

FILED  
SUPREME COURT  
STATE OF WASHINGTON  
7/25/2019 2:29 PM  
BY SUSAN L. CARLSON  
CLERK

Supreme Court No. 97306-7  
Okanogan Co. Sup. Ct. Cause No.: 19-2-00179-24

---

**IN THE SUPREME COURT OF  
THE STATE OF WASHINGTON**

---

In Re:

The Matter of Recall Charges Against Christa “Teagan” Levine  
City Council Member of the City of Tonasket

---

RESPONDENT’S BRIEF

---

Dale L. Crandall, WSBA #32168  
Dale L. Crandall Attorney at Law, PLLC  
Attorney for Respondent,  
Christa “Teagan” Levine

P.O. Box 173  
Loomis, WA 98827  
(509) 223-3200 (P)  
(888) 875-1795 (F)  
dcrandall@crandall-law.com

## TABLE OF CONTENTS

A. INTRODUCTION.....	1
B. <b>RESPONSE TO ASSIGNMENT OF ERRORS AND ISSUES FOR REVIEW</b> .....	2
C. <b>RESPONSE STATEMENT OF THE CASE</b> .....	3
D. <b>RESPONDENT’S ARGUMENT</b> .....	3
1. <u>Response to Appellant’s First Assignment of Error and Issue for Review</u> .....	7
2. <u>Response to Appellant’s Second Assignment of Error and Issue for Review</u> .....	9
a. <u>General Argument as to all Charges: All the alleged actions of the Tonasket City Council were lawful, and authorized by RCW 35A.11.020</u> .....	10
b. <u>General Argument as to all Charges: No specific evidence is submitted of intention to act unlawfully</u> .....	11
c. <u>Specific Argument as to Charges</u> .....	11
1. <b>Response to Charge 1: Attempting to abscond with the Mayor’s hiring/firing/personnel authority</b> .....	11
2. <b>Response to Charge 2: Conspiring to terminate the City Attorney and Cause the Mayor of Tonasket to resign as part of an illegal quorum</b> .....	12
3. <b>Response to Charge 3: Conspiring to disband the Tonasket Police Department in favor of a contract for police services with the Okanogan County Sheriff; and compromising the integrity of investigative materials and evidence in the process</b> .....	15
4. <b>Response to Charge 4: Improperly withholding public Records</b> .....	17
5. <b>Response to Charge 5: Filing a false and misleading police report with the Okanogan County Sheriff’s Office related to the performance of her duties as Councilwoman</b> .....	17
E. <b>CONCLUSION</b> .....	19

## TABLE OF AUTHORITIES

### Cases

<i>Cathcart v. Andersen</i> , 10 Wn.App. 429, 436-37, 517 P.2d 980 (1974).....	5, 11
<i>Chandler v. Otto</i> , 103 Wn.2d 268, 274 (1984).....	5, 6
<i>Citizens Alliance v. San Juan County</i> , 184 Wn.2d 429, 444 (2015).....	14
<i>Recall of Ackerson</i> , 143 Wn.2d 366, 372, 20 P.3d 930 (2001).....	4, 6
<i>Recall of Anderson</i> , 131 Wn.2d 92, 95, 929 P.2d 410 (1997).....	8
<i>Recall of Beasley</i> , 128 Wn.2d 419, 427, 908 P.2d 878 (1996);.....	4
<i>Recall of Boldt</i> , 187 Wn.2d 542, 548, 386 P.3d 1104, 1109 (2017).....	3, 5, 8, 11
<i>Recall of Heiberg</i> , 171 Wn.2d 771, 778, 257 P.3d 565 (2011).....	5, 15
<i>Recall of Kast</i> , 144 Wn.2d 807, 813, 31 P.3d 677 (2001).....	4
<i>Recall of Pearsall-Stipek</i> , 141 Wn.2d 756, 764, 10 P.3d 1034 (2000)....	4, 5
<i>Recall of Pepper</i> , 189 Wn. 2d 546, 403 P.3d 839, 845 (Wash. 2017).....	6
<i>Recall of Reed</i> , 156 Wn.2d 53, 58, 124 P.3d 279 (2005).....	6
<i>Recall of Sandhaus</i> , 134 Wn.2d 662, 668-69, 953 P.2d 82 (1998).....	4
<i>Recall of Telford</i> , 166 Wn.2d 148, 158, 206 P.3d 1248 (2006).....	4
<i>Recall of Wasson</i> , 149 Wn.2d 787, 791, 72 P.3d 170 (2003).....	4, 8
<i>Recall of West</i> , 155 Wn.2d 659, 665, 121 P.3d 1190 (2005).....	4

### Statutes

RCW 29A.56.110.....	4, 6
RCW 29A.56.140.....	1, 2, 4, 7
RCW 35A.11.020.....	10
RCW 42.30.020(3).....	13
RCW 42.30.020(4).....	14
RCW 42.30.120.....	5

### Court Rules

RAP 10.3(a)(4) and (g).....	2, 3, 7, 18
RAP 10.3(a)(6).....	9
RAP 10.3(g).....	9
RAP 10.3.....	10

## A. INTRODUCTION

This is an appeal of a Superior Court dismissal of a Petition declaring charges for recall of a city council member after hearing pursuant to RCW 29A.56.140<sup>1</sup>.

The list of charges in the Ballot Synopsis are:

**Charge 1:** Attempting to abscond with the Mayor's hiring/firing/personnel authority.

**Charge 2:** Conspiring to terminate the City Attorney and Cause the Mayor of Tonasket to resign as part of an illegal quorum.

**Charge 3:** Conspiring to disband the Tonasket Police Department in favor of a contract for police services with the Okanogan County Sheriff; and compromising the integrity of investigative materials and evidence in the process.

---

<sup>1</sup> RCW 29A.56.140 Determination by superior court—Correction of ballot synopsis. Within fifteen days after receiving the petition, the superior court shall have conducted a hearing on and shall have determined, without cost to any party, (1) whether or not the acts stated in the charge satisfy the criteria for which a recall petition may be filed, and (2) the adequacy of the ballot synopsis. The clerk of the superior court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the sufficiency of the charges and the adequacy of the ballot synopsis. The court shall not consider the truth of the charges, but only their sufficiency. An appeal of a sufficiency decision shall be filed in the supreme court as specified by RCW 29A.56.270. The superior court shall correct any ballot synopsis it deems inadequate. Any decision regarding the ballot synopsis by the superior court is final. The court shall certify and transmit the ballot synopsis to the officer subject to recall, the person demanding the recall, and either the secretary of state or the county auditor, as appropriate.

**Charge 4:** Improperly withholding public records.

**Charge 5:** Filing a false and misleading police report with the Okanogan County Sheriff's Office related to the performance of her duties as Councilwoman.

**B. RESPONSE TO ASSIGNMENT OF ERRORS AND ISSUES FOR REVIEW**

1. Appellant's First Assignment of Error and Issue for Review is, "Whether the Superior Court erred in exceeding its limited factfinding functions, if any, under RCW 29A.56.140."

That issue (factfinding beyond factual sufficiency of the charges) is not material to determining the sufficiency of recall charges, and this Assignment of Error is not directed to any particular charge, finding, or ruling, as required RAP 10.3(a)(4) and (g).

2. Appellant's Second Assignment of Error and Issue for Review is, "Whether the recall charges, accepted as true, establish a legal and factual basis for recall." That question is not the whole standard for court approval of recall charges, because "sufficiency" (not mentioned in this Assignment and Issue) requires more than simply an untested reading of the declarative conclusory charges – instead, "sufficiency" requires prima facie showings of the

elements of each charge as the statutes and case law have determined them to be, which determination may be derived from non-controverted facts submitted by both the Petitioner and the responding official. Further, this Assignment of Error is not directed to any particular charge, finding, or ruling, as required RAP 10.3(a)(4) and (g).

### **C. RESPONSE STATEMENT OF THE CASE**

Respondent accepts the first paragraph Appellant’s Statement of the Case. At the hearing, the Superior Court considered Declarations submitted by the Petitioner (CP 104), and Declarations of Respondent Christa “Teagan” Levine (CP 137 - 142), Jensen Sackman (CP 129-131), Michael Howe (CP 132-136), and Alice Attwood (CP 143-145).

### **D. RESPONDENT’S ARGUMENT**

#### **General Analysis**

The Washington Supreme Court provided the analysis for the recall of an elected official in *In the Matter of the Recall of Marc Boldt, Clark County Councilor, et al.*, 187 Wn.2d 542, 548, 386 P.3d 1104, 1109 (Wash. 2017). *Recall of Boldt* stated that:

“Elected officials in Washington may be recalled for malfeasance, misfeasance, or

violation of oath of office. Wash. Const. art. I, § § 33-34; RCW 29A.56.110.

Courts act as a gateway to ensure that charges are factually and legally sufficient before they are placed before the voters, but our role is not to evaluate the truthfulness of those charges. RCW 29A.56.140; *In re Recall of Kast*, 144 Wn.2d 807, 813, 31 P.3d 677 (2001) (citing *In re Recall of Beasley*, 128 Wn.2d 419, 427, 908 P.2d 878 (1996); *In re Recall of Pearsall-Stipek*, 141 Wn.2d 756, 764, 10 P.3d 1034 (2000)).

Recall petitions must be both *legally and factually sufficient*, and courts must ensure that *persons submitting the charges "have some knowledge of the facts underlying the charges."* *In re Recall of Wasson*, 149 Wn.2d 787, 791, 72 P.3d 170 (2003) (citing *In re Recall of Ackerson*, 143 Wn.2d 366, 372, 20 P.3d 930 (2001)).

In determining whether a petition is factually sufficient, we assume the veracity of allegations made so long as they are *reasonably specific and detailed*. See *In re Recall of Sandhaus*, 134 Wn.2d 662, 668-69, 953 P.2d 82 (1998). " Voters may draw reasonable inferences from the facts; the fact that conclusions have been drawn by the petitioner is not fatal to the sufficiency of the allegations." *In re Recall of West*, 155 Wn.2d 659, 665, 121 P.3d 1190 (2005). *Where commission of an unlawful act is alleged, the petitioner must show facts indicating the official had knowledge of and intent to commit an unlawful act.* *In re Recall of Telford*, 166 Wn.2d 148, 158, 206 P.3d 1248 (2006). (emphasis added)

Likewise, a recall petition is legally

sufficient if it "state[s] with specificity substantial conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office." *Chandler*, 103 Wn.2d at 274. *An appropriate exercise of discretion does not constitute grounds for recall. Id.*" (emphasis added) (*Boldt* at 548-549)...

Where a recall petition alleges that an "official committed an unlawful act, factual sufficiency also requires that the petition contain a factual basis for both the proposition that the official intended to commit the act and '*that the official intended to act unlawfully.*'" *In re Recall of Heiberg*, 171 Wn.2d 771, 778, 257 P.3d 565 (2011) (quoting *In re Recall of Pearsall-Stipek*, 136 Wn.2d 255, 263, 961 P.2d 343 (1998)). If a board member believed that he or she was acting appropriately under the law, he or she is not subject to civil penalty under the OPMA [Open Public Meetings Act]. RCW 42.30.120; see also *Cathcart v. Andersen*, 10 Wn.App. 429, 436-37, 517 P.2d 980 (1974) (civil penalties not appropriate where uncontroverted affidavits established that attorney general advised law school faculty that meetings did not violate the OPMA)" (emphasis added) (*Recall of Boldt*, 187 Wn.2d 542, 551)

“The burden is on the petitioner to identify the “standard, law, or rule that would make the officer’s conduct wrongful, improper, or unlawful.” The individual making the charge must have knowledge of

the alleged facts on which the stated grounds for recall are based, RCW 29A.56.110; however, this knowledge need not be firsthand, personal knowledge. *In re Recall of Reed*, 156 Wn.2d 53, 58, 124 P.3d 279 (2005) (citing *Ackerson*, 143 Wn.2d at 373; *Lee*, 122 Wn.2d at 617). But mere insinuations, speculation, or a belief that the charges are true, *absent other evidence*, is not enough. *Chandler*, 103 Wn.2d at 274; *Reed*, 156 Wn.2d at 58. (*In re Recall of Pepper*, 189 Wn. 2d 546, 403 P.3d 839, 845 (Wash. 2017)) (emphasis added).

In an integration of the statutes and case law cited above, a recall petitioner must establish, with sworn specific evidence on reliable knowledge, four separate critical factors as to each charge:

- a) That the person submitting the charges demonstrate, with evidence, knowledge of the facts underlying the charges;
- b) That the charges identify the duty, standard, law, or rule that would make the officer's conduct wrongful, improper, or unlawful;
- c) that the official intended to commit the act and that the official intended to act unlawfully;
- d) that the official went beyond an appropriate exercise of discretion.

1. Response to Appellant’s First Assignment of Error and Issue for Review, “Whether the Superior Court erred in exceeding its limited factfinding functions, if any, under RCW 29A.56.140.”

That issue (factfinding beyond factual sufficiency of the charges) is not material to determining the sufficiency of recall charges, and this Assignment of Error is not directed to any particular charge, finding, or ruling, as required RAP 10.3(a)(4) and (g)<sup>2</sup>.

The Appellant argues that, “[RCW 29A.56.140] does not provide for responsive *factual* pleadings before Superior Court - only argument as to the sufficiency determination.” That argument is wrong. In reviewing facts for sufficiency, the Superior Court may consider facts submitted by the elected official, in addition to facts submitted by the petitioner,

---

<sup>2</sup> (a) Brief of Appellant or Petitioner. The brief of the appellant or petitioner should contain under appropriate headings and in the order here indicated: ...

(4) Assignments of Error. *A separate concise statement of each error* a party contends was made by the trial court, together with the issues pertaining to the assignments of error.

(5) Statement of the Case. A fair statement of the facts and procedure relevant to the issues presented for review, without argument. *Reference to the record must be included for each factual statement.*

(6) Argument. The argument in support of the issues presented for review, together with citations to legal authority and *references to relevant parts of the record...*

(g) Special Provision for Assignments of Error.... *A separate assignment of error for each finding of fact a party contends was improperly made must be included with reference to the finding by number.* The appellate court will only review a claimed error which is included in an assignment of error or clearly disclosed in the associated issue pertaining thereto.

because the actions asserted to be charges might be justified by uncontroverted factual information in the hands of the official, but not known or revealed by the Petitioner in the charges. For example, as to the sufficiency of the official's subjective intention to disregard the duty or break the rule of law, the official may submit facts demonstrating reliance on the official's legal counsel. See *Recall of Boldt*, *supra* 187 Wn.2d 542, 551, where the Court noted that trial court considered affidavits from the parties, and then said,

“Boldt, Olson, and Stewart's [the elected officials] uncontroverted statements establish that they relied on the county attorney's advice regarding the “unique” legal situation facing the Board and that they did not think they were violating any rule. CP at 199-203. Because Boldt, Olson, and Stewart relied on legal advice and believed they were acting in accordance with the law, they did not knowingly violate the OPMA. See *Wasson*, 149 Wn.2d at 791 (“[T]he facts must show that the official intended to violate the OPMA.” (citing *In re Recall of Anderson*, 131 Wn.2d 92, 95, 929 P.2d 410 (1997))”

The Superior Court's dismissals of each charge for insufficiency did not purport to rely on the credibility of any declarant over another, or the falsity of any presented facts. Instead the Superior Court found each charge lacking in one or more of the essential elements, so stating, separately and concisely, in the Court's Decision.

Therefore, the issue presented as Assignment of Error No. 1 (“Whether the Superior Court erred in exceeding its limited factfinding functions, ...”) is not material, the Superior Court’s determination as to each charge was based on its valid factfinding authority to determine sufficiency of uncontroverted facts, and those determinations should be affirmed.

2. Response to Appellant’s Second Assignment of Error and Issue for Review, “Whether the recall charges, accepted as true, establish a legal and factual basis for recall.”

This Second Assignment of Error fails as a whole, and should not be reviewed, because Appellant’s Brief does not direct this Court’s attention to errors or specific findings in the record as to “substantial evidence” to support sufficient recall charges, as required by RAP 10.3(g). There are five different charges, on five different factual issues, each of them separately subject to review for factual and legal sufficiency. Yet the only “...references to relevant parts of the record,” (RAP 10.3(a)(6)) in Appellant’s Argument is, “Regardless, Ms. Jones stands on the factual allegations in the initial Recall Petition (CP at 16-97) and the arguments of counsel at the sufficiency hearing, the record cannot be expanded on appeal.” The Second Assignment of Error and Argument fails as to the

specificity required by RAP 10.3. Thus, Appellant apparently wants this Court to search the record for facts that would be legally sufficient to support each charge, and then make the Appellant's case from that.

a. General Argument as to all Charges: All the alleged actions of the Tonasket City Council were lawful, and authorized by RCW 35A.11.020, which provides,

**“Powers vested in legislative bodies of noncharter and charter code cities.** The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; .... The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law.”

With that power and authorization, the City Council may establish or disband a city police department. It cannot be an unlawful “conspiring to disband the Tonasket Police Department” or “attempting to abscond with the Mayor’s hiring/firing/personnel authority” to discuss status of the police department and its officers, to talk to citizens and police officers and employees, or pass an ordinance as to the police department, all in consideration of whether the police department, as they had established it, is functioning properly or should be disbanded.

b. General Argument as to all Charges: No specific evidence is submitted of intention to act unlawfully. None of the charges alleged “contain a *factual basis* for both the proposition that the *official intended to commit the act* and 'that the official *intended to act unlawfully*,'" (*Boldt*, at 551), and so none of the charges pass the test for legal *and* factual sufficiency for a recall ballot. It is not enough to simply complain, in conclusory terms like “conspiracy”, “abscond with authority” or “illegal quorum”, without specific evidence, that the council member engaged in an act or failed some duty, subjectively knowing that it was unlawful. Further, reliance on legal advice from the City Attorney negates the element of unlawful intent. (*Cathcart*, *supra*).

c. Specific Argument as to Charges

The respective Charges are here individually addressed with respect to the relevant critical factors:

**1. Response to Charge 1: Attempting to abscond with the Mayor’s hiring/firing/personnel authority.**

*b. That the charges identify the standard, law, or rule that would make the officer’s conduct wrongful, improper, or unlawful;* The Petitioner’s charges do not identify the standard, law, or rule that would make Christa Levine’s conduct

wrongful, improper, or unlawful. As cited above, the City Council has complete authority to continue the established Police Department, or to disband it, and such is not “attempting to abscond with the Mayor’s hiring/firing/personnel authority.”

*c. that the official intended to commit the act and that the official intended to act unlawfully;* The Petitioner’s charges do not allege nor include facts that Christa Levine official intended to act unlawfully.

*d. that the official went beyond an appropriate exercise of discretion.* The Petitioner’s charges do not allege nor include facts that Christa Levine acted beyond her discretion. The City Attorney, Michael Howe, declares, as to this charge,

“ I was consulted by the City Council as to the actions that are described to support those charges, and in my opinion they were lawful, and authorized by the Tonasket Municipal Code authority of City Council to establish or disband a Police Department.” (Declaration of Michael Howe CP 133)

**2. Response to Charge 2: Conspiring to terminate the City Attorney and Cause the Mayor of Tonasket to resign as part of an illegal quorum**

*a. That the person submitting the charges demonstrate knowledge of the facts underlying the charges;* The Petitioners charges do not demonstrate knowledge of the facts underlying the

charges. This charge is apparently speculation. Per the Declaration of Christa Levine (CP 138), there was never an intended a quorum for a “meeting” on that occasion. See Declaration of Jensen Sackman (CP 129), declaring that she was never at the police department or city facilities on December 18, 2018, and Respondent’s Declaration to that same effect (CP 137). The sworn Statement of Darin Odegaard, apparently the source of the factual information about these events, does not claim that Jensen Sackman took part in any “action<sup>3</sup>” under the Open Public Meetings act after she arrived, even if she was there at City facilities on December 18, 2018. Without evidence that Christa Levine *intended* to join a “*meeting*” with two other Council members where “*action*” was going to be taken, there is no showing of a violation of the OPMA.

”Thus, within the context of the OPMA, we adopt the following definitions: (1) a “meeting” of a governing body occurs when a majority of its members gathers with the collective intent of transacting the governing body's business, “If communications do not reflect the requisite collective intent to meet, no “meeting” has occurred and the

---

<sup>3</sup> RCW 42.30.020(3) "Action" means the transaction of the official business of a public agency by a governing body including but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order, or ordinance.

OPMA does not apply.” *Citizens Alliance v. San Juan County*, 184 Wn.2d 429, 444 (2015).

*b. That the charges identify the standard, law, or rule that would make the officer’s conduct wrongful, improper, or unlawful;* The Petitioner’s charges do not identify the standard, law, or rule that would make Christa Levine’s conduct wrongful, improper, or unlawful. As noted, the Council has authority to establish or disband the Police Department or to retain or discharge the City Attorney, and the Open Public Meetings Act has legal definitions of “meeting” and “action” which are not identified with evidence in the Charge.

*c. that the official intended to commit the act and that the official intended to act unlawfully;* The Petitioner’s charges do not allege nor include facts that Christa Levine official intended to act unlawfully. This charge is not against Council Member Jensen Sackman for intending to join a, OPMA “meeting”. Without evidence that Christa Levine *intended* to initiate a “*meeting*”<sup>4</sup> with two other Council members where “*action*” was then intentionally taken by Christa Levine, there

---

<sup>4</sup> RCW 42.30.020(4) "Meeting" means meetings at which action is taken.

is no showing that Christa Levine intended to commit the act and to act unlawfully.

“Where a recall petition alleges that an "official committed an unlawful act, factual sufficiency also requires that the petition contain a factual basis for both the proposition that the official intended to commit the act and 'that the official intended to act unlawfully.'" *In re Recall of Heiberg*, 171 Wn.2d 771, 778 (2011).

*d. that the official went beyond an appropriate exercise of discretion.* The Petitioner’s charges do not allege nor include facts that Christa Levine official acted beyond her discretion. As noted, the Council has authority to establish or disband the Police Department or to retain or discharge the City Attorney.

**3. Response to Charge 3: Conspiring to disband the Tonasket Police Department in favor of a contract for police services with the Okanogan County Sheriff; and compromising the integrity of investigative materials and evidence in the process.**

*a. That the person submitting the charges demonstrate knowledge of the facts underlying the charges;* The Petitioners charges do not demonstrate knowledge of the facts underlying the charges. This charge is apparently speculation. The Charge does not contain any evidence that “the integrity of

investigative materials and evidence” was unlawfully compromised.

*b. That the charges identify the standard, law, or rule that would make the officer’s conduct wrongful, improper, or unlawful;* The Petitioner’s charges do not identify the standard, law, or rule that would make Christa Levine’s conduct wrongful, improper, or unlawful. As noted, the Council has authority to establish or disband the Police Department

*c. that the official intended to commit the act and that the official intended to act unlawfully;* The Petitioner’s charges do not allege nor include facts that Christa Levine official intended to act unlawfully. Per the Declaration of City Attorney Michael Howe (CP 132-133), this activity was discussed with the City Attorney before undertaking.

*d. that the official went beyond an appropriate exercise of discretion.* The Petitioner’s charges do not allege nor include facts that Christa Levine official acted beyond her discretion.

The City Attorney, Michael Howe, declares, (CP 133) as to this charge,

“ I was consulted by the City Council as to the actions that are described to support those charges, and in my opinion they were lawful, and authorized by the Tonasket

Municipal Code authority of City Council to establish or disband a Police Department.” (Declaration of Michael Howe)

**4. Response to Charge 4: Improperly withholding public records**

*a. That the person submitting the charges demonstrate knowledge of the facts underlying the charges;* The Petitioners charges do not demonstrate knowledge of the facts underlying the charges. This charge is apparently speculation. There is no allegation of what available records were intentionally and unlawfully withheld from response, which would be facts essential to this charge of withholding public records.

*c. that the official intended to commit the act and that the official intended to act unlawfully;* The Petitioner’s charges do not allege nor include facts that Christa Levine official intended to act unlawfully. Specifically, the Petitioner does not allege that there were any available public records responsive to the request that Christa Levine failed to provide. See Declaration of Christa Levine (CP 139), to the effect that she provided all the available responsive records to the Petitioner.

**5. Response to Charge 5: Filing a false and misleading police report with the Okanogan County Sheriff’s Office related to the performance of her duties as Councilwoman.**

*a. That the petitioner submitting the charges demonstrate knowledge of the facts underlying the charges;* The Petitioners charges do not demonstrate knowledge of the facts underlying the charges. This charge is apparently speculation. See Declaration of Christa Levine (CP 139-140), as to her account of the events.

*b. That the charges identify the standard, law, or rule that would make the officer's conduct wrongful, improper, or unlawful;* The Petitioner's charges do not identify the standard, law, or rule that would make Christa Levine's conduct wrongful, improper, or unlawful.

*c. that the official intended to commit the act and that the official intended to act unlawfully;* The Petitioner's charges do not allege nor include facts that Christa Levine official intended to act unlawfully.

*d. that the official went beyond an appropriate exercise of discretion.* The Petitioner's charges do not allege nor include facts that Christa Levine official acted beyond her discretion. See Declaration of Christa Levine,(CP 139) as to her account of the events.

**E. CONCLUSION**

The Appellant's Assignments of Error are not cognizable for review on appeal per the requirements of RAP 10.3(a)(4) and (g).

Each of the five charges fails to pass legal qualifications as to one or more of the essential elements of legal and factual sufficiency required to support a recall ballot. The Petition and each Charge should be dismissed.

Respectfully submitted this 24th day of July, 2019,

*Dale L. Crandall*

---

Dale L. Crandall, WSBA #32168  
Attorney for Respondent Levine

Certificate of Service

I arranged for a copy of the preceding Brief and Certificate of Service to be served on Appellant at the address below, by email to:

Counsel for Appellant  
Name: Andrew J. Chase  
Miller & Chase Attorneys at Law  
P.O. Box 978  
Okanogan, WA 98840  
[andy@millerchaselaw.com](mailto:andy@millerchaselaw.com)

*Dale L. Crandall*

---

Dale L. Crandall, Attorney at Law  
ATTORNEY FOR Respondent Levine  
WSBA No. 32168  
PO Box 173  
Loomis, WA 98827  
(509) 223-3200  
[dcrandall@crandall-law.com](mailto:dcrandall@crandall-law.com)

**DALE L CRANDALL ATTORNEY AT LAW PLLC**

**July 25, 2019 - 2:29 PM**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 97306-7  
**Appellate Court Case Title:** In Re the Matter of the Recall of: Christa Teagan Levine  
**Superior Court Case Number:** 19-2-00179-0

**The following documents have been uploaded:**

- 973067\_Briefs\_20190725142707SC330541\_4523.pdf  
This File Contains:  
Briefs - Respondents  
*The Original File Name was 97306-7 Recall of Levine RESPONDENTS BRIEF.pdf*

**A copy of the uploaded files will be sent to:**

- andy@millerchaselaw.com
- ken@millerchaselaw.com

**Comments:**

---

Sender Name: Peggy Crandall - Email: peggy@crandall-law.com

**Filing on Behalf of:** Dale Leslie Crandall - Email: dcrandall@crandall-law.com (Alternate Email: )

Address:  
P.O. Box 173  
Loomis, WA, 98827  
Phone: (509) 223-3200

**Note: The Filing Id is 20190725142707SC330541**