

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**

EQUAL RIGHTS CENTER,

820 First St NE
Suite LL160
Washington, D.C. 20002

Plaintiff,

v.

META PLATFORMS, INC., formerly known as
FACEBOOK, INC.,
1 Meta Way
Menlo Park, CA 94025

Serve on:
CORPORATION SERVICE CO.,
Registered Agent
1090 Vermont Ave. N.W.
Washington, D.C. 20005

Defendant.

Civil Action No. 2025-CAB-000814

JURY TRIAL DEMANDED

**CIVIL I ASSIGNMENT REQUESTED
PURSUANT TO RULE 40-II**

COMPLAINT

1. This case challenges racial discrimination in access to higher education opportunities on social media platforms owned and operated by Meta Platforms, Inc. (“Meta”). Meta steers advertisements on its social media platforms, Facebook and Instagram, for for-profit colleges and universities disproportionately to Black people, and ads for public colleges and universities disproportionately to white people. Meta’s unlawful practices deny Black users of Facebook and Instagram access to information about public colleges and universities that would otherwise be available to them and provides them with information about different opportunities because of their race. Consequently, Meta provides separate and unequal services to Black users

in its places of public accommodations. This race-based steering of information violates the D.C. Human Rights Act (“HRA”) and the D.C. Consumer Protection Procedures Act (“CPPA”).

2. Meta’s unlawful discrimination against Black users of Facebook and Instagram begins with its collection of user data. Users provide Meta with their name, sex, date of birth, photos, videos, and more. Meta tracks how users behave on its platforms, collects information about users’ phones and computers, and collects information from third parties, including through its Meta Pixel, a piece of computer code embedded in other websites that sends information about the websites’ visitors to Meta, including, in at least one instance, ethnicity information from the ACT college entrance exam’s website. Meta can match the information sent by websites with its social media users.

3. Meta uses these data to decide which ads to deliver to which specific users. On Meta’s platforms, every user sees different compilations of ads based on data about their personal traits and activities. This is known as “behavioral” or “personalized” advertising.

4. Meta’s personalized advertising system operates in two stages. First, in the “ad targeting” stage, Meta and the advertiser work together to identify a set of individuals who could potentially receive the ad—*i.e.*, the “target audience.” But, because of space and advertiser budget limits, among other things, not all users in the target audience will receive the ad. Therefore, in the “ad delivery” stage, Meta alone—using its ad delivery algorithms—decides which people within the target audience actually receive the ad.

5. During the ad delivery stage, Meta unlawfully discriminates against users in the delivery of ads for higher education opportunities based on the users’ race, color, and personal appearance, in violation of the HRA. Specifically, Meta analyzes its vast quantities of accumulated data on individuals in the target audience, as well as data about those users’ friends and users Meta

believes to be similar, and sends ads to users at least in part based on those users' actual or perceived race, color, and personal appearance, or proxies for those users' race, color, and personal appearance. A 2024 study by academic researchers found that Meta steers advertisements for for-profit colleges and universities disproportionately to Black people while steering ads for public colleges and universities disproportionately to white people.

6. Meta further discriminates against users by maintaining a neutral practice that causes a discriminatory delivery of ads based on race, color, and personal appearance. Specifically, Meta uses ad delivery algorithms that determine how advertisements are delivered to Facebook and Instagram users based on user profiles. Meta develops and maintains each user's profile by continuously analyzing information it collects from its users and third parties. Meta's delivery of higher education advertisements based on these dynamic profiles causes an adverse impact by disproportionately steering ads for for-profit colleges and universities to Black people, while disproportionately steering ads for public colleges and universities to white people.

7. Meta's unlawful practices harm Black users by denying them valuable information about public colleges and universities that they would receive if not for Meta's discriminatory practices. Meta's unlawful practices also cause Black users to receive information about for-profit colleges and universities instead.¹ For-profit colleges and universities often charge high tuition rates without investing sufficiently in education and support services. They leave students with the highest debt burdens among all types of colleges and universities. For-profit college and university students are less likely to graduate than their peers at public schools, and, if they do graduate, alumni often do worse in the labor market than people with only a high school education.

¹ For-profit colleges and universities are for-profit businesses, as opposed to public or private nonprofit colleges and universities, which are not for profit.

8. By denying Black Facebook and Instagram users the full and equal enjoyment of its services wholly or partially based on their actual or perceived race, color, and personal appearance, and by delivering advertisements in a manner that causes an adverse impact on the basis of race, Meta violates the HRA's public accommodations protections. Because discrimination in violation of the HRA is an unfair trade practice, Meta also violates the CPPA.

9. Meta's discriminatory delivery of higher education ads also violates the CPPA because Meta is engaging in unfair and deceptive trade practices. Meta represents to users and advertisers that its advertising system gives users valuable and relevant personalized advertisements when it is instead making ad delivery decisions based on race; represents that its goods and services have characteristics and benefits that they do not; and represents that its advertising system is of a particular standard, quality, grade, or style that it is not. These unfair and deceptive trade practices deceive Black users regarding the benefit of the bargain that they make with Meta when they agree to patronize Meta for its services.

10. The Equal Rights Center ("ERC") brings this action to stop Meta's unlawful discrimination and unfair and deceptive trade practices against Black people in the District of Columbia. Meta's advertising system reproduces historical patterns of discrimination and recreates online the inequality of opportunity that ERC has strived for decades to eliminate in brick-and-mortar places of public accommodation.

PARTIES

11. Plaintiff ERC is a national nonprofit public interest organization and civil rights membership corporation organized under the laws of the District of Columbia. Its principal place of business is 820 First Street NE, Suite LL160, Washington, D.C. 20002.

12. ERC's mission is to identify and eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of greater Washington, D.C., and nationwide. ERC works to identify, address, and remedy both individual instances of discrimination, as well as systematic discrimination. Through its public accommodations program, ERC works to ensure everyone's right to fully and freely participate in society.

13. ERC carries out its mission by providing guidance and information on civil rights to the community; assisting victims of discrimination, including by providing intake counseling and assisting with drafting and filing administrative actions to vindicate their rights; conducting civil rights testing to expose discrimination; using testing data to educate consumers; conducting compliance testing and training; and, when necessary, taking enforcement action. ERC has decades of experience investigating, advocating against, and educating consumers about discrimination in Washington, D.C.

14. ERC is a national leader in identifying and documenting differences in the quality, quantity, and content of information and services provided to individuals based on individual factors and characteristics. Among other things, ERC has investigated and published reports about taxicab discrimination against Black cab hailers or cab hailers who wish to travel to predominantly Black neighborhoods in the District; discrimination against transgender individuals in the retail environment; and the ability of individuals with limited English proficiency to obtain information about COVID-19 testing.

15. Defendant Meta, formerly known as Facebook, Inc., is a Delaware corporation with its headquarters and principal place of business at 1 Meta Way, Menlo Park, CA 94025. Meta operates several web- and mobile-device-based social media platforms, including Facebook and

Instagram. As a core component of its social media services, Meta supplies consumers in the District of Columbia with advertisements.

JURISDICTION AND VENUE

16. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code §§ 11-921 and 28-3905(k)(1)(D).

17. This Court has personal jurisdiction over Defendant Meta pursuant to D.C. Code § 13-423(a).

FACTS

I. Meta Collects Vast Amounts of User Data for Use in Its Advertising System

A. Meta’s Social Media Platforms

18. Facebook is a social media platform that operates a website and mobile phone application with approximately 2.11 billion daily active users as of 2023. There are more than 223 million monthly active Facebook users in the United States and at least 296,200 Facebook users in the District of Columbia. Users who sign up for accounts on Facebook can add other users as “friends,” create and join groups with other users, and post photos, videos, text, and links to other websites.

19. Facebook provides each user with a personalized screen that it calls a “feed” through which the user can see their friends’ posts and posts from other groups and pages on Facebook. Facebook users’ feeds also contain paid advertisements that Facebook calls “sponsored” posts. Facebook users can engage with posts by clicking on, “liking,” sharing, saving, or commenting on the posts. Meta also offers Facebook users access to an instant messaging service called Messenger and a short-form video service called Reels, both of which contain paid advertisements.

20. Instagram is another social media platform that operates a website and mobile phone application that allows users to post photos and videos to their feed. Instagram has approximately two billion monthly active users worldwide and over 160 million monthly active users in the United States. Instagram has at least 492,600 users in the District of Columbia. Each Instagram user sees a personalized feed that displays posts from friends and other people that the user follows. Instagram users can also post “stories” that contain compilations of photos and videos that disappear after 24 hours. Instagram users’ feeds and stories contain paid advertisements that Instagram calls “sponsored” posts. Instagram also offers users a short-form video service called Reels, which contains paid advertisements.

B. Meta’s Collection of User Data

21. Meta collects troves of data on its users and uses that data in its ad delivery system to inform decisions about which users will receive which paid advertisements.

22. Users agree to allow Meta to collect the information described in this section in exchange for using the services Meta provides, including personalized advertisements.

23. Meta’s main sources of user data are (1) user-provided information, (2) user behavior on Meta’s platforms, (3) third parties, (4) device information, and (5) users’ “friends” on Meta-owned platforms.

1. User-Provided Information

24. Meta collects information that users provide when creating or updating an account on its platforms.

25. When an individual signs up for Facebook or Instagram, the individual must provide their full name, cellphone number or email address, and date of birth.

26. Users can also provide additional information in their Facebook profile, including their gender, places lived, hometown, employment history, education history, family members, relationships, significant life events, pop culture preferences, and profile photos. On Instagram, users can provide a profile picture, gender, and a bio.

27. Meta allows Facebook and Instagram users to create an “avatar” in which they can select their skin color, eye shape, nose and lip shapes, and hair type or style.

28. Meta records the content users create or upload to its platforms, such as posts, comments, photos, audio recordings, and videos, as well as the metadata for the content (*e.g.*, the time the content was created and location data for where a photo was taken).

2. *User Behavior on Meta’s Platforms*

29. Meta collects information about users’ activity on Facebook, Instagram, and other Facebook-owned platforms, including its instant messaging services Messenger and WhatsApp and its short-form video service Reels.

30. Meta compiles user activity and friendships from all its platforms in one profile for each individual. Meta uses what it learns from one platform for ad personalization on the others.

31. Meta records engagements such as “liking,” sharing, saving, clicking on, or commenting on posts or Pages (public-facing places on Facebook for artists, public figures, businesses, brands, organizations, and nonprofits). It also records and collects other more minute interactions, such as the amount of time a user spends looking at a particular post in their feed before scrolling to the next post.

32. Meta records the messages users send and receive on their platforms as well as the metadata for those messages (*e.g.*, type of message, date, and time).

33. Meta also records the groups that users join, many of which describe or are directly associated with race, sex, and other protected characteristics, such as “Common Black College Application”; “DMV Black Entrepreneurs Network”;² “Black Women Sistas Hood Group (DMV)”; “Black Girls RUN! Washington, D.C.”; “Black Owned Businesses – DMV”; “Black Professional Men, Inc.”; “FBMOF (Fit Black Men Over Forty)”; “Keto 4 BLACK WOMEN”; “Black Woman/Women Owned Business”; “Generation Millennials”; “Christian Men’s Life Group”; “Jewish 30s and 40s Singles Group”; “Moms of Toddlers”; and “blind and visually impaired people from the United States of America.”

34. Many of these types of Facebook groups are directed at people that fall within a particular protected class or multiple protected classes, and consequently those groups are often comprised largely of people of a particular protected class or classes.

35. Meta measures how much time a user spends on a group’s page, how frequently a user visits a group’s page, and other similar engagement metrics.

3. *Third Parties*

36. Meta collects data on its users from third parties not owned or controlled by Meta.

37. According to Meta, among the information it receives from third parties are “Your device information,” the “Websites you visit and cookie data,” “Apps you use,” “Games you play,” “Purchases and transactions you make,” “Your demographics, like your education level,” “The ads you see and how you interact with them,” and “How you use our partners’ products and services, online or in person.”

² “DMV” is a common abbreviation for “District of Columbia, Maryland, and Virginia” that is used to refer to the Washington, D.C. greater metropolitan area.

38. Meta collects third-party data in at least two ways. First, it uses software such as plug-ins, cookies, and other tracker technologies that record Facebook and Instagram users' activity on other websites. One such technology is the Meta Pixel, a piece of computer code embedded in other websites that sends information about the websites' visitors to Meta, and which Meta can match with its social media users.

39. According to Meta, as of April 2018, more than 2 million Meta Pixels were installed on websites. Meta Pixel is embedded on dozens of popular websites targeting children and students from kindergarten to college, including sites that students are all but required to use if they want to participate in school activities or apply to college. Some of those sites include the ACT (a standardized testing service for college admissions); Common App (a college admissions application service); Prezi (presentation software commonly used by students); ArbiterSports (a service for student registration for sports, programs, and activities); and Jostens (a retailer used for ordering yearbooks, class rings and jewelry, and letter jackets).

40. The Meta Pixel on the ACT's website registered clicks about a student's ethnicity and gender, and whether they planned to request college financial aid or needed accommodations for a disability.

41. Second, Meta has purchased information about its platform users from third-party data brokers. Those data include financial information, such as users' income levels, assets, mortgages, car ownership, and number of credit cards. They also include offline activity, like the types of restaurants users frequent and whether they shop at lower cost department or dollar stores.

4. *Device Information*

42. Meta collects information about the phones, tablets, and computers on which each user accesses Meta's platforms.

43. Meta collects data about what a user is doing on their device, such as whether Meta's apps are in the foreground or if the user's mouse is moving.

44. Meta collects information through access to device cameras and photo libraries, including the metadata from photos and videos (*e.g.*, the date and time they were made).

45. When a user installs the Facebook or Instagram app on their mobile device and syncs the app with their device's address book, the app collects contact information about other people from that user's address book, including the names, phone numbers, and email addresses of these third parties.

46. Meta uses address book information to infer relationships between the user and other people. This includes inferring which friends or family members listed in the address books also have Facebook or Instagram accounts so that Facebook or Instagram can recommend that the user add those third parties as "friends" on the platforms.

47. Meta also collects device data that it uses to infer users' locations and actual or perceived places of residence. For example, Meta collects signals from users' devices such as GPS signals, Bluetooth signals, nearby Wi-Fi access points, beacons, and cell towers.

48. Meta collects information about the networks to which users connect their devices, such as the name of the mobile network operator or internet service provider, language, time zone, mobile phone number, IP address, connection speed, information about other devices that are nearby or on the same network, and Wi-Fi hotspots users connect to using Meta's products.

49. Meta matches these data with brick-and-mortar coordinates to determine other information such as where users shop, which restaurants they eat at, where they attend school, and which events they attend.

50. Device data are collected in real-time and over time, allowing Meta to map out a user's activities and movements throughout the day, week, or year.

5. *Users' Friends on Meta's Platforms*

51. Into each user's dataset, Meta incorporates similar information to that described in subsections 1-4 about the user's friends, followers, and other connections on Facebook and Instagram. Meta uses data about a user's connections to make inferences about the user. In Meta's own words, "[w]e also infer things about you based on others' activity."

C. Meta's Profiling of Users Based on Protected Characteristics

52. Meta can infer a user's actual or perceived race and color through a variety of data, including their place of residence, photos and videos, membership in groups, friends (and data about their friends and other users Meta considers to be similar), interests, activities, avatars, and the data it collects about its users from third parties.

53. For example, Meta previously employed its user data to classify users into various "ad targeting categories," including ad targeting categories that are proxies for, or closely related to, a user's race. For instance, when presenting to its advertisers how they could target their ads, Meta previously published "ethnic affinity" categories and designated them "demographics," including "African American (US)," "Asian American (US)," "Hispanic (US-All)," "Hispanic (US-Bilingual: English and Spanish)," "Hispanic (US-English Dominant)," and "Hispanic (US-Spanish dominant)." Meta later renamed those categories as "Multicultural affinity" categories, one of which was "African American multicultural affinity."

54. After Meta was sued for violating federal and state civil rights laws for enabling advertisers to exclude Facebook users from receiving employment, housing, or credit ads based on race, sex, age, or other protected classes, Meta eliminated the ability for advertisers to target

users based on multicultural affinity categories. However, Meta continued to publish a targeting category called “African-American Culture,” which a 2021 study showed was even more accurate in reaching African American users than the previous ethnic affinity category “African American (US).”

II. Meta Uses Its User Data to Control the Delivery of Advertisements on Facebook and Instagram

55. Meta uses its vast trove of user data to operate a “personalized advertising” system. This is different from “contextual advertising” traditionally used in printed periodicals, radio, TV, and billboards. In contextual advertising, an ad is displayed in a specific context—such as a page in a newspaper or a billboard at a given address. Everyone who reads the same printed magazine or passes the same billboard sees the same ads. In contrast, personalized advertising directs ads to individuals—based on their inferred personal traits, interests, or behaviors—so that each person receives a customized set of ads. This means that two people viewing their respective personalized feeds on Facebook or Instagram—even at the same time and location—will see different sets of advertisements.

56. Meta’s advertising system operates in two stages: targeting and delivery. At the targeting stage, Meta and advertisers collaborate to determine which users will be eligible to receive the advertisement, among other things. But at the delivery stage, Meta acts alone to determine which Facebook and Instagram users actually receive the advertisement among the people in the target audience.

A. Targeting Stage

57. The first step in creating an advertising campaign on Meta’s platforms is for an advertiser to upload the “ad creative,” which consists of the text, image, videos, and destination link that compose the ad itself.

58. The advertiser must decide on which of Meta’s platforms to place the ad, including Facebook, Instagram, and/or Messenger.

59. During the targeting stage, the advertiser and Meta together establish a “target audience”—*i.e.*, the universe of users who are eligible to receive the ad.

60. Meta allows advertisers to create a target audience based on users’ traits, location, and other data. Advertisers can also include or exclude users based on their demographics, interests, or behaviors, which are targeting categories that Meta creates and makes available to advertisers. Meta classifies its users into these categories based on the data it collects about each user.

61. Meta also allows advertisers to establish a target audience by creating a “Custom Audience,” which is a set of specific individuals to whom the advertisers would like to deliver an advertisement—such as their customer list or people who visited their website. Advertisers can refine a Custom Audience based on demographics and other factors.

62. Meta recommends that advertisers use “broad audiences” in the targeting process “to provide the delivery system with more flexibility to find lower cost conversions.” And, according to Meta, “[t]argeting broadly essentially means that you’re mostly relying on our delivery system to find the best people to show your ad to.”

B. Delivery Stage

63. Meta does not automatically deliver each advertisement to all the individuals in the advertiser’s target audience. For example, a target audience may include individuals who do not have Facebook or Instagram accounts. Even for the individuals who do have Facebook and Instagram accounts, those individuals may not access Facebook or Instagram during the period in which the advertisement is being sent. There are also a limited number of slots (the number of

which Meta determines for each user) for ads in users' feeds so each user cannot receive every ad for which they are eligible. And advertisers' budgets affect how many ads Meta chooses to deliver.

64. Consequently, Meta must decide which ads to send to which users within a target audience at any given moment and at what cost. This decision-making process is what occurs during the "ad delivery" stage.

65. To determine which ads will be placed in users' feeds, every time an "ad slot" becomes available (*i.e.*, a user is browsing Facebook or Instagram and scrolls past a spot for an ad), Meta holds what it calls an "auction" among all of the ads where the user in question is in the target audience. The process is instantaneous and carried out by Meta using its ad delivery algorithms.

66. The ad delivery algorithms consider the advertiser's budget and a determination of whether Meta believes a user will find an ad "relevant." Because Meta "want[s] each person to see relevant ads," according to Meta, an ad "that's more relevant to a person could win an auction against ads with higher bids." Likewise, "ads with higher relevance can win ad auctions at lower costs." According to Meta, the "ad delivery system is designed to show the right content to the right people, and a high relevance score is seen by the system as a positive signal."

67. Meta's ad delivery algorithms determine ad relevance based on the information that Meta has collected on its users and the inferences that Meta makes based on those data. Meta also considers information it has collected on a user's friends and other users it determines to be similar. In addition, Meta applies machine learning models to determine an ad's perceived quality. Ad quality involves criteria like whether the ad uses sensationalized language; contains spammy content or engagement bait; and whether other users hide or report the ad or hide other ads from the advertiser.

68. Meta touts that its ad delivery system is designed to maximize value for its users. As Meta states, “[w]e want the ads you see on Facebook to be as interesting and useful to you as possible.” Thus, Meta claims to use ad auctions “to determine the best ad to show to a person at a given point in time.” Meta states that the ad auction and machine learning “work together to maximize value for both people and businesses.” As stated on Meta’s website, the winner of the auction is the ad with the highest “total value” that “maximizes value for both people and businesses.”

III. Meta Has a Well-Documented History of Steering Advertisements Based on Users’ Protected Characteristics

69. Over the past several years, academics, advocates, journalists, and government agencies have documented how Meta’s ad delivery system leads to biased outcomes, making some users more or less likely than others to see particular ads based on their demographic characteristics.

70. In 2019, ProPublica reported, based on advertisements that were disclosed in Facebook’s Ad Library, that, even when employers targeted their employment ads to all ages and genders, Meta disproportionately delivered the employment ads to men and younger people. The Ad Library is a website within Facebook that provides a searchable catalogue of ads from certain categories that have run on Facebook, including housing, employment, and financial products and services ads. ProPublica found that an ad from Dolese Bros. Co., a construction and supply company, was delivered to 20,000 people, 87% of whom were men, even though Dolese Bros. Co. did not target based on gender. The Chicago-based chapter of the International Union of Operating Engineers, Local 150, purchased ads featuring videos and photos of female members and women of color and targeted neutrally based on gender. The ads were still delivered to an audience that was about two-thirds men. The Muslim Public Affairs Council posted an ad for a summer

internship featuring six young Muslim American men and women, which was delivered to an audience that was 73% men—even though far more women than men actually apply to the program. The Christian Charity Lifewater International advertised an engineering job and, although it did not target by age or gender, Meta nonetheless delivered the ad to an audience that was almost 70% men, mostly between ages 18 and 34.

71. In April 2019, researchers at Northeastern University, University of Southern California, and the nonprofit organization Upturn, published a study documenting several experiments in which they placed ads on Facebook with neutral race and gender targeting and measured to whom Facebook delivered the ads.

72. The researchers found significant racial and gender disparities in how Meta delivered employment ads. “Ads for jobs in the lumber industry reach[ed] an audience that is 72% white and 90% male”; “ads for cashier positions in supermarkets reach[ed] an 85% female audience”; and “ads for positions in taxi companies reach[ed] a 75% Black audience, even though the targeted audience specified by [them] as an advertiser is identical for all three.”

73. They also found “significant ad delivery skew along racial lines” in the delivery of housing ads. The researchers observed that “the significant skew we observe even on a small set of ads suggests that real-world housing and employment ads are likely to experience the same fate.”

74. In addition, the researchers determined that Meta likely analyzes the content of an ad before it is shown to users and then steers the ad at least in part based on users’ protected characteristics or proxies for those protected characteristics, before users have a chance to see and react to the ad.

75. In a June 2020 study, researchers at Carnegie Mellon University analyzed the delivery of housing, employment, and credit ads by Facebook. They found that, despite neutral targeting by the advertisers, approximately 58% of credit ads they reviewed were sent to a greater percentage of men, whereas only 42% of credit ads were sent to a greater percentage of women.

76. In an April 2021 study, researchers at the University of Southern California measured gender bias in the delivery of employment ads on Facebook and LinkedIn by placing ads on Facebook and LinkedIn and analyzing how they were delivered. They found statistically significant levels of gender bias in Meta's distribution of employment ads for a range of jobs, including delivery driver, software engineer, and sales associate positions. They did not find a gender difference in ad delivery on LinkedIn.

77. In a study published in October 2022, researchers from Northeastern University ran ads on Facebook in which they changed only the demographics of the person depicted in an image in the ad creative, such as their race, gender, or age. They targeted the ads to equal numbers of Black and white users. They ran the experiment three times: using stock photos, synthetic (computer-generated) images, and "real" employment ads. All three times, the results were the same: Meta steered ads containing images of Black people to Black users more often than it steered ads containing images of white people to Black users. The researchers also found that Meta delivered ads in the janitorial industry disproportionately to Black women. Moreover, the age of the person pictured in an ad correlated positively with the age of the users to whom Meta displayed it.

78. In June 2022, the United States Department of Justice ("DOJ") sued Meta for housing discrimination in violation of the Fair Housing Act, following an administrative charge brought by the United States Department of Housing and Urban Development ("HUD"). During

the investigation of the HUD charge, HUD and DOJ engaged in discovery of Meta's advertising practices and tested Meta's ad delivery algorithms to measure racial disparities. The DOJ found significant disparities in the delivery of housing advertisements based on race.

79. The United States alleged that it had conducted a test where it sent 150 housing ads to people who lived near a town that was 60% Black and a town that was 90% white. "Though the users in the Eligible Audience were similarly situated with respect to income, sex, age, and location, Facebook steered the ads for housing opportunities in the majority-White town disproportionately toward White users and away from Black users; conversely, Meta steered the ads for housing opportunities in the majority-Black town disproportionately toward Black users and away from White users. The steering was substantial and highly statistically significant."

80. As the United States explained in its complaint against Meta, its researchers also found that "as a general matter, housing ads featuring an image of a Black family were less likely to be delivered to White users than were identical ads featuring an image of a White family."

81. The United States alleged that it "conducted additional testing that further demonstrated that the racial disparities in the ad delivery were not driven by users' specific, expressed interest in living in one of the two towns." Based on this and other testing, the United States concluded that Meta's ad delivery algorithms "actually and predictably reinforce or perpetuate segregated housing patterns because of race."

82. The United States and Meta settled the housing discrimination claims. As part of the settlement, Meta agreed to develop a "Variance Reduction System" ("VRS") for housing ads to reduce variances in the display of ads on Meta's platforms between eligible audiences and actual audiences for sex and estimated race/ethnicity.

83. Meta announced the deployment of VRS in January 2023. In its announcement, Meta admitted that “factors such as people’s interests or activity on a service could affect how ads are distributed to different demographic groups” on its platforms.

84. Meta also published a report in January 2023 in which it acknowledged that external researchers had identified concerns that Meta’s ad delivery system “may nudge ads to certain groups of people even when the advertisers select extremely broad targeting options.” Meta’s report discussed “the potential impact of systemic inequity reflected in automated systems” and admitted that “personalization systems” (like theirs) “could lead to unfair outcomes.” For instance, “if models in such systems over- or under-predict[] the likelihood people from a certain demographic group are interested in a particular type of ads, those models might thus under- or over-deliver those types of ads to different audiences based on those erroneous predictions.” Meta also stated, “[i]n contexts where long-term historical injustice has shaped people’s access to economic opportunity, like the housing market in the United States—people’s own preferences and behavior may reflect circumstances shaped by these injustices, and personalization systems have the potential to reflect that legacy.”

85. Meta’s report cited both its own previous civil rights audit from 2020 and the April 2019 research on gender and racial bias in its delivery algorithms. Meta asserted that VRS was part of an effort “to make progress in addressing important concerns about the potential for discrimination in ad delivery systems such as ours.” Meta noted this was “especially” important “when it comes to questions of housing, employment, and credit, where the enduring effects of historically unequal treatment still have the tendency to shape the economic opportunities of too many.”

86. In addition, Meta stated in its report that it had taken efforts to modify its ad delivery algorithms for housing, employment, and credit opportunity ads so that their ad delivery algorithms do not consider protected characteristics reported by people, identify protected characteristics, or use interest segments that had previously been removed as part of previous settlements.

87. Meta has not indicated any intent to apply these same changes to ads that do not involve housing, employment, or financial products and services, even though, as Meta said in its January 2023 report, “the enduring effects of historically unequal treatment still have the tendency to shape the economic opportunities of too many” in other fields, including higher education.

IV. Meta Steers Ads for For-Profit Schools Disproportionately to Black People and Ads for Public Schools Disproportionately to White People

88. Meta steers ads for for-profit colleges and universities disproportionately to Black users, and ads for public colleges and universities disproportionately to white users.

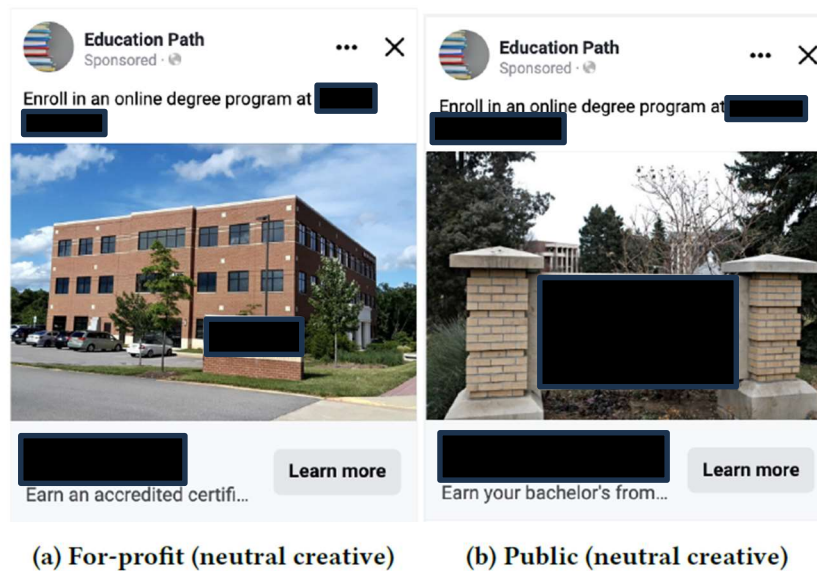
89. For-profit colleges and universities run marketing campaigns on Meta’s platforms. According to a 2024 paper written by former Meta employees and reviewed by Meta, education is one of the top ten categories of ad spending on Meta’s platforms, ahead of travel, gaming, banking and credit cards, insurance, and politics.

90. In July 2024, academic researchers published an article describing how they ran three sets of experiments comparing the racial breakdown of the delivery of ads for public colleges and universities to the delivery of ads for for-profit colleges and universities. They simultaneously ran pairs of ads for matched schools—one ad for a for-profit school and one ad for a public school—to the same target audiences on Facebook and Instagram and measured the relative differences in delivery of the ads by race.

91. The study found that Meta steered the ads for for-profit colleges and universities disproportionately to Black users, and the ads for public colleges and universities disproportionately to white users.

92. The racial differentials they measured in the delivery of the ads were products of choices that Meta’s ad delivery algorithms made. Because the researchers measured the relative differences in the delivery of paired ads, the differentials they observed cannot be explained by confounding factors such as targeting choices, differences in who was online, competition from other concurrently running ads, or market forces. Researchers also ran each pair of ads twice in a manner that ensured that the locations of the users in the target audience did not affect the results.

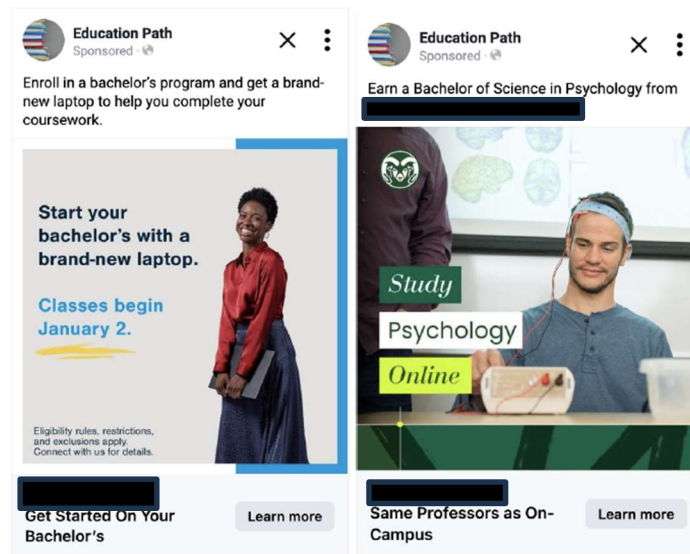
93. In the first experiment, the researchers sent six sets of paired ads with “neutral” ad text and images (which make up the “ad creative,” or design choices the advertiser makes in creating the ad). Below is an example of a pair of ads that the researchers sent.



94. For all six sets of paired ads, Black people were more likely to receive the ad for the for-profit school than they were to receive the ad for the public school, while white people were more likely to receive the ad for the public school than they were to receive the ad for the

for-profit school. For five sets of paired ads, the differences in the percentages of for-profit school and public-school ads that were delivered to Black and white users were statistically significant. For example, one statistically significant result showed that Meta delivered the for-profit school ad to an audience that was 54.00% Black, while delivering the public-school ad to an audience that was only 46.61% Black. At the same time, Meta delivered the public-school ad to an audience that was 53.13% white, while delivering the for-profit ad to an audience that was only 45.61% white.

95. In the second set of experiments, the researchers sent six sets of paired ads with “realistic” ad creatives. For each school, they selected a real ad from Meta’s Ad Library that the school had used previously. They determined the perceived race of human models represented in the majority of the school’s ads and selected a real ad that included the face of a person with that perceived race. Below is an example of a pair of ads with “realistic” ad creatives that the researchers sent.



(c) For-profit (realistic)

(d) Public (realistic)

96. Using these real ad creatives amplified the difference in Meta’s delivery of the ads along racial lines that was present in the first set of experiments. For all six sets of paired ads,

when compared to using neutral ad creatives, Black people were even more likely on average to receive the ad for the for-profit school than they were to receive the ad for the public school, and white people were even more likely on average to receive the ad for the public school than they were to receive the ad for the for-profit school. The results from all six tests were statistically significant. For example, one statistically significant result showed that Meta delivered the for-profit school ad to an audience that was 54.56% Black, while delivering the public-school ad to an audience that was only 42.35% Black. At the same time, Meta delivered the public-school ad to an audience that was 57.09% white, while delivering the for-profit ad to an audience that was only 45.06% white.

97. In the third set of experiments, the researchers matched the same three public schools with current or former for-profit colleges and universities that had previously received legal scrutiny for their education services or marketing practices, such as being investigated by the U.S. Department of Education, Federal Trade Commission, U.S. Department of Justice, or state attorneys general, and sent ads with realistic ad creatives taken from each school's Meta Ad Library page.

98. For all six pairs, Meta delivered the ads for the schools with prior legal scrutiny to a higher percentage of Black people than the ad for the public school, and the ad for the public school to a higher percentage of white people than the ad for the school with prior legal scrutiny. Four out of six results were statistically significant. For example, one statistically significant result showed that Meta delivered the ad for the school with prior legal scrutiny to an audience that was 52.56% Black, while delivering the public-school ad to an audience that was only 44.26% Black. At the same time, Meta delivered the public-school ad to an audience that was 55.33% white, while

delivering the ad for the school with prior legal scrutiny to an audience that was only 47.14% white.

99. Meta’s steering of for-profit higher education ads disproportionately to Black users means Black users are denied access to information about public colleges and universities.

100. For-profit institutions often provide lower quality education at greater cost, including by charging high tuition rates without investing in critical educational and support services and by diverting funds into marketing and recruiting rather than instruction. They have lower average graduation rates than public schools. Their students—Black students in particular—frequently make less money than students at nonprofit schools, and their graduates—Black graduates in particular—often graduate with more debt than nonprofit college and university graduates.

101. From the start of 2017 until March of 2019, nearly 24,000 federal fraud complaints were filed against for-profit colleges by students who claimed that the schools either lied about graduation incomes or employment statistics. Just over a decade ago, undercover tests of for-profit colleges and universities conducted by the U.S. Government Accountability Office (“GAO”) unearthed widespread encouragement of fraudulent practices—including personnel encouraging applicants to falsify forms to qualify for federal aid—and every school tested by GAO made deceptive or otherwise questionable statements to undercover applicants, such as misrepresenting likely salaries and graduation rates.

102. Meta’s unlawful steering of higher education ads affects Black people in the District of Columbia. Each year, Black people in the District of Columbia seek higher education opportunities across the country. For the 2023-2024 academic year, 3,403 D.C. residents applied to colleges and universities using the Common App. In 2021-2022, 51.4% and 54.4% of Black

D.C. high school graduates were enrolled in postsecondary education within 6 and 12 months, respectively.

103. As with housing, employment, and credit, the enduring effects of historically unequal treatment in higher education still have the tendency to shape the economic opportunities of too many. Whether a person attends a public or for-profit college or university can affect their future housing and job stability. Higher levels of debt and lower earnings may make it more difficult for individuals who attend for-profit colleges and universities to qualify for mortgages, afford rising rents, or save for home ownership, in turn perpetuating cycles of poverty and limiting opportunities for wealth accumulation.

CLAIMS FOR RELIEF

COUNT I

Discrimination Based on Race, Color, and Personal Appearance—Violation of the Consumer Protection Procedures Act and Human Rights Act, D.C. Code §§ 2-1402.31(a)(1), 2-1402.68, & 28-3904

104. ERC incorporates herein by reference the allegations contained in all preceding paragraphs.

105. Under the CPPA, a “public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.” D.C. Code § 28-3905(k)(1)(D)(i). The public interest organization must “have sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” *Id.* § 28-3905(k)(1)(D)(ii).

106. ERC, a “public interest organization,” brings this action “on behalf of the interests of a consumer or a class of consumers”—Black Facebook and Instagram users in the District of Columbia—seeking relief from Meta’s unlawful trade practices. *Id.* § 28-3905(k)(1)(D)(i).

107. ERC has “sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.” *Id.* § 28-3905(k)(1)(D)(ii). ERC’s mission includes identifying and eliminating discrimination in the Washington, D.C. metropolitan area. ERC has deep experience combatting discrimination in the District of Columbia, including but not limited to race discrimination and discrimination in places of public accommodation.

108. Meta’s policies and practices described herein violate the CPPA, *id.* § 28-3901 *et seq.* The CPPA prohibits any person from “engag[ing] in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged thereby.” *Id.* § 28-3904.

109. Meta meets the definition of “merchant” under the CPPA as “a person, whether organized or operating for profit . . . who in the ordinary course of business does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods and services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice.” *Id.* § 28-3901(a)(2).

110. A trade practice “means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services.” *Id.* § 28-3901(a)(6).

111. “Consumer,” when used as an adjective, means “anything, without exception, that . . . [a] person does or would purchase, lease (as lessee), or receive and normally use for personal, household, or family purposes.” *Id.* § 28-3901(a)(2)(B).

112. Goods and services “means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types.” *Id.* § 28-3901(a)(7).

113. Meta’s social media services are “consumer” goods and services because they are services that a person “does or would purchase . . . or receive and normally use for personal, household, or family purposes.” *Id.* § 28-3901(a)(2)(B)(i).

114. Meta’s social media services, which include a personalized advertising system and paid, personalized advertisements, are “goods and services” under the CPPA. *Id.* § 28-3901(a)(7). The advertisements Meta sends to its users through that system are goods or services that users receive when they sign up for Meta’s social media services. Users benefit from the advertisements Meta sends them because they learn about opportunities without having to spend time or effort looking for them, including opportunities that may be wholly unknown to them. In exchange, users allow Meta to collect their valuable personal information.

115. Meta is wholly responsible for the design, construction, operation, and maintenance of its personalized advertisement system, including the ad delivery system.

116. “Trade practices that violate other laws . . . fall within the purview of the CPPA.” *Dist. Cablevision Ltd. P’ship v. Bassin*, 828 A.2d 714, 723 (D.C. 2003). Specifically, a violation of the HRA in the context of a consumer transaction is a violation of the CPPA. *See* Order (1) Denying Defendant’s Motion to Dismiss; and (2) Granting Plaintiff’s Motion for Summary Judgment at 9, *District of Columbia v. Evolve*, LLC, No. 2018 CA 008262 B (D.C. Super. Ct. Feb. 25, 2020).

117. The HRA guarantees that “[e]very individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.” D.C. Code § 2-1402.01.

118. A “[p]lace of public accommodation’ means any person or place that provides, to a person in the District, access to an accommodation, service, or good, whether or not that person or place maintains a physical location in the District or charges for those goods or services, such as . . . establishments dealing with goods or services of any kind.” *Id.* § 2-1401.02(24).

119. Facebook and Instagram are “[p]lace[s] of public accommodation.” *Id.* Through these platforms, Meta provides people in the District access to services and accommodations—social media and related services, including paid, personalized advertisements, such as personalized advertisements for higher education opportunities.

120. The HRA provides that “[i]t shall be an unlawful discriminatory practice to . . . wholly or partially for a discriminatory reason based on the actual or perceived: race, color, . . . [or] personal appearance, . . . deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations.” *Id.* § 2-1402.31(a)(1).

121. Meta violates the HRA’s prohibition on discrimination in places of public accommodation, *id.* § 2-1401.01 *et seq.*, because it denies, directly or indirectly, Facebook and Instagram users in the District of Columbia the full and equal enjoyment of personalized advertisements on Facebook and Instagram—which are services, privileges, advantages, and accommodations that Facebook and Instagram provide to their users—wholly or partially because

of users' actual or perceived race, color, and personal appearance, or proxies for users' race, color, and personal appearance. Specifically, Meta steers advertisements on its social media platforms, Facebook and Instagram, for for-profit colleges and universities disproportionately to Black users, and ads for public colleges and universities disproportionately to white users.

122. The HRA further provides that “[a]ny practice which has the effect or consequence of violating any of the provisions of this chapter shall be deemed to be an unlawful discriminatory practice.” *Id.* § 2-1402.68. The HRA thus prohibits practices that result in a disparate impact on a protected class.

123. Meta has a neutral practice that causes a discriminatory delivery of ads based on race, color, and personal appearance. Specifically, Meta has developed and implements ad delivery algorithms that determine how advertisements are delivered to Facebook and Instagram users based on dynamic profiles of the users. Meta develops and maintains each user's profile by continuously analyzing information it collects from its users and third parties. Meta's delivery of higher education advertisements based on these dynamic profiles causes an adverse impact by disproportionately steering ads for for-profit colleges and universities to Black people, while disproportionately steering ads for public colleges and universities to white people.

124. Because Meta violates the HRA's prohibition on discrimination in places of public accommodation, *id.* § 2-1401.01 *et seq.*, by engaging in practices that have the effect or consequence of denying Black people the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations, based on their race, color, and personal appearance, Meta engages in “unfair or deceptive trade practice[s]” prohibited by the CPPA, *id.* § 28-3904.

125. Meta’s discrimination harms Black users of Facebook and Instagram in the District of Columbia in multiple ways. Meta denies Black users valuable information about public colleges and universities, and instead steers them information about for-profit colleges and universities. Meta’s discrimination also causes non-economic injury, including by stigmatizing Black users as having inferior educational aptitude and not deserving of the same educational opportunities as other users.

126. By violating the HRA in the context of a consumer transaction, Meta has violated the CPPA.

127. Pursuant to D.C. Code § 28-3905(k)(2), ERC is entitled to declaratory and injunctive relief, civil penalties, damages, and reasonable attorneys’ fees and costs incurred in bringing this action.

128. Meta acted with evil motive, actual malice, or outrageous conduct in wanton, reckless, or willful disregard for the rights of the class of consumers. *See Daka, Inc. v. Breiner*, 711 A.2d 86, 98–99 (D.C. 1998). Therefore, Meta is liable for punitive damages.

COUNT II
**Unfair and Deceptive Practices—Violation of the Consumer Protection Procedures Act,
D.C. Code § 28-3904(a), (d), (e)**

129. ERC incorporates herein by reference the allegations contained in all preceding paragraphs.

130. As alleged in paragraphs 105–07, ERC is a public interest organization with a sufficient nexus to the interests involved of the consumer or class—Black Facebook and Instagram users in the District of Columbia—to adequately represent those interests. *See* D.C. Code § 28-3905(k)(1)(D).

131. The CPPA prohibits “any person to engage in an unfair or deceptive trade practice, whether or not any consumer is in fact misled, deceived, or damaged thereby, including to: (a) represent that goods or services have . . . characteristics [or] . . . benefits . . . that they do not have; . . . (d) represent that goods or services are of particular standard, quality, grade, [or] style . . . if in fact they are of another; [or] (e) misrepresent as to a material fact which has a tendency to mislead.” *Id.* § 28-3904.

132. Meta violates D.C. Code § 28-3904(a) by representing that its services have characteristics or benefits that they do not have. Namely, Meta represents to Black users that its advertising system is giving Black users the educational opportunity advertisements that are the most relevant and valuable to the user, when in fact the advertising system is steering these advertisements at least in part based on the user’s race, rather than just the relevance or value to the individual user.

133. Meta violates D.C. Code § 28-3904(d) by representing that its services are of a particular standard, quality, grade, or style when in fact they are of another. Namely, Meta represents that its advertising services are matching ads to users based on relevance and maximizing value to the user and advertiser, when in fact Meta’s advertising system is steering educational opportunity advertisements at least in part based on race. Meta represents that it is offering a personalized advertising system that is giving a bespoke experience to each user and advertiser, when in fact it is matching advertisements to users using ill-fitting race-based generalizations.

134. Meta violates D.C. Code § 28-3904(e) by misrepresenting as to a material fact which tends to mislead. Namely, Meta represents that its advertising services are matching ads to users based on relevance and maximizing value to the user and advertiser, but it fails to explain

that its advertising algorithms are actually delivering educational opportunity advertisements at least in part based on race. This fact is material to a user's decision to patronize Meta's services, share their personal information with Meta, and trust that the advertised educational opportunities they are seeing are good matches for them, rather than being directed to them because of their race.

135. Because Meta has violated D.C. Code § 28-3904 (a), (d), and (e), it has engaged in one or more unfair or deceptive trade practices in violation of the CPPA.

136. Pursuant to D.C. Code § 28-3905(k)(2), ERC is entitled to declaratory and injunctive relief, civil penalties, damages, and reasonable attorneys' fees and costs incurred in bringing this action.

137. Meta acted with evil motive, actual malice, or outrageous conduct in wanton, reckless, or willful disregard for the rights of the class of consumers. *See Daka*, 711 A.2d at 98–99. Therefore, Meta is liable for punitive damages.

PRAYER FOR RELIEF

WHEREFORE, ERC respectfully requests this Court enter a judgment in its favor and grant relief against Defendant Meta Platforms, Inc. as follows:

- (a) Declare that Meta has violated the HRA and CPPA;
- (b) Permanently enjoin Meta from engaging in practices held to violate the HRA and CPPA;
- (c) Grant equitable relief ensuring Meta does not engage in future discrimination;
- (d) Award restitution, damages, including punitive damages, and/or civil penalties in an amount to be proven at trial and as authorized per violation of the CPPA;
- (e) Award ERC the costs of this action and reasonable attorney's fees; and
- (f) Grant such further relief as the Court deems just and proper.

JURY DEMAND

ERC demands a trial by jury by the maximum number of jurors permitted by law.

Dated: February 11, 2025

Respectfully submitted,

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