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Attorneys for Los Angeles County (ADDA)

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

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

Petitioner,

v.

GEORGE GASCÓN, 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

**DECLARATION OF ERIC  
SIDDALL IN SUPPORT OF  
PETITIONER'S POINTS AND  
AUTHORITIES IN REPLY TO  
RESPONDENTS' OPPOSITION TO  
OSC RE: PRELIMINARY  
INJUNCTION**

Date: November 10, 2021  
Time: 9:30 a.m.  
Place: Dept. 86

**DECLARATION OF ERIC SIDDALL**

I, Eric Siddall, hereby declare as follows:

1. I am not a party to the above entitled action. I make this declaration based upon my own personal knowledge of the facts set forth herein, except as to those facts which are stated on information and belief, and as to those facts, I believe them to be true.

2. I am Vice President of the Los Angeles Association of Deputy District Attorneys. I have been a Los Angeles County Deputy District Attorney since 2007. I am also designated as a Special Assistant United States Attorney for the Central District of California. I am currently assigned to the Crimes Against Peace Officers Division. My past assignments included prosecuting gang homicides, domestic violence, and sex crimes, including crimes against children. I have tried over 80 jury trials as a prosecutor. I have indicted defendants before both the Los Angeles County grand jury and the federal grand jury.

3. Along with my duties as a prosecutor, I have trained prosecutors and police officers through programs directed by the Los Angeles County District Attorney's Office, the Los Angeles Police Department, the Los Angeles County Sheriff's Department, and the United States Department of Justice. I have trained prosecutors and law enforcement on the law of murder, prosecuting and investigating gang crimes, prosecution discovery disclosure obligations, and *Perkins* operations.

4. As part of my training and experience, I understand the ethical and legal duties required by a prosecutor.

5. The prosecutor, unlike other members of the bar, "is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the twofold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as

1 it is to use every legitimate means to bring about a just one.” *Berger v. U.S.* (1935) 295 U.S. 78,  
2 88. I am unaware of any decisional authority that holds a defense attorney to this standard.

3 6. As part of my duties as Vice President of ADDA, I helped negotiate the latest  
4 promotional exam on behalf of our members. I am aware of its function, components, and  
5 rationale. The exam seeks to test both the candidates’ knowledge of criminal law and procedure  
6 and the policy of the District Attorney’s Office. The Legal Policy Manual of the District  
7 Attorney’s Office (LPM) dictates the manner and circumstances of the duties and responsibilities  
8 of deputy district attorneys, including rules and regulations, filing standards, case settlement,  
9 approval requirements, and other unique features of prosecuting criminal cases in Los Angeles  
10 County. To my knowledge, deputy public defenders or alternate deputy public defender are not  
11 tested on the LPM. I scored in the highest band on the last District Attorney Grade IV exam.

12 7. The exam requires three years of experience as a DDA Grade II to be eligible for  
13 the DDA Grade III exam and four years of experience as a DDA Grade III to be eligible for the  
14 Grade IV exam. This is because prosecutorial experience is critical in the formation of a deputy  
15 district attorney. This experience is different than that of a defense attorney.

16 8. In addition, there are many skill sets a prosecutor must develop. One unique  
17 ability of a prosecutor is in the evaluation and filing of criminal charges. Not only is it the  
18 function of a prosecutor, but it is a power that involves great responsibility. Criminal charges  
19 often trigger serious consequences for the defendant, including loss of liberty and public scorn.

20 9. I started filing my first cases as a Deputy District Attorney I. These cases  
21 involved minor misdemeanors, like vehicle code violations and petty theft. As time progressed, I  
22 filed more serious cases ranging from sex crimes to special circumstance murder.

23 10. A prosecutor’s discovery duties extend beyond those of criminal or civil  
24 attorneys. Under California Penal Code section 1054 *et seq.*, defense attorneys are required by  
25 statute to provide the prosecution with reciprocal, similar but different, discovery. Yet, a  
26 prosecutor has a constitutional obligation to provide additional discovery beyond those  
27 obligation under *Maryland v. Brady* and its progeny.

28 11. A prosecutor assists and develops criminal investigations through multiple

1 prosecutorial tools, such as the using the criminal grand jury, conducting proffers and granting  
2 leniency, extradition, and assisting law enforcement in their investigation. This vital and unique  
3 expertise is developed only after years of experience as a prosecutor. Not surprisingly, some of  
4 these skills are tested on the Deputy District Attorney Grade IV Exam.

5 12. On sensitive cases, prosecutors must take extraordinary steps to protect their  
6 witnesses through discovery protective orders, redacting witnesses' names and personal  
7 information from discovery, engaging in *ex parte* hearings to delay disclosure of witness  
8 information pursuant to Penal Code section 1054.7. The failure to do so endangers the lives of  
9 innocent civilians and cost the government millions of dollars in civil litigation. This skill  
10 requires years of experience and advance training. It is not one shared by defense lawyers.

11 13. Prosecutors are entrusted with sensitive information at the pre-charging stage of a  
12 criminal investigation. Managing sensitive information is critical for the successful prosecution  
13 of a case, and it is a skill that is developed only after years of experience.

14 14. Prosecutors are given access to sensitive personal and profession information for  
15 witnesses, police officers, and defendants. This information includes criminal histories and  
16 internal *Brady* and ORWITS files. The handling and use of this information is unique to the  
17 prosecutorial function. It is not available to defense attorneys but is held in the custody of the  
18 prosecutor for their determination as to whether it must be released to the defense.

19 15. The trial experience of a prosecutor is different than that of a defense attorney.  
20 Prosecutors must prove the case through evidence. Evidence comes in the form of witness  
21 testimony or exhibits. By constitutional mandate, a prosecutor must prove the case beyond a  
22 reasonable doubt. (See CALCRIM 220)

23 16. There is no obligation for a defense attorney to present evidence. (See CALCRIM  
24 100)

25 17. In most cases, the defense does not present any evidence but relies on cross-  
26 examination to test the government's evidence. The prosecutor or the judge prepares jury  
27 instructions. In my entire career, I have never witnessed a defense lawyer prepare jury  
28 instructions. The defense's primary function is to create doubt, while the prosecutor's is prove

1 the case beyond a reasonable doubt. Their trial function and skill set are very different.

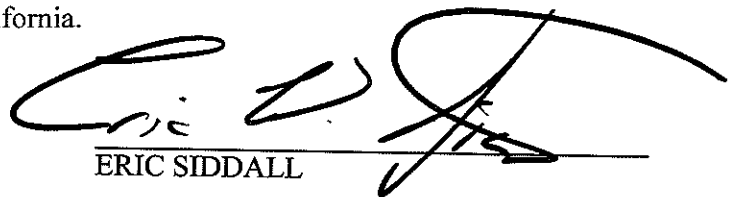
2 18. Training and experience are critical. An error made by an inexperienced or poorly  
3 trained prosecutor could mean that a case against a murderer is reversed.

4 19. The Penal Code recognizes the difference between a prosecutor and a defense  
5 lawyer. If a prosecutor engages in misconduct, they can be sent to prison for violating Penal  
6 Code section 141(c). No functional equivalent punishment exists for defense lawyers. This is  
7 because prosecutors and defense lawyers are not similarly situated professionals.

8 20. A prosecutor has a duty to do justice, the defense lawyer has a duty to serve their  
9 client. As Justice White summarized:

10 "Law enforcement officers have the obligation to convict the guilty and to make  
11 sure they do not convict the innocent. They must be dedicated to making the  
12 criminal trial a procedure for the ascertainment of the true facts surrounding the  
13 commission of the crime...But defense counsel has no comparable obligation to  
14 ascertain or present the truth. Our system assigns him a different mission. He  
15 must be and is interested in preventing the conviction of the innocent, but, absent  
16 a voluntary plea of guilty, we also insist that he defend his client whether he is  
17 innocent or guilty. The State has the obligation to present the evidence. Defense  
18 counsel need present nothing, even if he knows what the truth is. He need not  
19 furnish any witnesses to the police, or reveal any confidences of his client, or  
20 furnish any other information to help the prosecution's case. If he can confuse a  
21 witness, even a truthful one, or make him appear at a disadvantage, unsure or  
22 indecisive, that will be his normal course. Our interest in not convicting the  
23 innocent permits counsel to put the State to its proof, to put the State's case in the  
24 worst possible light, regardless of what he thinks or knows to be the truth.  
25 Undoubtedly there are some limits which defense counsel must observe but more  
26 often than not, defense counsel will cross-examine a prosecution witness, and  
27 impeach him if he can, even if he thinks the witness is telling the truth, just as he  
28 will attempt to destroy a witness who he thinks is lying. In this respect, as part of  
our modified adversary system and as part of the duty imposed on the most  
honorable defense counsel, we countenance or require conduct which in many  
instances has little, if any, relation to the search for truth." *U.S. v. Wade* (1967)  
388 U.S. 218, 256-258 [87 S.Ct. 1926, 1947-1948, 18 L.Ed.2d 1149]

22 I declare under penalty of perjury that the foregoing is true and correct. Sworn this 2nd  
23 day of November, 2021 at Los Angeles, California.

24   
25 ERIC SIDDALL  
26  
27  
28

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 COUNTY OF LOS ANGELES ) ss.

4 I am a citizen of the United States; I am over the age of eighteen years and not a  
5 party to the within action; my business address is 811 Wilshire Boulevard, 17th Floor, Los  
6 Angeles, California 90017.

7 On the date written below, I served the within:

8 **DECLARATION OF ERIC SIDDALL IN SUPPORT OF  
9 PETITIONER'S POINTS AND AUTHORITIES IN REPLY TO  
10 RESPONDENTS' OPPOSITION TO OSC RE: PRELIMINARY  
11 INJUNCTION**

12 *Association of Deputy District Attorneys for Los Angeles County (ADDA) v.*  
13 *George Gascón, Los Angeles County District Attorney, et al.*  
14 LASC Case No. 21STCP03412

15 on the interested parties in said action as follows:

16 Justin H. Sanders (SBN 211488)  
17 jsanders@sandersroberts.com  
18 Sabrina C. Narain (SBN 299471)  
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26 Los Angeles, CA 90017

27 [ X ] **BY MAIL:** I am readily familiar with the firm's practice of collection and  
28 processing correspondence by mailing. Under that practice, it would be deposited with the U.S.  
Postal Service on that same day with postage fully prepared at Los Angeles, California in the  
ordinary course of business. I am aware that on motion of the party served, service is presumed  
invalid if postal cancellation date or postage meter date is more than one day after date of deposit  
for mailing in affidavit.

[ X ] **BY ELECTRONIC MAIL (E-MAIL):** I transmitted the document(s) via  
electronic mail using web mail through the electronic mail server gmail.com and no error was  
reported by the mail administrator. Pursuant to California Rules of Court, Rule 2006(d), I  
printed the confirmation of the e-mail transmission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 3, 2021 at Los Angeles, California.

*Peggy L. Madsen*  
Peggy Madsen