

Charge of Discrimination

The particulars are:

1. This charge of discrimination challenges DEFENDERS' (the "Company") violations of federal, state, and local laws that prohibit 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. This charge also challenges the Company's violations of federal, state, and local laws that prohibit age discrimination in employment advertising, recruitment, and hiring, including the federal Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621 *et seq.*, and all state and local anti-discrimination statutes that have parallel prohibitions on age discrimination in employment.¹
2. As described herein, the Company has a pattern, practice, or policy of targeting job advertisements and related recruitment and hiring opportunities on Facebook's advertising platform to younger male Facebook users as prospective applicants, while excluding all female and other non-male prospective applicants, and all prospective applicants over 40 years old, from receiving the job advertisements and opportunities. In the context of advertising for employment (as well as for other economic opportunities), the practice of segregating prospective applicants and excluding women, other non-male individuals, and all applicants over 40 years old from receiving job opportunities violates federal, state, and local laws prohibiting sex and age 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 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.

¹ 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. §§ 44-1111 *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 Alabama Age Discrimination in Employment Act, Ala. Code §§ 25-1-20 *et seq.*; 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.*, see also *id.* § 49.44.090.

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 receiving the advertisement. Thus, if an advertiser selects "Male," the advertisement will not be shown to persons who publicly identify as "Female" or a "custom" gender that publicly identifies their gender pronoun as "Neutral."²
5. The Company availed itself of this option and chose to deliver its ads for various positions, including highlighting the position of Sales Representative, via Facebook's ad platform to male prospective applicants who are 20 to 40 years old, and to exclude all other users from receiving the ad. Even when the Company highlighted a specific position on the front page of the advertisement, the advertisement was intended to and had the effect of showing a Facebook user who clicked on the advertisement a range of positions at the Company.
6. Concurrent with the filing of this charge, the Charging Parties have filed charges against Facebook for enabling, encouraging, and assisting a number of employers and employment agencies, including the Company, to unlawfully target their advertisements based on sex and age, and for delivering the ads in a discriminatory manner. Facebook targeted all of these discriminatory advertisements, as both an employment agency and an agent of the Company, in exchange for the Company's payment.
7. 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.

THE PARTIES

8. 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

² As detailed in the Charge filed concurrently against Facebook, when signing up for a Facebook account, users must click a box to select either "Male" or "Female." After creating an 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. 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 the person 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: "Male," "Female," or "Neutral." Upon information and belief, Facebook's ad targeting tool is based on the gender pronoun associated with the user's profile.

numerous positions in various fields. She is willing to work not just in Pennsylvania but beyond her local geographic area.

9. Linda Bradley is a 45-year-old 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.
10. Renia Hudson is a 58-year-old 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 not just in California but also beyond her local geographic area.
11. 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, which has an estimated over 160,000 members who are over age 40, counts hundreds of thousands of Facebook users among its ranks. Approximately half of CWA’s members are women.
12. 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 age and 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.
13. 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 from the Company that similarly situated male Facebook users have received.
14. 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.

15. 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 the Company placed a sex-based limitation on the population of Facebook users that was eligible to receive an employment-related advertisement, 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 Sex Class Members").

SEX DISCRIMINATION

16. The Company has a pattern or practice of engaging in discriminatory employment advertising, recruitment, and hiring by excluding female and other non-male job applicants from the population of individuals to whom the Company directs its employment advertisements and recruiting on Facebook's ad platform based on their sex, including by directing Facebook to publish an employment advertisement seeking applicants for the position of Sales Representative only to men who are 20 to 40 years old. Examples of the Company's exclusionary employment advertisements are attached hereto as Exhibit A.
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 "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).
18. 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 her or his status as an

employee, because of such individual's race, color, religion, sex, or national origin. 42 U.S.C. 2000e-(a), (b).

19. The Company is an employer pursuant to 42 U.S.C. § 2000e(b) and analogous state and local anti-discrimination laws, because it is engaged in an industry affecting commerce and has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.
20. 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 employment agency or an agent of an employer or employment agency.
21. When advertising employment via Facebook's advertising platform, the Company has targeted its employment ads towards male prospective job applicants on the Facebook advertising platform based on their sex and simultaneously excluded female and all other non-male prospective job applicants from receiving the same employment advertising and recruiting.
22. 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 the Company has elected to send its advertisements on Facebook to prospective male applicants, the notice provided states that the Company wants to reach men. The notice does not indicate that the Company wants to reach women or other non-male users.
23. The Company knew or reasonably should have known that when it directed Facebook—its agent in creating, developing, and sending its job advertisements—to exclude all female and other non-male users from seeing its job advertisements that a portion of the "Sponsored Ad" would make a statement that the employer wants to reach men. 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. Facebook emphasizes that "anyone can visit their Ad Preferences to learn about the interests and information that influence the ads they see."
24. By providing this notice along with the advertisement, Facebook publishes and causes to be published this discriminatory statement about employment as both an employment agency and an agent of the Company. Likewise, the Company 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.

25. The notice stating that the Company wants to reach men without mentioning female or other non-male individuals informs the reader of the advertisement and anyone else who may view the ad that the Company has a preference for male workers over female and other non-male workers in recruiting and hiring and that the Company 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 Company's ad campaign indicates a preference, discrimination, or limitation based on sex.
26. The pattern or practice of discrimination based on sex challenged by the Charging Parties herein is undertaken with the intent and purpose of discouraging and preventing female and other non-male workers from applying for jobs with the Company based on their sex, and with the intent of failing or refusing to hire female and other non-male workers who are excluded from receiving such employment ads based on their sex.
27. The pattern or practice of discrimination described above 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 applicants in advertising, recruiting, and hiring prospective applicants for job opportunities based on their sex, because the Company excludes Facebook users identified as female or other non-male categories from receiving the same employment advertisements that are directed towards users identified as male. 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 from receiving ads that other workers receive, and excluded from receiving advertising, recruitment, and hiring opportunities that workers of another gender receive from the Company.
28. The practice also constitutes unlawful sex-based stereotyping, because in excluding female and other non-male Facebook users from receiving advertising, recruiting, and hiring the Company is motivated by and acting upon 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.
29. In addition to constituting intentional discrimination, the pattern or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding female and other non-male Facebook users from the population of individuals to whom the Company directs its 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.

30. 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 and other non-male potential job applicants receive and their opportunities to be hired by the Company. 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 and other non-male 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.

AGE DISCRIMINATION

31. Ms. Bradley, Ms. Hudson, and CWA's members have routinely been denied the opportunity to receive employment advertisements and recruitment on Facebook from the Company that similarly situated Facebook users who are younger than 40-years-old have received. If Ms. Bradley, Ms. Hudson, and/or CWA's members had received such ads, they would have clicked on those employment ads in order to learn more about those opportunities and pursue them.
32. Ms. Bradley, Ms. Hudson, and CWA file this charge on behalf of themselves and all Facebook users in the United States who are 40-years-old or older 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 employment-related advertisements because the Company placed an upper age limit on the population of Facebook users that was eligible to receive an employment-related advertisement, 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 Age Class Members").
33. The ADEA and analogous state and local statutes that prohibit age 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 age." 29 U.S.C. § 623(e).
34. The ADEA and analogous state and local statutes make it unlawful for an employer or an employment agency to: fail or refuse to hire any individual because of such individual's age; limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities because of such individual's age; or fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such

individual's age, or to classify or refer for employment any individual on the basis of such individual's age. See 29 U.S.C. § 623(a), (b).

35. The Company is an employer pursuant to 29 U.S.C. § 630(b) and analogous state and local anti-discrimination laws, because it is engaged in an industry affecting commerce and has twenty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year.
36. Ms. Bradley, Ms. Hudson, and CWA's members, are employees within the meaning of all applicable state and local laws prohibiting age discrimination in employment advertising, recruitment, and hiring, because they are seeking employment from an employer or employment agency or an agent of an employer or employment agency.
37. When advertising employment via Facebook's advertising platform, the Company has intentionally targeted its employment ads towards younger prospective job applicants on the Facebook advertising platform and simultaneously excluded older workers from receiving the same employment advertising and recruiting that is directed to younger workers.
38. The Company has a pattern or practice of engaging in discriminatory employment advertising, recruitment, and hiring by excluding older workers from the population of individuals to whom the Company directs its employment advertisements and recruiting on Facebook's ad platform.
39. When the Company has sent advertisements on Facebook to prospective applicants, the notice that states "Why am I seeing this ad?" has stated that the Company wants to reach people who are below a certain age threshold. This statement is evidence that the Company *in fact* requested the illegal steering, and that Facebook *in fact* executed the illegal steering.
40. The notice informs the reader of the advertisement and the public at large that the Company has a preference for younger applicants rather than older applicants in recruiting and hiring and that the Company is limiting job opportunities to younger applicants and drawing a distinction between younger and older applicants in the advertising, recruiting, and hiring of employees. In addition, by excluding older Facebook users from receiving the advertisements and recruiting, the Company's ad campaign indicates a preference, discrimination, or limitation based on age.
41. The pattern or practice of discrimination based on age challenged by the Charging Parties herein is undertaken with the intent and purpose of discouraging and preventing older workers from applying for jobs with the Company based on their age, and with the intent of failing or refusing to hire older workers who are excluded from receiving such employment ads based on their age.
42. This pattern or practice of discrimination constitutes intentional discrimination and disparate treatment under the ADEA and analogous state and local anti-discrimination laws. It treats older workers who are 40-years-old or older worse than younger workers who are under 40-years-old in advertising, recruiting, and hiring prospective applicants for job opportunities based on their age, because the

Company excludes older Facebook users from receiving the same employment advertisements that younger users receive. In addition, this practice limits, segregates, and classifies older workers in the advertising, recruitment, and hiring of employees in a way that deprives or tends to deprive them of employment opportunities based on age, because older workers are classified based on their age, segregated from younger workers who receive ads that older workers do not receive, and excluded from receiving advertising, recruitment, and hiring opportunities that younger workers receive from the Company.

43. The practice also constitutes unlawful age-based stereotyping, because in excluding older Facebook users from receiving advertising, recruiting, and hiring the Company is motivated by and acting upon a harmful stereotype that older workers are not or will not be interested in or qualified for the relevant job opportunities because of their age.
44. In addition to constituting intentional discrimination, the pattern or practice of discrimination challenged in this charge constitutes unlawful disparate impact discrimination. Excluding older Facebook users from the population of individuals to whom the Company directs its employment advertisements and recruiting on Facebook's ad platform has the effect of disproportionately excluding potential job applicants who are 40-years-old or older from receiving employment advertising, recruiting, and hiring opportunities based on their age.
45. Excluding older Facebook users from receiving the same employment advertisements that are provided to younger users causes and has a disproportionate adverse effect on the employment advertising and recruitment opportunities that older workers receive and their opportunities to be hired by the Company. This pattern or practice has the effect of limiting, segregating, and classifying older workers 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 older 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 an age-diverse work environment regardless of their age.

CLASS CLAIMS

46. 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 the ADEA, and analogous state and local laws, including violations of publication or advertising provisions of such laws. The charging parties file this charge on behalf of all individuals nationwide who have been excluded from receiving the Company's employment advertisements via Facebook's advertising platform based on their sex or gender and/or age 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.

47. 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 ADEA and the state and local statutes identified above.
48. 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.
49. 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 the Company.