comes from Betty. Barb, you get a bonus because it's just the two of us.

When Trump leaves office, can the two Smith lawsuits, the January 6th case and the classified documents case be resurrected and try?

Barb (1:04:07)

Great question, Betty. I think the answer is yes. You may recall that Special Counsel Jack Smith dismissed these cases without prejudice, or he asked the court to dismiss them without prejudice, and that's what the court did. So with regard to the election interference case, that was pending in district court. ~ We had just seen the filing of the superseding indictment to try to remove any

conduct that might have been covered by the Supreme Court's immunity decision. And so that one was dismissed without prejudice, meaning it can be brought again. With regard to the documents case, that case was on appeal after Judge Aline Cannon had dismissed it on the grounds that the special counsel had been appointed in violation of the Constitution's Appointments Clause. But Jack Smith had sought an appeal of that case. And similarly, he dismissed his appeal.

asked for dismissal of appeal without prejudice, which is what the court granted, so that it could be brought again. Now here's the rub. These cases would have to be refiled because they were dismissed. I think the appeal would just resume where we left off because it was dismissed, but it was on appeal. There is an argument that the statute of limitations may have expired by the time Trump leaves office in 2029 because much of this conduct occurred in

2021 or thereabouts. ~ But there's another argument that if he couldn't be charged or prosecuted during the time he was president, then that time period should be excluded from the five-year time period for the statute of limitations. I think that will be a legal question that we would see if ~ it's pursued again. I also question whether ~ anyone who is in office, the next president or the next attorney general,

has the political bandwidth to do it or the political will. They may just say, ~ god, it's time to move on from all of this. But it seems to me that a huge part of deterring people from engaging in abuses of power is accountability. And so I'm hopeful that these cases will get resurrected and tried and let a jury decide whether he committed these crimes. I think it's a very strong case on the documents case. The

other one's a little more novel, but I think it would be useful for the public to

see the evidence and ~ decide for themselves. A jury could decide whether President Trump violated the law when he engaged in conduct with the goal of winning the election.

Kim (1:06:41)

You know, I think it's interesting to take, ~ there's been a lot of doomsaying about what could happen if a president is prosecuted or, you the problem that this will have for our democracy and trust and all that. A former president of France is in jail right now. And you know what? France is fine. France is fine. Vive la France.

Right? So let that be an example. I don't think the sky will fall if somebody who did wrong and has been adjudicated to have done wrong actually faces a consequence for that wrongdoing.

Thank you for listening to Hashtag Sisters-in-Law with Barb McQuade and me, Kimberly Atkins-Stor. We promise next week it won't also, it won't be another duo. I know you miss Barb and Jill because we do too and they'll be back. Follow Hashtag Sisters-in-Law wherever you listen. Give us five stars. Do it. We're telling you, go to your phone right now and give us five stars if you haven't already because you would be shocked to know that people still don't listen to the show and it helps them find it.

And please show some love for this week's Factor, Lola Blankets, Gusto, and Thrive Cosmetics. The links are in our show notes. Please support them because they support us. See you next week. I hope you come back next week. We got a little silly this week, but I hope you come back next week for another episode of Hashtag Sisters-in-Law. Enjoy that candy.

Barb (1:08:13)

Before we cut out, Kim, you did it again. Well, it isn't you who do it so frequently, but it always happens. It happens again and again. You said next week we'll be joined by Barb and Jill.

Kim (1:08:17)

What did I do?

Did I do that?

Barb (1:08:29)

I wasn't meant to say choice.

Kim (1:08:33)

We've all done it!

Barb (1:08:35)

yeah, it happens all the time. I wonder if listeners will pick up on it and if they listen to the coda they're like, I knew it!