EXHIBIT
GX-27

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO. C-716690 SECTION 24

JAMES BULLMAN, *ET AL*

V.

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

**********CONSOLIDATED WITH**********

NO. C-716837 SECTION 25

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
LOUISIANA STATE CONFERENCE, *ET AL*

V.

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

DECLINATORY, DILATORY, AND PEREMPTORY EXCEPTIONS ON BEHALF OF CLAY SCHEXNAYDER, IN HIS OFFICIAL CAPACITY AS SPEAKER OF THE LOUISIANA HOUSE OF REPRESENTATIVES, AND PATRICK PAGE CORTEZ, IN HIS OFFICIAL CAPACITY AS PRESIDENT OF THE LOUISIANA SENATE

NOW INTO COURT, through undersigned counsel, come Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate, (collectively, the "Legislative Intervenors") who plead declinatory, dilatory, and peremptory exceptions in response to: the Petition for Injunctive and Declaratory Relief from the Louisiana State Conference of the National Association for the Advancement of Colored ("Louisiana NAACP"), the Power Coalition for Equity and Justice ("Power Coalition"), and Dorothy Nairne, Edwin René Soulé, Alice Washington, and Clee Earnest Lowe (collectively, the " Louisiana NAACP Plaintiffs"); the Petition for Injunctive and Declaratory Relief from James Bullman, Kirk Green, Stephen Handwerk, Darryl Malek-Wiley, Amber Robinson, and Pooja Prazid (collectively, the "Bullman Plaintiffs") (the Louisiana NAACP Plaintiffs and Bullman Plaintiffs collectively, the "Plaintiffs"); and the Petition for Intervention by Intervenors Michael Mislove, et al. ("Mislove Intervenors") (the Plaintiffs' and Mislove Intervenors' petitions collectively, the "Petitions"):

DECLINATORY EXCEPTION

Lack of Subject Matter Jurisdiction

I.

Legislative Intervenors plead the declinatory exception of lack of subject matter jurisdiction pursuant to Louisiana Code of Civil Procedure article 925(A)(6) for two different reasons:

II.

Reason 1: The Petitions do not present a ripe and justiciable controversy as the allegations of the Petitions are speculative, conjectural, and theoretical, and this Court lacks jurisdiction to render a hypothetical and advisory opinion based upon a hypothetical future scenario that may or may not occur.

III.

Reason 2: The Petitions seek this Court to intervene in a political process that lies within the exclusive authority of the legislative branch of government.

IV.

Article I, Section 4 of the United States Constitution gives the duty to redistrict Congress to state "legislatures" in the manner provided by the laws thereof.

V.

Article I, Section 4 of the United States Constitution confers on state legislatures the authority to choose the time, place, and manner of elections subject to alteration by Congress.

VI.

In Louisiana, the Legislature acts through the introduction and passage of bills, the Governor may veto, and the Legislature may override the veto. The Legislature may also call itself into special session or introduce bills related to congressional redistricting in the general session.

VII.

Louisiana Constitution Article II, Section 2 and the doctrine of Separation of Powers prohibit a court from issuing a judgment enjoining or mandating the exercise of legislative discretion. Although a court has authority to interpret and declare the law, the judicial branch has no authority to prohibit the Legislature from enacting legislation or carrying out its constitutional decision-making authority.

VIII.

Therefore, this Court is without subject matter jurisdiction to retain this lawsuit, the exception of lack of subject matter jurisdiction should be sustained and the Petitions dismissed.

DILATORY EXCEPTION

Prematurity

IX.

The Legislative Intervenors plead the dilatory exception of prematurity pursuant to Louisiana Code of Civil Procedure article 926(A)(1).

X.

The Legislature passed congressional redistricting bills, *i.e.*, House Bill ("HB") 1 and Senate Bill ("SB") 5, during the 2022 First Extraordinary Session.

XI.

The Legislature adjourned the 2022 First Extraordinary Session on February 18, 2022.

XII.

On March 9, 2022, the Governor vetoed HB 1 and SB 5.

XIII.

A veto session will commence on the fortieth day following final adjournment of the 2022 First Extraordinary Session, which is March 30, 2022, making the challenge in the Petitions premature.

XIV.

Moreover, the Legislature commenced its Regular Legislative Session on March 14, 2022. Multiple bills were pre-filed and are pending on the issue of congressional redistricting, making the challenge in the Petitions premature. *See* SB 306, HB 712, HB 823, and HB 608 of the 2022 Regular Session.[1]

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[1] This Honorable Court may take judicial notice of the bills pending for the 2022 Regular Legislative Session related to Congressional Reapportionment and Redistricting: SB 306, https://legis.la.gov/legis/ViewDocument.aspx?d=1256768; HB 712, https://legis.la.gov/legis/ViewDocument.aspx?d=1257664; HB 823, https://legis.la.gov/legis/ViewDocument.aspx?d=1259460; and HB 608, https://legis.la.gov/legis/ViewDocument.aspx?d=1256978.

XV.

There remains time and options for the Legislature to complete the congressional redistricting process in time for the November 8, 2022 Open Congressional Primary Election.

XVI.

Even if the Governor vetoes a congressional redistricting bill from the 2022 Regular Session, the Legislature has an opportunity to override the veto in a veto session, or to call into session another Extraordinary Session, before the fall elections. *See* La. Const. Art. III, § 2(B).

XVII.

In the matter of *English v. Ardoin*, a similar group of plaintiffs represented by the same counsel that represents the *Bullman* Plaintiffs filed a near identical lawsuit as here. In dismissing on venue grounds, the Fourth Circuit also correctly observed that plaintiffs had filed suit "before they were aggrieved" and noted that "it appears the plaintiffs' claim is premature. . . regarding a cause of action." *English v. Ardoin*, 2021-0739 (La. App. 4 Cir. 2/2/22), -- So.3d --, 2022 WL 305363, at *3, *4 n.2.

XVIII.

For those same reasons, this matter is premature, the exception of prematurity should be sustained, and this action dismissed.

PEREMPTORY EXCEPTIONS

No Cause of Action

XIX.

The Legislative Intervenors plead the peremptory exception of no cause of action pursuant to Louisiana Code of Civil Procedure article 927(A)(5).

XX.

"A court must refuse to entertain an action for a declaration of rights if the issue presented is academic, theoretical, or based on a contingency which may or may not arise." *Am. Waste & Pollution Control Co. v. St. Martin Par. Police Jury*, 627 So. 2d 158, 162 (La. 1993).

XXI.

Nothing in state law authorizes the courts to usurp the constitutional authority of the Legislature to redistrict the State based upon a speculative prediction that the political branches of state government are certain to fail in developing a redistricting plan for congressional elections.

XXII.

Further, viewed as an action for injunctive relief, the Petitions fail to state a cause of action absent allegations of a concrete, real injury that is presently occurring.

XXIII.

In addition, the Petitions have failed to state a cause of action in Count I of each Petition under Article I, Section 2 of the United States Constitution. The one-person, one-vote principle relied upon by the Petitions requires a State to have "a rational approach to readjustment of legislative representation" or, stated differently, a "reasonable plan for periodic revision." *Reynolds v. Sims*, 377 U.S. 533, 583 (1964). It is not alleged that Louisiana does not have such a rational approach.

XXIV.

In addition, the *Bullman* Petition and the Mislove Intervenors' Petition fail to state a cause of action in Count II of their Petitions under Article I, Sections 7 and 9 of the Louisiana Constitution, for any alleged violation of their right to free association. The conduct alleged in the Petitions does not infringe any right to free association.

XXV.

Wherefore, the exception of no cause of action should be sustained, and the Petitions dismissed.

No Right of Action

The Legislative Intervenors plead the peremptory exception of no right of action pursuant to Louisiana Code of Civil Procedure article 927(A)(6).

XXVI.

The Plaintiffs and Mislove Intervenors have no right of action or standing in this case. Except in limited circumstances, an injunction may only be issued in favor of a party who may suffer irreparable injury, and neither Plaintiffs nor Mislove Intervenors have alleged that they may suffer irreparable harm different from the general population. Additionally, there is no standing where, as here, the injury claimed by the Plaintiffs and Mislove Intervenors is, at best, a speculative claim of possible future harm, which is insufficient as a matter of law. *Haynes v. Haynes*, 2002-0535 (La. App. 1 Cir. 5/9/03), 848 So. 2d 35, 39.

XXVII.

In the matter of *English v. Ardoin*, No. 2021-0739 (La. App. 4 Cir. 2/2/22), __So.3d__, the plaintiffs filed a near identical lawsuit as here. In dismissing on venue grounds, the Fourth Circuit correctly noted that "it appears . . . the plaintiffs' lack standing regarding a right of action." *English v. Ardoin*, 2021-0739 (La. App. 4 Cir. 2/2/22), 2022 WL 305363, at *4 n.2.

XXVIII.

The Louisiana NAACP and Power Coalition do not have associational standing to bring this suit.

WHEREFORE, the Legislative Intervenors, for the reasons more fully expressed in the attached memorandum in support of these exceptions, pray that these exceptions be sustained, the Petitions be dismissed at Plaintiffs' and Mislove Intervenors' cost, and for full, general and equitable relief.

CERTIFICATE OF SERVICE

I CERTIFY that the foregoing Exceptions have been served upon counsel of record via e-mail pursuant to La. C.C.P. art. 1313 on March 29, 2022.

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** Pro hac vice motions to be filed*