EXHIBIT
GX-32

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

NO. C-716690 SECTION 24

JAMES BULLMAN, *ET AL*

V.

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

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

NO. C-716837 SECTION 25

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

V.

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

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED JUDGMENTS ON BEHALF OF INTERVENTORS, LOUISIANA HOUSE OF REPRESENTATIVES SPEAKER CLAY SCHEXNAYDER AND LOUISIANA SENATE PRESIDENT PATRICK PAGE CORTEZ

NOW INTO COURT, through undersigned counsel, come Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate, (collectively, the "Legislative Intervenors") who respectfully submit these findings of fact, conclusions of law, and proposed judgments in connection with the Petitions for Injunctive and Declaratory Relief (collectively, the "Petitions") brought by Plaintiffs James Bullman, et al. ("Bullman Plaintiffs"), Intervenors Michael Mislove et al. ("Mislove Intervenors"), and by Plaintiffs National Association for the Advancement of Colored People, Louisiana State Conference et al. ("Louisiana NAACP Plaintiffs"):

FINDINGS OF FACT

I. The Redistricting Process

1. Each decade, following the release of the decennial census, the states are required to draw new congressional district plans to ensure that districts are "of equal population." *Karcher v. Daggett*, 462 U.S. 725, 730 (1983); *see also Georgia v. Ashcroft*, 539 U.S. 461, 489 n.2 (2003).

2. Some states gain seats in the U.S. House of Representatives due to an increase in population, some states lose seats due to relatively low population growth or a loss in population. Most states retain the same number of seats.

3. Under the federal and Louisiana Constitutions, the Louisiana State Legislature—the "Legislature" of the State—is the body responsible for redistricting. *See* U.S. Const., Art. I, § 4, cl. 1 (the "Times, Places and Manner of holding Elections for Senators and Representatives [to Congress], shall be prescribed in each State by the Legislature thereof..."); La. Const. Art. III, § 1 ("The legislative power of the state is vested in a legislature").

4. In Louisiana, congressional redistricting takes the form of ordinary legislation, passed by the Louisiana State Legislature through the same process as any other law—through a bill introduced during a legislative session, reported by a committee after a public hearing, and passed by majority vote of each chamber. *See* La. Const. Art. III, § 15*; see Smiley v. Holm*, 285 U.S. 355, 367 (1932) ("[T]he exercise of the authority must be in accordance with the method which the state has prescribed for legislative enactments.").

5. Louisiana's current congressional districts were enacted during the 2011 First Extraordinary Session of the Louisiana Legislature. *See* La. R.S. 18:1276.1).

II. The Louisiana State Legislature's 2021-2022 Redistricting Efforts To Date

6. On April 26, 2021, the U.S. Census Bureau released the apportionment data for the 2020 decennial census, which reported Louisiana's resident population as 4,657,757.

7. The census data showed an overall increase in population of 124,385 residents from 2010.

8. Although population increased within Louisiana, population declined in the northern parts of the state and increased in the southern parts of the state.

9. Based on the census results, Louisiana is entitled to six congressional seats for the next decade. The ideal population for each congressional district is 776,292.

10. On June 11, 2021, the Legislature adopted Joint Rule No. 21, setting forth the criteria for redistricting plans based on the 2020 decennial census results. *See* HCR 90, 2021 R.S., eff. June 11, 2021.

11. The redistricting criteria includes, *inter alia*, a requirement that the congressional plan contain districts with populations "as nearly equal to the ideal district population as practicable," and comply with the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S. Constitution, Section 2 of the Voting Rights Act of 1965, as amended, and all other applicable federal and state laws.

12. The Census Bureau delivered to Louisiana the 2020 redistricting data in legacy format (P.L. 94-171) on August 12, 2021, and released the data in easier-to-use formats on September 16, 2021.

13. Since the Census Bureau's tardy publication of the 2020 census redistricting data on August 12, 2021, the Legislature has worked diligently to undertake redistricting work.

14. The Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs ("Joint Committees") held nine joint public meetings across the state from October 2021 to January 2022, where the Joint Committees presented information about the population and demographic trends in the 2020 census and the redistricting process and criteria, and heard public testimony and received public submissions.

15. The First Extraordinary Session of the Louisiana Legislature opened on February 1, 2022, for the purpose of enacting a congressional redistricting plan and a host of other offices including the Louisiana Board of Elementary and Secondary Education, Louisiana Public Service Commission, and Louisiana Supreme Court.

16. House Bill 1 by Speaker Schexnayder was introduced on February 1, 2022, setting forth a proposed congressional redistricting plan, and was reported favorably by the House Committee on House and Governmental Affairs on February 4, 2022.

a. On February 10, 2022, the House approved House Bill 1 by a vote of 70 to 33.

b. The Senate Committee on Senate and Governmental Affairs reported House Bill 1 favorably on February 15, 2022.

c. The Senate approved an amended version of House Bill 1 on February 18 by a vote of 27 to 10.

d. The House concurred in the Senate's amendments the same day, by a vote of 62 to 27.

17. Senate Bill 5 by Senator Sharon Hewitt was introduced on February 1, 2022, setting forth a proposed congressional redistricting plan.

a. Senate Bill 5 was reported favorably by the Senate Committee on Senate and Governmental Affairs on February 4, 2022.

b. The Senate approved Senate Bill 5 on February 8, 2022, by a vote of 27 to 12.

c. The House Committee on House and Governmental Affairs reported Senate Bill 5 favorably on February 15, 2022.

d. The House approved an amended version of Senate Bill 5 on February 18, 2022, by a vote of 64 to 31.

e. The Senate concurred in the House's amendments the same day, by a vote of 26 to 9.

18. The amendments to House Bill 1 and Senate Bill 5 resulted in the passage of the same congressional redistricting plan.

19. Governor John Bel Edwards vetoed both House Bill 1 and Senate Bill 5 on March 9, 2022.

20. Under the Louisiana Constitution, the Louisiana State Legislature will meet in veto session to consider House Bill 1 and Senate Bill 5 beginning on March 30, 2022, and continuing until April 3, 2022. La. Const. Art. III, § 18(C).

21. In addition, the 2022 Regular Legislative Session convened on March 14, 2022, and may be ongoing through June 6, 2022. La. Const. Art. III, § 2(A)(3)(a).

22. The Legislature's Regular Session convened on March 14, 2022, and several bills proposing new congressional districts have been introduced and referred to committees. *See* Senate Bill 306, House Bill 712, and HB 608 of the 2022 Regular Session.

III. The 2022 Open Congressional Primary Election Calendar

23. Louisiana holds its congressional *primary* election on the first Tuesday in November—November 8, 2022, this year. La. R.S. 18:1272(A).

24. Accordingly, its election calendar is one of the latest in the nation.

25. The relevant dates for the 2022 Open Congressional Primary Election are as follows[1]:

a. Qualifying period for candidates: July 20 to July 22, 2022

b. Deadline to register to vote in-person, by mail, or at a DMV location: October 11, 2022

c. Deadline to register to vote online: October 18, 2022

d. Early voting period: October 25, 2022, to November 1, 2022

e. Deadline to request a mail ballot (except Military and Overseas voters): November 4, 2022

f. Deadline for Registrar to receive voted mail ballot (except Military and Overseas voters): November 7, 2022

g. Open Primary Election Day: November 8, 2022

CONCLUSIONS OF LAW

I. The Petitions Are Unripe And Nonjusticiable

1. The dispute is unripe and nonjusticiable.

2. All three Petitions hinge on the claim that the Louisiana State Legislature has reached an "impasse" with the Governor, who vetoed House Bill 5 and Senate Bill 1 earlier this month, and will not be able to redistrict the State in time for the November 8, 2022, Open Congressional Primary Election.

3. This concern is entirely speculative and contingent upon future events that may, or may not, occur—rendering the dispute unripe and nonjusticiable.

4. Courts only "administer justice in actual cases" and "will not act on feigned ones, even with the consent of the parties." *St. Charles Par. Sch. Bd. v. GAF Corp.*, 512 So. 2d 1165, 1173 (La. 1987), *on reh'g* (Aug. 7, 1987). Indeed, "the jurisprudence of this court is well settled that, courts will not render advisory opinions." *Louisiana Federation of Teachers v. State*, 2011-2226 (La. 7/2/12), 94 So. 3d 760, 763. "Cases submitted for adjudication must be justiciable, ripe for decision, and not brought prematurely." *Id.* (citing *Prator v. Caddo Parish*, 04-794 (La.

[1] *See* La. Secretary of State, 2022 Election Dates Calendar, https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf.

12/1/04), 888 So. 2d 812, 815). This is true whether the case seeks declaratory relief, *see id.*, or injunctive relief, *see Tobin v. Jindal*, 2011-0838 (La.App. 1 Cir. 2/10/12), 91 So. 3d 317, 321–322.

5. "[T]he ripeness doctrine is viewed as being both constitutionally required and judicially prudent." *Matherne v. Gray Ins. Co.*, 95-0975 (La. 10/16/95), 661 So. 2d 432, 435. A constitutional challenge to a statute to be ripe if: "(1) the issues are fit for judicial decision; and (2) the parties will suffer hardship if the court withholds consideration." *Louisiana Federation of Teachers*, 94 So. 3d at 763–64 (citations omitted); *see also Matherne*, 661 So. 2d at 435 (same).

6. The Petitions in this case fail both prongs of the ripeness inquiry, compelling dismissal.

7. Here, as the predicate for their claims, Plaintiffs and the Mislove Intervenors declare that the Louisiana State Legislature and Governor have reached impasse. See, e.g., Bullman Petition ¶ 1 (declaring the districts "malapportioned"), 4 (describing the Governor's veto as "signaling that the process is at an impasse"); Louisiana NAACP Petition ¶ 4 (due to the Governor's veto, "the legislative process has reached an impasse"); Mislove Petition to Intervene at ¶ 4 ("There is no realistic chance that the political branches will enact new, constitutionally valid in time for the 2022 elections"). Due to this alleged impasse, Plaintiffs fear they will be forced to vote in "malapportioned" districts in the 2022 congressional elections and that their federal Equal Protection rights will be violated thereby.

8. Although their declarations of "impasse" are presented as irrefutable statements of fact, these claims are in truth speculative predictions about the *future*.

9. The Governor did veto House Bill 5 and Senate Bill 1, to be sure, but his veto is not a bar to the ability to pass a congressional redistricting plan into law in sufficient time for the November 8, 2022, Open Congressional Primary Election.

10. For one, a veto session will commence on the 40th day following adjournment of the 2022 First Extraordinary Session, which is March 30, 2022.

a. If the Governor's veto is overridden, then Louisiana will in fact be redistricted in accordance with law and Plaintiffs and Mislove Intervenors' claims will never become ripe.

b. Until the veto override process is exhausted, one cannot say that House Bill 5 and Senate Bill 1 cannot become law. And practically, given that the Bills passed with strong majorities in both the House and Senate, it is reasonably possible that the Governor's veto will be overridden.

11. Second, even if a veto override is not successful, there remains time for the Louisiana State Legislature to consider and pass a new redistricting bill in its Regular Legislative Session, which commenced March 14, 2022, and remains ongoing.

a. Multiple bills, *e.g.*, Senate Bill 306, House Bill 712, House Bill 823, and House Bill 608, have been pre-filed on the subject of congressional redistricting. *See* Mem. in Supp. of Secretary of State's Exceptions to Math/Science Petition to Intervene at 3 n.1.

b. The Legislature worked with diligence during the First Extraordinary Session and previously, and will continue their efforts to complete redistricting.

12. Third, even if a redistricting measure does not pass in the Regular Legislative Session, the Louisiana State Legislature is not left without options. It is within the power of the Louisiana State Legislature to call a second Extraordinary Session to address redistricting. La. Const. Art. III, § 2(B).

13. Plaintiffs and Mislove Intervenors' claims all demand this Court assume that a redistricting bill cannot become law—and that all the foregoing legislative options will fail before they have even been tried.

14. But where "[t]he injury...is not based on any actual facts or occurrences" but instead requires an assumption "that [the plaintiff] will suffer harm if certain hypothetical facts occur," a claim is nonjusticiable. *Soileau v. Wal-Mart Stores, Inc.*, 19-0040 (La. 6/26/19), 285 So. 3d 420, 425.

15. Plaintiffs have not been harmed and cannot claim injury unless their guesses about a hypothetical future state of affairs come true.

16. Here, the only Petition to point to a specific deadline is the Mislove Petition to Intervene, which identifies the candidate qualification period for the November 8, 2022, Open Congressional Primary Elections to argue their hypothetical future injury is imminent. *Id.* at ¶ 37.

17. That period runs from July 20-22, 2022—nearly four months from the time of these filings.

18. Furthermore, the candidate qualification period could be moved back, if necessary, as other states have done this cycle, without impacting voters.

19. The election deadlines that actually impact voters do not occur until October 2022, like the deadlines for voter registration (October 11, 2022, for in-person, DMV, or by mail, and October 18, 2022 for online registration) and the early voting period (October 25 to November 1, 2022).[2]

20. Therefore, there remains several months on Louisiana's election calendar to complete the process.

II. Plaintiffs and the Mislove Intervenors Fail to State a Right of Action Because They Lack Standing

21. Whether a "litigant has standing to assert a claim is tested via an exception of no right of action." *Bradix v. Advance Stores Co., Inc.*, 17-0166 (La.App. 4 Cir. 8/16/17), 226 So. 3d 523, 528, citing La. C.C.P. art. 681 ("[e]xcept as otherwise provided by law, an action can only be brought by a person having a real and actual interest in what he asserts").

22. The "function of an exception of no right of action is a determination of whether the plaintiff belongs to the class of persons to whom the law grants the cause of action asserted in the petition." *Shepherd v. Baton Rouge Cardiology Ctr.*, 2019-0802 (La.App. 1 Cir. 3/12/20), 300 So. 3d 893, 896. A "litigant who is not asserting a substantial *existing* legal right is without standing in court." *In re Matter Under Investigation*, 2007-1853 (La. 7/1/09), 15 So. 3d 972, 981 (emphasis added).

23. Where a litigant's claim hinges on a "future possibility" of harm, the litigant lacks standing to bring the claim and peremptory exceptions should be sustained. *Haynes v. Haynes*, 2002-0535 (La.App. 1 Cir. 5/9/03), 848 So. 2d 35, 39 (finding claims grounded on contingent future events "too speculative for consideration").

24. As shown above, Plaintiffs and the Mislove Intervenors have asserted claims grounded on hypothetical and speculative guesses about the potential of future harm should

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[2] La. Secretary of State, 2022 Election Dates Calendar, https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf.

Louisiana's political branches of government fail to complete the redistricting process in time for the November 8, 2022, Open Congressional Primary Election.

25. Those claims are unripe for the reasons stated, but under Louisiana law, it also means Plaintiffs and the Mislove Intervenors lack standing to bring them.

III. The Petitions Fail to State a Cause of Action

26. A peremptory exception of no cause of action tests "whether the law provides a remedy to anyone assuming that the facts plead in the petition will be proven at trial." *Farmco, Inc. v. W. Baton Rouge Par. Governing Council*, 01-1086 (La. 6/15/01), 789 So. 2d 568, 569.

27. "An exception of no cause of action should be granted only when it appears beyond doubt that the plaintiff can prove no set of facts in support of any claim that would entitle him to relief." *New Jax Condominium Ass'n, Inc. v. Vanderbilt New Orleans, LLC*, 16-0643 (La.App. 4 Cir. 4/26/17), 219 So. 3d 471, 479. *See also Industrial Cos., Inc. v. Durbin*, 2002-0665 (La. 1/28/03), 837 So. 2d 1207, 1213 (same, and acknowledging that "[t]he exception is triable on the face of the petition").

28. Here, the Petitions each allege a violation of the one-person, one-vote principle of *Reynolds*. Bullman Petition at Count I; Mislove Petition to Intervene, Count I; Louisiana NAACP Petition at Count I.

29. Two of the Petitions also allege a violation of the right to free association under the Louisiana Constitution. Bullman Petition at Count II ("Violation of Article I, Sections 7 and 9 of the Louisiana Constitution, Freedom of Association"); Mislove Petition to Intervene, Count II (same).

30. But neither claim is viable.

31. Count I of the respective Petitions claim that Plaintiffs and the Mislove Intervenors' equal protection rights will be violated by vote-dilution if the 2022 congressional elections are conducted using the prior decade's redistricting plan, as the effect of the 2020 census is to confirm that those the prior decade's districts have become unequal in population.

32. But as a matter of federal law, Plaintiffs are wrong to claim that they have suffered a cognizable equal protection injury even if the 2022 congressional elections are conducted using the prior decade's plan.

33. Equal Protection does *not* demand a constant, minute-by-minute revision of district lines to ensure precisely equal populations. Rather, the "one-person, one-vote" standard is process-driven, requiring States to have only "a rational approach to readjustment of legislative representation" or, stated differently, a "reasonable plan for periodic revision." *Reynolds v. Sims*, 377 U.S. 533, 583 (1964).

34. This process-driven standard recognizes that "[l]imitations on the frequency of reapportionment are justified by the need for stability and continuity in the organization of the legislative system, although undoubtedly reapportioning no more frequently than every 10 years *leads to some imbalance in the population of districts toward the end of the decennial period.*" *Id.* (emphasis added).

35. None of the Petitions allege that Louisiana lacks a rational approach to congressional redistricting. Rather, they simply allege the current districts are malapportioned following the release of the 2020 census. *See, e.g.,* Bullman Petition at ¶ 1; Mislove Petition to Intervene at 1; Louisiana NAACP Petition ¶¶ 1-2.

36. But these allegations merely describe the "imbalance…toward the end of the decennial period" that *Reynolds* deemed to be non-invidious.

37. Following *Reynolds*, "courts have recognized that no constitutional violation exists when an outdated legislative map is used, so long as the defendants comply with a reasonably conceived plan for periodic reapportionment." *Garcia v. 2011 Legislative Reapportionment Comm'n*, 938 F. Supp. 2d 542, 550 (E.D. Pa. 2013), aff'd on other grounds, 559 F. App'x 128 (3d Cir. 2014); *see also, e.g.*, *Pol. Action Conf. of Illinois v. Daley*, 976 F.2d 335, 341 (7th Cir. 1992); *Graves v. City of Montgomery*, 807 F. Supp. 2d 1096, 1109 (M.D. Ala. 2011); *French v. Boner*, 940 F.2d 659 (6th Cir. 1991) (unpublished); *Mac Govern v. Connolly*, 637 F. Supp. 111, 114 (D. Mass. 1986); *Cardona v. Oakland Unified Sch. Dist., California*, 785 F. Supp. 837, 842 (N.D. Cal. 1992); *Clark v. Marx*, No. 11-2149, 2012 WL 41926, *9-10 (W.D. La. Jan. 9, 2012).

38. Given the four-and-a-half-month delay in the release of the 2020 Census redistricting data, *see, e.g.,* Bullman Petition ¶ 2 (recognizing publication of redistricting data on Aug. 12, 2021), delays in the redistricting process this cycle should not be a basis for this Court to seize control of the State's redistricting process. *See French v. Boner*, 1991 WL 151016, *1, 940

F.2d 659 (6th Cir. 1991) (table case) (affirming district court refusal to enjoin upcoming elections under *Reynolds* because the "lateness of the census" that year meant the "Metropolitan government did not have an adequate opportunity to reapportion for the August 1, 1991 elections").

39. Bullman Plaintiffs and the Mislove Intervenors also assert that any potential continued use of the 2011 congressional plan would violate their freedom of association under Article I, Sections 7 and 9 of the Louisiana Constitution by "impairing the exercise of their duties as citizens to assess candidate qualifications and policy positions; to organize and advocate for their preferred candidates; and to associate with like-minded voters." Mislove Petition to Intervene at ¶ 47-48; *see also* Bullman Petition at ¶ 40-41 (same).

40. These parties claim that the freedom of association protected by those Sections is also protected by the First Amendment to the U.S. Constitution. *Id.*

41. But, as the U.S. Supreme Court has held, "there are no restrictions on speech, association, or any other [expressive or petitioning] activities in the districting plans at issue. The [Petitioners] are free to engage in those activities no matter what the effect of a plan may be on their district." *Rucho v. Common Cause*, 139 S. Ct. 2484, 2504 (2019).

42. There is no authority to support the suggestion that the rights of petitioning and association include the concept of electoral convenience, or perhaps the convenience of knowing months before certain filing deadlines where congressional lines will fall.

43. Louisiana has a compelling interest in limiting "the frequency of reapportionment," including its "need for stability and continuity in the organization of the legislative system." *Reynolds*, 377 U.S. at 583.

44. Louisiana has paramount interests in seeing its legislative actors afforded a reasonable opportunity to redistrict, given that the primary responsibility and authority for drawing federal congressional legislative districts rests squarely with the state legislature.

45. "[A] state legislature is the institution that is by far the best situated to identify and then reconcile traditional state policies within the constitutionally mandated framework of substantial population equality," whereas a court "possess[es] no distinctive mandate to compromise sometimes conflicting state apportionment policies in the people's name." *Connor v. Finch*, 431 U.S. 407, 414–15 (1977).

46. Even if the legislative process does not produce the instantaneous results that these Plaintiffs demand, the State has a paramount interest in letting that process run its course before seeing a court draw the congressional lines.

47. Accordingly, the associational claims fail to state a cause of action and the exceptions thereto must be sustained.

PROPOSED JUDGMENTS

WHEREFORE, the Court hereby enters judgment declaring that these consolidated actions present premature (*i.e.*, unripe) and nonjusticiable controversies for adjudication; they are brought by plaintiffs who lack standing and thus a right of action; and they fail to state a cause of action.

The Court hereby SUSTAINS the Legislative Intervenors' exceptions, and DISMISSES the Petitions and the Mislove Intervenors' demands, all at the parties' respective cost.

CERTIFICATE OF SERVICE

I CERTIFY that the foregoing Findings of Fact, Conclusions of Law, and Proposed Judgments has been served upon counsel of record via e-mail pursuant to La. C.C.P. art. 1313 on March 25, 2022.

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