

## [Boom! Lawyered: What's It Like to Sue the Trump Administration?](#)

- Imani Gandy: Hello, fellow law nerds. Welcome to another episode of Boom! Lawyered, a Rewire.News podcast hosted by the legal journalism team that wonders whether 8:07 A.M. is too early to start drinking vodka. I'm Imani Gandy.
- Jessica Pieklo: I'm Jess Pieklo. Rewire.News is dedicated to bringing you the best reproductive rights and social justice news, commentary, and analysis on the web. The Team Legal podcast is part of that mission so a big thanks to our subscribers and a welcome to our new listeners.
- Imani Gandy: Jess, I did something the other day that if you follow me on Twitter, which you do, but listeners if you follow me on Twitter you'll know that I don't really relish doing this thing and that is going to the woods.
- I went to the woods. I went to the woods. I went kayaking, I put my dog in a kayak. I went out in the middle of Crystal Lake or Clear Lake.
- Jessica Pieklo: Crystal Lake sounds a little murder-y, Imani.
- Imani Gandy: It was pretty goddamn murder-y but it was fun and I made it back alive. I'm wondering what you did in my absence. How did you cope?
- Jessica Pieklo: Oh my God, Imani. I had a true law nerd moment. Okay. Denver is hosting a conference for the Democratic Attorneys general Association so that means that all of the Democratic AGs are in one place and practically my backyard.
- Imani Gandy: You must have had some sort of nerdgasm I imagine. A law nerdgasm of some sort?
- Jessica Pieklo: I mean, that's a fair assessment of what was going on. Nerdgasm.
- Imani Gandy: Just like, "Ah! So excited!"
- Jessica Pieklo: "They're all here in one space. The Rotunda!" It was amazing. It was amazing. But I got the chance to talk to an Oregon Attorney General, Ellen Rosenblum. She is awesome and doing some really great work. Let's give a little preview.
- In March her office led the charge in filing a nationwide lawsuit challenging the Trump administration's Title X gag rule.
- Imani Gandy: Under the Title X gag rule any organization that provides or refers patients for abortions is ineligible for Title X funding to cover things like STD prevention, cancer screenings, and contraception. Now that rule is currently blocked.
- Jessica Pieklo: Yeah. Oregon is also suing the Trump administration over new health care refusal rules they released in May.

Imani Gandy: Those rules would allow folks to refuse health care services based on religious or moral objections and these rules are especially terrible for LGBTQ folks. Now these rules haven't taken effect yet and Oregon and other states have asked a federal court to block them before they do.

Jessica Pieklo: She's doing all of this awesome stuff and also, Imani, she sings.

Imani Gandy: She sings. I sing! We should get together and become a sort of like ... I don't know. I could be the backup singer to the attorneys general doo-wop group or something.

Jessica Pieklo: This is an amazing idea. I was going with some sort of law acapella group but really a Democratic attorney generals' doo-wop group sounds pretty fantastic.

Imani Gandy: Right?

Jessica Pieklo: Anyways, I was in law nerd heaven and I recorded it all for the pod.

Imani Gandy: It's a very good interview. Ellen Rosenblum is amazing and, Jess, you can definitely tell that you were having a law nerd moment with being able to talk about admin law with the Oregon Democratic AG.

Jessica Pieklo: Fellow law nerds, I am thrilled to introduce you all to Oregon Attorney General Ellen Rosenblum. She's the first woman to serve as attorney general for the state of Oregon. She was elected first in 2012 and then reelected again in 2016.

She co-chairs the Democratic Attorney General's Association, which elected the most diverse class of Democratic AGs in the history in 2018. Big applause for that.

Her office has taken on the Trump administration's effort to roll back access to reproductive health care along with other attorney generals, Attorney General Rosenblum has sued to block both the administration's attacks on Title X family planning funding and more recently sued to block the "refusal rules" that would allow nearly anyone working in health care services to refuse care based on religious or moral objections.

Thank you so much for joining us. I am thrilled to talk to you.

Ellen Rosenblum: Thank you for having me.

Jessica Pieklo: My first question as an attorney and a journalist and a person in the world is what is it like to sue the Trump administration?

Ellen Rosenblum: Wow. Well, we've gotten kind of used to it at this point. You know, we, of course, always wish that we didn't have to sue anybody and that we could just get our way and get things resolved without a lawsuit. For example, in our

consumer protection work we're always about education and prevention before suing.

However, when it comes to the Trump administration I will have to tell you that we've been very successful going to the courts. Thankfully we have fabulous judges in this country who are willing to spend the time to prepare themselves and to understand and listen well to us. We feel that it's a very important part of our work. How does it feel? It kind of feels pretty good actually.

Jessica Pieklo: Yeah? I mean, I can imagine. On the one hand, I totally get it. Nobody wants to be in the position of going to court, right? When I was practicing law one of the things we would always tell clients is we are going to do everything we can to try and avoid that scenario but the courts are there for a reason and they're important to that.

Ellen Rosenblum: If I might, just in the area of some of the lawsuits that we've brought a lot of times there's a whole process that goes on, for example, after a rule is issued by a federal agency. It takes a while before we're even allowed to go to court. We have to go through a whole process of commenting, which takes a certain number of days to have that process open and then, of course, the agency has to read the comments and then respond.

By the time we sue we've usually been pretty engaged in the issue and have done lots of things, as I said, to try to prevent having to sue.

Jessica Pieklo: On the podcast we've talked about that administrative rule making process. I'm a huge administrative law nerd.

Ellen Rosenblum: Oh my gosh.

Jessica Pieklo: I could go on and on about arbitrary and capricious for hours. I love it. In fact, I think that the Administrative Procedures Act has been a really important tool in combating some of the worst impulses from the administration right now.

Ellen Rosenblum: Absolutely. It has been.

Jessica Pieklo: It was interesting to hear you mention the noticing comment period. What would your office do during that process? You know, as we've talked to with our listeners that's when they can contact their representatives and the agencies and sort of do their citizen advocacy. How is your office involved then?

Ellen Rosenblum: Well, it's really quite similar. If we choose to participate in the comment process sometimes our office will actually draft some proposed comments, circulate them among the Democratic AGs. There's now 24 of us. Excuse me. 27 of us. I apologize. I'm going back to last year.

We now have 27 Democratic AGs so it takes a little while to circulate the proposed comments and my office, being a small state of course, we aren't always going to be in the lead on that. We often then will receive the proposed draft.

We'll review those and we will have a certain number of days internally among the AGs to either make some edits or agree or decide otherwise. Typically, we will agree perhaps with some ideas of our own that we'll weigh in on. Then those comments get submitted just like anybody else's do.

Jessica Pieklo: Interesting.

Ellen Rosenblum: We just happen to be a group that is interested just like any other public member would be.

Jessica Pieklo: I'm really fascinated by this idea of cross-coalition work and attorneys general from different states working together. I noticed, for example, you put out a statement recently in reaction to the wave of very extreme abortion bans that we've seen across the country in places like Georgia and Alabama and stuff. What can attorneys general in places like Oregon and California and Washington how are your offices able to help and advocate in those spaces?

Ellen Rosenblum: Well, all of the Democratic attorneys general who are available, and it's typically all of us, at least with high level staff if not ourselves, speak once a week by phone.

Jessica Pieklo: Okay.

Ellen Rosenblum: We actually do a round table phone call every Tuesday morning. We are always talking about what we're doing and trying to make sure that we're on the same page, that we can help each other out. We can sign on if it's a letter. We can join comments. We can lead on an amicus brief if we're not otherwise parties. Then, of course, we can join together in lawsuits that we're looking at filing or at least be aware that another AG is in the process of perhaps filing their own separate lawsuits.

We don't have any rules in this regard. It's more just a matter of collegiality and collaboration and we really enjoy working together. We get to know each other personally at these meetings, like the one that we're at now. We're very comfortable I think about sharing information. Of course, if we're actually in a lawsuit then we need to get a common interest agreement so that certain confidentialities can be maintained.

Jessica Pieklo: That's fascinating to me because there are just so many moving parts, right? Especially if you think of attorneys general offices as sort of the law firms of the state, right?

Ellen Rosenblum: Right. Mm-hmm (affirmative).

Jessica Pieklo: And working across boundaries in that sense. We've talked a little bit about the work you do before if you end up going to court but let's say we end up in litigation and I'm a former litigator and so I sometimes joke that I kind of miss that world.

I have to ask this question because I was in court, do you or your staff attorneys have things that you do to psych yourselves up to get ready for oral arguments? One of my mentors told me that when I felt like ... When I no longer felt like I was going to throw up before presenting an oral argument in court then that was time to sort of hang up my hat, that I had sort of lost my edge and it was time to go. What about your office?

Ellen Rosenblum: Well, it's always good to get the adrenaline pumping. I will say that I rarely am the one who goes to court and actually makes the arguments but I have gone a few times recently to carry the briefcases of my top lawyers who do make the arguments and I actually did make the opening statement in the recent Title X gag rule case that we ... As you indicated, we handled that on behalf of 21 states and we were also there with co-plaintiffs, the American Medical Association and Planned Parenthood in federal court in Portland. I did have the thrill, if you will, of getting to speak in open court again.

But having been a judge myself prior to becoming attorney general I am delighted to defer to my brainiacs who go to court. I'm sure they get those stomach flutters still. I know that that's just part of the name of the game when it comes to being a litigator or an appellate advocate for that matter.

I have an amazing solicitor general who, of course, is the lead on our appeals, Ben Gutman, and every AG does as well. Of course, we typically defer to them. Now if a case goes to the United States Supreme Court that could be a different matter but we haven't had one of those in a while.

Jessica Pieklo: Well, if it does maybe we'll work together on the playlist because one of the favorite things I used to do was make playlists for each of my cases. I would get myself completely in the zone.

Ellen Rosenblum: Love it. I love it.

Jessica Pieklo: We'll work on some sort of ...

Ellen Rosenblum: As you said, it's important to get a little nervous, get that adrenaline pumping, and I just am so proud of the lawyers who we all have representing the different states on these cases.

Jessica Pieklo: Your office is doing so much right now on so many different issues and Imani and I often hear from our listeners and our readers who are feeling just sort of

overwhelmed by the news, by it seems like there's sort of ... It's relentless. It's not sort of relentless. It very much is relentless.

Do you have advice or thoughts for our listeners on just how to hang in there through all of this?

Ellen Rosenblum: Oh my gosh. Well, I want to thank you because I think one of the things that's really valuable is to have people like you ...

Jessica Pieklo: Oh, thank you.

Ellen Rosenblum: Who actually understand the law and can also translate it into maybe a little bit easier understanding for the general public because it can be sort of overwhelming. Like what does that mean? You're that medium that can do that.

Jessica Pieklo: Thank you.

Ellen Rosenblum: Really appreciate that.

Jessica Pieklo: Mutual admiration society.

Ellen Rosenblum: Also, I really think that it's great that there's been so much activism in the sense of just people finding something to do that makes them feel like they are contributing to at least being informed, if not acting.

Take an organization like Indivisible. I assume you're familiar with that. So many people in my state have joined Indivisible groups. They've invited me to come and speak to them and many others and they are literally at the offices of our senators pretty much every Tuesday morning. Not to demonstrate but to get information and to provide information about the issues that they really care about.

I think that the more you can be actively involved and then also take a break. You have to take a break.

Jessica Pieklo: Yeah. You really do.

Ellen Rosenblum: You don't have to watch the news every single night. Even I take a break every once in a while.

Jessica Pieklo: Yeah.

Ellen Rosenblum: From that because it can be overwhelming. Look, it's been going on now for a while. The thing I don't want to see is I don't want to see total burnout to the point where people no longer care. We cannot afford that. We have to keep fighting, we have to keep at it. The state attorney's general, the Democratic attorneys general will keep doing that for the people but it's really important

that we have your back and you have ours as we move this along and try to keep things from getting so bad that we can't ever recover.

Jessica Pieklo: The taking a break is so important and it feels really hard sometimes to do that.

Ellen Rosenblum: Yup.

Jessica Pieklo: I appreciate your home state because I am a diehard women's soccer fan.

Ellen Rosenblum: Yes.

Jessica Pieklo: I love the Thorns.

Ellen Rosenblum: I have season tickets.

Jessica Pieklo: Yay. That's the greatest. I feel like I should end the interview on that note right there. What do you do to take a break, though? I mean, as someone who is absolutely in the thick of it how are you handling and what are you doing so that you don't burnout? Because we need you not to.

Ellen Rosenblum: Oh, thank you. Well, I get energy from what I do so that's a good thing. My husband sometimes wonders if I need more sleep but I think I get my six to seven hours a night.

I personally love to sing so I'll sing every opportunity I can get. I adore my two little grandchildren so I get to spend time with them. You know, taking walks is really the best thing for me.

Jessica Pieklo: What's your favorite thing to sing?

Ellen Rosenblum: Oh, my favorite thing to sing? Well, I love Broadway musicals so I, as a kid, memorized just about every one.

Jessica Pieklo: I don't suppose I can talk you into giving me like 12 bars quick. Can I?

Ellen Rosenblum: Oh my gosh. Probably not.

Jessica Pieklo: I had to ask. It's fine.

Ellen Rosenblum: How about this? [Sings a line from the Sound of Music].

Jessica Pieklo: Fellow law nerds, I am done here. That was amazing. Thank you so much.

Ellen Rosenblum: All right. One of my favorite musicals.

Jessica Pieklo: This has been a thrill. Thank you so much.

Ellen Rosenblum: Thanks for having me.

Jessica Pieklo: Absolutely.

Ellen Rosenblum: I hope this is helpful to your listeners. I just want to tell everybody thank you for hanging in with us.

Jessica Pieklo: Where can our listeners go find out more information about what your coalition is doing?

Ellen Rosenblum: Well, DAGA, Democratic Attorney General Association, has a website. That's one place that you can go. I think you can go to any state attorneys general website or it's very easy to contact us. We're public officials. We're very accessible. We pride ourselves on that. We all have staff who would be more than happy, our communications staff, to talk with anyone who would like to be in touch with us. Please feel free. We have Twitter and Facebook at Democratic AGs. We look forward to hearing from you all.

Jessica Pieklo: Excellent. Thank you so much for your time and go Thorns.

Ellen Rosenblum: Yes.

Imani Gandy: What I found really, really interesting about that interview is the ways in which different Democratic AGs are sort of coming together to make the rule of law better for all of us. I found that really fascinating.

Jessica Pieklo: Absolutely. Especially at a time when we are seeing so many really extreme attacks on our rights in various places it's good to know that if you live in a state like Oregon or California or Colorado that our elected officials are doing what they can to help our friends in places like Alabama and Mississippi and Georgia. That is important.

Imani Gandy: It is important and it's also pretty heartening to hear how positive she is about the work that she's doing and how positive she is about collaborating with other Democratic AGs to move this country forward in a way that, I don't know, doesn't hurt the most vulnerable among us. I found her sort of energy very energizing.

Jessica Pieklo: She is just really a delight. I mean, I probably could have talked to her for two hours on admin law alone and another hour on women's soccer. I mean, she was just really fantastic. I'm sad I didn't ask her who her favorite Thorns player was. I had all my Thorns gear on my work bag. I'm kind of a super fan. I let that go. I could have gone all in.

Imani Gandy: I'm not a huge soccer fan and maybe some of our listeners aren't either so you should probably explain who and what the Thorns are.

Jessica Pieklo: Sorry. See, I got so excited I got so distracted. The attorney general is a season ticket holder for the Portland Thorns. That is Oregon's professional women's soccer team. We got a moment to, as you can imagine, transition from admin law to professional women's soccer and what else do I need, Imani? We should have cracked a beer.

Imani Gandy: That's all you need. Admin law and soccer. It's like the sexiest things you could possibly want to talk about.

Jessica Pieklo: It was really nice too just to have a chance of pace and focus on something that was how folks really are pushing back against this. We've reported a lot of really bad news recently and it was nice to exist in a space of it's not all dire. There are avenues to push back and to fight back.

Imani Gandy: That's going to wrap up our episode for today. If you want to talk more about Ellen Rosenblum or the Sound of Music or professional women's soccer you can follow me @AngryBlackLady on Twitter, you can follow Jess on Twitter @Hegemommy, H-E-G-E-M-O-M-M-Y. Bit of advice, don't ask me about women's soccer. Direct all the women's soccer questions to Jess.

Jessica Pieklo: I got you there.

Imani Gandy: You can also follow Rewire.News @Rewire\_News. Join our Facebook group. Answer the questions, the new questions. We've got new questions. They're fun. We will let you right in.

Aside from that, I guess we will see you on the tubes.

Jessica Pieklo: See you on the tubes.

Boom! Lawyered is created and hosted by Jessica Mason Pieklo and Imani Gandy. This episode was produced by Marc Faletti, who is also our executive producer, and the Rewire.News editor-in-chief is Jodi Jacobson.