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**GEORGE GASCON; LOS ANGELES
COUNTY DISTRICT ATTORNEY; LOS
ANGELES COUNTY DISTRICT AND
COUNTY OF LOS ANGELES**

SUPERIOR COURT 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

**DECLARATION OF JUSTIN H. SANDERS
IN SUPPORT OF RESPONDENTS'
MOTION TO STAY ALL PROCEEDINGS
AND DISCOVERY**

Judge: Hon. Mitchell L. Beckloff

Hearing Information

DATE: January 14, 2021

TIME: 9:30 a.m.

LOCATION: Dept. 86, Stanley Mosk
Courthouse, 111 N. Hill Street, Los Angeles, CA
90012

DECLARATION OF JUSTIN H. SANDERS

1. I am an attorney, duly licensed to practice before all courts of the State of California. My office represents Respondents George Gascón, Los Angeles County District Attorney's Office, and the County of Los Angeles in the above-entitled action. I have personal knowledge of the facts set forth herein. If called to testify on these matters I could and would do so.

2. On March 12, 2021, two Deputy District Attorneys, Eric Siddall ("Mr. Siddall"), on behalf of himself and others, and Maria Ghobadi ("Ms. Ghobadi") on behalf of herself and others, submitted requests for hearings before the County of Los Angeles Civil Service Commission (the "Commission"). A true and correct copy of the Commission appeal filed on behalf of Mr. Siddall by attorney Elizabeth Gibbons, Petitioner's counsel ("Ms. Gibbons"), is attached hereto as **Exhibit 1**. (This document appeared as Exhibit 11 to the Gibbons Declaration in support of Petitioner's Petition for Writ of Mandate). A true and correct copy of the Commission appeal filed on behalf of Ms. Ghobadi by Ms. Gibbons, is attached hereto as **Exhibit 2**. (This document appeared as Exhibit 12 to the Gibbons Declaration in support of Petitioner's Petition for Writ of Mandate).

3. Mr. Siddall's Commission appeal claims that he was not promoted to the position of DDA IV from DDA III in violation of the Civil Service Rules Rule 25, and is based on the transfer of Ms. Blacknell and Ms. Joseph to DDA Grade IV positions See **Exhibit 1** hereto.

4. Ms. Ghobadi's Commission appeal claims that she was not promoted to the position of DDA III from DDA II in violation of the Civil Service Rules Rule 25, and is based on the transfer of Ms. Blair to a DDA Grade III position. See **Exhibit 2** hereto.

5. On July 21, 2021, the Commission denied Mr. Siddall's request to consolidate his appeal with other appeals, and granted his request for a hearing to be held at a later date. I personally downloaded the meeting minutes from the CSC's website, located at https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptType=com&agency=Civil+Service&Agendas=1&Reports=1&Minutes=1&SupDocs=1&fromDate=10%2F28%2F2020&toDate=10%2F28%2F2021&rowsPerPage=10#1 reflecting the above, at approximately 10:30am on October 28, 2021. A true and correct copy of the Commission meeting





1 minutes from July 21, 2021 reflecting the denial of Mr. Siddal's consolidation request and the
2 approval of a hearing is attached hereto as **Exhibit 3**. (See item number 2 at page 2 of Exhibit 3,
3 under the heading "New Business").

4 6. Ms. Ghobadi's petition for a hearing on her appeal (a procedural hearing on whether
5 Ms. Ghobadi had standing to have a hearing) was set for hearing on August 18, 2021, but was
6 continued to October 27, 2021. I personally downloaded the meeting minutes from the
7 Commission's website, located at
8 [https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptTy](https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptType=com&agency=Civil+Service&Agendas=1&Reports=1&Minutes=1&SupDocs=1&fromDate=10%2F28%2F2020&toDate=10%2F28%2F2021&rowsPerPage=10#1)
9 [pe=com&agency=Civil+Service&Agendas=1&Reports=1&Minutes=1&SupDocs=1&fromDate=1](https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptType=com&agency=Civil+Service&Agendas=1&Reports=1&Minutes=1&SupDocs=1&fromDate=10%2F28%2F2020&toDate=10%2F28%2F2021&rowsPerPage=10#1)
10 [0%2F28%2F2020&toDate=10%2F28%2F2021&rowsPerPage=10#1](https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptType=com&agency=Civil+Service&Agendas=1&Reports=1&Minutes=1&SupDocs=1&fromDate=10%2F28%2F2020&toDate=10%2F28%2F2021&rowsPerPage=10#1) reflecting the above, at
11 approximately 10:30am on October 28, 2021. A true and correct copy of the Commission meeting
12 minutes from August 18, 2021, reflecting the continuance of the procedural hearing of Ms.
13 Ghobadi's Commission appeal is attached hereto as **Exhibit 4**. (See item number 6 at page 3 of
14 **Exhibit 4** hereto). Our office is informed and believes that Ms. Gibbons filed nine additional appeals
15 between August and September 2021, each of which made similar or identical claims based on the
16 same set of facts as those in Mr. Siddall's and Ms. Ghobadi's appeals.

17 7. On October 12, 2021, Petitioner filed a Petition for Writ of Mandate and *ex parte*
18 application for temporary restraining order seeking an injunction that would bar Mr. Gascón, the
19 District Attorney's Office, and the County of Los Angeles from hiring, transferring, or appointing
20 any former Deputy Public Defender from holding a position as a DDA II, III, IV, or V, and
21 preventing the hiring of so-called "unqualified" candidates. See Petitioner's opening brief, Docket
22 Item number 1.

23 8. On October 15, 2021, the Hon. Mary H. Strobel of the Superior Court for the County
24 of Los Angeles denied Petitioner's *ex parte* application for a temporary restraining order, and the
25 court set a hearing on an Order to Show Cause why a Preliminary Injunction Should Not Issue, for
26 November 10, 2021. A true and correct copy of the Hon. Judge Strobel's October 15, 2021 minute
27 order is attached hereto as **Exhibit 5**.



9. On October 27, 2021, the Commission's continued procedural hearing examining whether to set a hearing on Ms. Ghobadi's substantive appeal went forward, and the hearing was continued for an additional 60 days, to allow the Commission's legal advisor to study the issues related to lateral transfers. On December 20, 2021 at 10:12am, I personally downloaded a copy of the Commission meeting minutes from October 27, 2021 at the website listed in paragraph 6 above, a true and correct copy of which is attached hereto as **Exhibit 6**. The Commission's October 27, 2021 meeting minutes state, with respect to the petition of Maria Ghobadi, under the heading "Unfinished Business," that "THE COMMISSION CONTINUED THE MATTER FOR SIXTY (60) DAYS AND FOR THE LEGAL ADVISORS TO LOOK INTO THE DEPARTMENT'S PROMOTIONAL PROCESS. COMMISSIONER SEGAL RECUSED HERSELF." See **Exhibit 6** hereto, page 2, item 3.

10. On November 10, 2021, the hearing on an Order to Show Cause re: Why a Preliminary Injunction Should Not Issue (the "OSC"), After a full briefing by both sides, the OSC went forward on November 10, 2021 before the Honorable Mitchell L. Beckloff. Prior to the hearing, the court issued a tentative ruling. A true and correct copy of the tentative ruling obtained by our office through the Los Angeles Superior Court's tentative ruling web portal on November 10, 2021 at approximately 8:23am is attached hereto as **Exhibit 7**.

11. After hearing argument from both sides, at the conclusion of the November 10, 2021 OSC hearing, this Court adopted its tentative ruling as the final Minute Order on the OSC. The Court's ruling was to deny Petitioner's application for a preliminary injunction. A true and correct copy of the court's November 10, 2021 Minute Order, adopting and incorporating the court's tentative ruling by reference, is attached hereto as **Exhibit 8**. The court also set a Status Conference and Trial Setting Conference for December 3, 2021.

12. Our office is informed and believes that on December 1, 2021, the Commission moved forward with a procedural hearing on whether to grant hearings to all nine pending appeals by DDAs (all nine petitioners are represented by Ms. Gibbons before the Commission) claiming failure to promote based on a claim of a Civil Service Rule 25 violation. Ms. Gibbons appeared on



1 behalf of Petitioners and attorney Geoffrey Sheldon of Liebert Cassidy Whitmore, PLC, appeared
2 on behalf of Respondents at the December 1, 2021 Commission hearing on whether the nine pending
3 Commission appeals should be granted a hearing. At the conclusion of that hearing the Commission
4 granted hearings to all nine DDAs represented by Petitioner's counsel, Ms. Gibbons (who filed the
5 grievances on their behalf), and ordered that all nine hearings were to held before a single hearing
6 officer, and proceed on an expedited basis. The hearings will be "coordinated," but not consolidated,
7 meaning that there will not be just one hearing but instead they will all be assigned to one hearing
8 officer and that hearing officer will have discretion on how to conduct/bifurcate the various
9 appeals. The issues in the hearings will be: (1) whether the transfers were permissible under Civil
10 Service Rule 15; and (2) whether the DA's Office violated Civil Service Rule 25 as to each appellant
11 by not promoting them in favor of a public defender who got the job due to alleged political
12 patronage. The Commission has not yet scheduled the hearings, nor has it made any final rulings,
13 orders, or recommendations on the appeals. A true and correct copy of Petitioner's Status
14 Conference Report is attached hereto as Exhibit 9. A true and correct copy of Respondent's Status
15 Conference Report is attached hereto as Exhibit 10.

16 13. On December 3, 2021, the Status Conference and Trial Setting Conference in
17 Petitioner's instant Writ proceeding went forward as regularly scheduled, in Department 86 of the
18 Stanley Mosk Courthouse, before the Honorable Mitchell L. Beckloff. Ms. Gibbons appeared for
19 Petitioners, and attorneys Shawn Thomas and Matthew Barzman appeared on behalf of
20 Respondents. While discussing the outcome of the December 1, 2021 Commission procedural
21 hearing, the process for the Commission's conduct of the substantive hearings before a single
22 hearing officer, and expedited Commission hearing process, Ms. Gibbons acknowledged that the
23 nine hearings would go forward early in 2022. At that time, Respondents moved the court to stay
24 all of the instant proceedings and discovery pending the outcome of the Commission appeals.

25 14. The court set a hearing on Respondents' Motion to Stay All Proceedings and
26 Discovery for January 14, 2021, with briefing to proceed under Code of Civil Procedure section
27 1005.

15. On December 21, 2021, at 3:35pm, I personally visited the Civil Service Commission's website, located at https://lacounty.gov/compub/?department=compub&lang=&querytext=*&searchTerm=1&deptType=com&agency=Civil+Service&Minutes=1&rowsPerPage=10, which is the webpage where the Commission posts its meeting minutes for public review, in order to obtain a copy of the Commission's December 1, 2021 meeting minutes (wherein it granted hearings on the nine pending appeals and ordered that the hearings be coordinated before a single hearing officer and heard on an expedited basis). As of December 21, 2021 at 3:35pm, our office is informed and believes the Commission has not yet posted the December 1, 2021 meeting minutes on its website.


Justin G. ...



EXHIBIT 1



THE GIBBONS FIRM, PC
Attorneys at Law

RECEIVED

By SVardanyan at 4:33 pm, Mar 12, 2021

March 12, 2021

Civil Service Commission Services
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 522
Los Angeles, CA 90012

Re: Deputy District Attorney III Eric Siddall; Request for Hearing
Failure to Promote in Violation of Rules 6, 7, 10, 11, 15, and 25

Dear Sirs:

Petitioner Deputy District Attorney III ("DDA III") Eric Siddall, on behalf of himself and other similarly situated Grade III DDAs, hereby appeals, and requests a hearing in which to contest the failure of District Attorney George Gascon to promote him to a Grade IV position by instead promoting Tiffany Blacknell and Shelan Joseph to Grade IV positions in violation of Civil Service Rules 6, 7, 10, 11, 15, and 25. Petitioner submits the following facts in support of his request for a hearing.

Request For Consolidation Pursuant To Procedural Rule 5.07

There are presently 288 DDA IIIs in the District Attorney's Office who are eligible to be promoted, and in their careers will seek to be promoted to the classification and grade of DDA IV. Each of these 288 DDA IIIs are similarly situated to Petitioner Eric Siddall in that they presently have or in the future will seek promotion to DDA IV.

Petitioner requests that in lieu of the filing of 288 appeals on behalf of each adversely affected DDA III within the District Attorney's Office, all 288 appeals be consolidated for consideration and hearing based on this petition by DDA III Siddall for the convenience and consideration of resources of the Commission and its staff. Each of the 288 DDA IIIs to be consolidated with this appeal are, except for differences in time in grade and specific work assignments, identically situated and harmed by the conduct complained of herein.

Procedural Rule 5.07 provides:

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"5.07. Consolidated Appeals

"The Commission may consolidate the appeals of two or more persons at the request of the parties or upon its own motion. The consolidation of appeals shall be contingent upon a showing that the appeals in question present common questions of fact and law, and that separate hearings upon such appeals would result in an unnecessary multiplicity of hearings.

"Nothing herein shall be deemed to amend the provisions of the rules concerning the burden of proof or the granting of a hearing upon submission of written materials as provided in the Civil Service Rules of the County.

"Any petitioner whose matter would otherwise be included in a consolidated appeal hearing shall have the right to appear before the Commission and request that the matter be heard separately. Such request must be made within ten (10) business days of the Commission's granting of the hearing.

"The Executive Director shall appoint a Hearing Officer to hear consolidated appeals. The Executive Director may appoint a Special Master to hear consolidated appeals in discretionary cases related to examination appeals."

The appeals which are herein requested to be consolidated present the identical issues of the violation of the Civil Service rules by District Attorney Gascon in his action of promoting Deputy Public Defender IVs Tiffany Blacknell and Shelan Joseph as a Deputy District Attorney IV, rather than one of the 288 qualified and eligible DDA IIIs who appeal herein, in violation of Civil Service Rules 6, 7, 10, 11, 15, and 25. The failure to consolidate will necessitate the Commission's consideration of 288 separate appeal requests and 288 separate hearings. This is exactly the type of case which is contemplated for consolidation by Procedural Rule 5.07 and Petitioner respectfully requests that all 288 appeals be so consolidated.

The Existing Eligible List

On or about May 13, 2020, the District Attorney's Office ("DAO") certified a list of eligible candidates for promotion to the position of Deputy District Attorney Grade IV. This eligible list was prepared in compliance with Civil Service Rule 10 following the administration of a competitive examination in compliance with Rule 7. The list was announced as remaining in effect for one year, pursuant to Rule 10.06 (***"Duration of eligible lists. Except when otherwise ordered, an eligible list shall be in effect for one year from date of promulgation, unless sooner terminated pursuant to Rule 10.05, but the director of personnel may order that the period of***

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eligibility be for a shorter time or, in his discretion, may extend the period of eligibility, or may restore any eligible list which has expired or been terminated.”)

Petitioner has requested from the County information concerning the number of persons on the promotional list, when certified and published in May, 2020, but that information has not yet been provided. Petitioner's score on the examination placed Petitioner in Band 1. At no time between May, 2020 and the present day was Petitioner notified that the May, 2020 eligible list had been terminated, as required by Rule 10.05 (***Termination of eligible lists. An eligible list may be terminated by the director of personnel after notice to those on the list when, in the director's opinion, cause exists.***”).

To date, no DDA III has been promoted off this viable eligible list. Candidates on the list were advised by the DA's Office in or around May, 2020 that all promotions in the Department were frozen and that no promotions would be made. As such, all candidates on the list remain immediately eligible for promotion to DDA IV on this viable eligible list.

The Hiring of Tiffany Blacknell and Shelan Joseph

On unknown dates in or about March, 2021¹, Tiffany Blacknell and Shelan Joseph began working as Deputy District Attorney IVs. Prior to that date, Tiffany Blacknell and Shelan Joseph had been employed as Los Angeles County Deputy Public Defender IVs. Tiffany Blacknell and Shelan Joseph did not take and pass a competitive examination for the position of Deputy District Attorney IV prior to their appointments to that position, as is required by Civil Service Rules 7.04 (*“Except as provided in Rule 8, all examinations shall be competitive.”*); 7.06 (*“It is county policy that vacancies will generally be filled from within.”*); 11.01 (*“In filling vacancies from an eligible list, the appointing authority shall make appointment from eligible lists certified by the director of personnel.”*), and the County Charter (*“The purpose of this article is to establish a Civil Service System for the classified service which shall provide County government with a productive, efficient, stable, and representative work force by: (1) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills relevant to the work to be performed. (2) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected. (3) Assuring fair treatment of applicants and employees in all aspects of personnel administration without discrimination based on political affiliation, race, color, national origin, sex, religious creed or handicap and with proper regard for their privacy and constitutional rights as citizens. (4) Assuring that employees are*

¹ Although it has been the policy of the District Attorney's Office to internally announce the hiring, promotion, and re-assignment of Deputy District Attorneys, no announcement of the date or fact of hire of Tiffany Blacknell or Shelan Joseph has been issued by the DAO.

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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.”)

Likewise, at the time of their assignments as DDA IVs, Tiffiny Blacknell and Shelan Joseph were not qualified for examination for the position of Deputy District Attorney IV, as defined by Rules 6.01 and 6.02:

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

- “A.** *Meet all general requirements pertaining to filing applications for positions in the classified service as prescribed in these Rules;*
- “B.** *Meet such additional requirements as are specified for the particular examination, including, but not limited to education, experience, license, age, residence, sex, physical condition, or the passing of appropriate qualifying tests;*
- “C.** *File an application in accordance with established procedures.*

“6.02 Qualifications for promotional examination.

- “A.** *In addition to meeting the requirements of Rule 6.01, an applicant for an interdepartmental promotional examination must be a permanent county employee, and for a departmental promotional examination must in addition have status in the department specified. The director of personnel may also allow the following to compete in promotional examinations whenever such action is deemed necessary in order to meet the needs of county service:*
- “1.** *Probationary employees may be allowed to compete in promotional examinations, provided that they are not appointed until they have completed their probationary periods.*
- “2.** *Recurrent or temporary employees who have completed at least 120 working days of satisfactory service as recurrent or temporary employees may be allowed to compete in promotional examinations for permanent appointments to the class in which they have status or any lower-level class. Additionally, recurrent employees meeting the above conditions may compete in promotional examinations for higher-level recurrent positions.*

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- "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.*"

Petitioner has not been able to obtain the examination bulletin for the DDA Grade IV exam given in 2020, but is aware, from taking that examination, that the specific requirements to be qualified to take the examination and be eligible for promotion to Grade IV included experience as a Los Angeles County Deputy District Attorney I, II, and III, at a minimum. The examination bulletin specifically stated that **no Out-of-Class experience would be accepted.**

The Appointments of Tiffiny Blacknell and Shelan Joseph Violate Rule 15

The County has attempted to justify the selection of Tiffiny Blacknell and Shelan Joseph for the Grade IV positions which they apparently hold, rather than a qualified candidate on the eligible list such as Petitioner herein, as an Interdepartmental Transfer without an examination authorized by Rule 15.02, or a change of classification authorized by Rule 15.03. These rules do not, however, authorize the appointment of Tiffiny Blacknell and Shelan Joseph in the place of qualified candidates on the existing, viable eligible list.

Rule 15.02 provides, in relevant part:

"15.02 Interdepartmental transfers.

"A.1. *In the case of employees in nonsupervisory classes, supervisory classes in bargaining units as certified by ERCOM and managerial classes in the Sheriff, on the request of the appointing powers, the director of personnel may authorize the interdepartmental transfer of an employee from one position to another similar position of the same class, or to any other position to which his/her appointment, transfer or change of classification would be authorized by these Rules, in another department.*

2. *In the case of employees in all other supervisory and all other managerial classes, at the request of the appointing power of the receiving department, an interdepartmental transfer shall be authorized. This includes transfer as the result of promotion.*"
[Emphasis added.]

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Rule 15.03 provides, in relevant part:

"15.03 Change of classification.

- A. *Whenever it is found necessary to change the classification of an employee from a nonsupervisory class, supervisory class in a bargaining unit as certified by ERCOM, or managerial class in the Sheriff, to any other class, such change may be made administratively by the appointing power or powers, provided both classes are of the same rank, there is no increase or decrease in grade, **and the employee has demonstrated the 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.]

Despite the requirements of Rule 15.02 that an interdepartmental transfer be to a "*similar position of the same class*," Tiffany Blacknell and Shelan Joseph were transferred from the class of Deputy Public Defender IV to the different class, Deputy District Attorney IV. Rule 2.11 defines the term "Class," as specifically used in Rule 15.03, as "*a position or a group of positions **bearing the same title.***" Clearly, Deputy Public Defender and Deputy District Attorney do not bear the same title and are not the same class.

It has been the policy of the County of Los Angeles, and the District Attorney's Office, in interpreting and applying Rules 15.02 and 15.03 to only effect an interdepartmental transfer when there is no available eligible list and the need for the person transferred is extraordinary. Neither of those things is true in connection with the appointments of Tiffany Blacknell and Shelan Joseph.

Rule 15.02 also allows transfers to "***any other position to which his/her appointment, transfer or change of classification would be authorized by these Rules.***" As previously stated, Rules 6.01, 6.01, 7.01, 7.02, 11.01, the County Charter, and the requirements published in the test bulletin do not authorize the appointment of Tiffany Blacknell or Shelan Joseph to the position of Deputy District Attorney IV in the absence of either candidate qualifying for, taking, and passing the examination for the class of Deputy District Attorney IV, and subsequently being placed on and selected from an eligible list for a position in that class. Tiffany Blacknell and Shelan Joseph did none of these things while Petitioner successfully accomplished all of them, with the improper exception of being selected.

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Likewise, Rule 15.03 was violated by the transfer of Tiffany Blacknell and Shelan Joseph from Deputy Public Defender IV to Deputy District Attorney IV as such a transfer without an examination is only allowed *"provided both classes are of the same rank, there is no increase or decrease in grade, and the employee has demonstrated the possession of the skills and aptitudes required in the position to which the employee is to be changed."* While Tiffany Blacknell and Shelan Joseph remained in the same grade, i.e., IV, the transfer did not maintain Tiffany Blacknell or Shelan Joseph at the same rank.

Rule 2.46 defines "Rank" as used in Rule 15.03(A) as follows:

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

There should be no question that the positions of Deputy Public Defender and Deputy District Attorney are not of the same level of difficulty and responsibility, as those qualifications are outlined in the DDA IV job classification bulletin quoted below.

Even if the positions are considered to be of the same rank, the DAO, Tiffany Blacknell and Shelan Joseph have not demonstrated that Ms. Blacknell or Ms. Joseph possesses the skills and aptitude required to perform the duties of a Deputy District Attorney IV, as is specifically required by Rule 15.03(A). The skills required to perform the position of DDA IV are defined in the class specifications, created by the Director of Personnel. The class specifications for the position of Deputy District Attorney IV, as published by the Department of Human Resources, are as follows:

"DEFINITION/STANDARDS

"DEFINITION:

"Performs the most difficult legal work in the prosecution of criminal cases.

"CLASSIFICATION STANDARDS:

"In addition to the knowledge, skills, and abilities of a Deputy District Attorney I, II and III, positions allocable to this class are responsible for 1) prosecuting the most difficult and complex felony, juvenile, appellate, or other types of cases requiring a high degree of initiative, skill and specialized legal knowledge; 2) supervising a small staff of attorneys as a Calendar Deputy, Deputy-in-Charge of an area office, or

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section head; or 3) acting as assistant to a higher level position. This class encompasses administrative, lead person, and full supervisory positions and is the first level at which full supervisory or full administrative duties may be assigned. Direction received at this level is general in nature and primarily pertains to policy.

"EXAMPLES OF DUTIES

"Prosecutes the most difficult and complex felony cases.

"Prosecutes other types of cases requiring a high degree of initiative, skill and specialized knowledge.

"Resolves complex and difficult civil, administrative, or non-legal issues requiring a high degree of initiative, skill and specialized knowledge.

"Resolves difficult, complex, multi-defendant cases and/or projects without the need for close monitoring.

"Evaluates complex, difficult, multi-defendant cases for filing, including conducting appropriate legal research.

"Participates in special task forces, committees and/or multi-disciplinary and multi-agency meetings.

"Supervises and participates in the work of lower level attorneys in preparing and prosecuting difficult felony, juvenile, appellate, or other types of cases.

"Advises and trains lower-level attorneys on the conduct of their assigned cases, providing guidance and instruction as to the procedure or strategy to be used in trial.

"Advises investigators and law enforcement officers on legal phases of their work.

"Advises and trains allied support staff such as Paralegals, Priors Assistants and Witness Assistants on legal phases of their work.

"Participates in the formulation and development of plans, programs, and methods of operation for the department.

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"May supervise allied support staff, represent the department in civil or administrative proceedings, act as legal advisor to other agencies, or administer a special program or project, as directed.

"May act as supervisor in the latter's absence.

"REQUIREMENTS

"MINIMUM REQUIREMENTS:

"TRAINING AND EXPERIENCE:

"Two years of experience as a Deputy District Attorney III in the service of Los Angeles County." [Emphasis /added.]

It is beyond question that, unlike Petitioner, Tiffany Blacknell and Shelan Joseph do not possess the required *"knowledge, skills, and abilities of a DDA I, II, and III."* Nor do Tiffany Blacknell and Shelan Joseph have the requisite *"Two years of experience as a Deputy District Attorney III with the County of Los Angeles."* Neither Tiffany Blacknell nor Shelan Joseph has ever performed the duties of those positions, has ever demonstrated any ability to prosecute criminal cases, as is required, while Petitioner has performed those duties and prosecuted 82 cases, over 650 days of trial, in his 14 year career as a DDA.

Likewise, Tiffany Blacknell and Shelan Joseph having never performed the duties of a DDA I or II, cannot and do not possess the skills to perform the *"legal tasks involved in the prosecution of difficult or complex felony cases for the District Attorney."* Petitioner, however, does possess these skills and has been rated by his supervisor as having performed these skills in an above average manner for at least the past 10 years.

Rule 25 Violation

Unlike Petitioner, however, Tiffany Blacknell and Shelan Joseph donated money to the election campaign of George Gascon, and worked as campaign advisors for George Gascon. In addition, in January, 2021, Shelan Joseph personally filed in Los Angeles County Superior Court, a Declaration in support of George Gascon's opposition to the application of the Association of Deputy District Attorneys for a preliminary injunction related to Mr. Gascon's December 7, 2020 Special Directives.

The decision of District Attorney George Gascon to select the unqualified, but documented political campaign supporters Tiffany Blacknell and Shelan Joseph to positions for which

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Petitioner and approximately 288 other Deputy District Attorney IIIs are eminently qualified, therefore also violates Rule 25.

Rule 25 provides:

"Rule 25 **MERIT SYSTEM STANDARDS**

"25.01 **Employment practices.**

- "A.* *No person in the classified service or seeking admission thereto shall be appointed, reduced or removed, **or in any way favored or discriminated 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 performance of the duties of the position. "Nonmerit factors" are those factors that relate exclusively to a personal or social characteristic or trait and are not substantially related to successful performance of the duties of the position.** Any person who appeals alleging discrimination based on a non-merit factor must name the specific non-merit factor(s) on which discrimination is alleged to be based. No hearing shall be granted nor evidence heard relative to discrimination based on unspecified non-merit factors."* [Emphasis added.]

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

District Attorney Gascon has clearly and blatantly violated the fundamental rules of the merit system by appointing Tiffany Blacknell and Shelan Joseph to Grade IV positions for which they are not qualified, for which they have displayed no skill or ability to perform, and for which there are now and were at the time of Tiffany Blacknell's and Shelan Joseph's appointments, approximately 288 extremely qualified candidates, including Petitioner herein and all the others waiting on the eligibility list. The conduct of District Attorney Gascon has intentionally and publicly disparaged all 288 Deputy District Attorney IIIs, including Petitioner herein, by promoting Tiffany Blackwell and Shelan Joseph instead of each of them.

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March 12, 2021

To: Civil Service Commission Services

Re: Deputy District Attorney Eric Siddall

The appointments of Tiffany Blacknell and Shelan Joseph were driven only by political patronage and payback by the elected district attorney to reward unqualified political supporters and campaign donors, who were willing to provide public support in Mr. Gascon's recent failed litigation over his unlawful Special Directives. The County Charter's demand for a merit system of employment does not allow the pay-to-play politics exhibited by District Attorney Gascon in his refusal to promote Petitioner to either of the Grade IV positions given to Tiffany Blacknell and Shelan Joseph as rewards for their political support.

Petitioner specifically asserts that his failure to be promoted, and being passed over for promotion while reachable on an active eligible list, was based solely on the non-merit factor of Petitioner's political affiliation to wit: not being a campaign donor, a campaign organizer, a campaign supporter, a campaign policy advisor or person who provided a legal Declaration in litigation against the union which protects and supports Petitioner herein, and in favor of District Attorney George Gascon.

It is therefore requested that an evidentiary hearing be granted in order to provide Petitioner with an opportunity to appeal the District Attorney's action of failing to promote Petitioner to the position of Deputy District Attorney IV in violation of Rule 25 as well as Rules 6, 7, 10, 11, and 15.

Yours truly,

THE GIBBONS FIRM, P.C.



ELIZABETH J. GIBBONS

In Association with

GREEN & SHINEE, A. P.C.



RICHARD A. SHINEE

EXHIBIT 2



THE GIBBONS FIRM, PC
Attorneys at Law

Received by Yancely Welch
on March 12 2021

March 12, 2021

Civil Service Commission Services
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 522
Los Angeles, CA 90012

Re: Deputy District Attorney II [REDACTED] Request for Hearing
Failure to Promote in Violation of Rules 6, 7, 10, 11, 15, and 25

Dear Sirs:

Petitioner Deputy District Attorney II ("DDA II") [REDACTED] on behalf of herself and other similarly situated Grade II DDAs, hereby appeals, and requests a hearing in which to contest the failure of District Attorney George Gascon to promote her to a Grade III position by instead promoting Deputy Public Defender Alisa Blair to a DDA III position in violation of Civil Service Rules 6, 7, 10, 11, 15, and 25. Petitioner submits the following facts in support of her request for a hearing.

Request For Consolidation Pursuant To Procedural Rule 5.07

There are presently 176 DDA IIs in the District Attorney's Office who are eligible to be promoted, and in their careers will seek to be promoted to the classification and grade of DDA II. Each of these 176 DDA IIs are similarly situated to Petitioner [REDACTED] in that they presently have or in the future will seek promotion to DDA III.

Petitioner requests that in lieu of the filing of 176 appeals in behalf of each adversely affected DDA II within the District Attorney's Office, all 176 appeals be consolidated for consideration and hearing based on this petition by DDA II [REDACTED] for the convenience and consideration of resources of the Commission and its staff. Each of the 176 DDA IIs to be consolidated with this appeal are, except for differences in time in grade and specific work assignments, identically situated and identically harmed by the conduct complained of herein.

Procedural Rule 5.07 provides:

"5.07. Consolidated Appeals

"The Commission may consolidate the appeals of two or more persons at the

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March 12, 2021

To: Civil Service Commission Services

Re: Deputy District Attorney [REDACTED]

request of the parties or upon its own motion. The consolidation of appeals shall be contingent upon a showing that the appeals in question present common questions of fact and law, and that separate hearings upon such appeals would result in an unnecessary multiplicity of hearings.

"Nothing herein shall be deemed to amend the provisions of the rules concerning the burden of proof or the granting of a hearing upon submission of written materials as provided in the Civil Service Rules of the County.

"Any petitioner whose matter would otherwise be included in a consolidated appeal hearing shall have the right to appear before the Commission and request that the matter be heard separately. Such request must be made within ten (10) business days of the Commission's granting of the hearing.

"The Executive Director shall appoint a Hearing Officer to hear consolidated appeals. The Executive Director may appoint a Special Master to hear consolidated appeals in discretionary cases related to examination appeals.

The appeals which are herein requested to be consolidated present the identical issues of fact and law concerning the violation of the Civil Service rules by District Attorney Gascon in his action of promoting Deputy Public Defender III Alisa Blair to a Deputy District Attorney III, rather than one of the qualified and eligible DDA IIs who appeal herein, in violation of Civil Service Rules 6, 7, 10, 11, 15, and 25. The failure to consolidate will necessitate the Commission's consideration of 176 separate appeal requests and 176 separate hearings. This is exactly the type of case which is contemplated for consolidation by Procedural Rule 5.07 and Petitioner respectfully requests that all 176 appeals be so consolidated.

The Existing Eligible List

On or about May 13, 2020, the District Attorney's Office ("DAO") certified a list of eligible candidates for promotion to the position of Deputy District Attorney Grade III. This eligible list was prepared in compliance with Civil Service Rule 10 following the administration of a competitive examination in compliance with Rule 7. The list was announced as remaining in effect for one year, pursuant to Rule 10.06 ("***Duration of eligible lists. Except when otherwise ordered, an eligible list shall be in effect for one year from date of promulgation, unless sooner terminated pursuant to Rule 10.05, but the director of personnel may order that the period of eligibility be for a shorter time or, in his discretion, may extend the period of eligibility, or may restore any eligible list which has expired or been terminated.***")

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To: Civil Service Commission Services
Re: Deputy District Attorney [REDACTED]

Petitioner is informed and believes that the promotional list, when certified and published in May, 2020 included 57 DDA II names, with 46 in Band 1, and 11 in Band 2¹. Petitioner's score on the examination placed Petitioner in Band 1. At no time between May, 2020 and the present day was Petitioner notified that the May, 2020 eligible list had been terminated, as required by Rule 10.05 (***Termination of eligible lists. An eligible list may be terminated by the director of personnel after notice to those on the list when, in the director's opinion, cause exists.***).

To date, no DDA II has been promoted off this viable eligible list. Candidates on the list were advised by the DA's Office in or around May, 2020 that all promotions in the Department were frozen and that no promotions would be made. As such, 57 candidates remain immediately eligible for promotion to DDA III on this eligible list.

The Hiring of Alisa Blair

On or about January 4, 2021², Alisa Blair began working as a Deputy District Attorney III. Prior to that date, Ms. Blair had been employed as a Los Angeles County Deputy Public Defender III. Ms. Blair did not take nor pass a competitive examination for the position of Deputy District Attorney III prior to her appointment to that position, as is required by Civil Service Rules 7.04 (*"Except as provided in Rule 8, all examinations shall be competitive."*); 7.06 (*"It is County policy that vacancies will generally be filled from within."*); 11.01 (*"In filling vacancies from an eligible list, the appointing authority shall make appointment from eligible lists certified by the director of personnel."*), and the County Charter (*"The purpose of this article is to establish a Civil Service System for the classified service which shall provide County government with a productive, efficient, stable, and representative work force by: (1) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills relevant to the work to be performed. (2) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected. (3) Assuring fair treatment of applicants and employees in all aspects of*

¹ In addition to the 57 Grade II DDAs who are presently on the eligible list for promotion to Grade III, the remaining 119 DDAs presently holding Grade II positions have each also been adversely affected by the District Attorney's appointment of Ms. Blair to a Grade III position in violation of the Civil Service rules set forth herein as Ms. Blair has taken one of a limited number of Grade III positions for which she is neither eligible nor qualified, thereby precluding all 119 remaining Grade II DDAs from filling that position.

² The Association of Deputy District Attorneys, the labor union of which Petitioner is a member, requested information from the County regarding the date of Ms. Blair's hire by District Attorney Gascon. The information that Ms. Blair was hired effective January 4, 2021 was not provided to the ADDA, and therefore not known to Petitioner until March 1, 2021. This Petition is therefore timely filed within 15 business days of Petitioner's knowledge of the effective date of Ms. Blair's employment by the District Attorney.

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personnel administration without discrimination based on political affiliation, race, color, 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.")

Likewise, at the time of her assignment as a DDA III, Ms. Blair was not qualified for examination for the position of Deputy District Attorney III, as defined by Rules 6.01 and 6.02:

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

- "A. Meet all general requirements pertaining to filing applications for positions in the classified service as prescribed in these Rules;*
- "B. Meet such additional requirements as are specified for the particular examination, including, but not limited to education, experience, license, age, residence, sex, physical condition, or the passing of appropriate qualifying tests;*
- "C. File an application in accordance with established procedures.*

"6.02 Qualifications for promotional examination.

- "A. In addition to meeting the requirements of Rule 6.01, an applicant for an interdepartmental promotional examination must be a permanent county employee, and for a departmental promotional examination must in addition have status in the department specified. The director of personnel may also allow the following to compete in promotional examinations whenever such action is deemed necessary in order to meet the needs of county service:*
 - "1. Probationary employees may be allowed to compete in promotional examinations, provided that they are not appointed until they have completed their probationary periods.*
 - "2. Recurrent or temporary employees who have completed at least 120 working days of satisfactory service as recurrent or temporary employees may be allowed to compete in promotional examinations for permanent appointments to the class in which they have status or any lower-level class. Additionally,*

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To: Civil Service Commission Services

Re: Deputy District Attorney [REDACTED]

recurrent employees meeting the above conditions may compete in promotional examinations for higher-level recurrent 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.*"

The examination bulletin for the DDA Grade III exam included the following specific requirements to be qualified to take the examination and be eligible for promotion to Grade III:

"POSITION INFORMATION

"Positions allocable to this class perform difficult legal work required in the prosecution of criminal cases.

"ESSENTIAL JOB FUNCTIONS:

"Prepares and prosecutes complex and difficult felony cases as a senior felony trial attorney in the Superior Court.

"Manages calendar related issues. Ensures the timely issuance of subpoenas, delivery and receipt of discovery materials, and notification to victims and witnesses regarding court dates and conformance.

"Conducts negotiations with defense attorneys regarding the disposition or modification of charges.

"Reviews complex and difficult cases for filing consideration.

"Conducts preliminary hearings, prepares witnesses and evidence for trial, and creates trial presentations using current technology.

"Confers with defense attorneys, law enforcement officers, probation officers, witnesses, defendants, victims, victims' families, and other interested parties regarding cases.

"Serves as a vital legal resource, and may provide advice and/or supervision to lower-level attorneys, law clerks, investigators, and law enforcement officers in the investigation and prosecution of cases.

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Re: Deputy District Attorney [REDACTED]

"REQUIREMENTS:

"SELECTION REQUIREMENTS:

"Three years of experience as a Deputy District Attorney II in the service of the Los Angeles County District Attorney's Office (LADA)."

* * *

"ADDITIONAL INFORMATION:

* * *

"No Out-of-Class experience will be accepted."

The Appointment of Alisa Blair Violates Rule 15

The County has attempted to justify the appointment of Ms. Blair to the Grade III position she holds, rather than a qualified candidate on the eligible list such as Petitioner herein, as an Interdepartmental Transfer without an examination authorized by Rule 15.02, or a Change of Classification authorized by Rule 15.03. Neither Rule authorizes Ms. Blair's appointment as a DDA III.

Rule 15.02 provides, in relevant part:

"15.02 Interdepartmental transfers.

"A.1. In the case of employees in nonsupervisory classes, supervisory classes in bargaining units as certified by ERCOM and managerial classes in the Sheriff, on the request of the appointing powers, the director of personnel may authorize the interdepartmental transfer of an employee from one position to another similar position of the same class, or to any other position to which his/her appointment, transfer or change of classification would be authorized by these Rules, in another department.

"2. In the case of employees in all other supervisory and all other managerial classes, at the request of the appointing power of the receiving department, an interdepartmental transfer shall be

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authorized. This includes transfer as the result of promotion.
[Emphasis added.]

Rule 15.03 provides, in relevant part:

"15.03 Change of classification.

"A. Whenever it is found necessary to change the classification of an employee from a nonsupervisory class, supervisory class in a bargaining unit as certified by ERCOM, or managerial class in the Sheriff, to any other class, such change may be made administratively by the appointing power or powers, provided both classes are of the same rank, there is no increase or decrease in grade, and the employee has demonstrated the 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.]

Despite the requirements of Rule 15.02 that an interdepartmental transfer be to a "*similar position of the same class*," Ms. Blair was transferred from the class of Deputy Public Defender III to the different class, Deputy District Attorney III. Rule 2.11 defines the term "Class," as specifically used in Rule 15.03, as "*a position or a group of positions **bearing the same title.***" Clearly, Deputy Public Defender and Deputy District Attorney do not bear the same title and are not the same class.

It has been the policy of the County of Los Angeles, and the District Attorney's Office, to only effect an interdepartmental transfer when there is no available eligible list and the need for the person transferred is extraordinary. Neither of those conditions is true in this case.

Rule 15.02 also allows transfers to "***any other position to which his/her appointment, transfer or change of classification would be authorized by these Rules.***" As previously stated, Rules 6.01, 6.01, 7.01, 7.02, 11.01, the County Charter, and the requirements published in the test bulletin do not authorize the appointment of Alisa Blair to the position of Deputy District Attorney III in the absence of her qualifying for, taking, and passing the examination for the class of Deputy District Attorney III, and subsequently being placed on and selected from an eligible list for a position in that class. Ms. Blair did none of these things while Petitioner successfully accomplished all of them, with the exception that she was improperly not selected.

Likewise, Rule 15.03 was violated by the transfer of Ms. Blair from Deputy Public Defender III to

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Re: Deputy District Attorney [REDACTED]

Deputy District Attorney III as such a transfer without an examination is only allowed *"provided both classes are of the same rank, there is no increase or decrease in grade, and the employee has demonstrated the possession of the skills and aptitudes required in the position to which the employee is to be changed."* While Ms. Blair remained in the same grade, i.e., III, the transfer did not maintain Ms. Blair at the same rank.

Rule 2.46 defines "Rank" as used in Rule 15.03(A) as follows:

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

There should be no question that the positions of Deputy Public Defender and Deputy District Attorney are not of the same level of difficulty and responsibility, as those qualifications are outlined in the DDA III class specifications quoted below.

Even if the positions are considered to be of the same rank, the DAO and Ms. Blair have not demonstrated that Ms. Blair possesses the skills and aptitude required to perform the duties of a Deputy District Attorney III. The skills required to perform that position are defined in the class specifications, created by the Director of Personnel. The class specifications for the position of Deputy District Attorney III, as published by the Department of Human Resources, are as follows:

"DEFINITION/STANDARDS

"DEFINITION:

"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 receive general

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Re: Deputy District Attorney [REDACTED]

supervision from the Deputy District Attorney IV or Head Deputy to whom they report.” [Emphasis added.]

It is beyond question that, unlike Petitioner, Ms. Blair does not possess the required “*knowledge, skills, and abilities of a DDA I and II.*” Ms. Blair never performed the duties of those positions, has never demonstrated any ability to prosecute criminal cases, as is required, while Petitioner has performed those duties and prosecuted a significant number of criminal cases in her 6 year career as a DDA.

Likewise, Ms. Blair, having never performed the duties of a DDA I or II, cannot and does not possess the skills to perform the “*legal tasks involved in the prosecution of difficult or complex felony cases for the District Attorney.*” Petitioner, however, does possess these skills, having prosecuted 23 criminal cases in her 6 year career, and has been rated by her supervisor as having performed these skills in an above average manner for at least the past 5 years.

The Appointment of Alisa Blair Violates Rule 25

The most glaring difference in qualifications between Petitioner and Ms. Blair is that Ms. Blair, but not Petitioner, donated money to the election campaign of George Gascon, and worked as a campaign advisor for George Gascon. The decision of District Attorney George Gascon to select the unqualified, but documented political campaign contributor, Ms. Blair, to a position for which Petitioner and approximately 176 other Deputy District Attorney IIs are eminently qualified, therefore also violates Rule 25.

Rule 25 provides:

“Rule 25 **MERIT SYSTEM STANDARDS**

“25.01 **Employment practices.**

“A. No person in the classified service or seeking admission thereto shall be appointed, reduced or removed, **or in any way favored or discriminated 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 performance of the duties of the position. “Nonmerit factors” are those factors that relate**

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Re: Deputy District Attorney [REDACTED]

exclusively to a personal or social characteristic or trait and are not substantially related to successful performance of the duties of the position. Any person who appeals alleging discrimination based on a non-merit factor must name the specific non-merit factor(s) on which discrimination is alleged to be based. No hearing shall be granted nor evidence heard relative to discrimination based on unspecified non-merit factors." [Emphasis added.]

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

District Attorney Gascon has clearly and blatantly violated the fundamental rules of the merit system by appointing Ms. Blair to a Grade III position for which she is not qualified, for which she has displayed no skill or ability to perform, and for which there are now and were at the time of Ms. Blair's appointment, at least 57 extremely qualified candidates, including Petitioner herein, waiting on an eligibility list. The conduct of District Attorney Gascon has intentionally and publicly disparaged all 177 Deputy District Attorney IIs, including Petitioner herein, by promoting Alisa Blair instead of each of them.

Ms. Blair's appointment was driven only by political patronage and the desire of the elected District Attorney to reward an unqualified political supporter and campaign doner. The County Charter's demand for a merit system of employment does not allow the pay-to-play politics exhibited by District Attorney Gascon in his refusal to promote Petitioner to the Grade III position given to Ms. Blair as a reward for her political support.

Petitioner specifically asserts that her failure to be promoted, and being passed over for promotion while reachable on an active eligible list, was based solely on the non-merit factor of Petitioner's political affiliation to wit: not being a campaign donor, a campaign organizer, a campaign supporter, or a campaign policy advisor of District Attorney George Gascon.

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Re: Deputy District Attorney

EJG:p
cc: [REDACTED]
21L-011116G05az10512 pim

EXHIBIT 3

MINUTES

CIVIL SERVICE COMMISSION MEETING

Wednesday, July 21, 2021, at 9:30 a.m.

522 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

CONVENED THE MEETING AT 9:30 A.M. AND WENT INTO EXECUTIVE SESSION AT 9:30 A.M.

Instructions to join the Commission meeting via Cisco WebEx and telephone can be found on our website at civilservice.lacounty.gov

WebEx Meeting Number (access code): 924 723 405

Meeting password: Open

Join by phone: 1-415-655-0001

Executive Session - Consideration of the appointment, employment, evaluation of performance, discipline, or dismissal of public employees pursuant to Government Code Section 54957, for the positions listed below.

Open Session agenda to start immediately upon conclusion of Executive Session.

RECONVENED THE MEETING AT 10:11 A.M.

COMMISSIONERS PRESENT: NIGHTINGALE, DURAN, DONNER, TEVRIZIAN
COMMISSIONER ABSENT: SEGAL

Minutes of the meeting of Wednesday, July 14, 2021, for approval
APPROVED. COMMISSIONER SEGAL WAS ABSENT.

Consideration of Consent Calendar
ADOPTED. COMMISSIONER SEGAL WAS ABSENT.

New Business

1. *Petition of **THINH DAM** for a hearing on the Director of Personnel's denial of the appeal of the **application rejection** in the examination for Children Services Administrator I, **Case No. 21-95**.*

HEARING DENIED. COMMISSIONER SEGAL WAS ABSENT.

2. *Petition of **ERIC SIDDALL** for a hearing on the Director of Personnel's denial of his **failure to promote** to the position of Deputy District Attorney IV, based on his claim of a Civil Service Rule 25 violation, **Case No. 21-92**.*

HEARING GRANTED. HEARING OFFICER TO BE ASSIGNED. THE COMMISSION DENIED THE REQUEST TO CONSOLIDATE WITH OTHER APPEALS. COMMISSIONER SEGAL WAS ABSENT.

Miscellaneous

3. Opportunity for members of the public to address the Commission on items of interest that are within the subject matter jurisdiction of the Commission.

NO PUBLIC COMMENTS.

ADJOURNED TO CLOSED SESSION AT 10:33 A.M.

CLOSED SESSION

Consideration of confidential peace officer appeals pursuant to Copley Press.

Unfinished Business

4. *Petitioner's request for a hearing on her **discharge**, effective October 18, 2018, from the position of Deputy Probation Officer II, Probation Department, **Case No. 18-263**.*
ANNOUNCED AS THE PROPOSED DECISION OF THE COMMISSION TO ACCEPT THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, SAMUEL REYES, TO REDUCE THE DISCHARGE TO A FIFTEEN (15) DAY SUSPENSION. COMMISSIONER SEGAL WAS ABSENT.
5. *Petitioner's request for a hearing on his **discharge**, effective December 13, 2018, from the position of Probation Director, Probation Department, **Case No. 19-3**.*
CONTINUED FOR ONE WEEK. COMMISSIONER SEGAL WAS ABSENT.
6. *Petitioner's request for a hearing on her **discharge**, effective October 2, 2018, from the position of Detention Services Officer, Probation Department, **Case No. 18-207**.*
SUSTAINED THE DEPARTMENT'S OBJECTIONS, IN PART. THE COMMISSION REJECTED THE RECOMMENDATION OF THE HEARING OFFICER, JAN FRANKEL SCHAU, TO REDUCE THE DISCHARGE TO A LETTER OF WARNING AND ANNOUNCED AS ITS NEW PROPOSED DECISION TO IMPOSE A FIFTEEN (15) DAY SUSPENSION. COMMISSIONER SEGAL WAS ABSENT.
7. *Petitioner's request for a hearing on her **discharge**, effective January 15, 2019, from the position of Detention Services Officer, Probation Department, **Case No. 19-45**.*
RECEIVED AND FILED COMMUNICATION WITHDRAWING THE PETITION BASED ON A SETTLEMENT. HEARING CANCELED. COMMISSIONER SEGAL WAS ABSENT.

New Business

8. *Petitioner's request for a hearing on his **discharge**, effective June 27, 2013, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 13-321**.*
THE COMMISSION SPREAD THE WRIT AND IMPOSED DISCHARGE AS THE APPROPRIATE DISCIPLINE. COMMISSIONER SEGAL WAS ABSENT.

ADJOURNED CLOSED SESSION AND RECONVENED THE MEETING AT 11:14 A.M.

READ INTO THE RECORD AN ACCOUNTING OF ACTIONS TAKEN DURING CLOSED SESSION.

ADJOURNED THE MEETING AT 11:19 A.M.

Legal Advisors:
Tamara Dennis
Danielle Vappie

Head Commission Specialist:
Luz Delgado

APPROVED BY THE CIVIL SERVICE
COMMISSION ON JULY 28, 2021

A handwritten signature in black ink, appearing to read "Steve Cheng", is positioned above a horizontal line. A vertical line extends from the right side of the signature down to the horizontal line.

Steve Cheng
Deputy Executive Director

EXHIBIT 4

MINUTES

CIVIL SERVICE COMMISSION MEETING

Wednesday, August 18, 2021, at 9:30 a.m.

522 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

CONVENED THE MEETING AT 9:30 A.M. AND WENT INTO EXECUTIVE SESSION AT 9:30 A.M.

Instructions to join the Commission meeting via Cisco WebEx and telephone can be found on our website at civilservice.lacounty.gov

WebEx Meeting Number (access code): 924 723 405

Meeting password: Open

Join by phone: 1-415-655-0001

Executive Session - Consideration of the appointment, employment, evaluation of performance, discipline, or dismissal of public employees pursuant to Government Code Section 54957, for the positions listed below.

Open Session agenda to start immediately upon conclusion of Executive Session.

RECONVENED THE MEETING AT 9:39 A.M.

COMMISSIONERS PRESENT: NIGHTINGALE, DURAN, DONNER, SEGAL, TEVRIZIAN

Minutes of the meeting of Wednesday, August 11, 2021, for approval
APPROVED. COMMISSIONER DONNER ABSTAINED.

Consideration of Consent Calendar
ADOPTED.

Unfinished Business

1. *Petition of **JOHN GIORDANO** for a hearing on his **discharge**, effective April 19, 2019, from the position of Irrigation and Lawn Sprinkler Fitter, Department of Parks and Recreation, **Case No. 19-121**.*
RECEIVED AND FILED COMMUNICATION WITHDRAWING THE PETITION BASED ON A SETTLEMENT. HEARING CANCELED.

New Business

2. *Petition of **VERNON MCLEMORE** for a hearing on her **suspension** not to exceed thirty (30) days following judgment of a criminal matter, effective April 7, 2021, from the position of Custodian Working Supervisor, Department of Health Services, LAC+USC Medical Center, **Case No. 21-116**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
3. *Petition of **BETTY NALUKWAGO** for a hearing on her **discharge**, effective April 2, 2021, from the position of Registered Nurse I, Department of Health Services, Olive View-UCLA Medical Center, **Case No. 21-115**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
4. *Petition of **GILLIAN REYNOLDS** for a hearing on her **discharge**, effective April 28, 2021, from the position of Children's Social Worker III, Department of Children and Family Services, **Case No. 21-119**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
5. *Petition of **CESAR SOLIS** for a hearing on his **discharge**, effective April 13, 2021, from the position of Security Officer, Sheriff's Department, **Case No. 21-117**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
6. *Petition of **MARIA GHOBADI** for a hearing on her **denial to promote** to the position of Deputy District Attorney III, based on her claim of a Civil Service Rule 25 violation, **Case No. 21-111**.*
CONTINUED AT THE REQUEST OF GEOFFREY SHELDON, ATTORNEY FOR THE DEPARTMENT, IN ORDER FOR HIM TO BE PRESENT.
7. *Petition of **MAI NGUYEN** for a hearing on the Director of Personnel's denial of her appeal of the **rating from records score** received in the examination for Public Health Nurse, **Case No. 21-112**.*
HEARING DENIED.

Miscellaneous

8. Opportunity for members of the public to address the Commission on items of interest that are within the subject matter jurisdiction of the Commission.
NO PUBLIC COMMENTS.

ADJOURNED TO CLOSED SESSION AT 9:58 A.M.

CLOSED SESSION

Consideration of confidential peace officer appeals pursuant to Copley Press.

Unfinished Business

9. *Petitioner's request for a hearing on his **discharge**, effective July 31, 2018, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 18-156**.*
ANNOUNCED AS THE PROPOSED DECISION OF THE COMMISSION TO ACCEPT THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, JERRY ELLNER, TO SUSTAIN THE DEPARTMENT.
10. *Petitioner's request for a hearing on his **discharge**, effective September 12, 2018, from the position of Deputy Probation Officer I, Probation Department, **Case No. 18-185**.*
ANNOUNCED AS THE PROPOSED DECISION OF THE COMMISSION TO ACCEPT THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, STEPHEN BIERSMITH, TO REDUCE THE DISCHARGE TO A THIRTY (30) DAY SUSPENSION.
11. *Petitioner's request for a hearing on his **discharge**, effective October 2, 2018, from the position of Detention Services Officer, Probation Department, **Case No. 18-226**.*
OVERRULED THE DEPARTMENT'S OBJECTIONS. THE COMMISSION ADOPTED AS ITS FINAL DECISION THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, ROBERT CUEN, TO REDUCE THE DISCHARGE TO A THIRTY (30) DAY SUSPENSION.

New Business

12. *Petitioner's request for a hearing on her seven (7) day **suspension**, effective May 7, 2021, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 21-114**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
13. *Petitioner's request for a hearing on her ten (10) day **suspension**, effective April 19, 2021, from the position of Detention Services Officer, Probation Department, **Case No. 21-110**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
14. *Petitioner's request for a hearing on her **discharge**, effective April 8, 2021, from the position of Deputy Probation Officer II, Probation Department, **Case No. 21-113**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.

ADJOURNED CLOSED SESSION AND RECONVENED THE MEETING AT 10:19 A.M.

READ INTO THE RECORD AN ACCOUNTING OF ACTIONS TAKEN DURING CLOSED SESSION.

ADJOURNED THE MEETING AT 10:20 A.M.

Legal Advisors:
Tamara Dennis
Danielle Vappie

Deputy Executive Director:
Steve Cheng

Head Commission Specialist:
Luz Delgado

APPROVED BY THE CIVIL SERVICE
COMMISSION ON AUGUST 25, 2021



Craig Hoetger
Interim Executive Director

EXHIBIT 5

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 82

21STCP03412

October 15, 2021

**ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS FOR
LOS ANGELES COUNTY (ADDA) vs GEORGE GASCON, ,
LOS ANGELES COUNTY DISTRICT ATTORNEY, et al.**

8:30 AM

Judge: Honorable Mary H. Strobel
Judicial Assistant: N DiGiambattista
Courtroom Assistant: R Monterroso

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Elizabeth Gibbons (Telephonic) , Eric Siddall and Michele Hanisee (x);
Richard Anthony Shinee (Telephonic) (x)

For Respondent(s): Geoffrey Scott Sheldon (x) (Telephonic); Julie Ann Silva (x) (Telephonic)

NATURE OF PROCEEDINGS: EX PARTE APPLICATION OF PETITIONER,
ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS, FOR TEMPORARY
RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY
INJUNCTION

Department 86 being dark this date, matter is called for hearing in Department 82 and is argued.

.
Based on the evidence presented to the court, the ex parte application for a temporary restraining order is denied.

.
An order to show cause re preliminary injunction is scheduled for November 10, 2021, at 9:30 a.m. in Department 86.

.
All moving and supplemental papers as well as the summons and complaint are to be filed and served by October 19, 2021.

.
Any opposition is to be filed and served by October 29, 2021, and any reply is to be filed and served by November 3, 2021.

.
Courtesy copies of all filed documents are to be delivered directly to Department 86 on the date they are filed.

.
Counsel for petitioner is to give notice.

EXHIBIT 6

MINUTES

CIVIL SERVICE COMMISSION MEETING

Wednesday, October 27, 2021, at 9:30 a.m.

522 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

CONVENED THE MEETING AT 9:30 A.M. AND WENT INTO EXECUTIVE SESSION AT 9:30 A.M.

Instructions to join the Commission meeting via Cisco WebEx and telephone can be found on our website at civilservice.lacounty.gov

WebEx Meeting Number (access code): 924 723 405

Meeting password: Open

Join by phone: 1-415-655-0001

Executive Session - Consideration of the appointment, employment, evaluation of performance, discipline, or dismissal of public employees pursuant to Government Code Section 54957, for the positions listed below.

Open Session agenda to start immediately upon conclusion of Executive Session.

RECONVENED THE MEETING 9:58 A.M.

COMMISSIONERS PRESENT: NIGHTINGALE, DURAN, DONNER, SEGAL, TEVRIZIAN

Minutes of the meeting of Wednesday, October 20, 2021, for approval
APPROVED. COMMISSIONER SEGAL ABSTAINED.

Consideration of Consent Calendar
ADOPTED.

Unfinished Business

1. *Petition of **SHERENE CAIN** for a hearing on her thirty (30) day **suspension**, effective November 1, 2019, from the position of Social Services Supervisor, Department of Workforce Development Aging and Community Services, **Case No. 19-270**.*
ANNOUNCED AS THE PROPOSED DECISION OF THE COMMISSION TO ACCEPT THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, BRENT ROSENBAUM, TO SUSTAIN THE DEPARTMENT.
2. *Petition of **NATHAN LEHMAN** for a hearing on the Director of Personnel's denial of his appeal of the **application rejection** in the examination for Supervising Program Analyst, **Case No. 18-282**.*
ANNOUNCED AS THE PROPOSED DECISION OF THE COMMISSION TO ACCEPT THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, DALE NOWICKI, TO SUSTAIN THE DEPARTMENT.
3. *Petition of **MARIA GHOBADI** for a hearing on her **denial to promote** to the position of Deputy District Attorney III, based on her claim of a Civil Service Rule 25 violation, **Case No. 21-111**.*
THE COMMISSION CONTINUED THE MATTER FOR SIXTY (60) DAYS AND FOR THE LEGAL ADVISORS TO LOOK INTO THE DEPARTMENT'S PROMOTIONAL PROCESS. COMMISSIONER SEGAL RECUSED HERSELF.

New Business

4. *Petition of **JUANITA GALBREATH** for a hearing on her thirty (30) day **suspension**, effective July 19, 2021, from the position of Mental Health Clinician II, Department of Mental Health, **Case No. 21-163**.*
THE COMMISSION WAIVED TIMELINESS. HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED. DUE TO TECHNICAL ISSUES, COMMISSIONER NIGHTINGALE WAS NOT ABLE TO VOTE ON THIS ITEM.
5. *Petition of **OMAR GUTIERREZ** for a hearing on his ten (10) day **suspension**, effective June 28, 2021, from the position of Grounds Maintenance Worker I, Department of Beaches and Harbors, **Case No. 21-155**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
6. *Petition of **MONTE LOPEZ** for a hearing on his **reduction**, effective May 13, 2021, from the position of Animal Control Officer III to Animal Control Officer II, Department of Animal Care and Control, **Case No. 21-158**.*
THE COMMISSION WAIVED TIMELINESS. HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED. COMMISSIONER NIGHTINGALE WAS NOT PRESENT FOR THIS ITEM.

New Business (continued)

7. *Petition of **ABDUL BILLOO** for a hearing on his **discharge**, effective July 2, 2021, from the position of Radiologic Technician, Department of Health Services, Olive View-UCLA Medical Center, **Case No. 21-159**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.

8. *Petition of **ANAND SINGHAL** for a hearing on the Director of Personnel's denial of the appeal of the **writing assessment score** received in the examination for Program Specialist IV, CEO, **Case No. 21-165**.*
CONTINUED AT THE REQUEST OF WILLIAM GOMEZ, REPRESENTATIVE FOR THE DEPARTMENT, IN ORDER FOR THE PARTIES TO MEET.

9. *Petition of **MARK LOPEZ** for a hearing on his **discharge**, effective August 1, 2017, from the position of Custody Assistant, Sheriff's Department, **Case No. 17-185**.*
THE COMMISSION GRANTED THE DEPARTMENT'S MOTION TO DISMISS THE APPEAL BASED ON ZUNIGA. COMMISSIONER TEVRIZIAN DISSENTED.

Miscellaneous

10. Opportunity for members of the public to address the Commission on items of interest that are within the subject matter jurisdiction of the Commission.
VICTOR MANRIQUE, ADDRESS THE COMMISSION REGARDING THEIR RULINGS ON THE PROCESS OF RECEIVING REVISED CONCLUSIONS OF LAW.

ADJOURNED TO CLOSED SESSION AT 11:27 A.M.

CLOSED SESSION

Consideration of confidential peace officer appeals pursuant to Copley Press.

Unfinished Business

11. *Petitioner's request for a hearing on her **discharge**, effective October 18, 2018, from the position of Deputy Probation Officer II, Probation Department, **Case No. 18-263**.*
OVERRULED THE DEPARTMENT'S OBJECTIONS. THE COMMISSION ADOPTED AS ITS FINAL DECISION THE FINDINGS AND RECOMMENDATION OF THE HEARING OFFICER, SAMUEL REYES, TO REDUCE THE DISCHARGE TO A FIFTEEN (15) DAY SUSPENSION.
12. *Petitioner's request for a hearing on his seven (7) day **suspension**, effective November 5, 2018, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 18-241**.*
CONTINUED AT THE REQUEST OF MICHAEL HEIDER, ATTORNEY FOR THE DEPARTMENT, IN ORDER FOR HIM TO BE PRESENT.

New Business

13. *Petitioner's request for a hearing on his fifteen (15) day **suspension**, effective August 9, 2021, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 21-156**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.
14. *Petitioner's request for a hearing on his **discharge**, effective July 16, 2021, from the position of Deputy Sheriff, Sheriff's Department, **Case No. 21-162**.*
HEARING GRANTED – HEARING OFFICER TO BE ASSIGNED.

ADJOURNED CLOSED SESSION AND RECONVENED THE MEETING AT 12:09 P.M.

READ INTO THE RECORD AN ACCOUNTING OF ACTIONS TAKEN DURING CLOSED SESSION.

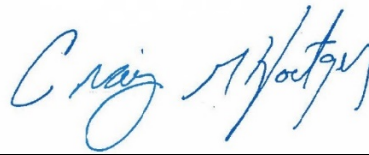
ADJOURNED THE MEETING AT 12:10 P.M.

Legal Advisors:
Tamara Dennis
Danielle Vappie

Deputy Executive Director:
Steve Cheng

Head Commission Specialist:
Luz Delgado

APPROVED BY THE CIVIL SERVICE
COMMISSION ON NOVEMBER 3, 2021



Craig Hoetger
Interim Executive Director

EXHIBIT 7

DEPARTMENT 86 LAW AND MOTION RULINGS

Case Number: 21STCP03412 **Hearing Date:** November 10, 2021 **Dept:** 86

**ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS FOR LOS ANGELES COUNTY
v. GASCON**

Case Number: 21STCP03412

Hearing Date: November 10, 2021

[Tentative] ORDER DENYING PETITIONER’S PRELIMINARY INJUNCTION

In this action for a traditional writ of mandate, Petitioner, Association of Deputy District Attorneys for Los Angeles County (Petitioner or ADDA), claims Respondents, the Los Angeles County District Attorney George Gascon, the Los Angeles County District Attorney’s Office (DA’s Office) and the County of Los Angeles (collectively, Respondent), violated the Los Angeles County Civil Service Rules (CSR), when Respondent transferred certain Deputy Public Defenders (DPDs) to Deputy District Attorney (DDA) III and DDA IV positions.

Petitioner seeks to enjoin Respondent from:

“A. Transferring, re-classifying, or appointing any Los Angeles County public defender, Los Angeles County alternative public defender, or any other person who does not meet all the qualifications set forth in the Job Classification Bulletin for the positions Deputy District Attorney II, III, IV, or V, to any Deputy District Attorney II, III, IV, or V position, while the litigation of this Writ of Mandate Petition, and/or the litigation of any and all hearings on appeals before the Los Angeles County Civil Service Commission which contest the lateral transfer or re-classification of Tiffany Blacknell, Shelan Joseph, and Alisa Blair in violation of the Civil Service Rules and the County Charter, remains pending or not fully resolved; and

B. Taking any steps to expire, or otherwise invalidate the existing eligible lists for the position of DDA IV, and/or DDA V while the litigation of this Writ of Mandate Petition, and/or the litigation of any and all hearings on appeals before the Civil Service Commission to contest the lateral transfer or re-classification of Tiffany Blacknell, Shelan Joseph, and Alisa Blair in violation of the Civil Service Rules and the County Charter remains pending, unless an examination which complies with Civil Service Rules 5, 6, 7, 11, and 25 is properly offered, scored, and calculated, and a replacement eligible list of qualified candidates for the position has been certified and published.” (11/4/21 Revised Proposed Order.)

Respondent opposes the motion.

The request for a preliminary injunction is DENIED. The court finds Petitioner has failed to exhaust its administrative remedies and has not demonstrated the inadequacy of any such remedies.

Petitioner's request for judicial notice of Exhibits 1 and 2 is granted.

Evidentiary Objections:

Respondent's objections to the Declaration of Cathy O'Brien are ruled as follows: Objections 9 through 17 are sustained. Objections 1 through 5, 7 and 8 are overruled. Objection 6 is sustained in part as to "I have been informed . . . or announced."

Respondent's objections to the Declaration of Z. Greg Kahwajian are ruled as follows: Objections 1, 2 and 4 are overruled. Objections 6 through 11 are sustained. Objections 3 (as to "and to the best . . . present day") and 5 (as to "mirrors the remedial . . . of the remedial orders") are sustained in part.

Respondent's objections to the Declaration of Scott Dominguez are ruled as follows: Objections 2, 3 and 6 are overruled. Objections 1, 4 and 5 are sustained.

Respondent's objections to the Declaration of Eric Siddall are ruled as follows: All objections except objection 4 are sustained.

Respondent's objections to the Declaration of Elizabeth J. Gibbons are ruled as follows: Objections 1, 2, 4 and 5 are overruled. Objections 3, 6, 7 and 8 are sustained.

Respondent's objections to the Declaration of Stephen L. Cooley are ruled as follows. Objections 1 and 2 are overruled. The remaining objections are sustained.

Respondent's objections to the Declaration of Sean M. Carney are ruled as follows: Objections 2, 7, 11 and 12 are overruled. The remaining objections are sustained. The court sustains objections 10 (as to the first sentence) and 16 (as to the last sentence) in part.

Respondent's objection to the entire contents of Petitioner's reply declarations (Jacquelyn Lacey, Stephen L. Cooley, Michele Hanisee, Eric Siddal, Maria Ghodbadi and Elizabeth J. Gibbons) is overruled.

Petitioner's objections to the Declaration of Stanley Yen are all sustained.

Petitioner's objection to the Declaration of Craig M. Hoetger is sustained.

Petitioner's objections to the Declaration of Rodney Collins are overruled.

Petitioner's objections to Respondent's surreply and the Declaration of Lisa Garrett is sustained. The motion to strike is granted. The court did not grant leave to file additional argument and evidence. To the extent Respondent believes Petitioner's reply evidence exceeds the scope of Respondent's opposition or should have been included in Petitioner's moving papers, Respondent may raise the specific objection at the time of hearing.

LEGAL STANDARD

The standards governing a preliminary injunction are well known. "[A] court will deny a preliminary injunction unless there is a reasonable probability that the plaintiff will be successful on the merits, but the granting of a preliminary injunction does not amount to an adjudication of the merits." (*Beehan v. Lido Isle Community Assn.* (1977) 70 Cal.App.3d 858, 866.) "The function of a preliminary injunction is the preservation of the status quo until a final determination of the merits." (*Ibid.*)

As the parties recognize, "Trial courts traditionally consider and weigh two factors in determining whether to issue a preliminary injunction. They are (1) how likely it is that the moving party will prevail on the merits, and (2) the relative harm the parties will suffer in the interim due to the issuance or nonissuance of the injunction." (*Dodge, Warren & Peters Ins. Services, Inc. v. Riley* (2003) 105 Cal.App.4th 1414, 1420.) "[T]he greater the . . . showing on one, the less must be shown on the other to support an injunction." (*Ibid.* [quoting *Butt v. State of California*, (1992) 4 Cal.4th 668, 678].) The burden of proof is on the plaintiff as the moving party "to show all elements necessary to support issuance of a preliminary injunction." (*O'Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.)

Preliminary injunctive relief requires the use of competent evidence to create a sufficient factual showing on the grounds for relief. (*See e.g., Ancora-Citronelle Corp. v. Green* (1974) 41 Cal.App.3d 146, 150.) A plaintiff seeking injunctive relief must also show the absence of adequate damages remedy at law. (Code Civ. Proc. § 526, subd. (a)(4).)

A preliminary injunction ordinarily cannot take effect unless and until the plaintiff provides an undertaking for damages which the enjoined defendant may sustain by reason of the injunction if the court finally decides that the plaintiff was not entitled to the injunction. (*See* Code Civ. Proc. § 529, subd. (a); *City of South San Francisco v. Cypress Lawn Cemetery Assn.* (1992) 11 Cal. App. 4th 916, 920.)

ANALYSIS

Background:

In January 2021, the District Attorney appointed a career attorney employee of the Los Angeles County Public Defender's Office (PD's Office), Alisa Blair, to a DDA III position. Shortly thereafter, in March 2021, the District Attorney appointed Tiffany Blacknell and Shelan Joseph, also career attorney employees of the PD's Office, to DDA IV positions.

At the time the District Attorney made the appointments, Blair, Blacknell and Joseph did not appear as candidates on the active eligibility lists for appointment in a DDA III or DDA IV position. Black, Blacknell and Joseph also had no prior necessary experience as a DDA I and DDA II to qualify for a position on the eligibility list for a DDA III or DDA IV position. (Siddall Decl. ¶ 19, Ex. 2, 3, 7, and 8.) Additionally, Blair, Blacknell and Joseph had not taken or passed the competitive test required by the negotiated examination process for placement on an eligibility list with the DA's Office. (Siddall Decl., ¶ 19; Ex. 2, 3, 7, 8.)

Prior to Blair, Blacknell and Joseph's employment with the DA's Office, the County's Department of Human Resources, through its Director, Lisa Garrett, "approved the request" to "reclassify" all three employees. (Collins Decl., ¶¶ 5, 9.) Garrett did so after Rodney Collins, the Assistant Director for the County's Department of Human Resources, determined the "reclassification[s]" were of the "same rank and grade," and Blair, Blacknell and Joseph "demonstrated possession of the skills and aptitudes required in the [DDA] position[s]; and [] there were no significant issues of concern" as to "performance" in their positions with the PD's Office.^[1] (Collins Decl., ¶¶ 4, 8, 11.)

Petitioner asserts although Blair, Blacknell and Joseph were not qualified to fill the DDA III and DDA IV class positions under the CSR, the District Attorney nonetheless appointed them to their positions in the DA's Office "as rewards for their political support." (Supp. Memo 2:12.) Petitioner notes Blair and Blacknell provided financial contributions to the District Attorney's campaign for election while Joseph supported the District Attorney in a lawsuit challenging certain special directives issued by the District Attorney just after his election. (Memo 2:7-10.)

Petitioner further suggests—based on inadmissible evidence for which the court sustained an evidentiary objection—the District Attorney imminently intends to appoint other career DPDs and Deputy Alternate Public Defenders to DDA III and DDA IV positions before the end of October 2021.^[2] (Carney Decl., ¶¶ 5-21; Siddall Decl. ¶¶ 21-22)

Two ADDA members filed separate appeals with the Civil Service Commission (Commission) on March 10, 2021.^[3] Through the appeals, Petitioner contests the validity of the District Attorney's appointment of Blair, Blacknell and Joseph to attorney positions in the DA's Office where qualified ADDA members are on the active eligibility lists for the positions and await consideration. (Gibbons Decl., ¶¶ 4-7, Ex. 11, 12.)

The first appeal challenges the District Attorney's appointment of Blacknell and Joseph to DDA IV positions. (Gibbons Decl., ¶ 6.) The appeal requested a hearing on the "District Attorney's appointment" alleging Respondent violated CSRs Rules 6, 7, 10, 11, 15 and 25. (Gibbons Decl., ¶ 6, Ex. 11, p. 1.) The appeal argues the appointment of Blacknell and Joseph could not be justified under CSR Rule 15. (Gibbons Decl., ¶ 6, Ex. 11, p. 5.)

The second appeal challenges the appointment of Blair to her DDA III position. (Gibbons Decl., ¶ 7, Ex. 12, p. 1.) The legal argument in the second appeal is identical to that made in the first appeal. (Gibbons Decl., ¶ 7, Ex. 12.)

The appeals before the Commission are still currently pending. On July 21, 2021, the Commission granted a hearing on the first appeal. (Gibbons Decl., ¶ 9.) According to Petitioner, three of the four commissioners present at the Commission’s July 21, 2021 hearing “stated their observations of the impropriety of Gascon’s appointment of Blacknell and Joseph in violation of the Civil Service Rules, as alleged in the appeal.”^[4] (Gibbons Decl., ¶ 12, Ex. 13.) The Commission has not yet scheduled the hearing on the matter. (Gibbons Decl., ¶ 16.)

The Commission considered the second appeal on October 27, 2021. Prior to the Commission’s hearing, however, the District Attorney promoted the DDA who brought the appeal.^[5] The Commission continued the matter for 60 days to provide its legal department with the opportunity to “investigate the procedures that are being challenged” by Petitioner. (Gibbons Reply Decl., Ex. C, p. 9.) The Commission questioned its ability to consider any issue in the appeal given the DDA’s promotion. (Gibbons Reply Decl., Ex. C, p. 4.)

Likelihood of Success on the Merits:

Arguments:

“In both this action and in the appeals pending before the Civil Service Commission, it is Petitioner’s position that the District Attorney violated the terms of Article IX, section 30 of the County Charter, as well as CSRs 6.01, 6.02, 7.04, 7.06, 7.07, 7.14, 11.02, 15.01, 15.02, and 25 by appointing the unqualified Blair, Blacknell and Joseph to positions within the DDA III and DDA IV classes.” (Supp. Memo 8:3-7.)

Respondent defends with two arguments. First, Respondent contends judicial review is precluded here where Petitioner has failed to exhaust its administrative remedies—any judicial action is premature. Second, on the merits of Petitioner’s claim, Respondent explains neither CSR Rule 6 nor Rule 7^[6] governed the appointment of Blair, Blacknell and Joseph to DDA III and DDA IV positions. Instead, Blair, Blacknell and Joseph’s positions within the DA Office resulted as “lateral transfers” pursuant to CSR Rule 15.

The parties agree the appointment of Blair, Blacknell and Joseph did not occur pursuant to CSR Rules 6.01, 6.02, 7.04, 7.07, 7.14 or 11.02. Therefore, the issue is whether Respondent properly complied with CSR Rule 15—“Assignment, Interdepartmental Transfer, and Change of Classification”—when the District Attorney made the appointments.

Preliminarily, the court must consider Respondent’s claim Petitioner has failed to exhaust its administrative remedies.

Exhaustion:

“Generally, ‘a party must exhaust administrative remedies before resorting to the courts’ ” (Hill RHF Housing Partners, L.P. v. City of Los Angeles (2020) 51 Cal.App.4th 621, 631 [citation omitted][rev. granted Sept. 16, 2020].) “ ‘The exhaustion doctrine is principally grounded on concerns favoring administrative autonomy (i.e., courts should not interfere with an agency determination until the agency has reached a final decision) and judicial efficiency (i.e.,

overworked courts should decline to intervene in an administrative dispute unless absolutely necessary).’ ” (*Id.* at 632 [quoting *Farmers Ins. Exchange v. Superior Court* (1992) 2 Cal.4th 377, 391].)

The exhaustion inquiry looks not just at the concreteness of the controversy, but at whether the parties have proceeded “through the full administrative process ‘to a final decision on the merits.’ ” (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1489 [citation omitted].) “Under California law, exhaustion of administrative remedies is not a matter of judicial discretion but is a *jurisdictional* rule of procedure that forecloses judicial review until it is satisfied.” (*Public Employees' Retirement System v. Santa Clara Valley Transportation Authority* (2018) 23 Cal.App.5th 1040, 1046.)

As noted, “[t]he principal purposes of exhaustion requirements include avoidance of premature interruption of administrative processes, allowing an agency to develop the necessary factual background of the case; letting the agency apply its expertise and exercise its statutory discretion, and administrative efficiency and judicial economy.” (*California Water Impact Network v. Newhall County Water Dist.*, *supra*, 161 Cal.App.4th at 1489.)

“[A]n order of an administrative agency attains administrative finality when the agency has exhausted its jurisdiction and possesses no further power to reconsider or rehear the claim.” (*Lomeli v. Department of Corrections* (2003) 108 Cal.App.4th 788, 795.)

As reported by Respondent, the Commission—created under Article IX, Sections 34 and 35 of the Charter of the County of Los Angeles (the Charter)—serves as an appellate body with jurisdiction over appeals for “allegations of political discrimination and of discrimination based on race, sex, color national origin, religious opinions, or affiliations or handicap made by County employees, regardless of status, and by applicants for employment,” (Charter Article IX, Section 35.6.)[\[7\]](#)

There is no question the appeals concerning the appointments of Blair, Blacknell and Joseph are pending before the Commission. The Commission has not finally decided the appeals. (Pet., ¶¶ 64-71; Sanders Decl., ¶ 11.) While the Commission questioned its ability to proceed with the second appeal based on mootness, the Commission has not concluded its consideration of the second appeal.

Petitioner concedes the claims before the court are those now pending before the Commission—in fact, *they are identical*. Petitioner argues any remedy it may receive from the Commission, however, is inadequate. That is, Petitioner believes the Commission does not have jurisdiction or authority to issue a meaningful remedy.[\[8\]](#) Petitioner argues requiring the administrative process to conclude is therefore futile. Consequently, Petitioner asserts it is not required to exhaust its administrative remedies to obtain judicial intervention. (*Edgren v. Regents of University of California* (1984) 158 Cal.App.3d 515, 521 [exhaustion may be excused when party claims “the agency lacks authority, statutory or otherwise, to resolve the underlying dispute between the parties”].)

The court sustained Respondent’s evidentiary objections to evidence offered in support of Petitioner’s claim its remedy is inadequate. In any event, a “belief” the PD’s Office will fill the

positions vacated by Blair, Blacknell and/or Joseph is speculative and without foundation. There is no evidence at this time of what, if anything, the PD's Office did after Blair, Blacknell and/or Joseph left their positions as DPDs. Similarly, Petitioner's conclusion of the futility of the administrative process based on belief is mere argument unsupported by legal authority. (Gibbons Decl., ¶¶ 18-19.)

The issues pending before the Commission are identical to those before this court. There is no competent evidence before the court about what the Commission might find after a hearing and what remedy it might issue. The court cannot determine on the evidence presented today that there is no adequate remedy available to Petitioner—the court has nothing before it to suggest how the Commission might remedy any violation of the CSR it might find.[\[9\]](#)

The Commission has not been provided with the opportunity to consider the claims and any remedy upon finding a violation of the CSR.[\[10\]](#) A finding of an inadequate remedy or the futility of the administrative proceeding is speculative under these circumstances

Thus, until the Commission finally considers the matter (its jurisdiction and/or the merits), Petitioner has not exhausted its administrative remedies. The court cannot find exhaustion is inadequate or futile because it is not clear how the Commission will resolve the pending appeals concerning these identical issues. It is also inappropriate for this court to interpret the CSR under these facts until the Commission has had an opportunity to do so.

As exhaustion is jurisdictional and judicial review is precluded absent exhaustion, the court finds Petitioner has not demonstrated today—on these facts—an ability to prevail on the merits because of its failure to exhaust its administrative remedies.

Balancing the Harms:

The second part of the preliminary injunction analysis requires the court to evaluate the harm the plaintiff is likely to sustain if the preliminary injunction is denied compared to the harm the defendant is likely to suffer if the injunction is issued. (*IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 69-70.) “However, ‘[a] trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim.’ ” (*Law School Admission Council, Inc. v. State of California* (2014) 222 Cal.App.4th 1265, 1280 [quoting *Butt v. State of California* (1992) 4 Cal.4th at 678].)

Petitioner contends without a preliminary injunction the District Attorney will continue to appoint (or transfer) unqualified DPDs through CSR Rule 15 to positions as DDAs even though they are unqualified because those DPDs supported his political campaign. Petitioner argues the injury is irreparable because no effective remedy exists through the Commission. More specifically, Petitioner argues (with no evidentiary support) the PD's Office will be required to hire and/or promote attorneys within his office to fill the vacancies created by the District Attorney's transfers.

As with the alleged inadequate remedy discussed earlier, Petitioner presents no admissible evidence of irreparable harm. On the evidence presented, the harm based on an inadequate

remedy before the Commission is generalized and speculative. Moreover, to the extent the Commission agrees with Petitioner and issues a remedy, Petitioner may suffer no harm during the pendency of litigation.

Respondent argues it will be harmed if the injunction issues. The District Attorney contends he will be prevented from carrying out important official duties, such as filling future DDA vacancies. Like Petitioner, however, Respondent's argument of harm it will suffer is generalized and vague.

The court notes the injunction sought by Petitioner seeks to restrain the District Attorney—a public official—from partially performing his duties. The court acknowledges there is a “general rule against enjoining public officers or agencies from performing their duties” based on public policy considerations. (*Tahoe Keys Property Owners' Assn. v. State Water Resources Control Bd.* (1994) 23 Cal.App.4th 1459, 1471.) Under the general rule, Petitioner is required to “make a significant showing of irreparable injury.” (*Ibid.*)

Finally, Respondent argues that the relief sought is vague and overbroad. Respondent argues the injunction sought is therefore unenforceable.

As noted earlier, Petitioner seeks to enjoin the District Attorney from “hiring, transferring, or appointing any public defender, or any other person who is unqualified . . . to hold any position as a Deputy District Attorney II, III, IV, or V.” (Ex Parte Application 1:28-2:3.) The “unqualified” language suggests a qualitative assessment subject to opinion and/or discretion arguably creating some vagueness:

“An injunction must be definite enough to provide a standard of conduct for those whose activities are proscribed, as well as a standard for the ascertainment of violations of the injunctive order by the courts called upon to apply it. An injunction which forbids an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application exceeds the power of the court.” (*Pitchess v. Superior Court* (1969) 2 Cal.App.3d 644, 651.)

While Respondent's position is likely correct based upon how Petitioner has phrased its request, the court undoubtedly could fashion an appropriate injunction order here. Thus, Respondent's claim any preliminary injunction would be too vague to be enforced is unpersuasive.

Based on the lack of specific evidence and generalized argument, the court finds neither party has demonstrated the balance of harms tips in its favor. Both parties largely rely on argument to support their claims of harm. Certainly, given Petitioner's failure to show a likelihood of success of the merits and its failure to exhaust today, it has not made a sufficient showing of harm to warrant an injunction issuing.

///
///
///

CONCLUSION

Accordingly, the motion for a preliminary injunction is denied on the facts presented.

IT IS SO ORDERED.

November 10,
2021

Hon. Mitchell Beckloff
Judge of the Superior

Court

[1] Collins also attests at the time Blacknell and Joseph were “transferred” the DA’s Office “did not deny any promotions to any other” DDAs. (Collins Decl., ¶¶ 6, 10.)

[2] The court notes it did not issue a temporary restraining order when it scheduled the hearing on Petitioner’s request for a preliminary injunction. The court has no information the District Attorney has made any additional appointments as of the date of the hearing.

[3] The DDAs who appealed are members of the ADDA. Petitioner’s counsel in her capacity as counsel for Petitioner filed the appeals for those members. (Gibbons Decl., ¶ 4.)

[4] For example, Commissioner Tevrizian stated: “But [the appealing DDA] has raised some very interesting points here with regard to bypassing the Civil Service regulations and this is very troublesome to the, to me as a member of this Commission and I would hope that the Commission takes a very firm stand that the Civil Service rules and regulations are to be followed.” (Gibbons Decl., ¶ 12, Ex. 13, p. 1.)

[5] The District Attorney promoted the DDA II to a DDA III the day Petitioner gave notice it was going to seek a temporary restraining order from the court.

[6] CSR Rule 6 is entitled “Applications and Applicants.” CSR Rule 7 is entitled “Competitive Examinations.”

[7] Petitioner suggests the Commission has jurisdiction to hear the pending appeals because the Commission has jurisdiction “to hear and remedy cases of discrimination based on political affiliation . . .” under the Charter. (Supp. Memo 2:1-2.)

[8] Of course, the position is completely at odds with Petitioner’s request of the Commission: “The remedy we are requesting in the Civil Service appeals is for the Commission to order that the unlawfully appointed DPDs be removed from the DDA positions they now hold and be returned to their former positions as DPDs.” (Gibbons Decl., ¶ 17.)

[9] In fact, the evidence struck by the court suggests a remedy would not be available to the Commission only “if” the PD’s Office filled the positions vacated by Blair, Blacknell and Joseph. (Gibbons Decl., ¶ 18.) There is no evidence before the court to suggest the former positions of Blair, Blacknell and Joseph have been filled.

[10] Respondent argues CRS Rule 4.13 “gives the Commission discretion to fashion remedies to appeals within its jurisdiction.” (Opposition 17:1-2.) While the notion may be implicit in CSR Rule 14.3, the nature of the remedies available to the Commission is not specified.

EXHIBIT 8

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 86

21STCP03412

November 10, 2021

**ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS FOR
LOS ANGELES COUNTY (ADDA) vs GEORGE GASCON, ,
LOS ANGELES COUNTY DISTRICT ATTORNEY, et al.**

9:30 AM

Judge: Honorable Mitchell L. Beckloff
Judicial Assistant: F. Becerra
Courtroom Assistant: R. Monterroso

CSR: C. Cameron CSR#10315
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Petitioner(s): Elizabeth Gibbons (Telephonic)

For Respondent(s): Justin H Sanders and Matthew Barzman, Shawn Thomas, Sabrina Narain (all Telephonic)

NATURE OF PROCEEDINGS: Order to Show Cause Re Preliminary Injunction

The matter is called for hearing.

Counsel/parties have seen and read the court's tentative ruling.

Having considered the argument of counsel/parties, the court adopts the tentative ruling as the ruling and order of the court. The tentative ruling is signed and filed this date and incorporated herein by reference as the order of the court.

The request for a preliminary injunction is denied.

Trial Setting Conference is scheduled for 12/03/2021 at 09:30 AM in Department 86 at Stanley Mosk Courthouse.

Based on the Presiding Judge's most recent general order requiring face coverings, the court encourages the parties to continue to appear remotely for hearings through LACourtConnect. The parties are advised: "All persons entering any courthouse – regardless of vaccination status – shall wear a face mask over both the nose and mouth while in public areas of the courthouse, including courtrooms. Children under the age of two (2) are exempt from the order." (General Order filed June 28, 2021 [2021-GEN-023-00].)

Notice is waived.

EXHIBIT 9

ELIZABETH J. GIBBONS, SBN 147033
THE GIBBONS FIRM, P.C.
811 Wilshire Blvd., 17th Floor
Los Angeles, CA 90017

Phone: (323) 591-6000
Email: egibbons@thegibbonsfirm.com

Attorneys for Petitioner, Association of Deputy District
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

**PETITIONER'S
STATUS CONFERENCE
REPORT**

Date: December 3, 2021
Time: 9:30 a.m.
Place: Dept. 86

**PETITIONER, ASSOCIATION OF DEPUTY DISTRICT ATTORNEYS FOR LOS
ANGELES COUNTY (ADDA)** files the following status conference report:

On November 10, 2021 the Court scheduled a Status Conference and Trial Setting
Conference for December 3, 2021, and directed the parties to meet and confer regarding a
discovery plan.

On December 1, 2021 at its agenda meeting, the Civil Service Commission considered
the appeals filed by 9 additional DDAs contesting the appointments of Shelan Joseph and Tiffany
Blacknell to DDA IV positions within the DAO. The Commission also considered the amended
appeals filed by those same 9 DDAs to additionally contest the appointments of DPDs John

1 Perroni and Nancy Theberge as well as DPD Greg Apt as Grade IV DDAs on or about
2 December 18, 2021. The Commission granted the hearings requested by all 9 DDAs, directed
3 that the hearings be coordinated with a single hearing officer, and ordered the hearings to be
4 expedited. During the discussion of the matter, Commissioner Tevrizian stated that Petitioners
5 should seek an injunction in Superior Court to stop the District Attorney from his continued
6 hiring/transferring of public defenders into DDA promotional positions.

7 In compliance with the Court's direction for the parties to meet and confer, counsel for
8 Petitioner herein emailed counsel for Respondents on December 1, 2021, following the
9 Commission's agenda meeting, providing an outline of Petitioner's intended discovery plan. In
10 response, counsel for Respondents indicated Respondents' intent to move to stay the present
11 action until the completion of the Civil Service proceedings. A copy of the complete email
12 exchange between the parties is attached hereto as Exhibit "A."

13 Respectfully submitted,

14 Dated: December 2, 2021

Respectfully submitted,

THE GIBBONS FIRM, PC

17 By: Elizabeth J. Gibbons
18 Elizabeth J. Gibbons
19 Attorneys for Petitioner, Association of
20 Deputy District Attorneys for Los Angeles
21 County (ADDA)
22
23
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Exhibit “A”



Elizabeth Gibbons <egibbons@thegibbonsfirm.com>

ADDA vs. Gascon et al.

Elizabeth Gibbons <egibbons@thegibbonsfirm.com>

Thu, Dec 2, 2021 at 4:37 PM

To: Justin Sanders <jsanders@sandersroberts.com>

Cc: "Matthew D. Barzman" <mbarzman@sandersroberts.com>, Sabrina Narain <snarain@sandersroberts.com>, Shawn Thomas <stthomas@sandersroberts.com>

I guess we file separate statements. Commissioner Tevrizian made that comment on his own, not in response to anything I said so it's not "self serving." The court specifically set this status conference for tomorrow so he could know what the commission did on Thursday so it's not irrelevant. It's not a legitimate reason to withhold the information from the court because you don't like it.

On Thu, Dec 2, 2021 at 4:29 PM Justin Sanders <jsanders@sandersroberts.com> wrote:

That's not evidence. It's really self-serving and irrelevant.

We are not going to sign any "joint" statement that contains that language. So what do we do now?

From: Elizabeth Gibbons <egibbons@thegibbonsfirm.com>

Date: Thursday, December 2, 2021 at 4:28 PM

To: Justin Sanders <jsanders@sandersroberts.com>

Cc: "Matthew D. Barzman" <mbarzman@sandersroberts.com>, Sabrina Narain <snarain@sandersroberts.com>, Shawn Thomas <stthomas@sandersroberts.com>

Subject: Re: ADDA vs. Gascon et al.

I believe it is appropriate given that the court's concern was the lack of evidence that the DA would continue hiring PD's during these pending actions.

On Thu, Dec 2, 2021 at 4:26 PM Justin Sanders <jsanders@sandersroberts.com> wrote:

It's hearsay, not a direct quote, and not appropriate to be placed in issue before the Superior Court tomorrow.

From: Elizabeth Gibbons <egibbons@thegibbonsfirm.com>

Date: Thursday, December 2, 2021 at 4:25 PM

To: Justin Sanders <jsanders@sandersroberts.com>

Cc: "Matthew D. Barzman" <mbarzman@sandersroberts.com>, Sabrina Narain <snarain@sandersroberts.com>, Shawn Thomas <stthomas@sandersroberts.com>

Subject: Re: ADDA vs. Gascon et al.

I'll have my paralegal send it in word. But that is exactly what the commissioner said. What is your objection?!

On Thu, Dec 2, 2021 at 4:23 PM Justin Sanders <jsanders@sandersroberts.com> wrote:

Elizabeth,

Can you please send a Word version? We do not agree to this statement:

“During the discussion of the matter, Commissioner Tevrizian stated that Petitioners should seek an injunction in Superior Court to stop the District Attorney from his continued hiring/transferring of public defenders into DDA promotional positions.”

From: Elizabeth Gibbons <egibbons@thegibbonsfirm.com>
Date: Thursday, December 2, 2021 at 2:34 PM
To: Justin Sanders <jsanders@sandersroberts.com>
Cc: "Matthew D. Barzman" <mbarzman@sandersroberts.com>, Sabrina Narain <snarain@sandersroberts.com>, Shawn Thomas <stthomas@sandersroberts.com>
Subject: Re: ADDA vs. Gascon et al.

Will do, thank you.

Elizabeth J. Gibbons

THE GIBBONS FIRM, P.C.

811 Wilshire Boulevard, 17th Floor

Los Angeles, CA 90017

P: (323) 591-6000

On Thu, Dec 2, 2021 at 2:32 PM Justin Sanders <jsanders@sandersroberts.com> wrote:

Thanks, Elizabeth.

The court asked us to submit a joint statement. Please provide us a copy of a draft statement prior to filing so we can review and participate in the drafting process.

Thank you,

Justin

From: Elizabeth Gibbons <egibbons@thegibbonsfirm.com>
Date: Thursday, December 2, 2021 at 1:36 PM
To: Justin Sanders <jsanders@sandersroberts.com>
Cc: "Matthew D. Barzman" <mbarzman@sandersroberts.com>, Sabrina Narain <snarain@sandersroberts.com>, Shawn Thomas <stthomas@sandersroberts.com>
Subject: Re: ADDA vs. Gascon et al.

Hi Justin

Thanks for your email. We cannot agree to the stipulation you requested. I will submit a status conference report to the court including your position.

Best,

Elizabeth

On Wed, Dec 1, 2021 at 5:58 PM Justin Sanders <jsanders@sandersroberts.com> wrote:

Hello Elizabeth,

Thank you for your email. It is my understanding that the Commission voted 3-0 to grant all nine requests for hearing, that the hearings will be coordinated with one hearing officer but not consolidated, and that the hearings will proceed on an expedited basis. It is also my understanding that some or all of the issues raised in this litigation will be adjudicated in the Commission hearings, for example the propriety of the public defender transfers under the Civil Service Rules.

In light of the above, we intend to move to stay the writ petition proceedings and any discovery until the Commission hearings are concluded because petitioners' administrative remedies have not been exhausted until the CSC hearings are complete. Would you be willing to stipulate to that?

Thanks,

Justin

From: Elizabeth Gibbons <egibbons@thegibbonsfirm.com>
Date: Wednesday, December 1, 2021 at 4:13 PM
To: Justin Sanders <jsanders@sandersroberts.com>
Subject: ADDA vs. Gascon et al.

Hi Justin

I was just following up on Judge Beckloff's instruction that we should meet and confer concerning our discovery plans, and submit a discovery summary to him by tomorrow.

In general, we will be issuing the usual written discovery: Requests for Production of Documents, Special Interrogatories, and Requests for Admission, followed by some depositions. I am hoping to get the written discovery to you early next week. My present thinking is that we will take the following depositions:

George Gascon

Stanley Yen

Lisa Garrett

Alisa Blair

Tiffany Blacknell

Shelan Joseph

John Perroni, Jr.

Gregory Apt

Nancy Therege

We might add a few more to this list and I will let you as soon as possible once we determine who they will be.

Please let me know what your thoughts are on this and I will prepare a draft of the joint discovery plan for your review.

Best regards,

Elizabeth

Elizabeth J. Gibbons

THE GIBBONS FIRM, P.C.

811 Wilshire Boulevard, 17th Floor

Los Angeles, CA 90017

P: (323) 591-6000

--

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--

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Los Angeles, CA 90017

P: (323) 591-6000

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
5 not a party to the within action; my business address is 811 Wilshire Boulevard, 17th
Floor, Los Angeles, California 90017.

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

7 **PETITIONER'S STATUS CONFERENCE REPORT**

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

10 on the interested parties in said action as follows:

11 Justin H. Sanders (SBN 211488)
jsanders@sandersroberts.com
12 Sabrina C. Narain (SBN 299471)
snarain@sandersroberts.com
13 Shawn P. Thomas (SBN 302593)
sthomas@sandersroberts.com
14 Matthew D. Barzman (SBN 309063)
mbarzman@sandersroberts.com
15 **SANDERS ROBERTS LLP**
1055 West 7th Street, Suite 3200
16 Los Angeles, CA 90017

17 ☐ **BY MAIL:** I am readily familiar with the firm's practice of collection and
18 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,
19 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
20 more than one day after date of deposit for mailing in affidavit.

21 ☒ **BY ELECTRONIC MAIL (E-MAIL):** I transmitted the document(s) via
22 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
23 2006(d), I printed the confirmation of the e-mail transmission.

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

25 Executed on December 2, 2021 at Los Angeles, California.

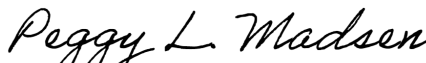
26 
27 _____
Peggy Madsen
28

EXHIBIT 10

Justin H. Sanders (SBN 211488)
jsanders@sandersroberts.com
Sabrina C. Narain (SBN 299471)
snarain@sandersroberts.com
Shawn P. Thomas (SBN 302593)
stthomas@sandersroberts.com
Matthew D. Barzman (SBN 309063)
mbarzman@sandersroberts.com
SANDERS ROBERTS LLP
1055 West 7th Street, Suite 3200
Los Angeles, CA 90017
Telephone: (213) 426-5000
Facsimile: (213) 234-4581

Attorneys for Respondents
**GEORGE GASCON; LOS ANGELES
COUNTY DISTRICT ATTORNEY; LOS
ANGELES COUNTY DISTRICT AND
COUNTY OF LOS ANGELES**



SUPERIOR COURT 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

**RESPONDENTS' STATUS CONFERENCE
REPORT**

Judge: Hon. Mitchell L. Beckloff

Date: December 3, 2021

Time: 9:30 a.m.

Location: Dept. 86, Stanley Mosk Courthouse



1 **RESPONDENTS, GEORGE GASCÓN, LOS ANGELES COUNTY DISTRICT**
2 **ATTORNEY; LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE; COUNTY**
3 **OF LOS ANGELES**, hereby submit the following status conference report pursuant to the court's
4 November 10, 2021 Order:

5 On December 1, 2021, the Civil Service Commission (the "Commission") held an agenda
6 meeting and considered the appeals filed by nine additional DDAs contesting the appointments of
7 Shelan Joseph and Tiffany Blacknell to DDA IV positions within the DAO. The Commission also
8 considered the amended appeals filed by those same nine DDAs to additionally contest the
9 appointments of DPDs John Perroni and Nancy Theberge, as well as DPD Greg Apt as Grade IV
10 DDAs. The Commission voted to grant all nine requests for hearing according to the following
11 procedure: the nine hearings will be coordinated (but not consolidated) with one hearing officer,
12 and the hearings will proceed on an expedited basis. The issues to be considered at the
13 Commission hearings will be the propriety of the subject transfers under Rule 15 and each
14 appellant's Rule 25 allegations. The Commission did not make any other formal recommendations
15 or rulings, and hearing dates have not yet been set.

16 **A. Respondents Request That All Writ Petition Proceedings and Discovery Be**
17 **Stayed Pending the Conclusion of the Commission Hearings**

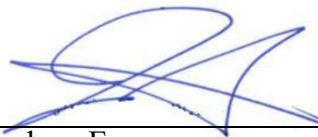
18 All of the issues raised in the present litigation will be adjudicated before the Commission,
19 and each of the nine pending appeals will receive its own hearing before a single hearing officer
20 on an expedited basis. Respondents intend to move to stay the instant writ petition proceedings
21 and any discovery thereon until the Commission hearings are concluded. The Commission will
22 specifically evaluate whether the subject transfers were made within the Civil Service Rules.
23 Therefore, Petitioners' administrative remedies will not be exhausted until the Commission
24 hearings are complete.

25
26
27
28 ///

1 Dated: December 2, 2021

SANDERS ROBERTS LLP

2
3 By:



4
5 Justin H. Sanders, Esq.

Sabrina C. Narain, Esq.

6 Shawn P. Thomas, Esq.

Matthew D. Barzman, Esq.

Attorneys for Respondents

7 **GEORGE GASCON; LOS ANGELES COUNTY**
8 **DISTRICT ATTORNEY; LOS ANGELES COUNTY**
9 **DISTRICT AND COUNTY OF LOS ANGELES**



PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Jocelynne Tan, am a citizen of the United States, over 18 years of age and am not a party to the within action. My business address is 1055 W. 7th Street, Suite 3200, Los Angeles, CA 90017, which is located in the County of Los Angeles where the service took place. My electronic service address is: jt看@sandersroberts.com.

On December 2, 2021, I served the foregoing document(s) described as:

RESPONDENTS' STATUS CONFERENCE REPORT

on all interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as stated in the attached service list:

- ☐ **VIA MAIL** I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the U.S. Postal Service. Per that practice the within correspondence will be deposited with the U.S. Postal Service on the same day shown on this affidavit in a sealed envelope with postage fully prepaid in the ordinary course of business.
- ☐ **VIA FACSIMILE** I caused such document to be transmitted via facsimile to the addressee(s) from the facsimile machine of Sanders Roberts LLP whose fax number is (213) 234-4581 . No error was reported by the machine and pursuant to Rule 2008(e)(3), I caused the machine to print a record of the transmission.
- ☒ **VIA ELECTRONIC MAIL** I caused a PDF version of the documents to be transmitted by electronic mail to the party(s) identified on the attached service list using the e-mail address(es) indicated, per their stipulation. I did not receive, within a reasonable time after transmission, any electronic message or other indication that the transmission(s) were unsuccessful.
- ☐ **VIA PERSONAL SERVICE** I caused such envelope(s) to be delivered by a process server employed by Express Network the attached documents to the office(s) of the addressee.
- ☐ **VIA OVERNIGHT DELIVERY (FEDERAL EXPRESS)** I caused the attached document(s) to be delivered via overnight delivery to the recipients shown on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 2, 2021, at Los Angeles, California.

/s/ Jocelynne Tan
Jocelynne Tan



SERVICE LIST

ADDA vs. George Gascon, et al.

LASC - Case No.: 21STCP03412

THE GIBBONS FIRM, P.C.
Elizabeth J. Gibbons, Esq.
811 Wilshire Blvd., 17th Floor
Los Angeles, CA 90017
Tel. (323) 591-6000
egibbons@thegibbonsfirm.com

Attorneys for Petitioner
**ASSOCIATION OF DEPUTY
DISTRICT ATTORNEYS FOR LOS
ANGELES COUNTY (ADDA)**





PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I, Blanca Reyes am a citizen of the United States, over 18 years of age and am not a party to the within action. My business address is 1055 W. 7th Street, Suite 3200, Los Angeles, CA 90017, which is located in the County of Los Angeles where the service took place. My electronic service address is: breyes@sandersroberts.com.

On December 21, 2021 I served the foregoing document(s) described as:

**DECLARATION OF JUSTIN H. SANDERS IN SUPPORT OF RESPONDENTS'
MOTION TO STAY ALL PROCEEDINGS AND DISCOVERY**

on all interested parties in this action by placing a true and correct copy thereof enclosed in a sealed envelope addressed as stated in the attached service list:

- ☐ **VIA MAIL** I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the U.S. Postal Service. Per that practice the within correspondence will be deposited with the U.S. Postal Service on the same day shown on this affidavit in a sealed envelope with postage fully prepaid in the ordinary course of business.
- ☐ **VIA FACSIMILE** I caused such document to be transmitted via facsimile to the addressee(s) from the facsimile machine of Sanders Roberts LLP whose fax number is (213) 234-4581 . No error was reported by the machine and pursuant to Rule 2008(e)(3), I caused the machine to print a record of the transmission.
- ☒ **VIA ELECTRONIC MAIL** I caused a PDF version of the documents to be transmitted by electronic mail to the party(s) identified on the attached service list using the e-mail address(es) indicated, per their stipulation. I did not receive, within a reasonable time after transmission, any electronic message or other indication that the transmission(s) were unsuccessful.
- ☐ **VIA PERSONAL SERVICE** I caused such envelope(s) to be delivered by a process server employed by Express Network the attached documents to the office(s) of the addressee.
- ☐ **VIA OVERNIGHT DELIVERY (FEDERAL EXPRESS)** I caused the attached document(s) to be delivered via overnight delivery to the recipients shown on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 21, 2021, at Los Angeles, California.

/s/ Blanca Reyes
Blanca Reyes

SERVICE LIST

ADDA vs. George Gascon, et al.

L Case No.: 21STCP03412

THE GIBBONS FIRM, P.C.
Elizabeth J. Gibbons, Esq.
811 Wilshire Blvd., 17th Floor
Los Angeles, CA 90017
Tel. (323) 591-6000
egibbons@thegibbonsfirm.com

Attorneys for Petitioner
**ASSOCIATION OF DEPUTY
DISTRICT ATTORNEYS FOR LOS
ANGELES COUNTY (ADDA)**

