

## Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges Facebook Inc.'s ("Facebook") violations of federal, state, and local laws that prohibit employers and employment agencies from engaging in sex discrimination (including discrimination based on gender identity) in employment advertising, recruitment, and hiring, including Title VII of the Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. §§ 2000e, *et seq.*, and all state and local anti-discrimination statutes that have parallel prohibitions on sex discrimination in employment.<sup>1</sup>
2. As described herein, Facebook, which is both an employer and an employment agency under Title VII and analogous state and local laws, has engaged in a pattern, practice, or policy of targeting and sending job advertisements and related recruitment and hiring opportunities to male Facebook users as prospective job applicants, while excluding female and other non-male prospective job applicants from receiving the job advertisements and opportunities. In the context of advertising for employment (as well as other economic opportunities), the practice of segregating prospective applicants based on gender and excluding women and other non-male individuals from receiving job opportunities violates federal, state, and local laws prohibiting sex discrimination in employment advertising, recruiting, and hiring (even though targeting certain types of advertisements based on gender, such as clothing, may not be unlawful in various jurisdictions).
3. Facebook requires each of its users to identify their gender when opening an account. In turn, through its advertising platform, Facebook enables, encourages, and assists employers to target advertisements and recruitment based on the user's gender, by allowing advertisers to select either "All," "Male," or "Female" users to receive the ad.
4. Once the employer limits its target audience for a job advertisement based on the gender of the users it wants to reach, Facebook then effectuates the employer's gender-based targeting preferences by delivering the ads only to users who identify as the selected gender, using the gender assigned to or selected by the user to target ads on the basis of sex, while excluding all other users from

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<sup>1</sup> See, e.g., Ariz. Rev. Stat. Ann. §§ 41-1461 *et seq.*; Colo. Rev. Stat. Ann. §§ 24-34-401 *et seq.*; Conn. Gen. Stat. §§ 46a-51 *et seq.*; Fla. Stat. Ann. §§ 760.01 *et seq.*; Haw. Rev. Stat. Ann. §§ 378-1 *et seq.*; Idaho Code Ann. §§ 67-5901 *et seq.*; 775 Ill. Comp. Stat. Ann. §§ 5/1-101 *et seq.*; Iowa Code Ann. §§ 216.1 *et seq.*; Kan. Stat. Ann. §§ 44-1001 *et seq.*; Mass. Gen. Laws Ann. ch. 151B, §§ 1 *et seq.*; Md. Code Ann., State Gov't §§ 20-101 *et seq.*; Mo. Ann. Stat. §§ 213.010 *et seq.*; Mont. Code Ann. §§ 49-2-101 *et seq.*; Nev. Rev. Stat. Ann. §§ 613.310 *et seq.*; N.H. Rev. Stat. Ann. §§ 354-A:1 *et seq.*; N.M. Stat. Ann. §§ 28-1-1 *et seq.*; 43 Pa. Stat. Ann. §§ 951 *et seq.*; 28 R.I. Gen. Laws Ann. §§ 28-5-1 *et seq.*; S.C. Code Ann. §§ 1-13-10 *et seq.*; Tex. Labor Code Ann. § 21.001 *et seq.*; Utah Code Ann. §§ 34A-5-101 *et seq.*; Va. Code Ann. §§ 2.2-3900 *et seq.*; Wis. Stat. Ann. §§ 111.31 *et seq.* The following state laws are excluded from this charge, because Plaintiffs need not exhaust administrative remedies to bring an action in court under those statutes: the District of Columbia Human Rights Act, D.C. Code §§ 2-1401 *et seq.*; the Minnesota Human Rights Act, Minn. Stat. Ann. §§ 363A.01 *et seq.*; the New Jersey Law Against Discrimination, N.J. Stat. Ann. §§ 10:5-1 *et seq.*; the New York State Human Rights Law, N.Y. Exec. Law §§ 290 *et seq.*; the Ohio Civil Rights Act, Ohio Rev. Code Ann. §§ 4112.01 *et seq.*; and the Washington Law Against Discrimination, Wash. Rev. Code Ann. §§ 49.60.10 *et seq.*

receiving the ad. Thus, if an advertiser selects “Male,” the advertisement will not be shown to Facebook users who publicly identify as “Female” or a “custom” gender that publicly identifies their gender pronoun as “Neutral.”

5. Concurrent with the filing of this charge, Charging Parties have filed charges against a number of employers and employment agencies, specifically Abas USA, City of Greensboro, Defenders, Nebraska Furniture Mart, Need Work Today, Renewal by Andersen LLC, Rice Tire, JK Moving Services, Enhanced Roofing & Modeling, and Xenith, who have all used Facebook’s ad platform to discriminate in employment advertising by choosing to target some or all of their job ads—all in male dominated fields—to only men. Facebook targeted all of these discriminatory advertisements, as both an employment agency and an agent of the other companies, and received money for doing so.
6. The effect of this discriminatory sex-based targeting of employment ads is profound and only increasing as the world becomes more connected through social media. Over the past five years, employment advertising, recruiting, and hiring has undergone a seismic shift. Facebook and other social media platforms have become a dominant force in the national labor market. In fact, social media has become a primary means for big and small employers to identify, recruit, and hire workers, particularly through the use of targeted ads.

#### **CHARGING PARTIES**

7. Bobbi Spees is a 36-year-old woman who lives in McKean County, Pennsylvania. She has been seeking full-time employment for approximately three and one-half years. She regularly uses Facebook, and has used Facebook to seek employment opportunities. Ms. Spees has skills in a range of areas and would be qualified for numerous positions in various fields. She is willing to work not just in Pennsylvania but beyond her local geographic area.
8. Linda Bradley is a woman who lives in Franklin County, Ohio. She was recently laid off from her longstanding job at a call center in Franklin County, Ohio. She regularly uses Facebook, and has used Facebook to seek employment opportunities. Ms. Bradley has skills in a range of areas and would be qualified for numerous positions in various fields. She is willing to work not just in Ohio but also beyond her local geographic area.
9. Renia Hudson is a woman who lives in Chicago, Illinois and previously lived and worked in Sacramento County, California. For the two years prior to the filing date, she has been unemployed and/or seeking employment. She regularly uses Facebook, and has used Facebook to seek employment opportunities. Ms. Hudson has skills in a range of areas and would be qualified for numerous positions in various fields. She is willing to work beyond her local geographic area.
10. The Communications Workers of America (“CWA”) is an international labor union representing over 700,000 workers in a broad range of industries, including telecommunications, cable, information technology, airline, manufacturing, print and broadcast news media, education, public service, and healthcare, among

others. CWA's central purpose is protecting the rights of workers through collective bargaining and public advocacy. CWA's members work, live, and seek employment throughout the United States. CWA members reflect an impressive diversity of skills, interests, work experience, and talent, making them a rich pool of potential candidates for job opportunities. As a union, CWA has a strong social media presence and invests substantial resources in educating its members about the value of social media for networking and advocacy. CWA counts hundreds of thousands of Facebook users among its ranks. Approximately half of CWA's members are women.

11. CWA files this charge on behalf of its members pursuant to *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333 (U.S. 1977). CWA has associational standing to pursue the claims asserted herein because many of CWA's members have standing to sue the Company under applicable federal, state, and local laws prohibiting sex discrimination; the interests that CWA seeks to protect are germane to its purpose; and neither the claims asserted nor the relief requested by CWA requires the participation of any individual member of CWA for the relief that CWA is seeking.
12. Ms. Spees, Ms. Bradley, Ms. Hudson, and CWA's female and other non-male members have routinely been denied the opportunity to receive employment advertisements and recruitment on Facebook that similarly situated male Facebook users have received.
13. If Ms. Spees, Ms. Bradley, Ms. Hudson, and/or CWA's female and other non-male members had received such ads, they would have clicked on those employment ads in order to learn more about those opportunities and pursue them.
14. Ms. Spees, Ms. Bradley, Ms. Hudson, and CWA file this charge on behalf of themselves and all female and other non-male Facebook users in the United States of any age who are or were interested in receiving employment-related advertisements or recruiting from employers or employment agencies via Facebook's ad platform and were or are currently being excluded from receiving an employment-related advertisement because Facebook targeted an employment-related advertisement based on the sex of the Facebook user—including through the use of tools that expressly exclude female and other non-male Facebook users from receiving ads and due to the use of the "Lookalike Audience" tool that determines which Facebook users will be in a target population based on the sex of the advertiser's current customers—at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any judicial proceeding initiated by the Charging Parties herein in relation to the claims asserted in this charge ("Plaintiff Class Members").

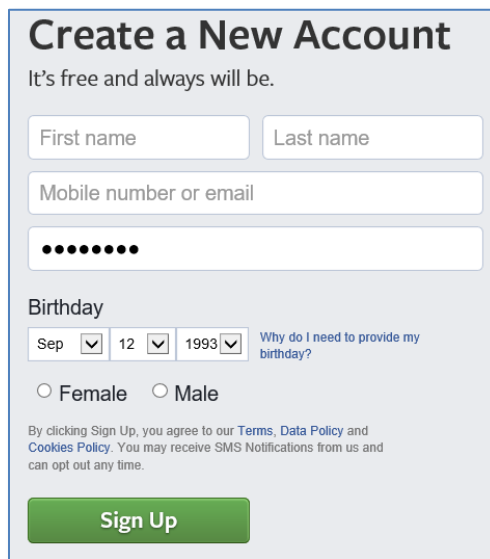
## **SEX DISCRIMINATION**

15. As detailed below, Facebook creates or develops information on its users' genders by requiring them to identify their gender as part of creating their profiles, and creates or develops discriminatory advertisements by presenting discriminatory gender-based targeting choices to advertisers for employment, accepting

discriminatory selections that exclude users based on gender, and delivering advertisements to the designated populations that exclude users based on gender.

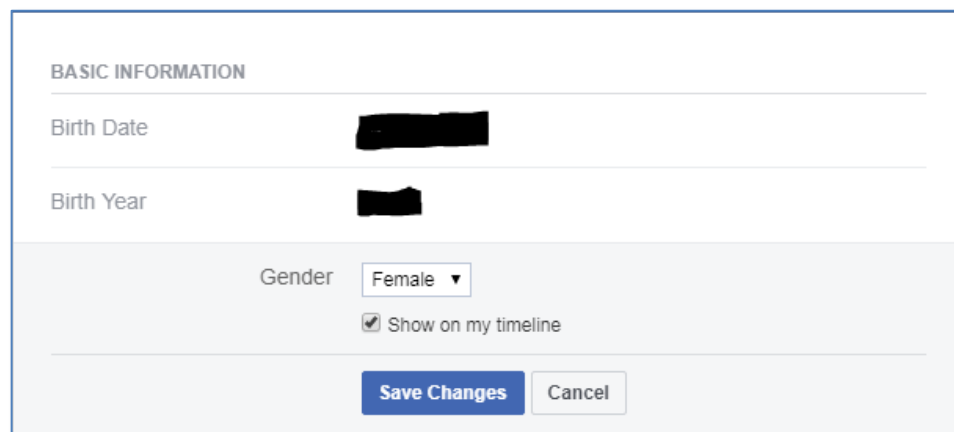
16. Title VII and analogous state and local statutes that prohibit sex discrimination (including gender identity discrimination) in employment advertising, recruitment, and hiring make it unlawful for an employer or employment agency to “print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer . . . or relating to any classification or referral for employment by such an employment agency, . . . indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification, or discrimination based on religion, sex, or national origin when religion, sex, or national origin is a bona fide occupational qualification for employment.” 42 U.S.C. 2000e-3(b).
17. Title VII and analogous state and local statutes that prohibit sex discrimination (including gender identity discrimination) in employment advertising, recruitment, and hiring make it unlawful for an employer or employment agency to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as an employee, because of such individual’s race, color, religion, sex, or national origin. 42 U.S.C. 2000e-(a), (b).
18. Ms. Spees, Ms. Bradley, Ms. Hudson, and CWA’s female and other non-male members, are employees within the meaning of all applicable state and local laws prohibiting sex discrimination in employment advertising, recruitment, and hiring, because they are seeking employment from an employer or an employment agency or an agent of an employer or employment agency.
19. Facebook is an employer pursuant to 42 U.S.C. § 2000e(b) and analogous state and local anti-discrimination laws, because it has tens of thousands of employees throughout the United States.
20. Facebook is an employment agency pursuant to 42 U.S.C. § 2000e(c) and analogous state and local anti-discrimination laws, because it regularly undertakes to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person. Facebook serves as an employment agency for thousands of employers who rely on Facebook to identify prospective applicants, inform the employers of the prospective applicants’ sex and other demographic information, create and develop advertising and recruiting campaigns to reach those prospective applicants, send advertising and recruiting to those applicants, and bring those prospective applicants to the employers’ web sites so that they can learn more about open positions and/or apply for those positions.

21. In this regard, as described in detail below, Facebook’s ad platform is designed to create and send ads that discriminate on the basis of sex. Through its design of its platform, Facebook has enabled and encouraged employers to target employment ads toward users who identify as male, while completely excluding users who do not identify as that gender, and has executed employers’ sex-based targeting decisions by delivering the advertisements in accordance with the employers’ designation based on the users’ gender.
22. Facebook requires users to identify their gender. When signing up for a Facebook account, users must click a box to select either “Male” or “Female.” The following image shows how users are required to identify their gender when signing up for a Facebook account.

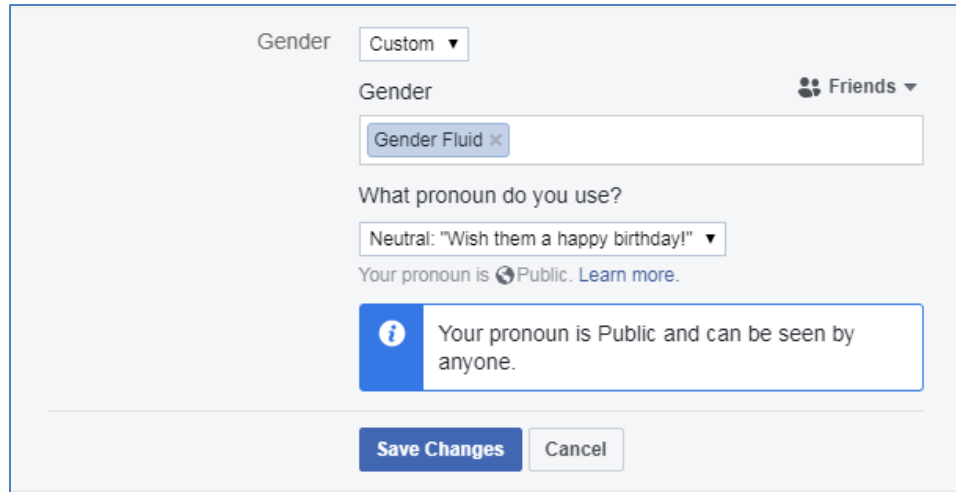


The image shows the Facebook 'Create a New Account' sign-up form. It includes fields for 'First name', 'Last name', 'Mobile number or email', and a password field with masked characters. The 'Birthday' section has dropdown menus for month (Sep), day (12), and year (1993), with a link 'Why do I need to provide my birthday?'. Below the birthday fields are radio buttons for 'Female' and 'Male'. At the bottom, there is a green 'Sign Up' button and a disclaimer: 'By clicking Sign Up, you agree to our Terms, Data Policy and Cookies Policy. You may receive SMS Notifications from us and can opt out any time.'

23. After creating a Facebook account, users may edit the gender identity listed in their profile and select “male,” “female,” or “custom,” which allows them to select one of several dozen other options reflecting a range of gender identities. The following images show how users can customize their gender identity in their Facebook account.



The image shows the 'BASIC INFORMATION' section of a Facebook profile edit form. It includes fields for 'Birth Date' and 'Birth Year', both of which are redacted with black boxes. The 'Gender' field is a dropdown menu currently set to 'Female'. Below the gender field is a checkbox labeled 'Show on my timeline' which is checked. At the bottom of the form are two buttons: 'Save Changes' and 'Cancel'.



24. Upon information and belief, Facebook’s ad targeting tool is based on the gender pronoun associated with the user’s profile. If a user does not edit the gender associated with their profile, then a “he” or “she” pronoun is assigned automatically based on the initial gender selected. If a user edits the gender associated with their account from their initial category selected when they opened the account, whether from male to female or from female to male, then the associated pronoun also changes automatically accordingly, although a warning pops up informing the user that pronouns are public and appear on their public profile. If a user changes their gender to “custom,” then the user must select one of three pronoun choices, with examples provided in the context of a birthday greeting: “Male: ‘Wish him a happy birthday!’”; “Female: ‘Wish her a happy birthday!’”; or “Neutral: ‘Wish them a happy birthday!’”. Facebook uses this pronoun in determining whether a user will be included in the group targeted by a “male” or “female” targeted ad.
25. Facebook’s involvement in the targeting and delivery of ads on its service is not simply that of an intermediary that operates a platform to sell and deliver ads to Facebook users. Rather, when employers want to recruit applicants for employment, Facebook performs nearly all of the necessary functions of an employment agency and marketing firm: Facebook helps the employer to create the ad; collects, develops and provides databases of information on Facebook users to employers so that such employers can know which individuals are looking for employment, know various types of information about those applicants, such as their age and gender, and exclude certain groups of people from their ad campaigns; coordinates with the employer to develop the recruitment, marketing and/or advertising strategy to determine which people will and will not receive the ads; delivers the ads to prospective applicants based on the employer’s preferences; collects payments for these services from the employer; informs the employer of the performance of the ad campaign with numerous data analytics; and retains copies of the ads and data related to them.
26. In addition, on Facebook’s ad platform, Facebook directs users who receive employment ads directly to the employer or employment agency’s Careers web

site or other web site that is embedded in Facebook's system so that the user can learn more about the company's job opportunities and apply for available positions. These acts involve procuring job opportunities for employees and procuring employees for employers or employment agencies.

27. In creating and carrying out these targeting mechanisms, Facebook has created and profited from a powerful tool for discrimination against female and other non-male job applicants.
28. Facebook makes this discrimination achievable through a quick and easy process. Any employer, employment agency, corporation, or individual who has a Facebook page can create and purchase a paid ad that will be sent to other Facebook users within minutes of Facebook receiving payment for the ad.
29. Creating a Facebook ad takes only a few minutes, and involves several basic steps. First, the advertiser selects the population of Facebook users who will receive the ad. Second, the advertiser creates the image and text of the ad, and directs where the ad will link to when it is clicked on by a Facebook user. Third, the advertiser purchases the ad, paying Facebook money to show a certain number of impressions of the ad to Facebook users in the selected population or to receive a certain number of clicks on the ad by Facebook users in the selected population. If the selected population is greater than the number of impressions purchased by the advertiser, then only a portion of the selected population will see the ad, but every person who is not in the selected population will not receive the ad.
30. A focus of this charge is the first step of the process in which the advertiser selects the population of Facebook users who will be eligible to receive the ad.
31. For each ad that an advertiser purchases on Facebook and that Facebook, in turn, sends to Facebook users, there are three mandatory filters that the advertiser is required to select in setting the population who will be eligible to receive the ad: (1) location; (2) age; and (3) gender. The advertiser must either keep the default setting (the entire United States, 18 to 65+, and all), or narrow the scope of the population (for example, male users who live in California and are ages 18 to 40).
32. First, Facebook requires the advertiser to select the location of the Facebook users who will receive the ad.
33. Second, Facebook requires the advertiser to select the age of the Facebook users who will receive the ad.
34. Third, Facebook requires the advertiser to select the gender of the Facebook users who will receive the ad. Facebook requires advertisers to make a choice regarding the gender of the individuals who are to receive the ad: either "All" Facebook users, or only "Male," or only "Female." Two of the three choices offered ("male only" or "female only"), are unlawful in the context of employment advertising. Yet Facebook presents these two illegal choices to employment advertisers as if they were valid.
35. The following image shows the three mandatory filters (location, age, and gender) that the employer must select to identify the audience of Facebook users that will receive its ad:

**Audience**  
Define who you want to see your ads. [Learn more.](#)

**Create New**   Use a Saved Audience ▼

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**Custom Audiences** ⓘ

Exclude | **Create New** ▼

**Locations** ⓘ

United States

📍 **United States**

📍 Include ▼ |

[Add Locations in Bulk](#)

**Age** ⓘ  -

**Gender** ⓘ  **All**  Men  Women

36. Facebook then executes the employer’s selection of the gender of its target population by delivering the advertisement to users based on the designated choices, including designations that limit the audience to male only or female only Facebook users.
37. The “male only” or “female only” choices may result in excluding Facebook users who select the “Neutral” category, and whose chosen pronouns accordingly do not identify them as either male or female.
38. Numerous employers, including Abas USA, City of Greensboro, Defenders, Nebraska Furniture Mart, Need Work Today, Renewal by Andersen LLC, Rice Tire, JK Moving Services, Enhanced Roofing & Modeling, and Xenith, have used this advertising targeting tool to target male users and to exclude female and other non-male users from receiving their employment ads.
39. Facebook directs, encourages, and helps its advertisers (including employers and employment agencies) to use Facebook’s ad platform to target their ads (including their employment ads) to a narrow audience, including targeting audiences based on the gender users have provided to Facebook.



40. On the main Facebook Business page in which Facebook instructs advertisers on how to “[c]hoose your audience,” Facebook emphasizes how its services can be used to identify or target people who fall into various demographic groups.<sup>2</sup> The page states that “[w]ith our powerful audience selection tools, you can target people who are right for your business. Using what you know about your customers—like demographics, interests and behaviors—you can connect with people similar to them.” *Id.* Facebook describes how “[t]here are three options for choosing your audience on Facebook.” *Id.* The first is the “Core Audiences” option described above, where the advertiser can “[s]elect your audience manually based on characteristics, like age and location.” *Id.* Another option is “Lookalike Audiences” that “[u]se your customer information to find people similar to them on Facebook.” *Id.*
41. Facebook’s main page on ad targeting goes on to describe how its “Core Audiences targeting options . . . allow you to reach people based on their demographics, location, interests and behaviors.” *Id.* Immediately below, Facebook describes the “Demographics” category in which advertisers “[c]hoose people based on traits like age, *gender*, relationship status, education and type of work they do.” *Id.* (emphasis added). In other words, Facebook actively promotes the use of gender to target “the people you want to reach” in an ad campaign.
42. In a tutorial on how to target Facebook ads to “[c]hoose the right audience,” Facebook encourages advertisers to “refine your ad’s target audience based on content people have shared about themselves in their Facebook profiles, such as age, gender, relationship status, education and type of work they do.”<sup>3</sup> In the screenshot next to this text, a box shows an ad targeting selection that uses age and gender to determine the target population. At the bottom of the page, Facebook describes how a “narrow” reach of an ad campaign “could help you hone in on specific customers who matter most to your business.” *Id.*
43. Although Facebook currently has a page that tells advertisers that “[a]ds must not discriminate or encourage discrimination against people based on personal attributes such as race, ethnicity, color, national origin, religion, age, sex, sexual orientation, gender identity, family status, disability, medical or genetic condition,” Facebook has long known that employers and employment agencies were using its platform to discriminate on the basis of gender, and encouraged that behavior, rather than eliminating it.
44. While Facebook has recently taken some steps to prevent employment discrimination against people of various protected classes on its ad platform, Facebook has consciously decided not to stop itself or employers from targeting employment ads that exclude female users from receiving the ads. Instead,

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<sup>2</sup> Facebook Business, Choose your audience, <https://www.facebook.com/business/products/ads/ad-targeting>.

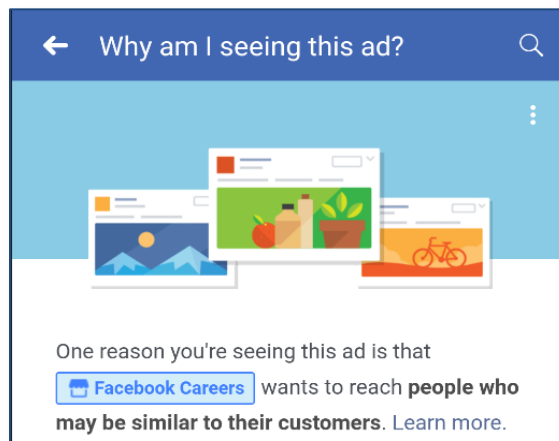
<sup>3</sup> Facebook Business, Choose the Right Audience <https://www.facebook.com/business/a/targeting-audiences-advanced>

Facebook has consciously retained the gender targeting tool and deployed it to send employment ads that excluded non-male users from receiving the ads.

45. In fact, Facebook still provides all the necessary tools for employers to send employment ads that discriminate based on gender and to encourage such discrimination. Facebook provides detailed analytical ad performance data to advertisers on how their ad campaigns are performing, including on how the ad is performing among Facebook users by gender. By providing these data on an ongoing basis, Facebook encourages advertisers to restrict their ad targets by gender so that their advertisements will focus on the higher performing gender.
46. Facebook has been aware for at least the past two years that employers and employment agencies were using Facebook's ad platform to exclude female and other non-male Facebook users and potential job applicants from receiving ads, and that such conduct constitutes unlawful employment sex discrimination under federal, state, and local laws. In addition, in December 2017, Facebook learned that Defenders had targeted its employment advertising to men when the *Communications Workers of America v. T-Mobile*, No. 17-cv-07232 (N.D. Cal.) action was filed in the Northern District of California, and disclosed the Defenders advertisement that stated "DEFENDERS Careers wants to reach men ages 20 to 40."
47. Facebook's ad targeting tools permit the user who receives an ad on Facebook's platform to click an icon leading to a drop-down menu that allows them to click "Why am I seeing this ad?" When Facebook has delivered employment advertisements to prospective male applicants and excluded female and other non-male applicants from receiving such ads, the notice provided states that the advertiser wants to reach men. The notice does not indicate that the advertiser wants to reach women or other non-male users.
48. Facebook clearly informs its advertisers about how its ad platform works and in particular how Facebook's ad transparency functions will be included with ads that are created and disseminated on Facebook's platform. Facebook's publicly available "Advertiser Help Center" details its policy of telling users why they are being shown specific ads. Facebook describes the "Why am I seeing this ad" function under a sub-section titled "Our Advertising Principles," and Facebook highlights this function as part of Facebook's commitment to advertising transparency.
49. By providing this notice along with the advertisement, Facebook publishes and causes to be published this discriminatory statement both as an employment agency and as an agent of advertisers who have purchased and sent such ads. Likewise, the advertiser publishes or causes to be published this discriminatory notice about employment as an employer or employment agency. This notice is evidence that the employer *in fact* requested the illegal steering, and that Facebook *in fact* executed the illegal steering.
50. By including this notice accompanying the advertisements, Facebook informs the reader of the advertisement and anyone else who may view the notice that the employer has a preference for male applicants over female and other non-male

applicants in recruiting and hiring and that the employer is limiting job opportunities to male applicants and drawing a distinction between male applicants and female/non-male applicants in the advertising, recruiting, and hiring of employees. In addition, by excluding women and other non-male individuals from receiving the advertisements and recruiting, the ad campaigns Facebook sends indicate a preference, discrimination, or limitation based on sex.

51. In addition to the explicitly gender-based ad targeting option, Facebook also provides advertisers another way to target their employment ads to users based on their gender, through the “Lookalike Audience” feature. In fact, Facebook, an employer, has used—and continues to use—the “Lookalike Audience” when it recruits its own users for jobs at Facebook and Instagram, which is owned by Facebook. The following is an example of a recent ad in which Facebook advertised positions and used a Lookalike Audience:



52. The “Lookalike Audience” tool is legally indistinguishable from word-of-mouth hiring, which has long been considered a discriminatory and unlawful employment practice. Through Facebook’s “Lookalike Audiences” feature, employers and employment agencies provide a list of their existing workers to Facebook, and Facebook then creates a list of Facebook users who are demographically similar to those existing workers. Then, the employer or employment agency uses the new “Lookalike Audience” list created by Facebook

as the population to receive its employment ads. As Facebook explains, “[a] Lookalike Audience is a way to reach new people who are likely to be interested in your business because they’re similar to your best existing customers.”<sup>4</sup> Facebook uses “traits” such as “location, age, gender and interests” to determine which Facebook users are similar to an advertiser’s existing customers or workers.<sup>5</sup> Facebook, not the advertiser, determines which prospective applicants are similar to the advertiser’s existing customers or workers and will thus be targeted to receive an ad in a “Lookalike Audience.” After the advertiser uploads its list of existing customers, Facebook will “hash [its] data, upload it and create [the] audience” that will be used for the “Lookalike Audience” ad.<sup>6</sup>

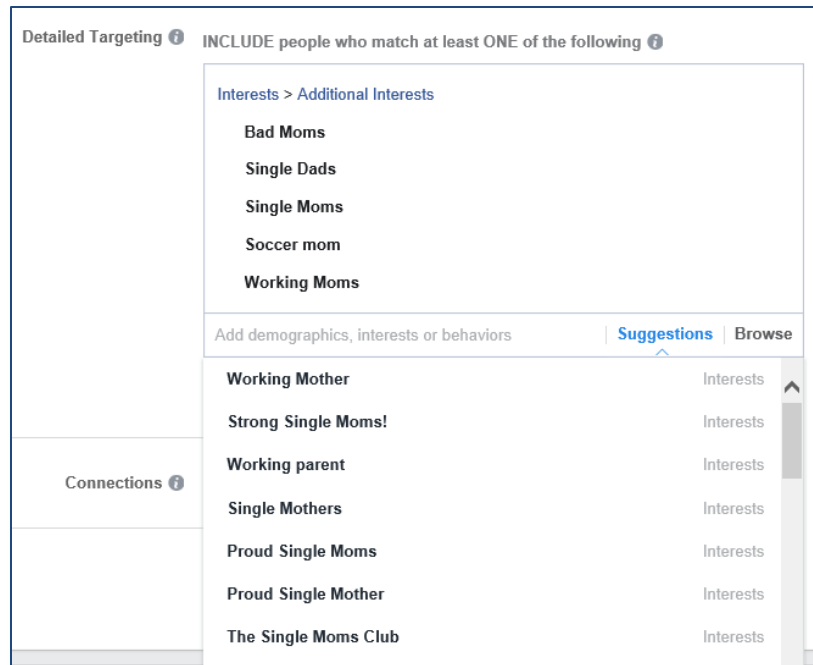
53. Upon information and belief, using Facebook’s “Lookalike Audience” feature in the context of employment advertising involves disparate treatment, because it determines which users receive job advertising, recruitment, and hiring based on their gender, thereby excluding them from the population that will receive the employment advertisement because of their gender.
54. Facebook routinely applies lookalike audiences to determine which individuals will receive job ads and notices, both in its own recruiting for positions at Facebook and in sending job ads on behalf of other advertisers, which results in disparate treatment discrimination against women in Facebook’s own recruiting and hiring and other employers’ and employment agencies’ recruiting and hiring.
55. In addition to the three mandatory categories that advertisers must select to create a Facebook ad (location, age, and gender), Facebook’s Detailed Targeting feature allows advertisers to search for and use thousands of additional categories into which Facebook places its users in order to further limit the population of Facebook users who will receive ads. Many of these categories, when selected by advertisers as targeting inclusions or exclusions either explicitly categorize individuals based on their sex or will have a disparate impact based on sex and will disproportionately exclude women from receiving the ads because they are directly related to or highly correlated with gender. For example, the options include such categories as Single Dads, Single Moms, Soccer Mom, Working Moms, Working Mother, Bad Moms, Strong Single Moms!, Proud Single Mother, The Single Moms Club. Moreover, many of the options provided reflect gender stereotypes (e.g. by providing the option to choose “Working Moms” and not “Working Dads”). The following screenshot demonstrates some of these detailed targeting groups that Facebook has made available via its ad platform so that employers and employment agencies can include and/or exclude these groups.

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<sup>4</sup> Facebook Business, About Lookalike Audiences, <https://www.facebook.com/business/help/164749007013531>.

<sup>5</sup> Facebook Business, Targeting tips to reach the right people, <https://www.facebook.com/business/a/facebook-ads-targeting-tips>.

<sup>6</sup> Facebook Business, Create a Custom Audience from a customer file <https://www.facebook.com/business/help/170456843145568>.



56. Facebook is an active player in the labor market in which employers and employment agencies search for workers and advertise employment opportunities, and Facebook uses its own platform as part of its own advertising, recruiting, and hiring of its own workers. Facebook's services, ad platform, and tools are a central feature of employers' and employment agencies' ability to selectively market, recruit, advertise, and brand employment opportunities in a discriminatory manner that excludes applicants based on their gender.
57. This pattern or practice of discrimination constitutes intentional discrimination and disparate treatment under Title VII and analogous state and local anti-discrimination laws. It treats female and other non-male prospective applicants worse than male workers in advertising, recruiting, and hiring prospective applicants for job opportunities based on their gender, because Facebook enables and encourages job advertisers to exclude users identified as female or non-male from receiving the same employment advertisements that are directed towards users identified as male, and carries out the delivery of gender-targeted ads. In addition, this practice limits, segregates, and classifies workers in the advertising, recruitment, and hiring of employees in a way that deprives or tends to deprive them of employment opportunities based on sex, because workers are classified based on their sex, segregated by sex from receiving ads that other workers receive, and excluded from receiving advertising, recruitment, and hiring opportunities that workers of another gender receive.
58. The practice also constitutes unlawful sex-based stereotyping, because in excluding female and other non-male Facebook users from receiving advertising, Facebook is acting upon and giving effect to a harmful stereotype that female and other non-male workers will not be or are not interested in the relevant job

opportunities because of their sex, or that they will not be or are not qualified applicants for the position because of their sex.

59. In addition to constituting intentional sex discrimination, the pattern or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding female and other non-male users from the population of individuals to whom Facebook directs employment advertisements and recruiting on Facebook's ad platform based on their sex has the effect of disproportionately excluding female and other non-male potential job applicants from receiving employment advertising, recruiting, and hiring opportunities based on their sex.
60. Excluding female and other non-male Facebook users from receiving the same employment advertisements that are provided to male users causes and has a disproportionate adverse effect on the employment advertising and recruitment opportunities that female potential job applicants receive and their opportunities to be hired. This pattern or practice has the effect of limiting, segregating, and classifying workers based on their sex and depriving them of employment opportunities because it places prospective applicants into groups that will and will not be targeted for advertising and recruitment opportunities in a manner that results in female workers disproportionately being in the group of prospective applicants who will not receive advertising or recruiting. In addition, this practice has the effect of depriving all workers of a diverse work environment regardless of their own sex.

#### **CLASS CLAIMS**

61. This class charge is meant to exhaust all class-based disparate treatment, class-based disparate impact, and all other class-based claims that are actionable under Title VII and analogous state and local laws, including violations of the publication or advertising provisions of such laws. The named Charging Parties file this charge on behalf of all individuals nationwide who have been excluded from receiving employment advertisements via Facebook's advertising platform based on their sex or gender at any time from the earliest date actionable under the limitations period applicable to the given claim until the date of judgment in any judicial proceeding initiated by the Charging Parties herein in relation to the claims asserted in this charge, based upon all of the practices described above and any similar practices not specifically mentioned above.
62. Through this charge and legal action, Ms. Spees, Ms. Bradley, Ms. Hudson, and all others similarly situated, along with CWA and its female and other non-male members, seek all injunctive, equitable, legal, monetary, punitive, and/or other forms of relief or damages that are available under Title VII and the state and local statutes identified above.
63. Ms. Spees, Ms. Bradley, Ms. Hudson, and CWA request that the EEOC investigate all of the claims made in this charge on a class-wide basis.
64. This charge is intended to toll the statute of limitations for all potential applicants or employees nationwide who may have similar claims and to piggy-back on any

prior charges that Ms. Bradley, Ms. Hudson, CWA, or other individuals have filed challenging the same practices by Facebook.