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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ASSOCIATION OF DEPUTY DISTRICT
ATTORNEYS FOR LOS ANGELES
COUNTY (ADDA),

Petitioner,

v.

GEORGE GASCON, LOS ANGELES
COUNTY DISTRICT ATTORNEY; LOS
ANGELES COUNTY DISTRICT
ATTORNEY'S OFFICE; COUNTY OF
LOS ANGELES; DOES 1 through 50,
inclusive,

Respondents.

Case No. **21STCP03412**

**VERIFIED PETITION FOR WRIT OF
MANDATE; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF;**

**COMPLAINT FOR TEMPORARY
RESTRAINING ORDER,
PRELIMINARY INJUNCTION AND
PERMANENT INJUNCTION;**

**VERIFICATION OF PETITION FOR
WRIT OF MANDATE**

[Code of Civil Procedure § § 525; 1085]

Petitioner, **ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS FOR LOS ANGELES COUNTY** (hereinafter referred to as "ADDA"), hereby petitions this Court for a Writ of Mandate, pursuant to California *Code of Civil Procedure section 1085* directed to Respondents **GEORGE GASCON, LOS ANGELES COUNTY DISTRICT ATTORNEY** (hereinafter referred to as "Gascon"); **LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE** (hereinafter referred to as "DAO"); and **COUNTY OF LOS ANGELES** (hereinafter referred to as "County"), requiring said Respondents to comply with the Civil Service Rules in connection with the hiring and promotion of Deputy District Attorneys (hereinafter referred to as

1 “DDAs”) and preventing these Respondents from hiring, appointing, or transferring any Deputy
2 Public Defenders (hereinafter referred to as “DPDs”), or any other persons, who are unqualified
3 under the Civil Service Rules, to hold positions as and perform the duties of DDAs.

4 Petitioner ADDA likewise seeks a Temporary Restraining Order, Preliminary and
5 Permanent Injunctions preventing Respondents Gascon, DAO and County from hiring,
6 transferring, or appointing currently employed DPDs, or any other person who is not qualified,
7 pursuant to the Civil Service Rules, for positions currently held by DDAs in violation of the
8 Civil Service Rules, in order to maintain the status quo during the pendency of this litigation.

9 Petitioner alleges, upon information and belief, as follows:

10 **INTRODUCTION**

11 1. On unknown dates in early 2021, Respondent Gascon hired three career members
12 of the Los Angeles County Public Defenders’ Office: Alisa Blair, Tiffany Blacknell and Shelan
13 Joseph, as Grade III and Grade IV Deputy District Attorneys.

14 2. In hiring Blair, Blacknell and Joseph, Gascon violated numerous Civil Service
15 Rules which implement the County Charter’s mandate of merit system of employment, designed
16 to create a productive, efficient, stable, and representative County workforce that is free of
17 political patronage, influence or reward.

18 3. Petitioner, the Association for Deputy District Attorneys of Los Angeles County,
19 the duly elected bargaining representative for non-supervisory DDAs, has filed approximately 11
20 appeals with the Los Angeles County Civil Service Commission (hereinafter referred to as
21 “Commission”), on behalf of its members who were on valid promotion eligibility lists and who
22 were passed over for promotions for which they were qualified, by Gascon’s unlawful
23 appointment of the unqualified Blair, Blacknell and Joseph to those positions.

24 4. Although the first two appeals were filed by the ADDA on the same day in March
25 2021, the Commission considered one of the appeals on July 21, 2021, and due to a continuance
26 requested by the DAO thereafter, the other will not be heard until October 27, 2021. The
27 remaining appeals were filed in August and September 2021, in response to Grade IV
28 promotions made by Gascon from the existing eligible list on or about August 18, 2021.

1 12. Respondent George Gascon is now, and at all times herein mentioned was, the
2 duly elected District Attorney for Los Angeles County. In this capacity, Respondent Gascon is
3 the department head of the District Attorney’s Office and is authorized to hire, promote, and
4 transfer DDAs. In doing so, Respondent Gascon is required to adhere to, and comply with, the
5 Civil Service Rules related to the hiring and promotion of County employees.

6 13. Respondent Los Angeles County District Attorney’s Office (“DAO”) is now, and
7 at all times herein mentioned was, the governmental agency responsible for prosecuting public
8 offenses in Los Angeles County. In this capacity, the DAO is responsible for adhering to, and
9 complying with, the terms of the Civil Service Rules related to hiring and promotion of DDAs.

10 14. Respondent County of Los Angeles (“County”) is now, and at all times herein
11 mentioned was, a duly chartered county of the State of California and a legal subdivision of the
12 state charged with governmental powers.

13 15. Petitioner Association of Deputy District Attorneys for Los Angeles
14 County (“ADDA”) is the certified exclusive bargaining representative for Bargaining Unit 801,
15 with regard to all matters concerning wages, hours and working conditions. Bargaining Unit 801
16 consists of Deputy District Attorney Is, Deputy District Attorney IIs, Deputy District Attorney
17 IIIs, and Deputy District Attorney IVs, pursuant to the Employee Relations Ordinance of the
18 County of Los Angeles. Bargaining Unit 801 includes approximately 800 Los Angeles County
19 deputy district attorneys.

20 16. Petitioner ADDA brings this action on behalf of all of its represented employees
21 who have been or will be injured by the unlawful appointment of unqualified DPDs to fill
22 positions for which ADDA’s members are fully qualified.

23 17. In addition, Petitioner ADDA has suffered injury to itself as an
24 organization by virtue of the conduct and actions of Respondents complained of herein in that
25 ADDA has at least 200 members who have been passed over for promotion to Grade III or Grade
26 IV as the result of the unlawful conduct of Respondents, as set forth hereinafter.

27 18. Pursuant to its obligation as the exclusive bargaining representative for
28 all members of bargaining unit 801, ADDA will be obligated to expend resources on behalf of

1 those 200 members, as well as other similarly situated members and future members, to contest
2 Respondent Gascon's failure to promote those members off the duly promulgated eligible lists,
3 in violation of the Civil Service rules. The resources required to be utilized in the pursuit of the
4 missed promotions by these ADDA members will necessarily not be expended on other
5 necessary union activities.

6 19. In addition, the resolution, through this litigation, of the on-going dispute
7 over Respondents' obligation to promote existing Bargaining Unit members to Grade III and
8 Grade IV positions in compliance with well established Civil Service rules rather than appoint
9 unqualified DPD's who have not complied with the testing requirements set forth in the Civil
10 Service Rules, will allow ADDA to redirect its resources to other necessary union activities.

11 20. Petitioner ADDA likewise has associational standing to sue on behalf of its
12 members who have, to date, been adversely affected by Respondents' unlawful promotion of
13 unqualified DPD employees rather than qualified ADDA members, as (a) each adversely
14 affected ADDA member has standing to sue in their own right to contest the Respondents'
15 unlawful failure to promote them; (b) the interests ADDA seeks to protect are germane to the
16 organization's purpose; and (c) neither the claim asserted nor the relief requested requires the
17 participation of individual members in the lawsuit.

18 **JURISDICTION AND VENUE**

19 21. This Court has jurisdiction over this matter pursuant to *California Code of Civil*
20 *Procedure* §§ 1085 and 525.

21 22. Venue is proper in the Superior Court of the State of California, for the County of
22 Los Angeles, North Central District, in that the underlying acts, omissions, injuries and related
23 facts and circumstances giving rise to the present action occurred in the County of Los Angeles,
24 California.

25 **RELEVANT FACTS**

26 **The Existing Eligible List**

27 23. On or about May 12, 2020, the DAO certified a list of eligible candidates for
28 promotion to the position of Deputy District Attorney Grade III. A list of eligible candidates for

1 promotion to Grade IV was certified on or about March 15, 2019.

2 24. These eligible lists were prepared in compliance with Civil Service Rule 10
3 following the administration of a competitive examination in compliance with Rule 7. The
4 process and content of the examination for these promotions was negotiated and agreed upon by
5 the ADDA and DAO.

6 25. The eligible lists were announced as remaining in effect for one year, pursuant to
7 Rule 10.06 (“*Duration of eligible lists. Except when otherwise ordered, an eligible list shall be*
8 *in effect for one year from date of promulgation, unless sooner terminated pursuant to*
9 *Rule 10.05, but the director of personnel may order that the period of eligibility be for a shorter*
10 *time or, in his discretion, may extend the period of eligibility, or may restore any eligible list*
11 *which has expired or been terminated.*”)

12 26. Approximately 225 of Petitioner’s members achieved a score on the examination
13 which placed those members in Band 1 on the eligible lists for promotion to the positions of each
14 DDA III and DDA IV.

15 27. At no time was Petitioner, or any ADDA member who is on either of the eligible
16 lists, notified that the Grade III or Grade IV eligible lists had been terminated, as required by
17 Civil Service Rule 10.05 (“*Termination of eligible lists. An eligible list may be terminated by*
18 *the director of personnel after notice to those on the list when, in the director’s opinion, cause*
19 *exists.*”).

20 28. On or about August 18, 2021, approximately 15 DDA III were promoted off the
21 viable eligible list to DDA Grade IV.

22 **The Appointment of Blacknell, Joseph and Blair**

23 29. On unknown dates in or about March 2021, Blacknell and Joseph began working
24 as Deputy District Attorney IVs in the DAO.

25 30. Also on an unknown date in early 2021, Blair began working as a DDA III in the
26 DAO.

27 31. Immediately prior to commencing work as DDA IVs, Blacknell and Joseph, and
28 as a DDA III, Blair, had all been employed and working as Los Angeles County DPDs.

1 32. Neither Blacknell nor Joseph took and passed a competitive examination for the
2 position of Deputy District Attorney IV prior to their appointments to that position, as is required
3 by Civil Service Rules and the County Charter. Neither Blacknell nor Joseph were placed on an
4 eligible list for the position of DDA IV, and neither were selected for that position from the
5 existing eligible list which had been certified by the Director of Personnel.

6 33. Blair did not take and pass a competitive examination for the position of DDA III
7 prior to her appointment to that position, as is required by Civil Service Rules and the County
8 Charter. Blair was never placed on an eligible list for the position of DDA III and was not
9 selected for that position from the existing eligible list which had been certified by the Director
10 of Personnel.

11 **Applicable Civil Service Rules**

12 34. The Civil Service Rules which require Blacknell, Joseph, and Blair to take and
13 pass a competitive examination for the positions of DDA III and DDA IV provide as follows:
14 CSR 7.04 “*Except as provided in Rule 8, all examinations shall be competitive.*”; CSR 7.06 “*It is*
15 *county policy that vacancies will generally be filled from within.*”; CSR 11.01 “*In filling*
16 *vacancies from an eligible list, the appointing authority shall make appointment from eligible*
17 *lists certified by the director of personnel.*”

18 35. The applicable County Charter provision states:

19 *“The purpose of this article is to establish a Civil Service System for the classified*
20 *service which shall provide County government with a productive, efficient,*
21 *stable, and representative work force by: (1) Recruiting, selecting, and*
22 *advancing employees on the basis of their relative ability, knowledge, and skills*
23 *relevant to the work to be performed. (2) Retaining employees on the basis of the*
24 *adequacy of their performance, correcting inadequate performance, and*
25 *separating employees whose inadequate performance cannot be corrected. (3)*
26 *Assuring fair treatment of applicants and employees in all aspects of personnel*
27 *administration without discrimination based on political affiliation, race, color,*
28 *national origin, sex, religious creed or handicap and with proper regard for their*
privacy and constitutional rights as citizens. (4) Assuring that employees are
protected against coercion for political purposes and are prohibited from using
their official authority for the purpose of interfering with or affecting the result of
an election or a nomination for office.”

27 36. Likewise, at the time of their assignments as DDAs, Blair, Blacknell and Joseph
28 were each not qualified to take the examination for the position of DDA III or DDA IV, as

1 defined by Civil Service Rules 6.01 and 6.02:

2 “6.01 **Qualifications for examinations.** *In order to qualify for examination, a*
3 *candidate must:*

4 “A. *Meet all general requirements pertaining to filing applications for*
5 *positions in the classified service as prescribed in these Rules;*

6 “B. *Meet such additional requirements as are specified for the particular*
7 *examination, including, but not limited to education, experience, license,*
8 *age, residence, sex, physical condition, or the passing of appropriate*
9 *qualifying tests;*

10 “C. *File an application in accordance with established procedures.*

11 “6.02 **Qualifications for promotional examination.**

12 “A. *In addition to meeting the requirements of Rule 6.01, an applicant for an*
13 *interdepartmental promotional examination must be a permanent county*
14 *employee, and for a departmental promotional examination must in*
15 *addition have status in the department specified. The director of personnel*
16 *may also allow the following to compete in promotional examinations*
17 *whenever such action is deemed necessary in order to meet the needs of*
18 *county service:*

19 “1. *Probationary employees may be allowed to compete in promotional*
20 *examinations, provided that they are not appointed until they have*
21 *completed their probationary periods.*

22 “2. *Recurrent or temporary employees who have completed at least 120*
23 *working days of satisfactory service as recurrent or temporary employees*
24 *may be allowed to compete in promotional examinations for permanent*
25 *appointments to the class in which they have status or any lower-level*
26 *class. Additionally, recurrent employees meeting the above conditions*
27 *may compete in promotional examinations for higher-level recurrent*
28 *positions.*

“3. *Enrollees in training programs approved by the director of personnel may*
be allowed to compete in promotional examinations for permanent
appointment to the classes for which they have been prepared.”

37. The specific requirements to be qualified to take the examination and be eligible
for promotion to a DDA Grade IV included experience as a Los Angeles County DDA I, DDA II
and DDA III, for a minimum of two years.

38. The requirements to be qualified to take the examination and be eligible for
promotion to DDA Grade III includes experience as a Los Angeles County DDA I and DDA II,
for a minimum of one year.

39. The examination bulletins for both the DDA Grade III and DDA Grade IV exams

1 specifically stated that **no Out-of-Class experience would be accepted.**

2 **The Appointments of Blacknell, Joseph and Blair Violate**
3 **Civil Service Rule 15**

4 40. Respondents have claimed that the appointments of DPDs Blacknell, Joseph and
5 Blair to the positions which they apparently hold as DDAs were Interdepartmental Transfers
6 without an examination pursuant to Civil Service Rule 15.02, or changes of classification
7 authorized by Civil Service Rule 15.03. These rules do not, however, authorize the
8 appointments of Blacknell, Joseph and Blair in the place of qualified candidates on the existing,
9 viable eligible lists.

10 41. Rule 15.02 provides, in relevant part:

11 ***“15.02 Interdepartmental transfers.***

12 ***“A.1. In the case of employees in nonsupervisory classes, supervisory classes in***
13 ***bargaining units as certified by ERCOM and managerial classes in the***
14 ***Sheriff, on the request of the appointing powers, the director of personnel***
15 ***may authorize the interdepartmental transfer of an employee **from one*****
16 ***position to another similar position of the same class, or to any other***
17 ***position to which his/her appointment, transfer or change of***
18 ***classification would be authorized by these Rules, in another***
19 ***department.”*** [Emphasis added.]

20 42. CSR 15.03 provides, in relevant part:

21 ***“15.03 Change of classification.***

22 ***“A. Whenever it is found necessary to change the classification of an***
23 ***employee from a nonsupervisory class, supervisory class in a bargaining***
24 ***unit as certified by ERCOM, or managerial class in the Sheriff, to any***
25 ***other class, such change may be made administratively by the appointing***
26 ***power or powers, provided both classes are of the same rank, there is no***
27 ***increase or decrease in grade, **and the employee has demonstrated the*****
28 ***possession of the skills and aptitudes required in the position to which***
the employee is to be changed. Such change of classification may be
made only with the approval of the director of personnel.” [Emphasis
added.]

43. Despite the requirement of CSR 15.02 that an interdepartmental transfer be to a
“similar position of the same class,” Blacknell, Joseph and Blair were transferred from the class
of DPD to the substantially different class, DDA.

44. CSR 2.11 defines the term “Class,” as used in Rule 15.03, as “a position or a

1 *group of positions bearing the same title.*” Deputy Public Defender and Deputy District
2 Attorney do not bear the same title and are not the same class under the CSRs. Respondent
3 County has assigned the class called DDA III the class code of 9273. The class code for the
4 class called DDA IV is 9274. The Class code for DPD III is 9251 and the class code for DPD IV
5 is 9252. These positions are not in the same class, as defined by Respondent County.

6 45. Rule 15.02 also allows transfers to ***“any other position to which his/her***
7 ***appointment, transfer or change of classification would be authorized by these Rules.”***

8 46. Rules 6.01, 6.01, 7.01, 7.02, 11.01, the County Charter, and the requirements
9 published in the test bulletin do not authorize the appointment of Blacknell, Joseph or Blair to
10 the position of DDA in the absence of these candidates qualifying for, taking, and passing the
11 examination for the class of DDA III or DDA IV, and subsequently being placed on and selected
12 from an eligible list for a position in that class and grade.

13 47. The transfers of Blacknell and Joseph from DPD IV to DDA IV, as well as the
14 transfer of Blair from DPD III to DDA III, violated CSR 15.03 as such transfers without an
15 examination are only allowed *“provided both classes are of the same rank, there is no increase*
16 *or decrease in grade, and the employee has demonstrated the possession of the skills and*
17 ***aptitudes required in the position to which the employee is to be changed.”***

18 48. While Blacknell, Joseph and Blair each remained in the same grade, i.e., III or IV,
19 the transfer did not maintain Blacknell, Joseph or Blair at the same rank.

20 49. Rule 2.46 defines “Rank,” as used in CSR 15.03(A) as follows:

21 *“Rank,” as it pertains to classification, means level of difficulty and*
22 *responsibility of a class among nonsupervisory classes, supervisory classes in*
23 *bargaining units as certified by ERCOM and managerial classes in the Sheriff,*
regardless of the series or service to which the class belongs.

24 50. The positions of Deputy Public Defender and Deputy District Attorney are not of
25 the same level of difficulty and responsibility, as those qualifications are outlined in the DDA III
26 and DDA IV job classification bulletins issued by Respondent County.

27 51. Even if the positions are considered to be of the same rank, the DAO, Blacknell,
28 Joseph and Blair have not demonstrated that Blacknell, Joseph or Blair possess the skills and

1 aptitude required to perform the duties of a DDA as is specifically required by Rule 15.03(A).

2 52. The skills required to perform the position of DDA III and DDA IV are defined in
3 the class specifications, which are created by Respondent County.

4 53. The Class Specification Bulletin for the position of DDA IV, as published by the
5 County, provides, in relevant part, as follows:

6 **“DEFINITION:**

7 *“Performs the most difficult legal work in the prosecution of criminal cases.*

8 **“CLASSIFICATION STANDARDS:**

9 *“In addition to the **knowledge, skills, and abilities of a Deputy District Attorney***
10 ***I, II and III**, positions allocable to this class are responsible for 1) prosecuting*
11 *the most difficult and complex felony, juvenile, appellate, or other types of cases*
12 *requiring a high degree of initiative, skill and specialized legal knowledge; 2)*
13 *supervising a small staff of attorneys as a Calendar Deputy, Deputy-in-Charge of*
14 *an area office, or section head; or 3) acting as assistant to a higher level position.*
15 *This class encompasses administrative, lead person, and full supervisory*
16 *positions and is the first level at which full supervisory or full administrative*
17 *duties may be assigned. Direction received at this level is general in nature and*
18 *primarily pertains to policy.*

19 * * *

20 **“REQUIREMENTS**

21 **“MINIMUM REQUIREMENTS:**

22 **“TRAINING AND EXPERIENCE:**

23 *“Two years of experience as a Deputy District Attorney III in the service of Los*
24 *Angeles County.” [Emphasis added.]*

25 54. The Class Specification Bulletin published by the County for the class of DDA
26 Grade III, provides:

27 **“DEFINITION:**

28 *“Performs difficult legal work required in the prosecution of criminal cases.*

“CLASSIFICATION STANDARDS:

*“In addition to the **knowledge, skills, and abilities of a Deputy District Attorney***
***I and II**, positions allocable to this class are characterized by performance of the*
legal tasks involved in the prosecution of difficult or complex felony cases for the
District Attorney. Incumbents at this level act as senior trial deputies in Superior
Court and may provide lead supervision to lower-level attorneys in the
performance of their duties. Incumbents in this class have a caseload that is more
demanding than that of a Deputy District Attorney II. Positions at this level

1 receive general supervision from the Deputy District Attorney IV or Head Deputy
2 to whom they report.

3 * * *

4 **“MINIMUM REQUIREMENTS:**

5 **“TRAINING AND EXPERIENCE:**

6 **“One year of experience as a Deputy District Attorney II in the service of Los
7 Angeles County.”** [Emphasis added.]

8 55. DPDs Blair, Blacknell and Joseph do not possess the required “*knowledge, skills,
9 and abilities of a DDA I, II, and III.*” Nor do Blacknell, Joseph or Blair have the requisite years
10 of experience as a DDA I, DDA II or DDA III with the County of Los Angeles. Any experience
11 as DPDs is out of class experience which is specifically not accepted to qualify to hold the
12 positions of DDA III and DDA IV.

13 **Rule 25 Violation**

14 56. Blacknell, Joseph and Blair have each donated money to the election campaign of
15 George Gascon, and/or worked as campaign advisors and political supporters for George
16 Gascon.

17 57. In January 2021, Joseph personally filed a Declaration in Los Angeles County
18 Superior Court in support of George Gascon’s opposition to the application of the ADDA for a
19 preliminary injunction related to Mr. Gascon’s December 7, 2020 Special Directives.

20 58. The decision of Respondent George Gascon to select the unqualified, but
21 documented political supporters, Blair, Blacknell and Joseph, rather than the eminently qualified
22 members of Petitioner ADDA who are on the eligible list for promotion, violates CSR 25.

23 59. CSR 25 provides:

24 **“Rule 25 MERIT SYSTEM STANDARDS**

25 **“25.01 Employment practices.**

26 **“A. No person in the classified service or seeking admission thereto shall be**
27 **appointed, reduced or removed, or in any way favored or discriminated**
28 **against in employment or opportunity for employment because of race,**
color, religion, sex, physical handicap, medical condition, marital status,
age, national origin or citizenship, ancestry, political opinions or
affiliations, organizational membership or affiliation, or other non-merit
factors, any of which are not substantially related to successful

1 *performance of the duties of the position. “Nonmerit factors” are those*
2 *factors that relate exclusively to a personal or social characteristic or*
3 *trait and are not substantially related to successful performance of the*
4 *duties of the position. Any person who appeals alleging discrimination*
5 *based on a non-merit factor must name the specific non-merit factor(s) on*
6 *which discrimination is alleged to be based. No hearing shall be granted*
7 *nor evidence heard relative to discrimination based on unspecified*
8 *non-merit factors.” [Emphasis added.]*

6 60. The Los Angeles County Charter, and the Civil Service Rules authorized thereby,
7 require the employment of persons based on merit. The merit system is specifically designed to
8 remove political patronage as the basis for assignment or promotion within any position or class
9 in the County service.

10 61. Respondent Gascon has violated the fundamental rules of the merit system by
11 appointing Blacknell and Joseph to DDA Grade IV positions, and Blair to a DDA Grade III
12 position, for which they are not qualified, for which they have displayed no skill or ability to
13 perform, and for which both now and at the time of their appointments, extremely well qualified
14 candidates and ADDA members were waiting on the eligibility list.

15 62. The appointments of Blair, Blacknell and Joseph were driven by political
16 patronage by the elected district attorney, intended to reward unqualified political supporters and
17 campaign donors, who were willing to provide public support in Mr. Gascon’s recent failed
18 litigation over his unlawful Special Directives.

19 63. The County Charter’s demand for a merit system of employment does not allow
20 the pay-to-play politics exhibited by Respondent Gascon in his ongoing campaign to replace
21 qualified ADDA members with unqualified political donors and supporters.

22 **Civil Service Appeals**

23 64. On or about March 10, 2021, ADDA filed, on behalf of all its members who were
24 on the viable eligible list for each Grade III and Grade IV promotions, two appeals with the Civil
25 Service Commission alleging violations of each of the aforementioned CSRs by the
26 appointments of Blair, Blacknell and Joseph and requested a hearing on those appeals.

27 65. In August and September 2021, Petitioner ADDA filed an additional
28 approximately 9 appeals on behalf of its members who were not promoted by Respondent

1 Gascon on or about August 18, 2021.

2 66. On or about July 21, 2021, the appeal filed by Petitioner ADDA on behalf all
3 ADDA members on the eligible list for the position of DDA IV was heard by the Civil Service
4 Commission.

5 67. Although the appeal filed by ADDA on behalf of all ADDA members on the
6 eligible list for the position of DDA III was filed on the same day as the appeal on behalf of
7 those on the list for DDA IV, the DDA III appeal was not placed on the Commission's agenda
8 for consideration until August 2021. That appeal was continued, at the request of the DAO, to
9 the Commission's meeting of October 27, 2021.

10 68. The Commission has scheduled the last nine appeals that were filed on the agenda
11 of its December 1, 2021 meeting for consideration of the requests for hearings.

12 69. On July 21, 2021, the Civil Service Commission granted Petitioner's request for a
13 hearing on the alleged CSR violations committed by Respondents in the hiring of Blacknell and
14 Joseph.

15 70. As of the date of the filing of this Petition, October 12, 2021, the Civil Service
16 Commission has not scheduled the hearing which it granted on Petitioner's appeal on July 21,
17 2021, and has not yet selected a Hearing Officer for the case.

18 71. Petitioner has requested that all remaining appeals be consolidated for hearing
19 with the first appeal which was granted on July 12, 2021. Petitioner will also request that the
20 consolidated hearing be scheduled as quickly as possible.

21 **Gascon's Current Plan To Hire Additional DPDs**

22 72. Petitioner has been informed and believes, and thereupon alleges that Respondent
23 Gascon has selected three present, career DPDs and an additional career Alternate DPD (referred
24 to collectively as public defenders), to be appointed as DDA IIIs and DDA IVs.

25 73. ADDA has been informed and believes that the public defenders selected by
26 Gascon will be hired by Respondents as DDAs before the end of October 2021.

27 74. ADDA is informed and believes that all of the public defenders selected for hire
28 by Gascon either financially supported Gascon's election campaign or played a role on his

1 various policy making teams. ADDA has confirmed that at least one of the public defenders
2 Gascon intends to appoint as a DDA III is listed as a donor to Gascon's election campaign.

3 75. At the Civil Service Commission's meeting on July 21, 2021, when Petitioner
4 ADDA's request for hearing on the appeal related to the unlawful hiring of Blacknell and Joseph
5 was considered, three of the four Commissioners present expressed significant concerns about
6 the propriety of Gascon's actions in hiring campaign contributors, and a public defender who
7 supplied a declaration to support Gascon's opposition to the preliminary injunction sought by the
8 ADDA against Gascon's special directives, rather than the qualified DDAs who were on the
9 eligible list for the positions Gascon filled with the unqualified DPDs.

10 76. Despite the Commission's clear indication that Gascon's actions were contrary to
11 the Charter's mandate of merit hiring and promotion, Gascon has continued with his plan to
12 appoint public defenders to perform the duties of DDAs, despite the lack of qualification of the
13 public defenders and the availability of qualified DDAs to perform the jobs Respondent Gascon
14 is filling with public defenders.

15 **FIRST CAUSE OF ACTION**

16 **RELIEF SOUGHT PURSUANT TO C.C.P. § 1085**
17 **[Petitioner Against Respondents Gascon, DAO, and County]**

18 77. Petitioner hereby reasserts and realleges, with the same force and effect as if more
19 fully set forth herein, each and every fact and allegation set forth in Paragraphs 1 through 76,
20 inclusive, of this Petition.

21 78. *Code of Civil Procedure* § 1085(a) provides, in pertinent part:

22 *“A writ of mandate may be issued by any court to any inferior tribunal,*
23 *corporation, board, or person, to compel the performance of an act which the law*
24 *specifically enjoins, as a duty resulting from an office, trust, or station, or to*
25 *compel the admission of a party to the use and enjoyment of a right or office to*
which the party is entitled, and from which the party is unlawfully precluded by
that inferior tribunal, corporation, board, or person.”

26 79. At all times herein mentioned, Respondents Gascon, DAO, and County, had a
27 ministerial duty to comply with the Los Angeles County Charter and the Los Angeles County
28 Civil Service Rules as they pertain to the hiring and promotion of County employees.

1 80. Respondents unilaterally and unlawfully appointed DPDs Blacknell, Joseph and
2 Blair to DDA III and DDA IV positions, in excess of their authority and in contravention of Civil
3 Service Rules 7.04, 7.06, 11.01, 6.01, 6.02, 15.02, 15.03, and 25, as well as the Los Angeles
4 County Charter.

5 81. Respondents have again, despite the appeals pending before the Civil Service
6 Commission, taken action to continue appointing unqualified public defenders to fill positions
7 for which qualified DDAs are available and on a certified, viable eligible list.

8 82. Petitioner, and its members, are beneficially interested in the outcome of this case
9 in that Petitioner's members are, and at all relevant times have been, civil service employees
10 who are the direct and intended beneficiaries of the Civil Service Rules.

11 83. Petitioner and its members are also beneficially interested in the outcome of this
12 case in that Respondents' unlawful conduct complained of herein has directly resulted in the
13 failure of ADDA members to be promoted to positions for which they are highly qualified.

14 84. Petitioner and its members are further beneficially interested in the outcome of
15 this case in that, if Respondent Gascon is allowed to continue on his unlawful course of
16 replacing qualified DDAs with unqualified political cronies, Petitioner's members will be in
17 danger of losing their jobs, as well as all opportunity for advancement in their chosen careers,
18 and Petitioner will ultimately lose members.

19 85. Petitioner has exhausted all available, effective administrative remedies, and has
20 no plain, speedy or adequate remedy in the ordinary course of the law other than the relief sought
21 by this Petition.

22 86. At all times herein mentioned, Respondents have willfully and maliciously failed
23 to abide by the applicable Civil Service Rules and provisions of the Los Angeles County Charter.

24 87. At all times mentioned herein, the conduct of Respondents was arbitrary,
25 capricious, and contrary to both public policy and the law. As a result of the conduct of these
26 Respondents, Petitioner has incurred legal fees in the preparation and presentation of this
27 Petition for Peremptory Writ of Mandate and Points and Authorities in support thereof in a total
28 sum which has not yet been ascertained but for which Petitioner will be obligated.

1 **SECOND CAUSE OF ACTION**

2 **INJUNCTIVE RELIEF PURSUANT TO C.C.P. §§ 545 & 546**
3 **[Petitioner Against Respondents Gascon, DAO, and County]**

4 88. Petitioner hereby reasserts and realleges, with the same force and effect as if more
5 fully set forth herein, each and every fact and allegation set forth in Paragraphs 1 through 87,
6 inclusive, of this Petition.

7 89. California *Code of Civil Procedure* section 525 provides:

8 ***“§ 525. Injunction defined; Who may grant***

9 *“An injunction is a writ or order requiring a person to refrain from a particular*
10 *act. It may be granted by the court in which the action is brought, or by a judge*
11 *thereof; and when granted by a judge, it may be enforced as an order of the*
12 *court.”*

13 90. California *Code of Civil Procedure* section 526 provides, in relevant part:

14 ***“§ 526. Cases in which injunction may or may not be granted***

15 *“(a) An injunction may be granted in the following cases:*

16 *“(1) When it appears by the complaint that the plaintiff is entitled to the relief*
17 *demand, and the relief, or any part thereof, consists in restraining the*
18 *commission or continuance of the act complained of, either for a limited period or*
19 *perpetually.*

20 *“(2) When it appears by the complaint or affidavits that the commission or*
21 *continuance of some act during the litigation would produce waste, or great or*
22 *irreparable injury, to a party to the action.*

23 *“(3) When it appears, during the litigation, that a party to the action is doing, or*
24 *threatens, or is about to do, or is procuring or suffering to be done, some act in*
25 *violation of the rights of another party to the action respecting the subject of the*
26 *action, and tending to render the judgment ineffectual.”*

27 91. Petitioner has filed approximately eleven appeals with the Civil Service
28 Commission seeking a consolidated hearing on the issue of the unlawfulness of Respondent
Gascon’s appointment of unqualified, political supporters to hold high ranking DDA positions
for which Petitioner’s members are qualified and available.

92. The Civil Service Commission granted a hearing in the first of the appeals to
come before it. The consideration of the next appeal by the Commission is scheduled for
October 27, 2021. The remaining appeals have been scheduled on the Commission’s agenda for

1 consideration by the Commission at its December 1, 2021 meeting.

2 93. The Commission has taken no steps since July 21, 2021 to schedule the hearing
3 on the one appeal which has been granted a hearing.

4 94. Despite the Commission's direct expression of disagreement with Respondent
5 Gascon's conduct of appointing unqualified political supporters in violation of the CSRs, Gascon
6 has continued with this course of action, having identified at least three more unqualified public
7 defenders he intends to hire to fill DDA III and DDA IV positions for which qualified ADDA
8 members are available.

9 95. Without the issuance of the injunctive relief requested herein, Respondent Gascon
10 will continue to appoint unqualified political supporters to available DDA III and DDA IV
11 positions, to the great injury and detriment of Petitioner ADDA and its members, who will
12 necessarily not be appointed to the DDA Grade III and DDA Grade IV positions Gascon intends
13 to fill with his political supporters.

14 96. In addition, the injunctive relief requested herein is necessary to maintain the
15 status quo while the appeal matters are pending before the Civil Service Commission and this
16 litigation is pending before the Court.

17 **WHEREFORE, Petitioner prays:**

18 1. That the Court issue a Traditional Writ of Mandate pursuant to California *Code*
19 *of Civil Procedure* § 1085 to require Respondents Gascon, DAO, and County, and each of them,
20 together with their officers, agents, servants, employees, representatives, and all persons acting
21 in concert or participating with them, to perform their ministerial duty, as created by the Los
22 Angeles County Charter and the Civil Service Rules, to not hire, transfer or appoint any public
23 defender, or any other person unqualified under Civil Service Rules 6.01, 6.02, 15.02, 15.03,
24 7.04, 7.06, 11.01, and 25, to hold any position as a Deputy District Attorney II, III, IV, or V;
25 and to not take any action which will result in the expiration or other invalidation of any existing
26 eligible list for the positions of DDA III, DDA IV, and/or DDA V until a valid replacement
27 eligible list of qualified candidates is properly certified and published;

28 2. That the Court issue Temporary, Preliminary, and Permanent injunctive relief

1 ordering Respondents Gascon, DAO, and County, and each of them, together with their officers,
2 agents, servants, employees, representatives, and all persons acting in concert or participating
3 with them, to immediately cease and desist from:

4 A. Hiring, transferring, or appointing any public defender, or any other person who
5 is unqualified pursuant to Civil Service Rules 6.01, 6.02, 15.02, 15.03, 7.04, 7.06,
6 11.01, and 25, to hold any position as a DDA II, DDA III, DDA IV, or DDA V,
7 while this litigation and the litigation of any and all hearings on appeals granted
8 by the Civil Service Commission to contest the actions of Respondents Gascon,
9 DAO, and County in hiring Tiffany Blacknell, Shelan Joseph, and Alisa Blair in
10 violation of the Civil Service Rules and the County Charter remains pending; and

11 B. Taking any steps to expire, or otherwise invalidate the existing eligible lists for
12 the positions of DDA III, DDA IV, and/or DDA V while this litigation and the
13 litigation of any and all hearings on appeals granted by the Civil Service
14 Commission to contest the actions of Respondents Gascon, DAO, and County in
15 hiring Tiffany Blacknell, Shelan Joseph, and Alisa Blair in violation of the Civil
16 Service Rules and the County Charter remains pending, unless an examination
17 which complies with Civil Service Rules 5, 6, 7, 11, and 25 is properly offered,
18 scored, and calculated, and a replacement eligible list of qualified candidates for
19 the position has been certified and published.

20 3. For Petitioner's cost of suit incurred herein;

21 4. For Petitioner's attorney's fees in accordance with law, including California

22 *Government Code* § 800;

23 5. For Petitioner's attorney's fees in accordance with law, including California *Code*
24 *of Civil Procedure* § 1021.5;

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1 6. For such other and further relief as the Court may deem just, necessary and
2 proper.

3 Dated: October 11, 2021

Respectfully submitted,

THE GIBBONS FIRM, PC

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6 By: *Elizabeth J. Gibbons*
Elizabeth J. Gibbons
7 Attorneys for Petitioner, Association of
8 Deputy District Attorneys for Los Angeles
County (ADDA)
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