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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NEUHTAH OPIOTENNIONE, on behalf of
herself and others similarly situated,

Plaintiffs,

v.

FACEBOOK, INC.,

Defendant.

CASE NO. _____

**COMPLAINT FOR
VIOLATIONS OF STATE LAWS**

CLASS ACTION

DEMAND FOR JURY TRIAL

SUMMARY OF CLAIMS

1
2 Plaintiff respectfully submits the following Class Action Complaint against Facebook, Inc. on
3 behalf of herself and a proposed nationwide class of older and female Facebook users (defined below)
4 who were denied the opportunity to receive advertising and information about financial services
5 opportunities within Facebook's business establishment in violation of the California Unruh Civil
6 Rights Act, Cal. Civ. Code §§ 51, 51.5 and 52 ("Unruh Act").

7 1. Plaintiff and the proposed class members have been denied the opportunity to learn
8 about and obtain financial services, such as mortgages, personal loans, bank accounts, insurance,
9 investment opportunities, and financial consulting services over the past three years (or longer) due to
10 Facebook's discriminatory advertising and business practices and its aiding and abetting of financial
11 services companies' discriminatory advertising and business practices.

12 2. Facebook's discriminatory practices are straight-forward. Over the past three years,
13 Facebook required all users to tell Facebook their age and gender as a condition of using Facebook's
14 services. Then, Facebook segregated and classified all of its users based on their genders and ages, so
15 that advertisers could send their ads only to people of specific genders or ages. And Facebook
16 encouraged its advertisers, including financial services companies, to send advertisements that
17 excluded Facebook users from receiving the ads based on their ages or genders. Then, advertisers and
18 Facebook followed this direction by routinely placing financial services advertisements on Facebook
19 that excluded older persons and women.

20 3. Due to Facebook's discriminatory practices, millions of older and female Facebook
21 users have been denied the opportunity to receive valuable advertisements about financial services
22 opportunities that advertisers sent to younger persons and men, and to pursue those financial services
23 opportunities within and outside of Facebook. As a result, Facebook intentionally denied its own users
24 the full and equal accommodations, advantages, facilities, and services of Facebook, and it aided and
25 abetted numerous financial services companies in denying Facebook's users the full and equal
26 accommodations, advantages, facilities, and services of those financial services companies.

27 4. For at least three years, Facebook has been on notice that its discriminatory advertising
28 and business practices for financial services opportunities classify and segregate Facebook users based

1 on protected characteristics and deny them equal treatment in Facebook's business establishment based
2 on protected characteristics such as age and gender. Nonetheless, Facebook has not changed its
3 practices with respect to financial services opportunities and advertising (other than certain changes
4 that Facebook made with respect to credit-related opportunities and advertising in September 2019).

5 5. In September 2019, Facebook took meaningful steps to bar advertisers from placing
6 advertisements for credit-related opportunities that discriminated against users based on age or gender.
7 However, upon information and belief, Facebook has continued to deny equal opportunity to older
8 persons and women regarding all other financial services opportunities aside from credit opportunities.
9 Thus, both before and after September 2019, Facebook has routinely placed advertisements for
10 financial services opportunities other than credit that excluded older persons and women.

11 6. There is no lawful or legitimate basis to exclude older persons or women from receiving
12 the full and equal accommodations, advantages, facilities, and services of Facebook and the financial
13 services companies that advertise financial services opportunities via Facebook.

14 7. Every time that Facebook and a financial services company together and intentionally
15 have excluded an older person or a woman from receiving information about financial services
16 opportunities on Facebook based on age or gender, Facebook violated the Unruh Act and aided and
17 abetted those financial services companies in their own violations of the Unruh Act.

18 8. Plaintiff brings this action on behalf of older and female Facebook users who have been
19 denied full and equal accommodations, advantages, facilities, and services of Facebook and the
20 financial service companies advertising on Facebook due to their age or gender, as defined in
21 Paragraph 60 below. In this action, Plaintiff seeks a declaration that Facebook has violated the Unruh
22 Act in its own business establishment and aided and abetted financial services companies who have
23 done the same in their own business establishments; an injunction to stop Facebook from continuing to
24 engage in such violations; and statutory penalties for each instance of exclusion on Facebook from the
25 ability to receive advertisements for financial services opportunities.

26 **JURISDICTION AND VENUE**

27 9. The Court has subject matter jurisdiction over the claims in this action pursuant to 28
28 U.S.C. § 1332(d)(2), as the matter in controversy exceeds the sum or value of \$5 million, exclusive of

1 interest and costs, and it is a class action in which Plaintiff and members of the proposed class are
2 citizens of different states than Facebook.

3 10. This Court has personal jurisdiction over Facebook. There is general jurisdiction over
4 Facebook, as Facebook's corporate headquarters are located in this District in Menlo Park, California,
5 Facebook conducts substantial business throughout this District and in the State of California, and
6 Facebook employs thousands of workers in the State. Facebook has consented to this Court asserting
7 personal jurisdiction over Facebook, as Facebook's Terms of Service require its users to resolve any
8 disputes in the Northern District of California or a state court located in San Mateo County and require
9 its users to "submit to the personal jurisdiction of either of these courts for the purpose of litigating any
10 such claims." Facebook, Terms of Service, <https://www.facebook.com/terms.php>.

11 11. Declaratory and injunctive relief is sought and authorized by 28 U.S.C. §§ 2201 and
12 2202.

13 12. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), as the sole Defendant
14 resides in this District, and under 28 U.S.C. § 1391(b)(2), as a substantial part of the events or
15 omissions giving rise to Plaintiff's claims occurred in this District. Venue is also proper because
16 Facebook's Terms of Service require its users to resolve any disputes in the Northern District of
17 California or a state court located in San Mateo County. The same Terms of Service provide that "the
18 laws of the State of California will govern these Terms and any claim, without regard to conflict of law
19 provisions." Facebook, Terms of Service, <https://www.facebook.com/terms.php>.

20 **INTRADISTRICT ASSIGNMENT**

21 13. Pursuant to N.D. Cal. Local Rules 3-2(c) and (d), intradistrict assignment to the San
22 Francisco Division is proper because a substantial part of the events that gave rise to the claims
23 asserted herein occurred in San Mateo County.

24 **THE PARTIES**

25 14. Plaintiff Neutah Opiotennione is a 54-year-old woman who lives in Washington, D.C.
26 Over the past three years, Ms. Opiotennione has regularly used Facebook. As part of her regular use of
27 Facebook, she has been interested in receiving advertising and other information about financial
28 services opportunities in Facebook advertisements. Like other members of the proposed Class, Ms.

1 Opiotennione has routinely been denied advertisements and information about financial services
2 opportunities on Facebook due to her age and gender over the past three years.

3 15. Defendant Facebook, Inc. is a publicly traded corporation, headquartered at 1601
4 Willow Road, Menlo Park, California, 94025, incorporated under the laws of the State of Delaware.
5 Facebook owns and operates an online social networking web site that allows its users to communicate
6 with each other through the sharing of text, photograph, and video, and allows financial services
7 companies to advertise financial services opportunities to hundreds of millions of Facebook users in
8 the United States. In December 2018, Facebook had 1.52 billion daily active users globally and in
9 2018 the company earned \$55.85 billion in revenue, substantially all of which was generated from
10 selling advertising placements to marketers. Facebook 2018 Annual Report,
11 <https://www.sec.gov/Archives/edgar/data/1326801/000132680119000009/fb-12312018x10k.htm>.

12 FACTUAL ALLEGATIONS

13 16. Facebook is one of the most popular business establishment on the internet with which
14 Americans interact. According to its 2018 Annual Report, in 2018 Facebook had 1.52 billion daily
15 active users and 2.32 billion monthly active users. *Id.* at 35. A daily active user is “a registered
16 Facebook user who logged in and visited Facebook through [its] website or a mobile device, or used
17 [its] Messenger application (and is also a registered Facebook user), on a given day.” *Id.* at 36. A
18 monthly active user is “a registered Facebook user who logged in and visited Facebook through [its]
19 website or a mobile device, or used our Messenger application (and is also a registered Facebook user),
20 in the last 30 days as of the date of measurement.” *Id.* at 37.

21 17. According to Facebook’s annual report, “Facebook enables people to connect, share,
22 discover, and communicate with each other on mobile devices and personal computers. There are a
23 number of different ways to engage with people on Facebook, including News Feed which displays an
24 algorithmically-ranked series of stories and advertisements individualized for each person.” *Id.* at 5.
25 Instagram is a similar social media platform for “for sharing photos, videos, and messages.” *Id.* In
26 addition, Messenger is a messaging application that Facebook provides to its customers to engage in
27 messaging with each other. *Id.*

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1 18. Facebook sells advertising to companies who pay Facebook to place their
2 advertisements on users' News Feeds on Facebook, as well as on Instagram and Messenger.

3 19. According to Facebook's 2018 Annual Report, Facebook's "ads enable marketers to
4 reach people based on a variety of factors including age, gender, location, interests, and behaviors.
5 Marketers purchase ads that can appear in multiple places including on Facebook, Instagram,
6 Messenger, and third-party applications and websites." *Id.*

7 20. Facebook knows the age and gender of each of its users because Facebook requires
8 users to tell Facebook their birth date and gender as a condition of joining Facebook and continuing to
9 use Facebook's services.

10 21. After Facebook users join Facebook, the age and gender information they are required
11 to provide Facebook is used by Facebook to segregate, classify, and categorize users based on age and
12 gender. The primary purpose of this segregation, classification, and categorization of users based on
13 age and gender is to make it easy for and to encourage advertisers to target their advertisements to
14 Facebook users based on their age or gender.

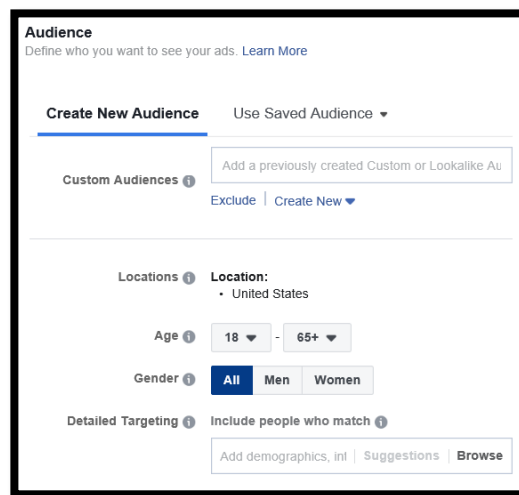
15 22. Upon information and belief, Facebook's Chief Operating Officer Sheryl Sandberg has
16 called age and gender targeting of advertisements part of Facebook's "special sauce." That is, having
17 the ability to target ads based on the age and/or gender of Facebook users makes it possible for
18 advertisers to send their advertisements only to specific desired audiences and thereby reduce the cost
19 for advertisers to reach customers in these specific targeted audiences and enhance interactions by
20 potential customers in the specific desired audiences with companies' advertisements and business
21 establishments.

22 23. When an advertiser seeks to create, purchase, and send a paid advertisement to
23 Facebook users on Facebook, Instagram, or Messenger, it must select the audience of Facebook users
24 who will be eligible to receive the advertisement ("audience selection"). Once the audience selection
25 is completed, the advertiser determines the image and text of the ad, identifies the Facebook page or
26 other web page to which the ad will link, and purchases a certain number of impressions or clicks. (An
27 impression occurs every time a Facebook user is shown an ad on Facebook. A click occurs every time
28 a Facebook user clicks on an ad on Facebook). Then Facebook sends the advertisement to the

1 Facebook users within the audience selection that the advertiser chose. Any Facebook user who is not
2 within the audience selection will not have the opportunity to receive that specific paid advertisement.

3 24. Every time that Facebook sends an advertisement to Facebook users within an audience
4 selection that excludes persons from receiving ads based on a protected status such as age or gender,
5 Facebook knows that and intends for the ad only to be sent to the persons within the audience selection
6 and it knows that and intends for the ad to be denied to persons who are excluded from the audience
7 selection, including but not limited to ads for financial services opportunities.

8 25. When an advertiser determines the audience selection, it is required to make three
9 selections that establish the basic parameters of the audience selection: (1) age; (2) gender; and (3)
10 location. These audience selection tools are presented to advertisers through drop down menus that
11 make clear to advertisers that they can include or exclude persons with certain ages and/or genders
12 from their audience selections. These tools classify, categorize, and segregate Facebook users based
13 on their age and/or gender. And Facebook users cannot opt out of telling their age or gender to
14 Facebook, and cannot opt out of audience selection exclusions that advertisers and Facebook make.
15 The audience selection tools related to age, gender, and location look like this:



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25 26. Facebook requires advertisers to select the age of the Facebook users who will receive
26 the ad. The default setting for Facebook ads is 18 to 65+, which means that anyone who is 18-years-
27 old or older would receive the ad. But Facebook strongly encourages advertisers to narrow the age
28 range of the individuals who will receive their ads to make them more effective.

1 27. Facebook requires the advertiser to select the gender of the Facebook users who will
2 receive the ad. The default setting is all genders. But Facebook strongly encourages advertisers to
3 narrow the gender of the individuals who will receive their ads to make them more effective, including
4 by excluding women from audience selections.

5 28. Unlike the prior image that shows an audience selection of persons who are 18 or older
6 of all genders, the following image shows an audience selection restricted to men who are 18 to 40.

The screenshot shows the Facebook Audience selection interface. At the top, it says "Audience" and "Define who you want to see your ads. Learn More". Below that, there are two tabs: "Create New Audience" (which is selected) and "Use Saved Audience". Under "Create New Audience", there is a search bar for "Custom Audiences" with the text "Add a previously created Custom or Lookalike Au" and buttons for "Exclude" and "Create New". The main section is titled "Locations" and "Location:" with a dropdown set to "United States". Below that, there are "Age" and "Gender" dropdowns. The "Age" dropdown is set to "18" and "40". The "Gender" dropdown is set to "Men", with "All" and "Women" also visible. At the bottom, there is a "Detailed Targeting" section with the text "Include people who match" and a search bar with "Add demographics, int | Suggestions | Browse".

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15 29. Upon information and belief, Facebook encourages, facilitates, expects, knows, and
16 wants advertisers to routinely exclude older persons and women from their audience selections so that
17 older persons and women will not receive advertisements on Facebook, including advertisements for
18 financial services opportunities. Facebook encourages, facilitates, enables, and executes on the
19 exclusion of older persons and women from receiving information and advertisements, because such
20 age- and gender-based exclusions are central to Facebook's business model, including because
21 Facebook wants ads to be as "relevant" as possible to its users so that users will spend more time on
22 Facebook and allow Facebook to sell and place more paid advertisements on Facebook.

23 30. In a training program for advertisers, Facebook strongly encourages advertisers to
24 exclude users based on age and gender in its "Facebook Blueprint" course, which describes "How to
25 Find Your Customers on Facebook." It states that "When you advertise on Facebook, you have the
26 ability to create an audience. It's one of the most important and powerful things you can do here.
27 When thinking about your audience and how to build it, consider the types of people who are most
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1 likely to be interested in what you're sharing." Facebook, How to Find Your Customers on Facebook,
2 <https://www.facebook.com/business/learn/lessons/facebook-ad-audience-considerations>

3 31. In Facebook Blueprint, Facebook describes how to set an audience, "That's where you
4 can get specific about who you want to reach. In other words, the audience for your ad." *Id.* The first
5 example that Facebook provides on how to set an audience encourages advertisers to send ads to only
6 men or only women: "Let's start with gender. If you want, you can choose to reach out to only men or
7 only women. If you have a bridal dress shop, women might be a better audience for you. But if you
8 have a shaving and beard grooming business, maybe you'll want to reach out to men." It proceeds to
9 describe how ads can be targeted to people based on age. Nowhere in this section of the training does
10 Facebook state that financial services advertisements should not be restricted by age or gender.

11 32. In the next section of the training, "How to Choose an Audience for Your Facebook
12 Ad," Facebook states that "To get started creating your audience, think about your business's best
13 customers. Are they often of a certain age or gender? . . . Reach out to these kinds of people first." *Id.*
14 In other words, Facebook encourages its advertisers to determine who they think their best customers
15 are based on age or gender and then send their ads only to those people, thereby excluding people who
16 do not fit the age or gender profile of their best customers.

17 33. In addition, on Facebook Business, the web site where Facebook instructs and directs
18 advertisers on how to use its audience selection tools to create advertisements, Facebook states that
19 "Our powerful audience selection tools let you show ads to the people who are exactly right for your
20 business." Facebook Business, Find Your Audience, [https://www.facebook.com/business/ads/ad-](https://www.facebook.com/business/ads/ad-targeting)
21 [targeting](https://www.facebook.com/business/ads/ad-targeting). It explains that "Facebook Core Audiences helps you select the right recipients for your ad
22 in just a few clicks. Whether you want your ad to be shown to people based on age, location, hobbies,
23 or something else—we can help you connect to people who are likely to be interested in what you
24 offer." *Id.*

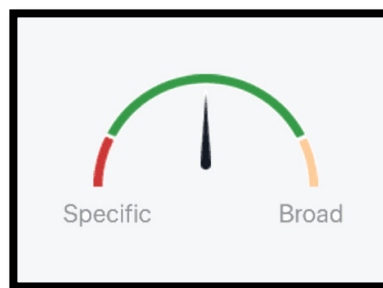
25 34. One of the chief examples of how to "Reach your core target audience" is
26 "Demographics." Facebook states that advertisers should "Select an audience based on age, gender,
27 education, relationship status, job title and more." *Id.* In a prior version of the same Facebook
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1 Business page, Facebook provided an illustration of how to reach a core target audience with a box that
2 showed an ad targeting selection to send the ad only to people who were 18 to 34 years old.

3 35. In the same Facebook Business center, Facebook provides “4 Tips for Selecting Your
4 Ad Audience,” and states that “Audiences can be built based on locations, interests, demographics and
5 other characteristics. When you create an audience, you’ll want to think about the characteristics of
6 people most likely to be interested in your product, service or business and how broad or narrow your
7 audience is.” Facebook Business, 4 Tips for Selecting Your Audience,
8 <https://www.facebook.com/business/learn/lessons/facebook-ad-audience-reach-tips>. (The same four
9 tips are reiterated on Facebook Blueprint’s How to Find Your Customers on Facebook guide.)

10 36. The first tip Facebook provides is to “Consider your current customer base” and “Think
11 about what they like, how old they are and the interests they have. This can help you identify audience
12 options that will help you reach people like them on Facebook.” *Id.* (emphasis added). The first
13 example that Facebook provides for this tip is “If the majority of your current customers are women, it
14 might be a good idea to set your audience to reach women and exclude men.” *Id.*

15 37. Another tip that Facebook offers is to “Watch the audience meter to see whether your
16 audience is too specific or too broad.” *Id.* When an advertiser is determining its audience selection, a
17 red, green, and yellow “audience meter” tells the advertiser whether its audience is too specific (RED),
18 too broad (YELLOW), or just right (GREEN). The audience meter looks like this.



24 38. When advertisers determine their audience selections, Facebook’s audience meter tells
25 the advertiser when the ad is too broad or too narrow. For example, if all ages and genders are
26 included in an audience selection, the audience meter may tell the advertiser that the audience selection
27 is too broad and point towards the yellow “Broad” area. However, when the advertiser eliminates
28 persons who are older than 40 from the audience selection or eliminates women from the audience

1 selection, Facebook’s audience meter may change from pointing to yellow to pointing to green. As a
2 result, Facebook’s audience meter encourages advertisers to exclude Facebook users based on age and
3 gender from their audience selections.

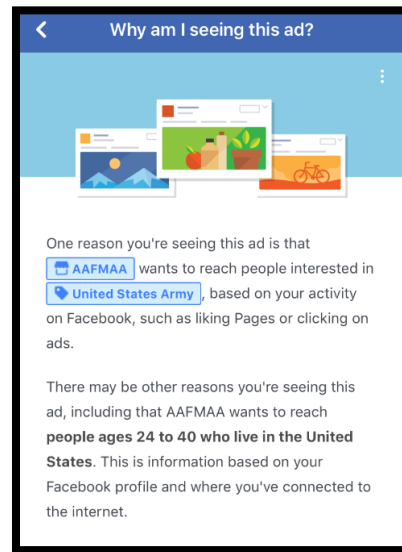
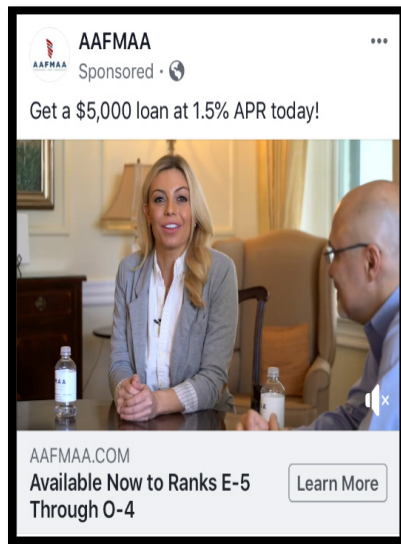
4 39. Even after an advertiser has selected an audience and purchased advertisements on
5 Facebook, Facebook continues to encourage and prod advertisers to exclude persons from advertisers’
6 audience selections based on age and gender. On a real-time basis, Facebook provides advertisers with
7 information on the age and gender of persons who are clicking on their ads, so that advertisers can see
8 the demographics of persons who seem to be most interested in clicking on and engaging their ads.
9 Upon information and belief, in turn, advertisers routinely receive this information and further refine
10 their audience selections in ongoing and new ad campaigns to exclude older persons or women,
11 because Facebook has told them that older persons or women are less interested in their advertisements
12 than younger persons or men. For example, if an advertiser sees that 90% of the people who click on
13 their ads are 44-years-old or younger, the advertiser may decide not to send ads to persons older than
14 44.

15 40. This is not an incidental by-product of Facebook providing such information. The
16 primary reason why Facebook provides this information is that Facebook wants and encourages
17 advertisers to exclude persons from their audience selections based on age and/or gender.

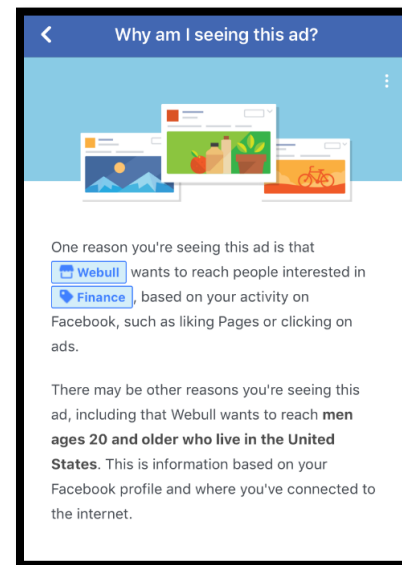
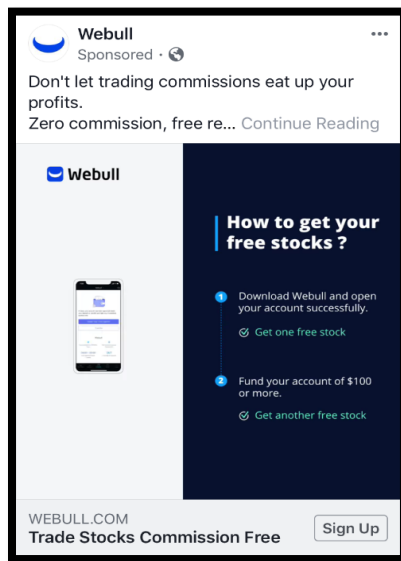
18 41. Over the past three years, Facebook has routinely excluded older persons and/or women
19 from its business services by intentionally, knowingly, and purposefully excluding older persons and
20 women from audience selections for thousands of advertisements related to financial services
21 opportunities.

22 42. The following advertisements are examples of where Facebook and financial services
23 companies selected and executed upon age- or gender-restricted audience selections that denied older
24 persons and/or women, including Plaintiff, the full and equal accommodations, advantages, facilities,
25 and services, within the past three years.

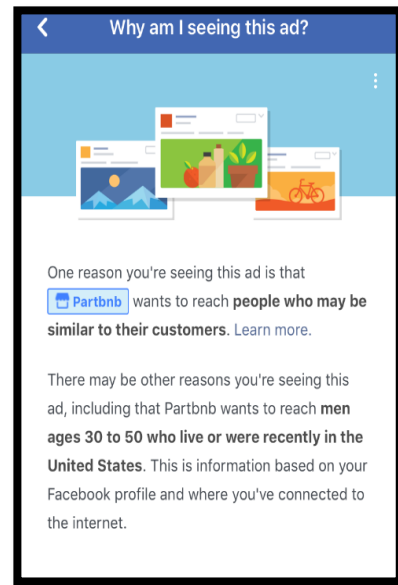
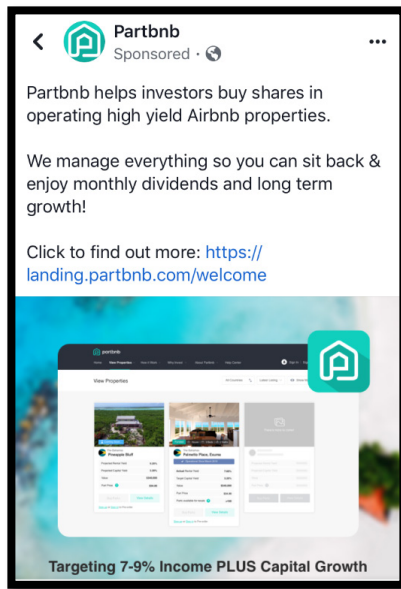
26 43. In the past year, AAFMAA sent the following advertisement regarding loans only to
27 “**people ages 24 to 40** who live in the United States,” thereby excluding all Facebook users older than
28 40 in the United States from receiving this advertisement.



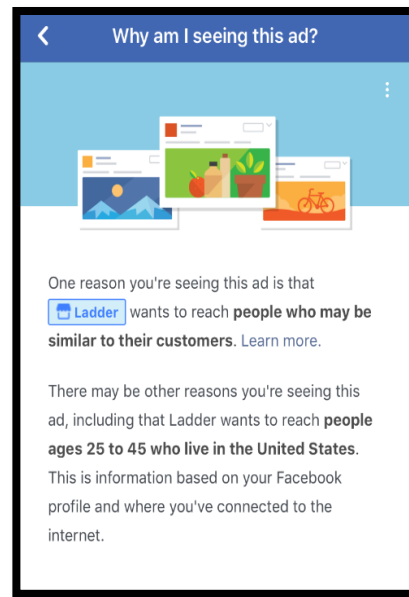
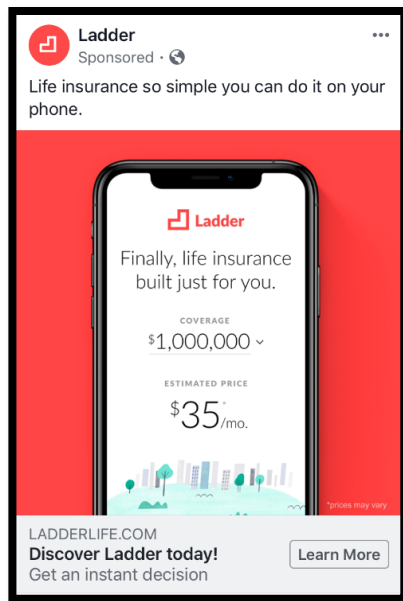
44. In the past year, Webull sent the following advertisement regarding stock trading services only to **“men ages 20 and older who live in the United States,”** thereby excluding all female Facebook users in the United States from receiving this advertisement.



45. In the past year, Partbnb sent the following advertisement regarding investment in Airbnb properties only to **“men ages 30 to 50 who live or were recently in the United States,”** thereby excluding all female Facebook users and all persons older than 50 in the United States from receiving this advertisement.



46. In the past year, Ladder sent the following advertisement regarding life insurance only to “people ages 25 to 45 who live in the United States,” thereby excluding all Facebook users older than 45 in the United States from receiving this advertisement.



47. For at least the past three years, Facebook has known that it was denying these and other types of financial services opportunities to older persons and women on its platform. Every time Facebook and an advertiser published a financial services advertisement to Facebook users that excluded older persons or women from receiving the ads, Facebook and the advertiser knew, intended,

1 and wanted those persons to be excluded from or discriminated against in Facebook’s business
2 establishment and those of the third-party advertisers.

3 48. In addition to having knowledge that its own advertising and business services were
4 being provided in a discriminatory way towards older persons and women with respect to financial
5 services opportunities, Facebook has long been on specific notice that Facebook and financial services
6 companies were discriminating in providing advertising and business services relating to financial
7 services to older persons and women.

8 49. In early 2017, Facebook created a “classifiers” program that identifies which ads are
9 likely to be credit, housing, or employment related. Facebook initially created the classifiers program
10 to block advertisers from excluding Facebook users based on their perceived race using Facebook’s
11 “Ethnic Affinity” categories. Facebook created this classifiers program to prevent the exclusion of
12 Facebook users in certain “Ethnic Affinity” categories in response to an October 2016 ProPublica
13 report that demonstrated that Facebook users who Facebook had identified as having the “Ethnic
14 Affinity” of African American, Hispanic, or Asian American could be “illegal[ly]” and “blatant[ly]”
15 excluded from housing-related advertisements in violation of the federal Fair Housing Act. Julia
16 Angwin & Terry Parris Jr., Facebook Lets Advertisers Exclude Users by Race, ProPublica (Oct. 28,
17 2016).

18 50. As a result, since early 2017 Facebook has specifically known every time that financial
19 services companies were likely seeking to purchase credit-related advertisements, including when such
20 advertisements would exclude Facebook users based on age or gender. Upon information and belief,
21 prior to September 2019, Facebook knowingly and intentionally approved, sold, and sent numerous
22 credit-related advertisements in which older persons and women were excluded, and Facebook took no
23 action to stop this practice in spite of its knowledge that these ads might violation various federal,
24 state, and/or local laws.

25 51. In September 2019, pursuant to a settlement of several separate civil rights actions,
26 Facebook adopted new rules designed to prevent advertisers from using age, gender, and other
27 protected statuses to exclude Facebook users from receiving credit, housing, and employment related
28 advertisements. As a result, advertisers who want to advertise credit opportunities will have to create

1 those advertisements in a special portal that does not allow age or gender targeting, and an enhanced
2 classifiers program will attempt to block credit ads that are created outside of the portal and use age or
3 gender restrictions. (Because Facebook’s classifiers system is both underinclusive and overinclusive
4 in identifying credit-related advertisements, it is still possible that credit-related advertisements that
5 exclude users based on age or gender are being and will be published on Facebook in the future).

6 52. The new changes that Facebook began to implement in September 2019 only apply to
7 credit, housing, and employment advertising, and therefore they do not apply to financial services
8 advertisements that are not credit-related—such as bank accounts, insurance, financial services
9 consulting, and investments. As a result, at least until September 2019, Facebook did nothing to stop
10 its own denial of all types of financial services advertisements and information to older persons and
11 women within Facebook’s business establishments or those of its financial services advertisers, and
12 since September 2019 Facebook has done nothing to stop its own denial of non-credit-related financial
13 services advertisements and information to older persons and women.

14 53. One of the primary benefits that Facebook users receive from Facebook is the
15 opportunity to receive advertising and information about economic opportunities, especially financial
16 services opportunities. Facebook users receive this benefit by having Facebook place paid
17 advertisements (*i.e.*, sponsored posts) on Facebook users’ “News Feeds” and other places where each
18 Facebook user interacts with Facebook’s applications. When Facebook users are provided these
19 advertisements, they learn about opportunities, including financial services opportunities, that they
20 otherwise would not have learned about, and then can pursue those opportunities by clicking on the
21 advertisements and interacting with the advertisers’ online and offline business establishments.
22 Financial services companies place advertisements on Facebook users’ pages because they believe that
23 it is an effective form of advertising that will cause many Facebook users to click on their ads and
24 interact with their online and offline business establishments to do business with them.

25 54. Each Facebook user receives a unique set of paid advertisements that Facebook, in
26 conjunction with advertisers, decides to place on Facebook users’ own Facebook pages. When
27 Facebook, in conjunction with advertisers, decides to deny older persons and/or women paid
28

1 advertisements about valuable financial services opportunities, Facebook users are denied one of the
2 primary benefits or advantages of Facebook's accommodations, facilities, and services.

3 55. In addition, when Facebook encourages advertisers to deny their valuable financial
4 services ads to older persons and women, gives financial services companies the ability to exclude
5 older persons and women from receiving their ads, and knowingly places ads for financial services
6 opportunities that exclude older persons and women, Facebook aids and abets financial services
7 companies in denying older persons and women the full and equal accommodations, advantages,
8 facilities, and services of their business establishments.

9 56. Most financial services companies that advertise on Facebook and discriminate against
10 older persons and/or women have business establishments both online and in the real world. Every
11 financial services company that advertises on Facebook has an online business establishment, because
12 each company either has its own Facebook page within Facebook's domain or has its own web page
13 outside of Facebook's domain to which the company's ads link and encourage Facebook users to
14 interact with in order to transact business.

15 57. Ms. Opiotennione has searched for housing and financial services opportunities on
16 Facebook periodically during the past year. In doing so, Ms. Opiotennione was interested in receiving
17 advertising and information about loans and insurance from Facebook via advertisements on her News
18 Feed. She would have clicked on advertisements for mortgages, insurance, and/or other financial
19 services opportunities had she received such advertisements on her News Feed. However, Facebook
20 and various financial services companies that have routinely used Facebook's audience selection tools
21 to exclude older persons and women from receiving their advertisements for financial services
22 opportunities have regularly denied Ms. Opiotennione advertisements and information about financial
23 services opportunities by screening her from receiving Facebook advertisements about those
24 opportunities. Upon information and belief, by being denied information and advertising about
25 financial services opportunities on Facebook, Ms. Opiotennione and the members of the putative class
26 were denied the full and equal accommodations, advantages, facilities, and services of Facebook and
27 the financial services companies that denied her valuable advertising and information.

28

1 62. **Numerosity.** The class is so numerous that joinder of all members is impracticable. The
2 exact size of the class is not known. Upon information and belief, the class consists of millions of
3 Facebook users, and those users are geographically dispersed throughout the United States.

4 63. **Commonality.** There are numerous questions of law or fact that are common to the
5 class members. Upon information and belief, the class members were subjected to and injured by the
6 same pattern, practice, or policy of denying older persons and/or women the full and equal
7 accommodations, advantages, facilities, and services by Facebook and by Facebook's aiding and
8 abetting financial services companies in doing the same, including by classifying, categorizing, and
9 segregating them based on age and/or sex for the purpose of denying them equal opportunities and/or
10 denying older persons and women advertisements and information about financial services
11 opportunities based on their age and/or sex.

12 64. The questions of law or fact that are common to the class members include:

13 a. Did Facebook on a nationwide basis require users to identify their ages and
14 genders, and allow advertisers to exclude persons from their audience selections based on age or
15 gender?

16 b. Were Plaintiff and other members of the Class classified, categorized, and
17 segregated by Facebook based on their age or gender?

18 c. Did Plaintiff and other members of the Class inform Facebook that they were
19 uninterested in receiving advertisements about financial services opportunities?

20 d. Were Plaintiff and other members of the Class excluded from receiving
21 advertising and information about financial services opportunities because of their age or gender in
22 violation of the Unruh Act?

23 e. Did Facebook aid and abet financial services companies in denying Plaintiff and
24 the members of the Class their right to full and equal accommodations, advantages, facilities, and
25 services of those companies in violation of the Unruh Act?

26 f. What types of injunctive and/or declaratory relief should be ordered with respect
27 to Facebook's past and ongoing pattern, practice, and/or policy, and what damages should be awarded
28 to Plaintiff and the members of the Proposed Class?

1 language, or immigration status are entitled to the full and equal accommodations, advantages,
2 facilities, privileges, or services in all business establishments of every kind whatsoever.” Cal. Civ.
3 Code § 51(b).

4 71. The list of protected classes in the Unruh Act is not exclusive and extends beyond the
5 protected classes enumerated in the law. Accordingly, California appellate courts have held that “the
6 Unruh Act proscribes arbitrary discrimination based on an individual’s age—a personal characteristic
7 similar to the classifications enumerated in the Act.” *Candelore v. Tinder, Inc.*, 19 Cal. App. 5th 1138,
8 1145 (Ct. App. 2018).

9 72. “The purpose of the [Unruh] Act is to create and preserve a nondiscriminatory
10 environment in California business establishments by banishing or eradicating the arbitrary, invidious
11 discrimination by such establishments. The Act stands as a bulwark protecting each person’s inherent
12 right to full and equal access to all business establishments. In enforcing the act, courts must consider
13 its broad remedial purpose and overarching goal of deterring discriminatory practices by businesses.
14 The act must be construed liberally in order to carry out its purpose.” *White v. Square, Inc.*, 7 Cal. 5th
15 1019, 1025 (2019).

16 73. Facebook is a business establishment under the Unruh Act, because it has a fixed
17 location of business in California; it has an online place of business that sells good and services to
18 consumers throughout California; its primary purpose and goal in operating Facebook is to conduct
19 business, generate revenue, and earn profit; and it earns billions of dollars in revenues from its business
20 activities in California.

21 74. The Unruh Act applies to business transactions and services that are conducted via the
22 internet, as well as internet-related conduct that is related to the activities of traditional brick-and-
23 mortar establishments that have fixed, traditional presences.

24 75. Plaintiff and the putative Class Members, older and female Facebook users located
25 throughout the United States, bring this claim under the Unruh Act, because Facebook’s Terms of
26 Service require all of them to enforce any disputes related to Facebook’s products under California
27 law, including the Unruh Act, in this federal district court.
28

1 sex, including by denying older persons and women advertisements and information about financial
2 services opportunities.

3 83. In addition, through the actions described above, Facebook has aided and abetted
4 financial services companies in violating Cal. Civ. Code § 51.5. Thus, Facebook is liable for the
5 violations alleged in this Complaint for discrimination in its own business services, and Facebook is
6 liable for aiding and abetting the violations of financial services companies, pursuant to Cal. Civ. Code
7 § 52(a).

8 84. Facebook is liable to Plaintiff and the members of the Plaintiff Class for statutory
9 damages pursuant to section 52(a) of the California Civil Code for each and every offense, as well as
10 attorneys' fees, costs, and expenses incurred in bringing this action.

11 85. Plaintiff is further entitled to all other legal and equitable relief available, including
12 injunctive relief on behalf of herself and the Plaintiff Class.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiffs pray that judgment be entered against Facebook on all claims and
15 respectfully request that this Court award the following relief:

- 16 (a) Certify the case as a class action on behalf of the proposed Class;
17 (b) Designate Plaintiff as representative of the Class;
18 (c) Designate Plaintiff's counsel of record as Class Counsel;
19 (d) Declare that the practices complained of herein are unlawful;
20 (e) Enter an order permanently enjoining Facebook and its partners, officers, agents,
21 successors, employees, representatives, and any and all persons acting in concert with them, from
22 continuing to engage in acts that violate the Unruh Act;
- 23 (f) Require Facebook to pay Plaintiff and members of the Plaintiff Class any disgorgement
24 of Facebook profits from its unlawful and/or unfair business practices, restitution, penalties, liquidated
25 damages, exemplary damages, punitive damages, and pre-judgment and post-judgment interest as
26 provided by law, that may be owed;
- 27 (g) Require Facebook to pay Plaintiffs' attorneys' fees and costs;
- 28

1 (h) Appoint a monitor to ensure that Facebook complies with the injunction provisions of
2 any decree that the Court orders;

3 (i) Enter an order retaining jurisdiction over this action to ensure that Facebook complies
4 with such a decree; and

5 (j) Grant such other and further relief as the Court deems proper, appropriate, just, or
6 equitable.

7 **JURY DEMAND**

8 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury in this
9 action.

10 Dated: October 31, 2019

Respectfully Submitted,

11 By: /s/ Jahan C. Sagafi
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* *pro hac vice* application forthcoming

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