

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

HEATHER MACALPINE, )  
)  
Plaintiff, )

vs. )

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.: 3AN-22-\_\_\_\_\_CI

**COMPLAINT**

Plaintiff Heather MacAlpine, by and through counsel, Ashburn & Mason, P.C., brings this complaint and alleges the following against Defendants Municipality of Anchorage (“MOA”); David Bronson; Niki Tshibaka; Matthew Jendrusina; Raylene Griffith; and other persons responsible for illegally terminating Ms. MacAlpine (collectively “Defendants”):

**PARTIES**

1. Heather MacAlpine is an individual residing in Anchorage, Alaska.
2. MOA is a home rule municipality in the state of Alaska.

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3. David Bronson is the Mayor of MOA and a resident of Alaska named in his official capacity.

4. Niki Tshibaka is the Chief Human Resources Officer of MOA named in his official capacity.

5. Matthew Jendrusina is the Management Services Director of MOA Human Resources named in his official capacity.

6. Raylene Griffith is the Labor Relations Director of MOA Human Resources named in her official capacity.

7. On information and belief, additional responsible persons involved in this matter may exist and will be named as they are identified.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the subject matter of this action pursuant to AS 22.10.020 and AMC 03.75.050.A.

9. This Court has personal jurisdiction over Defendants pursuant to AS 09.05.015(a)(1) and (2).

10. Venue is proper in the Third Judicial District pursuant to Alaska Rule of Civil Procedure 3(c) and (d) as the activities giving rise to this action occurred within the Third Judicial District in Anchorage where Defendants may be personally served, and a trial in the Third Judicial District would best serve the convenience of the parties and witnesses.

## FACTS GIVING RISE TO THE LAWSUIT

11. 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.

12. 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.

13. On April 1, 2022, an employee at the Anchorage Public Library’s (“APL”) Loussac location (“Loussac”) reported to Ms. MacAlpine that APL’s Deputy Director Judy Eledge had created a hostile and discriminatory work environment.

14. 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.

15. According to Employee A, Ms. Eledge made the following discriminatory statements:

- a. Using the term “Eskimo” to refer to Alaska Natives, Ms. Eledge 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. Ms. Eledge repeatedly stated to multiple individuals that she perceived Employee B to be neurodivergent, specifically, that she believed Employee B to have Asperger’s Syndrome. Ms. Eledge 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.”

16. Employee A reported that these and other statements made (and actions undertaken) by Ms. Eledge rendered Loussac a toxic, hostile, discriminatory, and stressful work environment. Ms. Eledge’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 Ms. Eledge 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 Ms. Eledge.

17. 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.

18. 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.

19. 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.

20. 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. In the

course of the conversation regarding the Loussac workplace environment, Mr. Garcia disclosed that in the past, he had also felt compelled to tell Ms. Eledge “You can’t say that” in response to certain of her discriminatory comments. Mr. Garcia and Mr. Jendrusina assured Ms. MacAlpine that they would investigate the situation if Loussac employees came forward directly to HR with complaints.

21. 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.

22. On information and belief, at least four other Loussac employees contacted HR in or around this timeframe as well, making similar complaints regarding Ms. Eledge’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.

23. 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.

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

25. Employee B shared that Ms. Eledge 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. Ms. Eledge threatened the employee with retaliation (“wringing their neck” or “getting back at them”) if they repeated her comments.

26. Other employees similarly reported that Ms. Eledge 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.

27. Ms. MacAlpine emailed Mr. Garcia and Mr. Jendrusina again, this time copying Deputy Municipal Attorney Blair Christensen 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.

28. 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.

29. 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.

30. 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.



31. 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.”

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

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

34. On information and belief, MOA Mayor David Bronson had committed to not terminating (or even meaningfully investigating or disciplining) Ms. Eledge irrespective of her conduct. Ms. Eledge 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.”

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

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

37. 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.

38. 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.

39. For example, Mr. Tshibaka wore to the meeting a t-shirt emblazoned with the text “I’M WITH JUDY”. 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 Ms. Eledge. Instead, his attire reflected his partisanship towards Ms. Eledge and the Mayor’s preferred position of tolerating the discriminatory conduct.

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

41. 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 Ms. Eledge. For example, after Ms. MacAlpine’s termination, Employee B resigned their position mainly because of the intolerable work environment Ms. Eledge had created.

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

**COUNT I: BREACH OF THE ANCHORAGE WHISTLEBLOWER ACT**

43. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

44. Under the Anchorage Whistleblower Act, AMC 3.75.030, MOA may not discharge, threaten, or otherwise discriminate against an employee regarding their employment because the employee reports to a public body or public official on a matter of public concern or participates in an investigation by a public body on a matter of public concern. The definition of “public body” includes an officer of the MOA.

45. Defendants terminated Ms. MacAlpine’s employment on May 11, 2022 because of her participation in protected whistleblower activities, specifically by reporting Ms. Eledge’s offensive and discriminatory statements and conduct—a matter of public concern—to MOA Human Resources officials.

46. Ms. MacAlpine suffered significant economic harm as a result of her unlawful termination by MOA, Mayor Bronson, and other defendants, and is entitled to compensatory and treble punitive damages as a result under AMC 3.75.050.A.

**COUNT II: VIOLATION OF THE ALASKA HUMAN RIGHTS ACT**

47. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

48. AS 18.89.220(a)(4) renders it unlawful for an employee an employer to discharge, expel, or otherwise discriminate against a person because the person has opposed any practices forbidden by the Alaska Human Rights Act, including AS 18.89.220(a)(1), which prohibits discrimination on the basis of several factors, including race, religion, color, age, physical or mental disability, or sex.

49. Defendants terminated Ms. MacAlpine because she opposed Ms. Eledge’s unlawful and discriminatory statements and conduct, in violation of the Alaska Human Rights Act.

50. Ms. MacAlpine is entitled to compensatory damages as a result.

**COUNT III: WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

51. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

52. Ms. MacAlpine served in a position intended to promote equitable treatment and the elimination of discrimination within MOA. She was fired by defendants for doing her job. This is contrary to public policy and will have a chilling effect on others within MOA, including other individuals charged with enforcing anti-discrimination laws.

53. Ms. MacAlpine is entitled to compensatory damages as a result.

**COUNT IV: BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING**

54. Plaintiff realleges and incorporates by reference the allegations in the preceding paragraphs.

55. In every employment contract in Alaska, there is an implied, and legally binding, covenant of good faith and fair dealing.

56. Defendants acted intentionally in a manner that a reasonable person would regard as unfair with respect to the allegations in this Complaint by, among other things, firing Ms. MacAlpine for raising her concerns about Ms. Eledge even though Ms. MacAlpine was required to raise these concerns as part of her job as OEO Director. To the contrary, Ms. Eledge has faced no employment-based discipline or other redress from the MOA despite having engaged in the discriminatory conduct alleged in this complaint.

57. Ms. MacAlpine suffered significant economic harm as a result of these actions and is entitled to compensatory damages.

**REQUEST FOR RELIEF**

Based on the foregoing, Plaintiff requests the following relief:

1. A judgment for compensatory damages, to be demonstrated at trial in an amount exceeding \$100,000;
2. An award of treble punitive damages under AMC 03.75.050;
3. An award of punitive damages under AS 09.17.020 if available;
4. An award of costs, interest, and attorney's fees;
5. Leave to amend this Complaint as needed; and

6. Any other relief the Court deems just and equitable.

ASHBURN & MASON, P.C.  
Attorneys for Plaintiff

DATE: June 23, 2022

By: s/Eva R. Gardner

Eva R. Gardner  
Alaska Bar No. 1315017

DATE: June 23, 2022

By: s/Jeffrey W. Robinson

Jeffrey W. Robinson  
Alaska Bar No. 0805038

DATE: June 23, 2022

By: s/Benjamin J. Farkash

Benjamin J. Farkash  
Alaska Bar No. 1911095

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MEMORANDUM

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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

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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
<b>TOTAL-as of</b>		
<b>8/27/21</b>	<b>15</b>	<b>8</b>

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 18<sup>th</sup> 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

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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