

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N° 500-06-000993-192

S U P E R I O R C O U R T
(Class Action)

LYSE BEAULIEU, an individual residing and domiciled at 146A rue Smith, in the city of Lasalle, province of Québec, H8R 1W3

Plaintiff

v.

META PLATFORMS, INC., a legal person having its principal place of business at 1601 Willow Road, in the city of Menlo Park, state of California, 94025, USA

- and -

FACEBOOK CANADA LTD., a legal person having a place of business at 1700-2001 Boulevard Robert-Bourassa in the city of Montreal, province of Quebec, H3A 2A6

Defendants

ORIGINATING APPLICATION
(Arts. 100, 583 C.C.P.)

I. INTRODUCTION

1. Meta Platforms Inc. (formerly known as Facebook, Inc.) is a social media service used by billions of people worldwide that provides individuals the opportunity to connect with friends, family, and colleagues from across the globe. Facebook Canada Ltd. is a wholly-owned Canadian subsidiary of Meta Platforms, Inc. with its head Canadian office located in Toronto and other offices around the country, including in Montreal. Collectively, the Defendants are referred to as "**Facebook**".

2. As a result of its enormous popularity among users, Facebook is also a popular platform for advertisers to display paid advertisements to Facebook users. Facebook earns substantially all its revenues from advertising on its platforms. In Canada, companies use Facebook to post, among other things, paid advertisements for employment and housing opportunities. Facebook permits advertisers to target the placement of their ads to specific subsets of Facebook users.
3. Some forms of targeted advertising are legal under Quebec provincial human rights law. However, Facebook's targeting tools also permit companies to illegally exclude individuals from receiving their ads based on their race, sex, or age. Despite Facebook's purported commitment to non-discrimination on its platforms, employers and other companies in Canada remain able to successfully engage in such discriminatory targeting practices that exclude Facebook users in Quebec from receiving paid advertisements based on protected statuses.
4. The present class action seeks damages for Facebook's participation in discriminatory targeting of paid advertisements posted on its platform. On December 22, 2022, the Court of Appeal authorized this class action to proceed, on behalf of the following class:

All Facebook users located in Quebec who were seeking employment or housing or that were interested in receiving advertisements in employment or housing and who, as a result of their race, sex or age, were excluded by Facebook's advertising services from receiving advertisements for employment or housing opportunities on Facebook, between April 11, 2016, and December 22, 2022.

Tous les usagers et usagères Facebook du Québec qui étaient à la recherche d'un emploi ou d'un logement ou qui étaient intéressé·e·s par les annonces d'emploi ou de logement et qui, en raison de leur race, de leur sexe ou de leur âge, ont été exclu·e·s par les services de publicité de Facebook de la distribution d'annonces d'offres d'emploi ou de logement sur Facebook, et ce, entre le 11 avril 2016 et le 22 décembre 2022.

5. The Court of Appeal identified the following common questions to be answered by the Court:

- i. Did Facebook breach class members' rights under the Quebec *Charter of Human Rights and Freedoms* by allowing and facilitating the use of its advertising services to exclude individuals from viewing advertisements for employment or housing opportunities on the basis of their race, sex, or age?
- ii. Did Facebook breach class members' rights under the Quebec *Charter of Human Rights and Freedoms* by delivering employment or housing advertisements preferentially to certain individuals on the basis of their race, sex, or age?
- iii. Is Facebook liable to the class members for moral damages, and if so, in what amount?
- iv. Is Facebook liable to the class members for punitive damages, and if so, in what amount?
- v. Should an injunction be issued to prohibit Facebook from allowing and/or facilitating the discriminatory targeting of advertisements based on race, sex, or age with respect to employment and housing opportunities?

II. FACEBOOK'S ADVERTISING PRACTICES

6. Facebook operates an online platform through which billions of users may connect and share information. This platform operates through Facebook's website and its mobile application. In 2023, there were over 30 million Facebook users in Canada.
7. Facebook does not charge its consumers a monetary fee for its services. Instead, substantially all its revenue is collected from third-party businesses or persons that choose to advertise on Facebook. Facebook thus publishes thousands of diverse advertisements to users across Canada. These advertisements can, to a greater or lesser degree, target user populations based on hundreds of factors including user demographics, behavioural patterns, and interests. The nature and degree of the variation in targeting is based on the nature of the advertisement and the preferences of the business that seeks to publish it.

8. In particular, Facebook permits prospective advertisers to actively and intentionally target their advertisements to specific profiles of individuals through the creation of what it calls “Custom Audiences” and “Lookalike Audiences”.
9. By creating a “Custom Audience,” advertisers may select the personal characteristics they wish to target in a user audience when placing an ad with Facebook. These characteristics might relate to a user’s interests or the pages the user “likes” on Facebook, but they can also include various demographic criteria. Chief among these are the location, age, and gender of the prospective audience, as well as language, as appears from a screenshot of Facebook’s information page “Creating a new audience” (**Exhibit P-1**).
10. As appears from Facebook’s information page “About detailed targeting” (**Exhibit P-2**), an advertiser can further use detailed targeting to include or exclude certain types of users and ultimately narrow the Custom Audience that sees a given advertisement. In Exhibit P-2, Facebook explains that an advertiser can use the “audience narrowing” actions to include or exclude *only* users who meet certain criteria. To illustrate, Facebook provides an example in which an advertiser can narrow an audience to *only* include “people who are frequent travellers *and* are interested in cooking *and* are college grads.”
11. Thus, when a prospective advertiser creates a narrowed Custom Audience, Facebook will ensure that only members of that Audience will receive a given advertisement. All other Facebook users will be excluded from the audience and will never see the advertisement in question.
12. Facebook actively encourages advertisers to target their advertisements to the “right people” whom the advertiser wants to reach, and describes how advertisers can target the “right people” by narrowing the audiences for their advertisements based on age, gender, and other demographics.
13. When a business proceeds to create a Custom Audience for a new advertisement, it is provided with a broad variety of detailed targeting options.

14. As appears from screenshots of Facebook's "Create New Ads" pages (**Exhibit P-3, en liasse**), a prospective advertiser can create a new Custom Audience based on the following parameters (among many others):
 - a. Location;
 - b. Age (with the ability to set a precise range);
 - c. Gender (with options "All", "Men", and "Women");
 - d. National or ethnic origin (in the "Behaviours" sub-category "Expats"); and
 - e. Civil status (in the "Demographics" sub-category "Relationship Status").
15. The Gender targeting option allows advertisers to target men or women to the exclusion not only of the other gender, but also of Facebook users who do not identify as either male or female. Upon creating a Facebook account, users may edit the gender identity listed in their profile to select "male", "female", or "custom"; the custom option in turn allows them to select one of multiple other options corresponding to a range of gender identities. Users who choose a custom gender are also prompted to choose a pronoun option, which Facebook uses to determine whether the user will be included in a Custom Audience that targets "males" or "females". However, those users who choose the neutral pronoun "they" rather than "he" or "she" will be excluded from both targeting options, unless the advertiser chooses to target its ad at "All" Facebook users regardless of gender.
16. Parties can also have Facebook create "Lookalike Audiences" based on either the business's Custom Audience(s), or the profiles of users that like the party's Facebook page, as appears from Facebook's "About Lookalike Audiences" page (**Exhibit P-4**). The prospective advertiser need only choose the source audience; Facebook, in turn, itself identifies the common qualities of the source audience and identifies individuals who are similar to the source audience in order to create the Lookalike Audience that will be targeted by the business's advertisements.

Facebook's algorithm is thus directly responsible for identifying and targeting Lookalike Audiences.

17. Of course, not all forms of targeted advertising are prohibited by human rights legislation. For instance, an advertisement of a product that targets populations most likely to use that product may not be considered discriminatory.
18. However, Quebec's *Charter of Human Rights and Freedoms* (the "**Quebec Charter**") prohibits discrimination based on race, sex, and age in offers of employment or housing.
19. Facebook's Advertising Policies themselves state that advertisements "must not discriminate or encourage discrimination against people based on personal attributes such as race, ethnicity, color, national origin, religion, age, sex, sexual orientation, gender identity, family status, disability, medical or genetic condition," as appears from a copy of these Advertising Policies (**Exhibit P-5**). Policy 7.1 relating to targeting stipulates that an advertiser "must not use targeting options to discriminate against, harass, provoke, or disparage users or to engage in predatory advertising practices."
20. As also appears from its Advertising Policies, Facebook states that it reviews advertisements to ensure that they are in conformity with the Policies prior to posting the ads, and it reserves the right to not approve an ad that is non-compliant. This review allegedly includes scrutiny of the targeting of the advertisement.
21. However, in practice, Facebook has failed and continues to fail to disapprove and prevent publication of advertisements that discriminate against prospective tenants or employees on multiple prohibited grounds. As a result, it has knowingly permitted and continues to knowingly permit advertisers to illegally target some users in their employment or housing advertisements while excluding others based on characteristics these advertisers select to create Custom Audiences, or that Facebook itself uses to create Lookalike Audiences. Litigation in the United States since December 2017 has put Facebook on notice, for example, that numerous

major employers had routinely excluded older workers and female workers from receiving their job advertisements.

22. These discriminatory advertisements were not limited to the United States, but were also placed in Canada.
23. For example, Sullivan + Associates Clinical Psychology has used Facebook's advertising platform to publicize a position as a child psychologist, as appears from a screenshot of this advertisement (**Exhibit P-6**). When the user viewing the advertisement clicks on "Why am I seeing this?" or "*Pourquoi est-ce que je vois cette publicité?*" in the menu located at the top right-hand corner of the advertisement, Facebook specifies that this particular advertisement was targeted at users who have a Master's degree, who live or were recently in Montreal, *and who are between 30 and 50 years old*. This means that persons who are younger than 30 or older than 50 years old were excluded from receiving this ad.
24. IKEA has used Facebook's advertising platform to publicize a position at the company's call centre in Ville St-Laurent, Montreal, as appears from a screenshot of this advertisement (**Exhibit P-7**). The ad's targeting information reveals that this particular advertisement was targeted at users who live or were recently in Montreal, *and who are between 18 and 40 years old*. This means that persons who are older than 40 years old were excluded from receiving this ad.
25. The National Arts Centre has used Facebook's advertising platform to publicize the availability of nearly 20 job opportunities, as appears from a screenshot of this advertisement (**Exhibit P-8**). The ad's targeting information reveals that this particular advertisement was targeted at users who live near Ottawa, *and who are between 18 and 55 years old*. This means that persons who are older than 55 years old were excluded from receiving this ad.
26. Ontario's Seneca College has used Facebook's advertising platform to publicize job postings for faculty positions, as appears from a screenshot of this advertisement (**Exhibit P-9**). The ad's targeting information reveals that this particular

advertisement was targeted at users who live in Ontario, *and who are between 18 and 55 years old*. This means that persons who are older than 55 years old were excluded from receiving this ad.

27. These are in no way limited incidents or outliers. On April 8, 2019, CBC News reported that dozens of employers, including government agencies, used Facebook targeting services to post advertisements that restrict the age range and gender of users who receive these ads, the whole as appears from a copy of that article (**Exhibit P-10**).
28. Facebook's involvement in the placement of such discriminatory advertising is not passive, and its permission to post such advertisements is not merely tacit permission. Because Facebook claims to engage in a review process that is designed explicitly to screen out discriminatory advertising practices, it has willingly assumed responsibility for the targeting of the advertisements it publishes. Moreover, by itself creating Lookalike Audiences based on existing Custom Audiences or user profiles, Facebook actively facilitates and engages in exclusionary and discriminatory targeting of its users.
29. Facebook is fully aware that it facilitates discriminatory advertising targeting across Canada. In the United States, Facebook has for several years been the target of vocal criticism as well as various legal complaints and legal proceedings attacking the fact that it permits discriminatory targeting, including complaints initiated by the United States Department of Housing and Urban Development, the Communications Workers of America, the American Civil Liberties Union, the National Fair Housing Alliance, and a former General Counsel of the United States Equal Opportunity Commission, David Lopez.
30. On March 19, 2019, the New York Times reported that Facebook announced that by September 30, 2019, it would stop allowing targeting advertisements to target or exclude people based on their race, gender, age, and other categories via Facebook's Ads Manager tool. (Ads Manager is the primary way to purchase and publish ads on Facebook.) The New York Times also reported that Facebook had

agreed to make these future changes under settlements of lawsuits brought by various groups against these discriminatory practices over the years. A copy of this article is produced as **Exhibit P-11**.

31. However, Facebook's change of policy in this regard would initially only apply to advertisements in the United States, as appears from the article published by The Logic on April 1, 2019 (**Exhibit P-12**). It was not until January 15, 2020 that Facebook finally announced plans to make similar changes in Canada.
32. Facebook's failure to do anything to prevent discriminatory ad targeting in Canada, despite clearly being aware of the existence of this problem, amounts to knowingly facilitating unlawful interference with Quebec Facebook users' right to equality. Furthermore, this failure is so persistent – dating many months, if not years – that it can only be considered intentional. Even if changes are eventually made, this cannot erase years of unlawful, intentional interference with users' right to equality.
33. Finally, not only does Facebook permit and facilitate discrimination by advertisers, its own automated advertisement delivery system also discriminates against certain people based on prohibited grounds, even in cases where the advertisement and the parameters created by the advertiser are not themselves discriminatory, the whole as more fully appears from a recent study entitled “Discrimination through optimization: How Facebook's ad delivery can lead to skewed outcomes” (the **“Discrimination Through Optimization Study”**, **Exhibit P-13**).
34. Once an advertisement is created, Facebook's system will deliver the advertisement predominantly to users for whom the content is deemed “relevant”. Even when the creator of the advertisement does not specify a target audience, the advertisement is not delivered indiscriminately to all Facebook users. Rather, Facebook will target specific users who are deemed by its algorithm to be more likely to be interested in the product or service being advertised.
35. In delivering employment and housing advertisements preferentially to users with certain profiles, Facebook effectively discriminates based on prohibited grounds

such as race, sex, or age. For example, the Discrimination Through Optimization Study (Exhibit P-13) found that Facebook showed an advertisement for employment in the lumber industry principally to males, whereas an advertisement for a position as a janitor was shown predominantly to black users. Facebook's advertisement delivery algorithms, in and of themselves, discriminate against certain people based on prohibited grounds.

36. None of the announced changes Facebook intends to make to how an *advertiser* may target an advertisement in Canada will affect its own algorithm's targeted delivery of advertisements based on prohibited grounds.
37. In sum, by allowing and facilitating the use of its own advertising services to exclude individuals from receiving advertisements for employment or housing opportunities based on their race, sex, or age, Facebook itself breached and continues to breach its users' rights under sections 4, 10, 11, and 16 of the Quebec *Charter*. In addition, by delivering advertisements for employment or housing predominantly to certain user profiles at the exclusion of others, based on its automated algorithms, Facebook is also violating its users' rights protected by the Quebec *Charter*.
38. Each class member suffered non-pecuniary damages as a result of Facebook discriminatory exclusions.
39. Each class member is entitled to punitive damages as a result of being so excluded.

III. THE PLAINTIFF'S PERSONAL CLAIM

40. The Plaintiff, Lyse Beaulieu, is currently 70 years old. She has had a Facebook account since at least 2013 and is a regular Facebook user, logging in every day to read what is going on with her "friends" or contacts. She also uses Facebook for information and to shop online.

41. Since 2008 until her retirement in 2021, Ms. Beaulieu worked as a legal assistant in Montreal.
42. While she has been a Facebook user, Ms. Beaulieu has periodically searched for a variety of jobs online. She has used job search sites such as Umanico, Drakkar, Altis, and others, as well as agencies such as Bray Larouche, Groupe Monpetit and Alter Ego. In particular, from 2017 to 2019, when Ms. Beaulieu was 63 through 65 years old, she searched intensely for a job while she was working on contracts.
43. Despite being an active Facebook user, Ms. Beaulieu did not receive job advertisements on Facebook. Because of her age, Ms. Beaulieu was excluded from the opportunity to receive job advertisements in which advertisers and Facebook excluded older workers from receiving such advertisements.
44. The fact that Facebook permitted and provided all the tools so that users like her could be excluded from viewing advertisements based on their gender or age shocked Ms. Beaulieu and made her feel angry and hurt. She felt insulted and humiliated by the fact that she was intentionally prevented from seeing job opportunities that target younger people or men: she felt that her dignity had been attacked. It gave her the sense that she did not have the same value, as an older woman, as other users of a platform that is supposed to be open to everyone and professes to value inclusion. These feelings were not transient or fleeting; they made Ms. Beaulieu feel powerless and less worthy of respect because she was denied opportunities even though she was experienced and competent and had much to offer. This had a lasting impact on her self-esteem and self-confidence.

VIII. INJUNCTION

45. In addition to damages, the Plaintiff seeks injunctive relief against Facebook to force it to cease its illegal practices.
46. Facebook has been violating the Quebec *Charter* for years. Making the matter worse, Facebook has acknowledged that its permissive targeting practices are

being used in a discriminatory manner in the United States, and it has accordingly accepted to implement mechanisms in the United States to prevent such discriminatory practices going forward. But it was only in January 2020 that Facebook announced its intention to implement certain changes relating to targeting in employment and housing advertisements.

47. Even if Facebook implements these announced changes, absent a court order, they may be modified or rolled back at any time. More fundamentally, Facebook's announced changes do not address the problem of algorithmic discrimination through ad delivery; nor do they indicate that anything will be done about Facebook's own creation of "lookalike audiences".
48. In these circumstances, injunctive relief to put an end to these discriminatory practices in Quebec is amply justified.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present *Originating Application*;

CONDEMN Meta Platforms, Inc. and Facebook Canada Ltd. to pay to each member of the class an amount to be determined for moral damages, and **ORDER** collective recovery of these sums;

CONDEMN Meta Platforms, Inc. and Facebook Canada Ltd. to pay to each member of the class an amount to be determined for punitive damages, and **ORDER** collective recovery of these sums;

CONDEMN Meta Platforms, Inc. and Facebook Canada Ltd. to pay legal interest and additional indemnity on the above amounts from the date of service of the Application for Authorization to Institute a Class Action;

CONDEMN Meta Platforms, Inc. and Facebook Canada Ltd. to bear the costs of the present action including the costs associated with all notices;

ORDER Meta Platforms, Inc. and Facebook Canada Ltd. to cease allowing and/or facilitating the discriminatory targeting or delivery of advertisements based on race, sex, or age with respect to employment and housing opportunities;

RENDER any other order that the Court shall determine and that is in the best interests of the class members.

THE WHOLE with costs, including the costs of publication of all notices.

MONTRÉAL, November 30, 2023

imk LLP

M^e Audrey Boctor
M^e Jean-Michel Boudreau
M^e Olga Redko
aboctor@imk.ca
imboudreau@imk.ca
oredko@imk.ca

IMK LLP
3500 De Maisonneuve Boulevard West
Suite 1400
Montréal, Québec H3Z 3C1
T: 514 934-7740 | F: 514 935-2999
Lawyers for the Plaintiff
Our file: 5026-1
BI0080

SUMMONS
(Articles 145 and following C.C.P.)

Filing of a Judicial Application

Take notice that the Plaintiff has filed this Originating Application in the office of the Superior Court of Quebec in the judicial district of Montreal.

Defendant's Answer

You must answer the application in writing, personally or through a lawyer, at the Montreal Courthouse situated at 1 Notre-Dame Street Est, Montréal, Québec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Petitioner's lawyer or, if the Petitioner is not represented, to the Petitioner.

Failure to Answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

Content of Answer

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Exhibits supporting the application

In support of the Originating Application, the Plaintiff intends to use the following exhibits:

- Exhibit P-1:** Screenshot of Facebook's page "Creating a new audience"
- Exhibit P-2:** Screenshot of Facebook's page "About detailed targeting"
- Exhibit P-3:** Screenshot of Facebook's "Create New Ads" pages, *en liasse*
- Exhibit P-4:** Screenshot of Facebook's page "About Lookalike Audiences"
- Exhibit P-5:** Copy of Facebook's Advertising Policies
- Exhibit P-6:** Screenshot of Sullivan + Associates Clinical Psychology advertisement posted on Facebook
- Exhibit P-7:** Screenshot of IKEA advertisement posted on Facebook
- Exhibit P-8:** Screenshot of National Arts Centre advertisement posted on Facebook
- Exhibit P-9:** Screenshot of Seneca College advertisement posted on Facebook
- Exhibit P-10:** CBC News, "Use of Facebook targeting on job ads could violate Canadian human rights law, experts warn" (April 8, 2019)
- Exhibit P-11:** New York Times, "Facebook Halts Ad Targeting Cited in Bias Complaints" (March 19, 2019)
- Exhibit P-12:** The Logic, "Facebook's new tools to block discriminatory ads will not apply outside the United States" (April 1, 2019)
- Exhibit P-13:** Muhammad Ali, Piotr Sapiezynski, Miranda Bogen, Aleksandra Korolova, Alan Mislove and Aaron Rieke, "Discrimination through optimization: How Facebook's ad delivery can lead to skewed outcomes" (April 4, 2019)

These Exhibits are available upon request.

(Signature on the next page)

MONTRÉAL, November 30, 2023

imk LLP

M^e Audrey Boctor

M^e Jean-Michel Boudreau

M^e Olga Redko

aboctor@imk.ca

imboudreau@imk.ca

oredko@imk.ca

IMK LLP

3500 De Maisonneuve Boulevard West

Suite 1400

Montréal, Québec H3Z 3C1

T: 514 934-7740 | F: 514 935-2999

Lawyers for the Petitioner

Our file: 5026-1

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SUPERIOR COURT (Class Action)
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Defendants

ORIGINATING APPLICATION

(Arts. 100, 583 C.C.P.)

ORIGINAL



M^e Audrey Boctor
aboctor@imk.ca
514 934-7737

M^e Jean-Michel Boudreau
jmboudreau@imk.ca
📁 5026-1

IMK s.e.n.c.r.l./LLP

Place Alexis Nihon • Tour 2

3500, boulevard De Maisonneuve Ouest • bureau 1400

Montréal (Québec) H3Z 3C1

T : 514 935-4460 F : 514 935-2999

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