

Imani Gandy: Hello fellow law nerds. Welcome to our first episode of Boom! Lawyered in the year of our Lord, 2020. A Rewire.News podcast hosted by the legal journalism team that is already over it. It's just mid-January and I'm already over it. 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. And 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: It's a new year, Jess, and I have to say, even though it's only been two weeks or so, 2020 is definitely trying it. It's not like I expected 2020 to be a super fun year since it's an election year and I'm probably going to have an ulcer by spring, but I had hoped to at least ease into the terribleness, not to pop off with the terribleness immediately with a war with Iran or with Trump pretending that he wasn't really impeached because he doesn't feel like he was impeached.

Jessica Pieklo: Yeah. 2019 is definitely holding 2020's beer so far.

Imani Gandy: Right? And it's just like, ah, I can't take it.

Jessica Pieklo: That's the only appropriate response for 2020. Ahh!

Imani Gandy: Ahh! If 2019 was all about the fart noise, 2020 is all about the guttural scream.

Jessica Pieklo: Exactly. The primal, guttural screaming.

Imani Gandy: You know, so much of what we've covered on this podcast over the last couple of years is directly related to the Trump takeover of the courts.

Jessica Pieklo: Oh, totally.

Imani Gandy: We spent a lot of time last year talking about it. I certainly spent a lot of time ranting about it on Twitter, as you have, as well. And guess what? We're not done talking about it. We're going to talk about it in this episode.

Jessica Pieklo: No!

Imani Gandy: It may be a new year, but conservatives are up to their same old bullshit, but sprinkled with some new fresh hell. So that's exciting. Just the same old bullshit when it comes to packing the federal courts full of numpties. That includes a new dark money group launched by the head of the Federalist Society focused on Trump judges in 2020. And this new dark money group and the conservative strategy to win the courts for good is what we're going to talk about in this episode.

Jessica Pieklo: So Imani.

Imani Gandy: Oh God, here we go.

Jessica Pieklo: This is the news. Strap in. Leonard Leo recently announced he's stepping aside from the day to day operations over at the Federalist Society. You'd think that'd be good, right? Except he's doing that to focus on a new venture.

Imani Gandy: Oh no, that's definitely not good.

Jessica Pieklo: It's not at all. He's forming a dark money group that plans to advocate for conservative causes across the country. And guess what their first conservative cause is going to be, Imani.

Imani Gandy: To remove Trump as president?

Jessica Pieklo: Ha ha. Right? If only. No, it's going to be to get even more Trump judges appointed to the bench.

Imani Gandy: Fan-fricking-tastic.

Jessica Pieklo: Leonard Leo is one of the main architects of this conservative capture of the federal courts that Imani and I have been yelling about for years. With his guidance, the Federalist Society has transformed from this academic institution that was still really conservative to an advocacy organization that has become a clearing house for conservative judges.

Imani Gandy: And it's not like these are your parents' Republicans that Leo has helped install for lifetime appointments. Oh, no. We've got young, mostly white, and mostly male regressive ideologues. And a lot of them aren't even qualified to be judges.

Jessica Pieklo: Not even close.

Imani Gandy: Not even close! For example, most recently, Sarah Pitlyk was confirmed to a district court in Missouri. Right? This is a woman who has never tried a case, never taken a deposition, and never argued a motion.

Jessica Pieklo: Not even taken a deposition? You can be a first year associate at a law firm and take a deposition.

Imani Gandy: Honestly. And you know, the American Bar Association unanimously determined that she was not qualified to be a federal judge.

Jessica Pieklo: Well, you know, the ABA is totally a partisan, wildly ideologue-driven organization. Isn't it, Imani?

Imani Gandy: Yeah, yeah, absolutely. Yeah, the ABA is just in the pocket of like big Sanders. It's really not. It's a nonpartisan organization.

Jessica Pieklo: It's not. It's a bunch of lawyers getting together and figuring out like, how do we pass the state code of ethics and stuff like that. It's a volunteer organization.

Imani Gandy: Among many of Sarah Pitlyk's shortcomings, the ABA cited the quote absence of any trial or even real litigation experience. Like, did she moot court?

Jessica Pieklo: Right.

Imani Gandy: It's like she went to law school, graduated from law school, and then immediately got installed as a district court judge.

Jessica Pieklo: For life.

Imani Gandy: For life! That's bananas. But you know what, Jess? She clerked for Brad McBeer. Our old friend, Justice Kavanaugh, Justice Brad McBeer Raperson Kavanaugh. She clerked for him. So that's all fantastic. As long as you clerk for that jackass, then you've got a straight line, bee line, into the district courts. You know, I could be here all day if I listed all of the unqualified ding-dongs that Trump has appointed to the federal courts, but we don't have all day. So I'm going to stop. I'm going to stop.

Jessica Pieklo: And I mean, what? One out of four judges now is a Trump appointee to the federal courts of appeal and we got news to start the decade that they're still laser focused on the courts. This is terrible. Okay, so this new Leonard Leo venture is reportedly inspired by Arabella Advisors. That sounds very like ...

Imani Gandy: Oh, it sounds fancy. Like "Arabella Advisors, come do yoga with us at Arabella Advisors."

Jessica Pieklo: Totally something out of Westworld. But Arabella Advisors is a philanthropic consulting company for quote unquote left leaning nonprofits and individuals.

Imani Gandy: What does that even mean?

Jessica Pieklo: I don't know. I don't know. Left leading nonprofits and individuals sounds like, I don't know, reasonable fucking people. But what they do is help wealthy individuals, nonprofits, and corporations invest their money in projects and campaigns for things like clean water and mandatory paid sick leave. They're a relatively new group, but they've helped secure some early policy and electoral wins for Democrats. So I'm guessing that's why conservatives are coming for them.

Imani Gandy: That makes sense. Yeah, yeah.

Jessica Pieklo: Yeah, I mean, it's basically using the private sector to drive policy change. And Leonard Leo wants to do this, except now for conservative causes.

Imani Gandy: But don't, aren't ...

Jessica Pieklo: That's an exact reaction. Deep fucking sigh.

Imani Gandy: Don't conservatives already have people who do that, like the Koch brothers aren't enough for them? The Heritage Foundation isn't enough for them. The Cato society, Institute, whatever the fuck, isn't enough for them. Like, we've got to get dark money Federalist Society too. Why? Why?

Jessica Pieklo: We don't. Nobody asks for this, actually.

Imani Gandy: Nobody wants this.

Jessica Pieklo: ere is something that nobody asked for, is not needed, and it sounds like we're going to get anyway. So this new venture is going to be called CRC Advisors. And I guess Leo is going to stay on at the Federalist Society while also doing that. So he's going to have his hands in both of these pots at the same time. That going to be great.

Imani Gandy: Wonderful.

Jessica Pieklo: Oh, but it gets better. Hold on. So he's partnering with this guy named Greg Mueller, who already runs a conservative communications firm called CRC Public Relations.

Imani Gandy: Jess, what the hell is CRC Public Relations?

Jessica Pieklo: Yeah. Most people probably haven't heard of CRC Public Relations, but they might know some of their work.

Imani Gandy: Oh, I remember now. Aren't they the PR firm that was hired to discredit the sexual assault allegations against Brett Kavanaugh?

Jessica Pieklo: That's the one!

Imani Gandy: Justice Brad McBeer himself.

Jessica Pieklo: That's the one. It's really good.

Imani Gandy: Yeah, this, it's all coming back to me. Remember the time ... I'd forgotten about this, but then when I was reminded of it, I was like, "Oh my God. That was absurd." So do you remember the time that conservative legal activist, Ed Whelan, took to Twitter, not only to call Dr. Christine Blasey Ford a liar, but also to claim that he knew who her assailant was? Do you remember this?

Jessica Pieklo: There were so many memorable moments on Twitter from the Kavanaugh confirmation hearings, but this one really rose to the top. It is like the cherry on top of the shit sundae that was getting Kavanaugh confirmed for the right. It's so bonkers.

Imani Gandy: For our listeners who don't necessarily recall, Ed Whelan had this Twitter thread that he said exonerated Kavanaugh. In that thread, he shared a map of the homes surrounding where both Ford and Kavanaugh went to high school and he also shared floor maps of those homes from Zillow.

Jessica Pieklo: That's so bonkers!

Imani Gandy: From Zillow. He then used those maps to argue that the perpetrator wasn't Kavanaugh, but someone who looked a lot like Kavanaugh.

Jessica Pieklo: I mean, this is like a Reddit thread come to life, except it's a very prominent conservative legal scholar. It was so wild. And I remember like at the time, all of us were going, "Is he really using maps from Zillow? Like, this high profile dude, he's really like, pull it. That's a screenshot from Zillow with a circle from his McPaint."

Imani Gandy: Yeah, exactly. And he didn't stop there. He actually doxed Kavanaugh's doppelganger.

Jessica Pieklo: Oh God, that's right.

Imani Gandy: He posted the address and room layout of this guy's childhood home. He posted pictures of him. And he even posted his full name.

Jessica Pieklo: I totally remember that. I mean, it's the kind of Twitter shit posting you'd expect from Ginny Thomas after a box of wine or two. Right? Except, Imani, it was cooked up by Leonard Leo's new business partner. Like, these guys are going to do this together.

Imani Gandy: Oh, for God sakes.

Jessica Pieklo: I mean, I guess this is the kind of thing that we can expect leading into November and probably beyond, huh?

Imani Gandy: Yeah, pretty much.

Jessica Pieklo: Yeah.

Imani Gandy: Before getting Kavanaugh on the bench, in part by attacking the women accusing him of sexual assault and doxing innocent bystanders in the process.

Jessica Pieklo: That's just so bonkers.

Imani Gandy: Just so bananas. But CRC, aside from all that crap, was best known for its work with the Swift Boat Veterans in 2004. You remember the swiftboating situation from 2004? That was a doozy. So the Swift Boat Veterans were a dark money political group that attacked then presidential candidate John Kerry as being unfit for office because they say that he lied about certain incidents while serving in Vietnam that he was later awarded a silver star for. Like, do you remember this shit?

Jessica Pieklo: I do. One of the, as you say, one of the benefits of being old as dirt is that you realize that this stuff has been going on forever and it's so often the same players as it is. And some of our listeners may not be familiar with it, but it was a really big deal at the time and the Swift Boat Veterans were given credit for helping defeat John Kerry's run by running a bunch of these dishonest smear campaigns attacking his credibility.

Imani Gandy: So Leonard Leo, the guy who captured the federal courts for conservatives for a lifetime, the guy responsible for the fact that one in four appellate court judges are now Trump appointees that have pledged to overturn Roe vs Wade and who won't say that they think Brown vs Board of Education was rightly decided, which is in and of itself completely bonkers, that's the guy who is teaming up with the master mind abusing political shit posting and doxing as a campaign strategy. This is super great.

Jessica Pieklo: It's fine. It's fine. Everything's wonderful. It's going to be great.

Imani Gandy: Everything's on fire around us, but it's good.

Jessica Pieklo: It's fine, it's fine. And one of the first projects will be a minimum of a \$10 million issue advocacy campaign focusing on judges in the 2020 cycle. \$10 million just focused on judges in the next 11 months.

Imani Gandy: That's fricking fantastic. That's just what we need.

Jessica Pieklo: Mueller and Leo say they plan to work with two existing nonprofit groups which will be rebranded as the Concord Fund and the 85 Fund. Seriously, this is some dystopian shit. And their job is to funnel tens of millions of dollars into conservative fights across the country.

Imani Gandy: What? The Concord Fund and the 85? What the fuck is going on? What does this mean?

Jessica Pieklo: I don't know. Well, it means immediately that there's going to be a lot more money on judges and especially more money on judges in state courts too.

Imani Gandy: There are conservative fights going on around the country, right? Obviously abortion rights, but this is so much more. We're talking about mandatory paid leave policies. We're talking about expanding healthcare access in the states.

We're talking about clean energy initiatives, criminal justice reform, redistricting reform, basically name any issue that is important to progressives and Leonard Leo is trying to stack the courts against it.

Jessica Pieklo: I just, I mean, it's only the second week of January, Imani.

Imani Gandy: Right? It's too much. It's too much. Conservatives, and specifically extremely religious conservatives, have a powerful dark money group focused on all these issues now.

Jessica Pieklo: It's not like they weren't focused on them before either!

Imani Gandy: Right. Like why do they need Concord and 85 Fund for what the fuck ever?

Jessica Pieklo: Bullshit. That's the 85 Fund for Bullshit.

Imani Gandy: 85 Fund for Bullshit. So in light of all of this nonsense, is there any good news? Like, can we ... Something anything, just give me a nugget, please.

Jessica Pieklo: I mean, I'm really going to try. It's a new year, it's a new decade. I'm not going to just be like, "Everything is terrible," even though everything is terrible. So there is, there is some good news, a little bit. It looks like Democrats are finally zeroing in on this problem of conservative control of the federal courts, especially when it comes to the federal courts and reproductive rights. So recently, it was announced that there's going to be a democratic candidate forum on the very issue of reproductive rights and the federal courts in New Hampshire, just a few days from the New Hampshire primary. So that's a step.

Imani Gandy: That's a good step. That's a good step in the right direction. And a new poll of likely Iowa democratic caucus-goers show a majority support Supreme Court expansion. So that is really good. This poll was conducted by Data for Progress and 59% responded that they want the next president to add seats to the Supreme Court in order to restore balance and to make it possible to enact positive reforms. A plurality, that's 31%, strongly supported court expansion. And only 27% of respondents were strongly or somewhat opposed. Now this poll had 695 respondents and was administered between December 12th and December 28th. So that's good, right? Like, people are looking for court reform. That's good.

Jessica Pieklo: Those are all really good signs. And then why the hell does nobody talking about this in the debates, right? We just had the debate in Iowa. And was there a single question about the courts? No, there wasn't a single question about the courts. And I mean, look, it is important to get out there and win elections, but if Democrats and progressives don't have a plan for dealing with the federal courts, it doesn't matter what the hell we pass. All of those policies will be dead in the water. And so, I realized I said I was coming in with good news and I'm still going to try, but that is really bad and I'm mad about.

Imani Gandy: So there's momentum on the issue is what we're trying to say. Right? And that's good because-

Jessica Pieklo: That's good.

Imani Gandy: Usually talking about the federal courts puts most voters to sleep. And I know we've been yelling about the federal courts for years and most people are like, "What? Like, who cares?"

Jessica Pieklo: It's really hard to get people energized around the issue of judges.

Imani Gandy: And so, that means that people get that this is an actual crisis and they want their elected officials to do something about it. So that is actually really, really good news.

Jessica Pieklo: So maybe in, like, bizarro-world, the fact that we're going to get bombarded with \$10 million in advocacy ads advocating for Trump judges could backfire. Maybe that could actually help ignite more momentum on the progressive side around this. If we see what the right is doing and how focused they are. I mean, maybe that's an opportunity for us to really rally around this issue some more. I don't know. I'm trying.

Imani Gandy: I certainly hope so. And I can tell you what, listeners, Jess and I are not going to stop screaming about the courts. Like, we're just not going to. And so, if you want to come and sit with us, come sit with us and scream about the federal courts and now the state courts because Leonard Leo is going to be focusing on them too. So all courts across the board. Just come sit, have a cup of coffee, maybe some Irish whiskey, and we'll just talk and yell about the courts.

Jessica Pieklo: A hard seltzer is fine.

Imani Gandy: So on that note, we're going to close the episode, but we have some very exciting news, some slightly sad news. We're only going to have one episode of Boom! Lawyered this month. But the exciting news is that we are hard at work preparing a really super cool new project that we are so excited about that we can barely stand it.

Jessica Pieklo: I can like ... I'm jumping out of my chair. Seriously, it's so much.

Imani Gandy: It's going to be so fantastic. It's going to be out in late February.

Jessica Pieklo: Law nerds, you don't even understand. It's such nerdiness. It's amazing! It's so cool! Okay, sorry. I'm sorry.

Imani Gandy: But just to make you so you don't like cry or get nervous, Boom! Lawyered isn't going anywhere. We're just taking a little hiatus, a little mini break, so that we can share this new kind of podcast mini-series with you. We're going to drop a

trailer for it in your feed in early February and we will be back with more Boom! Lawyered in mid-February as June Medical Services versus Gee approaches. Oral arguments are in the beginning of March. Jess and I will both be there. It's going to be on like Donkey, Diddy, and P. Diddy Kong. That's all I have to say.

Imani Gandy: So on that note, if you want to talk to us about any of this stuff, you want to yell about the courts, you want to talk about, I don't know, the price of wheat in Canada.

Jessica Pieklo: Nobody's growing wheat in Canada right now, it's January.

Imani Gandy: All right. Whatever. What do I know about Canada? Nothing. You can find me on Twitter @AngryBlackLady. You can find Jess on Twitter @Hegemommy, H-E-G-E-M-O-M-M-Y. And you can follow Rewire.News @rewire_news. And on that note, Jess, what are we going to do?

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

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

Imani Gandy: Boom! Lawyered is created and hosted by Jessica Mason Pieklo and Imani Gandy. Marc Faletti is our producer. And Jess is also the Rewire.News Interim President and Editor in Chief.