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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA**

HEATHER MACALPINE,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE;
DAVID BRONSON in his official
capacity as Mayor of the Municipality of
Anchorage; NIKI TSHIBAKA in his
official capacity as an employee of the
Municipality of Anchorage; MATTHEW
JENDRUSINA in his official capacity as
an employee of the Municipality of
Anchorage; RAYLENE GRIFFITH in her
official capacity as an employee of the
Municipality of Anchorage; and OTHER
PERSONS RESPONSIBLE, as they
become known,

Defendants.

Case No. 3:23-cv-_____

COMPLAINT

Plaintiff Heather MacAlpine, by and through counsel, alleges the following:

NATURE OF THE CASE

1. Heather MacAlpine, as the director of the Office of Equal Opportunity (“OEO”) within the Municipality of Anchorage (“MOA”), was charged with protecting the citizens of Anchorage from unlawful discrimination. Yet on May 11, 2022, at a meeting where Ms. MacAlpine thought she would be discussing claims of unlawful discrimination made by employees of the Anchorage Public Library (“APL”) about the library’s acting director, JE, she was abruptly terminated. Ms. MacAlpine was terminated because JE was socially and politically connected with Mayor David Bronson and other high-ranking personnel in his administration. Rather than investigate the serious charges by APL employees regarding an allegedly hostile work environment at APL’s Loussac location (“Loussac”), MOA terminated Ms. MacAlpine. This suit seeks to hold MOA accountable and vindicate Ms. MacAlpine’s rights.

JURISDICTION AND VENUE

2. This court has subject matter jurisdiction over this action under 28 U.S.C. § 1331 and 1343 and under 42 U.S.C. § 2000-e5(f)(3).

3. This court has jurisdiction over defendants because MOA is a home-rule municipality of the State of Alaska and may be served within the District of Alaska.

4. Venue is proper in this court because all of the events giving rise to Ms. MacAlpine’s claims occurred in the District of Alaska.

PARTIES

5. Plaintiff Heather MacAlpine is an individual residing in Anchorage, Alaska.
6. Defendant MOA is a home rule municipality in the state of Alaska.
7. All other Defendants are employees of MOA named in their official capacities.

FACTS GIVING RISE TO CLAIMS

1. In 2015, MOA hired Ms. MacAlpine as Director of the Office of Equal Opportunity. In this role, she was responsible for ensuring that MOA provide equitable, non-discriminatory opportunities across the board. Her duties included working with individuals to identify and recommend means of resolving problems and concerns affecting MOA and providing training to MOA regarding Title VI and Title VII. She served in this position for seven years, under three different mayoral administrations. The MOA never disciplined, reprimanded, or provided a negative review of Ms. MacAlpine’s job performance.

2. As part of her job, Ms. MacAlpine served as a resource for MOA employees who were experiencing discriminatory treatment in the workplace. Ms. MacAlpine was tasked with elevating any significant issues to Human Resources (“HR”) or the Department of Law.

3. On April 1, 2022, an employee at Loussac reported to Ms. MacAlpine that APL’s Deputy Director JE had created a hostile and discriminatory work environment.

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4. The employee (“Employee A”) and a co-worker (“Employee B”) had previously complained in writing to MOA Ombudsman Darrel Hess regarding the hostile work environment. Mr. Hess recommended to the employees that they should contact Ms. MacAlpine. Employee A provided information orally and in writing to Ms. MacAlpine.

5. According to Employee A, JE made the following discriminatory statements:

- a. Using the term “Eskimo” to refer to Alaska Natives, JE stated that [Alaska Natives] “diddle their kids” and infect them with venereal disease;
- b. She stated that Alaska Natives have “FAS [fetal alcohol syndrome] babies” and send them to Anchorage to avoid having to take care of them;
- c. JE repeatedly stated to multiple individuals that she perceived Employee B to be neurodivergent, specifically, that she believed Employee B to have Asperger’s Syndrome. JE also stated that she had told the Mayor not to promote Employee B.
- d. She referred to “a children’s book about drag queens” as “filth.”
- e. She stated “The atmosphere here has gone downhill with woke movements like Black Lives Matter...I’m telling you, the woke culture is killing libraries and this country. If I could get rid of those employees, I could turn this library around for the good.”

6. Employee A reported that these and other statements made (and actions undertaken) by JE rendered Loussac a toxic, hostile, discriminatory, and stressful work environment. JE’s conduct made Employee A cry on a daily basis at work and experience adverse mental health effects even outside of working hours. In addition, since the time JE was appointed, numerous senior-level Loussac employees (including the Adult Services Supervisor, Collection Development Manager, Assistant Director of Public Services, and Adult Services Manager)—resigned their positions because of the hostile work environment created by JE.

7. This staff exodus has been so extreme that the Library Advisory Board, which exists pursuant to AMC 4.60.040, sent a letter expressing concern about the Loussac situation to Mayor Bronson and Municipal Manager Amy Demboski on May 15, 2022. As of that date, the Library Advisory Board estimated that there were at least 24 open and funded positions in the Anchorage Library System, but only 4 were posted on the MOA website. A true and correct copy of the letter is attached as Exhibit 1.

8. Concerned about the Loussac situation because of its effect on both employees and MOA more broadly, Ms. MacAlpine contacted HR by e-mail to request a meeting to discuss the situation at Loussac.

9. Ms. MacAlpine’s job duties required her to assist employees who complained to her about discrimination in the workplace so that she could help them defuse those situations where possible, or escalate their complaints to the next level, such

as HR, where appropriate. Had Ms. MacAlpine not reported the employees' concerns, she would have been derelict in her duties.

10. Shortly after requesting a meeting, Ms. MacAlpine met with two HR representatives, Senior Management Specialist Adan Garcia and Management Services Director Matthew Jendrusina. Mr. Jendrusina attended via Microsoft Teams. Mr. Garcia and Mr. Jendrusina assured Ms. MacAlpine that they would investigate the situation if Loussac employees came forward directly to HR with complaints.

11. Ms. MacAlpine shared this information with Employee A. Employee A was fearful of retaliation for speaking out, and reluctant to disclose their identity by complaining directly to HR. However, because the Loussac situation was intolerable and no other recourse was available, Employee A did eventually contact HR and reported their concerns to Mr. Garcia.

12. On information and belief, at least four other Loussac employees contacted HR in or around this timeframe as well, making similar complaints regarding JE's conduct. Contrary to Mr. Jendrusina and Mr. Garcia's assurances to Ms. MacAlpine that they would take appropriate action if library employees came forward, HR was dismissive of the employees' concerns and refused to pursue an investigation.

13. The problems at Loussac continued and employees continued to resign. Ms. MacAlpine was contacted again by one or more Loussac employees and asked to visit Loussac and speak with other employees.

14. On May 3, 2022, Ms. MacAlpine visited Loussac and spoke with several employees who shared concerns regarding JE.

15. Employee B shared that JE had made the following offensive and discriminatory statements (paraphrased):

- a. Books about transgender children “filled their heads with dangerous thoughts.”
- b. There are too many “liberals” working in libraries.
- c. “Men needed to have a more active role selecting books for boys and men because women don’t know what they want to read.”
- d. JE threatened the employee with retaliation (“wringing their neck” or “getting back at them”) if they repeated her comments.

16. Other employees similarly reported that JE regularly made statements that were racist and discriminatory against Alaska Natives; discriminatory against disabled individuals; politically discriminatory; sexist; and prioritized “male Christians” over other groups. They also reported that she had instructed security to enforce Loussac’s “one bag” policy—allowing patrons to bring only one bag into the library—in a selective, discriminatory way. Specifically, she instructed security not to enforce the policy against “mothers with diaper bags,” but to enforce it strictly against individuals who appeared homeless, many of whom appeared to be Alaska Native.

17. Ms. MacAlpine emailed Mr. Garcia and Mr. Jendrusina again, this time copying Deputy Municipal Attorney BC in the Department of Law, asking for another

meeting to address the situation at Loussac. Ms. MacAlpine had previously emailed Ms. Christensen twice about the Loussac situation, but received no response. This time, Ms. Christensen responded stating that they should meet. They arranged a meeting on May 11, 2022.

18. On May 11, 2022, Ms. MacAlpine arrived at the meeting at HR prepared to discuss the problems at Loussac. By this point, multiple Loussac employees had made complaints to HR, so Ms. MacAlpine expected that the additional information she had learned would be helpful in HR’s investigation.

19. Mr. Jendrusina and MOA Labor Relations Director Raylene Griffith were present at this “meeting.” Rather than address the Loussac situation, they instead informed Ms. MacAlpine that MOA no longer needed her services and that she was being terminated effective immediately. They gave no reason for the termination beyond saying that Ms. MacAlpine served at the pleasure of the Mayor. The MOA provided a letter indicating the same. A true and correct copy of this letter is attached Exhibit 2.

20. Ms. MacAlpine’s termination was a surprise. Just a few weeks prior, she and a coworker had spoken with her direct supervisor, MOA Chief Equity Officer Junior Aumavae, about a pay raise. Mr. Aumavae assured Ms. MacAlpine and her colleague that he was actively working to secure pay raises for them. Ms. MacAlpine later met with Mr. Aumavae and MOA Chief HR Officer Niki Tshibaka about the issue. Mr. Tshibaka was supportive, stating that although there was not enough room in the budget to

accommodate a raise this year, HR would work on implementing one for the following year.

21. Mr. Tshibaka made several suggestions about how Ms. MacAlpine could seek additional funding for her office, recommended she put the request in writing, and requested that they meet again later to revisit the issue. Mr. Tshibaka evidently considered Ms. MacAlpine to be a satisfactory employee with anticipated longevity in her position. Mr. Aumavae, her direct supervisor, also appeared to consider Ms. MacAlpine to be a satisfactory employee with anticipated longevity. He had encouraged Ms. MacAlpine to raise the pay issue, told her several times that he “had her back” and was advocating for her with the Mayor. He described himself as “the Mayor’s right-hand man.”

22. Despite her good standing and stellar job performance, MOA terminated Ms. MacAlpine for reporting the complaints made by MOA employees regarding JE’s conduct.

23. On information and belief, Mayor Bronson, Mr. Tshibaka, Mr. Jendrusina, and Ms. Griffith were all aware that Ms. MacAlpine had reported JE’s problematic conduct, and they deliberately terminated her in retaliation for those reports.

24. On information and belief, MOA Mayor David Bronson had committed to not terminating (or even meaningfully investigating or disciplining) JE irrespective of her conduct. JE stated the following to various library employees:

- a. The Mayor called her “looking for the biggest bitch he could find” to place at Loussac and “knew he was placing her in a viper's nest.”

- b. “The mayor picked me, he put me here for a reason – he won’t fire me.”
- c. “I’m a tough cookie, I don’t give a shit what anyone here thinks.”
- d. “I’m untouchable. No one can fire me in my position. [Municipal Manager] Amy Demboski told me I’m untouchable.”

25. On information and belief, to date, the MOA has failed to conduct an appropriate investigation into JE’s conduct towards employees at Loussac.

26. On information and belief, HR has received instructions from Mayor Bronson, or someone acting on his behalf, not to investigate JE or take any disciplinary action against her.

27. This favoritism is a matter of public knowledge. On June 15, 2022, Mr. Tshibaka participated in a public meeting of the Library Advisory Board. Mr. Tshibaka identified himself as being present in his official capacity.

28. Although Mr. Tshibaka, in his official capacity, was responsible for impartially investigating and remedying alleged violations of the law in the employment context, his behavior at this meeting contradicted his official purpose.

29. For example, Mr. Tshibaka wore to the meeting a t-shirt emblazoned with the text “I’M WITH [J]”. The shirt was clearly intended to convey that Mr. Tshibaka had no interest in serving as an impartial HR representative who would listen fairly and objectively to employee complaints regarding JE. Instead, his attire reflected his partisanship towards JE and the Mayor’s preferred position of tolerating the discriminatory conduct.

30. Ms. MacAlpine’s termination was directly connected to her refusal to stay silent about JE and the Loussac employees’ complaints about her conduct.

31. Ms. MacAlpine’s termination has exacerbated the decline in morale of employees at Loussac, as they now fear retaliation more than ever for speaking out against JE. For example, after Ms. MacAlpine’s termination, Employee B resigned their position mainly because of the intolerable work environment JE had created.

32. Ms. MacAlpine’s abrupt termination has caused her significant emotional distress, financial loss, and practical hardship.

33. Ms. MacAlpine filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission (“EEOC”) on November 1, 2022. On November 23, 2022, Ms. MacAlpine received a right-to-sue letter from the EEOC. A true and correct copy of this notice and letter is attached as Exhibit 3.

COUNT I

Violation of Title VII of the Civil Rights Act of 1964

34. All foregoing allegations are incorporated into this count.

35. 42 U.S.C. 2000e-2 prohibits an employer from discharging or otherwise discriminating against an individual with respect to compensation, terms, conditions, or privileges of employment, because of the individual’s race, color, religion, sex, or national origin.

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36. 42 U.S.C. 2000e-3 prohibits an employer from retaliating against an employee for opposing any practice made unlawful by Title VII of the Civil Rights Act of 1964.

37. As alleged above, MOA intentionally retaliated against Ms. MacAlpine for opposing discriminatory practices made unlawful by Title VII of the Civil Rights Act of 1964.

38. This conduct violated Title VII.

DEMAND FOR JURY

Plaintiff demands a trial by jury.

REQUEST FOR RELIEF

Based on the foregoing, Plaintiff requests the following relief:

- A. An injunction restoring her to her former position;
- B. An award of back pay, front pay, and compensatory damages in an amount to be demonstrated at trial;
- C. An award of punitive damages;
- D. An award of costs and reasonable attorney's fees;
- E. Leave to amend this Complaint as needed; and
- F. For such other relief the Court deems just and equitable.

ASHBURN & MASON, P.C.
Attorneys for Plaintiff Heather MacAlpine

DATED: 2023-02-21

By: /s/ Eva R. Gardner
Eva R. Gardner
Alaska Bar No. 1305017

DATED: 2023-02-21

By: /s/ Benjamin J. Farkash
Benjamin J. Farkash
Alaska Bar No. 1911095

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MEMORANDUM

To: Mayor Dave Bronson
City Manager Amy Demboski
Cc: Anchorage Municipal Assembly
Library Advisory Board
From: Cristy Willer, Chair, Library Advisory Board
RE: Request for Information
Date: May 15, 2022

In addition to its role under the Charter as "the planning body in charge of all library activities of the municipality...", the Library Advisory Board has the responsibility to "[m]ake recommendations to the administration and assembly for the adoption, change, repeal or alteration of rules, regulations, restrictions on library services, and all other matters directly or indirectly affecting the municipal library program."

Of late, the LAB has not been able to effectively meet these responsibilities due to lack of information. Perhaps we have not asked firmly or explicitly enough; perhaps we are simply experiencing informational supply-chain issues. In any case, several serious matters have been brought to our attention upon which, with your assistance, we will be able to appropriately make informed planning and policy recommendations.

1. Unfilled positions. Members of the public have expressed concern regarding what is perceived as a staff exodus from the library. Some have even implied that vacancies are being intentionally left unfilled. These allegations are quite concerning, and the LAB has had no specific data to either refute or support them. Therefore, to enable us to address these concerns—to respond to rumors with the facts of the matter—several requests were made to Ms. Eledge to provide the LAB with information regarding empty positions, how long they've been empty, and steps being taken to fill them. On March 16, she provided the following chart, which included a list of recruiting notes on each, but the information was incomplete and nine months old.

Department/Branch	Openings	Filled	Waiting Approval
Administration	1	1	
IT	1	0	
Patron Services	2	1	
Collections	2	0	2
Tech Services	2	1	
Adult Services	1	1	
Youth Services	2	2	
Eagle River	3	1	

Girdwood	1	1
Mt View	N/A	N/A
Muldoon	N/A	N/A
TOTAL-as of		
8/27/21	15	8

However, we have been able to compile what appears to be a more current and complete list of openings based on information from library staff and other sources. Dates listed with each position indicate when they were initially vacated or created.

Library Director (pending) 11/8/21
Collection Development Coordinator 2/17/22
Collection Librarian (in recruitment stage) 11/20/21
Library Assistant 2 – Technical Services 1/4/22
Library Assistant 2 – Technical Services 3/7/22
(4) Family Service Counselor positions 6/24/21
Family Service Specialist 3/18/22
Information Center Consultant 5/19/21
Library Assistant 1 (Patron Services) 3/7/21
Library Assistant 2 (Patron Services) 7/12/21
Library Clerk (Patron Services) 5/14/21
Library Assistant 2 (Eagle River) 12/20/21
Library Assistant 1 (Eagle River) 6/12/20
Professional Librarian 1 (Adult Services) 4/6/22
Library Assistant 3 (Adult Services) in hiring status 2/1/20
(2) Part-Time Professional Librarian 1 (Adult Services) in recruitment 8/2/21
Professional Librarian 1 (Youth Services) 5/24/21
Professional Librarian 2 (Youth Services) 4/6/22
(2) Part -Time Professional Librarian 1 (Youth Services) 10/25/20

Assuming this list is reasonably accurate, it indicates 24 current vacancies, of which only four appear today on the municipality’s HR posting page. In addition, several senior staff have recently resigned their long-held positions (Adult Services Supervisor, Collection Development Manager, Assistant Director of Public Services, and Adult Services Manager among them), so the actual number may be higher.

We have been unable to discern what actions are being taken to fill these positions, though we understand that they are fully funded in the 2022 operating budget. If any of these statements or charts are incorrect, please let us know, so that we can appropriately offer any advice and assistance regarding the library’s human resources situation. And please let us know if there is any formal or informal policy or practice relating to filling these positions, whether the idea is not to fill them at all, or to delay filling them, or a system for prioritizing them.

2. The decision to close the Loussac Library on Sundays “to improve patron services for more frequently used days” was revealed last week. This decision was made without LAB input—and without even prior notice to the LAB before it was announced in a press release—despite the fact that we are charged with making recommendations to the administration and assembly regarding “...restrictions on library services... .” Please let us know how and why this decision was made, and if, in fact, it was deemed necessary because of the lack of suitable personnel.

3. We are glad to know that there is progress in finding a new Library Director, though we are disappointed at the administration’s decision to not include LAB in the search process. We are very interested in meeting with the newly appointed Director. Ideally, we’d like to schedule Mr. Hudson into our next meeting, which is this Wednesday, May 18th at 5:30 p.m. If he is unable to meet with us due to the short notice, we would like your assistance in finding a suitable time and method to talk to him in the coming weeks, so that we can fulfill our legal mandate to make recommendations, as there are few things on the horizon that will so critically affect our municipal library. For the same reason we are asking the Assembly to notify us in advance of any interviews or work sessions that it may schedule relating to Mr. Hudson’s confirmation.

Above all, it is our aim to have the Library Advisory Board act as a forum and welcoming site for work-sessions with your staff on any matters of budget, personnel, or community services that affect the future of our library. Transparent, free exchange of information is, I believe, the best way to serve our patrons and the larger community. We are proud to be part of the Anchorage municipal team and proud to serve the people of this city.



MUNICIPALITY OF ANCHORAGE
MAYOR DAVE BRONSON

DATE: May 11, 2022
TO: Heather MacApline, Executive Director OEO
THROUGH: Alexis Johnson, Chief of Staff
FROM: Raylene Griffith, Labor Relations Director *RG*
SUBJECT: Executive Appointment

As an Executive Director of OEO at the Municipality of Anchorage, you are aware your position is an executive position and serves at the pleasure of the Mayor. Please be advised that your service to the Municipality will end May 11, 2022 (your last day of work).

Your contributions to the Municipality of Anchorage have been appreciated.

cc: Personnel File
Central Payroll



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Seattle Field Office
909 First Avenue, Suite 400
Seattle, WA 98104
(206) 576-3000
Website: www.eeoc.gov

DISMISSAL AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued On: 11/23/2022

To: Heather MacAlpine
6800 E 11th Ave
ANCHORAGE, AK 99504

Charge No: 551-2023-00534

EEOC Representative and email: Alexandria Arbogast
CRTIU Supervisor
alexandria.arbogast@eeoc.gov

DISMISSAL OF CHARGE

The EEOC is closing this charge because you have already filed a lawsuit in a state court on this matter.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 551-2023-00534.

On Behalf of the Commission:

November 23, 2022
Date

 for
Elizabeth Cannon
Director

Cc:

Linda J Johnson
Municipality of Anchorage - Civil Law Department
632 W 6TH AVE STE 730
Anchorage, AK 99501

Eva R Gardner
Ashburn and Mason
1227 W 9th Ave Suite 200
Anchorage, AK 99501

Ben J Farkash
Ashburn and Mason
1227 W 9th Ave Suite 200
Anchorage, AK 99501

Please retain this notice for your records.

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS

There are two ways to request a charge file: 1) a FOIA Request or 2) a Section 83 request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your request for the charge file promptly to allow sufficient time for EEOC to respond and for your review. Submit a signed written request stating it is a "FOIA Request" or a "Section 83 Request" for Charge Number 551-2023-00534 to the District Director at Nancy Sienko, 450 Golden Gate Avenue 5 West PO Box 36025

San Francisco, CA 94102.

You can also make a FOIA request online at <https://eeoc.arkcase.com/foia/portal/login>.

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA Requests and Section 83 Requests, go to:
<https://www.eeoc.gov/eeoc/foia/index.cfm>.