

1 THE HONORABLE JIM ROGERS
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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 IN AND FOR THE COUNTY OF KING

8 IN RE THE MATTER OF RECALL
9 CHARGES AGAINST CITY OF SEATTLE
10 COUNCILMEMBER KSHAMA SAWANT
11 (SAWANT)

No. 20-2-13314-1 SEA

**OPPOSITION TO PETITION TO
DETERMINE SUFFICIENCY OF
RECALL CHARGES AND
ADEQUACY OF BALLOT SYNOPSIS
(SAWANT)**

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13 **INTRODUCTION AND RELIEF REQUESTED**

14 Kshama Sawant (Sawant) was first elected to the Seattle City Council in 2013, backed by
15 a left-leaning political organization, Socialist Alternative, of which she is a member. When
16 Sawant was sworn into office on January 6, 2014, she became the first self-described socialist to
17 win a seat on the City Council since 1877 and the first to win a citywide election in Seattle since
18 1916. From the date that Sawant took office until the present, her tenure has been defined by an
19 aggressive defense of her pro-worker and pro-renter agenda, and by her vigorous, unyielding,
20 and unapologetic rebuke of what she and her supporters see as the outsized influence of Seattle's
21 largest corporations, its most indiscriminate developers, and its unaccountable police force.

22 Several signature issues and causes have made Sawant a lightning-rod in Seattle politics.
23 Immediately after assuming office, Sawant championed a successful effort to increase Seattle's
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1 minimum wage to \$15 an hour. Sawant has also advocated for an income tax on wealthy
2 residents of Seattle, rent control, and police reform. In 2017 and 2018, Sawant led the push to
3 institute a big business tax which would have taxed Seattle’s largest corporations on a per-
4 employee basis in order to fund public affordable housing and homelessness services. Amazon,
5 the largest private employer in Seattle, responded to the initial passage of the tax by the Council
6 in 2018 by funding what became a successful campaign to obtain repeal of the tax ordinance
7 shortly thereafter. This year, Sawant spearheaded the “Tax Amazon” campaign that led to
8 passage of a big business tax four times larger than the one previously passed and repealed.
9 Subsequently, Amazon and Seattle’s other major business interests have become increasingly
10 active in their attempts to remove Sawant from her position on the Council. Having failed to
11 unseat her in two regularly-scheduled elections, most recently in 2019, her opponents have now
12 turned to the recall process.

13 Sawant respectfully requests that this Court dismiss the recall petition filed by Petitioner
14 Ernest Lou, on the grounds that it fails to meet the Petitioner’s burden to establish factual and
15 legal sufficiency.

16 STATEMENT OF FACTS

17 A. Recent Events

18 On May 25, 2020, Minneapolis police officers murdered George Floyd, an unarmed
19 Black man accused of attempting to use a counterfeit \$20 bill, sparking a proliferation of protests
20 across the country, and indeed the world, that has not yet abated. In many locations, already
21 outraged communities of protestors were met with a heavy-handed crackdown by police when
22 they participated in marches, rallies, and vigils.

23 Washington’s law enforcement killings of John T. Williams (2010), Che Taylor (2016),
24 Charleena Lyles and Tommy Le (2017), and Shaun Fuhr (2020), among others, helped set the

1 stage for Seattleites to join the national protest movement by the tens of thousands. These
2 protests, at times, would be intensified by what demonstrators and others saw as excessively-
3 violent police responses.¹ It is within this context that the majority of the alleged conduct
4 described in the Petition took place.

5 **B. Seattle Protests**

6 Between late May and early July, 2020, dozens of protests were organized as a part of the
7 Black Lives Matter (BLM) movement. Declaration of Kshama Sawant (Sawant Dec.), ¶ 5. The
8 wide-spread demonstrations were diverse in their tactics and in the demographics of their
9 participants. *Id.* The majority of Seattle City Councilmembers attended one or more such
10 protests. Declaration of Dmitri Iglitzin (Iglitzin Dec.), Ex. E; *see also* Sawant Dec., ¶ 4. Even
11 Seattle’s Mayor Jenny Durkan appeared at one such demonstration on June 2 to address a crowd
12 of hundreds as they pressed her on the city’s disputed record of police accountability. Iglitzin
13 Dec., at Exs. C, D.

14 On many occasions, Sawant attended BLM protests in Seattle. Sawant Dec., ¶¶ 4-6, 8.
15 She attended some such events which took place on public property, others which took place in
16 her district, Seattle City Council District 3, and one of several in Windermere—a neighborhood
17 chosen both for being one of the wealthiest and least racially diverse parts of the city, and as well
18 as for being the location where the Mayor is believed to reside. *Id.* Sawant, among many others,
19 also addressed large crowds at the Seattle Police Department’s East Precinct, in the Windermere
20 neighborhood, and at Seattle City Hall. *Id.*

21 On June 9, 2020, Sawant and a group of other BLM marchers gathered at City Hall.
22 Sawant Dec., ¶ 8. The vast majority of those gathered wore masks and participated in an

23 ¹ A particularly powerful critique of this police overreaction was recently issued by Merrick Bobb, who just resigned
24 after seven years as court-appointed monitor of Justice Department-mandated reform of the Seattle Police
Department because of these concerns, *see* Declaration of Dmitri Iglitzin (Iglitzin Dec.), at Ex. H.

1 approximately hour-long rally, peacefully held inside of the City Hall building. *Id.* The many
2 speeches offered at the rally, including one given by Sawant, were critical of city leaders’
3 response to incidents of police use of force. City Hall was not closed to the public on the day of
4 the rally and no rules prohibit members of the public from being admitted, as a Councilmember’s
5 guests, into the building even outside of City Hall’s regular hours of operation. *Id.* ¶ 9.

6 **C. The Petition**

7 On August 18th, 2020, Petitioner filed a Petition for Recall of Elected Officers with the
8 King County Department of Elections. Petition at 1 (found at Dkt 4, Ex A). On September 1,
9 2020, the King County Prosecuting Attorney’s Office filed a Petition to Determine Sufficiency
10 of Recall Charges and Adequacy of Ballot Synopsis with this Court. Dkt. 1.

11 **ARGUMENT AND AUTHORITY**

12 **I. It is Petitioner’s burden to establish both factual and legal sufficiency.**

13 Under Washington law, public officials may only be recalled for cause. *In re Recall of*
14 *Wasson*, 149 Wn.2d 787, 791, 72 P.3d 170 (2003). A recall petition must be factually and legally
15 sufficient in order to satisfy this requirement. *Id.*; see *In re Recall of Sandhaus*, 134 Wn.2d 662,
16 668, 953 P.2d 82 (1998). Sufficiency must be determined from the face of a petition. See *Matter*
17 *of Recall of Inslee*, 194 Wn.2d 563, 567, 451 P.3d 305 (2019); *Wasson*, 149 Wn.2d at 791.

18 A petition must define “substantial conduct clearly amounting to misfeasance,
19 malfeasance, or a violation of the oath of office,” for which the challenged official cannot
20 provide legal justification. *Id.* at 791-92. To show misfeasance or malfeasance in office, the
21 petitioner must describe “wrongful conduct that affects, interrupts, or interferes with the
22 performance of an official duty.” RCW 29A.56.110(1). “Misfeasance” is also defined as “the
23 performance of a duty in an improper manner.” RCW 29A.56.110(1)(a). Malfeasance is also
24 defined as the “commission of an unlawful act.” RCW 29A.56.110(1)(b). Moreover, where the

1 commission of an unlawful act is alleged, “the petitioner must show facts indicating the official
2 had knowledge of and intent to commit an unlawful act.” *In re Recall of Lindquist*, 172 Wn.2d
3 120, 132, 258 P.3d 9 (2011); *Inslee*, 194 Wn.2d at 568 (“Where the charge alleges the official
4 violated the law, the facts must show the official intended to do so.”).

5 The burden is on the petitioner to establish the legal sufficiency of recall charges and to
6 identify the “standard, law, or rule that would make the officer’s conduct wrongful, improper, or
7 unlawful.” *In re Recall of Bolt*, 177 Wn.2d 168, 174, 298 P.3d 710 (2013) (internal quotes
8 omitted). “When an official is charged with violating the law, the petitioners must have
9 knowledge of facts indicating the official intended to commit an unlawful act.” *Sandhaus*, 134
10 Wn.2d at 668. “Legal sufficiency” means “the charges must state with specificity substantial
11 conduct clearly amounting to misfeasance, malfeasance or violation of the oath of office.” *Id.*
12 (internal quotes omitted).

13 In order to be factually sufficient, facts provided in a recall petition “must establish a
14 prima facie case of misfeasance, malfeasance, or violation of the oath of office.” *Wasson*, 149
15 Wn.2d at 791. Additionally, the facts must “be stated in concise language and provide a detailed
16 description that includes the date, location and nature of each allegation....” *Id.* (citing *Chandler*
17 *v. Otto*, 103 Wn.2d 268, 693 P.2d 71 (1984)); RCW 29A.56.010. The specificity requirements
18 set forth in RCW 29A.56.110 ensure “that both the public electorate and the challenged elective
19 official will make informed decisions in the recall process,” and also that the official who is the
20 subject of the petition can craft a “meaningful public response to the merits” of every charge
21 brought against them. *Herron v. McClanahan*, 28 Wn. App. 552, 559, 625 P.2d 707 (1981).

22 Courts serve a gatekeeping function in evaluating recall petitions to prevent
23 unsubstantiated, politically motivated and frivolous petitions from reaching voters. *In re Recall*
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1 of *Kast*, 144 Wn.2d 807, 813, 31 P.3d 677 (2001). As such, courts review charges listed in a
2 recall petition to determine whether they satisfy the criteria for which a petition may be filed.
3 RCW 29A.56.140.

4 **II. Each of the charges fails to facially establish factual and legal sufficiency.**

5 **A. Charge A is insufficient because it fails to describe any specific hiring decision**
6 **alleged to have been improper, and because such decisions are inherently**
7 **discretionary acts that cannot serve as the basis for recall.**

8 Charge A alleges that Sawant relinquished control of hiring and firing to a political
9 organization. Pet. at 3. This charge fails, first, for its utter failure to articulate supporting facts.
10 The Charge makes reference to unspecified “documents,” but fails to attach or even identify said
11 documents. “A general reference to sources containing relevant and irrelevant information is
12 insufficient.” *Wasson*, 149 Wn.2d at 792. *See also In re Kelley*, 185 Wn.2d 158, 170, 369 P.3d
13 494 (2016) (reference to unidentified news reports and a complete lack of reference to any
14 specific actions by the auditor not sufficient). Moreover, the Petition does not reference any
15 allegedly problematic termination or hiring decision, relying instead on a generalized assertion
16 that Sawant has relinquished authority over staffing decisions. Pet. at 3. This is insufficient. *See*
17 *Sandhaus*, 134 Wn.2d at 668 (petition deemed factually insufficient where it failed to identify
18 any specific instances of conduct alleged to have occurred). In a recent decision rejecting a recall
19 petition on the basis of a councilmember’s alleged attempts to abscond with a mayor’s
20 hiring/firing decisions, the Washington Supreme Court held the petition to be factually deficient
21 because “[n]one of the facts alleged constitute any actual attempt to fire anyone.” *Matter of*
22 *Levine*, 194 Wn.2d 99, 106, 448 P.3d 764 (2019).

23 Even if the Charge did identify specific staffing decisions, it would also be factually
24 deficient for its failure to identify facts showing an intent to violate the law. *Bolt*, 177 Wn.2d at

1 176 (petition involving allegedly improper termination of employee insufficient for failure to
2 “identify facts that indicate an intent by [the Mayor] to violate the law.”).

3 Moreover, the Charge fails because staffing is an inherently discretionary function, which
4 can only meet the legal sufficiency prong where the charge indicates a clear abuse of discretion.
5 *Inslee*, 194 Wn.2d at 572 (citing *Bolt*, 177 Wn.2d at 174 and *Cole*, 103 Wn.2d at 283). Decisions
6 to terminate staff are legally insufficient as the basis for a recall because “[s]upervising an
7 employee inherently involves a substantial amount of discretion....” *Bolt*, 177 Wn.2d at 175; *see*
8 *also Matter of Recall of Estey*, 104 Wn.2d 597, 707 P.2d 1338 (1985) (recall charge legally
9 insufficient on grounds that decision to renew an employment contract rested with discretion of
10 officials charged).

11 In fact, based on exactly this reasoning, the City of Seattle Ethics and Elections
12 Commission (SEEC) has previously concluded that a claim that Sawant misused her position by
13 allegedly allowing Socialist Alternative to influence hiring and firing decisions in her office was
14 meritless. *Iglitzin Dec.*, at Ex. F. Legal sufficiency requires alleged substantial conduct which
15 *clearly* amounts to misfeasance, malfeasance, or violation of the oath of office. *Wasson*, 149
16 Wn.2d at 791-92. But here, the exact conduct complained of in the petition has been adjudicated
17 to be lawful and within Sawant’s discretion as an elected official.

18 **B. Charge B is factually deficient for failing to identify the ballot initiative or**
19 **specific actions alleged to be unlawful and does not allege conduct that is**
20 **“clearly” improper.**

21 Charge B neither cites the particular ballot initiative Sawant is alleged to have improperly
22 promoted, nor which of her actions in promoting the initiative Petitioner believes constituted
23 malfeasance or misfeasance. *Pet.* at 3-4. Petitioner’s failure to identify a particular ballot
24 initiative in existence at the time Sawant is alleged to have improperly supported an initiative
renders that charge factually insufficient. *Wasson*, 149 Wn.2d at 791.

1 Charge B is also legally insufficient for failure to identify any basis why Sawant’s actions
2 in supporting a yet-to-be created ballot proposition would “clearly” constitute misfeasance,
3 malfeasance, or violation of the oath of office. *Id.*, at 791-92. Sawant assumes that the
4 proposition she stands accused of supporting is the so-called Tax Amazon Initiative No. 130,
5 filed March 19, 2020. Iglitzin Dec., at Ex. I. Yet the Petition alleges that the unspecified acts of
6 support took place in January and February 2020, prior to the date this potentially relevant ballot
7 initiative existed. Pet. at 3-4. While RCW 42.17A.555 prohibits elected officials from using
8 public office facilities “for the promotion of or opposition to any ballot proposition,” the term
9 “ballot proposition” is, in turn, defined as a measure, initiative, recall, or referendum “from and
10 after the time when the proposition has been initially filed with the appropriate election officer of
11 that constituency before its circulation for signatures.” RCW 42.17A.005(4). Because the Tax
12 Amazon ballot proposition had not yet been filed with the election officer or circulated for
13 signatures as of February, 2020, it would have been impossible for Sawant to have improperly
14 used city resources to support the initiative during the timeframe alleged in the Petition. Any
15 conduct by Sawant in relation to that particular eventual proposition therefore was not conduct
16 that “clearly” amounted to misfeasance, malfeasance, or violation of the oath of office.
17 *Chandler*, 103 Wn.2d at 275.

18 Additionally, Petitioner asserts, without explanation, that Sawant should be recalled for
19 violating SMC 4.16.070.B.2 because she used City resources “for other than City purpose.” A
20 recall petition must describe *substantial* conduct constituting misfeasance, malfeasance, or a
21 violation of the oath of office. *In re Recall of Burnham*, 194 Wn.2d 68, 81, 448 P.2d 747 (2019);
22 *Bolt*, 177 Wn.2d at 174 (“conduct that is insubstantial is legally insufficient.”). Minimal or “de
23 minimus” use of government resources by public officials is legally insufficient for recall. *See*
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1 *Inslee*, 194 Wn.2d at 575 (incidental use of public facilities while campaigning in support of a
2 ballot measure found to be de minimus conduct insufficient for recall). Yet the Petition fails to
3 identify *any* specific alleged conduct involving the use of City resources for other than City
4 purposes. This claim, too, must fail.

5 Finally, while the Charge alleges conclusorily that Sawant violated RCW 42.17A.635,
6 Petitioner has not made any factual allegations regarding any instance where Sawant allegedly
7 engaged in lobbying, such as the dates of such lobbying, the content or nature of the alleged
8 lobbying communications, the location of such alleged lobbying, or the identifies of the public
9 officials she allegedly lobbied. Absent such details, this aspect of the Charge is also plainly
10 deficient.

11 **C. Charge C fails because Sawant did not clearly violate any standard, rule, or law**
12 **by participating in a BLM rally inside City Hall.**

13 While Petitioner alleges that Sawant violated various proclamations and rules, he does
14 not make allegations with sufficient particularity to shed light on *what* laws or rules he believes
15 Sawant violated, or *how* she violated them. *See* Pet. at 4-5. RCW 29A.56.110 requires that a
16 petition “clearly identify the legal violations and the facts that support those violations” in order
17 to be deemed legally and factually sufficient. *Wasson*, 149 Wn.2d at 792. Without specific
18 reference to the laws, duties, rules, or standards which the Petitioner is alleging Sawant violated,
19 she is unduly denied an ability to offer an informed response to the charges against her. *Herron*,
20 28 Wn. App. 552. On this basis, Charge C is factually insufficient. *Id.*

21 Sawant can only speculate that Petitioner’s reasoning for the inclusion of Charge C is a
22 belief that Sawant violated the Governor’s and Secretary of Health’s orders by hosting a large
23 political rally at a time when other kinds of large gatherings had been prohibited. On April 27,
24 the Governor’s Proclamation 20-25.2 amended Proclamation 20-05 and prohibited “public and

1 private gatherings and multi-person activities for social, spiritual and recreational purposes.”
2 Iglitzin Dec., at Ex. G.

3 However, Governor Inslee did not identify *political demonstrations* as a type of public
4 gathering which he intended to ban. Under the rule of *expressio unius est exclusio alterius*,”
5 “when a statute specifically designates the things or classes of things on which it operates, an
6 inference arises in law that all things or classes of things omitted from it were intentionally
7 omitted by the legislature.” *State v. Swanson*, 116 Wn. App. 67, 75, 65 P.3d 343 (2003).
8 Eliminating any doubt that political demonstrations were not within the scope of the
9 proclamation, on May 30, 2020, just ten days prior to the demonstration at issue here, the
10 Governor stated, with regard to just such a rally, “As people gather today to protest the unjust
11 death of George Floyd, I hope they do so peacefully and safely. Everyone has the freedom - and
12 the right - to demonstrate and speak their mind.... I fully support the right to free speech and
13 peaceful assembly....” Iglitzin Dec., Ex. A. Two days later, the Governor stated that peaceful
14 demonstration “is enshrined in our Constitution; the ability to petition one’s government for
15 redress of grievances is actually a constitutional right and we ought to respect that and
16 understand it in that context.” Iglitzin Dec., Ex. B. And the Governor’s office has never cited the
17 political demonstration at City Hall, nor indeed any of the many other BLM protests taking place
18 across Washington State, as violating the proclamations. The Governor’s silence in speaking out
19 against the BLM demonstrations is fully consistent with the notion that the proclamations do not
20 ban political protests.

21 Moreover, while the Petition suggests that Sawant acted improperly in allowing citizens
22 into City Hall after hours, City councilmembers are free to invite guests to their place of work at
23 any time they choose, with no restrictions on their discretionary decision-making imposed by law
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1 or otherwise. Sawant Dec., ¶ 9. A recall petition may not be predicated on an official’s use of
2 discretion unless it is manifestly unreasonable and an attack on an official’s judgment in
3 exercising discretion is not a proper basis for recall. *Bolt*, 177 Wn.2d at 174. Recall petitions are
4 legally insufficient where the alleged conduct at issue involved a public official’s exercise of
5 discretion. *See Insee*, 194 Wn.2d at 572; *Bolt*, 177 Wn.2d at 174; *Cole*, 103 Wn.2d at 283. With
6 the Petitioner having failed to allege violation of any specific rule prohibiting her from doing so,
7 Sawant’s involvement in allowing citizens into City Hall after hours was a permissible
8 discretionary decision.

9 Even if allowing citizens into City Hall *had* been in violation of a rule or law, the Petition
10 would still be factually insufficient because Petitioner is required to demonstrate “not only that
11 the official intended to commit the act, but also that the official intended to act unlawfully.” *In re*
12 *Recall of Pearsall-Stipek*, 141 Wn.2d 756, 765, 10 P.3d 1034 (2000). “Intent to violate the law
13 may be inferred from the circumstances. The inference must not, however, be ‘too conjectural.’”
14 *In re Heiberg*, 171 Wn.2d 771, 778–79, 257 P.3d 565 (2011). Indeed, even an alleged admission
15 of criminal activity does not amount to sufficient context from which to infer unlawful intent. *In*
16 *re Ackerson*, 143 Wn.2d 366, 20 P.2d 930 (2001). Accordingly, challenges have been dismissed
17 where the Petitioner alleged that an official committed an unlawful act, but failed to include any
18 facts demonstrating the official’s “knowledge and intent.” *Levine*, 194 Wn.2d at 110 (allegation
19 that official falsified a police report factually insufficient absent evidence of “intent to violate the
20 law or engage in willful criminal conduct”).

21 Here, Petitioner has alleged no facts to support the conclusion that Sawant intended to
22 violate any rule or law, particularly in light of Sawant’s knowledge of the regularity with which
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1 guests and citizens were allowed into City Hall, even outside of normal hours. This is yet another
2 reason why this claim is legally and factually insufficient.

3 **D. Charge D has no basis in law and fails to allege underlying facts regarding**
4 **Sawant’s attendance and remarks at a BLM rally.**

5 Charge D does not identify the particular standards, laws, or rules that Sawant ostensibly
6 violated; rather, the Petitioner simply points vaguely at whole sections of the Code and the
7 Municipal Charter, assuming that something will be applicable to the facts he alleges. *See* Pet. at
8 5-6. On this basis alone, the allegation is insufficient. Charge D is also factually insufficient
9 because it does not describe any specific actions by Sawant. A charge is factually insufficient
10 where it fails to provide sufficient facts to identify the acts which Petitioner is asserting to be a
11 basis for recall, and is therefore facially insufficient. *Jewett v. Hawkins*, 123 Wn.2d 446, 447-48,
12 868 P.2d 146 (1994). Charge D’s allegations that Sawant led a demonstration and encouraged
13 people to do improper or unlawful things and did so “using her official position” is *also* legally
14 insufficient because it contains no allegations from which one could infer that Sawant was acting
15 on June 28 in any capacity other than that of a private citizen. *See* Pet. at 5-6. The allegation that
16 Sawant “possibly” improperly allowed her staff to act in some improper way is equally vague
17 and not supported by any specific factual allegations. *Id.* For these reasons, Charge D is legally
18 insufficient under RCW 29A.56.110. *Wasson*, 149 Wn.2d at 792.

19 **E. Charge E fails to establish prima facie case for misfeasance, malfeasance, or**
20 **violation of the oath of office.**

21 Charge E asserts that Sawant “[Used] Her Official Position” to lead a march and rally to
22 Mayor Durkan’s home, but does not describe how leading a demonstration implicates Sawant’s
23 position or any special responsibilities arising therefrom. *See* Pet. at 6-7. These vague assertions
24 fail to meet the requirement to identify why the challenged conduct, if true, constitutes a

1 violation of the oath of office, malfeasance, or misfeasance, as set forth in *Wade*, 115 Wn.2d at
2 548-549.

3 Malfeasance, as pled by the Petitioner, requires the “commission of an unlawful act.”
4 RCW 29A.56.110(1)(b). Under RCW 9A.46, a person is guilty of harassment if, without lawful
5 authority, they threaten another. Taken as true, the facts alleged by Petitioner demonstrate that
6 Sawant was acting with lawful authority—expressing her First-Amendment right to protest on
7 public streets. *See* Pet. at 6-7. Similarly, RCW 9A.76.180 requires that the accused “threaten” the
8 alleged victim. Charge E is devoid of any facts which would establish a prima facie case that
9 Sawant engaged in any kind of threatening behavior. *Wasson*, 149 Wn.2d at 791.

10 Moreover, Charge E is factually insufficient in that it does not demonstrate that Sawant
11 had intent to commit an unlawful act. *Lindquist*, 172 Wn.2d at 132; *Inslee*, 194 Wn.2d at 568.
12 The Petitioner fails to include any facts to underlie his claim that Sawant *led* the march, as
13 alleged, nor that she knew or revealed Mayor Durkan’s address. *See* Pet. at 6-7. In fact, she did
14 not know the Mayor’s home address, *Id.*, making clear that Petitioner’s allegations are based on
15 nothing more than speculation. *Matter of Ritter*, 194 Wn.2d 85, 93, 448 P.3d 755 (2019)
16 (affirming finding of factual insufficiency where only admissible evidence disproved allegation;
17 “[t]his was not an impermissible weighing of evidence; it was a proper determination that the
18 allegations were speculative.”).

19 **F. Charge F lacks any legal or factual basis whatsoever.**

20 The final charge listed in the Petition, Charge F, alleging that Sawant created a “criminal
21 toxic environment” in Capitol Hill, endangered residents and business, and devalued their
22 properties is legally insufficient in that it fails to identify a standard, law, or rule that Sawant’s
23 alleged conduct would have violated. *Bolt*, 177 Wn.2d at 174; *Ackerson*, 143 Wn.2d at 377.

1 **III. Even if the Court were to determine that some portion of the petition is legally and**
2 **factually sufficient, the proposed ballot synopsis is inadequate.**

3 In addition to considering the factual and legal sufficiency of the charges, the trial court
4 reviews “the adequacy of the ballot synopsis” and “correct[s] any ballot synopsis it deems
5 inadequate.” RCW 29A.56.140. For the reasons discussed above, the Petition is insufficient and
6 should be dismissed. However, were the Court to conclude that any aspect of the Petition is
7 sufficient to continue with recall proceedings, Sawant respectfully requests 48 hours to submit a
8 proposed alternative ballot for the Court’s consideration.

9 **CONCLUSION**

10 For the foregoing reasons, Councilmember Sawant respectfully requests that this Court
11 dismiss the Petition.

12 I certify that this memorandum contains 4,154 words, in compliance with the Local Civil
13 Rules.

14 RESPECTFULLY SUBMITTED this 11th day of September, 2020.

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1 **DECLARATION OF SERVICE**

2 I, Jennifer Woodward, declare under penalty of perjury under the laws of the State of
3 Washington, that on the date set forth below I served the foregoing document, in the manner
4 noted, on the following parties:

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Jennifer Atchison King County Prosecuting Attorney’s Office 900 King County Administration Building 500 4 th Avenue Seattle, WA 98104 Jennifer.atchison@kingcounty.com	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Service
John McKay Chris Morley Jordan Harris 920 Fifth Avenue, suite 3300 Seattle, WA 98101 johnmckay@dwt.com chrismorley@dwt.com jordanharris@dwt.com	<input type="checkbox"/> Hand Delivery <input type="checkbox"/> Certified Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail <input type="checkbox"/> U.S. Mail <input checked="" type="checkbox"/> E-Service

15
16 DATED this 11th day of September, 2020, at Shoreline, Washington.

17 By: *Jennifer Woodward*
18 Jennifer Woodward, Paralegal