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CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

ASSOCIATION FOR LOS ANGELES DEPUTY SHERIFFS et al., Petitioners, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; COUNTY OF LOS ANGELES et al., Real Parties in Interest.	B350110 (Los Angeles County Super. Ct. No. 19STCP05186)

ORIGINAL PROCEEDING; petition for writ of mandate, Stephen I. Goorvitch and Alison M. Mackenzie, Judges. Petition denied.

Rains Lucia Stern St. Phalle & Silver, Jacob A. Kalinski and Richard A. Levine for Petitioners.

No appearance for Respondent.

Miller Barondess, Mira Hashmall, Eleanor S. Ruth and Lauren M. Brody for Real Parties in Interest.

Petitioners David Jouzi, Benjamin Alvarado, and Dellanira Aragon are former deputies of the Los Angeles County Sheriff's Department (department) who were discharged for alleged misconduct. They appealed their discharges to the Los Angeles County Civil Service Commission (commission). While their appeals were pending, the former deputies executed settlements with department chiefs that purported to reinstate them to employment. Real party in interest the County of Los Angeles (county) refused to comply with these settlement agreements.

Jouzi, Alvarado, Aragon, and a recognized employee organization (petitioner Association for Los Angeles Deputy Sheriffs or ALADS)[1] sued the county, seeking enforcement of the settlements through mandamus, breach of contract, and promissory estoppel claims, along with a declaration that the county must comply with settlements executed by the department during the pendency of commission appeals. Initially, the trial court sustained the county's demurrers to petitioners' pleading without leave to amend. On appeal, we reversed and instructed the trial court to grant petitioners leave to file an amended pleading identifying the legal basis (if any) for the department's alleged long-standing view that the Los Angeles County Sheriff (sheriff) and his subordinates are authorized to

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[1] We refer to Jouzi, Alvarado, and Aragon collectively as "deputy petitioners," and we refer to the deputy petitioners and ALADS collectively as "petitioners."

settle appeals before the commission without approval of other county officials. (*Association for Los Angeles Deputy Sheriffs v. County of Los Angeles* (2023) 94 Cal.App.5th 764, 771–772, 801, 812 (*ALADS I*).)

On remand, petitioners filed several amended pleadings, and the trial court sustained the county's demurrers to two of them. The court sustained the county's last demurrer without leave to amend. In particular, the court found petitioners failed to demonstrate that the chiefs executing the settlements were "acting under authority of the board [of supervisors] or authority conferred by law" for the purposes of Government Code section 23005. Petitioners seek appellate review of the dismissal of their claims.

As an initial matter, petitioners arguably failed to appeal timely from the trial court's order of dismissal by instead appealing from a subsequent judgment entered by the court. Assuming arguendo petitioners' appeal is untimely, we exercise our discretion to treat the appeal as a writ petition because the trial court's order sustaining the county's demurrer to the operative pleading directed the parties to meet and confer and submit a proposed judgment of dismissal, thereby apparently leading petitioners to believe the dismissal order filed concurrently with the demurrer order was issued in error or was otherwise not a final appealable judgment. The trial court's later issuance of the judgment of dismissal further indicated it may not have intended for the dismissal order to be a final appealable judgment. Accordingly, we conclude under the unique circumstances of this case that the interests of justice would be better served by treating this arguably untimely appeal as a writ petition.

On the merits, petitioners have not demonstrated that the sheriff and his subordinates were authorized to bind the county to the settlements that are before us.

First, we reject petitioners' assertion that encompassed within the sheriff's authority to appoint, suspend, and discharge department personnel is the power to rescind or modify discipline during the pendency of civil service appeals. Petitioners' expansive interpretation of the sheriff's power is not consistent with the purpose and structure of the county's civil service system. That system is designed to ensure that (1) only competent individuals are county employees and (2) favoritism plays no role in the hiring process. Adopting petitioners' theory of implied authority would undermine those objectives by upsetting the careful balance struck by the civil service system's delegation of authority to (1) the sheriff, who hires employees from an eligible civil service list; (2) the director of personnel, who maintains that list; and (3) the commission, which reviews employees' appeals of discipline.

Second, we reject petitioners' argument that the county is bound by a department manual provision they claim confers authority on division chiefs and division directors to settle commission appeals without the approval of the Los Angeles County Board of Supervisors (the board of supervisors or board). Petitioners' assertion that department management representatives and ALADS executed an agreement requiring the adoption of that manual provision is unavailing because petitioners have not demonstrated that the county authorized those management representatives to execute that alleged agreement.

Third, we reject petitioners' contention the county is bound by its alleged past practice of permitting chiefs and captains to settle commission appeals because they have not demonstrated that practice is subject to the collective bargaining requirements imposed by the Meyers-Milias-Brown Act (MMBA; Gov. Code, § 3500, et seq.).[2]

Fourth, we conclude that a prior unpublished appellate decision upholding the validity of a settlement executed by ALADS and a department official concerning the department's procedures for investigating officer-involved shootings does not collaterally estop the county from contesting the instant settlements.

We hold the trial court did not err in sustaining the demurrer as to the contract and mandamus claims because they are predicated on the validity of the settlements. Petitioners also fail to show that despite this defect, they can recover on their promissory estoppel and declaratory relief causes of action. Lastly, petitioners do not argue the court erred in denying leave to amend their pleading. In sum, we construe petitioners' appeal as a writ petition and deny it.

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[2] The MMBA "mutually obligates a public employer and an employee organization to meet and confer in good faith about a matter within the 'scope of representation' concerning, among other things, 'wages, hours, and other terms and conditions of employment[.]' [Citation.]" (See *Claremont Police Officers Assn. v. City of Claremont* (2006) 39 Cal.4th 623, 628 (*Claremont Police Officers Assn.*).)

FACTUAL AND PROCEDURAL BACKGROUND[3]

We summarize only those facts pertinent to this review proceeding.

1. *The initial trial court proceedings and* ALADS I

On December 5, 2019, petitioners filed their initial verified petition for writ of mandate and complaint, alleging three causes of action for writ of mandate, three causes of action for breach of contract, three causes of action for promissory estoppel, and one declaratory relief cause of action. (*ALADS I*, *supra*, 94 Cal.App.5th at pp. 772–773.)[4] Petitioners sought enforcement of the settlements through their mandamus, breach of contract, and promissory estoppel claims. (See *ALADS I, supra*, 94 Cal.App.5th at p. 771.) Petitioners also sought a declaration that the county must comply with the department's settlements of commission appeals. (See *id.* at pp. 797–798.)

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[3] We derive our Factual and Procedural Background in part from undisputed aspects of the trial court's rulings, admissions made by the parties in their filings, and the county's assertions that petitioners do not dispute in their reply brief. (See *ALADS I*, *supra*, 94 Cal.App.5th at pp. 772, fn. 2, 773–774 [employing this approach].)

Our Factual and Procedural Background is also based in part on our prior opinion in *ALADS I*. (See *People v. Czirban* (2022) 77 Cal.App.5th 1050, 1058, fn. 4 [relying in part on the Court of Appeal's prior opinion in summarizing the factual and procedural history of that case].) We, sua sponte, take judicial notice of our prior opinion. (Evid. Code, §§ 452, subd. (d), 459.)

[4] For the sake of clarity and consistency, we refer to petitioners' initial petition for writ of mandate and complaint and the amendments thereto as petitions.

The trial court sustained the county's demurrer, without leave to amend, as to the writ of mandate causes of action based on the court's ruling that mandamus is not an appropriate remedy to enforce a contractual obligation against a public entity. (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 774.)

The trial court later sustained the county's demurrer to the remainder of the initial petition without leave to amend. (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 774.) The court reasoned that "the settlement agreements are void because county counsel did not approve them, and section 21" of the Los Angeles County Charter (county charter) "confers upon county counsel 'exclusive charge and control of all civil actions and proceedings in which the County or any officer thereof, is concerned or is a party.' " (See *id.* at pp. 771, 774–775.)

On appeal from the judgment of dismissal, we held section 21 of the county charter "does not confer upon county counsel exclusive authority to settle appeals of discipline decisions pending before the commission," but we also found petitioners had not shown that "the sheriff and his chiefs were authorized to execute on the county's behalf the settlement agreements at issue here." (See *ALADS I*, *supra*, 94 Cal.App.5th at pp. 775, 777.) We concluded that there was "a reasonable possibility that [the petitioners] could [have] amend[ed] their initial petition[ ] to establish that the sheriff and his subordinates have that authority," and that the trial court erred in denying leave to amend on petitioners' mandamus causes of action. (See *id.* at pp. 778, 806.) We reversed the judgment and instructed the trial court to grant petitioners leave to amend as to most of their claims. (See *id.* at p. 812.)

2. *The first amended petition, the second amended petition, the trial court's order sustaining the county's demurrer to the second amended petition with leave to amend, the third amended petition, and the court's order striking the third amended petition*

On February 1, 2024, petitioners filed their first amended petition. Pursuant to the parties' stipulation, petitioners filed a second amended petition on March 26, 2024. On November 25, 2024, the trial court sustained the county's demurrer to the second amended petition with leave to amend.

On January 10, 2025, petitioners filed their third amended petition. The trial court later struck the third amended petition because the pleading did not include the names of the deputy petitioners.

3. *The fourth amended petition*

On March 24, 2025, petitioners filed their fourth amended petition.[5] The deputy petitioners are former deputies of the department. ALADS is "a recognized employee organization as defined in the [MMBA] . . . representing sworn non-management peace officers employed by the Department and the County District Attorney's Office with regard to all matters concerning wages, hours and working conditions. It brings this action on behalf of all of its represented employees."

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[5] The remainder of our Factual and Procedural Background, part 3 summarizes certain material and properly pleaded allegations from the fourth amended petition, which we assume to be true for purposes of this review proceeding. (See Standards of Review, *post*.) We detail additional averments in our Discussion, *post*.

Petitioners name as defendants and respondents the county, the board of supervisors, the department, the sheriff, the county counsel, the director of personnel, and the county's auditor-controller. Petitioners do not dispute — and thus tacitly agree with — the county's assertion we should treat this matter as "an official-capacity suit and, therefore, as a suit against the County alone." (See also *ALADS I*, *supra*, 94 Cal.App.5th at p. 795, fn. 29 [concluding petitioners impliedly made a similar admission in *ALADS I*].)

Each of the three deputy petitioners alleges one cause of action for writ of mandate (the first, fourth, and seventh causes of action), one cause of action for breach of contract (the second, fifth, and eighth causes of action), and one cause of action for promissory estoppel (the third, sixth, and ninth causes of action). The tenth cause of action for declaratory relief is brought on behalf of all four petitioners.

It appears that in or about 2017, each deputy petitioner was served with a letter of intent to be discharged from employment. They participated in predeprivation hearings held pursuant to *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, and were subsequently discharged from employment for alleged misconduct.[6] Each deputy petitioner filed an appeal of his or her discharge to the commission.

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[6] " '*Skelly [v. State Personnel Bd.*, *supra*, 15 Cal.3d 194] requires that civil service employees be given notice of proposed disciplinary action, the reasons for the action, a copy of the charges and the written materials upon which they are based, and an opportunity to respond either orally or in writing. [Citation.] A "*Skelly* hearing" refers to the employee's opportunity to respond, and it has been described as an "informal

In 2019, while their respective appeals were pending before the commission, each deputy petitioner entered into a settlement agreement with a chief of the department, the terms of which purport to reduce the discipline already imposed and reinstate the deputy petitioner's employment. With regard to each of these settlements, petitioners aver: "Based on information and belief, the settlement agreement was entered into pursuant to the authority granted in [department manual of policy and procedures or MPP section 3-04/020.80]. All conditions precedent set forth in MPP section [3-04/020.80] were met, including consulting with the constitutional policing adviser and receiving the approval of the Undersheriff."[7]

The county thereafter refused to comply with the terms of the settlements. Although the fourth amended petition does not detail the circumstances under which Jouzi became aware that the county "refused . . . to reinstate [him] to his employment with the County and to provide him with all emoluments of employment," the pleading alleges that shortly after their settlements were executed, Alvarado and Aragon were "advised" that "County Counsel and/or . . . [the] Director of Personnel and/or . . . [the] Board of Supervisors vetoed" their settlements. In its appellate brief, the county asserts that the settlement "agreements were not approved by the Board of Supervisors . . . ."

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probable-cause-type proceeding." ' " (*ALADS I*, *supra*, 94 Cal.App.5th at p. 773, fn. 4.)

[7] Although these paragraphs from the fourth amended petition actually refer to "MPP section 3-04/020.080" rather than MPP section 3-04/020.80, that appears to be a typographical error. We describe MPP section 3-04/020.80 in further detail in our Discussion, part B.2, *post*.

Petitioners tacitly concede this point by failing to dispute it in their reply. (See fn. 3, *ante* [noting that a party's failure to dispute in its reply an assertion raised in the opposing party's appellate brief may be deemed an admission thereto].)[8]

4. *The trial court's order sustaining the county's demurrer to the fourth amended petition without leave to amend and the dismissal of the action*

On July 7, 2025, the trial court sustained the county's demurrer to the fourth amended petition without leave to amend. The court remarked, "The dispositive issue in this case is whether the chiefs executing the settlement agreements were acting under the authority of the Board or authority conferred by law for purposes of Government Code section 23005." According to the court, "Petitioners have still not alleged 'the legal basis (if any) for the department's alleged long-standing apparent belief that its personnel have authority to settle commission appeals on their own.' [Citation.]" (Quoting *ALADS I*, *supra*, 94 Cal.App.5th at p. 772.) The court denied leave to amend because "Petitioners have . . . had three opportunities to identify this authority, and they have failed to do so each time," and "none of the discovery" petitioners obtained from the county "would permit Petitioners to amend the Fourth Amended Petition successfully."

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[8] In *ALADS I*, we noted that petitioners had not "contest[ed the county's] representation that the deputy [petitioners'] appeals were still pending before the commission when they filed their [initial] petition[in the trial court.]" (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 774.) In their briefing for the instant review proceeding, petitioners do not address whether the commission appeals were still pending when they filed the initial petition.

On July 7, 2025, which is the date of filing of the order sustaining the demurrer to the fourth amended petition, the court also filed an order dismissing the action with prejudice. (See Discussion, part A, *post*.) On August 11, 2025, the court filed a judgment purporting to dismiss the action. (See *ibid.*) On October 2, 2025, petitioners filed a notice of appeal seeking review of the dismissal order and the judgment. (See *ibid.* [explaining that petitioners' appeal is arguably untimely, but exercising this court's discretion to treat the appeal as a writ petition].)

STANDARDS OF REVIEW

In ruling on a demurrer, a court determines whether a party has alleged facts sufficient to state a cause of action. (*ALADS I*, *supra*, 94 Cal.App.5th at p. 776.) We review the trial court's ruling de novo and " ' " 'treat the demurrer as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law. [Citation.] . . . .' [Citation.] . . . . [Citation.]" ' [Citation.] We also consider 'matters of which judicial notice can and has been taken.' [Citation.]" (*Ibid.*)

We review a trial court's denial of leave to amend for abuse of discretion. (*Black v. Los Angeles County Metropolitan Transportation Authority* (2025) 116 Cal.App.5th 677, 685.) Under this standard, the plaintiff has the burden of proving there exists a reasonable possibility that an amendment would cure the defect. (*Ibid.*) If the plaintiff fails to meet that burden, then the trial court did not abuse its discretion. (*Ibid.*)

"A judgment or order of a lower court is presumed correct." (*Hernandez v. Superior Court* (1992) 9 Cal.App.4th 1183, 1190.) To overcome the presumption of correctness, a party must

" ' " ' "affirmatively demonstrate error" ' " by " ' "supply[ing] the reviewing court with some cogent argument supported by legal analysis and citation to the record." ' [Citation.]" [Citations.] . . . ' [Citation.]" (*County of Los Angeles v. Niblett* (2025) 116 Cal.App.5th 454, 462–463 (*Niblett*).)

Furthermore, an error of state law " 'generally does not warrant reversal unless there is a reasonable probability that in the absence of the error, a result more favorable to the appealing party would have been reached.' [Citation.]" (*ALADS I*, *supra*, 94 Cal.App.5th at p. 777.)

DISCUSSION

A. Assuming Arguendo Petitioners' Appeal Is Untimely, We Exercise Our Discretion To Treat the Appeal as a Writ Petition

The county does not contest the timeliness of petitioner's appeal. "However, because the timeliness of an appeal poses a jurisdictional issue, we must raise the point sua sponte and must consider that question first." (See *Drum v. Superior Court* (2006) 139 Cal.App.4th 845, 849 (*Drum*).) As we explain below, although petitioners' appeal is arguably untimely, we exercise our discretion to reach the merits by treating the appeal as a writ petition.

"[A] notice of appeal must be filed on or before the earliest of: [¶] (A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled 'Notice of Entry' of judgment or a filed-endorsed copy of the judgment, showing the date either was served; [¶] (B) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled 'Notice of Entry' of judgment or a filed-

endorsed copy of the judgment, accompanied by proof of service; or [¶] (C) 180 days after entry of judgment." (See Cal. Rules of Court, rule 8.104(a)(1).)

On July 7, 2025, the date on which the trial court had filed its order sustaining the demurrer to the fourth amended petition without leave to amend, the court also filed a signed order dismissing the entire action with prejudice. The record contains a certificate of mailing indicating that on July 7, 2025, the trial court clerk served the file-stamped and signed dismissal order on the parties' counsel. Yet, in the order sustaining the demurrer, the court directed "[t]he parties [to] meet-and-confer and lodge a proposed judgment forthwith."[9] On August 11, 2025, the trial court filed a judgment purporting to dismiss the action in its entirety and designating the county as the prevailing party "entitled to recover [its] costs from [petitioners] in accordance with law."[10] On October 2, 2025, petitioners filed a notice of appeal seeking review of a "Judgment entered [on]

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[9] It is unclear whether the trial court filed the dismissal order before it filed the order sustaining the demurrer to the fourth amended petition.

[10] The judicial officer who signed the judgment was not the trial judge who sustained the demurrer to the operative pleading and signed the dismissal order. Additionally, we note that the following documents are attached to the August 11, 2025 judgment: (1) a July 7, 2025 minute order that (inter alia) sustained the county's demurrer without leave to amend and directed the parties to meet and confer and lodge a proposed judgment, (2) the signed and file-stamped July 7, 2025 order sustaining the demurrer, and (3) a certificate of mailing showing that the trial court clerk served the July 7, 2025 minute order on counsel for the parties on that date.

August 11, 2025 and [an] Order of Dismissal entered [on] August 11, 2025."[11]

The order dismissing the action with prejudice that was signed by the trial court and filed on July 7, 2025 appears to constitute an appealable judgment. (See *Roe v. Doe 1* (2023) 98 Cal.App.5th 965, 972 ["An order of dismissal is an appealable 'judgment' if it is (i) in writing, (ii) signed by the court, and (iii) filed in the action."].) Because the trial court clerk served the dismissal order on counsel for the parties on July 7, 2025, it appears petitioners had to file their notice of appeal within 60 days of that date, that is, on or before September 5, 2025. (See Cal. Rules of Court, rule 8.104(a)(1)(A).) In addition, the trial court's filing of the judgment on August 11, 2025 does not seem to have extended petitioners' deadline to appeal from the dismissal order. (See *Ellis v. Ellis* (2015) 235 Cal.App.4th 837, 842–843 [indicating that a new appeal period starts to run from service or entry of a revised judgment only if it " 'substantial[ly] modifi[es]' . . . the [original] judgment"].)

We may treat an untimely appeal as a petition for writ of mandate "in unusual circumstances" in which "do[ing] otherwise would be unfair." (See *Drum*, *supra*, 139 Cal.App.4th at pp. 852–853.) Such is the case here. By (1) filing the dismissal order on the same date on which the trial court had filed an order requiring the parties to meet and confer and submit a proposed judgment and (2) later filing a judgment on August 11, 2025, the trial court appears to have led petitioners to believe the dismissal order was issued in error or was otherwise not a final appealable

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[11] The case register does not indicate that an order of dismissal was entered on August 11, 2025.

judgment.[12] It seems the county had the same belief given that the trial court signed the proposed judgment submitted by the county. Accordingly, assuming for argument's sake petitioners' appeal is untimely, we exercise our discretion to construe the appeal as a writ petition. (Cf. *Drum*, *supra*, 139 Cal.App.4th at pp. 847, 851–853 [exercising the reviewing court's discretion to excuse a party's failure to file a timely appeal because that party relied on an erroneous published decision to the effect that the orders challenged on appeal were not immediately appealable].)

B. The Contract and Mandamus Claims Fail Because Petitioners Do Not Demonstrate that the Sheriff and His Subordinates Were Authorized To Execute the Settlements

As we explained in our prior opinion, "Government Code section 23004, subdivision (c) grants the county the power to '[m]ake contracts . . . .' [Citation.] Government Code section 23005 in turn provides: 'A county may exercise its powers only through the board of supervisors or through agents and officers acting under authority of the board or authority conferred by law.' [Citation.] [¶] Thus, the validity of the deputy [petitioners'] settlement agreements hinges on whether the chiefs executing them were 'acting under authority of the board or

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[12] (See *In re The Clergy Cases I* (2010) 188 Cal.App.4th 1224, 1233–1234 [" 'Generally speaking, only final judgments are appealable . . . [Citation.]' [Citation.] . . . [¶] . . . 'If no issues in the action remain for further consideration, the decree is final and appealable. But if further judicial action is required for a final determination of the rights of the parties, the decree is interlocutory.' "].)

authority conferred by law' for the purposes of Government Code section 23005." (*ALADS I*, *supra*, 94 Cal.App.5th at p. 794.) We also noted that petitioners' contract and mandamus claims fail as a matter of law unless they can show that "the chiefs were authorized to enter into the settlements with the deputy [petitioners] . . . ." (See *id.* at pp. 795–796.)

Petitioners raise four arguments in support of their position the chiefs were authorized to execute the settlements: (1) the sheriff's power to "*settle* a disciplinary action **that the Sheriff himself previously imposed** on an employee under his command" is implicit in this county official's "undisputed authority . . . to appoint, suspend or discharge his employees," and the sheriff may delegate this power to his subordinates; (2) MPP section 3-04/020.80 "constitutes the lawful delegation by the Board of Supervisors of authority to the Sheriff [and his subordinates] for executing binding settlement agreements" of commission appeals or is a "law" that confers such authority on department personnel for the purposes of Government Code section 23005; (3) petitioners have alleged a "binding past practice of the sheriff's department of resolving disciplinary appeals pending civil service commission proceedings" (boldface & capitalization omitted); and (4) an unpublished Court of Appeal decision collaterally estops the county from denying the chiefs' authority to execute the settlements. We address these contentions seriatim.

1. Petitioners fail to demonstrate the department's authority over personnel decisions includes the power to settle commission appeals

" 'The same rules of statutory interpretation that apply to statutory provisions also apply to local charter provisions[ ]' [citation]" (*ALADS I*, *supra*, 94 Cal.App.5th at p. 779), Civil Service Rules (see *Head v. Civil Service Com.* (1996) 50 Cal.App.4th 240, 243–244), and ordinances (see *Zubarau v. City of Palmdale* (2011) 192 Cal.App.4th 289, 305). " 'When construing a statute, "our goal is ' "to ascertain the intent of the enacting legislative body so that we may adopt the construction that best effectuates the purpose of the law." ' " [Citation.]' [Citation.] Put differently, our objective is to ' " 'arriv[e] at the true [legislative] intent existing at the time the legislation was enacted.' [Citation.]" [Citations.]' [Citations.]" (*ALADS I*, *supra*, at p. 779.) "We do not construe th[e] words [of legislation] in a vacuum but rather consider them in the context of the statutory framework as a whole." (See *Hirdman v. Charter Communications, LLC* (2025) 113 Cal.App.5th 376, 384.)

Petitioners cite certain provisions of the Government Code, county charter, county code, and Civil Service Rules for the proposition that the "Sheriff and his subordinates [have authority] to take fundamental personnel actions respecting employees in the Sheriff's Department," to wit, the authority to "appoint, suspend[,] or discharge [department] employees . . . ." They assert that implicit within those powers to "render fundamental personnel decisions" is "the right to rescind or modify . . . previous disciplinary decision[s] based upon facts discovered during the course of an administrative appeal . . . ."

Before addressing this argument, we describe relevant aspects of the county's civil service system.

a. The county's civil service system is designed to ensure classified employees are competent and not corrupt

Our high court recently explained, "[Los Angeles] County's charter establishes a civil service system and designates all employment positions as 'unclassified' or 'classified.' [Citations.] Elected officials, heads of County agencies, and other identified executive positions are 'unclassified,' with all remaining positions being 'classified.'[13] [Citation.] By charter, the County 'has a formal civil service system . . . for filling classified positions and fixing the salary and benefits of classified employees.' [Citation.] Civil service rules . . . . are . . . designed to prevent favoritism or corruption by requiring that all employees are uniformly paid based on their qualifications, job duties, and performance."

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13 Deputy petitioners do not claim to have had "unclassified" county positions. Instead, petitioners assert in their opening brief that the three deputy petitioners were "permanent employees *and members of the civil service system of the County*" (italics added), thereby suggesting they were classified employees. That deputy petitioners appealed their discharges to the commission further indicates they were "classified" employees. (See Factual & Procedural Background, part 3, *ante* [noting deputy petitioners appealed to the commission]; see, e.g., L.A. Cnty. Civil Service Rules, rule 18.02(B) [authorizing "a permanent employee" who "is discharged" to "request a hearing before the commission"]; *id.*, rule 2.24 [defining "[e]mployee" for the purposes of the Civil Service Rules as "any person holding a position in the classified service of the county"].)

(*Los Angeles County Employees Retirement Assn. v. County of Los Angeles* (2026) 20 Cal.5th 292, 314 (*Los Angeles County Employees Retirement Assn.*).)

Indeed, the county charter states the "purpose of [the] civil service system" is, inter alia, to "provide County government with a productive, efficient, stable, and representative work force by: [¶] . . . [r]ecruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills relevant to the work to be performed[; and] [¶] . . . [r]etaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected." (See L.A. Cnty. Charter, art. IX, § 30, capitalization omitted from first quotation.)

To that end, section 51 of the charter requires county officers to appoint classified employees "from the eligible civil service list . . . ." (See L.A. Cnty. Charter, art. XII, § 51.) The Civil Service Rules confer upon the director of personnel the responsibility to "[a]dminister the civil service system in accordance with th[e] Civil Service Rules" (see L.A. Cnty. Civil Service Rules, rule 3.01(A)), by, among other things, promulgating and terminating eligible civil service lists (see *id.*, rules 10.01 & 10.05). Civil Service Rules, rule 6.04 permits the director of personnel to "withhold the name of a person from the eligible list" on one of several grounds, including that the person is responsible for "conduct not compatible with the requirements of the position, whether or not it amounts to a crime." (See L.A.

Cnty. Civil Service Rules, rule 6.04(D).)[14] The director of personnel is also authorized to consider an appeal from "[a]n employee who is suspended for up to five days . . . ." (See L.A. Cnty. Civil Service Rules, rule 18.01(C).)

Additionally, as we noted in our prior opinion, section 34 of the charter confers upon the commission authority to act as " 'an appellate body . . . as provided in the Civil Service Rules . . . .' " (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 789, quoting L.A. Cnty. Charter, art. IX, § 34.) The Civil Service Rules, inter alia, authorize the commission to hear permanent employees' appeals of discharges and reductions in rank, grade, or compensation. (See L.A. Cnty. Civil Service Rules, rule 18.02(A)–(C).) The rules also indicate that the commission may hear an employee's challenge to a suspension in excess of five days. (See, e.g., *id.*, rules 4.03(A) & 4.05(A)(1).)

b. Petitioners' implied authority theory is inconsistent with the purpose and structure of the county's civil service system

Petitioners argue that a provision of the County Civil Service Enabling Law (Gov. Code, § 31100 et seq.) requires a county that has adopted a civil service system to enact an ordinance providing that "[a]ny officer or employee in the

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[14] The version of Civil Service Rules, rule 6.04(D) that was in effect in 2019 (i.e., when each deputy petitioner's settlement was purportedly executed) likewise authorized the director of personnel to withhold a person's name from the eligible list if that person was "guilty of conduct not compatible with county employment, whether or not it amounts to a crime." (See L.A. Cnty. Ord. No. 88-0020 § 1 (part), 1988.)

classified civil service may be dismissed, suspended, or reduced in rank or compensation by the appointing authority . . . by a written order, stating specifically the reasons for the action." (Gov. Code, § 31108, subd. (a)(1).)

Petitioners contend that county charter sections 12 and 51; Civil Service Rules, rule 2.03; and county code section 2.02.100 in turn establish that the sheriff is an "appointing power" and "appointing officer" with the power to appoint persons to positions within the department.[15] Petitioners further maintain that Civil Service Rules, rule 18.01(A) authorizes the "appointing power" to suspend an employee, and rule 18.02 permits the "appointing power" to discharge subordinates from county service or reduce them in grade or compensation.[16] They also assert the

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[15] Section 12 of the county charter identifies the sheriff as an elective county officer (see L.A. Cnty. Charter, art. IV, § 12), and section 51 provides that a county officer "shall appoint, from the eligible civil service list, for either permanent or temporary service, all . . . deputies . . . and other persons in the office or department of such officer" (see L.A. Cnty. Charter, art. XII, § 51). Civil Service Rules, rule 2.03 defines " '[a]ppointing power' " as "the person, board, or commission having authority to make appointments to a position" (see L.A. Cnty. Civil Service Rules, rule 2.03), and county code section 2.02.100 similarly defines " '[a]ppointing officer' " as "the officer, board, commission or body having power of appointment to any position in the service of the county" (see L.A. Cnty. Code, § 2.02.100).

[16] Civil Service Rules, rule 18.01(A) provides in relevant part: "Subject to such appeal right as provided in this Rule, an employee may be suspended by the appointing power for up to and including 30 days, pending investigation, filing of charges and hearing on discharge or reduction, or as a disciplinary

following ordinance empowers the sheriff to delegate to his subordinates authority to settle disciplinary appeals pending before the commission: "An appointing officer as defined in Section 2.02.100 of this chapter may delegate to subordinates the exercise of judgment or discretion to impose discipline or take any other personnel action on behalf of the appointing officer." (L.A. Cnty. Code, § 2.04.070.)

Petitioners argue "the ability to *settle* a disciplinary action **that the Sheriff himself previously imposed** on an employee under his command . . . is . . . necessarily incidental to powers expressly otherwise granted the Sheriff or his designees under the above-referenced rules and regulations." They also contend, "[T]here is no reasonable basis for the conclusion that the legislative body of the County has withheld authority from [the] Sheriff to settle disciplinary cases pending Civil Service Commission appeal" because absent that authority, the sheriff could not "rescind or modify his previous disciplinary decision based upon facts discovered during the course of an appeal from such decision."

We acknowledge the facial appeal of petitioners' position. At first blush, one would expect that a government official

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measure." (L.A. Cnty. Civil Service Rules, rule 18.01(A).) As pertinent here, Civil Service Rules, rule 18.02 states, "Before [a] discharge or reduction [of a permanent employee] shall become effective, the employee shall receive a written notice from the appointing power of intent to invoke discharge or reduction, and specific grounds and particular facts therefor. The employee shall then be allowed a reasonable time, not to exceed 10 days, to respond orally or in writing to the appointing power before the discharge or reduction shall become effective." (See L.A. Cnty. Civil Service Rules, rule 18.02(A).)

authorized to appoint and discipline employees would likewise have the discretion to reverse the imposition of discipline and spare the county the expense and delay of litigating the employee's appeal before the commission. We conclude, however, that petitioners' assertion that the sheriff and his chiefs are authorized to settle commission appeals notwithstanding the absence of an express delegation of such authority is contrary to the structure and purpose of the county's civil service system.

As explained above, the county's civil service system is designed to ensure that (1) only competent individuals are classified employees and (2) favoritism and corruption play no role in the hiring and retention of said employees. (See Discussion, part B.1.a, *ante*; see also *Los Angeles County Employees Retirement Assn.*, *supra*, 20 Cal.5th at p. 356 [observing that "[t]he overall aim of the civil service laws is 'to limit corruption and to promote efficiency and economy' "].) The structure of the civil service system effectuates that purpose by dividing authority over the system among various county officials, including the appointing power/officer, the director of personnel, and the commission, the latter being empowered to hear appeals of discipline. (See Discussion, part B.1.a, *ante*.)

Petitioners' expansive interpretation of the sheriff's and his subordinates' authority would disturb the balance struck by the laws governing the county's civil service system. For instance, if the sheriff and his chiefs could rescind a discharge during the pendency of a commission appeal without the consent of the board of supervisors, then sheriff's personnel could bypass the limitations barring the department from hiring classified employees who have engaged in conduct not compatible with county employment. (See Discussion, part B.1.a, *ante* [discussing

L.A. Cnty. Charter, art. XII, § 51 & L.A. Cnty. Civil Service Rules, rules 6.04(D), 10.01, & 10.05].)

Additionally, petitioners acknowledged in their opening brief in *ALADS I* that in 2020, a trial court granted the county's petition for writ of mandate contesting the then-sheriff's attempt to reinstate a former deputy.[17] According to petitioners' *ALADS I* briefing, the county had averred that (1) "one of the Sheriff's first actions after his election was to attempt to rehire [the former deputy]," and (2) the sheriff had attempted to reinstate the former deputy via a settlement of a civil proceeding. Given that the sheriff attempted to reinstate a former deputy who had been discharged during a prior sheriff's tenure, this episode undermines petitioners' intimation that adopting their position would simply allow the sheriff to rescind or modify discipline he "**himself previously imposed**" upon discovering new facts showing the discipline was unwarranted or excessive. To the contrary, embracing petitioners' expansive interpretation of department officials' power would increase the risk of corruption and favoritism the civil service system was designed to avert. Additionally, if, during the appeals process, the sheriff or other department personnel were to discover facts undermining a previously imposed disciplinary decision, we see no reason why the sheriff or other department personnel could not bring that information to the attention of the commission (see, e.g., L.A. Cnty. Civil Service Rules, rule 4.07 [indicating the appointing power has the right to be heard at the hearing on the employee's civil service appeal]), or to the board of supervisors with a

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[17] We, sua sponte, take judicial notice of petitioners' opening brief from *ALADS I*. (Evid. Code, §§ 452, subd. (d), 459.)

recommendation to settle the appeal (see Discussion, part B, *ante* [noting that Gov. Code, §§ 23004 & 23005 confer upon the board authority to make contracts on behalf of the county]).

Furthermore, a ruling that the sheriff and certain of his subordinates may rescind or modify a discharge without approval from the board could empower department officials to obligate the county to pay monetary benefits to the discharged employee. For instance, petitioners allege in the operative pleading, "Pursuant to the Jouzi Settlement Agreement, Deputy Jouzi would not be entitled to back pay *until his reinstatement*" (italics added), thereby suggesting the settlement entitled Jouzi to backpay. Yet, long before the board of supervisors adopted the Civil Service Rules in 1988,[18] the county enacted an ordinance that restricts county counsel's authority such that the official can settle claims or suits without board approval only if "the amount necessary to be expended" by the county "does not exceed the sum of $20,000.00 . . . ."[19] Given that board approval is required before county counsel may settle a claim for more than $20,000, we cannot conclude that in the course of adopting Civil Service Rules authorizing the sheriff and his subordinates to impose discipline, the board intended tacitly to delegate authority to department personnel to incur financial obligations that could significantly exceed the $20,000 limitation.

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[18] (See L.A. Cnty. Civil Service Rules, rule 1.01 [indicating the board of supervisors adopted the Civil Service Rules in 1988].)

[19] (See L.A. Cnty. Code, § 2.14.020, subd. (B) [enacted in 1942 and amended in 1974 and 1982].)

In sum, we reject petitioners' assertion the sheriff and his subordinates have the implied authority to rescind or modify discipline during the pendency of commission appeals.

2. Petitioners do not show that MPP section 3-04/020.80 authorized department personnel to execute the settlements

In *ALADS I*, petitioners argued that MPP section 3-04/020.80 " 'plainly provides authority to the Sheriff's subordinates to settle matters that are pending before the Commission.' " (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 794.) Section 3-04/020.80 provides in relevant part: " 'If discipline has been imposed and the discipline is being appealed to the Civil Service Commission and there are discussions about settling the case, the division chief or division director shall consult with a constitutional policing advisor and then obtain concurrence from the Undersheriff prior to entering into a settlement agreement.' " (*Ibid.*, fn. omitted.)[20] We rejected petitioners' reliance on this MPP provision because, inter alia, "the language [of the provision] is ambiguous" and petitioners had not "establish[ed] that (1) the manual is a proper delegation of authority from the board of supervisors to department personnel to settle appeals of discipline, or (2) the manual otherwise lawfully authorizes department personnel to bind the county to those settlements." (See *ALADS I*, *supra*, at pp. 794–795, fn. omitted.)

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[20] In *ALADS I*, "[n]either side identifie[d the constitutional policing advisor] or describe[d] his or her responsibilities." (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 794, fn. 26.) The same is true in the instant review proceeding.

In this proceeding, petitioners contend MPP section 3-04/020.80 (1) "constitutes the lawful delegation by the Board of Supervisors of authority to the Sheriff [and his subordinates] for executing binding settlement agreements of disciplinary cases" or (2) is a "law" that confers upon department personnel the power to act on behalf of the county for the purposes of Government Code section 23005.

Petitioners contend they alleged in the fourth amended petition that five " '*duly authorized representatives of the Sheriff* " negotiated MPP section 3-04/020.80 with representatives of ALADS pursuant to the MMBA, and that, in July 2018, one or more of those department representatives executed an agreement with ALADS to adopt MPP section 3-04/020.80. From that premise, petitioners argue, "[P]ursuant to [Los Angeles] County Code section 5.04.030(O), th[at] agreement became binding upon execution by [the aforementioned] management representatives and representatives of ALADS," meaning no board approval was required for the county to be bound by MPP section 3-04/020.80, which provision they claim authorizes division chiefs and division directors to settle commission appeals.

We note petitioners do not argue the MMBA, as such, granted the sheriff's department officials executing the alleged July 2018 agreement authority to bind the county to MPP section 3-04/020.80. Rather, they rely upon a provision of the MMBA that states: " '*The governing body of a public agency, or such* boards, commissions, *administrative officers or other representatives as may be properly designated by law or by such governing body, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of such recognized employee organizations*, as

defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.' " (Quoting Gov. Code, § 3505, italics supplied by petitioners.) Thus, whether the representatives of the sheriff's department who signed the July 2018 agreement could bind the county to MPP section 3-04/020.80 turns on whether the board of supervisors or a law clothed these department personnel with authority to bind the county to this manual provision.

As we noted above, petitioners argue county code section 5.04.030, subdivision O authorized the sheriff's personnel to sign the July 2018 agreement on the county's behalf. That ordinance provides in relevant part: "Agreements concerning any matters within the exclusive jurisdiction of the board of supervisors or concerning any matters not otherwise delegated by the board shall become binding when executed by the board of supervisors and affected certified employee organizations. Agreements concerning matters within the exclusive jurisdiction of management representatives, or otherwise delegated to them by the board, shall become binding when executed by said affected management representatives and affected certified employee organizations." (L.A. Cnty. Code, § 5.04.030, subd. O.)

This ordinance did not delegate authority to sheriff's representatives to execute on behalf of the county the alleged July 2018 agreement to adopt MPP section 3-04/020.80. County code section 5.04.030, subdivision O simply provides that the agreement would have become binding upon execution if the matter were within those department representatives' "exclusive jurisdiction" or such contractual authority had been "delegated to

them by the board . . . ." (See L.A. Cnty. Code, § 5.04.030, subd. O.) Petitioners do not direct us to (1) any law granting the department representatives exclusive jurisdiction to determine whether division chiefs or division directors may settle disciplinary appeals without board approval,[21] or (2) any delegation of this authority from the board to these department officials.

In sum, petitioners fail to demonstrate MPP section 3-04/020.80 "is a proper delegation of authority from the board of supervisors to department personnel to settle appeals of discipline" (see *ALADS I*, *supra*, 94 Cal.App.5th at p. 795, quoting Gov. Code, § 23005), or constitutes the sort of "law" that for the purposes of Government Code section 23005 could confer

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[21] Petitioners cite Civil Service Rules, rule 18.01(A) for the proposition that "[t]he proposed adoption of MPP section [3-04/020.80] was within the jurisdiction of management representatives because it concerned matters affecting the disciplinary process." (See also L.A. Cnty. Civil Service Rules, rule 18.01(A) [providing in relevant part that "an employee may be suspended by the appointing power for up to and including 30 days . . . as a disciplinary measure"].) They do not claim — let alone offer analysis and citation to authority demonstrating — that the manual provision was within "the *exclusive* jurisdiction of [the] management representatives" who allegedly executed the July 2018 agreement requiring adoption of MPP section 3-04/020.80. (See L.A. Cnty. Code, § 5.04.030, subd. O, italics added; see also *Niblett*, *supra*, 116 Cal.App.5th at p. 466 [" ' "[W]e may disregard conclusory arguments that are not supported by pertinent legal authority or fail to disclose the reasoning by which [a party] reached the conclusions he wants us to adopt." ' "].)

upon the sheriff and his subordinates the power to act on behalf of the county in executing such settlements.[22]

3. Petitioners do not establish the county is bound by an alleged past practice of allowing department personnel to settle disciplinary appeals

Petitioners maintain that in the fourth amended petition, they alleged, "[S]ince at least 1980," there has been "a lawful, consistent practice of resolving . . . disciplinary disputes[ ] by the means of executing a written settlement agreement between the Captain or Chief making the disciplinary decision and the individual ALADS member affected by the disciplinary decision." According to petitioners, they also averred, "[D]uring the same period of time, it has never been necessary or required to obtain the approval or agreement of the County Counsel, Director of Personnel or Board of Supervisors in order for the Sheriff's Department and an ALADS member to negotiate and execute a lawfully binding and enforceable settlement . . . [of] a dispute concerning a disciplinary matter."

Petitioners argue these allegations establish a binding "past practice of the Sheriff's Department entering into settlement agreements with Deputy Sheriffs regarding disciplinary appeals pending at the Civil Service Commission" because this alleged "practice [was] (1) unequivocal; (2) clearly enunciated and acted upon; and (3) readily ascertainable over a

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[22] Given this conclusion, we do not address whether petitioners have allayed our concern from *ALADS I* that "the language at issue [from MPP section 3-04/020.80] is ambiguous." (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 794.)

reasonable period of time as a fixed and established practice accepted by both parties." (Citing *Riverside Sheriff's Assn. v. County of Riverside* (2003) 106 Cal.App.4th 1285, 1291 (*Riverside Sheriff's Assn.*).) As explained below, petitioners' argument rests on the implied and unsupported premise that the MMBA barred the county from abolishing its supposed past practice of allowing chiefs and captains to settle pending disciplinary appeals.

As a preliminary matter, the county asserts we held in *ALADS I* that "the mere allegation of past practice, standing alone, does not establish 'that the chiefs executing [the settlements] were "acting under authority of the board or authority conferred by law" for the purposes of Government Code section 23005.' [Citation.]" (Citing *ALADS I*, *supra*, 94 Cal.App.5th at pp. 794, 801.) The county misinterprets our prior opinion.

In *ALADS I*, we rejected petitioners' argument that MPP section 3-04/020.80 conferred upon the chiefs authority to execute the settlement agreements. (See *ALADS I*, *supra*, 94 Cal.App.5th at pp. 794–796.) Petitioners did not argue — and, consequently, we did not address whether — a past practice could give rise to authority to contract on behalf of the county under Government Code section 23005. (See *ALADS I*, *supra*, at pp. 794–796.) Instead, we simply remarked the trial court should have afforded petitioners an opportunity to amend their initial pleading because with further discovery, petitioners "may [have] be[en] able to ascertain the basis (if any) for" the department's alleged "long-standing view that the sheriff and his subordinates are authorized to settle appeals before the commission." (See *id.* at p. 801.)

We note the sole authority on which petitioners rely for their claim the county is bound by this alleged past practice is *Riverside Sheriff's Assn.*, *supra*, 106 Cal.App.4th 1285. There, a former sheriff's deputy and an employee organization (Riverside Sheriff's Association or RSA) petitioned for declaratory relief and a writ of mandate, alleging, inter alia, that Riverside County had violated the MMBA by failing to meet and confer with RSA before abrogating a past practice of granting annual step salary increases for deputies who had been placed on leave due to certain work-related disabilities under Labor Code section 4850. (See *Riverside Sheriff's Assn.*, *supra*, at pp. 1287–1289, 1292.) Riverside County placed the former deputy, who had been injured in the course of duty, on leave for approximately eight months, and, several months after she returned to work, the county denied her annual step salary increase "because she had been absent [during much of the year] and her performance could not be evaluated . . . ." (See *id.* at pp. 1287–1288.)

On appeal from the trial court's judgment denying the petition for declaratory relief and for writ of mandate, the reviewing court acknowledged that the MMBA "requires a public agency's governing body to 'give reasonable written notice to each recognized employee organization affected of any ordinance, rule, resolution, or regulation directly relating to matters *within the scope of representation* proposed to be adopted by the governing body[,] . . . give such recognized employee organization the opportunity to meet with the governing body[,]' " and "meet and confer in good faith with the representatives of a recognized employee organization before determining a policy or course of action '*regarding wages, hours, and other terms and conditions of employment.*' [Citation.]" (See *Riverside Sheriff's Assn.*, *supra*,

106 Cal.App.4th at pp. 1289–1290, quoting Gov. Code, §§ 3504.5 & 3505, italics added.)

Further, the Court of Appeal adopted the Public Employee Relations Board's (PERB's) three-part test for determining whether an employer had a past practice, "the alteration of which requires compliance with the MMBA." (See *Riverside Sheriff's Assn.*, *supra*, 106 Cal.App.4th at p. 1291.) Under that test, the practice needs to have been " '(1) unequivocal; (2) clearly enunciated and acted upon; and (3) readily ascertainable over a reasonable period of time as a fixed and established practice accepted by both parties. [Citation.] . . . ' [Citation.]" (See *ibid.*)

The *Riverside Sheriff's Assn.* court found, "While [there was] evidence . . . some deputies obtained step increases while on [Labor Code section] 4850 leave without having worked a sufficient time to be evaluated, [the evidence did] not establish that such a practice was unequivocal, regular and consistent, clearly enunciated or readily ascertainable over a reasonable period of time." (See *Riverside Sheriff's Assn.*, *supra*, 106 Cal.App.4th at p. 1292.) The reviewing court thus affirmed on the ground the former deputy and RSA "did not meet their burden of establishing that a binding past practice to automatically grant step increases to deputies on [Labor Code section] 4850 leave existed." (See *id.* at pp. 1292–1293.)

Critically, *Riverside Sheriff's Assn.* explained, "A public agency's action must have a significant effect on wages, hours and other terms and conditions of employment before it will be subject to the provisions of the MMBA." (See *Riverside Sheriff's Assn.*, *supra*, 106 Cal.App.4th at p. 1290.) On its face, the alleged past practice at issue in *Riverside Sheriff's Assn.* would have had a significant effect on wages for the purposes of the MMBA if the

former deputy and RSA had shown the practice satisfied PERB's three-part test.

For further guidance regarding the applicability of the MMBA's meet-and-confer requirement, we turn to our high court's decision in *Claremont Police Officers Assn.*, *supra*, 39 Cal.4th 623. There, the City of Claremont decided to implement a study that required its police personnel to fill out a form with driver information when conducting vehicle stops in an effort to determine whether officers were engaging in racial profiling. (See *id.* at pp. 628–629.) The officers' recognized employee organization (Claremont Police Officers Association or the Association) requested that the City meet and confer regarding the study "because [the Association] asserted 'the implementation of policy and procedures in regard[ ] to this area falls under California Government Code section 3504.' " (See *ibid.*)[23] After the City denied that request, the Association filed a petition to compel the City not to implement the study until it met and conferred in good faith under the MMBA. (See *Claremont Police Officers Assn.*, *supra*, 39 Cal.4th at p. 629.) The Court of Appeal reversed the trial court's denial of the petition, concluding that the City's implementation of the study was subject to the MMBA because it " 'significantly affect[ed] officers'

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[23] Government Code section 3504 provides, "The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order." (Gov. Code, § 3504.)

working conditions, particularly their job security and freedom from disciplinary action, their prospects for promotion, and the officers' relations with the public.' " (See *id.* at pp. 629–630.)

On review, our high court articulated "a three-part inquiry" for determining whether an employer's action falls within the "scope of representation" of the recognized employee organization such that it is subject to the MMBA's duty to meet and confer in good faith. (See *Claremont Police Officers Assn.*, *supra*, 39 Cal.4th at pp. 628, 630, 638.) "First, we ask whether the management action has 'a significant effect on the wages, hours, or working conditions of the bargaining-unit employees.' [Citation.] If not, there is no duty to meet and confer. [Citations.] Second, we ask whether the significant and adverse effect arises from the implementation of a fundamental managerial or policy decision. If not, then . . . the meet-and-confer requirement applies. [Citation.] Third, if both factors are present — if an action taken to implement a fundamental managerial or policy decision has a significant and adverse effect on the wages, hours, or working conditions of the employees — we apply a balancing test. The action 'is within the scope of representation only if the employer's need for unencumbered decisionmaking in managing its operations is outweighed by the benefit to employer-employee relations of bargaining about the action in question.' [Citation.]" (*Id.* at p. 638.)[24]

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[24] We acknowledge PERB recently decided that *Claremont Police Officers Assn.*'s balancing test (i.e., the third prong) applies only to a certain subset of management actions, to wit, " 'decisions that directly affect employment, such as eliminating jobs, . . . [that] involve "a change in the scope and direction of the enterprise, or . . . the employer's "retained freedom to manage its

Before applying this three-part test to the case before it, the Supreme Court explained, "Both parties agree that the City's decision to take measures against racial profiling, specifically its *decision to implement* the [s]tudy as a necessary first step, is a fundamental managerial or policy decision" that "is outside the scope of representation [citation], and is excepted from [the MMBA's] meet-and-confer requirement." (See *Claremont Police Officers Assn.*, *supra*, 39 Cal.4th at pp. 628, 632, italics added.) Conversely, the high court found that "the City's *implementation* of the [s]tudy, requiring officers to fill out the [f]orms in order to collect data on possible racial profiling," had to be analyzed to determine whether the City was obligated to meet and confer with the Association. (See *id.* at p. 635, italics added.)

The Supreme Court found the City's implementation of the study "did not have a significant and adverse effect on the officers' working conditions." (*Claremont Police Officers Assn.*, *supra*, 39 Cal.4th at p. 638.) The court explained the study " 'require[d] slightly more information to be collected by the officer than required in completing the citation or arrest report[,]' " and "officers may complete [the f]orm in about two minutes and may complete between four and six such [f]orms in a 12-hour

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affairs unrelated to employment[.]" ' . . . [Citation.]" (See *Association for Los Angeles Deputy Sheriffs v. County of Los Angeles* (2024) 106 Cal.App.5th 982, 997–998 & fn. 6, citing, inter alia, *Santa Clara County District Attorney Investigators' Association v. County of Santa Clara* (2021) PERB Dec. No. 2799-M.) We do not decide whether PERB's decision is correct because as explained later in this part, petitioners do not develop their implicit contention that the MMBA constrained the county's decision to abandon its alleged practice of allowing department personnel to settle commission appeals.

shift." (See *id.* at pp. 638–639.) Because "the impact on the officers' working conditions was de minimis," the high court "conclude[d] the City was not required to meet and confer [citation] with the Association before implementing the [s]tudy." (See *ibid.*) "Because there was no significant and adverse effect, [the high court did not need to] balance the City's need for unencumbered decisionmaking . . . against the benefit to employer-employee relations from bargaining about the subject." (*Id.* at p. 639.) In arriving at this conclusion, the *Claremont Police Officers Assn.* court "emphasize[d] the narrowness of [its] holding:" "In determining that the City was not required to meet and confer with the Association before implementing the [s]tudy, [the high court did] not decide whether such a duty would exist should issues regarding officer discipline, privacy rights, and other potential effects [citation], arise after the City implements the [s]tudy." (See *ibid.*)

Conspicuously absent from petitioners' appellate briefing is any analysis or citation to legal authority demonstrating that the county's purported abrogation of a past practice of permitting chiefs and captains to settle disciplinary appeals without board approval satisfies the threshold requirement of MMBA applicability discussed in *Claremont Police Officers Assn.* and *Riverside Sheriff's Assn.* More specifically, petitioners do not argue, let alone demonstrate, that the alleged abrogation of this purported past practice "significantly and adversely affects a bargaining unit's wages, hours, or working conditions" and does not have a "de minimis" impact on such matters. (See *Claremont Police Officers Assn.*, *supra*, 39 Cal.4th at pp. 637–638; see also *Riverside Sheriff's Assn.*, *supra*, 106 Cal.App.4th at p. 1290

[acknowledging this requirement].)[25] Petitioners also do not address whether the supposed rescission of that past practice constitutes (1) a fundamental managerial or policy decision that is excepted from the MMBA, (2) the implementation of such a

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[25] In a footnote in the section of their opening brief in which they argue MPP section 3-04/020.80 is binding on the county, petitioners cite two PERB decisions for the sweeping proposition that "[i]ssues involving discipline are mandatory subjects of bargaining under the MMBA." (Citing *San Bernardino Teachers Assn. v. San Bernardino City Unified Sch. Dist.* (1982) PERB Dec. No. 255, p. 11; *American Federation of State, County & Municipal Employees Local 3299 et al. v. Regents of the Univ. of California* (2021) PERB Dec. No. 2783-H, p. 30.) Petitioners do not argue — let alone offer analysis demonstrating — these decisions hold that recission of the county's alleged past practice of allowing chiefs and captains to settle disciplinary appeals without board approval is subject to the MMBA's meet-and-confer requirement. Furthermore, in the absence of any discussion of these PERB decisions in petitioners' appellate briefing, we fail to discern why petitioners believe they are relevant to the instant case. (See *San Bernardino Teachers Assn.*, *supra*, PERB Dec. No. 255, p. 11 [indicating that PERB addressed whether "rules of conduct which subject employees to disciplinary action are subject to negotiation both as to criteria for discipline and as to procedure to be followed"]; *American Federation of State, County & Municipal Employees Local 3299*, *supra*, PERB Dec. No. 2783-H, pp. 30–31 [indicating that PERB addressed whether an employer failed to "meet and confer in good faith over negotiable effects of [its] decision to mandate influenza vaccinations"]; see also *United Grand Corp. v. Malibu Hillbillies, LLC* (2019) 36 Cal.App.5th 142, 165, fn. 6 (*United Grand Corp.*) [" '[A]n appellant is required to not only cite to valid legal authority, but also explain how it applies in his case.' "].)

fundamental managerial or policy decision that is potentially subject to the MMBA, or (3) neither.

In short, regardless of whether petitioners alleged facts showing a past county practice that satisfies the three-part PERB test discussed in *Riverside Sheriff's Assn.*, they fail to show that abrogating an alleged past practice of allowing chiefs and captains to settle commission appeals without board approval is subject to the MMBA's meet and confer obligation. Accordingly, petitioners fail to demonstrate the MMBA prohibited the county from abrogating unilaterally that alleged past practice. (See Standards of Review, *ante* [noting petitioners must affirmatively demonstrate error with cogent argument and legal analysis to attain appellate relief].)

In light of our resolution of this issue, we do not address petitioners' argument that they sufficiently alleged a past practice satisfying the three-pronged PERB test described in *Riverside Sheriff's Assn.*, including their claim that a February 2021 report from the Los Angeles County Office of Inspector General shows that such a past practice existed.

4. The county is not collaterally estopped from denying the chiefs' authority to execute the settlements

" 'An earlier ruling "will be given collateral estoppel effect when (1) the issue is identical to that decided in a former proceeding; (2) the issue was actually litigated and (3) necessarily decided; (4) the doctrine is asserted against a party to the former action or one who was in privity with such a party; and (5) the former decision is final and was made on the merits." ' [Citation.]" (*Angel Lynn Realty, Inc. v. George* (2025) 114 Cal.App.5th 655, 664.)

Petitioners seem to argue that the unpublished decision in *Assn. for L.A. Deputy Sheriffs v. Baca* (Nov. 13, 2013, B238141) [nonpub. opn.] [2013 WL 6000970] (*Baca*) collaterally estops the county from denying that the chiefs were authorized to execute the settlements. It does not. As explained below, *Baca* does not address the issue before us.

In *Baca*, ALADS entered into a settlement agreement with the department in 1991 to resolve a civil action and an unfair labor practice proceeding brought by ALADS. (See *Baca*, *supra*, B238141 [2013 WL 6000970 at p. *1].) In the unfair labor practice proceeding, ALADS had challenged the department's abrogation of its longstanding practice of postponing administrative investigations of potential criminal conduct perpetrated by sworn officers until the department's criminal investigation, and, if charges were filed, the trial and any appeals, were completed. (See *ibid.*) The 1991 settlement, which was executed by ALADS's general counsel and the department's director of employee relations, "provided the Department would not require a deputy subject to concurrent criminal and administrative investigations arising out of the same incident to submit to an administrative interrogation until it was determined criminal charges would not be filed, . . . or the deputy was arraigned on the criminal charge or the deputy requested a continuance on the criminal charge . . . ." (See *id.* at pp. *2, *4.)

Between December 2006 and August 2009, the department informed ALADS that it planned to interview deputies involved in shootings prior to the district attorney's determination regarding whether criminal charges would be filed, and the department attempted to renegotiate the 1991 settlement with ALADS. (See *Baca*, *supra*, B238141 [2013 WL 6000970 at pp. *1,

*3].) ALADS later sued the department and the county, seeking specific performance of the 1991 settlement agreement and a declaration of the agreement's continuing validity. (See *id.* at p. *3.) The trial court entered judgment against ALADS after a bench trial on the grounds the settlement was terminable at will after a reasonable period of time, and a reasonable period had elapsed by the time the department provided ALADS with reasonable notice of termination. (See *id.* at pp. *1, *4–5.)

On appeal, our colleagues in Division Seven reversed the judgment and remanded to the trial court with directions to declare the continuing validity of the 1991 settlement agreement and order other appropriate relief. (See *Baca*, *supra*, B238141 [2013 WL 6000970 at pp. *1, *9].) First, the reviewing court rejected the trial court's conclusion that the 1991 settlement was terminable upon reasonable notice after a reasonable period of time. (See *id.* at pp. *1, *5–6.)

The *Baca* court also rejected the county's argument that the 1991 settlement was void and unenforceable because there was no evidence that the department's director of employee relations had attained board approval to execute the agreement or that he was otherwise authorized to enter into it. (See *Baca*, *supra*, B238141 [2013 WL 6000970 at pp. *7–9], citing, inter alia, Gov. Code, § 23005.) Instead, the court ruled the director of employee relations had "actual and ostensible authority to negotiate and execute the 1991 settlement agreement." (See *Baca*, *supra*, at p. *8.) The reviewing court explained that the county had conceded the director of employee relations was authorized to execute the 1991 settlement so long as the agreement was interpreted such that it was terminable with reasonable notice after a reasonable period of time had elapsed.

(See *id.* at pp. *7–8 [discussing the "Department['s]" concession]; see also *id.* at p. *3, & fn. 3 [noting that references to the "Department" in *Baca* refer also to the county].) The court then held the doctrine of equitable estoppel barred the county from contesting the validity of the settlement because "both parties acted for nearly two decades under the terms of the agreement" and the court was "not dealing with a public works contract, . . . no expenditure of public funds [was] involved[, and] . . . applying estoppel [would not] directly contravene statutory limitations on the county's authority." (See *id.* at pp. *8–9.)

Petitioners maintain the *Baca* court "addressed the same statute involved in the instant matter, namely Government Code section 23005, as well as the **actual and ostensible authority** for a Sheriff's Department official to negotiate a settlement agreement . . . ." The *Baca* court held that the director of employee relations was authorized to enter into a settlement on behalf of the county as to ALADS's unfair labor practice charge and civil action concerning the department's administrative investigations of deputies who could be subject to criminal investigation. (See *Baca*, *supra*, B238141 [2013 WL 6000970 at pp. *1, *4, *7–9].) The court thus had no occasion to address whether department chiefs may settle commission appeals without board approval. Because the *Baca* court did not decide the issue presented here, the decision does not collaterally estop the county from litigating the validity of the settlements before us.

C. Petitioners Do Not Demonstrate that They Pleaded Viable Promissory Estoppel Causes of Action

We explained in *ALADS I* that " '[p]romissory estoppel may not be invoked against a governmental entity if " 'it would

operate to defeat the effective operation of a policy adopted to protect the public.' [Citation.]" [Citation.]' [Citation.]" (*ALADS I*, *supra*, 94 Cal.App.5th at pp. 796–797.) We held, "Promissory estoppel . . . is not available to defeat the public's interest in ensuring that only the board of supervisors, its agents and officers, and other officials acting under authority conferred by law have the power to incur liability on behalf of the county." (*Id.* at p. 797.) For that reason, we concluded the chiefs' lack of authority to execute the settlements was fatal to petitioners' promissory estoppel causes of action. (See *id.* at pp. 796–797.)

In the instant review proceeding, petitioners complain that "the lower court failed to address [their] causes of action for promissory estoppel in its Order sustaining the Demurrer." In advancing this argument, petitioners overlook the general principle that "[an] appellate court reviews the trial court's *decision*, not its rationale." (See *Fox v. JAMDAT Mobile, Inc.* (2010) 185 Cal.App.4th 1068, 1079.) Petitioners' promissory estoppel claims fail because the chiefs lacked authority to execute the settlements. (See *ALADS I*, *supra*, 94 Cal.App.5th at pp. 796–797; see also Discussion, part B, *ante* [explaining that petitioners have not shown the chiefs had this authority].) Because petitioners' causes of action for promissory estoppel are defective, we need not determine whether the trial court should have separately addressed those causes of action in its written order.

D. Any Error on the Part of the Trial Court In Sustaining the Demurrer to the Declaratory Relief Cause of Action Was Harmless

In their tenth cause of action for declaratory relief, petitioners allege: "An actual controversy has arisen and now

exists between ALADS, Jouzi, Alvarado, and Aragon on the one hand, and [the county], on the other hand, concerning [the county's] obligation to comply with the terms of settlement agreements [the county] enter[s] into, by and through the Department, during the pendency of administrative discipline cases such as the Jouzi Settlement Agreement, Alvarado Settlement Agreement and Aragon Settlement Agreement. [Petitioners] contend that [the county is] obligated to comply with the terms of such settlement agreements. [The county] contend[s] that [it is] not legally obligated to comply with the terms of such settlement agreements."[26]

According to petitioners, "even if [they] are not entitled to a judgment in their favor" on their declaratory relief cause of action, the demurrer to this claim should have been overruled because they alleged "an actual controversy . . . ." We explained in *ALADS I*, however, that this "type of 'technical' error is 'harmless if,' as is the case here, 'the substantive claim' underlying the request for declaratory relief 'is legally untenable.' [Citation.]" (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 800.) Thus, any error on the part of the trial court in sustaining the

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[26] Petitioners also seek injunctive relief in connection with their tenth cause of action. By failing to address this claim for injunctive relief in their appellate briefing, petitioners have abandoned any claim the trial court erred in sustaining the demurrer to this aspect of their tenth cause of action. (See *ALADS I*, *supra*, 94 Cal.App.5th at p. 798, fn. 33 [ruling petitioners had likewise abandoned their claim for injunctive relief by failing to discuss it in their briefing].)

demurrer to the tenth cause of action does not warrant reversal.[27]

DISPOSITION

We exercise our discretion to construe this appeal as a petition for writ of mandate. That writ petition is denied. Real parties in interest are awarded their costs in this review proceeding.

CERTIFIED FOR PUBLICATION.

BENDIX, J.

We concur:

ROTHSCHILD, P. J. WEINGART, J.

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[27] We thus do not address the county's argument that ALADS lacks associational standing to seek declaratory relief.

Additionally, petitioners do not claim in this review proceeding that the trial court abused its discretion in denying leave to amend. They thus forfeit any such claim of error. (See *United Grand Corp.*, *supra*, 36 Cal.App.5th at p. 156 [holding that if a party fails to support a claim of error with cogent argument, the reviewing court may deem the claim forfeited].)