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Hillel Aron: Hello, and welcome to a very special end of the year gala episode of Sidebar from Courthouse News. I am your host, Hillel Aron, and I am joined today by Nina Pullano in Brooklyn.

Nina Pullano: Hey, what's up?

HA: Kirk McDaniel in the great state of Texas.

Kirk McDaniel: Howdy all.

HA: And Amanda Pampuro in Denver.

Amanda Pampuro: Hello.

HA: That's right. We're all together from sea to shining sea. 2022, nearly over and what a year it was. Decent year, right?

NP: Decent year.

KM: An eventful year.

HA: I remember the ends of 2020 and 2021, everyone was tweeting oh my God, horrible year, worst year ever. No one's really saying that about this year. Right?

NP: Yeah, I noticed that too. We're not doing the put this year in rice and reset it thing, maybe we've just gotten a little used to the chaos.

HA: It was a return to normalcy, right? But not in the courthouse. The courthouse it was always chaos. On this episode, we'll be reviewing the year's most memorable trials, the ones that made us laugh, the ones that made us cry and the ones that made us stop and question the decisions we'd made that led us to watching them. I'd like to start the show with a bold assertion, hot take if you will, that there were two trials of the year this year, and both were defamation trials, *Johnny Depp v Amber Heard*, and the Alex Jones trial. These were the two trials that not only got tons of media coverage, but sort of swamped our social media feeds in part because both of them were streamed live and people could cut up bits of video and post them to Twitter and TikTok and also because they were both sort of at the intersection of celebrity and politics and which is kind of the news sweet spot. Let's start with Alex Jones. Kirk, what was this trial all about?

KM: So, this trial, defamation trial, like you said, the lawsuit itself was actually filed against Jones himself and the parent company of InfoWars called Free Speech Systems. So, when we talk about this defamation trial, it's two of them. One happened here in Texas that I covered here in Austin, and then the other one was in Connecticut. The event that caused these to happen were statements made by Jones on his show InfoWars about the Sandy Hook massacre, which we are coming up on the 10-year anniversary of that tragedy.

Alex Jones: All I know is the official story of Sandy Hook has more holes in it than Swiss cheese. Sandy Hook is a synthetic, completely fake with actors, in my view, manufactured. Sandy Hook, it's got inside job written all over it.

KM: Parents sued because those statements led to followers of Alex Jones to harassing the parents, calling them, you know, actors, kind of echoing the things that he said on his show and on his platform, and even sending death threats, going to their physical addresses, harassing them. One plaintiff in these cases actually said that a person came to their house and took pictures of the outside of their house and of their family, which is a pretty alarming thing to happen. So, yeah, so this was basically years in the making. In fact, a lot of these lawsuits were filed back in 2018. So, in the Texas trial, so that's the one that I covered a little bit more. There was a lot of times where, where Jones, whenever he did take the stand, it seemed like he could not separate himself as a media persona, you know, he could not end that persona and it often frustrated the judge. It frustrated the plaintiff's lawyers, sometimes it even frustrated his own lawyers, it seemed like. You know, there was a lot of eye rubbing and deep sighs that you could see. There was also moments whenever actions Jones was actively making in his broadcast were playing a role in the case as it was playing out, A sort of brief explanation of how he got to where he was in the, in this Texas case and even in the Connecticut case, he had already been found liable for his defamatory languages. These trials were to determine what is the amount that you have to pay in damages because you were found liable. He went onto his show and said that this was about, you know, being found guilty. This isn't a criminal proceeding; you couldn't be found guilty. He was already found liable. He was found to be responsible for making these false statements that harmed the families. And so, he would often go on his show, say that the judge is requiring him to go before the jury and say, I'm guilty. I'm guilty. And you know, I don't have free speech in this courtroom. He called the courtroom a kangaroo court.

KM: He even on his broadcast showed an image of the judge on fire.

HA: And did the judge comment on that?

KM: The judge responded with a lot of restraint, I will say. But you could tell that this was a first for her. Judge Maya Gamble was often kind of pushed to her limits with that kind of outside persona and what was being said. So yeah, it was, it was pretty frustrating for her. The moment, whenever Mark D. Bankston was the attorney for the parents here in Austin, in the, in this Austin case, he essentially came out and revealed that Alex Jones's entire cell phone data had been accidentally shared or sent to the plaintiff's team, their legal team.

NP: Oh boy. By the defendant's team.

Mark Bankston: Yes, Mr. Jones. Indeed. You didn't give this text message to me. You don't, you don't know where this came from. Do you know where I got this?

Alex Jones: No.

MB: Mr. Jones, did you know that 12 days ago, 12 days ago, your attorneys messed up and sent me an entire digital copy of your entire cellphone with every text message you've sent for the past two years, and when informed did not take any steps to identify it as privileged or protected in any way. And as of two days ago, it fell free and clear into my possession, and that is how I know you lied to me.

KM: So, this moment, I think was played, it became a very viral moment. I mean, you could see it all over TikTok and YouTube and news reports, everything. But it was, it was one of those moments, you know, I'll just say for myself that, uh, I never expected that. I mean, it was, it was incredibly unique, might be a highlight of my court-covering career, at least for 2022.

HA: Yeah, possibly the biggest mistake a defense attorney has ever made in the trial. And how did it turn out for Alex Jones? What was the verdict?

KM: Well, it did not turn out great. In the Texas case, he was ordered to pay nearly \$50 million in damages. And then in Connecticut, Jones was ordered to pay nearly \$1 billion, \$965 million —

NP: Wow.

KM: — in damages for his defaming comments made on his show, so, we're talking well into a billion dollars that he's been ordered to pay. And this is even we're recording this here on December 5, on December 2, last week, he filed for bankruptcy.

HA: So, it's gonna be tough, uh, tough-ass to get all that money from him.

KM: Yeah. Yeah. So, so while the trials may have been decided, it looks like the story of, you know, the money and if these parents are gonna see the exact amounts that juries awarded them, that's still gonna be an ongoing story going forward.

HA: Well, of course it was a big year for trials of political extremists, of right-wing extremists. There was sort of a parade of January 6 trials weren't there? I mean, that, it was sort of surprising to see all those for me because I'm used to lawsuits taking four years to kind of wind their way to cork. These came pretty quickly, didn't they?

NP: Yeah, absolutely. I think some of those were even as, as recent as last year. I mean, they, there was a sort of a flurry of activity, I know obviously the FBI was tracking these in big databases from the beginning and doing some message board searching and activity to get people to talk about their actions in it, but yeah, I was surprised too about how at, at how quickly they've moved.

HA: Kirk, why don't you tell us about some of these January 6 trials?

KM: Yeah, sure. So, I'll say basically from all of 2021, even into 2022, I mean, I think we're constantly seeing posts made to our website from our amazing reporter in D.C., Emily Zantow. She has been covering a lot of these January 6 trials, but she has also been instrumental in covering, I think, probably the biggest January 6 related trial, and that is the trial of the Oath Keepers.

News clip: The FBI describes them as an anti-government militia movement among them current and former military and law enforcement. Their name is a reference to the oath they took to defend the U.S. Constitution.

KM: Emily covered this Oath Keepers trial for weeks. And a little background on these people: so, Stewart Rhodes is the founder and leader of the Oath Keepers, and he, as well as four other defendants in this particular case, were charged with seditious conspiracy. Seditious conspiracy is not a very common charge.

HA: Yeah, it sounds like a, sounds like a Civil War thing to me.

KM: This was something that was kind of new for Emily as well. I had asked her, you know, this seems like such a unique sort of trial, you know, what was it like covering it? And she actually told me quite a bit about the ins and outs of sort of the arguments behind both the government who was trying to get their conviction and Rhodes and the Oath Keepers, who are obviously trying to stay outta jail.

Emily Zantow: Seditious conspiracy, it's a very rare charge because of the political aspect to it. When you look back to where the law stems from, it's from the 1860s in the post-Civil War era. Lawmakers were looking for another avenue to be able to prosecute former Confederate soldiers and so seditious conspiracy can be very hard to prove. The defense really focused on the theory that there was never a plan in advance to breach the Capitol. And so essentially the defense said, hey, if you guys don't have any evidence of these five defendants ever actually discussing a plan to breach the Capitol, then that tears a hole in their theory that they came to Washington to try to stop the lawful transfer of power.

HA: Yeah. Well, well it is interesting. I mean, most of the January 6 defendants, and there were quite a few of them, were charged with much smaller things like, trespassing and, I don't know, disturbing the peace, assaulting a police officer. Isn't that right?

KM: That is correct. Yeah. So, this is definitely the biggest charge that has been lobbed against these people. And it's important to note too, so two of the defendants in this particular trial, Stewart Rhodes included, never entered the Capitol. They were not even really near the Capitol during the attack. So, you know, what's kind of the argument behind that I think is really interesting.

EZ: There's something that strikes me and it's that the Oath Keepers thought they were protecting America from a civil war. If you take their philosophy at face value and that you're digging up this Civil War charge in the case, that's just really interesting the way it loops back around and you have this narrative of, we're patriots protecting the country, but they're not.

KM: Yeah. I, I think it, the interesting thing about this case, and Emily and I spoke about this a little bit, but just the fact that it depends on the perspective of the person to see the same thing and just, I think it's evident of how, you know, different pockets of America, different groups you know, you could live in a very liberal area, but depending on, you know, where you like to live on the internet, you may be aligned with another group that sees the country in reality so different. And one really interesting thing was that played out in the courtroom. I'd even asked Emily, you know, what were one of those like really stunning moments that really stuck with her during the trial.

EZ: Defendant Jessica Watkins took the witness stand. No, none of us reporters were expecting her to do that. And when she took the stand, she admitted to the charge of obstructing police inside the Capitol. And she said she wanted to apologize for doing so. That is something I did not see coming. And then defendant Thomas Caldwell, his wife Sharon testified on his behalf and she denied that they did anything wrong on January 6. So, she was with him and she has not been charged with anything. And mind you, Caldwell was the leader of the quick reaction force stationed across the Potomac at a hotel in Virginia awaiting roads call to bring the weapons into Washington if necessary. Obviously, that call never came. Caldwell himself took the stand the next day and testified as much. And of course, Stewart Rhoads testimony, one of the highest profile January 6 defendants, took the witness stand in his own defense for two days. Rhodes' testimony was really interesting because like Caldwell, he is not accused of physically breaching the Capitol, but prosecutors in opening arguments, likened Rhodes to a general on the battlefield directing his troops. This has been by far one of the most interesting stories I've ever gotten to cover.

AP: This is one of my favorite kinds of cases because it takes something that is so, uh, contentious depending on what your perspective about the groups that were there that day. It'll shape the way you perceive it, but the court comes down and says, these are the facts that are important, and this is the

decision in the end. So, it's the tiebreaker on these moments of history and that we watch in the present and what was actually justified, what was not and Stewart Rhodes was convicted.

HA: That's a great point. It's a sort of like, sort of trials as sporting events in a way. You can argue all you want about what team is better, but at the end of the day, they play each other and you, you figure it out. It is a, it is a great, uh, crystallization of opinion into an objective moment. I think that's a great point. How did it turn out for Mr. Rhodes?

KM: Well, I asked Emily about that too, and here's what she said.

EZ: Stewart Rhodes and Kelly Meggs were convicted of seditious conspiracy, and their three other co-defendants were acquitted of seditious conspiracy. But all five defendants were found guilty of obstruction of an official proceeding, namely the ceremony that had been underway in Congress on January 6 to certify then-President Donald Trump's election defeat. And all five of the defendants were also convicted of aiding and abetting and all but Watkins were found guilty of destroying evidence. So, Rhodes and Meggs face up to 60 years in prison for the three charges and the other defendants meanwhile at least face up to 20 years each for the obstruction of an official proceeding charge. What's so big about this is that these are the first January 6 defendants to go to trial for seditious conspiracy charges. And the fact that the jury accepted the theory of seditious conspiracy for at least two of the defendants has some legal experts saying that the Department of Justice could be increasing its likelihood of future convictions because if they were able to convince this jury that two of the defendants were involved in a seditious conspiracy, who's to say they won't be able to do it for the upcoming trials of the remaining four Oath Keepers defendants and the Proud Boys?

[Music break]

HA: There were also a number of trials stemming from the plot to kidnap Michigan Governor Gretchen Whitmer. I spoke to Courthouse News's own Andy Monserud about it.

Andy Monserud: So, the plot in its broadest strokes was basically surround her vacation home, possibly distract law enforcement by blowing out a bridge and then basically holding a show trial of sorts or a trial. They would've, the plotters would've called it a real trial with a judge and then depending on the plotter, possibly to hang her, possibly to ransom her. It didn't strike me as terribly well thought out from the get-go. So, it did have a bit of a dog's chasing cars kind of vibe to it. Once they got her, I'm not sure if they knew what they were gonna do with her.

HA: Ultimately there were 14 people arrested for the plot, which was foiled by the FBI, I should say. Two men pled guilty, two were acquitted. Adam Fox was portrayed as the sort of so-called mastermind of the plot, was tried along with Barry Croft in federal court. Actually they were tried twice. First one ended in a hung jury, and they were both convicted on retrial. Andy covered the other big trial, which was in state court. These were the three defendants who belonged to a militia group called the Wolverine Watchmen.

AM: Certainly there was not a whole lot of dispute of whether these guys harbored deep anti-government beliefs over whether they were shooting guns and talking a whole lot of shit. But ultimately, they did not accompany Fox toward the governor's place of residence. They never shot anybody. They never shot at anybody, and at least one case, Paul Bellar, he had already left the state by the time all of these arrests came down. He'd said he had left the state, he'd left the militia, he was living with his dad

in North Carolina. Now that was not enough to save him, but it was certainly something, you know, that the defense brought up and was a fair point to a certain degree.

HA: So, the three Wolverine Watchmen were convicted, evading the plot to kidnap Governor Whitmer. They're currently awaiting sentencing. But one thing that surprised me talking to Andy was how the defense in this case weren't totally right-wingers.

AM: I think a lot of these guys while they were definitely toting guns and not big on Democrats, I would say that calling them right-wing is a little bit oversimplified. One of the other things that was getting them really hopped up was the murder of George Floyd, these guys went to Lansing and to Detroit to join protests there. They were perhaps more against the cops than they were on the same side as Black Lives Matter. I would not say that they're fully opposed to all, to the left wing. The idea that a new American Civil War was coming was not an exclusive property of the right wing in 2020, not by a long shot. And well, these guys, I would say definitely fit sort of the profile of right-wing extremists. I'd say it is a little bit more complicated than that.

NP: Hey, it's Nina jumping in with a quick update before our next segment. We'll be talking about a trial you may have seen in the headlines in the past few weeks involving the Trump organization. After we recorded the episode, two Trump businesses were convicted of criminal tax fraud and falsifying business records. Sentencing is set for January 13, and they can be hit with a maximum fine of \$1.62 million. That's actually a pretty small number compared with the hundreds of millions that Donald Trump made during his presidency alone. But it is big news, especially with his sight set on the 2024 election. So, we wanted to make sure we give you the latest development before we get into all the details. There is a lot more to this case, so keep listening and let's head back in.

HA: We spoke earlier about the intersection of politics and celebrity. Well, who better example of that phenomenon than former President Donald Trump, who didn't go on trial, but his organization did go on trial.

NP: So, in some ways, although prosecutors didn't feel this way, it, it was sort of a run of the mill tax fraud trial. As you mentioned, these two businesses, both part of the Trump organization, are accused of paying employees improperly, doing things like not listing New York City residents as city residents, which got them out of those extra taxes on their forms and, and a lot of payments that were sort of off the books. The former CFO, Allen Weisselberg of the Trump Organization, he was indicted as well as the businesses. He ended up pleading guilty and he admitted to being paid off the books \$1.7 million. So, he said that, you know, he told the company his controller to lower his salary and then instead took perks that weren't taxed. So, for example, the Trump org was paying for his apartment for a bunch of home furnishings, tuition for his grandkids, a Mercedes-Benz for himself and another for his wife. Yeah. Those were the, those were the charges the companies were facing.

HA: I can only imagine that Donald Trump has been saying that this is a witch hunt, that he, this is, you know, a political, uh, politically motivated prosecution. Did that argument get brought up at trial or was it just a boring tax fraud trial?

NP: Right. Good, good question. It, it did in a way. So, Allen, Allen Weisselberg the CFO testified as part of his plea deal. And he was a real insider as far as the Trump family. He actually started working for Fred Trump back in 1973, and then started working for Donald Trump. So, about five decades working

with the family and definitely mentioned some of those views and talked about several Trump organization employees testified and talked about feeling themselves sort of like they were under pressure and they were under political pressure from prosecutors when they met during their grand jury testimony, felt that they didn't have the right representation and that they were very uncomfortable. And so that came up a few times, and I think watching Weisselberg testify was really interesting. He is, you know, on the one hand he plead guilty to these charges that implicate. Organization, but he's very loyal to the Trump still. He's, he's still in their good graces. He is actually still on the company payroll. He's on unpaid leave, but he's still getting \$1.4 million a year. So, things are going okay. Um, it's interesting actually, the day that Weisselberg finalized his guilty plea right around his birthday. He celebrated his birthday that night at Trump Tower with a bunch of employees. So yeah, it's safe to say that relationship is still strong and he talked about, you know, being embarrassed and ashamed of what he did. Really, kind of, in a sense, taking one for the team, doesn't wanna make things worse for the Trumps, but then of course at the same time, he has to keep up his end of the plea bargain, or he's facing more jail time if he, if he walks that back. So, you know, he spoke, for instance, about defense attorneys argued that Weisselberg was the only one benefiting from the scheme. This was all him. Nothing to do with, nobody else knew. But Weisselberg had to admit on the stand that he knew the company was going to benefit when he, when he swapped out his salary for these benefits, they would save on payroll taxes and that that was something he at least considered. So, he's sort of in this precarious position where he is kind of threading the needle there. And yeah, as you said, Trump himself wasn't named, but his name definitely came up a lot at trial. We talked about the cleanup that happened at the company following the 2017 election. So, Weisselberg sort of, again, testified Trump didn't know before then and certainly by the time the cleanup happened, Donald Trump's children, who had taken over, who had formally taken over the company by then, by then they knew what was going on and about this fraud. But it wasn't clear if Donald Trump knew because he was in the White House. So, there was this sort of back and forth and as you can imagine, a lot of responses that he just didn't remember what was going on.

KM: I was curious because if there's one thing that maybe anyone knows about Donald Trump is that he loves loyalty. And I think initially when reports were out that Weisselberg was going to plead guilty, it seemed like there was like a crack in that like loyalty. There was a crack in this like league of those who are really close to Trump. What do you think went behind the, you know, pleading guilty?

NP: Yeah, I think it was a little bit of a surprise in some ways when the indictment came down, which was last summer 2021. There definitely was this sense of, you know, I think a lot of legal experts and, you know, political analysts were thinking this might be an opportunity for someone from the Trump org to flip, that they thought, you know, and he did ultimately corroborate, but I'm not sure his testimony amounted to this sort of you know, big reveal of what was going on. It was much more nuanced, like I said, you know, pretty much a tax fraud trial. There was plenty of testimony that was just about how W-2s work, how 1099s work and just what exactly was in the contract with the Trump org and their tax preparers. So, it was much more, I think, in the weeds than this sort of major moment where a witness flipped and exposed the Trump organization. And there was some time, you know, in between the indictment and the trial, so it's hard to know behind closed doors what was going on and what was being discussed between Weisselberg and the Trump organization.

HA: Well there was another Republican politician who was in court this year. Sarah Palin sued a little newspaper called the New York Times.

KM: Yeah. Who are they?

HA: They have this great game called Wordle.

AP: What's that?

HA: Check it out. How'd that work out for Sarah Palin?

NP: In the end, not too well. But this was a defamation lawsuit that goes back to 2017 concerning an editorial in the New York Times that really centered on violence and political discourse and rhetoric that can lead to things like things like shootings. And this was in the wake of, if you can think back to then, a shooting at a congressional baseball practice for a charity event in Alexandria, Virginia. After that happened, this editorial came out and it mentioned among this sort of potentially violent rhetoric that Sarah Palin's political action committee had put out a map showing crosshairs placed over certain Democratic districts that they were sort of targeting politically. And the point was being made that, you know, this can fuel violence.

News clip: Today, getting to the heart of her claim that the Times damaged her reputation by linking her campaign rhetoric to a mass shooting in a 2017 editorial, saying on the stand she felt powerless against the paper.

HA: Was it was an opinion piece, right, that the New York Times wrote.

NP: It was an editorial, so you know we heard from the editorial page editor at the time, who was—

HA: James Bennett, right?

NP: That's James Bennett. Yeah. And he was, you know, he was heading up the team, but at the same time there were, you know, multiple hands on it, multiple eyes on this piece. So, we heard a lot of testimony from journalists at the Times about just their editorial process and saw earlier drafts that maybe didn't have the same or wouldn't have carried the same potential liability and how the piece was rewritten. So that was kind of, you know, if you're a journalist watching the trial, I got to nerd out a little bit about seeing that process.

HA: What did the editorials say? It said that she was encouraging political violence, is that what it was?

NP: Essentially? Yeah. And one of the things that came up was it, it referred to her PAC, right? It didn't necessarily refer to Palin and it, it had her name. But that was something that, that was argued too on behalf of the Times that they were making this sort of statement about the entities and the organizations that are perpetuating this and not necessarily an individual person. It was one of the things that they had to say.

AP: So you got a crash course in taxes and journalism in the same year. You're so lucky.

NP: We learn a lot with this job.

HA: It's very hard to sue a newspaper for defamation. Was, did people think that this was gonna work out well for her?

NP: I don't think so. I think, you know, case was tossed at once, reinstated by the Circuit Court, and in fact, it was thrown out a second time. And what happened there was, this was Judge Rakoff in the Southern District of New York. He decided to dismiss the case while the jury was deliberating, and added a little drama because, some jurors, you know, obviously it was reported on right away, especially by the New York Times, so some jurors got a push notification on their phone, got an alert saying the case had been dismissed. You know, they're obviously not supposed to look anything up about the case, but it just appeared on their lock screens. So, that became something, you know, Sarah Palin appealed the verdict, it was tossed out. The jury also found the Times not liable. Sort of a double whammy there. And in the appeal, I'm sure that will come up. Judge Rakoff mentioned that, he mentioned during one of the trial proceedings, you know, I admit I didn't know what a push notification was until this moment.

HA: Judges, huh?

NP: Modernizing the courts and new technology.

KM: If only we had an episode from this past year that touched on that exact topic.

HA: Mm.

NP: That's right. And go back to our juries episode and learn all about the fun stuff that happens during the selection and jury process.

KM: That's a first shameless plug.

NP: Another thing that was interesting about the trial was just sort of the circus around it. Obviously, Palin's a very well-known figure. And a ton of reporters there. Sarah Palin, I think just remained really friendly. She kind of, you know, both when she was on the stand testifying her sort of, you know, you betcha, one of her favorite expressions, you know, back when she was running as vice president. But yeah, so, you know, one moment I sort of chatted with her, she was waiting for her Uber inside because it was raining and, you know, she said she was enjoying the city minus the weather. She got Covid at the beginning of the trial, which was another little bit of drama because she was then seen at restaurants around the city. But yeah. And that delayed the trial a little bit. But yeah, very cordial. She, she was wearing this bubble gum pink blazer and I, you know, we talked about her blazer. She said she got it at a thrift store in Phoenix while she was visiting her daughter. So just, you know, remain really friendly, I think with everybody. Ultimately didn't, you know, didn't, turn out her way. It happened to also overlap her trial with the criminal trial against Michael Avenatti. He was Stormy Daniels' lawyer in her lawsuit against Donald Trump, and in his case, that was a criminal case. He was convicted of wire fraud and identity theft for taking \$300,000 from a publishing advance page to Stormy. But having, you know, the Avenatti and Palin trials happening at the same time, things happen, like these two ran into each other in the cafeteria upstairs and sort of, you know, with reporters around kind of just being nosy and watching the conversation, they, you know, again, remain friendly with each other. Palin wished him good luck. And I talked to her about the verdict. She hadn't heard it yet when we spoke, but, you know, sort of was curious about his reaction to that. So, just the sort of, you know, fun courthouse moments, I think where everything kind of ramps up all at once.

HA: It was a big year for celebrity defamation trials. You know we did a whole episode about the Johnny Depp-Amber Herd trial back in April that you can go back and listen to. So you know, this trial, I think you could sort of file it broadly under a MeToo trial, the sort of going back and litigating behavior of men

toward women. And, there were quite a few celebrity MeToo trials, many of them involving celebrities accused of sexual assault from years, decades ago. And it didn't always go so well for the plaintiffs or the prosecution. There was the Kevin Spacey trial.

NP: In this case, the actor Anthony Rapp. He sued Kevin Spacey saying that back in 1986, Kevin Spacey had sexually assaulted him. At that time, Anthony Rapp was 14 years old, and he was able to file this decades old lawsuit under a new New York law called the Child Victims Act. That is the window has since passed, but it gave people a one-year window to file old claims that were beyond the statute of limitations. Again, the jury ultimately found Kevin Spacey not liable.

News clip: This morning, actor Kevin Spacey found not liable in a sexual battery case dating back to the 1980s. Mr. Spacey is deeply grateful for the jury system and for this jury in particular.

NP: I think watching the trial, it was really an uphill battle from the start because Anthony Rapp would've had to prove that any kind of trauma response or mental health issues that he's having now were all, you know, were all the result of this alleged attack that happened so many years ago. I think also what was similar to Amber and Johnny is just a lot of really personal details were aired out in court, including things like other abuse and events that happened in Anthony Rapp's life and you know, that had to be, I think, part of Kevin Spacey's defense to point to other incidents that could be causing what he's feeling today. But, you know, you have to, I think, think about that if you sit through this trial and all of your kind of personal information about your family and relationships, you know, all gets put out there and then at the end of it, this is the outcome. I can only imagine how that must feel for the plaintiff in this case.

HA: Well, here in Los Angeles on the 10th floor of the criminal courthouse, just last month, we had not one, but two celebrity's sexual assault trials. One side of the hall you had Danny Masterson, star of That '70s Show and noted scientologist. And on the other end of the hallway, you had none other than the godfather of MeToo, Harvey Weinstein. Sort of Patient Zero of MeToo. It was very, very odd to see him. I mean, he's already been convicted of rape in New York. So, he's sentenced to 23 years in prison. He's 70. So his health is already failing. So, it's basically a life sentence. And they're sort of wheeling him into Southern California now to do our version of the Harvey Weinstein trial. But, at any rate, this case has been going on for a few weeks that it actually just wrapped up. The jury, I think has the case now. But, I'm interested to see how the jury, you know, sort of views this idea of like, you know, flogging a convicted felon with another couple of decades of prison. Meanwhile, as the Weinstein trial was going on, you had Danny Masterson. He was alleged to have raped three different women some 20 years ago. The main subject of interest was whether or not this trial was about Scientology. This was a sort of a main thing that all the women were saying was, you know, Danny Masterson did this to me and I was told not to speak up about it by the Church of Scientology. And he was able to sort of have his position of power because not only he was a famous actor, but because he was a sort of famous Scientologist. And then the judge sort of kept trying to say, well, this trial isn't about Scientology. Don't ask so many questions about Scientology. So, there's a lot of sort of back and forth about that. And, ultimately with this one, the jury deadlocked. In fact, they came back. It was the week before Thanksgiving. They came back after only a few days. They say, we're deadlocked. We can't reach a decision. The judge said, well, come on, you were at this for two days, you gotta come back. So, the judge ordered them all to come back after Thanksgiving. So, they took a week off. They come back after Thanksgiving. Meanwhile, two jurors have Covid and another one has something else. So, they need to put in the alternates, and

actually redeliberate, start over their deliberations. And again, two days later, they're deadlocked and they're like, we can't possibly agree. And the judge says, all right, declares a mistrial. And so, yeah, that's a hung jury. They're probably gonna retry him, but, but maybe not. So, you are sort of seeing some of the, some of the limits of the MeToo movement. Do I have that right?

NP: Yeah, I think so. These mixed verdicts. And I think in general, you guys know, I'm fascinated by juries. They're my favorite part of the legal system. And you have to wonder, you know, going home for a week, what does that do? Maybe incidentally you see things on the news, or maybe you just take a beat and you think about things more than you would or in a different way than if it were just an overnight break. I wonder kind of what their discussions were like.

HA: You fill up on turkey and you get back and you're just like maybe he is guilty.

NP: The other thing I wonder about the January 6 trials kind of coming up more quickly than usual. The ones we're talking about now, were delayed by at least a few years. You know, MeToo, the sort of breakout, Harvey Weinstein, as you say, Patient Zero stories were 2017. So, there has been a little bit of a delay since articles came out and allegations were made. So, thinking about that timeline too, what, how does public opinion shift? How many people think about this differently?

AP: I think the public that is insulated from the issues and feels less directly impacted, it's easy for them to move on. But, as Nina said earlier, there was the law in New York that allowed people to bring into court childhood wrongs. 9,000 people in a year filed that lawsuit. So, if that happened to you, you're never going to outlive it. The Sandy Hook parents, they are gonna live with that forever. So, these issues, when they fall out of the public eye, go down to page eight in the newspaper, they're still, people are still living them.

HA: Of course, not every celebrity got off scot-free this year. There was R. Kelly, he did not have a great legal year. Is that right?

NP: Yeah, he's sort of, at this point, it seems like he has these perennial court proceedings that are just going between criminal and civil. It's just gonna be, continued to be a long road for him. But this year he sat for a federal trial in Chicago. It was started around late August through mid-September. And in some ways, this was a callback to the first trial that R. Kelly faced, which had to do with child pornography. Charges came out in the early 2000s and then he sat trial in '08. And that trial centered on a tape that allegedly showed R. Kelly having sex with an underage girl. That tape came back in this trial, Kelly was charged with 13 counts of possession and distribution of child porn as well as some conspiracy counts.

HA: He was acquitted of a trial, I don't know, 10 years ago or something, and now 10 years later, he's being convicted in multiple trials, that's kind of surprising.

NP: Yeah. I should say back in '08, that trial, he was acquitted and really the reason why was because the girl who was alleged to be in the tape, who I guess was also R. Kelly's goddaughter said that it wasn't her and her family said it wasn't her in the tape. And without that testimony, without that kind of major aspect for the prosecution, he got off. So, that was an acquittal. So, I talked to our colleague, Dave Bynes, who covered the trial. Here's what he had to say about the defense and kind of how the trial went down.

Dave Bynes: So, of those 13 charges, he was acquitted on all the conspiracy charges. What they nailed him on was the child porn charges for having the tapes, and then also for the sexual enticement of minors for having sex with three underage girls between the late '90s and early 2000s. The connection between the 2008 trial, which was mostly about that tape with his goddaughter and this current trial is honestly kind of muddy because one, it was never really clear in trial just how many tapes there were and what tapes they were talking about. Right? Because there were numerous girls that came forward, or now women, who came forward saying that they made threesome tapes with Kelly. And so the jury got to see some scenes of one of the sex tapes in the trial. But, you know, something, the defense, you know, always brought up is that no one is exactly sure how many tapes there are. How many are out there, what's fake, what's real? How many are just tapes with him and his of-age wife, you know, how many are with his goddaughter, how many are with other girls? That was never really made clear, I think, in the trial, and I think it contributed to why he was able to get off on the conspiracy charges.

NP: R. Kelly continues to have a ton of support. If you've written any story about him, you know that his supporters are very quick to jump on the thread and comment about, you know, there's a lot of #FreeRKelly and just continuing to claim his innocence in the whole thing. I saw that definitely in Brooklyn, there were some people who traveled in and went to trial, but Dave was there in R. Kelly's hometown, so I think he got a really good dose of the double-edged sword of when somebody who's represented your community for so long is charged in something like this.

DB: There's tension because on the one hand, you get people in Chicago who see Kelly as a stain on the city's legacy. They wanna see some amount of justice for, you know, all these women that he has sexually abused. On the other hand, you can't really ignore the racial aspect of this. You know, the U.S. justice system has a very, very long history of, you know, stringing up Black men on bogus charges, mostly to fuel the prison labor industry. I still get messages from fans who think that this is a setup and you know, eventually, some way, you know, his name's gonna be cleared and this will all come out as a racist conspiracy. Whether that happens, I'm skeptical.

NP: So, that's certainly an argument that his attorneys, his supporters make and will continue to make. He's facing other charges; he's appealing both convictions already. So, like I said, it'll continue to be a long road for R. Kelly who is already serving 30 years in prison for the Brooklyn conviction. He's yet to be sentenced in Chicago.

HA: So, bad year for R. Kelly in the courts, good year for Cardi B in the courts. She had two civil trials and she won both of them, two-for-two. She wins a defamation suit against a celebrity blogger in January, I believe in Atlanta, I wanna say. Awarded \$4 million for that. I covered a trial involving her a few months ago. You know, I cover some trials. Sounds like I do not cover as many trials as Nina, but I do cover some trials and I find most of them boring. Even the ones involving celebrities. This one was easily the most entertaining trial I've ever covered. It was you know, three and a half days. Just real, you know, all killer, no filler. The suit concerned Cardi B's debut mixtape, entitled Gangsta Bitch Music, Vol. 1. You guys heard this one?

NP: Not familiar.

AP: No, but it sounds great.

KM: I'll have to check it out.

HA: Yeah. And me, you and the jurors, have never heard this. The jurors by the way, almost all white, almost all over the age of 50, I believe all of them said that they had never listened to hip hop. So it was, I was really curious, like, you know, how exactly are they gonna view this? So anyways, Gangsta Bitch Music, Vol. 1, a phrase that was spoken, many, many times during trial. And it was really fun just to listen to all these old white lawyers not only say the album to cover, but at some point they were talking about the songs and, it was just great. Anyways, the album cover featured Cardi B in the back of a car with a man's head between her legs appearing to be pleasuring her orally. And, the man's back, you can only see his back, had this large tattoo of a tiger on it, sort of in my mind, an ordinary looking tattoo. However, turns out that the model in the photo shoot had a different back tattoo and that was deemed not tough enough. And also, as Cardi B would later testify, he had backne, which she didn't like. At any rate, so the graphic designer does a Google search of back tattoos and comes up with this big tiger tattoo and photoshops it on and, you know, job done, album released least. However, the owner of the back tattoo is a man named Kevin Michael Brophy, a resident of Orange County, a sort of bald, muscular surfing type works for a surfing apparel company. And you ask him about his tattoo. And this tattoo is his identity, so he says. He claims that when he walks around shirtless, as he surely does, often in Orange County, that he is recognizable. If his back is turned by, oh, that's that tiger tattoo, that must be, Michael or he goes by Mike. But you know, Mr. Brophy. And, anyways, his back tattoo or we call it, I learned a lot about tattoo lingo during this trial. It's called a back piece. So, his back piece is this large tiger kind of fighting off a snake and there's some flowers and there's like a woman kind of on the side, and it's just, you know, in my mind this is like sort of a mishmash of tattoo cliché, but for him, this is, you know, it was made by a very special, very famous tattoo artist. And it was done over the course of a year, and it was all these different sittings and it, I guess, it cost a lot of money too. And it was featured in a book about tattoos. And so, for him, this tattoo is like, not only his pride and joy, but like his identity. So, he sues Cardi B, saying that she stole the back tattoo from him for this album cover. He sues her not for copyright because he doesn't own the copyright, but he sues her for invasion of privacy and a misappropriation of Brophy's likeness because this is his identity again. So, you know, I mean, he's a very serious guy, clearly takes himself very seriously, and he goes to testify at trial. I mean, this trial, one of the things that made it entertaining was, it really was just about the testimony of Brophy and Cardi B. I mean, it was, there was a few other people, but it was really just them. And so, Brophy gets up and he's totally humorless and he says, this was my Michelangelo. He says, you know, people would be instantly recognize him from seeing this tattoo. And he called the use of it on the album cover, a digital molestation, with a straight face. And so, you know, Cardi B takes the stand basically the next day. And, again, the jury, you know, mostly white, not hip-hop listeners. I'm really curious kind of how they're gonna take her. And she's just pissed off. She's incandescent. She cannot believe she has to spend four days in Orange County listening to this guy talking about his back tattoo as if it was a Michelangelo. And she says, she has a thick New York accent. and she says it's insulting to me as a woman that the man is claiming responsibility for my fame from a portion of his tattoo. I mean, she's just indignant. And you could just tell, you know, this is one of the things I find interesting about celebrities, but most of them, they just have this magnetism about them where they can hold the room in the palm of their hand, where you can sort of hear people almost like not trying to breathe so loud so they can kind of absorb them more. And her testimony was like this. And you know, she was just so angry, but it was electric. So, she's so angry. She, the lawyer sort of says like, oh, have you gotten so famous that you can't realize that this man has suffered? Like this man isn't worthy of sympathy, basically. And the woman, and Cardi B says, yeah, but he hasn't suffered. He hasn't gotten fired. He hasn't gotten divorced. How has he

suffered? Please tell me. How has he suffered? She's like screaming and it was just kind of like this, this lawyer was totally cowed by her. And she was also really, really funny. I mean, this is sort of the amazing thing. This woman's not a comedian, she's a hip-hop artist, but apparently her lyrics are quite funny. And she was really funny. They keep playing these clips of her video deposition and I think the, I think the plaintiff's attorney was playing them to see like, oh, look how disrespectful this woman is. But in fact, she comes off as hilarious. She's saying, she's explaining how she didn't get the summons because she doesn't check her mail and she's like, oh, I don't really check my mail. And the lawyer says, and after that, did you say that mail is for old people? And there was like a sort of a pause again because the jury is like, you know, pretty old themselves and she just, she takes a pause and she said, yeah, I said it, and everyone just laughs. I mean, the judge, the jury, everyone laughs and she's just like, she says she's like, sorry, but you know, it's true and it was great. So, you know, again, popularity contest wise, we sort of figured she would win and also, I mean, the case just seemed pretty, pretty flimsy, the idea that this was really like a misappropriation of someone's likeness. You see, actually there's this, there's this other really funny part, where, you know, again, Brophy is saying how unique this tattoo is, this tattoo could be only, only be mine, the tiger and he's like, you know, looking this way. And they had a, the Cardi B's attorney only had one witness besides her, which was some sort of tattoo expert. And he gets up and he explains like, well, yeah, actually tiger tattoos are really common and there's really only one way to show a tiger because like if you show 'em overhead, he kind of just looks like this and you really just have to show 'em like kind of to the side with his head turned, and it's like the only way to do it. So anyways, it was pretty funny. The jury deliberated for about an hour and a half. Cardi B won.

NP: It strikes me too, Cardi B's obviously known for a lot of things, but she herself has a really iconic tattoo. I mean, she's got a whole bunch, but on her kind of outer thigh, this peacock tattoo that she's sort of known for, it's really recognizable. And it, you know, it's funny that this ended up being about somebody else's recognizable tattoo when she has this like, really iconic ink that is kind of, you know, to her fans she's posted getting it retouched, gotten a lot of support for that kind of thing.

HA: Yeah, there was a, it was a really nice moment after the trial ended where, Brophy, you know, perfect posture, goes up to Cardi B and kind of puts his hand out to shake it and it's just like, no hard feelings. It was just, you know, doing what I thought I had to do and it was sort of like an honorable moment between the two adversaries. And it was great because as a reporter you could just sort of watch it all unfold like a play because they were like three feet in front of you.

NP: How'd she respond to that?

HA: She, I think she was fine with it. I mean, afterwards she was like, I think she was really pissed at him for having to be there. But then once it was all over, she was like.

KM: So it sounds like you kind of had your own, like, I don't know, like legal drama, like that just sounds like something right out of a TV show. You know, you have this like very vocal, very flamboyant, you know, hip-hop artist and like this kind of like, kind of insane reason of being there like that. Just, lucky you, you got to cover that.

HA: Yeah, it was fun. And all I had to do was drive to Orange County for four days in a row. For our last segment, we thought we would talk about the trials we're looking forward to in 2023. Who wants to start?

KM: Well, I can, I can start off because mine will definitely not just be of one trial, but other than working here on the podcast, I also cover Texas legislature and just as any other legislature in any other state, it's gonna be a very eventful one full of lawsuits depending on what the lawmakers decide to do. I always learn a lot, whether it be about ag law or tax law or energy law, energy capital of the U.S. here in Texas. So, I'm always excited for whatever lawsuits get filed because I'm certain to learn something new and yeah, it'll definitely add for some more excitement in my life.

NP: Possibly the biggest one coming up in Brooklyn Federal Court is the trial of Genaro Garcia Luna. He was the head of Mexico's federal police force, the top security official in the country. And he's accused of taking millions of dollars in bribes from the Sinaloa cartel, which was run by El Chapo, you may know, Joaquin Guzman. And he was convicted for his role in running the cartel in Brooklyn at the beginning of 2019 and testimony back at that trial from a corroborating witness involved Garcia Luna, and the witness talked about these bribes, talked about it during testimony about El Chapo and all of the kind of lavish expenses and having a personal zoo and just all of the wild stuff going on over at his place. So, this is sort of, you know, tangential to all that, but I imagine we'll get a lot of testimony about the cartel about its activities. So, I think this will, this'll be a pretty big one in Brooklyn. One other big trial coming up in Brooklyn, two men are standing trial for the murder of Jason Mizzel, who you probably know by his stage name Jam Master Jay. He was the DJ of Run DMC, and he was, he was killed in 2002. So, this goes back 20 years, and it was a cold case for a long time. Two men were indicted, just a few years ago in 2020. And I imagine this will be another big case we'll probably get, you know, a lot of entertainment reporters around and I think it's you know, just fascinating. Obviously, Jam Master Jay's family is looking for justice decades later and I think it'll be a pretty big one.

HA: Amanda, are you looking forward to anything this year?

AP: Oh, yeah. The Dominion defamation lawsuits are gonna start coming down the pipeline. Dominion has about 25 pending cases and one of their employees has six lawsuits in Colorado courts.

HA: And, sorry, remind us what Dominion is.

AP: Yeah, so in 2020, election experts tell us we had the safest election in U.S. history, and yet we had the most conspiracy theories and controversy around the results of the election. We have groups of individuals who thought it was stolen in the days after the election, we saw rumors from the individual level go up to the news media and become repeated by Donald Trump's campaign and his attorney Sidney Powell and Rudy Giuliani. So, I love these cases. I find these cases so interesting because you're seeing the anatomy of a lie go viral and it become repeated until people start to believe it and to watch it be picked apart in court is important because it's one of those polarizing ideas that people have latched onto. And I'm just really excited to see a jury weigh in on.

HA: Well, yeah, that does sound like a good trial. The trials that I am looking forward to, not one trial, but a number of trials. Los Angeles City Hall is on trial. Maybe not literally, but there are a lot of City Hall trials coming up next year. There is the trial of city councilman, sitting City Councilman Mark Ridley-Thomas, who's in trial in federal court for bribery. Former City Councilman Jose Huizar, also on trial for bribery. And, Mayor Eric Garcetti, who has about a week left by the time this podcast airs, he will be out of office. But, he's finally hoping to be confirmed as ambassador to India, which has been kind of pending for more than a year. He's not going on trial, but he may have to testify in a civil trial that hits his former bodyguard's lap. Officer Matthew Garza against Garcetti's former political aid Rick Jacobs for

sexual harassment. Garza has accused Jacobs of sexual harassment. And, it's that charge actually that's responsible for holding up Garcetti's nomination as India ambassador. And the witness list is just sort of a variable who's who of the, of the Garcetti administration of the last few years. There's a lot of sort of questions about who's lying that's been, that have been kind of litigated in the L.A. local politics media. So, hopefully I hope it goes to trial. It may end up settling now that Garcetti is soon to be out of office and sort of the pressure has been turned out down a bit. So, I think that just about wraps it up for 2022. Thank you all for joining me for this gala episode and I'll see you all next year.

NP: Thanks all, happy New Year.

KM: All right, talk to you later.

AP: Bye, happy New Year.

HA: Alright. Cool. Thank you guys. Well, that just about wraps things up for Sidebar and indeed for 2022. Thanks to Kirk, Nina and Amanda, and most especially you, the listener. If you liked what you heard, do check out our website, www.courthousenews.com for all your legal news requirements and of course, we will be back with exciting courthouse coverage in 2023.

[Outro music]