

IN THE DISTRICT COURT OF BOURBON COUNTY, KANSAS

SUSAN E. WALKER)	
Bourbon County Clerk,)	
)	
Plaintiff,)	
)	
v.)	Case No. BB-2026-
)	
JAMES CRUX)	
Bourbon County Attorney,)	
and)	
KYLE R. PARKS,)	
KEVIN WAGNER, &)	
LYLE K. OWENBY)	
Recall Committee)	
)	
Defendants.)	
_____)	

VERIFIED PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

Pursuant to K.S.A. §§ 60-1701 *et. seq.*, 25-4322(d) & 25-4301 *et. seq.*

COMES NOW, the Plaintiff, Susan E. Walker, Bourbon County Clerk, by and through counsel Jonathan L. Ehrlich, of KN Law Group, and respectfully (a) seeks declaratory judgement that (1) K.S.A. 25-4322(b) applies to all recall petitions in Kansas, (2) the Recall Petition is invalid for failing to meet the requirements of K.S.A. 25-4322(b); and (b) petitions this Court to (1) find and declare the Recall Petition approved for circulation against her is legally insufficient, (2) enjoin the circulation of the Recall Petition, (3) enjoin certification of the Recall Petition, (4) enjoin any recall election from being held based on the Recall Petition, and (5) enjoin any recall election from being certified based on the Recall Petition. In support of her claims, Plaintiff offers the following:

Authorities

1. K.S.A. Chapter 25
2. K.S.A. 25-4322(d)
3. K.S.A. 25-4318
4. K.S.A. 25-4322(b)
5. K.S.A. 25-4302
6. K.S.A. 25-4320
7. K.S.A. 25-4329
8. *Reynolds v. Figge*, 28 Kan. App. 2d 635, 19 P.3d 193 (2001)
9. *Baker v. Gibson*, 22 Kan. App. 2d 36, 913 P.2d 1218 (1995)
10. *Cline v. Tittel*, 20 Kan. App. 2d 695, 891 P.2d 1137 (1995)
11. *Unger v. Horn*, 240 Kan. 740, 732 P.2d 1275 (1987)
12. Kansas Attorney General Opinion 1990-120
13. Kansas Attorney General Opinion 1991-059
14. *Recall of Local Elected Officials in Kansas*, J. Kan. B. Ass'n, SEPTEMBER 2001
15. *Kansas Election Standards*, Kansas Secretary of State (revised 2019)

Parties

1. Plaintiff Susan E. Walker is the duly elected Bourbon County Clerk. Bourbon County voters elected her in November 2024, and she began serving on January 13, 2025.
2. Defendant James Crux is the duly elected Bourbon County Attorney.
3. Defendant Recall Committee formed under K.S.A. 25-4320(a)(4) when they signed and filed the proposed recall petitions discussed herein.

Facts

4. As County Clerk, Plaintiff is the County Election Officer for Bourbon County. K.S.A. 25-2303.
5. Plaintiff was the County Clerk during the entirety of the November 2025, Uniontown-USD 235 School Board election.
6. USD 235 sent an email to the County Clerk's Office on March 19, 2025, certifying they had three seats open for election.

7. Based on the USD 235's email, Plaintiff's office created ballots for the November 4, 2025 election.
8. At 9:51 a.m. on November 3, 2025, a USD 235 voter called Plaintiff's office concerned the USD 235 election ballots were different than in past elections.
9. Shortly thereafter on November 3, 2025, a USD 235 elector came to Plaintiff's office to complain the school board ballots were incorrect.
10. Plaintiff immediately began investigating the reported ballot concerns by researching past USD 235 elections and communicating with the Kansas Secretary of State's Office.
11. Plaintiff determined the ballots in use may be incorrect because there are three voting plans (Voting Plan A, Voting Plan B, and Voting Plan C) available to school districts for elections, each of which could require a different general election ballot. See K.S.A. 25-2005 and 72-1083. See also *Kansas Election Standards* § II-2.
12. Plaintiff determined USD 235 did not certify which voting plan they needed for the November 2025 election under K.S.A. 72-1081 *et. seq.*
13. Plaintiff did not know which voting plan was to be used for the November 2025, USD 235 election.
14. At 10:17 a.m. on November 3, 2026, Plaintiff called USD 235 Superintendent Vance Eden and asked what voting plan USD used. Superintendent Eden responded, "I don't know what that means".
15. Plaintiff and her staff continuously communicated with USD 235 that day seeking USD 235's resolution designating a voting plan.

16. Superintendent Eden did not produce a resolution as requested but confirmed USD 235 uses “Voting Plan B”.
17. Statute defines Voting Plan B as: “All electors, who are otherwise qualified according to law, and who reside in the member district may vote in the primary election for the member positions of such member district and for the at-large member position. All electors, who are otherwise qualified according to law, and who reside in the school district may vote in the general election for all member positions, including the at-large member position, to be filled”. K.S.A. 72-1083(b); see also K.S.A. 25-2005(b).
18. Plaintiff determined the ballots in use on November 3, 2026 were created based on Voting Plan C, not Voting Plan B.
19. Plaintiff took immediate action to cure the ballot error.
 - a. In a four-hour period, Plaintiff and her staff worked with election vendor Clear Ballot and set up a new and correct election in the county election software for USD 235.
 - b. Plaintiff identified fifty-two early voters who had already cast ballots in the USD 235 election.
 - c. Plaintiff issued a press release addressing the ballot error at 6:45 p.m. on November 3, 2025. P Exhibit 1 – Plaintiff’s November 3, 2025 Press Release.
 - d. Plaintiff identified voters who had cast advanced ballots.
 - e. Plaintiff attempted to contact each advanced voter by phone or in person to notify them they could revote on a Voting Plan B ballot.

- f. Plaintiff met with election poll workers at 3:00 p.m. for training and explained the error on the USD 235 ballots, the action that was being taken and instructions on how to process the new ballot styles.
 - g. Working diligently into early Election Day morning, Plaintiff and her staff printed 2,600 new, Voting Plan B ballots for the USD 235 election.
 - h. Plaintiff met with poll workers at Uniontown City Hall at 6:00 a.m. on November 4, 2026, Election Day, and gave instructions on handling USD 235 ballots.
20. Following the November 4, 2026, USD 235 election, Plaintiff examined the unofficial results of the election and determined the election would not have been changed by the inclusion or exclusion of the fifty-two early votes cast on Voting Plan C ballots.
21. April 23, 2026, USD 235 indicated its intention to change its Voting Plan.
22. Between April 22 and April 27, 2026, Defendants Parks, Wagner, and Owenby, together “Defendant Recall Committee”, submitted its first proposed recall petition seeking to recall the Plaintiff to Defendant Crux pursuant to K.S.A. 25-4318. P Exhibit 2 – First Proposed Recall Petition.
23. On April 27, 2026, Defendant Crux, Bourbon County Attorney, made a determination of the sufficiency of the grounds stated in the first draft petition pursuant to K.S.A. 25-4322(b).
24. Defendant Crux memorialized his determination of sufficiency in a letter served on Plaintiff. P Exhibit 3 – County Attorney K.S.A. 25-4322(b) Determination Letter for First Proposed Recall Petition.
25. Defendant Crux found part of the draft petition insufficient and part of it sufficient. P Exhibit 3.

26. After Defendant Crux’s determination on Defendant Recall Committee’s first propose recall petition, Defendant Recall Committee drafted an amended Petition for Recall of Elected Official (“Recall Petition”). P Exhibit 4 – Second Proposed Recall Petition (“Recall Petition”).
27. As of the time of filing this petition, Plaintiff has not been served a letter or otherwise been notified of an official determination of sufficiency from the County Attorney concerning the Recall Petition.
28. According to public statements and press reports, the Recall Petition is being circulated for signature.¹

Count I – The Recall Petition is invalid since it does not comply with K.S.A. 25-4322(b).

29. Plaintiff incorporates paragraphs 1-28 herein.
30. The right to recall public officials has been recognized in the Kansas Constitution since 1914. Kansas Attorney General’s Opinion 1991-059.
31. Since 1974, the Kansas Constitution has said the “[p]rocedures and grounds for recall shall be prescribed by law. *Id.*
32. K.S.A. 25-4301 *et. seq.*, the Recall of Elected Officials Act, sets for the procedures for recall of elected officials.
33. K.S.A. 25-4302 sets forth the grounds for recall of public officials and establishes a portion of the procedure to be followed in seeking recall of public officials.

¹ See Kenny Forman, *Bourbon County residents petition to recall county clerk over ballot error*, KOAM (May 11, 2026), available at https://www.koamnewsnow.com/news/top-stories/bourbon-county-residents-petition-to-recall-county-clerk-over-ballot-error/article_b367baa7-c8ba-4a15-b0f6-95277c2be990.html (last accessed May 22, 2026); see also Patrick Richardson, *Bourbon County Clerk facing recall after ballot mistakes, possible intimidation attempts*, The Sentinel (May 21, 2026), available at <https://sentinelksmo.org/bourbon-county-clerk-facing-recall/> (last accessed May 22, 2026).

34. K.S.A. 24-4322 sets forth the procedures for a petition to recall a local election, which is relevant here.
35. When electors seek to recall any local official other than the County Election Officer, they must form a recall committee and file their proposed petition with the County Election Officer. K.S.A. 25-4322(a).
36. When a recall committee seeks to recall their County Election Official, they must file their proposed recall petition with the County Attorney. K.S.A. 25-4318.
37. Plaintiff is an elected County Election Official. See K.S.A. 25-2303.
38. Defendant Recall Committee properly filed both their first and second proposed recall petitions with the Bourbon County Attorney, Defendant Crux under K.S.A. §§ 25-4318 and 25-4320. See P Exhibits 2 & 4.
39. Before any petition for recall of a local officer is circulated, the County Attorney must review the proposed recall petition for sufficiency. K.S.A. 25-4322(b) (emphasis added).
40. The County Attorney must make his determination based on the factors in K.S.A. 25-4322(b)(1) through (b)(7) within five days. K.S.A. 25-4322(b).
41. After making his determination on a recall petition submitted to him, the County Attorney must “notify the county election officer, the officer sought to be recalled and the recall committee of such determination”. K.S.A. 25-4322(b).
42. Some opinions on the Recall of Elected Officials Act interpreted the County Attorney’s role in reviewing proposed petitions for sufficiency as ministerial. See *Cline v. Tittel*, 20 Kan. App. 2d 695, 891 P.2d 1137 (1995) and *Unger v. Horn*, 240 Kan. 740, 732 P.2d 1275 (1987).

43. Other opinions have interpreted the County Attorney's sufficiency review responsibilities as substantive. See *Baker v. Gibson*, 22 Kan. App. 2d 36, 913 P.2d 1218 (1995) and *Reynolds v. Figge*, 28 Kan. App. 2d 635, 19 P.3d 193 (2001).
44. Pursuant to K.S.A. 25-4322(b), a proposed recall petition may not be circulated without the County Attorney, or the County Counselor, facially and substantively reviewing the *specific* petition to be circulated, determining it sufficient, and notifying necessary parties.
45. Defendant Crux fulfilled his duty under 25-4322(b) as to the first proposed recall petition. He received, reviewed, and issued a letter determining both the sufficiency and insufficiency of Defendant Recall Committee's first proposed recall petition. However, based on Defendant Crux's letter, the petition *as submitted* was facially insufficient. See P Exhibits 2 & 3.
46. Defendant Crux notified the county election officer, the officer sought to be recalled, and the recall committee by transmitting his determination letter concerning the first proposed recall petition to them. P Exhibit 3.
47. However, Defendant Crux never notified Plaintiff, in writing, that he had even reviewed Defendant Recall Committee's second proposed recall petition, the Recall Petition, let alone that a subsequent petition was sufficient under K.S.A. 25-4322(b).
48. Discovery will show Defendant Crux never analyzed the Recall Petition under K.S.A. 25-4322(b), never made the necessary determination concerning the sufficiency of its grounds and never notified legally necessary parties of his determination.

WHEREFORE, Plaintiff Susan Walker, Bourbon County Clerk, respectfully requests

the Court declare (1) K.S.A. 25-4322(b) applies to all recall petitions in Kansas, including the Recall Petition currently being circulated by Defendant Recall Committee, and (2) the Recall Petition is invalid for failing to meet the requirements of K.S.A. 25-4322(b). Plaintiff further moves the Court to enjoin Defendant Recall Committee from circulating the Recall Petition.

Count II – Recall Petition is Invalid for Insufficiency

49. Plaintiff incorporates paragraphs 1-48 herein.

50. The grounds for recall offered by Defendant Recall Committee are insufficiently specific and there is no nexus between the conduct alleged therein and either Plaintiff's duties in office or those prescribed to her by law.

51. K.S.A. 25-4302 provides there are three grounds for recall of an elected official: (1) felony conviction, (2) misconduct in office, and (3) failure to perform duties prescribed by law.

No Conviction of a Felony

52. “[B]y providing ‘conviction of a felony’ as the first ground for recall, the legislature clearly contemplates that the allegations must meet some level of seriousness”. *Baker* at 43, 1223.

53. Neither of Defendant Recall Committee's proposed recall petitions allege a felony conviction. P Exhibits 2 & 4.

THEREFORE, Plaintiff respectfully suggests conviction of a felony grounds for recall under K.S.A. 25-4302 do not need considered.

Misconduct in Office Insufficiently Alleged

54. K.S.A. 25-4302(b) states, “the term ‘misconduct in office’ means a violation of law by the officer that impacts the officer's ability to perform the official duties of the office”.
55. Defendant Recall Committee’s first proposed recall petition included allegations of misconduct in office. P Exhibit 2.
56. However, after reviewing the first proposed petition, Defendant Crux correctly determined, as to misconduct, “nothing in the petition supports this allegation”. P Exhibit 3.
57. Defendant Recall Committee’s second proposed petition, the Recall Petition, does not include the word “misconduct”. P Exhibit 4.
58. Specific grounds offered by Defendant Recall Committee in its first proposed recall petition were:

Misconduct and Failure to perform duties prescribed by law. During the 2025 General Election, the County Clerk caused to be printed and distributed incorrect ballots. Specifically, ballots used during early voting contained errors related to the USD 235 school board election. Despite the issue being brought to her attention by multiple individuals during the early voting period, the County Clerk failed to promptly correct the issue in a timely manner during that period, thereby allowing incorrect ballots to continue being used. Furthermore, the County Clerk represented that the ballots had been printed from official forms provided by the school district. This statement was later contradicted by testimony from the school superintendent. Corrective action was not taken until the night before the General Election, when new ballots were printed. This delay contributed to confusion and potential disenfranchisement of voters. The improper preparation, verification, and distribution of official ballots demonstrate a failure to perform the duties required of the office of County Clerk acting as County Election Officer under Chapter 25 of the Kansas Statutes. P Exhibit 2.

59. The allegations in the specific grounds section of the Recall Petition are identical to those in the first proposed recall petitions except for the leading word “Misconduct”.

See P Exhibit 2 & 4.

60. This suggests Defendant Recall Committee is still alleging misconduct, albeit not by name.

61. Accordingly, Defendant Crux should have analyzed the Recall Petition for sufficiency under the “misconduct in office” grounds.

62. Defendant Crux did not analyze the Recall Petition for sufficiency at all.

63. Despite Defendant Crux’s inaction, the Court should analyze the Recall Petition for “misconduct in office” sufficiency since it is being circulated and could be relied on to hold a recall election.

64. The Recall Petition does not sufficiently allege “misconduct in office”.

65. “Misconduct in office” is defined as "a violation of law by the officer that impacts the officer's ability to perform the official duties of the office." K.S.A. 25-4302(b).

66. Defendant Recall Committee’s petition accuses Plaintiff of disenfranchising voters, a violation of law under the United States Constitution and the federal Voting Rights Act codified under 52 USC § 101 *et. seq.*

67. This accusation, discussed further in the section just below, should not be presented to electors because it lacks specificity whereby Plaintiff could defend herself against the claim under K.S.A. 25-4329 and it lacks a nexus to Plaintiff’s official duties.

Lack of specificity

68. Grounds for recall listed in a K.S.A. 25-4302 petition should be “described with sufficient particularity in not more than 200 words so as to allow the officers to respond”. *Reynolds* at 643, 199.

69. The reason a petition must state specific grounds is so the elected official has an

opportunity to respond in writing for the voters to consider when voting in a recall election. See K.S.A. 25-4329, *Reynolds*, and *Unger*.

70. The Recall Petition contains specific statements but also contains general statements that are so vague they cannot be responded to as authorized by K.S.A. 25-4329. P Exhibit 4.

71. The *Reynolds* court analyzed the recall petition before them for sufficiency by breaking its stated grounds for recall into component parts and analyzing each.

72. The same exercise is helpful for analyzing the Recall Petition. The Recall Petition's grounds can be broken down as follows:

- a. The County Clerk printed and distributed incorrect ballots.
- b. The County Clerk did not act quickly enough to fix incorrect ballots.
- c. The County Clerk lied about why ballots were printed the way they were.
- d. The County Clerk did not fix incorrect ballots until the night before Election Day.
- e. The County Clerk confused voters.
- f. The County Clerk disenfranchised voters.
- g. The County Clerk violated K.S.A. Chapter 25. See P Exhibit 4 "specific grounds".

73. Plaintiff does not contest (a). It is a specific question of fact. Plaintiff can respond to (a) under K.S.A. 25-4329. But it is not misconduct under K.S.A. 25-4302(b).

74. Plaintiff contests (b). It is a specific question of fact. Plaintiff can respond to (b) under K.S.A. 25-4329. But it is not misconduct under K.S.A. 25-4302(b).

75. Plaintiff contests (c). It is a specific question of fact. Plaintiff can respond to (c) under

K.S.A. 25-4329. But it is not misconduct under K.S.A. 25-4302(b).

76. Plaintiff contests (d) but agrees it is a specifically stated fact that she could respond to under K.S.A. 25-4329. But it is not misconduct under K.S.A. 25-4302(b).

77. Plaintiff contests (e). It is inadequately specific for Plaintiff to respond to under K.S.A. 25-4329, and no elector voting in a recall election could determine whether voters were confused by the allegation alone. Furthermore, (e) is not misconduct under K.S.A. 25-4302(b).

78. Plaintiff contests (f). As noted above, this statement accuses Plaintiff of violating the law, which may be misconduct under K.S.A. 25-4302(b). (f) accuses Plaintiff of violating the law but neither cites the law allegedly violated, any subsections of a law, nor any elements necessary to prove the alleged violation. The only possible response to this nonspecific claim would be a lengthy brief or treatise on, at least, the 15th Amendment and Voting Rights Act. Defendant Recall Committee must be more specific if they are to allege disenfranchisement as grounds for a recall in a petition.

79. Plaintiff contests (g). (g) is not stated with enough specificity for Plaintiff to respond to it under K.S.A. 25-4329. K.S.A. Chapter 25 includes forty-seven separate articles with hundreds of statutes containing thousands of subsections. Defendant Recall Committee must be more specific in its petition if they wish to allege violating a statute as grounds for recall. They could, for instance, cite to specific statutes as Defendant Crux did in his letter evaluating the first proposed recall petition. P Exhibit 3. There, Defendant Crux says, K.S.A. §§ 25-604(a) and 25-2303(a) are duties of the County Election Officer. *Id.* Such specificity is nowhere in the Recall Petition, as it must be. Therefore, the Recall Petition's allegation based on violating K.S.A. Chapter 25 is

insufficiently specific.

THEREFORE, the Recall Petition is invalid for being inadequately specific as to whether Plaintiff's acts constitute misconduct in office.

Lack of nexus

80. “[F]or the recall of elected officials,...the ground of ‘misconduct in office’ in K.S.A. 25-4302 requires the allegation in the recall petition to show some nexus between the alleged misconduct and the elected official's duties in office...” *Baker* at 45, 1224.

81. The nexus analysis of the Recall Petition largely follows from the specificity defects stated above.

82. Defendant Recall Committee implies misconduct but does so with insufficient specificity for the Plaintiff, electors, or this Court to determine if any of the alleged conduct amounts to misconduct.

83. Without any determination of misconduct, there is no way for the Court to determine whether any alleged misconduct has a nexus with Plaintiff's duties in office of Bourbon County Clerk. Said another way, if one cannot find two dots, connecting them would be by chance alone.

84. Defendant Recall Committee's allegations as to Plaintiff's actions do not allege a specific nexus with misconduct, as defined by statute, concerning her duties of office.

THEREFORE, the Recall Petition is invalid for lacking a nexus between Plaintiff's alleged misconduct and her duties in office.

WHEREFORE, Plaintiff Susan Walker, Bourbon County, Kansas Clerk, respectfully petitions the Court to find the grounds for misconduct alleged in the Recall Petition lack the legally required specificity and nexus, the Recall Petition is therefore invalid for

insufficiency. Thereupon, Plaintiff further petitions the Court to enjoin Defendants all any other party from (1) circulating the Recall Petition, (2) certifying signatures on the Recall Petition, (3) holding any election based on the Recall Petition, and (4) certifying any election results which originated from the Recall Petition.

Failure to Perform Duties Prescribed by Law Insufficiently Alleged

85. Defendant Crux analyzed Defendant Recall Committee's first proposed recall petition and incorrectly determined it stated grounds for recall sufficient to present to electors for signatures and potentially to cast ballots on.

86. Defendant Crux relied on *Unger* and *Baker* to reason the following:

Here, it is alleged that the County Clerk caused to be printed and distributed incorrect ballots, specifically related to the USD 235 school board election. These incorrect ballots were used during early voting, although corrected prior to the general election. It is the duty of the County Election Officer to print ballots for all elections. K.S.A. 25-604(a). The County Clerk, in Bourbon County, is designated as the County Election Officer. K.S.A. 25-2303(a). Reviewing the petition and, for these purposes, assuming the facts are true, failure to correctly prepare and distribute ballots appears to be a failure to perform required duties with a nexus to the duties of Election Officer and County Clerk. "[T]he truth or falsity of the grounds must still be determined by the electorate, not the county or district attorney." *Baker* at 45. P Exhibit 3.

87. Defendant Crux analysis produced an incorrect conclusion. The grounds given in the Recall Petition are inadequately specific and show no nexus between the alleged acts and Plaintiff's duties under the law.

Recall Petition Lacks Specificity

88. As stated above, grounds for recall listed in a K.S.A. 25-4302 petition must be "...described with sufficient particularity..." *Reynolds* at 643, 199, citing *Cline*.

89. Plaintiff's specificity responses are listed above and are incorporated into this section

by reference.

90. The Recall Petition's lack of specificity as to misconduct allegations is equally non-specific as to any allegation Plaintiff failed to perform her duties prescribed by law. See P Exhibit 4.
91. Defendant Recall Committee cites no specific duty Plaintiff has under the law. See P Exhibit 4.
92. Defendant Recall Committee names Chapter 25 as containing duties Plaintiff must perform. See P Exhibit 4.
93. *Ut supra*, K.S.A. Chapter 25 includes forty-seven separate articles with hundreds of statutes containing thousands of subsections.
94. There is no way for Plaintiff to respond to such a broad accusation as allowed under K.S.A. 25-4329.
95. Likewise, there is no way for voters to meaningfully decide how to vote in a recall election based on so broad an accusation.

THEREFORE, the Recall Petition is invalid for being inadequately specific as to whether Plaintiff failed to perform her duties prescribed by law.

Lacks nexus

96. "For the recall of elected officials,...the grounds of...failure to perform duties prescribed by law in K.S.A. 25-4302 requires the recall petition to show some nexus between the alleged conduct and the elected official's duties as prescribed by law". *Baker* at 45, 1224 (internal quotations omitted).
97. Much as in the misconduct analysis above, the lack of specificity in Defendant Recall Committee's grounds for recall allegations makes it all but impossible for Plaintiff,

voters, or the Court to determine whether there is a nexus between the alleged conduct and Plaintiff's duties under the law. If one cannot find two dots, connecting them would be by chance alone.

98. There are not two dots to connect in Defendant Recall Committee's allegations concerning Plaintiff's performance of duties prescribed by law because the allegations are largely nebulous and the duties unidentified.

THEREFORE, the Recall Petition is invalid for failing to show a nexus between the alleged conduct and Plaintiff's duties as prescribed by law.

WHEREFORE, Plaintiff Susan Walker, Bourbon County, Kansas Clerk, respectfully petitions the Court to find the grounds for failure to perform duties prescribed by law alleged in the Recall Petition lack the legally required specificity and nexus, and the Recall Petition is therefore invalid for insufficiency. Thereupon, Plaintiff further petitions the Court to enjoin Defendants and any other party from (1) circulating the Recall Petition, (2) certifying signatures on the Recall Petition, (3) holding any election based on the Recall Petition, and (4) certifying any election results which originated from the Recall Petition.

Elected official actions are not misconduct when they conform to statutory remedies for administrative mistakes.

99. Plaintiff incorporates paragraphs 1-98 herein.

100. If the Court finds the allegations in the Recall Petition are specific enough and there is a nexus between allegations and Plaintiff's duties of office or under the law, the Court should consider the effects of allowing allegations such as those here from being sufficient to trigger a recall.

101. Discovery is highly likely to show what is known to election officials and experts:

every election has errors, mistakes, and other irregularities.

102. Kansas law controls for such problems by providing remedies and oversight. See

K.S.A. Chapter 25. See also *Kansas Election Standards*.

103. In this case, two electors reported a ballot error to Plaintiff the day before Election Day 2025.

104. Plaintiff acted on the report within a couple of hours by using remedies available to her from the law.

105. Plaintiff worked diligently through the day and into the early morning hours of Election Day to protect the integrity of the election by identifying the error, formulating the correction, coordinating for a new election to be programmed into election software, contacting affected voters, producing thousands of corrected ballots, re-training election workers, and insuring the affected polling place was prepared for the change.

106. The election was held.

107. The ballots were audited.

108. The votes on the ballots were tabulated.

109. The tabulations were canvassed.

110. The election was certified.

111. No election contest was filed to challenge the results of the election.

112. Evidence will show, without question, the outcome of the USD 235

School Board November 2025 Election resulted in the will of the voters being made so and was completed according to law.

113. If the Court allows voters to petition for recall of County Election Officials based

on minimally or barely specific allegations that are loosely or tangentially connected to election officers who exercise remedies available to them under the law, every County Election Officer in Kansas would be subject to recall after every election.

Prayer for Relief

WHEREFORE, based upon the foregoing arguments and authorities, Plaintiff Susan Walker, Bourbon County Clerk, respectfully asks the Court for the following relief:

(a) Declaratory judgement that:

- (1) K.S.A. 25-4322(b) applies to all recall petitions in Kansas, and
- (2) The Recall Petition is invalid for failing to meet the requirements of K.S.A. 25-4322(b);

(b) An order finding and declaring the Recall Petition circulating to Recall Plaintiff from office is legally insufficient and therefore invalid; and

(c) An order enjoining:

- (1) The circulation of the Recall Petition,
- (2) Certification of signatures on the Recall Petition,
- (3) Any recall election held based on the Recall Petition, and
- (4) Certification of any recall election based on the Recall Petition.

and for such other relief in law or equity that may be just or equitable.

Respectfully Submitted,

KN LAW GROUP

By:

/s/ Jonathan L. Ehrlich

Jonathan L. Ehrlich, KS Bar No. 28085

Joshua A. Ney, KS Bar No. 24077

Wyatt Hoagland, KS Bar No. 30162

KN Law Group

15050 W. 138th St., Unit 4493

Olathe, KS 66063

(913) 303-0639

jonathan@knlawgroup.com

ATTORNEYS FOR THE PLAINTIFF

VERIFICATION

I declare under penalty of perjury that the factual allegations within the foregoing Verified Petition are true.



SUSAN E. WALKER

BOURBON COUNTY
CLERK & ELECTION OFFICER
Susan Walker

November 3, 2025

FOR IMMEDIATE RELEASE

To: Bourbon County Residents Residing in the U235 School District

From: Susan E. Walker, County Clerk/Election Officer

This media release is for Bourbon County residents residing in the USD 235 School District area only. School district boards are required by law to run their elections by selecting a voting plan. Voting plan C was used to build the ballots for early voting which only listed precinct nominations. Voting Plan B should have been used which would include all USD 235 seats for residents to cast their vote. This error has been corrected and new ballots have been created with all board member seats listed on each ballot for election day. I am dedicated to operating honest, fair, and just elections in Bourbon County and I appreciate your understanding as we move forward. Please contact me with any questions or concerns.

BOURBON COUNTY
CLERK & ELECTION OFFICER
Susan Walker

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Office of the Secretary of State / Elections Division
Petition For Recall of Elected Official **RP**

I, the undersigned, hereby seek the recall of Susan Walker from the office of Bourbon County Clerk,
 on the ground(s) that: (state specific grounds)

Misconduct and Failure to perform duties prescribed by law. During the 2025 General Election, the County Clerk caused to be printed and distributed incorrect ballots. Specifically, ballots used during early voting contained errors related to the USD 235 school board election. Despite the issue being brought to her attention by multiple individuals during the early voting period, the County Clerk failed to promptly correct the issue in a timely manner during that period, thereby allowing incorrect ballots to continue being used. Furthermore, the County Clerk represented that the ballots had been printed from official forms provided by the school district. This statement was later contradicted by testimony from the school superintendent. Corrective action was not taken until the night before the General Election, when new ballots were printed. This delay contributed to confusion and potential disenfranchisement of voters. The improper preparation, verification, and distribution of official ballots demonstrate a failure to perform the duties required of the office of County Clerk acting as County Election Officer under Chapter 25 of the Kansas Statutes.

and declare that I am a registered elector of Bourbon County, Kansas, and of the election district of the officer named above.

	Signature of Signer	Name of Signer (Print)	Street Number or Rural Route (as registered)	Name of City	Date of Signing
1.					
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NOTE:

- It is a class B misdemeanor to sign a name other than your own name to this petition, to knowingly sign more than once for the recall of the same officer at the same election or to sign this petition knowing you are not a registered elector.
- The following comprise the recall committee:

Printed Name Kyle R. Parks Signature 

Residence Address
 1481 Range Road, Fort Scott, KS 66701

Printed Name Kevin Wagner Signature 

Residence Address
 1832 Grand Road, Fort Scott, KS 66701

Printed Name Lyle K. Owenby Signature 

Residence Address
 1481 135th Street, Redfield, KS 66749

- A list of all petition circulators authorized to circulate petitions for this recall may be examined in the office of the Bourbon County election officer.

RECALL PETITION STATEMENT (Kansas)

Against: Bourbon County Clerk Susan Walker

To the Electors of Bourbon County, Kansas:

We, the undersigned qualified electors of Bourbon County, Kansas, hereby seek the recall of **Susan Walker**, County Clerk, pursuant to the laws of the State of Kansas governing recall of elected officials.

Grounds for Recall

The grounds for recall are as follows:

Failure to perform duties prescribed by law.

During the 2025 General Election, the County Clerk caused to be printed and distributed incorrect ballots. Specifically, ballots used during early voting contained errors related to the USD 235 school board election.

Despite the issue being brought to her attention by multiple individuals during the early voting period, the County Clerk failed to promptly correct the issue in a timely manner during that period, thereby allowing incorrect ballots to continue being used.

Furthermore, the County Clerk represented that the ballots had been printed from official forms provided by the school district. This statement was later contradicted by testimony from the school superintendent.

Corrective action was not taken until the night before the General Election, when new ballots were printed. This delay contributed to confusion and potential disenfranchisement of voters.

The improper preparation, verification, and distribution of official ballots demonstrate a failure to perform the duties required of the office of County Clerk acting as County Election Officer under Chapter 25 of the Kansas Statutes.

Office of the County Attorney
State of Kansas
County of Bourbon



James Crux
County Attorney

Justin Meeks
Asst. County
Attorney

BOURBON COUNTY COURTHOUSE
210 S National Avenue, Ste. 22
Fort Scott, Kansas 66701
www.bourboncountyattorney.org

Telephone
(620) 223-2910

Facsimile
(620) 223-3781

April 27, 2026

RE: Recall Petition of Susan Walker

Dear Recall Committee Members and Ms. Walker,

I am in receipt of a recall petition seeking the recall of County Clerk Susan Walker. This petition appears to be in proper order and contains all statutory required elements. Listed grounds for recall allege Misconduct and Failure to Perform Required Duties. Ultimately, after a review of case law and applicable statutes, I find that the stated basis of Failure to Perform Required Duties has been alleged with sufficient particularity and contains a nexus to the duties of Election Officer and County Clerk.

K.S.A. 25-4320 requires a petition to include: the name and office of the local officer sought to be recalled; the grounds for recall described in less than 200 words with particularity; a statement that the petition signers are registered electors of the election district; the name and address of the recall committee members; the warning required in K.S.A. 25-4321; and a statement that a list of all persons authorized to circulate the petition is on file at the office of the County Election Officer. All of these requirements are contained in the petition I have reviewed.

Statutes governing the exercise of a right to seek a recall are to be liberally construed in favor of that right. *Unger v. Horn*, 240 Kan. 740, 741, 732 P.2d 1275 (1987). Upon receipt of a petition, it is the duty of the County Attorney to determine the sufficiency of the petition. K.S.A. 25-4322. The petition must show some nexus between the conduct and the elected official's duties. *Baker v. Gibson*, 22 Kan.App.2d 36, 45, 913 P.2d 1218 (1995).

Here, it is alleged that the County Clerk caused to be printed and distributed incorrect ballots, specifically related to the USD 235 school board election. These incorrect ballots were used during early voting, although corrected prior to the general election. It is the duty of the County Election Officer to print ballots for all elections. K.S.A. 25-604(a). The County Clerk, in Bourbon County, is designated as the County Election Officer. K.S.A. 25-2303(a). Reviewing the petition and, for these purposes, assuming the facts are true, failure to correctly prepare and distribute ballots appears to be a failure to perform required duties with a nexus to the duties of Election Officer and County Clerk. "[T]he truth or falsity of the grounds must still be determined by the electorate, not the county or district attorney." *Baker*, 22 Kan.App.2d at 45.

P Exhibit 3

However, the petition also alleges the grounds of misconduct in office. Misconduct in office is defined as “a violation of law by the officer that impacts the officer's ability to perform the official duties of the office.” K.S.A. 25-4302(b). Nothing in the petition supports this allegation. As such the recall cannot proceed on this allegation. Only the sufficient reasons for recall should be contained on the petition and posted at polling places. *See Reynolds v. Figge*, 28 Kan.App.2d 635, 648, 19 P.3d 193 (2001).

Sincerely,



James Crux
Bourbon County Attorney

Office of the Secretary of State / Elections Division
Petition For Recall of Elected Official **RP**

I, the undersigned, hereby seek the recall of Susan Walker from the office of Bourbon County Clerk, on the ground(s) that: (state specific grounds)




Failure to perform duties prescribed by law. During the 2025 General Election, the County Clerk caused to be printed and distributed incorrect ballots. Specifically, ballots used during early voting contained errors related to the USD 235 school board election. Despite the issue being brought to her attention by multiple individuals during the early voting period, the County Clerk failed to promptly correct the issue in a timely manner during that period, thereby allowing incorrect ballots to continue being used. Furthermore, the County Clerk represented that the ballots had been printed from official forms provided by the school district. This statement was later contradicted by testimony from the school superintendent. Corrective action was not taken until the night before the General Election, when new ballots were printed. This delay contributed to confusion and potential disenfranchisement of voters. The improper preparation, verification, and distribution of official ballots demonstrate a failure to perform the duties required of the office of County Clerk acting as County Election Officer under Chapter 25 of the Kansas Statutes.

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NOTE:

- It is a class B misdemeanor to sign a name other than your own name to this petition, to knowingly sign more than once for the recall of the same officer at the same election or to sign this petition knowing you are not a registered elector.
- The following comprise the recall committee:

<u>Kyle R. Parks</u>		<u>Signature</u>	<u>Residence Address</u>
<u>Kevin Wagner</u>			<u>1481 Range Road, Fort Scott, KS 66701</u>
<u>Lyle K. Owenby</u>			<u>1832 Grand Road, Fort Scott, KS 66701</u> <u>1481 135th Street, Redfield, KS 66749</u>

3. A list of all petition circulators authorized to circulate petitions for this recall may be examined in the office of the Bourbon County election officer.