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12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14 MIGUEL ROSALES,  
15 Plaintiff,  
16 vs.  
17 LOS ANGELES COUNTY,  
18 Defendant.

Case No.:

**COMPLAINT FOR DAMAGES**

1. Title VII—Disparate Treatment, Disparate Impact, Retaliation
2. ADEA—Disparate Treatment, Retaliation
3. FEHA—Disparate Treatment, Disparate Impact, Retaliation
4. 42 U.S.C. § 1981
5. 42 U.S.C. § 1983

**DEMAND FOR JURY TRIAL**

19 Plaintiff Miguel Rosales alleges as follows upon information and belief:

20 **I. INTRODUCTION**

21 1. Plaintiff Miguel Rosales is a 60-year-old Latino who has served nearly three decades  
22 as a public defender. Despite Plaintiff’s tenure and invaluable experience, Defendant, Los Angeles  
23 County, operating through its agency, The Law Offices of Los Angeles County Public Defender  
24 (“LACPD”), has repeatedly denied Plaintiff promotion to a management position because of  
25 Plaintiff’s race, national origin, and/or age. As a senior-level public defender at Grade 4 since 2007,  
26 Plaintiff has applied multiple times for the next level—the head deputy position—only to be passed  
27 over in favor of non-Latino and younger candidates with considerably less experience. Defendant’s  
28 policy of using standardized tests, subjective criteria used in performance evaluations, unfair

1 weighing of training and experience, and its use of a “banding” system, has resulted in a promotion  
2 system that discriminated—and continues to discriminate—against Plaintiff and other Latinos at  
3 the LACPD by denying them advancement to management positions. Plaintiff courageously  
4 complained about his discriminatory treatment and subsequently faced retaliation from Defendant.

5 2. Defendant’s actions and/or omissions violated the Civil Rights Act of 1964 (“Title  
6 VII”), the Age Discrimination in Employment Act of 1967 (“ADEA”), the Fair Employment and  
7 Housing Act (“FEHA”), 42 U.S.C. § 1981, and the U.S. Constitution. Defendant’s violations have  
8 inflicted significant harm on Plaintiff, which extends beyond the denial of deserved professional  
9 advancement, causing loss of potential income and emotional distress.

10 **II. PARTIES**

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12 3. Plaintiff Miguel Rosales is a resident of Glendale in the County of Los Angeles,  
13 California. He is a 60-year-old Latino and senior-level public defender who has been employed by  
14 the LACPD since March 1995.

15 4. Defendant Los Angeles County is a political subdivision of the State of California.  
16 Through the LACPD, Defendant hires attorneys, known as public defenders, who are responsible  
17 for providing legal representation to individuals charged with a crime and unable to afford counsel.

18 **III. JURISDICTION AND VENUE**

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20 5. This Court has jurisdiction under 28 U.S.C. § 1331 because this case involves  
21 federal causes of action under 42 U.S.C. § 1981, 42 U.S.C. § 1983, ADEA, and Title VII. The Court  
22 has jurisdiction over the state law claims under 28 U.S.C. § 1367 because they are so related to the  
23 federal claims that they form part of the same case or controversy under Article III of the United  
24 States Constitution.

25 6. Venue is proper in this district under 28 U.S.C. § 1391(b) because the claims alleged  
26 arose from events or omissions occurring in the County of Los Angeles, which is within the Central  
27 District of California.

1 **IV. FACTUAL ALLEGATIONS**

2 **A. Defendant’s Promotion Process Perpetuates Discrimination Against Latinos**

3 7. Defendant has knowingly implemented a promotion process that perpetuates  
4 discrimination against Latino applicants. Seniority levels for public defenders in the LACPD range  
5 from Grade 1 to 4. At Grade 4, public defenders may apply for management positions, such as head  
6 deputy. As part of the application process, LACPD ranks, or “bands,” applicants according to their  
7 scores based on three criteria. The three criteria are weighted as follows: 20% of an applicant’s  
8 score is based on their training and experience; 30% is based on an evaluation by the applicant’s  
9 supervisor, commonly referred to as an appraisal of promotability; and 50% is based on an  
10 applicant’s score on a standardized test. After applicants are placed in their respective band,  
11 LACPD conducts initial interviews with candidates from the top band. Only a select few of these  
12 applicants progress to a second interview and promotion. At each of these stages, Defendant  
13 subjects Latino applicants to discrimination.

14 8. The standardized test portion of the application process has a history of  
15 disadvantaging Latino applicants for promotions in LACPD because Latino test-takers consistently  
16 score lower than their white counterparts. Although the test was initially implemented by Defendant  
17 as a temporary measure, the current Public Defender made the test permanent shortly after he came  
18 into office in October 2018. He made that decision despite warnings from Latino senior managers  
19 that the test disproportionately disadvantages Latino applicants. Plaintiff is not aware of any other  
20 Los Angeles County legal office, such as the District Attorney, County Counsel, Alternate Public  
21 Defender, and Child Support Services, that uses the standardized test. The test is administered by  
22 a UK-based firm and is supposed to assess an applicant’s various personal characteristics, such as  
23 their ability to control their emotions, their willingness to learn, and their ability to generate new  
24 ideas. Defendant’s policy, which assigns 50% of an applicant’s total score based on this test,  
25 disadvantages Latino applicants by placing them in lower band rankings than they would otherwise  
26 achieve without this test. It also results in less-qualified non-Latino applicants ranking in the same  
27 or higher band as Latino candidates. Perhaps worst, LACPD policy requires test-takers to score  
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1 70% or higher on the test to move on to the other two assessments, which means that many Latino  
2 applicants are outright excluded from promotion because of the standardized test.

3 9. The standardized test combined with LACPD's banding policy create a system of  
4 promotion that is ripe for unlawful discriminatory selection of applicants. LACPD has a policy that  
5 requires the selection of applicants from the top band until the top band reaches a certain number  
6 (below 5). At that point, the top band collapses into the second band, which results in a broader  
7 pool of applicants. Defendant's policy of using a band system, in conjunction with heavily weighing  
8 the standardized test scores, has resulted in the placement of Plaintiff and other Latinos in bands  
9 with less qualified non-Latino candidates—who are then promoted. Defendant has not promoted a  
10 Latino to head deputy since 2018. Out of over 24 head deputies at LACPD, not one is Latino.

11 **B. Defendant Denied Promotions to Plaintiff and Other Latinos**

12 10. Having been hired by LACPD in 1995, Plaintiff has nearly three decades of  
13 experience as a public defender. Plaintiff reached Grade 4 on LACPD's salary scale in 2007 and  
14 has remained in Grade 4 since then. Plaintiff has adjudicated approximately 40 juvenile cases and  
15 has handled hundreds of jury trials. Plaintiff has served as Deputy-in-Charge of various branches  
16 during his time with LACPD and has meaningfully contributed to the efficient management of  
17 personnel at LACPD by using his extensive management education and training. Despite his  
18 extensive experience and qualifications, Defendant has denied Plaintiff's multiple applications for  
19 promotion to head deputy.

20 11. In October 2021, Plaintiff applied for promotion to a head deputy position.  
21 Plaintiff's scores placed him in the second band, which eventually combined with the first band  
22 and made Plaintiff eligible for a promotion. However, LACPD management did not select Plaintiff  
23 for a second interview—effectively denying Plaintiff the promotion. Instead, LACPD management  
24 granted second interviews to three white applicants and one Asian-American applicant. They were  
25 all promoted. All of them were younger and less experienced than Plaintiff. In fact, some of them  
26 only had three years of experience in Grade 4—which barely meets the minimum requirements for  
27 the position—compared to Plaintiff's sixteen years at that grade. During a second round of  
28 selection, LACPD management interviewed and promoted two more white candidates, one Asian-

1 American candidate, and one Black candidate. Defendant did not grant a second interview to any  
2 Latinos and did not promote any Latinos into a management position during the October 2021  
3 application cycle. Defendant has not promoted any Latinos to a head deputy position since 2018.

4 12. The combination of (1) standardized tests—which disproportionately disadvantage  
5 Latinos, (2) subjective criteria used in performance evaluations, (3) the unfair weighing of training  
6 and experience, and (4) Defendant’s policy of collapsing bands into one another to increase the  
7 number of applicants all work, individually and collectively, to disadvantage Latinos for promotion  
8 within the LACPD.

9 **C. Defendant Retaliated Against Plaintiff for Complaining**

10 13. Plaintiff complained to human resources regarding LACPD’s discriminatory  
11 promotion policies, but they refused to address Plaintiff’s concerns. Instead, Defendant sought to  
12 hinder Plaintiff’s applications. Defendant sent a representative to a Civil Service Commission  
13 hearing to oppose Plaintiff’s efforts to receive credit for experience he earned related to his juvenile  
14 adjudications. Defendant opposed Plaintiff’s request at the hearing while granting the same request  
15 to non-Latino applicants. By denying Plaintiff the ability to receive credit for his juvenile  
16 adjudications, he appeared as less qualified during the application cycle and did not get promoted.

17 14. On July 3, 2022, Plaintiff filed an EEOC and FEHA charge of discrimination against  
18 LACPD based on race, national-origin, and age discrimination. After Plaintiff filed a charge with  
19 the EEOC and FEHA, Defendant changed course and allowed Plaintiff to receive credit for his  
20 juvenile adjudications. However, Defendant denied Plaintiff’s most recent application for  
21 promotion in retaliation for engaging in protected activity.

22 **FIRST CAUSE OF ACTION**

23 **Violation of Title VII**

24 **(Disparate Treatment—Based on Race/National Origin)**

25 15. Plaintiff realleges and incorporates by reference each and every allegation contained  
26 above as though fully set forth herein.

27 16. Defendant took adverse employment action against Plaintiff on account of his race  
28 and/or national origin that materially affected the compensation, terms, conditions, or privileges of

1 his employment.

2 17. Defendant subjected Plaintiff to a promotion process that resulted in discrimination  
3 against Plaintiff based on his race and/or national origin. Plaintiff was well qualified when he  
4 applied for the head deputy position. However, Defendant's use of standardized tests, subjective  
5 criteria used in performance evaluations, unfair weighing of training and experience, and the use  
6 of the band policy resulted in a promotion system that allowed the decision-makers to discriminate  
7 against Plaintiff and select non-Latino candidates over Plaintiff.

8 18. Defendant's conduct was not motivated by a lawful reason.

9 19. As a result of Defendant's conduct, Plaintiff was harmed.

10 20. Plaintiff has filed administrative complaints with the U.S. Equal Employment  
11 Opportunity Commission and received a right-to-sue letter on or around April 11, 2023.

12 **SECOND CAUSE OF ACTION**

13 **Violation of Title VII**

14 **(Disparate Impact)**

15 21. Plaintiff realleges and incorporates by reference each and every allegation contained  
16 above as though fully set forth herein.

17 22. Defendant's employment practices and selection criteria unlawfully discriminate  
18 against applicants for head deputy positions based on their race and/or national origin. Specifically,  
19 Defendant's use of standardized tests, subjective criteria used in performance evaluations, unfair  
20 weighing of training and experience, and the use of the band policy result in a promotion system  
21 that disparately impacts Latino applicants. Defendant knew that its promotion policies disparately  
22 impacted Latinos and elected to keep the policies in place.

23 23. Defendant's conduct was not motivated by a lawful reason.

24 24. As a 60-year-old Latino, Plaintiff was harmed by Defendant's conduct.

25 25. Plaintiff has filed administrative complaints with the U.S. Equal Employment  
26 Opportunity Commission and received a right-to-sue letter on or around April 11, 2023.

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**THIRD CAUSE OF ACTION**

**Violation of Title VII**

**(Retaliation)**

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4 26. Plaintiff realleges and incorporates by reference each and every allegation contained  
5 above as though fully set forth herein.

6 27. Plaintiff engaged in protected activity by complaining to human resources about  
7 Defendant's discriminatory application policies and by filing claims of discrimination against  
8 Defendant with the EEOC and DFEH.

9 28. Defendant retaliated against Plaintiff by refusing to allow him to introduce positive  
10 evidence during one of his applications and refusing to promote him to head deputy during the most  
11 recent promotion cycle.

12 29. As a result of Defendant's conduct, Plaintiff suffered harm.

13 30. Plaintiff has filed administrative complaints with the U.S. Equal Employment  
14 Opportunity Commission and received a right to sue letter on or around April 11, 2023.

**FOURTH CAUSE OF ACTION**

**Violation of ADEA**

**(Disparate Treatment)**

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18 31. Plaintiff realleges and incorporates by reference each and every allegation contained  
19 above as though fully set forth herein.

20 32. Defendant took adverse employment action against Plaintiff on account of age that  
21 materially affected the compensation, terms, conditions, or privileges of his employment.

22 33. Defendant subjected Plaintiff to a promotion process that discriminated against  
23 Plaintiff based on his age. Specifically, Plaintiff applied for the head deputy position multiple times  
24 and Defendant's use of standardized tests, subjective criteria used in performance evaluations,  
25 unfair weighing of training and experience, and the use of the band policy resulted in a promotion  
26 system that unlawfully discriminated against Plaintiff and denied him the promotion in favor of  
27 younger candidates.

28 34. Defendant's conduct was not motivated by a lawful reason.

1 35. As a result of Defendant's conduct, Plaintiff was harmed.

2 36. Plaintiff has filed an administrative complaint with the U.S. Equal Employment  
3 Opportunity Commission and received a right-to-sue letter on or around April 11, 2023.

4 **FIFTH CAUSE OF ACTION**

5 **Violation of ADEA**

6 **(Retaliation)**

7 37. Plaintiff realleges and incorporates by reference each and every allegation contained  
8 above as though fully set forth herein.

9 38. Plaintiff engaged in protected activity by complaining to human resources about  
10 Defendant's discriminatory application policies and by filing claims of discrimination against  
11 Defendant with the EEOC and DFEH.

12 39. Defendant retaliated against Plaintiff by refusing to allow him to introduce positive  
13 evidence during one of his applications and refusing to promote him to head deputy during the most  
14 recent promotion cycle.

15 40. As a result of Defendant's conduct, Plaintiff suffered harm.

16 41. Plaintiff has filed an administrative complaint with the U.S. Equal Employment  
17 Opportunity Commission and received a right-to-sue letter on or around April 11, 2023.

18 **SIXTH CAUSE OF ACTION**

19 **Violation of the FEHA**

20 **(Disparate Treatment)**

21 42. Plaintiff realleges and incorporates by reference each and every allegation contained  
22 above as though fully set forth herein.

23 43. Defendant took adverse employment action against Plaintiff on account of his race,  
24 national origin, and/or age that materially affected the compensation, terms, conditions, or  
25 privileges of his employment.

26 44. Defendant subjected Plaintiff to a promotion process that discriminated against  
27 Plaintiff based on his race, national origin, and/or age. Specifically, Plaintiff applied for the head  
28 deputy position multiple times and Defendant's use of standardized tests, subjective criteria used



1 in performance evaluations, unfair weighing of training and experience, and the use of the band  
2 policy resulted in a promotion system that unlawfully discriminated against Plaintiff and denied  
3 him the promotion.

4 45. Defendant's conduct was not motivated by a lawful reason.

5 46. As a result of Defendant's conduct, Plaintiff was harmed.

6 47. Plaintiff has filed administrative complaints with the California Department of Fair  
7 Employment and Housing and received a right-to-sue letter on or around April 11, 2023.

8 **SEVENTH CAUSE OF ACTION**

9 **Violation of the FEHA**

10 **(Disparate Impact)**

11 48. Plaintiff realleges and incorporates by reference each and every allegation contained  
12 above as though fully set forth herein.

13 49. Defendant's employment practices and selection criteria unlawfully discriminate  
14 against applicants for head deputy positions based on their race, national origin, and/or age.  
15 Specifically, Defendant's use of standardized tests, subjective criteria used in performance  
16 evaluations, unfair weighing of training and experience, and the use of the band policy resulted in  
17 a promotion system that unlawfully discriminates against Latinos. Defendant knew that its  
18 promotion policies disparately impacted Latinos and elected to keep them in place.

19 50. Defendant's conduct was not motivated by a lawful reason.

20 51. As a 60-year-old Latino, Plaintiff was harmed by Defendant's conduct.

21 52. Plaintiff has filed administrative complaints with the California Department of Fair  
22 Employment and Housing and received a right-to-sue letter on or around April 11, 2023.

23 **EIGHTH CAUSE OF ACTION**

24 **Violation of the FEHA**

25 **(Retaliation)**

26 53. Plaintiff realleges and incorporates by reference each and every allegation contained  
27 above as though fully set forth herein.

28 54. Plaintiff engaged in protected activity by complaining to human resources about

1 Defendant's discriminatory application policies and by filing claims of discrimination against  
2 Defendant with the EEOC and DFEH.

3 55. Defendant retaliated against Plaintiff by refusing to allow him to introduce positive  
4 evidence during one of his applications and refusing to promote him to head deputy during the most  
5 recent promotion cycle.

6 56. As a result of Defendant's conduct, Plaintiff suffered harm.

7 57. Plaintiff has filed administrative complaints with the California Department of Fair  
8 Employment and Housing and received a right-to-sue letter on or around April 11, 2023.

9 **NINTH CAUSE OF ACTION**

10 **Violation of 42 U.S.C. § 1981**

11 58. Plaintiff realleges and incorporates by reference each and every allegation contained  
12 above as though fully set forth herein.

13 59. Defendant's policies, practices, and/or customs discriminated against Plaintiff based  
14 on his race and/or national origin, in violation of Plaintiff's right to equal protection and to be free  
15 of race and national origin discrimination in employment. The discriminatory actions taken by  
16 LACPD towards Plaintiff were in accordance with an official custom and policy that permits  
17 discrimination against Latinos in promotions to head deputy positions. The discrimination is a  
18 deliberate choice by the Public Defender and others with final policy-making authority to  
19 implement a discriminatory promotion process. Defendant's unlawful conduct includes a practice  
20 of promoting objectively less-qualified non-Latino applicants once they are within the same band  
21 as Latinos.

22 60. Defendant has ratified the discriminatory practice that harmed Plaintiff by being  
23 informed of the harmful effects its promotion practices have on Latino applicants and deciding to  
24 maintain the status quo. Defendant has also ratified decisions of its subordinates in making  
25 discriminatory decisions to not promote Plaintiff because of his race and/or national origin.

26 61. Defendant's actions intentionally discriminated against Plaintiff and impaired the  
27 contractual relationship between the parties, including the making, performing, and modification  
28 of their contract, and the enjoyment of all benefits, privileges, terms, and conditions of their

1 contractual relationship.

2 62. As a direct and proximate result of Defendant’s actions, Plaintiff suffered harm,  
3 including economic losses and emotional distress, in an amount to be determined at trial.

4 **TENTH CAUSE OF ACTION**

5 **Violation of 42 U.S.C. § 1983**

6 63. Plaintiff realleges and incorporates by reference each and every allegation contained  
7 above as though fully set forth herein.

8 64. Defendant’s policies, practices, and/or customs discriminated against Plaintiff based  
9 on his race and/or national origin, in violation of Plaintiff’s Constitutional rights under the Equal  
10 Protection Clause of the Fourteenth Amendment. The discriminatory actions taken by LACPD  
11 towards Plaintiff were in accordance with an official custom and policy that permits discrimination  
12 against Latinos in promotions to head deputy positions. The discrimination is a deliberate choice  
13 by the Public Defender and others with final policy-making authority to implement a discriminatory  
14 promotion process. Defendant’s unlawful conduct includes a practice of promoting objectively  
15 less-qualified non-Latino applicants once they are within the same band as Latinos.

16 65. Defendant has ratified the discriminatory practice that harmed Plaintiff by being  
17 informed of the harmful effects its promotion practices have on Latino applicants and deciding to  
18 maintain the status quo. Defendant has also ratified decisions of its subordinates in making  
19 discriminatory decisions to not promote Plaintiff because of his race and/or national origin.

20 66. As a direct and proximate result of Defendant’s actions, Plaintiff suffered harm,  
21 including economic losses and emotional distress, in an amount to be determined at trial.

22 **JURY DEMAND**

23 67. Plaintiff demands a trial by jury.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff respectfully requests the following relief:

- 26 1. General damages, including compensatory damages according to proof;
- 27 2. Punitive damages according to proof;
- 28 3. Costs of the suit;

- 1           4.       Reasonable attorneys' fees and expenses of this litigation, including under 42 U.S.C.  
2 § 1988;  
3           5.       Interest at the maximum legal rate for all sums awarded; and  
4           6.       Such other and further relief as the Court may deem just and proper.

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Dated: July 7, 2023

Respectfully submitted,

/s/ Fernando Nunez  
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Ernest Herrera (admission pending)  
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