

[Boom! Lawyered: Scalia's Son May Be Trump's New Tool \(to Dismantle Civil Rights\)](#)

- Imani Gandy: Hello fellow law nerds. Welcome to another episode of Boom! Lawyered, a Rewire.News Podcast hosted by the legal journalism team that feels really targeted by what's going on with the federal judiciary right now, and like, I really would just like a break. We can't keep up. I'm Imani Gandy.
- Jessica Pieklo: And 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. A big thanks to our subscribers and a welcome to our new listeners.
- Imani Gandy: Jess, being us is so hard.
- Jessica Pieklo: Well, okay, what do you mean?
- Imani Gandy: Well, here we are essentially watching the collapse of civilization as we know it and we totally called it. It's like we were screaming about the courts for seven years and so few people were listening. Now, all this terrible shit that we've been screaming about is coming to pass. It's like, I just want to scream at everyone, "We told you so." What's the point in that? Being right in this situation is the actual worst.
- Jessica Pieklo: Yeah, it sucks.
- Imani Gandy: I don't want to yell at people, "I told you so." I just want to go back to 2016 and slap everyone who said that the courts will be fine upside the head, but I'm not allowed to slap people upside the head because apparently that's assault. Besides, I'm not a violent person anyway. I mean, I slapped someone across the face in fourth grade and that's the last time I've ever laid a hand on anyone.
- Jessica Pieklo: I mean, you can take it out and yell at people on Twitter, right?
- Imani Gandy: Yeah, I do and that helps, but I would rather people have listened to us when it wasn't too late to stop all of this horrible shit from happening.
- Jessica Pieklo: Well, you know, we have more horrible shit happening and I suppose we should probably tell our listeners this week what that horrible shit is.
- Imani Gandy: Well, you tell them. I don't want to tell them. I'm just going to silent scream while you tell them.
- Jessica Pieklo: In this episode we are going to tell you about a terrible, terrible, terrible rule proposed by the Department of Labor that would basically allow any federal contractor to operate like a religious employer, which means they could discriminate in hiring and firing folks for example. Imani, it gets worse.

Imani Gandy: It always gets worse and I'm just going to keep silent screaming.

Jessica Pieklo: Not only would this rule potentially gut civil rights protections for the employees of the more than 42,000 businesses that hold a federal contract. The Trump administration is trying to speed up the entire rulemaking process and just jam it through without hardly anyone noticing. We're going to talk about that nonsense on this episode too.

Imani Gandy: We're also going to talk about who is going to be in charge of enforcing this law and why that person's well-known father might be rolling in his grave right now.

Jessica Pieklo: Are you going to tell our listeners who that well-known father is, Imani?

Imani Gandy: I mean, I don't want to give it away just yet, but his name rhymes with Schmantonin Schmalia.

Jessica Pieklo: I'm pretty sure that just gave it away. Literally, everyone listening to this podcast has already figured out who it is, I think.

Imani Gandy: What are you talking about? Schmantonin Schmalia is a very, very elusive way... God damn it. I've been foiled again. Foiled again.

[break]

Jessica Pieklo: All right, Imani, we have got another action-packed episode focused on administrative law. Administrative law! The neighbor's dogs just heard me. I squealed so loud about administrative law. Where do we begin?

Imani Gandy: Well, first we're going to begin with you calming down for a second.

Jessica Pieklo: No, impossible.

Imani Gandy: I know administrative law is your jam, but this rule is complicated so we've got a lot to walk through. Just simmer down, simmer down now just a little bit. Federal contractors like many employers cannot discriminate against their employees based on their race, their sex, their religion, their disability status or national origin status.

Jessica Pieklo: Yup, that is unless they are a religious organization, then they have an exemption from that requirement.

Imani Gandy: Well, the Department of Labor has proposed a rule that dramatically expands which federal contractors qualify as a religious employer. If this rule is allowed to take effect, it could gut civil rights protections for the employees of more than 42,000 businesses that hold a federal contract.

Jessica Pieklo: One of the reasons why this proposed rule is such a big deal is because federal contractors often set labor policy more broadly. Starting here by the Trump administration is a way to push the market in this general policy direction. It's real, real bad.

Imani Gandy: More, more, more, bad, bad, bad.

Jessica Pieklo: More, more, more, bad, bad, bad on a mug with gin.

Imani Gandy: On a mug, with gin in the mug. This rule that the Trump administration has proposed, what exactly would it do if the administration got its way?

Jessica Pieklo: In a nutshell? Unwind over 50 years of civil rights advancements in the workplace, for example.

Imani Gandy: Well, fantastic. That's not a big deal at all. Why are we even doing a podcast on this? It's no big deal.

Jessica Pieklo: No big deal. Let's give some background. In 1965, President Lyndon Johnson signed Executive Order 11246. That executive order prohibited contractors from discriminating against people on the basis of their race, similar to protections individuals got as part of the Civil Rights Act. The idea was to make sure that taxpayer funded contracts only went to businesses that were hiring a diverse workforce at the time. I know this is going to shock you, Imani, but a lot of federal contractors were refusing to hire black employees.

Imani Gandy: What? Shut your mouth.

Jessica Pieklo: It's true.

Imani Gandy: I can hardly believe it. Jess, 1965 was the golden age for black people in this country. It was free and fair and everyone had jobs and there was no discrimination. Certainly, there was no racism to speak of. I mean, what are you even talking about?

Jessica Pieklo: Absolutely. Absolutely. We've got this executive order that establishes wild federal laws creating and expanding civil rights protections in the workplace. We've got this executive order. That gets expanded to other protected class characteristics that we've talked about on this show before like sex, religion, disability, and national origin.

Imani Gandy: Then in 2014, President Obama's Labor Department expanded those protections to include gender identity and sexual orientation.

Jessica Pieklo: Jazz hands for that move.

Imani Gandy: Jazz hands. Now, all along, there was an exemption for religious employers. Historically, that exemption was interpreted narrowly to apply only to nonprofit organizations like churches, religious schools, and those kinds of businesses.

Jessica Pieklo: That exemption itself was also narrow and allowed only businesses to refuse to hire people who didn't share their faith, for example.

Imani Gandy: Quite frankly, that's just fucking fine with me, right? I mean, it makes sense to me if you are a Catholic church, for example. It's fine if you want to only hire other people who adhere to your Catholic beliefs if you are a nonprofit, if you are a church, if you are a religious school, that seems fine to me.

Jessica Pieklo: Yeah, well, Imani, things aren't fine anymore. I hate to tell you, they're just not fine anymore.

Imani Gandy: Not surprising.

Jessica Pieklo: The Trump administration is trying to blow this entire exemption up. Let's tell you how. First of all, this proposed rule greatly expands the definition of religion. Now instead of understanding religion in the context of an organized faith group, for example, religion includes, "All aspects of religious belief, observance and practice..." Here's the kicker, "...as understood by the employer." My God.

Imani Gandy: Essentially, you're telling me that whatever the employer considers to be religious belief, observance and practices, that's just fine. That counts as religion now, and then they are able to obtain exemptions from these laws prohibiting discrimination on the basis of these characteristics, right? Whatever the employer says goes?

Jessica Pieklo: That's exactly what I'm telling you, Imani. The rule, it gets worse. The rule would clarify, again, "clarify," love the Trump administration clarifying anything. There's no fuckery happening here. The rule clarified that the religious exemption allows religious contractors not only to prefer an employment individuals who share their religion, for example, right? But also to condition employment on acceptance of or adherence to religious tenets, again, as understood by the employing contractor.

Imani Gandy: Let's say you're a Catholic hospital, and you contract with the federal government by accepting Medicare. You could refuse to hire people of a different faith or someone in the same sex marriage, or maybe you could fire them if you found out somehow that they were single and using contraception. I mean, hell, evangelicals objected on religious grounds to interracial marriage at one point, so a Catholic hospital then could use their religion to restrict what care they give but also who provides that care. Let's give another example. Let's say there's a construction company that has been hired to renovate a government building.

Jessica Pieklo: Happens all the time. Those buildings are old. They need a lot of work.

Imani Gandy: They really are, they really do. That construction company could insist on hiring only, for example, Christian men, because that construction company doesn't believe that women should be working outside the home.

Jessica Pieklo: My stomach hurts.

Imani Gandy: That's what this law will allow. We are regressing, people.

Jessica Pieklo: We're not even done yet talking about it. The rule also expands, greatly expands, who is a religious employer and drops the distinction between for-profit and nonprofit businesses. The administration argues that several Supreme Court decisions like Hobby Lobby and Masterpiece Cakeshop have expanded the legal understanding of which companies count as religious, and therefore, this is cool.

Imani Gandy: Let's just talk about some of these cases real quick because we've talked about some of them on this podcast before, but it's always good to have a refresher.

Jessica Pieklo: I'm going to silently scream. You talk about the cases. I need to silent scream for a while.

Imani Gandy: It's only fair. Hobby Lobby was the case that closely held for-profit corporations could claim a religious exemption from the birth control coverage requirements of the Affordable Care Act.

Masterpiece Cakeshop was the case that held that the Colorado Civil Rights Commission exhibited hostility to religion when it decided that an anti-discrimination law prevented a baker from refusing to bake cakes for a gay couple. I mean, it's just really, really sad when people are mean to religion and therefore don't want you to discriminate against gay people.

There are a couple other cases, ones that we haven't discussed as in depth but ones that are important nonetheless. One is called Trinity Lutheran. We have talked about that one a little bit. That case said that providing federal grant dollars to a church was not a violation of the Establishment Clause.

Let me repeat that. Giving federal money to a church was not a violation of the Establishment Clause because that church had a playground or some shit and this grant money was supposed to go to tire swings or kickball balls or whatever the hell you can find on playgrounds. Federal money to a church is perfectly fine according to Trinity Lutheran! Then there's another case called Hosanna-Tabor Evangelical Lutheran Church versus EEOC. That case Hosanna recognized a ministerial exception to compliance with federal anti-discrimination laws. A ministerial exception essentially means that if you're a minister or someone that the church has categorized as a minister and you're providing ministerial

services to people, then a church can require you to be of a specific faith if you're going to work at that church. You have to be Lutheran if you're going to work at Hosanna-Tabor Evangelical Lutheran Church. I must say, this is an aside, but whenever I think of Hosanna-Tabor, I cannot stop singing Toto lyrics, right? I cannot stop singing.

Jessica Pieklo: It's been amazing all week.

Imani Gandy: [Singing] All I want to do when I wake up in the morning is see your eyes.
Hosanna, Hosanna.

Jessica Pieklo: Hosanna!

Imani Gandy: I don't know why I love that. I actually really unironically like that song. Black people like Toto too, I guess, is the lesson here. All of these cases, right? Hobby Lobby, Masterpiece Cakeshop, Trinity Lutheran and Hosanna-Tabor, all of these cases should make you really, really nervous because the court is essentially blowing holes through the Establishment Clause. The court is blowing holes through the general idea that there should be separation of church and state, and is blowing holes through the idea that one person's religious exercise cannot be used to harm another person. You've got these religious exemptions that are being handed out freely and the government is essentially entangling itself in religion, which is exactly what the Establishment Clause says that the government cannot do.

Jessica Pieklo: It's doing it all in the name of what it says is advancing the free exercise clause, so it's completely up ending First Amendment law as we know it. I want to go back to this ministerial exception because the proposed rule does something on this that's really broad and really messed up. This exemption now proposed by the Trump administration would cover not just churches but employers that are organized for a religious purpose hold themselves out to the public as carrying out a religious purpose, and engage in the exercise of religion consistent with, and in furtherance of, a religious purpose.

Imani Gandy: The proposed rule also cites the terrible "Religious Liberty" Executive Orders that Trump has enacted, including the new enforcement division over at the department of health and human services, which is run by Roger Severino. We did a podcast about him with respect to his trailblazing path to ensure that trans people aren't recognized as human because Roger Severino is terrible.

Jessica Pieklo: Roge is a real piece of work. This is the guy who keeps a crucifix in his government office and a bobblehead of Justice Clarence Thomas on his desk. He's the guy.

Imani Gandy: Why? Why? Why do you need a Clarence Thomas bobblehead? I still don't understand that.

Jessica Pieklo: This is the guy, this is the guy who the Trump administration is looking to for some support in proposing this rule.

Imani Gandy: The proposed rule also says that, "Employers can condition employment on acceptance of or adherence to religious tenets without sanction by the federal government provided that they do not discriminate based on other protected bases."

Jessica Pieklo: Okay, hold up. On the surface though, that doesn't sound that bad. It sounds like what the Trump administration says is that, sure, employers can make you work in effectively a religious workplace as they deem it by however, like complying by its policies, adhering to the same faith, but they can't really condition that if you are a member of an already protected class. Based on your race, based on your sex. I don't know, that sounds okay but with everything that this administration does, it's not. The devil is in the details. It's clear in the enforcement provision that this is going to be a blank check for federal contractors, isn't it?

Imani Gandy: Yeah. Yeah, pretty much. The proposed rule makes it clear that the company need not even be primarily religion oriented. It only needs to declare itself to be religious, "in response to inquiries from a member of the public or a government entity."

Jessica Pieklo: Inquiries from a member of the public or government entity. "Hey Imani."

Imani Gandy: "Hey, hey Jess, are you a religious company? Oh, you are? Perfect. Discriminate against me." What?

Jessica Pieklo: I mean, I do. I imagine Roger Severino sitting there with Clarence Thomas bobblehead by his side calling up an employer who has just been accused of firing someone on the basis of their sex and saying, "We have a complaint that you have engaged in unlawful sex discrimination. Can you tell me, are you a religious employer?"

Imani Gandy: God, it's so terrible. It's not funny. It's only funny in how awful it is and how ridiculously transparent it is. Also, when you think about it, one of the things that Hobby Lobby did in order to prop up their claim that they were a religiously affiliated employer is they said stuff like, "We take out full page ads in the local newspaper on Easter and we close all of our stores so people don't have to work on the Easter holiday," or you know, "In the retail music that we play in our store, we don't play gangster rap. There's no Jay-Z or Young Weezy playing in the Hobby Lobby stores.

Jessica Pieklo: [laughing] Young Weezy in the Hobby Lobby.

Imani Gandy: It's just all Jonas Brothers and other like... I know, I know you like the Jonas Brothers. Thou shalt not shade the Jonas Brothers.

Jessica Pieklo: Did you see how quickly I reacted to that?

Imani Gandy: You're like, "hey, excuse me lady. Don't talk shit about my Jonas Brothers." Think of any Christian rock band or any sort of Christian rock music. Playing that music in the Hobby Lobby store was a testament to their religious organization, their religious sort of, I don't know, zeitgeists. It's absurd. It's absurd.

Jessica Pieklo: It's so bad.

Imani Gandy: Okay, so moving on.

This is the proposed rule, which means that administrative law is involved, which means we're going to be talking about things like a notice and comment period, Jess. We're also going to be talking about, we're going to be talking about, wait for it. Wait for it. Arbitrary and capricious.

Jessica Pieklo: Yes, yes, can I do this part, Imani? I'm going to do this part. I'm sorry. I got to do this part.

Imani Gandy: Okay. All right, Jess. I can tell that you're very excited about the notice and comment part, so I'm just going to let you jump in and just take it from here. Take it away.

Jessica Pieklo: Most proposed rules have a 60 day comment period. Really complicated ones or ones that make real big changes in policy can have even longer, and that makes sense, right? This process like we've talked about is a way to hold the agency accountable. It's to inform them this is agency's heads aren't elected, for example. Right? This is how we as everyday folks participate in the agency process that moves our democracy along. This proposed rule that we just spent, I don't know, 15 minutes or so breaking down just how terrible it is, the comment period is 30 days. 30 days. 30 days! That's it. That is it. That is bonkers, 30 days. The administration is proposing up-ending 50-ish years—I'm just going to spitball there—50-ish years of civil rights law and going to give us folks 30 days, a month total to comment on it.

Imani Gandy: The comment period closes on September 16th, so that means the rule was proposed in the middle of August, which is when like no one's really around or paying attention. It's the middle of summer. August is notoriously known for being a slow news period. Congress is on vacation doing whatever the hell they do when they're on vacation. You got 30 days to go through this. It's a rather lengthy rule as well with tons and tons of citations to law, to cases. You're supposed to read that rule, formulate a comment about it, and respond to the Department of Labor's notice and comment period within 30 days, 30 days.

Jessica Pieklo: It feels intentional. It feels intentional.

Imani Gandy: You think? Yeah, yeah, I think it is intentional. They're hoping people won't notice. Frankly, with all of the abortion rights shit that's going on and all of the other, the anti LGBT stuff and the immigration stuff, there's just this firehose of fuckery that is spewing from the White House and it's virtually impossible to keep track of it all. Stuff like up ending 50-ish years of civil rights protection goes unnoticed.

Jessica Pieklo: From now until next week, that's it. Next week the administration is supposed to be collecting comments from the public about the impact the rule will have. That's not just like, I disagree, this rule is garbage or I think it's super awesome, being a bigot is great. Comments with the kind of substantive information, right? Analysis provided by business groups. For example, information that would be useful for the agency, in this case, the Department of Labor to meaningfully assess the proposed change. That's what this period, timeframe is supposed to do to let the agency do its job and it's signaled it's not really interested in doing its job. It's bonkers.

Imani Gandy: Next level, next level bonkers.

Jessica Pieklo: Oh, but let's level up even now.

Imani Gandy: Oh God. I don't want to level up.

Jessica Pieklo: You know who is going to be in charge of enforcing this rule? We hinted at it. Antonin Scalia's son.

Imani Gandy: Oh my God.

Jessica Pieklo: Scalia's spawn. The spawn of Scalia.

Imani Gandy: The spawn of Scalia.

Jessica Pieklo: He may be the guy in charge of enforcing this rule should it get enacted.

Imani Gandy: Oh my God, it makes my head hurt. Okay, so Trump confirmed last week that he plans to nominate Eugene Scalia, son of the late Supreme Court Justice Antonin Scalia, rhymes with Schmantonin Schmalia, to head up the Department of Labor. Right? Eugene Scalia, Scalia's son is going to head up the Department of Labor. Why? What is happening? Who is this guy? Who is Eugene Scalia?

Jessica Pieklo: Okay, Eugene, Gene, I don't know. We've got a Gene boy.

Imani Gandy: We got to figure out how he likes to be addressed.

Jessica Pieklo: Euge, Genie.

Imani Gandy: Genie.

Jessica Pieklo: He's currently a partner at the law firm of Gibson, Dunn, and Crutcher. From 1992 to 1993, he served under then and now current Attorney General Bill Barr. That's totally fine.

Imani Gandy: It's absolutely fine because you know what Bill Barr is? He is an upstanding member of the public community. He's a public servant. He means well. He always follows the law. He's definitely committed to holding the Trump administration accountable for their misdeeds and wouldn't ever, ever dream of misleading the public when it comes to something regarding the Trump administration. He's just a really... I can't, I can't, I can't even get through it.

Jessica Pieklo: You're really going for it.

Imani Gandy: I was. I was trying, I was trying but you know, Bill Barr is terrible. I mean, we thought Sessions was terrible. Bill Barr is fricking terrible.

Jessica Pieklo: There are days when I am consistently amazed that in this narrative, Jeff Sessions is the least terrible attorney general on the timeline but we digress. We digress. Why would Trump choose Gene, Eugene Scalia? Genie. He's got, this will not surprise you, a decades long—decades long, tens and tens and tens of years long—record of challenging labor department and other federal regulations. He's basically the guy you nominate to break the agency you're going to put them in charge of.

Imani Gandy: Trump first floated his name in mid-July, less than a week after his previous secretary, Alexander Acosta said that he-

Jessica Pieklo: That guy's terrible.

Imani Gandy: Said that he would resign after renewed criticism of how he had handled a 2008 secret plea deal with Jeffrey Epstein when Acosta was a federal prosecutor in Florida. For those of you who don't know or who are being assailed by so much shit that you can't remember, Jeffrey Epstein is that vile human being who was essentially running a sex trafficking ring and mysteriously wound up dead in his jail cell a couple few weeks ago. That's an interesting tidbit.

Jessica Pieklo: A couple few weeks ago is exactly how my grandmother went-

Imani Gandy: I love that.

Jessica Pieklo: A couple few weeks ago is about how time works in the Trump administration.

Imani Gandy: Seriously, stuff that happened three months ago it feels like it happened a year ago. I just cannot keep anything straight. Back to Gene boy Scalia, unless something goes sideways, Eugene Scalia is going to be the next head of the Department of Labor, and that's going to set up an epic battle with his dad.

Jessica Pieklo: Wait, hold on, hold on, hold on. Antonin Scalia has been dead for a couple of years now, and as much as I love this whole narrative, how the hell can Eugene Scalia have a fight with his dead dad, Imani?

Imani Gandy: All right, let's break it down. Scalia versus Scalia knockout! Okay. Let's just talk about how absolutely bizarre this is.

Most conservatives would list Antonin Scalia as their “#MostFavoriteJudgeEver.” Even so, a lot of conservatives have questioned his commitment to the right-wing framework of religious liberty, especially after he wrote the majority opinion in a case called Employment Division versus Smith. In that case, to hear some conservatives tell it, Scalia just set the entire free exercise clause of the First Amendment on fire.

Jessica Pieklo: Just torched it.

Imani Gandy: Torched it.

Jessica Pieklo: Yup, yup, yup. A lot of conservatives were big mad at Scalia for his decision in Smith, Imani. You should explain why to our listeners.

Imani Gandy: They were big mad indeed. In Smith, two native Americans were denied unemployment benefits from the state of Oregon because they were fired for using peyote in their religious practice. For those who don't know, peyote is a cactus that has hallucinogenic properties.

Jessica Pieklo: I'm just fantasizing about some hallucinogenic properties right now. I'm not even going to lie.

Imani Gandy: I could use some hallucinogenic properties right now. You know what I'm saying?

These two native Americans challenged this Oregon law that banned the use of peyote. Scalia rule that the government can pass laws that burden religious exercise if those laws are, "neutral," and "generally applicable," meaning that it's a law that doesn't target anyone and therefore is neutral and it's also a law that applies to everyone, and therefore is generally applicable.

Jessica Pieklo: All right. I feel like I'm missing something here because that seems reasonable and I don't understand why conservatives' britches are all in a bunch about this.

Imani Gandy: Well, because they thought Scalia had just eviscerated the free exercise clause of the First Amendment. Prior to Scalia's ruling in Smith, the government had to provide religious exemptions from such laws, laws like banning the use of peyote or other generally applicable and neutral laws, unless the government could demonstrate that it had a compelling interest for the law and that the law was the least restrictive way of vindicating that state's compelling interest.

Jessica Pieklo: Okay, so we've got compelling interest. We've got least restrictive means. That sounds like strict scrutiny to me.

Imani Gandy: It sure does. It sounds exactly like strict scrutiny. Then Scalia came along and he said that if religious groups wanted an exemption from a generally applicable law, again, that means the law that applies to everyone, then they should seek a legislative remedy. That's exactly what they did. Religious groups band together with civil liberties groups. I mean we're talking like evangelical groups banding together with the ACLU to urge congress to pass RFRA.

Jessica Pieklo: RFRA is the Religious Freedom Restoration Act, and it says that governments should not substantially burden religious exercise without compelling justification. It basically re-instituted the compelling interest test for figuring out whether governments are burdening religion or not.

Imani Gandy: Ultimately, the fact that Scalia's son is going to be enforcing a law that runs contrary to Scalia's own constitutional jurisprudence, that's kind of delicious. That's kind of spicy. I'm here for that.

Jessica Pieklo: It is. It's a little hot.

Imani Gandy: Yeah, it's a little hot. A little hot around the collar. I mean, after all, laws banning discrimination are neutral laws. They don't target anyone and they're also generally applicable laws. They actually apply to everyone. Based on his opinion in Smith, Scalia would probably argue that requiring religious groups to follow anti-discrimination laws is not a free exercise issue. Now, his son Eugene Scalia is going to be the one enforcing a rule that says religious groups and self-identified religious organizations can exempt themselves from a neutral and generally applicable law. Do you know what that's like, Jess? The fact that Scalia's son is going to be going against what his own judicial philosophy was.

Jessica Pieklo: What's it like, Imani?

Imani Gandy: [singing] It's like 10,000 spoons when all you need is a knife. It's meeting the man of my dreams and then meeting his beautiful wife. Now, isn't it ironic?

Jessica Pieklo: Boom Lawyered the musical is so on it's way to happening.

Imani Gandy: It's like I can feel it bubbling up from my soul. I can just feel it, but enough of Boom Lawyered the Musical, Jess. Usually, when we have these super depressing episodes and we just leave with something like, I don't know, donate to abortion funds, which is absolutely something you should be doing. It's very, very important.

Jessica Pieklo: Drink a whiskey.

Imani Gandy: Drink a whiskey. Take a bath. Here we have something that you can actually do to push back against this bullshit.

Jessica Pieklo: Yes. Submit a comment. Tell the Department of Labor this is a terrible rule, and tell them why it's a terrible rule. On the show notes we will have a link where you can do that. This is directly telling the Trump administration that this is garbage. Now you may think that it doesn't matter, right? So what? I tell the Trump administration they're garbage all the time. How is this going to make it different? Well, submitting a comment in this process will help make the case in litigation that nobody wants this terrible rule. We have every reason to think that if it gets enacted, it's going to get challenged. Right? This is making the case for why it's garbage. This is the evidence that advocates are going to need that the administration didn't think about it, that they didn't take anybody's opinions and well-informed data that would get submitted into account. That's the arbitrary and capricious standards. Submit a comment. Do it. Tell them it's garbage. It is.

Imani Gandy: It is garbage. You should do it, please do it and yeah, I think that's going to end the episode for us today. If you want to talk about any of these garbage rules, you want to talk about the Department of Labor, you can find me on Twitter @AngryBlackLady. You can find Jess on Twitter @Hegemommy H-E-G-E-M-O-M-M-Y. You can follow Rewire.News @Rewire_News. You can also join our Facebook group, and people, I'm telling you all, you got to answer the question. There are about 50 people who've been trying to get in. I'm going to deny all of those people so you can apply again and just answer the questions. We're just trying to keep the space safe. Answer the question. One of the questions is going to ask you for some of our nicknames for Brad Kavanaugh. I don't even know his fucking name anymore, honestly don't. Brett Kavanaugh, Justice Kegstand, Justice Beerfunnel, Chugs McKaverton. I think someone said Brad McRaperson at one point. I mean, there are all kinds of names. Just come up with one of the names, and then this is also an answer to one of the questions, what are we going to do, Jess?

Jessica Pieklo: We're going to see on the tubes, folks.

Imani Gandy: We're going to see you on the dog on tubes, folks.

Jessica Pieklo: 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.