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Attorneys for Plaintiffs and the Proposed Plaintiff Class and Collective

**UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

COMMUNICATIONS WORKERS OF
 AMERICA, LINDA BRADLEY, MAURICE
 ANSCOMBE, LURA CALLAHAN,
 RICHARD HAYNIE, and others similarly
 situated,

Plaintiffs,

v.

T-MOBILE US, INC., and AMAZON.COM,
 INC.,

Defendants.

Case No. 17-cv-07232-BLF

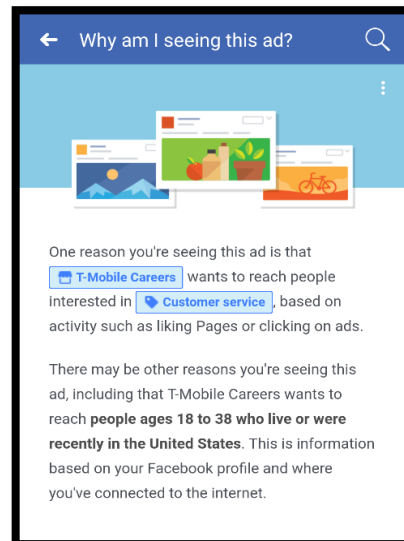
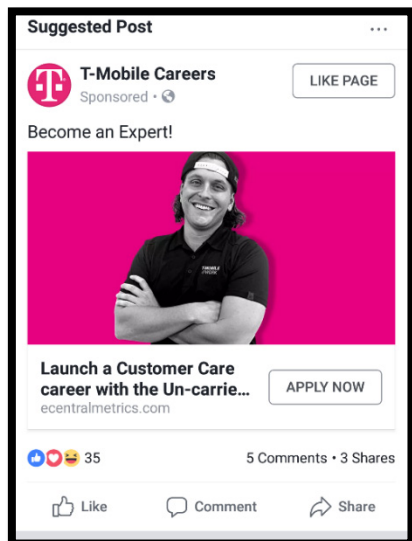
**FOURTH AMENDED CLASS AND
 COLLECTIVE ACTION
 COMPLAINT**

DEMAND FOR JURY TRIAL

INTRODUCTION

1. In this action, the Communications Workers of America (“CWA”), Linda Bradley, Maurice Anscombe, Lura Callahan, and Richard Haynie (collectively, “Plaintiffs”) seek to vindicate the rights of older workers to be free of age discrimination in employment advertising, recruitment, and hiring. They bring this action against T-Mobile US, Inc. (“T-Mobile”) and Amazon.com, Inc. (“Amazon”), major American employers that, upon information and belief, routinely exclude older workers from receiving their employment and recruiting ads on Facebook, and thus deny older workers job opportunities. These companies eliminate older workers from receiving job ads by specifically targeting their employment ads to younger workers via Facebook’s ad platform. And these employers state in their job advertisements that they are interested in reaching younger workers who fall into a specific age band of Facebook users who were selected to receive the job advertisements, thereby encouraging younger workers to apply for various jobs and discouraging older workers from doing the same.

2. For example, T-Mobile sent the following ad via Facebook to recruit prospective job applicants for its stores nationwide, and in doing so, upon information and belief, limited the population receiving the ad to 18- to 38-year-olds. The screenshot to the right shows that T-Mobile sent the job ad because T-Mobile “wants to reach **people ages 18 to 38 who live or were recently in the United States.**”



1 3. Plaintiffs allege that T-Mobile and Amazon have violated federal, state, and local
2 laws that prohibit age discrimination in employment advertising, recruiting, and hiring, upon
3 information and belief. Plaintiffs seek an injunction to stop Defendants from engaging in unlawful
4 age discrimination in employment, as well as other forms of relief for older workers who have been
5 denied job opportunities due to the unlawful and harmful practices described in this Complaint.

6 4. Fifty years before this action was filed, on December 15, 1967, Congress enacted the
7 Age Discrimination in Employment Act to prohibit and eradicate systemic age discrimination that
8 older workers faced in the workplace. *See* Pub. L. No. 90-202, § 2 (Dec. 15, 1967). Congress
9 found that older workers faced discrimination in hiring and other employment opportunities, and
10 that the arbitrary setting of age limits led to higher unemployment rates for older workers. *Id.*; 29
11 U.S.C. § 621. To combat this discrimination, Congress prohibited employers and employment
12 agencies from discriminating based on age in employment advertising, recruiting, hiring, and other
13 employment opportunities, and Congress made it unlawful to send or publish employment ads that
14 discriminate or indicate a preference or limitation based on age. 29 U.S.C. § 623(a), (b), (e).

15 5. Agreeing with Congress that age discrimination in employment was a systemic
16 problem, numerous states, including California and Ohio, the District of Columbia, and many
17 counties, cities, and towns enacted similar prohibitions on age discrimination in employment.

18 6. Sadly, this case reveals that age discrimination remains an entrenched facet of the
19 American workplace. Defendants—major American companies—apparently believe that it is
20 appropriate and desirable to exclude American workers from job opportunities *solely based on their*
21 *age*.

22 7. In every corner of America, when an older worker loses her job at a coal mine, a
23 steel mill, a call center, a hospital, or an office, and she looks for a new job using the internet and
24 social media to find job opportunities, she likely has no idea that major American companies are
25 purposely refusing to tell her about the next job opportunity that may help her feed her family or
26 make her next mortgage payment to stave off a devastating foreclosure.

1 8. Due to this lawsuit, older workers may finally understand why their job searches—
2 that have migrated online in recent years—are more difficult than they ought to be. In fact, their
3 job searches are more difficult than our country’s anti-discrimination laws allow. If this lawsuit
4 succeeds, American workers’ job searches may be a lot easier in the future.

5 9. Harm has already been done, and it continues, as Defendants have expressly and
6 blatantly excluded older workers from receiving job advertisements and recruitment via Facebook’s
7 paid ad platform. As a result, these companies have denied millions of workers the opportunity to
8 learn about and obtain employment opportunities, upon information and belief.

9 10. When selecting the population of Facebook users who will receive employment ads,
10 Defendants have routinely focused their ads on prospective applicants who are in age bands that
11 exclude many workers who are 40-years-old or greater, *e.g.*, targeting workers who are “ages 18 to
12 38,” “ages 22 to 45,” or “ages 21 to 55,” thereby preventing older workers from receiving
13 advertising and recruitment for job opportunities, upon information and belief.

14 11. This pattern or practice of discrimination denies job opportunities to individuals who
15 are searching for and interested in jobs, reduces the number of older workers who apply for jobs
16 with the offending employers and employment agencies, and depresses the number of older workers
17 who are hired by Defendants, causing working families to lose out on wages, benefits, and the
18 dignity that comes with a good job. In addition, these practices make older workers’ job searches
19 take far longer than they should, causing economic harm and other forms of distress to them and
20 their families. For the positions advertised, these age-based restrictions show that the selections for
21 these positions are uniformly motivated by discriminatory animus against older workers.

22 12. This practice is not just harmful to older workers—it is unlawful. By actively
23 excluding workers who are older than a certain age from receiving employment ads and by stating
24 in the ads that the employers want to reach younger workers, Defendants clearly state a preference
25 for recruiting and hiring younger workers over older workers; they discriminate against older
26 workers in their advertising, recruitment, and hiring process; and they limit, segregate, and classify
27 job applicants based on their age, all in violation of federal, state, and local laws that prohibit age

1 discrimination in employment.

2 13. While advocates for older workers and civil rights have long suspected that
3 employers screen out older workers from the employment pipeline, evidence from Facebook's ad
4 platform confirms that, approximately 50 years after the passage of the ADEA, age discrimination,
5 rather than equal opportunity, appears to be Defendants' common practice in employment
6 advertising, recruiting and hiring, upon information and belief.

7 14. Over the past five years, employment advertising, recruiting, and hiring has
8 undergone a seismic shift. Like so many other parts of our society, Facebook and other social
9 media platforms have become a dominant force in the national labor market. In fact, social media
10 has become a primary means for big and small employers to identify, recruit, and hire workers.

11 15. Like many technologies in the modern economy, Facebook has an unfathomable
12 capacity to make workers aware of economic opportunities, such as jobs. Advertising on
13 Facebook's paid ad platform could make it easy for workers to regularly receive employment
14 opportunities on an equal basis. For tens of millions of forgotten workers whose plants have
15 shuttered, hospitals have closed, and retail stores have been driven out of business by e-commerce,
16 receiving ads for job openings via Facebook could be a godsend—a ray of hope at the end of a long,
17 dark tunnel in which American workers have been discarded by national companies that place profit
18 over people.

19 16. Upon information and belief, Facebook's powerful ad platform has been used as a
20 mechanism for age discrimination, and Defendants have coordinated with Facebook to exclude an
21 enormous portion of the American labor force from receiving job ads, recruitment, and hiring
22 opportunities.

23 17. The basic practice at issue in this case is simple. When an employer or an
24 employment agency creates, purchases, and sends a Facebook ad to make workers aware of job
25 opportunities and encourage them to apply for various jobs, Facebook requires the employers or
26 employment agencies to select the population of Facebook users who will be eligible to receive the
27 ad, including the age range of the users who will receive the ad. Following Facebook's

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