EXHIBIT
GX-33

NINETEENTH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

SECTION "24"

JAMES BULLMAN, ET AL

VERSUS NO. C-716690

R. KYLE ARDOIN, ET AL

C/W:

N.A.A.C.P. LOUISIANA STATE CONFERENCE, ET AL

VERSUS NO. C-716837

R. KYLE ARDOIN, ET AL

EXCEPTION HEARING

TESTIMONY AND NOTES OF EVIDENCE, TAKEN IN THE ABOVE-ENTITLED AND NUMBERED CAUSE, BEFORE **THE HONORABLE DONALD R. JOHNSON, JUDGE** PRESIDING ON THE **25TH** DAY OF **MARCH, 2022.**

APPEARANCES:

REPRESENTING THE PLAINTIFFS', JAMES BULLMAN, ET AL:

MR. DARRELL J. PAPILLION, ESQ.
MS. ABAH KAHANA, ESQ.
MR. SAM HIRSCH, ESQ.
MS. VICTORIA WANKER, ESQ.
MR. MIKE MCCLANAHAN, ESQ., PRESIDENT OF N.A.A.C.P.
MS. JUDY BARRASSO, ESQ.
MR. JOHN ADCOCK, ESQ.
MR. STUART NAFI, ESQ.

REPRESENTING THE DEFENDANTS', R. KYLE ARDOIN, ET AL:
FROM THE ASSISTANT ATTORNEY GENERALS OFFICE:

MS. ANGELIQUE FREEL, ESQ.
MR. JEFFREY WALE, ESQ.
MR. KERRY TOM JONES, ESQ.
MR. JUDDI SMITH, ESQ.
MS. LAUREN SUDDETH, ESQ. APPEARING VIRTUALLY
MS. JENNIFER BOLLINGER, ESQ. IN-HOUSE COUNSEL FOR THE SECRETARY OF STATE
MS. CHRISTINA B. WALE, ESQ.

FILED
APR 11 2022
Joan Williams Jr. C.R.
DEPUTY CLERK OF COURT

19th JUDICIAL DISTRICT COURT

ALSO PRESENT:

JONATHAN HAWLEY, ESQ., DAVID SHELLY, ESQ. LALITHA MADURE, ESQ., OLIVIA SEDWICK, ESQ. JENNIFER MOREAU, ESQ; KATHERINE SADASAVAN, ESQ., AMRITAV SHOCKRABORTI, ESQ., JONATHAN HERWITZ, ESQ., SARAH BRANNAN, ESQ., SAMANTHA OSAKA, ESQ., SARAH HANNA, ESQ. AND NORA AHMED, ESQ.

REPORTED BY:

SUSAN WILLIAMS LEE, C.C.R.
OFFICIAL COURT REPORTER IN AND FOR
THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

FRIDAY, MARCH 25, 2022, 1:30 P.M.

THIS MATTER CAME BEFORE THE COURT TODAY FOR AN EXCEPTION HEARING. THIS MATTER WAS HELD IN OPEN COURT VIA ZOOM TELECONFERENCE AND ALL PARTIES LISTED WERE PRESENT AS STATED.

THE COURT:

GOOD AFTERNOON, EVERYBODY, HAVE A SEAT FOR ME. I AM JUDGE DONALD JOHNSON PRESIDING OVER SECTION TWENTY-FOUR OF THE 19TH JUDICIAL DISTRICT COURT AND THIS IS DIVISION B. WE'RE ASSEMBLING FOR A 1:30 AFTERNOON SESSION ON FRIDAY. I THINK THAT WORKS BEST FOR EVERYBODY WITH THE OBLIGATIONS WE ALL HAVE DURING THE WEEK. SO WE'RE CONSISTENTLY WORKING HERE ON FRIDAY AFTERNOONS UNTIL WE GET TO A POINT WHERE THIS MATTER IS IN THE HANDS OF A SUPERIOR COURT, I SUPPOSE. WITH THAT IN MIND I AM GOING TO START EN VIOLE, WITH THE PLAINTIFFS AND THE PARTIES REPRESENTING THE DEFENDANTS TO INTRODUCE THEMSELVES WITH RESPECT TO THE CURRENT INTERVENOR. THAT INTERVENTION IS ALIGNED WITH THE PERSPECTIVE OF THE PLAINTIFF SO THE INTERVENOR WILL INTRODUCE THEMSELVES AND THE PARTIES THAT THEY REPRESENT. I JUST GOT THROUGH JUST FOR AN FYI, I JUST GOT THROUGH READING A RECENT OR A FILING TODAY PROPOSED TO INTERVENE WITH THE PERSPECTIVE OF THE DEFENDANTS BY REPRESENTATIVES FROM THE LEGISLATIVE BODY. I HAVE BEEN READING IT. I DID NOT FINISH IT. I GOT THROUGH MOST OF IT BEFORE I CAME IN. I AM AWARE THAT IT'S PENDING. I HAVE NOT RULED ON IT BUT THOSE PARTIES ARE NOT PRESENTLY ADMITTED TO INTERVENE SO IF THEY ARE PRESENT I DON'T KNOW ABOUT THAT. SO I JUST WANTED TO ALERT EVERYBODY. I ASSUME THAT YOU ALL ARE ALREADY CORRESPONDING WITH ONE ANOTHER IN THESE INTERVENTIONS

SO THAT YOU WILL KNOW WHAT'S FORTHCOMING BETTER AND BEFORE I DO. I JUST ASSUME THAT, THAT'S THE CASE. IF THAT'S NOT THE CASE PLEASE SHARE THAT WITH ONE ANOTHER SO IT'S -- EVERYBODY CAN STAY FOCUSED AND WE CAN TIMELY GET TO THE MATTERS BEFORE US. SO WITHOUT INTRODUCTORY REMARK, I'M GOING TO TENDER TO PLAINTIFF'S LEAD COUNSEL, AND THEN TO INTERVENORS LEAD COUNSEL TO INTRODUCE THEMSELVES AND MAKE A RECORD OF WHO IS ASSISTING WITH THEM AND THEN WE WILL TENDER TO THE DEFENSE. VERY WELL. LET'S GO.

MS. WANKER:

VICTORIA WANKER WITH THE N.A.A.C.P. PLAINTIFFS BUT MY COLLEAGUES WHO ARE ON THE ZOOM WILL ACTUALLY BE THE ONES SPEAKING TODAY.

THE COURT:

OKAY, ANYONE ELSE ATTENDING -- AND YOU WILL MAKE A --

MR. MCLANAHAN:

YOUR HONOR, MIKE MCLANAHAN, PRESIDENT OF THE N.A.A.C.P.

THE COURT:

OKAY. STATE N.A.A.C.P. PRESIDENT MCLANAHAN, NICE TO SEE YOU TODAY.

MR. MCLANAHAN:

THANK YOU, JUDGE.

THE COURT:

VERY WELL. I WILL ALLOW THE PARTIES THAT ARE ATTENDING BY THE ZOOM TELECONFERENCE PLATFORM TO INTRODUCE THEMSELVES IN THE ORDER THAT THEY WOULD WANT.

MR. PAPILLION:

YOUR HONOR, DARRELL PAPILLION ON BEHALF OF THE PLAINTIFFS. ABAH KAHANA, JOINS ME AND WILL BE DOING

MOST OF THE TALKING TODAY. ALSO PRESENT, YOUR HONOR, JONATHAN HAWLEY, DAVID SHELLY, LALITHA MADURE, OLIVIA SEDWICK, AND JENNIFER MOREAU, YOUR HONOR. (ALL NAMES SPELLED PHONETICALLY.)

THE COURT:

VERY WELL. OKAY.

MS. BARRASSO:

JUDGE, THIS IS JUDY BARRASSO ON BEHALF OF THE INTERVENORS, MICHAEL MISLOVE, LISA FOUCI, ROBERT LIPTON, AND NICHOLAS MATAE, AND MR. SAM HIRSCH IS ALSO ON ZOOM WITH ME AND WE'LL BE DOING THE TALKING ON BEHALF OF THESE INTERVENORS. THANK YOU. (ALL NAMES SPELLED PHONETICALLY.)

THE COURT:

ALL RIGHT, WITH RESPECT TO THE DEFENSE, THE DEFENDANTS -- OH, I AM SORRY MR. --

MR. ADCOCK:

IT'S MR. ADCOCK.

THE COURT:

ADCOCK, GO AHEAD.

MR. ADCOCK:

JOHN ADCOCK, FOR THE N.A.A.C.P. PLAINTIFFS IN 716837. I'M -- I'LL BE APPEARING, AND I AM A MEMBER OF THE LOUISIANA BAR. STUART NAFI, WITH ME, WILL BE DOING MOST OF THE TALKING ON BEHALF OF MY CLIENTS. WITH US TODAY IS KATHERINE SADASAVAN, AMRITAV SHOCKRABORTI, JONATHAN HERWITZ, SARAH BRANNAN, SAMANTHA OSAKA, SARAH HANNA, AND NORA AKMITH, (ALL NAMES SPELLED PHONETICALLY) THANK YOU, JUDGE. I THINK THAT'S IT. I THINK I GOT EVERYBODY.

THE COURT:

ALL RIGHT, ANYONE ELSE WITH RESPECT TO THE

PETITIONER INTERVENORS THAT ARE PRESENT BEFORE THE COURT, ANYONE ELSE? HEARING NOTHING TO THE CONTRARY, I'LL ASK THE REPRESENTATIVES OF THE VARIOUS PARTIES DEFENDANTS.

MS. FREEL:

GOOD AFTERNOON, YOUR HONOR, I AM ANGELIQUE FREEL, ASSISTANT ATTORNEY GENERAL HERE ON BEHALF OF THE DEFENDANT R. KYLE ARDOIN, SECRETARY OF STATE OF LOUISIANA SUED IN HIS OFFICIAL CAPACITY. ALSO PRESENT, YOUR HONOR, ARE ASSISTANT ATTORNEYS GENERAL, JEFFREY WALE, KERRY TOM JONES, JUDDI SMITH, AND APPEARING VIRTUALLY IS ASSISTANT ATTORNEY GENERAL LAUREN SUDDETH, AND WE ALSO HAVE IN-HOUSE COUNSEL FOR THE SECRETARY OF STATE, JENNIFER BOLLINGER. (ALL NAMES SPELLED PHONETICALLY.)

THE COURT:

VERY WELL. MR. ARDOIN IS NOT HERE?

MS. FREEL:

NO, YOUR HONOR.

THE COURT:

I DID NOT EXCUSE HIM, WHY IS HE NOT HERE?

MS. FREEL:

I DIDN'T KNOW HE NEEDED TO BE PRESENT. THERE IS A LEGISLATIVE SESSION GOING ON --

THE COURT:

THERE'S NO MOTION TO EXCLUDE HIM BASED ON THAT --

MS. FREEL:

WELL, YOUR HONOR, I HAVE -- I'D LIKE TO ORALLY MOVE TO EXCLUDE IT. I'VE HAD SEVERAL CASES OVER THE COURSE OF THE LAST TEN YEARS DEALING WITH ELECTION MATTERS AND HE HAS NEVER HAD TO BE PRESENT BEFORE. I DO APOLOGIZE. I CAN CALL AND SEE IF HE IS AVAILABLE.

THE COURT:

IS IT -- HE IS A PARTY DEFENDANT.

MS. FREEL:

IN HIS OFFICIAL CAPACITY, YOUR HONOR.

THE COURT:

I AM APPEARING IN MY OFFICIAL CAPACITY. I'M HERE. I'D LIKE TO HAVE THE SECRETARY HERE IN HIS OFFICIAL CAPACITY OTHERWISE HE IS, HE IS NOT SUBJECT TO MY AUTHORITY IF HE IS NOT HERE. SO, THE SECRETARY NEEDS TO BE HERE.

MS. FREEL:

WELL, THE SECRETARY OF STATE IS A MINISTERIAL OFFICE AND IN THE -- IN --

THE COURT:

IF YOU WANT TO MAKE A RECORD, THAT'S FINE -- COUNSEL, FREEL HAVE A SEAT.

MS. FREEL:

AND IN -- OKAY, CAN I JUST SAY ONE THING, YOUR HONOR?

THE COURT:

HAVE A SEAT COUNSEL FREEL. HAVE A SEAT FOR ME.

MS. FREEL:

CAN I -- CAN I CALL HIM? WOULD --

THE COURT:

NO, SIR. NO, MA'AM. HAVE A SEAT FOR ME.

MS. FREEL:

I'D LIKE TO MAKE AN OBJECTION ON THE RECORD.

THE COURT:

I WILL ALLOW IT. JUST HAVE A SEAT FOR RIGHT NOW.

MS. FREEL:

HIS COUNSEL IS PRESENT, YOUR HONOR.

THE COURT:

NOTED. WITHOUT COURT APPROVAL THE SECRETARY HAS TO BE IN OPEN COURT.

MS. FREEL:

YOUR HONOR, WHAT ABOUT THE PLAINTIFF HERE, TWO PLAINTIFFS?

THE COURT:

THE PART OF THE PLAINTIFF HAS TO BE HERE ALSO WITHOUT COURT APPROVAL. SO DO YOU WANT TO GO FORWARD WITH IT IN HIS ABSENCE?

MS. FREEL:

YES, YOUR HONOR, I'D LIKE TO GET THIS HEARD AS SOON AS POSSIBLE. I APPRECIATE YOUR COURTESY IF YOU ALLOW IT TO GO FORWARD AND IF IT CONTINUES IN YOUR COURTROOM WE WILL MAKE SURE THAT HE IS AWARE THAT YOU EXPECT HIM HERE.

THE COURT:

ALL PARTIES MUST APPEAR IN PERSON UNLESS EXCUSED BY THE COURT. THE PARTIES DESIRE TO GO FORWARD -- WE'LL GO FORWARD BUT PROSPECTIVELY HERE, APPEARING BEFORE JUDGE JOHNSON, THE PARTIES HAS TO APPEAR IN PERSON. SO LET IT BE KNOWN BY ALL PARTIES; OKAY? ALL RIGHT, WITH THAT IN MIND, LET ME ADDRESS THE ISSUES THAT I BELIEVE WE'RE HERE FOR. I HAVE VARIOUS EXCEPTIONS THAT HAVE BEEN FILED AND I HAD ONE OR TWO MOTIONS THAT HAVE BEEN FILED. I WANT TO TRY AND ADDRESS THOSE AS MUCH AS I CAN THIS AFTERNOON ON A VERY TIGHT, LIMITED TIME SCHEDULE. I'VE READ THE BRIEFS, I'VE READ EVERYTHING YOU'VE ARGUED. THERE IS NO NEED TO REGURGITATE THAT WITH ME. SO I'D LIKE YOU TO GO QUICKLY TO THE ISSUES AND REST ON WHATEVER EVIDENTIARY BASIS OR PLEADING YOU WISH TO REST ON. SO I'LL START FIRST WITH MOTIONS THAT ARE FILED BY THE DEFENSE. AND

1 THEN WE WILL SHIFT TO MOTIONS FILED BY THE INTERVENOR
2 AND/OR PLAINTIFF. WHICH MOTION WOULD YOU LIKE TO TAKE
3 FIRST?
4 **MS. FREEL:**
5 YOUR HONOR, WE FILED A REQUEST FOR JUDICIAL NOTICE
6 YESTERDAY AND AS A COURTESY FOR EASE OF REFERENCE WE
7 ASKED THE LEGISLATIVE STAFF TO PREPARE CERTIFIED COPIES
8 OF THE LEGISLATION THAT WAS PASSED DURING THE 2022
9 FIRST EXTRA ORDINARY SESSION AS WELL AS THE -- THE
10 LEGISLATIVE HISTORY WHICH WOULD INCLUDE THE VETO
11 STATEMENTS AND THE PENDING LEGISLATION -- THERE WAS
12 FOUR BILLS PROPOSED IN WITH CONGRESSIONAL
13 REAPPORTIONMENT. AND SO WE HAVE ALL OF THAT IN A
14 CERTIFIED COPY FORMAT AND WE WOULD LIKE FOR YOU TO TAKE
15 JUDICIAL NOTICE AND WE WOULD LIKE TO OFFER AND
16 INTRODUCE WHAT IS THE EXHIBIT A IN-GLOBO INTO EVIDENCE
17 FOR CONSIDERATION IN THESE PROCEEDINGS.
18 **THE COURT:**
19 STAND BY. LET ME HEAR FROM THE PLAINTIFF AND THE
20 INTERVENOR WITH RESPECT TO THE DEFENSES REQUEST THAT
21 THE COURT TAKE JUDICIAL NOTICE OF ALLEGEDLY
22 ADJUDICATIVE FACTS. I'LL ASK THE PLAINTIFF
23 REPRESENTATIVE TO RESPOND FIRST.
24 **MS. KAHANA:**
25 YOUR HONOR, THIS IS ABAH KAHANA ON BEHALF OF THE
26 BULLMAN PLAINTIFFS AND WE HAVE NO OBJECTION TO THE --
27 FOR THE COURT TAKING JUDICIAL NOTICE OF THESE
28 LEGISLATIVE FACTS. WE DON'T NECESSARILY BELIEVE
29 THEY'RE RELEVANT BUT THAT WE HAVE NO OBJECTION FOR THE
30 COURT HAVING THEM -- HAVING IT BEFORE THEM.
31 **THE COURT:**
32 VERY WELL, THE INTERVENOR.

MR. PAPILLION:

WE TAKE THE SAME POSITION AND HAVE NO OBJECTION.

THE COURT:

WITHOUT OBJECT, THE DEFENSE, SECRETARY OF STATE, MR. -- THE HONORABLE R. KYLE ARDOIN, REQUESTS THAT THE COURT TAKE JUDICIAL NOTICE OF ADJUDICATE FACTS AND EXHIBITS THAT ARE DETACHED IS GRANTED.

MR. ADCOCK:

AND JUDGE, THIS IS JOHN ADCOCK, WITH THE N.A.A.C.P. PLAINTIFFS DON'T HAVE ANY OBJECTION EITHER, AND I JUST WANT TO PUT THAT ON THE RECORD. THANK YOU.

THE COURT:

SO NOTED. DEFENSE.

MS. FREEL:

YOUR HONOR, WE ALSO HAVE PENDING A MOTION FOR STAY WHICH IS PROBABLY NOT RIPE AS A CONTINGENT MOTION DEPENDING ON YOUR RULING WITH REGARD TO OUR EXCEPTIONS. BASED ON THE STATUS CONFERENCE WE HAD LAST MONDAY I INDICATED WHEN PLAINTIFFS COUNSEL INDICATED THEY WANTED TO ENTER INTO AN EXPEDITED TRIAL SCHEDULE THAT I OBJECTED, THAT I FELT THAT WE HAD SOME VIABLE EXCEPTIONS THAT WOULD RESULT IN DISMISSAL OF THIS CASE. AND IN THE EVENT THAT YOUR HONOR DENIED THOSE EXCEPTIONS I WOULD BE REQUESTING A STAY AND SEEKING APPELLATE REVIEW AND YOU INDICATED THAT YOU WOULD WANT THE STAY TO BE IN WRITING. AND SO, WE HAVE THAT BUT WE ONLY WANT YOU TO TAKE IT UP IF YOU DENY OUR EXCEPTIONS, YOUR HONOR.

THE COURT:

I DID READ THE MOTION AND IT IS SUBJECT TO THE RULINGS THAT YOU ARTICULATE. I AM AWARE.

MS. FREEL:

THANK YOU.

THE COURT:

SO THE MOTION TO STAY WILL FOLLOW THE DECISIONS REACHED ON THE EXCEPTIONS AND MOTIONS.

MS. FREEL:

YOUR HONOR, IF -- AND DEPENDING ON THE RULING WE ARE PREPARED TO FILE A NOTICE OF INTENT TO SEEK SUPERVISORY WRITS BUT THAT WOULD COME AT THE END OF THE HEARING AND WHENEVER YOU DO YOUR RULING.

THE COURT:

JUST ADVISE THE COURT IF IT'S ADVERSE WHAT TIME SCHEDULE YOU WANT TO PURSUE THE FIRST CIRCUIT OR THE SUPREME COURT OF LOUISIANA; OKAY?

MS. FREEL:

THANK YOU. THANK YOU.

THE COURT:

OKAY, LET'S TAKE UP YOUR FIRST EXCEPT OR MOTION.

MS. FREEL:

OKAY. YOUR HONOR, SO WE FILED THREE SETS OF EXCEPTIONS AS IT RELATES TO THE THREE PETITIONS THAT ARE PENDING IN THIS CASE. BUT I KNOW YOU HAD AN OPPORTUNITY TO REVIEW THEM AND YOU WILL SEE THAT THEY ARE BASICALLY THE SAME ARGUMENT AND SO, IF -- IF YOU WOULD LIKE I'LL TAKE UP THE LACK OF SUBJ3ECT MATTER JURISDICTION.

THE COURT:

VERY WELL.

MS. FREEL:

AND IT WOULD BE RELEVANT TO ALL OF THE PLAINTIFFS AND INTERVENOR.

THE COURT:

VERY WELL. IN A NUTSHELL, WHY DOES THIS COURT NOT

1 HAVE SUBJECT MATTER JURISDICTION?
2 **MS. FREEL:**
3 SO THERE IS FOUR DIFFERENT REASONS, FIRST OF ALL,
4 YOU KNOW, ANY CASE THAT'S PENDING BEFORE THE COURT HAS
5 TO HAVE AN ACTIVE CASE IN CONTROVERSY. AND ALL THREE
6 PETITIONS ALLEGE AN IMPASSE WITH REGARD TO LEGISLATIVE
7 AND GUBERNATORIAL ACTION AND THEY DO NOT BELIEVE THAT A
8 NEW CONGRESSIONAL MAP WILL COME INTO EFFECT USING THE
9 2020 CENSUS DATA. SO THIS IS 101 LAW, THIS IS
10 SPECULATIVE, THIS IS THEORETICAL --
11 **THE COURT:**
12 DO YOU SUPPOSE THE LEGISLATURE WILL HAVE A MAP BY
13 JULY THE 20TH?
14 **MS. FREEL:**
15 I CAN'T SPEAK FOR THE LEGISLATURE, YOUR HONOR, BUT
16 --
17 **THE COURT:**
18 BUT THAT'S THE RELEVANT TIME WE'RE TALKING ABOUT;
19 RIGHT?
20 **MS. FREEL:**
21 SO THAT IS ONE OF THE TIMEFRAMES YOUR HONOR, SO --
22 **THE COURT:**
23 WHAT -- WHAT'S THE OTHER TIME FRAME?
24 **MS. FREEL:**
25 SO -- SO --
26 **THE COURT:**
27 WHAT'S THE OTHER TIMEFRAME?
28 **MS. FREEL:**
29 OKAY, SO, I'LL SAY THIS MUCH, YOUR HONOR, TO
30 EXPLAIN THAT, OUR ELECTION CODE GOVERN WHEN
31 APPORTIONMENT PLANS HAVE TO BE SUBMITTED TO THE
32 SECRETARY OF STATE --

1 **THE COURT:**
2 I'M NOT TALKING ABOUT THE QUALIFYING PERIOD FOR
3 THE CONGRESSIONAL FALL ELECTIONS.
4 **MS. FREEL:**
5 NO -- I'M -- YES, I'M TALKING ABOUT APPORTIONMENT
6 PLANS. THAT'S SPECIFICALLY LAID OUT IN OUR ELECTION
7 CODE IN TITLE EIGHTEEN. AND THAT IS AROUND THAT TIME
8 THAT YOU SAID BUT --
9 **THE COURT:**
10 QUALIFYING IS JULY OF THIS YEAR, RIGHT, JULY THE
11 20TH? DO YOU SUPPOSE THAT THE LEGISLATURE, ARE YOU IN
12 GOOD FAITH TELLING ME THAT THE LEGISLATURE IS GOING TO
13 HAVE A PLAN READY TO GO AND THAT THE GOVERNOR IS NOT
14 GOING TO BE ADVERSE TO IT SO THAT THESE CITIZENS OF OUR
15 STATE CAN APPLY FOR THAT THEIR RELIEF THAT THEY ARE
16 ENTITLED TO?
17 **MS. FREEL:**
18 I DON'T CONTROL THE LEGISLATURE, YOUR HONOR,
19 UNFORTUNATELY, I WISH I DID.
20 **THE COURT:**
21 SO WHY DO YOU -- WITH THAT LACK OF CONTROL THEN,
22 WHY DO YOU ARGUE IT'S SPECULATIVE? YOU DON'T HAVE
23 CONTROL.
24 **MS. FREEL:**
25 BECAUSE THEY'RE RIGHT NOW CURRENTLY IN THE SESSION
26 -- LET ME GIVE YOU AN ANALOGY, JUST FOR THIRTY SECONDS
27 IF YOU WOULD. SO LET'S THINK OF A FOOTBALL GAME, THE
28 QUARTERBACK DROPS THE BALL --
29 **THE COURT:**
30 I WATCHED THE N.A.A.C.P. LAST NIGHT -- TWO GAMES.
31 I AM AWARE OF FOOTBALL ANALOGIES AND THE TIME TO SCORE
32 AND THAT KIND OF THING BUT WE'RE IN THE LAST MINUTE OF

1 THIS -- THIS CYCLE HERE AND SO --
2 **MS. FREEL:**
3 BUT -- BUT BASED -- BASED ON WHAT? I HAVE --
4 THERE IS NOTHING IN THE PETITION THAT HAS ALLEGED A
5 DROP DEAD DATE. AND UNDER THE LAW THEY CERTAINLY HAVE
6 TIME. THEY ACTUALLY HAVE THE ABILITY TO GO INTO A
7 OVERRIDE SESSION WHICH IS REQUIRED, YOUR HONOR, BY OUR
8 CONSTITUTION.
9 **THE COURT:**
10 IS IT REQUIRED?
11 **MS. FREEL:**
12 IT'S REQUIRED BY OUR CONSTITUTION BY DEFAULT.
13 IT'S ONLY IF THEY RECEIVE A BALLOTS BY A MAJORITY OF
14 EACH HOUSE.
15 **THE COURT:**
16 HAS ANYONE SUPPLIED THE -- DID THE MAJORITY SEND
17 OVER THE NOTICE YET? THE MAJORITY --
18 **MS. FREEL:**
19 THAT DEADLINE HASN'T RUN WHICH ILLUSTRATES HOW
20 THIS ISN'T RIPE.
21 **THE COURT:**
22 I SEE. WHAT'S THAT DEADLINE?
23 **MS. FREEL:**
24 IT'S TONIGHT AT MIDNIGHT, YOUR HONOR.
25 **THE COURT:**
26 SO WE'LL KNOW TONIGHT AT MIDNIGHT WHETHER OR NOT
27 THE MAJORITY IN A CONGRESSIONAL DELEGATION WILL NOTIFY
28 THE STATE THAT THEY'RE GOING TO SEEK AN OVERRIDE
29 SESSION; RIGHT? BY MIDNIGHT TONIGHT?
30 **MS. FREEL:**
31 THAT IS MY UNDERSTANDING. IT SAYS NO LATER THAN,
32 AND SO THAT IS MY UNDERSTANDING OF THE LAW, YOUR HONOR.

BUT REGARDLESS THAT IS WITH REGARD TO THE LEGISLATION THAT WAS PASSED DURING THE FOUR -- FIRST EXTRAORDINARY SESSION. THERE ARE CURRENTLY FOUR BILLS DEALING WITH CONGRESSIONAL REAPPORTIONMENT THAT ARE PENDING. AND SO --

THE COURT:

I'VE READ EACH ONE.

MS. FREEL:

YOUR HONOR, WHAT? I'M SORRY.

THE COURT:

I HAVE ALREADY READ IT.

MS. FREEL:

OKAY.

THE COURT:

AND I AM AWARE.

MS. FREEL:

SO YOU ARE AWARE THAT THEY ARE PENDING. AND SO THE RELIEF THAT THE PLAINTIFFS ARE REQUESTING CANNOT AND DOES NOT INFRINGE ON THE LEGISLATORS ABILITY TO CONTINUE THEIR SESSION. AND SO, WE COULD THEORETICALLY IF THEY'RE GRANTED THE RELIEF THAT THEY SEEK HAVE REAPPORTIONMENT PLAN THAT COMES OUT IN THE LEGISLATURE AND SOMETHING THAT WOULD COME OUT OF THIS COURTROOM WHEN BOTH OUR UNITED STATES LAWS AND LOUISIANA LAWS HAVE GIVEN THAT AUTHORITY SPECIFICALLY TO THE STATE LEGISLATURE. AND SO --

THE COURT:

YOU -- WOULD YOU WANT THE STATE TO HAVE A CONTINGENCY PLAN OR NOT?

MS. FREEL:

THEY DO HAVE A CONTINGENCY PLAN.

THE COURT:

1 WHAT -- WHAT IS IT?
2 **MS. FREEL:**
3 SO -- PART OF THAT, OUR ARGUMENT, IS THAT ONE,
4 CONGRESS CAN GET INVOLVED; TWO, THE SUPREME COURT CAN
5 GET INVOLVED --
6 **THE COURT:**
7 WHY DO YOU WANT THE UNITED STATES CONGRESS
8 INVOLVED IN THIS? THIS IS A --
9 **MS. FREEL:**
10 I'M JUST SAYING THOSE ARE VIABLE OPTIONS.
11 **THE COURT:**
12 THE UNITED STATES CONGRESS AND WHAT ELSE?
13 **MS. FREEL:**
14 THE SUPREME COURT.
15 **THE COURT:**
16 WELL, WE'RE IN COURT -- THE SUPREME COURT OF
17 UNITED STATES?
18 **MS. FREEL:**
19 THE SUPREME COURT OF LOUISIANA.
20 **THE COURT:**
21 HAVE YOU MADE AN APPLICATION TO THE SUPREME COURT
22 TO TAKE THE SUBJECT MATTER JURISDICTION IN THIS CASE?
23 **MS. FREEL:**
24 NOT AT THIS TIME, IF NECESSARY WE WILL BUT WE
25 DON'T BELIEVE THAT'S APPROPRIATE BECAUSE WE DON'T
26 BELIEVE THAT IT'S RIPE FOR ANOTHER BRANCH OUTSIDE OF
27 THE LEGISLATURE TO BE ENGAGED IN CONGRESSIONAL
28 REAPPORTIONMENT AND REDISTRICTING AT THIS TIME.
29 **THE COURT:**
30 ALL RIGHT, SO YOU DON'T BELIEVE IN IMPASSE
31 LAWSUITS, IS WHAT YOU'RE SAYING IN THIS VERNACULAR.
32 THAT'S NOT --

1 **MS. FREEL:**
2 THIS IS NOT AN IMPASSE LAWSUIT. THIS IS NOT --
3 THEY -- THEY ARE ACTIVELY IN A SESSION LEGISLATING AND
4 WORKING THROUGH CONGRESSIONAL REDISTRICTING. AND YOUR
5 HONOR I WOULD JUST LIKE TO POINT OUT SOME OF THE CASES
6 THAT ARE CITE BY THE PLAINTIFF AND HOW THEY'RE
7 DISTINGUISHABLE.
8 **THE COURT:**
9 I'VE READ -- I'VE READ IT -- I READ THEM, SO LET'S
10 NOT GO INTO THAT; OKAY? WHAT ELSE DO YOU WANT TO PUT
11 ON, ON THIS LACK OF SUBJECT MATTER? YOU SAID THERE
12 WERE FOUR ITEMS?
13 **MS. FREEL:**
14 YES.
15 **THE COURT:**
16 I DON'T HAVE SUBJECT MATTER JURISDICTION, TELL ME
17 WHAT THEY ARE. JUSTICIABILITY AND WHAT ELSE?
18 **MS. FREEL:**
19 WELL, THE LACK OF SUBJECT MATTER JURISDICTION WAS
20 ON FOUR GROUNDS. SO THEY'RE ASKING FOR A DECLARATION
21 AND INJUNCTIVE RELIEF TO PREVENT THE USE OF 2011
22 CONGRESSIONAL ELECTION DISTRICTS FOR THE 2022
23 ELECTIONS. HOWEVER, THERE HAS BEEN NOTHING -- NO
24 INDICATION BY THE LEGISLATURE THAT, THAT'S WHAT THEY
25 PLAN TO DO. THERE'S NO ALLEGATION BECAUSE THAT IS NOT
26 WHAT THEY PLAN TO DO AND IN FACT, THE PENNSYLVANIA CASE
27 WHICH WAS AGAIN CITED BY THE PLAINTIFFS SAID THAT YOU
28 ONLY HAVE AN ISSUE OF MALAPPORTIONMENT AND HARM TO THE
29 PLAINTIFF IF THE ELECTION IS HELD IN THE
30 MALAPPORTIONMENT DISTRICT. THAT HAS NOT HAPPENED HERE,
31 THAT'S -- THAT'S NOTHING THAT WE KNOW, IT WOULD BE
32 SPECULATIVE AGAIN, GOING TO THE LACK OF SUBJECT MATTER

JURISDICTION. AND BY VIRTUE OF SOME OF THE JURISPRUDENCE THAT'S COME OUT OF THE SUPREME COURT WITH REGARD TO USE OF OLD DISTRICTS, THERE COULD BE SOME CONSTITUTIONAL CONCERNS; THAT'S ALREADY BEEN DEALT WITH BY THE SUPREME COURT OF THE -- OF -- OF OUR COUNTRY. AND SO, IT'S NOT ANY RELIEF THAT WOULD GIVE THEM WHAT'S NOT ALREADY ALLOWED UNDER THE LAW. BUT TO THE EXTENT THAT THEY WANT ANY DETERMINATION WITH REGARD TO MALAPPORTIONMENT THAT GOES TO THE MERITS. THERE IS A --

THE COURT:

IS IT THE 2011 DISTRICTS THAT ARE NOT MALAPPORTIONED?

MS. FREEL:

THAT GOES TO THE MERITS, YOUR HONOR. AND THAT'S SOMETHING --

THE COURT:

I'M ASKING YOU TO TELL ME -- ARE YOU ASSERTING THAT BEFORE ME THAT THE 2011 MAPS THAT ARE STATUTORILY ON THE BOOKS, ARE YOU SAYING THAT, THAT IS APPROPRIATE FOR FUTURE ELECTIONS?

MS. FREEL:

I'M -- I -- I'M -- THAT IS NOT -- NOT SOMETHING THAT I'M GOING TO TALK ABOUT IN MY CAPACITY AS REPRESENTING A MINISTERIAL OFFICER TODAY. AND PART OF THE REASON IS BECAUSE WE HAVE -- THAT IS A CONSTITUTIONAL CHALLENGE THAT'S PART OF THE PETITION AND WE HAVE RECEIVED A VERY CLEAR INSTRUCTIONS FROM THE LOUISIANA SUPREME COURT MOST RECENTLY IN A CASE THAT YOU MAY BE FAMILIAR WITH CALLED, JOHN BEL EDWARDS VERSUS LEGISLATURE, THAT IF A MATTER CAN BE DECIDED ON GROUNDS OTHER THAN CONSTITUTIONALITY THE COURT IS

1 OBLIGATED TO DO THAT. AND WE HAVE A VERY VIABLE
2 EXCEPTION RELATED TO SUBJECT MATTER JURISDICTION AS
3 WELL AS PREMATURITY PENDING WHICH WOULD ALLOW THE COURT
4 TO DISMISS THE CASE WITHOUT ENTERTAINING THE
5 CONSTITUTIONAL CHALLENGE. MOREOVER, THAT'S AN ORDINARY
6 PROCEEDING, WE WOULD OBJECT TO ANY TYPE OF
7 DETERMINATION ON THAT ISSUE TODAY.
8 **THE COURT:**
9 ON WHICH ISSUE?
10 **MS. FREEL:**
11 ON MALAPPORTIONMENT. THAT'S NOT WHAT'S BEFORE THE
12 COURT, THAT'S NOT WHAT'S SET.
13 **THE COURT:**
14 I'M NOT GOING TO RULE ON MAL APPORTIONMENT TODAY.
15 **MS. FREEL:**
16 SO --
17 **THE COURT:**
18 I SIMPLY ASKED YOU A QUESTION AND YOU SAY YOU
19 DECLINE THE ANSWER. WE'LL -- WE'LL --
20 **MS. FREEL:**
21 NO, WELL, YOU WANTED MY PERSONAL OPINION WITH
22 REGARD TO MALAPPORTIONMENT, AND I DON'T THINK THAT'S
23 APPROPRIATE AND FOR THE REASONS STATED. AND IF YOU HAD
24 AN OPPORTUNITY TO REVIEW THE PROPOSED FINDINGS OF FACT
25 AND CONCLUSIONS OF LAW PREPARED BY THE INTERVENOR,
26 LEGISLATIVE LEADERSHIP, THEY HAD SOME POSITIONS ON THAT
27 AREA OF THE LAW, AND THEY WOULD BE THE MORE APPROPRIATE
28 BODY TO MAKE THOSE DETERMINATIONS. THEY ARE THE LAW
29 MAKING BODY IN OUR STATE AND -- AND THEY HAVE SOME
30 OPINIONS WITH REGARD TO USE OF 2010 DISTRICTS. BUT
31 AGAIN THIS IS JUST ALL SPECULATIVE, IT'S JUST PUTTING
32 THE CART BEFORE THE HORSE. AND IT'S NOT APPROPRIATE

FOR THIS COURT TO HEAR THE MATTER AT THIS TIME. IT SHOULD BE DISMISSED OUTRIGHT. YOU KNOW, THE PLAINTIFFS' COUNSEL FOR BULLMAN FILED A NEARLY IDENTICAL LAWSUIT IN 2021, THIS SPRING, EVEN BEFORE THE STATE HAD RECEIVED THE LEGACY FILES FOR CENSUS DATA AND THAT CASE WAS DISMISSED ON VENUE. BUT THE COURT NOTED THAT IT WAS LIKELY PREMATURE AND THERE WAS NO RIGHT OF ACTION. THE SAME IS TRUE NOW. IT IS -- WE ARE STILL IN A LEGISLATIVE SESSION, THAT BODY IS THE BODY THAT IS TASKED WITH REAPPORTIONMENT OF CONGRESS, AND THAT WORK IS GOING ON NOW. IF FOR SOME REASON THERE IS AN IMPASSE, WHICH IS NOT NOW, THERE HAS BEEN NO TIMELINE, OR DEADLINE MISSED BY THE STATE, BUT IF THAT HAPPENS IT'S OUR POSITION THAT IT'S THE SUPREME COURT, NOT THE DISTRICT COURT THAT WOULD BE THE APPROPRIATE COURT TO CONSIDER IT.

THE COURT:

VERY WELL.

MS. FREEL:

AND THAT, ESSENTIALLY IS THE BASIS AND WE TOUCHED BRIEFLY ON THE SEPARATION OF POWERS BUT THAT IS ALSO THE BASIS FOR THE LACK OF SUBJECT MATTER JURISDICTION. AND THE FACTS THAT CAN BE SET FORTH THROUGH THE REQUEST FOR JUDICIAL NOTICE THAT YOU APPROVED EARLIER THAT WOULD ALL ILLUSTRATE THE EFFORTS THAT THE LEGISLATURE HAS TAKEN OR PRESENTLY TAKEN WITH REGARD TO A CONGRESSIONAL REAPPORTIONMENT AND WE DO ASK THAT THEY BE CONSIDERED FOR PURPOSES OF THE EXCEPTION.

THE COURT:

THE FACTS ARE ADMITTED WITH REFERENCE TO THE EXCEPTIONS, EXCEPT THE NO CAUSE OF ACTION WHICH IS LIMITED TO THE PLEADINGS, SO -- ALL RIGHT, I'LL TAKE

JUDICIAL NOTICE OF THE FACTS THAT YOU WANT ME TO -- AS TO THE MERITS EXCEPTIONS EXCEPT THE NO CAUSE OF ACTION WHICH IS LIMITED TO THE PETITIONS; OKAY?

MS. FREEL:

THANK YOU, YOUR HONOR, AND THEN BEFORE I SIT DOWN, AND AGAIN, I HAVE ONLY ADDRESSED THE LACK OF SUBJECT MATTER JURISDICTION, I JUST WANTED TO OBJECT ON THE RECORD TO SOME OF THE EXHIBITS THAT HAVE BEEN -- I DON'T KNOW IF THEY'RE GOING TO BE INTRODUCED TODAY BUT THEY WERE MENTIONED IN THE OPPOSITION TO EXCEPTION BY THE N.A.A.C.P. AND I JUST WANT TO GO THROUGH WHAT THE PROBLEM IS.

THE COURT:

LET'S DEAL WITH THOSE OBJECTIONS IF THEY'RE Offered; OKAY?

MS. FREEL:

OKAY. THANK YOU.

THE COURT:

ALL RIGHT, SO RIGHT NOW WE'RE DISCUSSING THE ISSUE -- WHO IS STANDING BEFORE ME?

MR. SMITH:

JUDGE, THIS IS JAY SMITH WITH THE SECRETARY. MS. FREEL, OFFERED AND FILED AND INTRODUCED THE ORIGINALS OF VARIOUS BILL MATERIAL TO LET THE JUDGE TAKE THE NOTICE OF. WE HAVE THE ORIGINALS IF WE CAN --

THE COURT:

PLAINTIFF WOULD LIKE TO SEE THE PAPER COPIES OF THE VARIOUS INSTRUMENTS THAT THE COUNSEL IS HOLDING BEFORE I SEE IT?

MR. SMITH:

WE CIRCULATED THEM BY EMAIL YESTERDAY EVENING AS WELL BUT THESE ARE THE ORIGINALS.

THE COURT:

I AM WILLING TO ADMIT THEM SUBJECT TO REVIEW IF NECESSARY LATER BUT WE'LL GO AHEAD AND PUT THEM IN THE RECORD. AND LET'S MARK IT --

MR. SMITH:

WE HAVE IT MARKED AS EXHIBIT A, IN GLOBO RIGHT NOW.

THE COURT:

EXHIBIT A IN-GLOBO IS THE ITEMS THAT ARE ATTACHED TO THE REQUEST FOR JUDICIAL NOTICE OF ADJUDICATE FACTS.

MR. SMITH:

MAY I APPROACH?

THE COURT:

YOU MAY. THE CLERK WILL RECEIVE AND MARK, IF NOT PRE-MARKED. MS. FREEL, WOULD YOU LIKE TO SAY ANYTHING ELSE BEFORE I SHIFT GEARS TO THE PLAINTIFF TO RESPOND OR THE INTERVENOR.

MS. FREEL:

I TALKED ABOUT SEPARATION OF POWERS AS THE OTHER GROUND AND THAT WOULD ALSO INCLUDE POLITICAL QUESTIONS. AND SO, I JUST WANTED TO MENTION.

THE COURT:

OKAY.

MS. FREEL:

AND I -- IT'S SOLELY WITH REGARD TO THE LACK OF SUBJECT MATTER JURISDICTION UNTIL REPLY.

THE COURT:

OKAY, RESPONSE FROM THE PLAINTIFF AND THEN INTERVENOR ON THE -- THIS QUESTION OF THE COURT'S SUBJECT MATTER AUTHORITY.

MS. KAHANA:

THANK YOU, YOUR HONOR, THIS IS ABAH KAHANA ON

1 BEHALF OF THE BULLMAN PLAINTIFFS'. AS YOUR HONOR
2 MENTIONED YOU ARE GOING TO RELY PRIMARILY ON THE
3 ARGUMENTS IN OUR BRIEFS, AND I WILL JUST USE MY TIME
4 TODAY TO EMPHASIZE A FEW KEY POINTS IN RESPONSE TO WHAT
5 THE SECRETARY AND HIS COUNSEL HAS RAISED. ONE OF THE
6 -- I THINK IT IS THE -- THE QUESTION OF WHETHER OR NOT
7 WE ARE AT A POLITICAL IMPASSE, THERE IS ABSOLUTELY
8 NOTHING ABOUT -- SPECULATIVE ABOUT PLAINTIFF'S
9 ALLEGATIONS AND CLAIMS.
10 **THE COURT:**
11 THIS -- LET ME ASK YOU --
12 **MS. KAHANA:**
13 THEY HAVE --
14 **THE COURT:**
15 LET ME ASK IT -- LET ME INTERRUPT. LET ME ASK YOU
16 ABOUT THIS CONCEPT OF IMPASSE, WHAT FACTORS AM I TO
17 CONSIDER? ARE THEY STATUTORILY PROVIDED FOR? NO. ARE
18 THEY PROVIDED FOR IN THE JURISPRUDENCE? HOW DO WE --
19 HOW DO I DEFINE THIS CONCEPT OF IMPASSE? WHEN DO I
20 KNOW AND HOW DO I MEASURE IMPASSE IS WHAT I'M ASKING?
21 **MS. KAHANA:**
22 YOUR HONOR, I BELIEVE THAT THE WAY TO MEASURE
23 IMPASSE IS TO LOOK AT THE EVENTS AS THEY STAND. THE
24 EVENTS AS THEY STAND WITH THE LEGISLATURE HAS -- HAS
25 PASSED A MAP FOR CONGRESS AND THE GOVERNOR HAS VETOED
26 IT. THAT IS THE STATE OF THE -- THAT IS THE CURRENT
27 STATE OF (INAUDIBLE) THE PRESENT TENSE AND PAST TENSE
28 VERSE. THE ONLY -- THE ONLY QUESTION THEN -- THE ONLY
29 QUESTION THAT IS SPECULATIVE IS WHETHER OR NOT THE
30 LEGISLATURE MAY, MIGHT OVERRIDE THE VETO. WHETHER OR
31 NOT THE LEGISLATURE AND THE GOVERNOR WILL IN FACT COME
32 IN SOME FUTURE EVENT TO SOME -- TO SOME LEGISLATIVE

1 RESOLUTION. THAT IS THE QUESTION THAT IS SPECULATIVE.
2 THE ONLY QUESTIONS THAT ARE -- THE ONLY THINGS THAT WE
3 ABSOLUTELY KNOW RIGHT NOW IS THAT THERE IS A POLITICAL
4 DEADLOCK AS WE SIT RIGHT NOW AND THERE IS A FAST
5 APPROACHING 2022 CONGRESSIONAL ELECTION. I BELIEVE,
6 YOUR HONOR, THAT THE -- THAT COUNSEL MENTIONED THE
7 PENNSYLVANIA CASE, AND AS YOU KNOW IN OUR BRIEFS THERE
8 ARE FOUR STATES IN THE COUNTRY RIGHT NOW FOR WHICH THE
9 POLITICAL BRANCHES HAVE AUTHORITY FOR CONGRESSIONAL
10 REDISTRICTING AND HAVE A PARTISAN DIVIDE. THAT IS
11 MINNESOTA, WISCONSIN, PENNSYLVANIA --
12 **THE COURT:**
13 AND FLORIDA -- IS IT FLORIDA?
14 **MS. KAHANA:**
15 -- AND LOUISIANA.
16 **MS. KAHANA:**
17 WELL, NO, FLORIDA ACTUALLY, THEY'RE ALSO AT AN
18 IMPASSE RIGHT NOW BUT THEY DO NOT HAVE A POLITICAL
19 DIVIDE, THAT'S A DIFFERENT -- BUT -- BUT YOU'RE RIGHT,
20 YOUR HONOR, IT'S NOT EXCLUSIVELY -- IMPASSE IS NOT
21 EXCLUSIVELY IN THOSE FOUR BUT IT IS IN THOSE FOUR WHERE
22 THERE IS A POLITICAL DIVIDE. AND IT'S IMPORTANT TO
23 NOTE THAT IN EACH OF THE OTHER THREE CASES, THE IMPASSE
24 LAWSUITS, THE COURTS TOOK UP JURISDICTION BEFORE THERE
25 WAS A -- YOU KNOW -- FORMAL STATUTORY DEADLINE FOR
26 IMPASSE, OFTEN TIMES, I THINK IN EACH OF THOSE CASES
27 THE COURT TOOK UP JURISDICTION BEFORE THERE EVEN WAS A
28 GUBERNATORIAL VETO, WHICH HAS ALREADY HAPPENED IN THIS
29 CASE. AND IN EACH OF THOSE CASES, THE COURTS TOOK
30 THEIR PROCESS ALONG SIDE THE PARALLEL LEGISLATIVE
31 PROCESS. NOTHING ABOUT THE LEGISLATURE'S PROCESS IS
32 FROZEN OR HELD UP BECAUSE OF THE EXERCISE OF JUDICIAL

1 JURISDICTION OVER THE MATTER. IN EACH OF THOSE CASES
2 IT TOOK SEVERAL MONTHS FOR THE COURT TO EVALUATE
3 POTENTIAL JUDICIAL REDISTRICTING, AND IN EACH OF THOSE
4 CASES THE ACTUAL IMPASSE CAME TO PASS AND THOSE --
5 THOSE PROCESSES ARE NOW ENTIRELY COMPLETED. FOR THE
6 SECRETARY TO STATE HERE THAT IT IS TOO SOON FOR THIS --
7 FOR THIS COURT TO TAKE UP THE PROCESS, WHERE ALL OF
8 THOSE OTHER COURTS HAVE COMPLETED THE PROCESS, AND HAS
9 TOOK UP THE PROCESS WELL BEFORE THERE WAS EVEN A
10 GOVERNOR VETO, I THINK IT'S REALLY -- THERE IS REALLY
11 NOTHING SUGGESTING THAT WE ARE NOT AT AN IMPASSE RIGHT
12 NOW. AND AGAIN, THE ONLY THING THAT IS SPECULATIVE IS
13 WHETHER OR NOT THERE MIGHT IN FACT BE A LEGISLATIVE
14 SOLUTION TO THIS AND NOTHING THIS COURT DOES TO
15 EXERCISE JURISDICTION WILL UPHOLD -- WILL HOLD UP THAT
16 PROCESS. THE LEGISLATURE WANTS TO GO FORWARD AND IT
17 ACTUALLY WANTS TO PASS ANY OF THE MAPS THAT IT HAS
18 CONSIDERED, IF THE GOVERNOR WANTS TO SIGN THEM, SIGN
19 ANY OF THOSE MAPS, THEN THAT -- THAT CAN PROCEED TO
20 HAPPEN. BUT THE VOTERS OF LOUISIANA CANNOT BE MADE TO
21 WAIT IN THE EVENT THAT THERE IS A LEGISLATIVE SOLUTION
22 TO THE POINT THAT IT JUST BECOMES TOO LATE. WE KNOW
23 THAT JUDICIAL REDISTRICTING TAKES TIME, IT REQUIRES
24 CAREFUL CONSIDERATION, AND ALL WE'RE ASKING IS THAT THE
25 COURT TAKE UP THAT -- TAKE JURISDICTION OF THAT FACT
26 AND PROCEED IN PARALLEL SO THAT THE VOTERS OF LOUISIANA
27 ARE NOT LEFT HOLDING THE BAG. AND -- IF THE -- I CAN
28 GO ON, YOUR HONOR, ABOUT THE -- THE QUESTION ABOUT THE
29 LOUISIANA SUPREME COURT JURISDICTION, AND I KNOW THIS
30 IS SOMETHING THAT COUNSEL HAS RAISED AS WELL, AND
31 AGAIN, WE NOTE IT IN OUR BRIEFS BUT THE STATUTE THAT
32 COUNSEL INVOKES, THAT THE SECRETARY INVOKES SEEKS

1 EXPLICITLY TO STATE LEGISLATIVE REDISTRICTING. IT HAS
2 NOTHING TO DO WITH CONGRESSIONAL REDISTRICTING.
3 COUNSEL ALSO MENTIONED THE LAWSUIT THAT WAS BROUGHT
4 LAST YEAR -- IMPASSE LAWSUIT WAS BROUGHT LAST YEAR
5 BASICALLY SAYING AS A RESULT OF THE POLITICAL DIVIDE
6 THERE IS LIKELY TO BE AN IMPASSE. IN THAT CASE, YOUR
7 HONOR, THE SECRETARY ARGUED THAT THIS IS THE COURT
8 WHERE THOSE CLAIMS SHOULD BE BROUGHT. THE SECRETARY
9 MADE NO ARGUMENT THAT THE LOUISIANA SUPREME COURT IS
10 THE PROPER VENUE OR THE PROPER JURISDICTION. SO -- AND
11 THEN OF COURSE THE COURT OF APPEALS CERTAINLY SAID
12 NOTHING ABOUT THE LOUISIANA SUPREME COURT NOT HAVING OR
13 HAVING INCLUSIVE JURISDICTION. EVERYBODY, INCLUDING
14 THE SECRETARY, ESPECIALLY THE SECRETARY AND THE COURT
15 OF APPEAL INDICATED AND MADE CLEAR THAT THEY BELIEVE
16 THAT THIS WAS THE COURT TO HEAR THIS ACTION. SO THE
17 SECRETARY'S CLAIM THAT IT IS THE LOUISIANA SUPREME
18 COURT IS NOT JUST INCORRECT, YOUR HONOR, IT IS
19 DISINGENUOUS. AND IT SEEMS TO BE PART OF AN ATTEMPT TO
20 SLOW THE -- SLOW THE JUDICIAL PROCESS, GRIND THE
21 JUDICIAL PROCESS TO A HALT AND DELAY. I'M NOT EXACTLY
22 SURE WHAT THE -- WHY, YOUR HONOR, WHAT HARM IT DOES
23 REALLY TO ANY PARTY TO HAVE THIS COURT BE PREPARED IN
24 THE EVENT OF A VERY -- IN THE EVENT THAT THE CURRENT
25 IMPASSE CONTINUES. THE LEGISLATURE REMAINS FREE TO DO
26 WHAT IT WANTS TO DO AND THERE IS REALLY, IT ELIMINATES
27 THE CONSTITUTIONAL INJURY TO PLAINTIFF, AND FRANKLY,
28 EVERYBODY. I WOULD IMAGINE THE SECRETARY ABOVE ALL
29 WOULD BE MOST INTERESTED IN MAKING SURE THAT THERE ARE
30 MAPS IN PLACE TO HAVE ORDERLY ELECTIONS BY THE -- BY
31 THE APPOINTED DEADLINES. I'LL ALSO NOTE, YOUR HONOR,
32 THAT IN ALL OF THE OTHER IMPASSE CASES THAT WE

1 MENTIONED IN OUR BRIEFS THERE CERTAINLY WAS
2 DISAGREEMENT AMONG THE VARIOUS PARTIES ABOUT WHICH MAPS
3 SHOULD TAKE PLACE, WHICH MAPS SHOULD BE PUT IN PLACE
4 AND WHAT THE DISTRICTS SHOULD LOOK LIKE BUT BY THE TIME
5 THE COURTS TOOK UP JURISDICTION THERE WAS NO
6 DISAGREEMENT THAT THE COURT SHOULD ACCEPT JURISDICTION.
7 THERE WAS NO DISAGREEMENT THAT THE COURT PROCESS SHOULD
8 JUST PROCEED. AND SO I DON'T REALLY THINK THAT THERE
9 IS A REASONABLE BASIS TO DISPUTE THAT THE COURT SHOULD
10 AT THE VERY LEAST TAKE JURISDICTION, SET A SCHEDULE,
11 ALLOW AS THE LEGISLATURE IS FREE TO DO, A LEGISLATURE
12 TO DO -- TO TAKE UP WHATEVER PROCESS THAT IT WANTS, AND
13 JUST MAKE SURE THAT THIS COURT IS PREPARED, THE PARTIES
14 ARE PREPARED TO -- TO IMPLEMENT A JUDICIAL
15 REDISTRICTING PLAN IN THE EVENT THAT THE CURRENT
16 IMPASSE STICKS.
17 **THE COURT:**
18 NOTED. THANK YOU.
19 **MR. NAFI:**
20 YOUR HONOR, IF I MIGHT BE HEARD FOR THE N.A.A.C.P.
21 CLAIMANTS, THIS IS STUART NAFI. I JUST WANTED TO ADD
22 ON TO WHAT MS. KAHANA SAID. THE LEGISLATURE CALLED A
23 SPECIAL SESSION SPECIFICALLY FOR THE PURPOSE OF
24 REDISTRICTING.
25 **THE COURT:**
26 I'M AWARE OF THAT.
27 **MR. NAFI:**
28 AND IN THAT SESSION --
29 **THE COURT:**
30 I'M AWARE OF THAT.
31 **MR. NAFI:**
32 AND THAT IS THE SESSION IN WHICH THEY ADOPTED A

MAP THAT THE GOVERNOR VETOED. SO IT IS PURE SPECULATION THAT NOW THAT THEY ARE IN A REGULAR SESSION WHERE THERE IS MUCH OTHER BUSINESS FOR THEM TO ATTEND TO THAT THEY WILL ADOPT ANOTHER MAP. AND IN ADDITION, THE INDICATIONS ARE THAT THEY WILL NOT ADOPT A MAP THAT THE GOVERNOR WILL SIGN. OF THE FOUR BILLS THAT THE DEFENSE COUNSEL REFERRED TO THAT HAVE BEEN INTRODUCED, ONE IS IDENTICAL TO THE MAP THAT THE GOVERNOR VETOED. AND TWO OTHERS ARE THE SAME MAP SO THERE ARE IN FACT ONLY THREE, ONE IS THE SENATE VERSION, AND ONE IS A HOUSE VERSION OF THE SAME MAP. AND THOSE TWO ADDITIONAL MAPS ARE MAPS THAT WERE INTRODUCED IN THE PRIOR SESSION AND REJECTED BY THE LEGISLATIVE MAJORITY. SO THERE IS NO REASON TO THINK THAT ANY OF THE MAPS THAT HAVE BEEN INTRODUCED ARE GOING ANYWHERE. AND I THINK THE QUESTION THAT YOUR HONOR ASKED ABOUT WHETHER THERE IS ANY CONTINGENCY, WHETHER THE SECRETARY OF STATE HAS ANY CONTINGENCY FOR WHAT HAPPENS IF THERE IS NO MA, I THINK DEFENSE COUNSEL'S ANSWER MADE CLEAR THAT THERE IS NOT. THERE IS NO PROCESS FOR THE UNITED STATES CONGRESS TO GET INVOLVED IN THIS MATTER AND THEN IMPOSE A MAP. AND THERE IS NO REASON TO THINK THAT A SPECULATIVE ADDITIONAL LAW SUIT AT THE SUPREME COURT OR SOME PROCEEDING AT THE LOUISIANA SUPREME COURT WILL RESOLVE THIS MATTER. IT IS ONLY THIS COURT THAT HAS THE OPPORTUNITY TO PUT A CONTINGENCY IN PLACE SHOULD IT COME TO PASS THAT THE LEGISLATURE AS IT'S HIGHLY LIKELY FAILS TO PASS A MAP THAT THE GOVERNOR WILL SIGN.

THE COURT:

NOTED. ANYTHING ELSE ALONG THIS SUBJECT MATTER, ARGUMENT THAT WAS NOT CLARIFIED OR MS. FREEL, YOU WANT TO INFLUENCE --

1 **MR. HIRSCH:**
2 YOUR HONOR, IF I MAY FOR THE MATH/SCIENCE
3 INTERVENORS --
4 **THE COURT:**
5 I'M SORRY --
6 **MR. HIRSCH:**
7 YOUR HONOR, I KNOW YOUR TIME IS VALUABLE AND I
8 DON'T WANT TO REPEAT ANYTHING THAT WAS IN ANY OF THE
9 BRIEFS, BUT I THOUGHT IT MIGHT BE HELPFUL TO CIRCLE
10 BACK TO YOUR POINT ABOUT JULY 20TH BEING THE TIME AT
11 WHICH CANDIDATES HAVE TO FILE FOR OFFICE. OBVIOUSLY
12 THEY HAVE TO HAVE A CERTAIN NUMBERS OF DAYS OR WEEKS
13 BEFORE THAT TO TALK WITH POTENTIAL CONSTITUENTS AND
14 CITIZENS OF LOUISIANA AND DECIDE WHETHER THEY WANT TO
15 RUN AND WHEN THEY WANT TO RUN. SO WE KNOW WHEN THE MAP
16 NEEDS TO BE IN EFFECT. WHAT I THINK MIGHT BE HELPFUL
17 TO THE COURT IS TO TALK ABOUT FROM THAT DATE BACKWARDS
18 HOW MUCH TIME IS NEEDED BY A COURT TYPICALLY TO DO THE
19 JOB OF JUDICIAL REDISTRICTING IF THAT BECOMES
20 NECESSARY, WHICH THERE IS ALL REASONABLY WILL HERE; AND
21 I JUST WANT TO GIVE YOU A FEW DATES. IN MINNESOTA,
22 THIS CYCLE, THE TIME FROM THE SUBMISSION OF MAPS TO THE
23 SELECTION OF MAPS BY THE STATE COURT WAS TEN WEEKS. IN
24 WISCONSIN, FROM SUBMISSION OF THE MAPS TO SELECTION OF
25 THE MAPS BY THE STATE COURT WAS ELEVEN WEEKS. IN
26 PENNSYLVANIA, IT WAS ONLY SEVEN WEEKS BUT THAT WAS IN
27 THE CASE WHERE THERE WERE NO SIGNIFICANT VOTING RIGHTS
28 ACT ISSUES. AND IN NORTH CAROLINA, WHICH IS A LITTLE
29 BIT DIFFERENT BECAUSE THE PROCEDURAL POSTURE, IT WAS
30 FROM THE TIME OF A FIRST MAP BEING SUBMITTED TO THE
31 FINAL MAPS BEING ADOPTED BY THE STATE COURTS, FOURTEEN
32 WEEKS. SO SEVEN TIME ELEVEN, FOURTEEN WEEKS, IS THE

RANGE THAT WE CAN SEE FROM SIMILAR TYPES OF CASES AROUND THE COUNTRY IN STATE COURTS. IF YOU GO BACKWARDS FROM SOMETIME IN JUNE WHICH IS REASONABLE IF YOU WANT CANDIDATES TO MAKE DECISIONS BY JULY 20TH, YOU LAND IN MID APRIL AS A DATE FOR MAP SUBMISSION WHICH IS EXACTLY WHAT THE TWO SETS OF PLAINTIFFS AND THE INTERVENORS HAVE PROPOSED IN A PROPOSED SCHEDULE THAT WE PRESENTED TO THE DEFENDANT AND GOT NO RESPONSE ON AND THEN FILED WITH THE COURT TODAY. SO WE THINK THAT WE ARE VERY QUICKLY APPROACHING THE POINT WHERE IF THE COURT DOES NOT GET INVOLVED AND EXERCISE ITS JURISDICTION, THERE WILL NOT BE ENOUGH TIME TO HAVE AN ORDERLY, JUDICIAL PROCESS AND MAINTAIN THE ELECTION CALENDAR THAT AFTER ALL WAS SET BY LOUISIANA LEGISLATURE WHICH REQUIRES CANDIDATE FILING TO COMMENCE ON JULY 20TH THE VERY DATE THAT YOU NAMED EARLIER. THANK YOU, YOUR HONOR.

THE COURT:

MS. FREEL.

MS. FREEL:

YOUR HONOR, I JUST WOULD LIKE TO POINT OUT WHICH IS ATTACHED TO EXHIBIT A TO OUR EXCEPTIONS THAT WE FILED WITH REGARD TO OUR INTERVENOR PETITION THAT THE POTENTIAL TIME LINE THAT THEY WERE SUGGESTING TO THE COURT WAS THAT THERE WOULD BE A RULING ON A NEW CONGRESSIONAL PLAN ON FRIDAY, JUNE 17TH. THAT'S PAST THE LEGISLATIVE REGULAR SESSION. SO, WE'RE NOT TALKING ABOUT A MORE TIMELY PROCESS, WE'RE TALKING ABOUT A SITUATION WHERE THE PLAINTIFFS WANT THIS COURT TO SUBSTITUTE THEIR JUDGMENT AND MAKE DECISIONS WITH REGARD TO A CONGRESSIONAL REAPPORTIONMENT, A CLEARLY LEGISLATIVE FUNCTION. AND IN LOUISIANA IT MIGHT BE

DIFFERENT IN OTHER --

THE COURT:

I DON'T GET THAT IMPRESSION -- I DON'T GET THAT IMPRESSION. IF YOU HAVE GOOD FAITH STATEMENT FOR THAT THEN ASSERT IT BUT, I'M GETTING THE IMPRESSION THAT THE PARTIES WANT A CONTINGENCY PLAN, NOT A SUBSTITUTE.

MS. FREEL:

YOUR HONOR, THEY WANT A SUBSTITUTE. IF YOU LOOK AT THE INTERVENORS PETITION, THEY WANT COMPUTERS TO DO THE DRAWINGS.

THE COURT:

I'VE READ THE INTERVENORS ALLEGATIONS. WE ALL USE SOFTWARE TO DO EVERYTHING THESE DAYS. SO, WITH RESPECT TO MAPS AND SELECTION OF PRECINCTS, SELECTION OF VOTERS, WE USE THESE TOOLS, AND THAT'S WHAT THEY'RE FOR.

MS. FREEL:

I'D LIKE TO OFFER AND INTRODUCE THE EXHIBIT 8, TO THAT EXCEPTION WHICH IS THE EMAIL FROM THE INTERVENOR AN THE PROPOSED SCHEDULE THAT THEY ARE SUGGESTING.

THE COURT:

I'M SORRY, TELL ME THAT AGAIN.

MS. FREEL:

I WOULD LIKE TO OFFER AND INTRODUCE WHAT WAS PREVIOUSLY EXHIBIT A TO THE EXCEPTIONS ON BEHALF OF SECRETARY OF STATE, TO MATH SCIENCE INTERVENORS PETITION FOR INTERVENTION, AND THAT IS A POTENTIAL TIME LINE FOR CONGRESSIONAL REDISTRICTING LITIGATION FOR INTERVENOR COUNSEL. AND I'D LIKE TO INTRODUCE IT TO DEMONSTRATE THAT THE DEADLINES BEING PROPOSED BY AT LEAST INTERVENORS GO BEYOND THE REGULAR SESSION.

THE COURT:

1 NOTED.
2 **MS. FREEL:**
3 OKAY, THANK YOU, YOUR HONOR. JUST TO CLARIFY THE
4 DATE THAT YOU WERE TALKING ABOUT, JULY 20TH, I BELIEVE
5 WAS THE QUALIFYING DATE, I DIDN'T WANT TO SEEM LIKE
6 THAT I WAS DISPUTING THAT BY ANY MEANS, AND OUR
7 ELECTION CODE SETS FORTH THE DEADLINE THAT
8 APPORTIONMENT PLANS, REDISTRICTING PLANS HAVE TO BE
9 RECEIVED BY THE SECRETARY OF STATE AND THAT'S FOUR
10 WEEKS PRIOR TO QUALIFYING. THERE IS NO ALLEGATION
11 THAT, THAT DEADLINE HAS BEEN MISSED UNLIKE THE
12 SITUATION IN THE MINNESOTA CASE WHERE THE LAW PROVIDES
13 FOR A HARD DEADLINE FOR REDISTRICTING, THAT -- WE DON'T
14 HAVE THAT, WE DO HAVE THAT DEADLINE BUT THAT IS STILL A
15 VIABLE DEADLINE THAT THE SECRETARY OF STATE CAN COMPLY
16 WITH AND THEN I WOULD JUST NOTE THAT IN THE PROPOSED
17 FINDINGS OF FACT AND CONCLUSIONS OF LAW, THE
18 LEGISLATURE POINTED OUT THAT THEY CAN ALSO AMEND THE
19 ELECTION CODE IF NECESSARY TO DEAL WITH CONGRESSIONAL
20 REAPPORTIONMENT. THIS YEAR IS DIFFERENT BECAUSE OF
21 COVID, THE FEDERAL GOVERNMENT WAS LATE IN GETTING THE
22 CENSUS DATA TO THE STATES AND SO, I JUST WANTED TO
23 CLARIFY THAT DATE TO MAKE SURE I WAS ACCURATE. WITH
24 REGARD TO THE PLAINTIFFS COUNSEL AND REFERRAL TO
25 WISCONSIN. IT IS IMPORTANT TO NOTE THAT IN THAT CASE
26 THE GOVERNOR AND THE LEGISLATURE AGREED THEY HAD
27 REACHED AN IMPASSE AND THEY PETITIONED THE SUPREME
28 COURT IN WISCONSIN ALONG WITH OTHERS TO DEAL WITH THE
29 ISSUE. AND THERE WAS A PER CURIUM OPINION THAT JUST
30 CAME OUT IN THAT CASE THAT WAS INTERESTING FROM THE
31 UNITED STATES SUPREME COURT ON THE 23RD OF THIS MONTH,
32 WEDNESDAY --

THE COURT:

YEAH, I -- I AM AWARE OF IT.

MS. FREEL:

OKAY. BUT IT COULD CALL INTO QUESTION SOME OF THE STATEMENTS MADE BY GOVERNOR EDWARDS IN HIS VETO. AND THEY ABSOLUTELY SHOULD BE EXPLORED BY THE LEGISLATURE AND IT APPEARS THAT THEY ARE STILL IN THE REDISTRICTING AND REAPPORTIONMENT PROCESS; I WANTED TO POINT THAT OUT. THE FACT THAT A BILL IS VETOED THAT DOES NOT END THE LEGISLATURES ABILITY TO LEGISLATE ON AN ISSUE, THAT JUST SHOWS THAT THE LAW IS FUNCTIONING IN LOUISIANA LIKE THE PEOPLE WANTED. THEY WANTED THE LEGISLATURE TO HAVE AN OPPORTUNITY TO PASS LAWS. THEY WANTED THE GOVERNOR TO HAVE THE OPPORTUNITY TO VETO. THEY WANTED AN OPPORTUNITY FOR AN OVERRIDE. THEY WANTED AN OPPORTUNITY FOR THE LEGISLATURE TO CALL THEMSELVES INTO SESSION IF NECESSARY AND IN A GENERAL SESSION TO BRING LAWS ON A MULTITUDE OF SUBJECTS AND NOT ONLY ARE THERE REDISTRICTING BILLS DEALING WITH CONGRESS CURRENTLY PENDING, THERE IS REDISTRICTING PILLS -- BILLS DEALING WITH OTHER MATTERS IN THE GENERAL SESSION, SO THIS IS NOT A MATTER OF -- OF FIRST IMPRESSION WHERE YOU DON'T HAVE REDISTRICTING -- WHERE YOU CAN'T HAVE REDISTRICTING IN A GENERAL SESSION. ALSO, IN LOUISIANA, YOU HAVE TO HAVE STANDING, YOU HAVE TO HAVE AN ACTIVE CASE IN CONTROVERSY WHEN YOU FILE THE LITIGATION. YOU CAN'T FILE IT AND HAVE IT HAPPEN LATER ON. AND HERE WHERE YOU HAVE A CONSTITUTIONAL CHALLENGE, PARTICULARLY, WE HAVE SPECIFIC PLEADING REQUIREMENTS AND IT'S TO AVOID SHIFTING GROUNDS BECAUSE WE HAVE TO DO EVERYTHING WE CAN TO UPHOLD THE CONSTITUTIONALITY OF LAWS. AND SO, THE CONSTITUTIONAL

PLAINS HAVE TO BE LOCKED IN. SO THE PLAINTIFFS ARE ENVISIONING, AND IT SOUNDS LIKE THEY ARE, A SITUATION WHERE THIS COURT WOULD JUST CONTINUE WITH JURISDICTION AS THE LEGISLATIVE PROCESS CONTINUES. THAT'S A PROBLEM BECAUSE THERE ARE GOING TO BE OTHER CONCERNS THAT COME INTO PLAY; THE POSSIBILITY OF OTHER DISTRICTS. AND SO, FOR ALL OF THESE REASONS WE BELIEVE THE COURT DOES NOT HAVE JURISDICTION. WITH REGARD TO THE SUPREME COURT ISSUE, IN OUR COURT, THE SUPREME COURT, HAS UNFETTERED JURISDICTION, THEY CAN TAKE UP WHATEVER THEY WANT. AND THE REFERENCE TO THE SUPREME COURT WITH REGARD TO REAPPORTIONMENT IS THE ONLY REFERENCE TO ANY COURT IN OUR STATE IN TERMS OF INVOLVEMENT AND THE REAPPORTIONMENT AND THE REDISTRICTING PROCESS. AND THIS IS NOT A NOVEL CONCEPT IF YOU LOOK AT OUR CONSTITUTION, THE CONSTITUTION WILL SAY, SUPREME COURT HAS JURISDICTION, FOR EXAMPLE, OVER JUDICIAL DISCIPLINE. NO OTHER COURT ENTERTAINS JUDICIAL DISCIPLINE BECAUSE OF THE -- BECAUSE THAT PROVISION IS IN THE CONSTITUTION. THE SAME IS HERE. I WAS NOT A PARTY IN THE ENGLISH CASE IN THE C.D.C. IN ANY TYPICAL CASE WHERE THE STATE IS A DEFENDANT THE PROPER VENUE IS WHERE THE COURT, WHERE THE CAPITAL IS LOCATED. SO THAT WAS AN APPROPRIATE EXCEPTION TO RAISE THE VENUE. BUT THAT DOES NOT DISCLOSE -- OR DISCOUNT THE SUPREME COURT'S ABILITY TO HAVE AND EXERCISE JURISDICTION OVER THIS MATTER. AND IN MANY OF THESE OTHER STATES WHERE THE PLAINTIFFS HAVE REFERRED TO COURTS GETTING INVOLVED WITH AN IMPASSE, THAT IS EXACTLY WHAT OCCURRED.

THE COURT:

SO, MS. FREEL, YOU'RE ARGUING TO ME THAT THE LOUISIANA SUPREME COURT HAS ORIGINAL JURISDICTION IN

1 THIS CASE? IS THAT WHAT YOU'RE SAYING?
2 **MS. FREEL:**
3 THEY HAVE UNFETTERED JURISDICTION IF THEY WANT --
4 **THE COURT:**
5 I KNOW -- ORIGINAL JURISDICTION. I UNDERSTAND
6 THIS CONCEPT OF UNFETTERED -- IMPLEMENTER --
7 IMPLEMENTER -- I UNDERSTAND THAT --
8 **MS. FREEL:**
9 SUPERVISORY JURISDICTION, YOUR HONOR, IS THE TERM
10 THAT I MEANT TO SAY.
11 **THE COURT:**
12 VERY WELL. ALL RIGHT, THE MATTER IS ARGUED ON THE
13 SUBJECT MATTER ISSUE, LET'S GO TO THE NEXT EXCEPTION.
14 **MS. FREEL:**
15 YOUR HONOR, WITH REGARD TO PREMATURITY, THEY GO
16 HAND IN HAND. THERE IS NO BASIS IN THE LAW WITH REGARD
17 TO A CONTINGENCY PLAN. LEGISLATURE PASSED
18 REDISTRICTING BILLS, HOUSE BILL ONE AND SENATE BILL
19 FIVE, DURING FIRST EXTRAORDINARY SESSION, THE GOVERNOR
20 VETOED IT THE FORTY-EIGHTH DAY FROM THE ADJOURNMENT
21 WOULD BE MARCH 30TH. THE LEGISLATURE COMMENCED A
22 REGULAR SESSION -- THERE ARE FOUR BILLS PENDING, SENATE
23 BILL 306, HOUSE BILL 712, HOUSE BILL 608, HOUSE BILL
24 823. THERE IS NO INDICATION THAT THE LEGISLATURE DOES
25 NOT INTEND TO CARRY OUT ITS RESPONSIBILITIES WITH
26 REGARD TO CONGRESSIONAL REDISTRICTING. AND EVEN IF THE
27 GOVERNOR ENDS UP VETOING A BILL THEY CAN OVERRIDE, THEY
28 CAN CALL THEMSELVES INTO ANOTHER SESSION. AND BECAUSE
29 OF THAT THERE ARE SEVERAL AVENUES REMAINING FOR
30 LOUISIANA TO ADOPT THE CONGRESSIONAL REDISTRICTING
31 PLAN. CASES SUBMITTED FOR ADJUDICATION MUST BE RIGHT
32 AND NOT BROUGHT PREMATURELY. IF A (INAUDIBLE) DEPENDS

ON A CONTINGENT FUTURE EVENT THAT MAY NOT OCCUR AS ANTICIPATED, OR INDEED MAY NOT OCCUR AT ALL THEN IT IS NOT RIGHT FOR ADJUDICATION AND THAT'S ESSENTIALLY THE BASIS FOR THE PREMATURITY. AND THEN, AGAIN, I MENTIONED IT EARLIER BUT WE DON'T BELIEVE WE HAVE AN MALAPPORTIONMENT CLAIM UNTIL AN ELECTION OCCURS USING MALAPPORTIONED DISTRICTS.

THE COURT:

SO NOTED. ALL RIGHT. WHAT ABOUT YOUR CAUSE, NO RIGHT, AND EXCEPTION; YOU WANTED TO TAKE THOSE UP?

MS. FREEL:

OH, I CAN, IF YOU'RE READY FOR THEM, I WASN'T SURE. OKAY, YOU ARE VERY FAMILIAR WITH THE LAW REGARDING THE NO -- THE NO CAUSE -- I'M NOT GOING TO RESTATE ANY OF THAT. THE ISSUE HERE IS THE SECRETARY OF STATE IS A MINISTERIAL OFFICE. AND THE SECRETARY OF STATE IS GOING TO DO WHAT THE LAW SAYS IT'S GOING TO DO. HE CAN'T PROVIDE THE RELIEF THAT THE PLAINTIFFS WANT. AND THE SAME CONCEPTS WITH REGARD TO LACK OF SUBJECT MATTER JURISDICTION AND PREMATURITY APPLY WHEN WE ARE DETERMINING WHETHER OR NOT A PARTY STATES A CAUSE OF ACTION FOR WHICH RELIEF CAN BE GRANTED. HERE THE PLAINTIFFS HAVE NO LEGALLY PROTECTABLE AND TANGIBLE INTERESTS AT THIS POINT --

THE COURT:

WHEN WOULD THEY HAVE A TANGIBLE JUSTICIABLE RIGHT; DO YOU KNOW?

MS. FREEL:

I THINK IT'S WHEN THE LEGISLATURE IS COMPLETELY DONE AND THEY SAY, WE'RE AT AN IMPASSE. THAT'S NOT HAPPENED.

THE COURT:

AND DO YOU SUPPOSE THAT IF WE WAIT UNTIL THEN, HOW WILL THAT ADVERSELY AFFECT, IF ANYBODY, WHO VOTES FOR CONGRESSIONAL ELECTIONS THIS FALL?

MS. FREEL:

WELL, THE LEGISLATURE HAS REPRESENTED THAT THEY CAN MODIFY DEADLINES AS NECESSARY SO THAT IT WON'T IMPACT VOTERS. THAT'S IN THEIR FINDINGS OF FACT, AND CONCLUSIONS OF LAW THAT THEY HAVE THE AUTHORITY TO DO THAT AND THAT'S NOT UNCOMMON, IT'S HAPPENED ACROSS THE COUNTRY IN LIGHT OF THE LATE RECEIPT WITH REGARD TO -- TO COVID. AND HERE, THE TIMEFRAME THAT'S SET OUT IN LAW HAS BEEN COMPLIED WITH, THERE IS NO ALLEGATION THAT A LAW WAS BROKEN AS TO THE TIMELINESS OF RECEIPT OF AN APPORTIONMENT PLAN OR THE -- SOMEHOW -- THAT THE SECRETARY OF STATE HAS NOT COMPLIED WITH THE LAW WITH REGARD TO TIMELINESS RECEIPT OF APPORTIONMENT PLAN. I MEAN -- THERE IS JUST NOT A PROTECTABLE INTEREST AS TO A CANDIDATE WANTS TO HAVE MORE TIME TO BE ABLE TO DECIDE TO RUN IN AN ELECTION. YOU KNOW -- HERE IN LOUISIANA, WE SEE THIS PLAY OUT ALL THE TIME WITH SPECIAL ELECTIONS. THERE IS ONE GOING ON WITH JUDGE MORVANT'S VACANCY RIGHT NOW --

THE COURT:

THAT'S SATURDAY -- SATURDAY.

MS. FREEL:

YES, YOUR HONOR, AND THAT TIME FRAME WAS MUCH DIFFERENT THAN WHAT OTHER CANDIDATES HAVE BEEN AFFORDED. AND SO, WE DON'T BELIEVE THAT IT STATES A CAUSE OF ACTION. IT DOES NOT STATE A SITUATION WHERE THEY ARE ENTITLED TO RELIEF NOW. IT'S ALL BASED ON SPECULATIVE, HYPOTHETICAL, WHAT IFS. AND FOR THAT REASON THE NO CAUSE SHOULD BE GRANTED.

1 **THE COURT:**

2 VERY WELL, LET ME HAVE A RESPONSE TO NO CAUSE AND
3 THEN WE CAN GET TO THE NO RIGHT EXCEPTION. NO CAUSE OF
4 ACTION LIMITED TO THE ALLEGATIONS OF THE PETITION.
5 I'LL TENDER TO THE PLAINTIFF AND THEN -- THEN TO THE
6 INTERVENOR.

7 **MS. KAHANA:**

8 THANK YOU, YOUR HONOR, AGAIN, THIS IS ABAH KAHANA,
9 FOR THE BULLMAN PLAINTIFFS. THE QUESTION OF NO CAUSE
10 OF ACTION, IT SEEMS TO GO HAND IN HAND WITH THE
11 QUESTION OF PREMATURITY THAT THE SECRETARY HAS RAISED.
12 I WOULD LIKE TO EMPHASIZE THAT THE DEFENSE OF
13 PREMATURITY IS THE SECRETARY'S BURDEN. AND THE FACT
14 THAT -- THE ARGUMENT THAT IT IS REALLY ABOUT
15 SPECULATIVE, HYPOTHETICAL, WHAT IFS, THERE ARE SOME
16 THINGS THAT WE KNOW TODAY; LEGISLATURE HAS PASSED A
17 PLAN, GOVERNOR HAS VETOED, JULY 20TH IS THE DEADLINE;
18 IS THE BEGINNING OF CANDIDATE QUALIFYING. THERE ARE
19 SOME THINGS THAT MAY OR MIGHT HAPPEN, WHAT IF THIS
20 MIGHT HAPPEN -- WHAT IF THIS MIGHT HAPPEN. THAT IS
21 LEGISLATURE MIGHT OVERRUN THE VETO; LEGISLATURE AND
22 GOVERNOR MIGHT ACTUALLY AGREE ON A PLAN NOTWITHSTANDING
23 THE DISPUTE ABOUT THE NUMBER OF MAJORITY BLACK
24 DISTRICTS. THE LEGISLATURE MIGHT CHANGE THE ELECTION
25 DEADLINE. ALL THOSE THINGS MIGHT CONTINUE -- MIGHT BE
26 TRUE AND MIGHT CONTINUE TO BE TRUE. NOTHING THAT THIS
27 COURT DOES IS GOING TO PREVENT ANY OF THOSE OCCURRENCES
28 FROM HAPPENING BUT THOSE ARE ALL AT THIS MOMENT
29 SPECULATIVE AND THE PLAINTIFFS, THE BULLMAN PLAINTIFFS
30 CAME INTO THIS CASE, BROUGHT THIS CASE WHEN THE
31 GOVERNOR HAD VETOED. WHEN THE PRESENT TENSE AND THE
32 PAST TENSE OCCURRENCES HAVE HAPPENED AND IT IS REALLY

1 THE SECRETARY'S ARGUMENT RIGHT NOW THAT RELIES ON THESE
2 HYPOTHETICAL WHAT IFS. THERE IS NOTHING SHIFTING ABOUT
3 OUR POSITION. OUR POSITION, WHEN WE FILED OUR LAWSUIT,
4 WHEN WE FILED THIS LAWSUIT, THE LEGISLATURE HAS PASSED
5 A MAP, THE GOVERNOR HAS VETOED IT, THE ELECTION
6 DEADLINES ARE AS THEY EXIST CURRENTLY, THIS COURT NEEDS
7 TO PREPARE AS YOUR HONOR MENTIONED, AS A CONTINGENCY TO
8 MAKE SURE THAT THERE ARE LAWFUL DISTRICTS IN PLACE IN
9 TIME FOR THE 2020 ELECTIONS. TO THE QUESTION OF THE
10 SECRETARY'S COUNSEL BROUGHT UP THE ISSUE OF A -- THERE
11 HAS NOT BEEN A STATUTORY DEADLINE THAT HAS BEEN MISSED.
12 THAT IS TRUE, WE DON'T ALLEGE THAT THERE IS ANY KIND OF
13 STATUTORY DEADLINE. I BELIEVE THAT COUNSEL POINTED TO
14 SOMETHING IN MINNESOTA. IN MINNESOTA THERE IS A
15 STATUTORY DEADLINE. A CONGRESSIONAL MAP HAD TO BE
16 ADOPTED BY FEBRUARY 15TH. THAT COURT TOOK UP -- TOOK
17 JURISDICTION IN THE SUMMER OF 2021. THE STATUTORY
18 DEADLINE WAS FEBRUARY 15TH OF 2022. SO WHILE THERE MAY
19 -- WHETHER THERE WAS A DEADLINE OR NOT, EVERY OTHER
20 COURT WHO HAS HAD TO CONFRONT THIS HAS RECOGNIZED THAT
21 IT TAKES TIME FOR THAT PROCESS TO HAPPEN, IT DOES NOT
22 JUST HAPPEN ON A DIME BECAUSE SOME -- BECAUSE NOW IT'S
23 TIME FOR THE DEADLINE HAS PASSED. THE QUESTION OF
24 THEIR -- YOUR -- THE SECRETARY'S COUNSEL MENTIONED THAT
25 THERE IS NO MALAPPORTIONMENT CLAIM UNTIL THERE IS AN
26 ELECTION. AND I BELIEVE SHE HAD POINTED TO THE
27 PENNSYLVANIA CASE FOR THAT. CERTAINLY, THE
28 PENNSYLVANIA CASE THERE HAS NOT BEEN AN ELECTION, AND
29 ALL OF THOSE ELECTIONS ARE HAPPENING, CONGRESSIONAL
30 ELECTIONS ARE HAPPENING IN NOVEMBER OF 2022. THAT
31 COURT, LIKE EVERY OTHER COURT, HAS RECOGNIZED THAT YOU
32 DON'T HAVE TO WAIT FOR THE UNCONSTITUTIONAL ELECTION TO

HAPPEN TO SAY THAT IT IS RIGHT. WE ALL SEE THE ELECTION COMING ON THE HORIZON AND WE NEED TO INSURE THAT THERE ARE LAWFUL DISTRICTS IN PLACE WELL BEFORE HAND TO MAKE SURE THAT THERE IS TIME TO -- TO GET -- TO ACTUALLY HAVE AN ORDERLY ELECTION. I THINK THAT IS -- OH, I THINK THE LAST (INAUDIBLE) SESSIONS IS THAT -- ARE OF THE SECRETARY THE PROPER DEFENDANT, I THINK WE'VE MADE CLEAR IN OUR BRIEFS -- I MEAN, THERE HAS NOT BEEN A SINGLE COURT THAT HAS SAID THAT THE SECRETARY IS NOT THE PROPER DEFENDANT, THE SECRETARY OF STATE IS ALMOST ALWAYS THE PROPER DEFENDANT IN EVERY STATE, AND MOST IMPORTANTLY, IN PREVIOUS LOUISIANA CASES THEY HAVE FOUND THAT THE SECRETARY, INCLUDING THIS PARTICULAR SECRETARY IS THE RIGHT DEFENDANT IN THESE (INAUDIBLE) CASES.

MR. NAFI:

YOUR HONOR, THIS IS STUART NAFI FOR THE N.A.A.C.P. PLAINTIFFS, JUST ON THE LAST POINT ON THE SECRETARY'S ROLE IN THE ELECTION PROCESS, THE DEFENDANT ASSERTS THAT THE SECRETARY'S ROLE IS PURELY MINISTERIAL AND THAT IS EXACTLY WHY THE COURT NEEDS TO BE INVOLVED HERE. THE SECRETARY HAS NO OPTION OTHER THAN TO CONDUCT AN ELECTION UNDER THE MAP THAT IS ON THE BOOKS WHEN THE ELECTION COMES. AND THE MAP THAT IS ON THE BOOKS RIGHT NOW IS A MALAPPORTIONED MAP; THERE IS NO DISPUTING THAT. AND THE SECRETARY CAN PROVIDE RELIEF IF THE COURT ORDERS THE SECRETARY TO USE A PROPERLY APPORTIONED MAP. AND SO THE SECRETARY HAS THE POWER TO IMPLEMENT RELIEF THAT THIS COURT ORDERS THAT WILL ADDRESS THE HARMS THAT HAVE BEEN ALLEGED.

THE COURT:

NOTED.

MR. HIRSCH:

YOUR HONOR, SAM HIRSCH, FOR THE MATH AND SCIENCE INTERVENORS. I JUST WANT TO NOTE THAT ABSOLUTELY NOTHING THAT THE PLAINTIFFS OR THE INTERVENORS ARE ASKING THIS COURT TO DO WOULD PREVENT THE LEGISLATURE AND THE GOVERNOR FROM COMING TOGETHER AND ENACTING PROPERLY A LAWFUL MAP THAT IS PROPERLY APPORTIONED. SO IT'S JUST A QUESTION OF LEAVING YOUR COURT TIME TO DO WHAT IT HAS TO DO IF THAT DOESN'T HAPPEN. AND AS MS. KAHANA SAID THAT'S SPECULATIVE THAT, THAT MIGHT HAPPEN AND THERE IS NO INDICATION IT WILL. BUT IF IT DID IT WOULD MOOT THE MALAPPORTIONMENT CLAIMS BECAUSE THE OLD 2011 MALAPPORTIONED MAP WOULD BE REPLACE BY A NEW 2022 PROPERLY APPORTIONED MAP IN THAT HYPOTHETICAL. AND AT THAT POINT IF PEOPLE HAD EXISTING -- HAD FURTHER CLAIMS AGAINST THE NEW MAP THEY WOULD HAVE TO BRING THEM ANEW. BUT THERE IS NOTHING ABOUT WHAT WE'RE ASKING THIS COURT TO DO THAT PREVENTS THE LEGISLATURE AND THE GOVERNOR FROM WORKING TOGETHER TOWARDS A CONSTITUTIONAL MAP IF THE POLITICAL WILL IS THERE.

THE COURT:

NOTED. RESPONSE, MS. FREEL.

MS. FREEL:

YOUR HONOR, I DON'T HAVE ANYTHING FURTHER TO ADD.

THE COURT:

VERY WELL. THE ARGUMENTS ON THE EXCEPTION OF NO CAUSE OF ACTION CONCLUDED. LET'S GET TO YOUR NO RIGHT OF ACTION.

MS. FREEL:

YOUR HONOR, IT'S REAL QUICK. IT'S -- ESSENTIALLY IT GOES BACK TO THE FACT THAT WE'RE TALKING ABOUT PLAINTIFFS CLAIMS THAT HINGE ON A FUTURE POSSIBILITY OF

1 HARM, A LIKELY IMPASSE, WHICH IS WHAT IS REFERRED. IT
2 IS NOT REASONABLE THAT --
3 **THE COURT:**
4 LIKELY?
5 **MS. FREEL:**
6 -- IMPASSE. THAT'S WHAT'S TALKED ABOUT IN THE
7 PETITION AND I CAN TELL YOU WHO SAID THAT IF YOU'D
8 LIKE. JUST TO JUST SHOW YOU -- TELL YOU -- ILLUSTRATE
9 THAT IT'S WHAT IFS. SO -- BULLMAN: THERE IS NO
10 REASONABLE PROSPECT THAT THE GOVERNOR AND LEGISLATURE
11 WILL REACH A COMPROMISE IN TIME TO ADOPT A MAP. THAT'S
12 IN PLAINTIFFS' PETITION, PARAGRAPH 29. IN LIGHT OF
13 LOUISIANA'S LIKELY IMPASSE, THE COURT MUST INTERVENE.
14 THAT'S PETITION -- PLAINTIFFS' PETITION AT PARAGRAPH
15 32. IF USED AT ANY FUTURE ELECTIONS THEN THE CURRENT
16 MAP WOULD UNCONSTITUTIONALLY DILUTE THE STRENGTH OF
17 PLAINTIFFS' VOTES. THAT'S PLAINTIFFS' PETITION AT 25.
18 STAYING WITH REGARD TO INTERVENORS; THERE IS NO
19 REALISTIC CHANCE THAT POLITICAL BRANCHES WILL ENACT NEW
20 CONSTITUTIONALLY VALID DISTRICTS IN TIME FOR THE
21 ELECTION. THAT'S INTERVENORS PETITION 4. THE
22 LEGISLATIVE PROCESS APPEARS INCAPABLE OF BUILDING A NEW
23 CONGRESSIONAL REDISTRICTING PLAN. INTERVENORS ALLEGE A
24 POLITICAL IMPASSE; THAT'S PARAGRAPH 35. SAME WITH
25 REGARD TO N.A.A.C.P.: PLAINTIFFS' ALLEGE NO REASONABLE
26 LIKELIHOOD; THAT'S AT PARAGRAPH 60. LEGISLATURE
27 APPEARS TO HAVE NO ABILITY TO OVERRIDE. THAT'S AT
28 PARAGRAPH -- THAT'S AT THE MEMORANDUM IN SUPPORT OF
29 PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AT NUMBER
30 -- AT PARAGRAPH 4. I COULD GO ON AND ON. IT'S ALL
31 SPECULATIVE. IT'S NOT -- IT'S THE FUTURE POSSIBILITY
32 OF HARM. AND SO FOR THAT REASON THEY LACK STANDING,

1 THEY LACK THE RIGHT OF ACTION TO BRING THE CLAIM AND
2 THE PEREMPTORY EXCEPTION SHOULD BE SUSTAINED, AND
3 AUTHORITY FOR THAT IS THE HAYNES CASE. PLAINTIFFS' AND
4 INTERVENORS HAVE NOT ASSERTED CLAIMS GROUNDED ON
5 HYPOTHETICAL AND SPECULATIVE GUESSES ABOUT THE
6 POTENTIAL OF FUTURE HARM. SHOULD LOUISIANA'S POLITICAL
7 BRANCHES OF GOVERNMENT FAIL TO COMPLETE THE
8 REDISTRICTING PROCESS IN TIME FOR THE NOVEMBER 8
9 CONGRESSIONAL OPEN PRIMARY ELECTION, THOSE CLAIM ARE
10 UNRIPE FOR THE REASONS STATED. FURTHER, THEY -- I'M
11 JUST GOING TO SAY, YOU KNOW, WITH REGARD TO THE
12 SECRETARY OF STATE, THEY DON'T ALLEGE ANY HARM THAT THE
13 SECRETARY OF STATE HAS CAUSED THEM AND THAT FURTHER
14 SUPPORTS THE NO RIGHT. LET ME JUST LOOK THROUGH MY
15 NOTES AND MAKE SURE I DIDN'T MISS ANYTHING ON THAT.
16 SECRETARY OF STATE DOESN'T HAVE THE POWER TO CHANGE THE
17 LAWS, DOESN'T ADOPT THE LAWS, AND SO THEY'RE NOT THE
18 ONES -- HE'S NOT THE ONE, RATHER, HARMING, IF THERE IS
19 HARM -- THE PLAINTIFFS' AND INTERVENORS. AND IN
20 ADDITION, YOU KNOW, WE'VE RAISED THE ISSUE WITH REGARD
21 TO THE ASSOCIATIONAL STANDING OF THEIR NOT INDIVIDUAL
22 REGISTERED VOTERS AND SO THOSE ARE THE BASIS FOR THE NO
23 RIGHT, YOUR HONOR.
24 **THE COURT:**
25 AND LET ME ASK YOU THIS, MS. FREEL, WHAT VOTER
26 WOULD LACK IN THIS STATE? THE ONLY PERSON I CAN SEE
27 NOT HAVING ANY INTEREST IS MAYBE A NON-REGISTERED
28 VOTER. HOW DOES A VOTER NOT HAVE AN INTEREST IN HIS OR
29 HER CONGRESSIONAL ELECTION?
30 **MS. FREEL:**
31 WELL, THEY DO ONCE THE DISTRICTS ARE DRAWN AND THE
32 -- THE ELECTION IS HELD.

THE COURT:

BUT NOT BEFORE.

MS. FREEL:

NO, NOT UNDER THIS SCENARIO, YOUR HONOR. NOT UNDER THIS SCENARIO WITH THE LEGISLATURE IS IN THE PROCESS OF CRAFTING A CONGRESSIONAL REAPPORTIONMENT BILL.

THE COURT:

VERY WELL. WHAT ELSE, MS. FREEL, THAT YOU WANTED TO -- DO YOU WANT A MOMENT TO CONFER?

MS. FREEL:

YES, IF YOU DON'T MIND THAT WOULD BE HELPFUL. THANK YOU.

THE COURT:

OKAY, LET'S PAUSE FOR A MINUTE TO GIVE COUNSEL FOR THE DEFENDANT AN OPPORTUNITY TO CONFER WITH MEMBERS OF HER TEAM. WE WILL BE OFF RECORD FOR A FEW MOMENTS.

REPORTER'S NOTE:

THE HEARING WAS AT RECESS FOR APPROXIMATELY FIVE MINUTES.

THE COURT:

ALL RIGHT, LET'S GO BACK ON THE RECORD HERE. LET'S GO, MS. FREEL.

MS. FREEL:

YOUR HONOR, WITH REGARD TO THE NO RIGHT, JUST TO ILLUSTRATE THAT FURTHER, IN A CAR WRECK FOR EXAMPLE, YOU DON'T HAVE A RIGHT TO SUE BEFORE THE CAR HITS YOU. WE JUST DON'T BELIEVE THERE IS A RIGHT OF ACTION HERE. JUST WANTED TO CONFIRM WITH THE COURT THAT YOU DID ALLOW THE IN-GLOBO EXHIBIT A WHICH WAS THE REQUEST FOR JUDICIAL NOTICE FOR PURPOSES OF CONSIDERATION IN THESE EXCEPTIONS.

THE COURT:

I DID ALLOW THE ADMISSIBILITY OF THE EXHIBIT.

MS. FREEL:

THANK YOU.

THE COURT:

I HAD INDICATED THAT AS TO NO CAUSE OF ACTION, UNLESS YOU CAN SHOW ME SOME EXCEPTION, I AM NOT ADMITTING EVIDENCE ON THAT.

MS. FREEL:

OKAY.

THE COURT:

ON THE NO CAUSE OF ACTION. WE'RE LIMITED TO THE PLEADINGS ON THAT UNLESS THERE IS SOME EXCEPTION THAT YOU WANT TO POINT OUT.

MS. FREEL:

EXCEPT YOU CAN CONSIDER THE LAWS, YOU DON'T HAVE TO ACCEPT THE CONCLUSIONS OF LAW, YOUR HONOR.

THE COURT:

SO NOTED.

MS. FREEL:

THANK YOU.

THE COURT:

VERY WELL. WELL, YOU -- IS THAT EVERYTHING THAT DEFENSE WANTED TO ARGUE AT THIS POINT -- OR YOU WANT TO JUST --

MS. FREEL:

YES, YOUR HONOR.

THE COURT:

OKAY. LET ME ASK THE PLAINTIFF AND INTERVENOR TO RESPOND TO WHAT THE ARGUMENTS ARE THAT I HAVE JUST LISTENED TO ON THE NO CAUSE AND NO RIGHT, OR IF YOU'VE ALREADY ARGUED A PERSPECTIVE THEN WE'LL GO TO THE NO

1 RIGHT OF ACTION.
2 **MS. KAHANA:**
3 THANK YOU, YOUR HONOR, I'LL JUST BRIEFLY RESPOND
4 TO THE POINTS THAT COUNSEL JUST RAISED. AGAIN, THIS IS
5 ABAH KAHANA FOR THE BULLMAN PLAINTIFFS. THE COUNSEL --
6 COUNSEL FOR THE SECRETARY JUST READ A BUNCH OF
7 ALLEGATIONS IN THE VARIOUS PLEADINGS ABOUT THE
8 LIKELIHOOD OF WHETHER OR NOT THE LEGISLATURE AND THE
9 GOVERNOR WILL BE ABLE TO COME TO SOME POLITICAL
10 RESOLUTION. AND THERE MAY BE SOME REASONABLE DEBATE
11 ABOUT THE LIKELIHOOD OF A LEGISLATIVE RESOLUTION IN THE
12 FUTURE. WILL THE GOVERNOR AGREE ON A MAP WITH THE
13 LEGISLATURE? WILL THE GOVERNOR -- WILL THE LEGISLATURE
14 BE ABLE TO OVERRIDE A VETO? THESE ARE, WE BELIEVE, ARE
15 HIGHLY UNLIKELY. THE SECRETARY MAY OR MAY NOT BELIEVE
16 THAT, THAT IS MORE LIKELY, AND ALL OF THAT QUESTION OF
17 WHAT MAY OR MIGHT HAPPEN IN THE FUTURE HAS NOTHING TO
18 DO WITH WHAT HAS HAPPENED ALREADY WHICH IS THAT WE ARE
19 AT AN IMPASSE. THERE HAS BEEN A MAP PASSED, THERE HAS
20 BEEN A VETO, THERE HAS BEEN NO AGREEMENT, AND WE ARE
21 CURRENTLY IN A DEADLOCK. SO THAT IS EXACTLY WHAT WE
22 ALLEGED AND THAT IS WHERE WE STAND RIGHT NOW -- THAT IS
23 -- THAT IS REASON -- THAT GOES INTO WHY WE HAVE
24 STANDING, OBVIOUSLY, ON RIPENESS GROUNDS. THE SUPREME
25 COURT HAS MADE VERY CLEAR THAT THE PEOPLE WHO HAVE
26 STANDING TO CHALLENGE MALAPPORTIONMENT CLAIMS ARE THOSE
27 VOTERS IN OVERPOPULATED DISTRICTS. THE SECRETARY DOES
28 NOT -- DOES NOT DISAGREE THAT OUR VOTERS RESIDE IN
29 OVERPOPULATED DISTRICTS AND THERE IS REALLY -- THERE'S
30 REALLY NOBODY ELSE WHO WOULD HAVE STANDING HERE, YOUR
31 HONOR, OTHER THAN THE PARTIES THAT ARE CURRENTLY BEFORE
32 YOUR AND WHOSE RIGHT TO VOTE IN LAWFUL -- THEIR

1 DISTRICTS ARE THE ONES AT JEOPARDY IF THE COURT WERE TO
2 WAIT ANY LONGER. THE QUESTION OF WHEN IS IT -- WHEN IS
3 IT -- THE QUESTION I THINK THAT IS PRIMARILY RAISED BY
4 THE SECRETARY'S ARGUMENT IS, WHEN IS THIS RIGHT? AND
5 COUNSEL JUST MADE AN ANALOGY TO WHEN IN A CAR ACCIDENT,
6 NOT TO GET HIT BY THE CAR, I BELIEVE SHE SAID, BEFORE
7 YOU CAN BRING ANY CLAIM. THERE IS A SERIOUS PROBLEM
8 WITH THAT ANALOGY. AND THAT IS THAT THE -- IN A CAR
9 ACCIDENT YOU CAN'T SPECULATE ABOUT WHETHER THERE IS
10 GOING TO BE AN INJURY BEFORE THERE IS AN INJURY AND ANY
11 -- ANY -- ANY CLAIM ABOUT ANY -- ANY REDRESS TO THAT
12 HAS TO BE RETROSPECTIVE. IT HAS TO BE DAMAGES OR
13 WHATEVER ELSE HAS TO HAPPEN. PLAINTIFFS HAVE SAID TIME
14 AND AGAIN IN THE ELECTION CONTEXT YOU DO NOT HAVE TO
15 WAIT FOR AN UNCONSTITUTIONAL ELECTION TO TAKE PLACE TO
16 MAKE SURE THAT THE PLAINTIFFS ARE IN FACT INJURED
17 BECAUSE AT THAT POINT THERE IS NOTHING YOU CAN DO TO
18 REDRESS IT. WHEN AN ELECTION HAS HAPPENED THE INJURY
19 HAS OCCURRED AND THE INJURY IS NOT FIXABLE. THERE IS
20 NO AMOUNT OF MONEY YOU CAN PAY TO VOTERS TO SAY, OH,
21 SORRY, YOU HAD AN UNLAWFUL ELECTION. HERE SOME -- SOME
22 -- YOU KNOW -- SOME SUM THAT, THAT'S GOING TO HELP YOU.
23 THERE IS NO DAMAGES. THERE IS NO REDO. ONCE THE
24 CONSTITUTIONAL RIGHTS OF PLAINTIFFS HAVE BEEN INJURED
25 IN AN ELECTION THAT IS WHEN IT IS ALREADY TOO LATE TO
26 DO ANYTHING. SO THE IDEA THAT, BY THE SECRETARY'S
27 FORMULATION THAT THERE IS REALLY NO INJURY UNTIL
28 NOVEMBER 9TH, THAT JUST CANNOT BE TRUE. THAT CANNOT BE
29 TRUE THAT THE SECRETARY WOULD BE BASICALLY, HAVE THE
30 ENTIRE STATE VOTE UNDER UNLAWFUL MAPS JUST BECAUSE
31 THERE IS NO PROOF THAT THE INJURY WILL BE -- WILL
32 HAPPEN UNTIL THEN. I ALSO AM NOT ENTIRELY SURE -- TO

1 THE EXTENT THAT THE SECRETARY IS SAYING THAT IT'S
2 REALLY UP TO THE LEGISLATURE TO DECIDE WHEN THERE IS AN
3 IMPASSE WHEN -- WHEN IT IS TIME, I'M NOT REALLY SURE
4 WHAT THAT DEADLINE WOULD BE BECAUSE THE LEGISLATURE
5 COULD ALWAYS RECONVENE AND TRY TO PASS MORE MAPS -- AND
6 TRY TO PASS MORE MAPS. AND SO THE SECRETARY'S ARGUMENT
7 IS UNTIL THE LEGISLATURE HAS DECIDED THAT IT'S GOING TO
8 TRY TO STOP TRYING, EVEN IF THAT HAPPENS ONE DAY BEFORE
9 THE ELECTION, THIS COURT CAN'T DO ANYTHING, THERE IS
10 JUST NO SUPPORT FOR THAT, YOUR HONOR, AND I'M NOT
11 ENTIRELY SURE HOW THE SECRETARY WOULD DISTINGUISH ANY
12 OF THE OTHER MALAPPORTIONMENT CASES THAT HAVE HAPPENED,
13 NOT OF JUST THIS CYCLE BUT IN -- BUT IN MULTIPLE CYCLES
14 BEFORE THIS IN STATES ACROSS THE COUNTRY WHERE COURTS
15 HAVE TAKEN UP REDISTRICTING WELL BEFORE THE ELECTION TO
16 -- TO MAKE SURE THAT THERE IS NO CONSTITUTIONAL --
17 UNCONSTITUTIONAL ELECTION HELD. LAST, YOUR HONOR, I
18 BELIEVE THAT HONESTLY, THE BULK OF THE ARGUMENTS RAISED
19 BY THE SECRETARY SEEM TO GO TO THE SCHEDULE. I KNOW
20 THERE WAS AN OBJECTION TO ONE INTERVENORS PROPOSED
21 SCHEDULE. AS YOUR HONOR KNOWS WE HAVE NOW -- THE
22 PLAINTIFFS -- THE PLAINTIFFS AND INTERVENORS TOGETHER
23 -- COLLECTIVELY HAVE PROPOSED A SCHEDULE FOR THE
24 COURT'S CONSIDERATION. TO THE EXTENT THAT THE
25 SECRETARY HAS COMPLAINTS ABOUT THE SCHEDULE, I THINK
26 THAT, THAT IS SOMETHING THAT THE SECRETARY HAS EVERY
27 REASON TO PUT ON THE RECORD AND MAKE AN ARGUMENT ABOUT.
28 BUT WHETHER OR NOT THE SCHEDULE SHOULD BE WHAT THIS
29 STAGE OR ANOTHER DATE HAS NOTHING TO DO WITH WHETHER OR
30 NOT THIS COURT SHOULD ACCEPT JURISDICTION. AND -- AND
31 THAT, I THINK, IS -- IS IMPORTANT TO NOTE THAT -- THE
32 QUESTION IS NOT BEFORE THE COURT TODAY -- IT'S NOT

1 NECESSARILY -- YOU KNOW -- WHEN DOES THE MAP HAVE TO BE
2 THE MAP THAT GOES IN PLACE? IT REALLY IS THAT WHETHER
3 OR NOT THIS COURT SHOULD TAKE UP THE PROCESS IN THE
4 FIRST PLACE.
5 **THE COURT:**
6 NEXT.
7 **MR. NAFI:**
8 THANK YOU, YOUR HONOR, STUART NAFI FOR THE
9 N.A.A.C.P. PLAINTIFFS'. I WILL NOT REPEAT ANYTHING
10 THAT MS. KAHANA SAID. WE ADOPT HER ARGUMENTS WITH
11 RESPECT TO OUR INDIVIDUAL PLAINTIFFS. I DID WANT TO
12 ADDRESS THE ARGUMENT ABOUT ASSOCIATIONAL STANDING. THE
13 SECRETARY'S ARGUMENT THAT THE N.A.A.C.P. AND POWER
14 COALITION LACK ASSOCIATIONAL STANDINGS SEEM TO BE BASED
15 ON A MISUNDERSTANDING OF HOW ASSOCIATIONAL STANDING
16 WORKS. THE ORGANIZATIONS THAT HAVE MEMBERS WHO ARE
17 INJURED DO NOT THEMSELVES DO NOT HAVE TO HAVE A RIGHT
18 TO VOTE. IT IS BECAUSE THEIR MEMBERS HAVE A RIGHT TO
19 VOTE THAT THE ORGANIZATIONS CAN ASSERT STANDINGS ON
20 BEHALF OF THEIR MEMBERS. THERE IS NO QUESTION THAT THE
21 MEMBERS ARE IN THE SAME SITUATION; THE N.A.A.C.P.
22 MEMBERS ARE IN THE SAME SITUATION AS ANY OTHER VOTER
23 RESIDING IN A MALAPPORTIONED DISTRICT. THEY HAVE A
24 RIGHT TO VOTE, IT IS BEING DILUTED AND THEY ARE
25 INJURED. THAT STANDING CAN BE ASSERTED BY THE
26 ORGANIZATIONAL PLAINTIFFS BECAUSE THOSE MEMBERS
27 ASSOCIATE WITH THESE ORGANIZATIONS FOR THE PURPOSE OF
28 VINDICATING THOSE RIGHTS FOR -- FOR PURPOSES RELEVANT
29 TO THOSE RIGHTS. AND THERE IS NO REASON WHY ANY
30 INDIVIDUAL VOTER NEEDS TO BE INVOLVED IN THIS
31 LITIGATION. SO THOSE ARE THE THREE ELEMENTS; THAT
32 THOSE INDIVIDUALS WOULD HAVE STANDING, THAT THEY'VE

ASSOCIATED THEMSELVES WITH THE ORGANIZATION FOR REASONS PERTINENT TO THAT STANDING AND THAT INDIVIDUALS DO NOT NEED TO BE INVOLVED IN THE LITIGATION. AND ALL THREE OF THOSE ARE MET HERE AND THE ORGANIZATIONS ALSO HAVE STANDING AS WELL AS THE INDIVIDUALS.

THE COURT:

NOTED.

MR. HIRSCH:

YOUR HONOR, SAM HIRSCH, FOR THE MATH AND SCIENCE INTERVENORS. WE ARE HAPPY TO REST ON THE PAPERS AND THE ARGUMENTS MADE TODAY. THANK YOU.

THE COURT:

NOTED. ANYTHING ELSE ON BEHALF OF THE DEFENSE AT THIS JUNCTURE.

MS. FREEL:

NO, YOUR HONOR.

THE WITNESS:

VERY WELL. LET ME HEAR THE PLEADINGS THAT ARE ASSERTED TODAY ON BEHALF OF THE PETITIONERS. WHAT -- WHAT DO YOU MOTION AND WHAT MOTIONS HAVE YOU FILED THAT YOU WANT TO HAVE HEARD THIS AFTERNOON?

MS. KAHANA:

YOUR HONOR, THIS IS ABAH KAHANA ON BEHALF OF THE BULLMAN PLAINTIFFS. I BELIEVE THE ONLY MOTION THAT WE HAVE FILED IS THE PROPOSED SCHEDULING ORDER ENCOURAGING THE COURT'S ADOPTION. I BELIEVE THAT YOUR HONOR HAD REQUESTED THAT WE SUBMIT BY TODAY A PROPOSED SCHEDULE FOR YOUR CONSIDERATION. AND SO, I HAVE -- WE HAVE DATES AND DEADLINES THAT WE ARE HAPPY TO DISCUSS THEM IF YOUR HONOR HAS ANY QUESTIONS.

THE COURT:

HAVE YOU FILED THAT OR WHAT HAVE YOU DONE WITH

1 THAT?
2 **MS. KAHANA:**
3 WE HAVE FILED THAT, YOUR HONOR. WE HAVE CONFERRED
4 WITH ALL COUNSEL, AND THE PLAINTIFF COUNSEL FOR THE
5 BULLMAN PLAINTIFFS, THE N.A.A.C.P. PLAINTIFFS' AND THE
6 MATH/SCIENCE INTERVENORS HAVE ALL AGREED UPON A
7 PROPOSED SCHEDULE. IT HAS BEEN PROPOSED TO THE
8 SECRETARY'S COUNSEL AND WE HAVE NOT GOTTEN A RESPONSE
9 AND I BELIEVE THAT WE HAVE FILED IT THIS MORNING FOR
10 THE COURT'S CONSIDERATION. 2.
11 **THE COURT:**
12 VERY WELL.
13 **MR. NAFI:**
14 YOUR HONOR, THE N.A.A.C.P. PLAINTIFFS PREVIOUSLY
15 FILED A MOTION FOR PRELIMINARY INJUNCTION AND WE HAVE
16 WITHDRAWN THAT MOTION AND SO WE DO NOT ASK THE COURT TO
17 CONSIDER THAT MOTION TODAY.
18 **THE COURT:**
19 I DID SEE THE MOTION REQUESTING WITHDRAWAL. I
20 DON'T REMEMBER IF IT HAD AN ORDER ATTACHED. CAN YOU
21 BRING ME UP TO SPEED ON THAT?
22 **MR. NAFI:**
23 YES, JUDGE, I THINK THAT'S CORRECT. I THINK WE
24 MADE THE MISTAKE OF OMITTING THE ORDER BUT THEN WE
25 FOLLOWED UP AND FILED AN ORDER HOURS OR A DAY LATER
26 WHEN WE REALIZED THAT WE HAD OMITTED IT. APOLOGIES.
27 WE'D BE HAPPY TO SEND THAT ORDER AGAIN TO YOUR LAW
28 CLERK WITHDRAWING THE MOTION.
29 **THE COURT:**
30 YEAH, I WOULD NEED AN ORDER TO -- I DON'T KNOW IF
31 -- I WOULD PREFER A FORMAL ORDER ON IT; OKAY?
32 **MR. NAFI:**

1 SURE.
2 **MR. HIRSCH:**
3 YOUR HONOR, SAM HIRSCH, ON BEHALF OF THE MATH AND
4 SCIENCE INTERVENORS. WE -- WE HAVE NO PENDING MOTIONS
5 OTHER FOR THE JOINT MOTION FOR RESCHEDULE THAT MS.
6 KAHANA DESCRIBED.
7 **THE COURT:**
8 VERY WELL.
9 **MS. FREEL:**
10 YOUR HONOR, CAN I JUST ADDRESS THE MOTION?
11 APPARENTLY IT WAS CIRCULATED TO US AT 12:48 P.M. TODAY.
12 I WAS ALREADY IN THE BUILDING HERE AND SO I DIDN'T SEE
13 IT. WE WOULD OBJECT. WE WOULD REQUEST A STAY IF THE
14 EXCEPTIONS ARE DENIED. BUT JUST TO ILLUSTRATE SOME OF
15 THE ISSUES FOR EXAMPLE, WE RAISED IN THE NO CAUSE THAT
16 THERE WAS NO ILLUSTRATIVE PLAN ATTACHED TO THE
17 N.A.A.C.P. PETITION THAT ALLEGES SECTION II CLAIM WHICH
18 -- YOU KNOW -- FRANKLY, IS IN MY OPINION, IS A PLEADING
19 DEFICIENCY BUT REGARDLESS, WE DON'T HAVE A PLAN THAT
20 THEY'RE PROPOSING TO EVALUATE. THEY'RE ASKING FOR
21 EXPERT REPORTS. THE PLAINTIFFS AND DEFENDANTS TO BE
22 DUE THE SAME DAY, THAT'S NOT REASONABLE BECAUSE IT
23 WOULD BE THEIR BURDEN UNDER A SECTION II CLAIM TO
24 SATISFY THE (INAUDIBLE) PRE-CONDITIONS. WE WOULD NEED
25 TO BE ABLE TO EVALUATE EVERYTHING THAT THEIR EXPERTS
26 PRESENT FORWARD SO IT'S -- JUST ON IT'S FACE, THE
27 DEADLINES ARE NOT EVEN REASONABLE. BUT WE WOULD
28 REQUEST A STAY REGARDLESS UNTIL SUCH TIME AS OUR
29 EXCEPTIONS ARE REVIEWED BY THE APPELLATE COURT, AND THE
30 LEGISLATURE IS OUT OF THEIR SESSIONS, AND THE TIMELINE
31 FOR THE OVERRIDE HAD PASSED.
32 **MR. HIRSCH:**

1 YOUR HONOR, MAY I RESPOND ON BEHALF OF THE
2 MATH/SCIENCE INTERVENORS?
3 **THE COURT:**
4 YOU MAY.
5 **MR. HIRSCH:**
6 I THINK THAT THERE IS A MISCONCEPTION IN -- IN
7 WHAT DEFENSE COUNSEL JUST SAID. THIS IS NOT THE CASE
8 TO MY KNOWLEDGE WHERE ANYONE HAS BROUGHT A VOTING
9 RIGHTS ACT TO CLAIM AT THIS POINT. WHAT WE'VE BROUGHT
10 ARE MALAPPORTIONMENT CLAIMS SAYING WE HAVE TO REPLACE
11 THE 2011 MAP WITH A PROPERLY APPORTIONED MAP, AND A
12 LAWFUL PROPERLY APPORTIONED MAP, AND THAT MAY IMPLICATE
13 ISSUES UNDER THE VOTING RIGHTS ACT. BUT -- BUT THE
14 CHALLENGE HERE IS THE MALAPPORTIONMENT CLAIM AND A
15 CLAIM LIKE THAT AND THE ORDINARY COURSE IS FOR ALL
16 PARTIES TO PUT THEIR PROPOSED MAPS IN FRONT OF THE
17 COURT AT THE SAME TIME AND EXPLAIN THROUGH MEMORANDA OF
18 LAW AND EXPERT REPORT WHY IT'S A GOOD MAP. AND THEN,
19 IN A LATER ROUND OF BRIEFING, EXPLAIN WHY HAVING SEEN
20 THE OTHER MAPS SUBMITTED THEY STILL BELIEVE THEIR MAP
21 IS STILL THE BEST AND WHY AND THEN A ROUND OF REPLY
22 BRIEFS AND REPORTS SIMILAR. AND SO, SIMULTANEOUS
23 BRIEFING IS THE NORM IN THIS KIND OR IMPASSE,
24 MALAPPORTIONMENT SUIT UNLIKE A STRAIGHT UP VOTING
25 RIGHTS ACT CHALLENGE TO A CURRENTLY EXISTING, PROPERLY
26 APPORTIONED MAP.
27 **THE COURT:**
28 VERY WELL.
29 **MS. KAHANA:**
30 YOUR HONOR, ABAH KAHANA, ON BEHALF OF THE BULLMAN
31 PLAINTIFFS, I JUST WOULD LIKE TO FOLLOW UP. JUST TO
32 CLARIFY, I KNOW THAT THE MOTION ITSELF WAS NOT FILED

UNTIL THIS MORNING BUT WE DID EMAIL COUNSEL FOR THE SECRETARY, I BELIEVE IT WAS AT 10:30 A.M. YESTERDAY, CENTRAL TIME. SO THE PROPOSED CALENDAR WAS BEFORE THAT, AND AS WE REFLECTED IN OUR MOTION WE HAD NOT GOTTEN A POSITION ON THEM. AND TO THE EXTENT THAT THE SECRETARY WOULD LIKE TO ARGUE WHETHER OR NOT THAT THOSE ARE THE RIGHT DATES AND DEADLINES, WE WOULD BE HAPPY TO BRIEF THAT FURTHER. WE JUST WANTED TO MAKE SURE THAT THIS COURT WAS AWARE OF THAT. ALSO, I KNOW THAT THE SECRETARY HAS FILED A CONTINGENT MOTION FOR STAY LAST NIGHT. AND I AM NOT -- I GUESS THAT I WOULD JUST REQUEST, YOUR HONOR, THAT BEFORE ANY RULING ON A MOTION TO STAY THAT WE GET A CHANCE TO ACTUALLY -- TO BRIEF THAT SO WE CAN MAKE SURE THAT WE HAVE A RIGHT TO BE HEARD ON THAT. WE ARE NOT PREPARED TO BRIEF IT SINCE, OBVIOUSLY, IT'S CONTINGENT ON SOME OF THE OTHER THINGS THAT HAPPENED THIS MORNING.

MR. NAFI:

AND YOUR HONOR, THIS IS STUART NAFI, FOR THE N.A.A.C.P. PLAINTIFFS. I THINK THAT THERE IS SOME CONFUSION ON THE DEFENDANTS PART OVER WHAT THE CLAIMS ACTUALLY ARE. THERE IS NO VOTING RIGHTS ACT CLAIM AS MR. HIRSCH STATED. I THINK IT WAS OUR COMPLAINT THAT RAISED THE ISSUE OF THE NEED FOR SECTION II COMPLIANCE IN ANY MAP THAT IS OFFERED TO REMEDY MALAPPORTIONMENT. BUT THERE IS NO INDEPENDENT SECTION II VOTING RIGHTS ACT CLAIM.

THE COURT:

NOTED.

MS. FREEL:

YOUR HONOR -- CAN I ADDRESS, YOUR HONOR?

THE COURT:

1 YOU MAY.
2 **MS. FREEL:**
3 SO, IN LOUISIANA WE HAVE FACT PLEADING AND THEY
4 HAVE A LOT OF FACTS WHERE THEY ARE ALLEGING A VIOLATION
5 OF SECTION II OF THE VOTING RIGHTS ACT. THEY'RE
6 REPRESENTING TODAY THAT THEY'RE NOT HAVING THAT CLAIM
7 THEN I'D LIKE THAT ON THE RECORD BECAUSE IF NOT -- IF
8 THEY ARE THE SUPREME COURT PRE CURIUM OPINION CAME OUT
9 THIS WEEK THAT SAID IF YOU'RE GOING TO RAISE THAT
10 SOMETHING VIOLATES SECTION II THEN YOU HAVE TO COMPLY
11 WITH THAT AREA OF THE LAW AS TO WHAT ALL -- WHAT IT
12 NECESSITATES. YOU CAN'T JUST GO FORWARD WITHOUT ANY
13 EVIDENCE. SO IF THEY ARE REPRESENTING TODAY THAT THERE
14 IS NO SECTION II VOTING RIGHTS ACT CLAIM, THEN I WOULD
15 LIKE THAT ON THE RECORD. BECAUSE IN LOUISIANA IT'S
16 FACT PLEADING AND SO ANY RELIEF THAT YOU CAN OBTAIN
17 UNDER THOSE FACTS YOU CAN GET REGARDLESS OF WHETHER OR
18 NOT YOU ASK SPECIFICALLY FOR IT.
19 **MR. HIRSCH:**
20 YOUR HONOR, AGAIN, FOR THE MATH/SCIENCE
21 INTERVENORS. AND AGAIN, NONE OF US HAVE BROUGHT A
22 VOTING RIGHTS ACT CLAIM AGAINST THE 2011 MAP. WE HAVE
23 BROUGHT A MALAPPORTIONMENT CONSTITUTIONAL CLAIM AGAINST
24 THAT MAP. WE HAVE ALSO ASKED THE COURT TO EVENTUALLY
25 TO ORDER INTO EFFECT A NEW MAP BASED ON THE NEW CENSUS
26 AND OBVIOUSLY THAT MAP WILL NEED TO COMPLY WITH ALL
27 STATE AND FEDERAL LAW INCLUDING THE VOTING RIGHTS ACT.
28 SO EVENTUALLY, WE WILL LIKELY HAVE A COMPREHENSIVE
29 DISCUSSION ABOUT WHAT IT MEANS TO COMPLY WITH THE
30 VOTING RIGHTS ACT ON A -- ON A PROPERLY APPORTIONED MAP
31 BUT THAT'S NOT THE CLAIM BEING BROUGHT HERE.
32 **MS. FREEL:**

1 YOUR HONOR, THEIR PRAYER FOR RELIEF, AND THIS IS
2 THE N.A.A.C.P. PETITION, TALKS ABOUT COMPLIANCE WITH
3 SECTION II OF THE VOTING RIGHTS ACT. SO I JUST WANT --
4 I THINK THAT IF THEY'RE REPRESENTING THAT THEY DON'T
5 HAVE A SECTION II CLAIM, THEN I JUST WANT IT TO BE
6 CLEAR THAT, THAT'S WHAT THEY'RE REPRESENTING AND IT'S
7 ON THE RECORD TODAY.
8 **THE COURT:**
9 TO THE EXTENT, AND I DON'T WISH TO SPEAK FOR ANY
10 PARTY, I -- IT'S MY IMPRESSION FROM READING IT WITH
11 THEM, THERE IS NO ALLEGATION THAT THE -- THAT THE
12 DEFENDANT IS DEFENDING FOR VIOLATION -- FOR AN ALLEGED
13 VIOLATION OF SECTION II OF THE VOTING RIGHTS ACT.
14 **MR. NAFI:**
15 YOUR HONOR, THIS IS STUART NAFI FOR THE N.A.A.C.P.
16 PLAINTIFFS'. THAT IS CORRECT. ANY -- YOU KNOW -- AS
17 MR. HIRSCH EXPLAINED, AND I THINK AS IS CLEAR FROM OUR
18 PLEADING, THE VOTING RIGHTS ACT IS IMPLICATED BECAUSE
19 ANY MAP THAT IS ADOPTED BY THE COURT WOULD HAVE TO
20 COMPLY WITH THE VOTING RIGHTS ACT. WE HAVE NOT BROUGHT
21 A VOTING RIGHTS ACT CHALLENGE TO A MAP BECAUSE THERE IS
22 NO MAP. THAT'S WHY WE ARE HERE. THERE IS NO MAP TO
23 CHALLENGE. WE ARE ASKING THE COURT TO IMPOSE A MAP AND
24 WE ARE ASKING THE COURT THAT WHEN IT DOES SO IT
25 CONSIDER THAT WHETHER THE MAP THAT IT IMPOSES COMPLIES
26 WITH THE VOTING RIGHTS ACT.
27 **THE COURT:**
28 VERY WELL, OFFICERS. VERY WELL. OKAY. IT -- TO
29 EACH -- THE PARTIES SUBMIT TO ME, I BELIEVE I HAD
30 REQUESTED IN THE STATUS CONFERENCE THAT YOU PRE-FILE OR
31 PRE-SEND TO THE JURIDICAL CLERK, YOUR PROPOSED FINDINGS
32 OF FACT, CONCLUSIONS OF LAW ON THE PLEADINGS THAT WERE

-- AND THE DEFENSES THAT WERE ASSERTED; HAVE YOU DONE THAT, MS. FREEL?

MS. FREEL:

YES, YOUR HONOR.

THE COURT:

AND THAT WAS SENT TO --

MS. FREEL:

MR. KING.

THE COURT:

MR. KING -- AND YOU COPIED THE OPPONENT?

MS. FREEL:

YES, YOUR HONOR, AND IT WAS SENT PROBABLY AROUND NOON TODAY. AND I JUST WANT TO THANK MR. KING. HE HAS HAD A LOT OF PAPER GO TO HIM THIS WEEK AND I KNOW IT'S PROBABLY A STRAIN SO I APPRECIATE ALL OF HIS WORK ON THIS CASE AND YOURS.

THE COURT:

HE IS LISTENING IN CHAMBERS SO HE -- I WOULD -- I WILL ACKNOWLEDGE HIS EFFORTS TOO TO TRY TO KEEP UP WITH THE VARIOUS -- THE PROPOSALS THAT ARE COMING IN. LET ME SHIFT TO THE PLAINTIFFS. PLAINTIFFS, DID YOU LIKEWISE SEND IN ALONG WITH THE INTERVENOR YOUR PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DEFENSE EXCEPTIONS, AND YOUR PLEADINGS ALSO?

MS. KAHANA:

YOUR HONOR, YES, FOR THE BULLMAN PLAINTIFFS, WE DID SEND IN PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND A JUDGMENT, ALL IN WORD FORMAT AS YOUR HONOR REQUESTED.

THE COURT:

VERY GOOD, INTERVENOR?

MR. HIRSCH:

1 WE DID, YOUR HONOR.
2 **MR. NAFI:**
3 AND THE N.A.A.C.P. PLAINTIFFS ALSO HAVE SUBMITTED
4 OUR PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW AND
5 JUDGMENT.
6 **THE COURT:**
7 VERY WELL. LET ME ASK, WHEN WOULD YOU LIKE A
8 JUDGMENT, MS. FREEL? I KNOW YOU WANT ONE AS SOON AS
9 POSSIBLE BUT I'VE GOT TO READ THE PROPOSALS BUT --
10 MAYBE I CAN DO THAT THIS WEEKEND.
11 **MS. FREEL:**
12 OKAY. AS SOON AS POSSIBLE, YOUR HONOR, AND WE
13 ACTUALLY HAVE COPIES OF OUR PROPOSED JUDGMENT. AND THE
14 WAY WE DID IT IS WE MADE IT TO WHERE YOU COULD EVEN
15 CIRCLE OR AMEND OUT. WE HAVE BOTH OPTIONS GRANTED OR
16 DENIED AND RENDERED IN FAVOR OF OR AGAINST. WE HAVE IT
17 SO IT SHOULD BE RELATIVELY EASY IF YOU DECIDE TO USE
18 THIS JUDGMENT.
19 **THE COURT:**
20 VERY WELL.
21 **MS. FREEL:**
22 AND IF YOU WANT COPIES NOW, WE WILL BE HAPPY TO
23 PROVIDE YOU BUT THEY HAVE BEEN EMAILED TO MR. KING.
24 **THE COURT:**
25 BUT THAT'S A COURTESY FOR ME OR NOT?
26 **MS. FREEL:**
27 YES, YOUR HONOR.
28 **THE COURT:**
29 WHEN WILL YOU LIKELY WANT TO HAVE A TRANSCRIPT OF
30 WHAT WE DID TODAY, MS. FREEL?
31 **MS. FREEL:**
32 I MEAN -- AS SOON AS WE CAN. WE'RE PREPARED IF WE

NEED TO TAKE A WRIT TO DO SO QUICKLY. WE WOULD NEED A MINUTE ENTRY AND IF WE COULD GET A TRANSCRIPT THAT WOULD BE GREAT BUT WE COULD FILE A WRIT PRETTY QUICKLY.

THE COURT:

LET ME ASK THE STENOGRAPHER IF SHE IS WORKING THIS WEEKEND TO GET THAT OUT FOR YOU. I'M NOT MAKING HER WORK BUT LET ME JUST ASK HER.

REPORTER'S NOTE:

WOULD YOU LIKE FOR ME TO HAVE THAT OUT BY MONDAY?

THE COURT:

YES. THE TRANSCRIPT OF THE HEARING THIS AFTERNOON WILL BE AVAILABLE MONDAY.

MS. FREEL:

THANK YOU. THANK YOU FOR TAKING YOUR FREE TIME TO DO THAT.

THE COURT:

WHEN WOULD YOU LIKE A JUDGMENT ON THE PLEADINGS PLAINTIFFS'? WHAT IS REASONABLE IN TERMS FOR YOUR EXPECTATIONS ALSO?

MS. KAHANA:

YOUR HONOR, WE DEFER TO YOUR HONOR'S CALENDAR ABOUT WHEN IT IS APPROPRIATE TO PUT AN ORDER ON THE EXCEPTIONS, AS OF COURSE, WE BELIEVE THAT THEY SHOULD BE DENIED. AND WE BELIEVE THAT THE COURT SHOULD CONTINUE TO SET A SCHEDULE SO THAT THE PROCESS, THE GEARS CAN GET UNDERWAY TO GET THIS -- TO GET THIS DONE, AND SO. THE ONLY THING THAT WE BELIEVE THAT THEY'RE GOING TO -- THE CALENDAR TO GET THIS STUFF -- TO GET THIS CASE MOVING AND WHEN THE -- WHEN THE COURT WANTS TO RULE ON THE EXCEPTIONS IS ENTIRELY WITHIN THE -- YOUR HONOR'S DISCRETION.

THE COURT:

WE HAVE A STATUS CONFERENCE FOR MONDAY AND IT IS SET FOR 9 A.M.?

MS. FREEL:

YES, YOUR HONOR.

MR. HIRSCH:

ALL RIGHT, WE WILL MAINTAIN THE STATUS CONFERENCE FOR 9 A.M. ON MONDAY. I WILL RULE NEXT WEEK. I'M NOT CERTAIN WHICH DAY BUT YOU WILL HAVE A RULE NEXT WEEK -- THE FIRST PART OF THE WEEK.

MS. FREEL:

THANK YOU.

MS. PECK:

YOUR HONOR, IF I MAY, CHRISTINA PECK. I'M HERE ON BEHALF OF THE INTERVENORS, CLAY SCHEXNAYDER IN HIS OFFICIAL CAPACITY AS THE SPEAKER OF THE HOUSE AND PATRICK HAYES CORTEZ. AND I KNOW YOU SPOKE ABOUT THE INTERVENTION BUT WITH THE COURT'S PERMISSION I WOULD LIKE TO BE ABLE TO PARTICIPATE IN THE STATUS CONFERENCE ON MONDAY IF THAT WOULD BE POSSIBLE.

THE COURT:

I INTEND TO SOLVE ON THE INTERVENTION THIS AFTERNOON SO YOU WILL BE A PARTY.

MS. PECK:

ALL RIGHT, THANK YOU, YOUR HONOR. AND I APPRECIATE YOU ALLOWING ME TO SIT AT THE COUNSEL TABLE EVEN THOUGH IT WAS NOT FORMALLY GRANTED. THANK YOU.

THE COURT:

LEAVE IS GRANTED. ANYTHING ELSE OFFICERS? ALL RIGHT WE WILL BE OFF --

MS. KAHANA:

YOUR HONOR --

THE COURT:

ALL RIGHT, WAIT JUST A -- STAY ON RECORD, GO AHEAD.

MS. KAHANA:

YOUR HONOR, WOULD YOU LIKE PLAINTIFFS TO BRIEF THE MOTION -- THE CONDITIONAL MOTION TO STAY NOW OR TO WAIT UNTIL THERE IS A RULING ON THE EXCEPTIONS.

THE COURT:

WELL, I WOULD LIKE TO GO AHEAD AND HAVE THAT BRIEFED SO THAT I CAN -- WHY DON'T WE GO AHEAD AND SET THAT FOR MONDAY -- WHY DON'T I -- I MAY NOT RULE SO BY MONDAY. SO, BUT I NEED TO GIVE YOU A BRIEF -- SO WHEN CAN YOU HAVE YOUR BRIEF IN ON THAT?

MS. KAHANA:

I THINK WE CAN DO IT BY EARLY NEXT WEEK, YOUR HONOR.

THE COURT:

ALL RIGHT. LET ME GIVE YOU A --

MR. ADCOCK:

YOUR HONOR, THIS IS MR. ADCOCK FOR THE N.A.A.C.P. PLAINTIFFS. TUESDAY OR WEDNESDAY WOULD BE MUCH BETTER.

THE COURT:

I WAS THINKING WEDNESDAY.

MR. ADCOCK:

THAT'S FINE.

THE COURT:

ALL RIGHT. ON THE MOTION REQUESTING STAY, YOU WILL HAVE UNTIL WEDNESDAY. LET'S GET IT IN BY NOON, WEDNESDAY, BY NOON ON WHAT YOU WANT TO ASSERT AS TO WHETHER OR NOT IF THE RULING IS ADVERSE IN THE INTEREST OF THE SECRETARY OF STATE, WHETHER OR NOT I SHOULD OR SHOULD NOT DELAY THE EFFECT OF THE JUDGMENT, OR RULING. AND YOU'VE ALREADY BRIEFED YOUR MOTION TO STAY.

MS. FREEL:

YES, YOUR HONOR.

THE COURT:

YEAH, OKAY.

MR. PAPILLION:

YOUR HONOR -- I'M SORRY, YOUR HONOR. DARRELL, PAPILLION, YOUR HONOR, ON BEHALF OF THE BULLMAN PLAINTIFFS. ONE ISSUE, YOUR HONOR, WE -- AS THE COURT DID AS WELL, RECEIVED JUST BEFORE THIS CONFERENCE, THE INTERVENTION BY THE MEMBERS OF THE LEGISLATURE AND WE -- WE HAVE BEEN REVIEWING THAT. ONE CONCERN, AT LEAST, YOUR HONOR IS THE PROVISIONS OF THE LAW THAT ALLOW LEGISLATORS TO HAVE THE ABILITY TO STAY PROCEEDINGS WHEN THE LEGISLATURE IS IN SESSION. AND OF COURSE THE LEGISLATURE IS IN SESSION. AND SO, YOUR HONOR, WHILE THE LAW ON INTERVENTION IS OF COURSE FRAUD WE WOULD LIKE AN OPPORTUNITY TO PERHAPS BRIEF THAT FOR THE COURT AND WE WOULD DO IT VERY QUICKLY. AND IT MAY BE THAT WE HAVE NO BASIS TO OBJECT BUT WE DIDN'T WANT TO WAIVE ANY RIGHT IN THAT REGARD, YOUR HONOR.

THE COURT:

SO IN ESSENCE WHAT YOU'RE SAYING IS IF THEY'RE A PARTY THEY CAN EXERCISE THAT STATUTORY PROVISION THAT SAYS THAT'S AUTOMATIC? I WOULD NEED A GOOD FAITH STATEMENT IF THAT'S THE CASE, IF THAT'S GOING TO HAPPEN OR NOT. I -- I -- CERTAINLY I DON'T THINK THE PARTIES ARE GOING TRY TO CIRCUMVENT AND FILE A PLEADING AND THEN TRY AND TAKE ADVANTAGE OF THE SITUATION HERE. I WOULDN'T SUPPOSE THAT, THAT'S GOING TO HAPPEN.

MR. PAPILLION:

MS. PECK -- I JUST DON'T -- WE JUST GOT IT, YOUR HONOR, SO WE DON'T KNOW.

MS. PECK:

I DID PROVIDE IT AS SOON AS IT WAS FILED. I DIDN'T WAIT UNTIL THE FILED, STAMPED COPY RETURNED TO MY OFFICE. BUT -- YOU KNOW -- THAT IS NOT AN ISSUE THAT WE BROUGHT UP. IT'S MY UNDERSTAND UNDER THE INTERVENTION RULES YOU TAKE THE PLEADINGS AS AN INTERVENOR AS THEY ARE. SO WE HAVEN'T MAKE ANY ALLEGATION TO THAT --

THE COURT:

I UNDERSTAND, IT'S THE EFFECT OF IT -- IT'S THE EFFECT OF IT, IS WHAT WE'RE TALKING ABOUT. AND IF THAT'S GOING TO BE WHAT'S GOING TO COME I NEED TO KNOW. I'M NOT GOING TO ALLOW ANYBODY -- ANY PARTY TO BACK DOOR ME AND FILE A PLEADING AND THEN SOMEHOW SENTENTIOUSLY TRY TO TAKE ADVANTAGE OF A RULE OF LAW THAT YOU'RE EMPOWERED TO EXERCISE?WELL, I'M OFF RECORD --

MS. PECK:

IT'S NOT OUR INTENTION TO TAKE ADVANTAGE OF THEM -- I'M SORRY, YOUR HONOR.

THE COURT:

-- WE ARE AT RECESS.

THE BAILIFF:

ALL RISE.

REPORTER'S NOTE:

THE COURT WAS AT RECESS FOR APPROXIMATELY FIVE MINUTES.

THE COURT:

THE COURT WILL COME TO ORDER. YOU MAY BE SEATED. THE COUNSEL FOR THE LEGISLATURE, WHETHER OR NOT SHE IS ANTICIPATED FILING A MOTION TO STAY, AND IN ACCORDANCE WITH THE STATUTORY PROVISION OF STATE LAW REGARDING THE

1 REPRESENTATION TO A POTENTIAL PARTY TO THIS LITIGATION,
2 HAVE YOU DISCUSSED THAT WITH THE PARTIES YOU REPRESENT?
3 **MS. PECK:**
4 YES, YOUR HONOR, AND IT IS NOT OUR INTENTION TO
5 TAKE THE BENEFIT OF THE REVISIONS OF THAT LAW AND THEN
6 REQUEST A STAY. WHAT WE WOULD ASK THE COURT IS THAT
7 THE SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE
8 SENATE NOT BE REQUIRED TO BE PRESENT AT ALL LEGAL
9 PROCEEDINGS BECAUSE THAT WOULD IMPEDE NOT ONLY THE
10 ABILITY OF THE LEGISLATIVE PROCESS ON THIS BILL BUT ON
11 ALL BILLS. SO THEY -- THEY NEED TO BE PRESENT AT THE
12 LEGISLATURE BUT I HAVE BEEN AUTHORIZED TO REPRESENT TO
13 THIS COURT IN GOOD FAITH THAT WE DO NOT INTEND TO SEEK
14 A STAY BECAUSE OF THEIR LEGISLATIVE BODY PROVISIONS
15 THAT ALLOW THAT.
16 **THE COURT:**
17 LET ME ASK THE PLAINTIFFS AND INTERVENORS AS AN
18 OFFICER TO RESPOND IN GOOD FAITH AS TO WHETHER OR NO
19 THAT'S ACCEPTABLE IN ANTICIPATION OF ANY OBJECTION YOU
20 WOULD HAVE TO ALLOW THE HONORABLE PRESIDENT OF THE
21 SENATE AND PRESIDENT -- I'M NOT SURE IF IT'S PRESIDENT
22 OR OF THE LEGISLATURE --
23 **MS. PECK:**
24 SPEAKER OF THE HOUSE AND THE PRESIDENT OF THE
25 SENATE.
26 **THE COURT:**
27 SPEAKER -- SPEAKER OF THE HOUSE TO BECOME PARTIES.
28 I WILL ALLOW YOU TO GO AHEAD AND BRIEF THE ISSUE IF YOU
29 DESIRE OR OBJECT BUT YOU HAVE AN AFFIRMATIVE STATEMENT
30 THAT THEY ARE NOT GOING TO CIRCUMVENT THE -- OUT OF
31 GOOD FAITH AND -- AND USE THAT AS A TACTICAL MEASURE OR
32 STRATEGY TO DEFEND THIS LITIGATION. SO WITH THAT IN

1 MIND I'LL -- LET ME ASK FOR A STATEMENT FROM THE PARTY
2 PLAINTIFF AND THE PARTY INTERVENORS.
3 **MS. KAHANA:**
4 YOUR HONOR, ABAH KAHANA, FOR THE BULLMAN
5 PLAINTIFFS. AS MR. PAPILLION MENTIONED, WE HAVE NOT
6 RESEARCHED OR BRIEFED HE ISSUE BUT CERTAINLY WE
7 APPRECIATE THAT GOOD FAITH STATEMENT AND I DON'T
8 BELIEVE WE HAVE ANY PRINCIPLED OBJECTION FOR
9 INTERVENTION OTHER THAN THERE SHOULD BE NO --
10 INTERVENOR SHOULD NOT INTRODUCE ANY DELAY OR FREEZING
11 OF THE CASE BUT SHOULD TAKE THE SCHEDULE AS IT IS. BUT
12 WE -- I'D LIKE TO CONFER WITH MY COLLEAGUES JUST TO
13 MAKE SURE SO THAT WE DON'T HAVE ANY OTHER OBJECTIONS
14 BUT RIGHT NOW I DON'T BELIEVE WE HAVE ANY --
15 **THE COURT:**
16 ALL RIGHT, HERE'S WHAT I'LL DO THEN, I'LL WAIT TO
17 ALLOW YOU END OF DAY MONDAY TO OPPOSE FORMALLY THE
18 MOTION TO INTERVENE AND PROVIDE ME WITH WHATEVER
19 AUTHORITY OR WHATEVER PRINCIPAL OF LAW OR THEORETICAL
20 PERSPECTIVE YOU HAVE ON THAT. BUT I BELIEVE THAT IT IS
21 PROPER FOR ME TO ADMIT THE STATE HOUSE IN, THE
22 LEADERSHIP IN TO THE LITIGATION. THEY'RE PRINCIPALLY
23 CHARGED WITH THIS DUTY, I'M SECONDARY. SO -- SO I
24 THINK THAT THEY SHOULD THEY BE IN UNLESS THERE IS
25 SOMETHING I'M NOT FAMILIAR WITH OR SOMETHING THAT IS
26 OVERRIDING THAT INTEREST. SO, LET ME KNOW. I'LL GIVE
27 YOU UNTIL MONDAY TO FORMALLY OPPOSE THE INTERVENTION.
28 I'LL NOT SIGN THAT, AND YOU CAN ARGUE THAT IF YOU WANT
29 -- IF YOU WANT JUST LET ME KNOW.
30 **MS. KAHANA:**
31 THANK YOU, YOUR HONOR, I THINK WE CAN BE PREPARED
32 WITH OUR POSITION BY THE MONDAY MORNING STATUS

1 CONFERENCE.
2 **THE COURT:**
3 OKAY, EVERYBODY, IS THAT OKAY WITH EVERYBODY?
4 **MS. PECK:**
5 YES, YOUR HONOR.
6 **THE COURT:**
7 OKAY. LET'S STAY ON THE --
8 **MR. HIRSCH:**
9 YOUR HONOR --
10 **THE COURT:**
11 I'M SORRY, I ALWAYS RUSH BECAUSE I'M NOT USED TO
12 INTERVENORS. I'LL JUST BE CANDID WITH YOU -- OKAY, GO
13 AHEAD.
14 **MR. HIRSCH:**
15 I AM SORRY TO INTERRUPT, YOUR HONOR. IT MIGHT BE
16 HELPFUL IN TERMS OF REACHING OUR POSITION BY MONDAY TO
17 UNDERSTAND SOMETHING THAT PERHAPS COUNSEL FOR THE
18 LEGISLATIVE INTERVENORS CAN CLARIFY RIGHT NOW. I WAS
19 ONLY ABLE TO READ VERY QUICKLY THROUGH THE PAPERS
20 BEFORE WE ALL GOT INTO THIS SESSION BUT I NOTICED THAT
21 ALTHOUGH THE LEGISLATIVE LEADERS ARE LIKE ALL
22 LOUISIANIANS SUFFERING FROM THE MALAPPORTIONMENT OF
23 THESE DISTRICTS, THEY DID NOT ASK TO INTERVENE AS A
24 PLAINTIFFS TO PROTECT THEIR CONSTITUTIONAL RIGHTS TO
25 VOTE IMPROPERLY APPORTIONED DISTRICTS, THEY ASKED TO
26 INTERVENE AS DEFENDANTS. AND IT SEEMED AS IF, JUST
27 FROM MY VERY QUICK READING, AND I MAY HAVE MISSED
28 SOMETHING, THAT THEY WERE DOING THAT PRIMARILY TO TRY
29 TO BOLSTER THE ARGUMENTS TO TRY TO DIVEST THIS COURT OF
30 JURISDICTION OR TO SLOW DOWN THIS COURT. THAT WAS,
31 PERHAPS UNFAIR, BUT THAT WAS THE QUICK IMPRESSION THAT
32 I GOT. SO IF THE COUNSEL FOR THE LEGISLATIVE LEADERS

1 COULD CLARIFY WHY THEY SEEK TO INTERVENE AS A DEFENDANT
2 RATHER THAN PLAINTIFFS, THAT MIGHT BE HELPFUL IN OUR
3 THEN TAKING A PROPER POSITION BY MONDAY.
4 **THE COURT:**
5 ALL RIGHT, HERE IS WHAT I WILL DO, I WILL GIVE THE
6 PARTIES AN OPPORTUNITY TO CONFER WITH EACH OTHER AND
7 ASSERT WHATEVER PERSPECTIVES YOU HAVE OR -- AS TO
8 MOTIFS OR WHAT'S UNDERLYING THIS -- I DON'T KNOW. BUT
9 I AM GOING TO ALLOW THE PARTIES TO HAVE THE PRIVILEGE
10 AND RIGHT TO HAVE RULINGS FROM ME ON THE INTERVENTION
11 FORMALLY IF THAT'S NECESSARY SO THAT ANY ERRORS THAT I
12 MAKE YOU CAN GET THE APPELLATE COURT TO CORRECT ME;
13 OKAY? SO, FILE OBJECTIONS IF YOU HAVE THEM, CONFER,
14 AND IF YOU NEED MORE TIME TO -- TO ARGUE OR ARTICULATE
15 THEN I'LL SET IT FOR CONTRADICTORY HEARING; OKAY?
16 **MS. FREEL:**
17 THANK YOU, YOUR HONOR.
18 **THE COURT:**
19 ALL RIGHT, LET'S GET BACK TO WHERE WE ARE NOW. I
20 WILL CONVENE WITH AND I WILL ALLOW THE INTERVENOR ON
21 BEHALF OF -- OR THE EXPECTED INTERVENOR, TO CONTINUE TO
22 PARTICIPATE UNTIL I HAVE MADE A DECISION BY WAY OF
23 OBSERVATION AND -- AND CERTAINLY ARGUMENT ON ANY
24 OBJECTION. SO, BUT I WILL NOT SIGN THE INTERVENTION
25 UNTIL THE PARTIES HAVE INDICATED TO ME THAT THEY ARE
26 UNABLE TO AGREE ON PERIMETERS AND THEN SO I'LL MAKE A
27 DECISION AT THAT TIME.
28 **MS. FREEL:**
29 YOUR HONOR, I JUST WOULD LIKE TO MAKE AN
30 OBJECTION. THEY HAVE THE RIGHT TO INTERVENE, A RIGHT
31 OF INTERVENTION, AN ANSWER HAS NOT BEEN FILED HERE.
32 IT'S NOT UNUSUAL FOR STATE DEFENDANTS TO INTERVENE AS

STATE DEFENDANTS. WE'RE TALKING ABOUT A CASE WHERE THEIR PLAINTIFFS ARE ASKING THE COURT TO EXERCISE AUTHORITY GIVEN EXCLUSIVELY TO OUR LEGISLATURE AND I JUST FEEL LIKE THIS IS SUCH AN ABUSE OF STATE RESOURCES. PEOPLE ARE GOING TO HAVE TO WORK OVER THE WEEKEND TO BRIEF AN ISSUE THAT IS CLEAR AND THEY'VE REPRESENTED THAT THEY'RE NOT GOING TO ASK FOR A STAY PURSUANT TO THAT PROVISION. IT JUST SEEMS LIKE A WASTE OF YOUR TIME AND RESOURCES. AND SO, I WANT TO PUT THAT OBJECTION ON THE RECORD.

THE COURT:

NOTED. OKAY. ALL RIGHT. ANYTHING ELSE? OTHERWISE, I AM GOING TO GO OFF RECORD AND END WITH A STATEMENT THAT WILL CLOSE OFF OUR DAY. ANYTHING ELSE, OFFICERS? OKAY. WE'RE OFF RECORD.

THE HEARING CONCLUDED AT 3:20 P.M.

REPORTER'S PAGE

I, SUSAN WILLIAMS LEE, CERTIFIED COURT REPORTER IN AND FOR THE STATE OF LOUISIANA, THE OFFICER, AS DEFINED IN RULE 28 OF THE FEDERAL RULES OF CIVIL PROCEDURE AND/OR ARTICLE 1434(B) OF THE LOUISIANA CODE OF CIVILE PROCEDURE, BEFORE WHOM THIS PROCEEDING WAS TAKEN, DO HEREBY STATE ON THE RECORD:

THAT DUE TO THE INTERACTION IN THE SPONTANEOUS DISCOURSE OF THIS PROCEEDING, DASHES (--) HAVE BEEN USED TO INDICATE PAUSES, CHANGES IN THOUGHT, AND/OR TALK-OVERS; THAT SAME IS THE PROPER METHOD FOR A COURT REPORTER'S TRANSCRIPTION OF PROCEEDING, AND THAT THE DASHES (--) DO NOT INDICATE THAT WORDS OR PHRASES HAVE BEEN LEFT OUT OF THIS TRANSCRIPT;

THAT ANY WORDS AND/OR NAMES WHICH COULD NOT BE VERIFIED THROUGH REFERENCE MATERIAL HAVE BEEN DENOTED WITH THE PHRASE "(SPELLED PHONETICALLY)." "(INAUDIBLE)" PORTIONS OF THE TRANSCRIPT WERE DUE TO INTERRUPTION OR INAUDIBLE RESPONSES DUE TO NOISE DURING THIS PROCEEDING.

Susan Williams Lee, CCR

SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
2015005

1 **C E R T I F I C A T E**

2 THIS CERTIFICATION IS VALID ONLY FOR A TRANSCRIPT
3 ACCOMPANIED BY MY ORIGINAL SIGNATURE AND ORIGINAL REQUIRED
4 SEAL ON THIS PAGE.
5 I, SUSAN WILLIAMS LEE, OFFICIAL COURT REPORTER IN AND
6 FOR THE STATE OF LOUISIANA, EMPLOYED AS AN OFFICIAL COURT
7 REPORTER BY THE 19TH JUDICIAL DISTRICT COURT FOR THE STATE
8 OF LOUISIANA, DO HEREBY CERTIFY THAT THIS TESTIMONY WAS
9 REPORTED BY ME, IN THE STENO-MASK REPORTING METHOD, WAS
10 PREPARED AND TRANSCRIBED BY ME, SUSAN WILLIAMS LEE, CCR, OR
11 UNDER MY PERSONAL DIRECTION AND SUPERVISION, AND IS A TRUE
12 AND CORRECT TRANSCRIPT TO THE BEST OF MY ABILITY AND
13 UNDERSTANDING;
14 THAT THE TRANSCRIPT HAS BEEN PREPARED IN COMPLIANCE
15 WITH TRANSCRIPT FORMAT GUIDELINES REQUIRED BY STATUTE, OR BY
16 RULES OF THE BOARD, OR BY THE SUPREME COURT OF LOUISIANA;
17 THAT I AM NOT OF COUNSEL, NOT RELATED TO COUNSEL OR THE
18 PARTIES HEREIN, NOR AM I OTHERWISE INTERESTED IN THE OUTCOME
19 OF THIS MATTER.
20
21 WITNESS MY HAND THIS 29TH DAY OF MARCH, 2022.
22
23 Susan Williams Lee, CCR
24 SUSAN WILLIAMS LEE, CCR
OFFICIAL COURT REPORTER
25 19TH JUDICIAL DISTRICT COURT
CCR #20155005
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