







U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Oscar Veneszee, Jr., Howard Winns, Jr., and Jazsmin Smith,	Charge No. _____
<i>Complainants,</i>	
v.	Charge Particulars
Facebook, Inc.,	
<i>Respondent.</i>	

**INTRODUCTION**

This class action employment discrimination charge is brought by Oscar Veneszee, Jr., Howard Winns, Jr., and Jazsmin Smith (complainants), on behalf of themselves and all other Black workers who have been employed by Facebook, Inc. (Facebook) or have applied to work for Facebook and were denied jobs or other employment opportunities due to racial discrimination.

In 2018, Congress summoned Facebook’s CEO Mark Zuckerberg to testify about the company’s civil rights violations and other looming scandals. In a cheat sheet that Mr. Zuckerberg used to answer questions during the hearing, he wrote that on “Diversity” “Silicon Valley has a problem, and Facebook is part of that problem.”<sup>1</sup> He conceded that Facebook had a “long way to go” on diversity, with only “3% African American” and “5% Hispanic[]” employees. Unfortunately, Mr. Zuckerberg was right—in 2018 and today. Facebook *is* part of Silicon Valley’s diversity problem, and Facebook still has a long way to go to solve it.

Today, the complainants are filing this charge with the Equal Employment Opportunity Commission (EEOC) because they believe that Facebook is a great company with a bright future, but Facebook must make dramatic changes for Black workers to live up to its potential. And the complainants are committed to working constructively with Facebook to ensure that those changes happen.

Notwithstanding Facebook’s public and private declarations that the company is committed to diversity and equality in the workplace, Facebook’s deeds have not matched its rhetoric. People of color and Black workers in particular remain underrepresented at all levels of Facebook and especially at the management and leadership levels. They do not feel respected or heard. And they do not believe that Black workers have an equal opportunity to advance their careers at Facebook. There may be Black Lives Matter posters on Facebook’s walls, but Black workers don’t see that phrase reflecting how they are treated in Facebook’s own workplace.

Black people are underrepresented at all levels of Facebook. Today, Black workers are just 3.8% of all Facebook workers, while white and Asian-American workers collectively make up 87.2% of all Facebook workers. And Black workers are only 1.5% of Facebook’s workers in

<sup>1</sup> <https://twitter.com/AndreaWoo/status/983866296264810496/photo/1> (April 10, 2018).

technical jobs and 3.1% of senior leadership.<sup>2</sup> These numbers have hardly ticked up in recent years, even as Facebook has added tens of thousands of workers and grown its workforce by 400% over the past five years.<sup>3</sup> For example, in 2017 Black workers were 3% of all workers, 1% of technical workers, and 3% of senior leadership, and in 2014 Black workers were 2% of all workers, 1% of technical workers, and 2% of senior leadership.

Black workers are sick and tired of the ocean that separates Facebook’s statements and its own actions when it comes to diversity and civil rights. Donating millions of dollars to civil rights organizations does not wash away or justify the unfairness, inequality, and hostility that Black workers experience every day at Facebook—when they are turned down for jobs for which they are exceedingly qualified, when they are unfairly evaluated by mostly white peers and managers, when they are denied promotions by overwhelmingly white managers, when they are reprimanded or criticized for sharing their constructive views about diversity, when their lower pay reflects these systemic biases, and when they are assumed to not match the white-dominated “culture fit” that drives so many employment decisions at Facebook.

Today, Black workers are demanding that Facebook end racial discrimination—not just in society, but in Facebook’s own workplace—by taking legal action that they hope will lead to constructive changes at Facebook. Through this charge, three Black workers who have been employed or were denied jobs by Facebook are asking the EEOC to investigate Facebook’s discrimination against Black employees and applicants in violation of Title VII of the Civil Rights Act of 1964, the District of Columbia Human Rights Act, and the California Fair Employment and Housing Act. Real change at Facebook must start today. It cannot wait another two months, two years, or two decades. It cannot even wait until the conclusion of the EEOC’s investigation of this charge.

### **THE PARTIES AND THE CHARGE**

This charge is brought by Oscar Venessee, Jr., an Operations Program Manager at Facebook and a decorated 23-year retired Veteran of the U.S. Navy, who has been subjected to Facebook’s pattern or practice of discrimination against Black employees, including in evaluations, promotions, and pay. He brings this charge on behalf of himself and all other Black workers at Facebook, all of whom have been subjected to Facebook’s pattern or practice of discrimination against Black employees, including in evaluations, promotions, and pay.

This charge is also brought by Howard Winns, Jr. and Jazsmin Smith, Black professionals who were denied positions at Facebook for which they were well-qualified, despite being recommended by a current Facebook employee. They bring this charge on behalf of themselves and all other Black workers who have applied to work or were referred for a position at Facebook and were not offered or hired for such positions.

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<sup>2</sup> Facebook’s 2019 Diversity Report, <https://diversity.fb.com/read-report/>

<sup>3</sup> See Facebook’s 2019 Annual Report, <http://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/45290cc0-656d-4a88-a2f3-147c8de86506.pdf> (Facebook “had 44,942 employees” as of December 31, 2019); Facebook’s 2014 Annual Report, [https://s21.q4cdn.com/399680738/files/doc\\_financials/annual\\_reports/FB2014AR.pdf](https://s21.q4cdn.com/399680738/files/doc_financials/annual_reports/FB2014AR.pdf) (Facebook “had 9,199 employees” as of December 31, 2014).

Facebook, Inc., a publicly traded company based in Menlo Park, California, is the world's largest social media company. It earned \$70.6 billion in 2019 and had 44,942 employees as of December 31, 2019.<sup>4</sup> Facebook, which has 2.5 billion monthly active users, has a “mission . . . to give people the power to build community and bring the world closer together.” *Id.* The complainants firmly believe in that mission and believe that Facebook's applications—such as Facebook, Instagram, Messenger, and WhatsApp—are powerful tools that can foster meaningful dialogue and social change throughout the world.

These charges are intended to exhaust all potential individual and class-based disparate treatment and disparate impact claims under Title VII, the D.C. Human Rights Act, and the California Fair Employment and Housing Act regarding Facebook's pattern or practice of racial discrimination in hiring, evaluations, promotions, and pay and its pattern or practice of a hostile work environment on behalf of a nationwide class of all Black Facebook employees and applicants to Facebook for the earliest timely period through the present (though no less than two years before today through the present). All of the violations alleged herein are continuing violations. These charges are intended to piggyback on any prior charges that allege racial discrimination at Facebook.

The complainants allege that Facebook has had and continues to have a general policy of discrimination against Black applicants and workers, including in hiring, evaluations, promotions, and pay, and that Facebook has had and continues to have many policies, patterns, or practices that are part of this general policy and/or that adversely affect the opportunities of Black workers and applicants, including but not limited to the following:

- Facebook's strong consideration of “culture fit” in hiring, evaluating, promoting, and setting compensation for workers, without providing sufficient objective guidance to managers and other employees on how to determine which applicants and employees will be a good “culture fit” at Facebook.
- Facebook's strong preference for hiring employees based on referrals from existing Facebook employees in an overwhelmingly white and Asian-American workforce rather than hiring qualified external candidates, its practice of ordinarily having a recruiter perform a screening call with any applicant who is referred by a current Facebook employee, and the outsized influence that the prospective peers of applicants—who are overwhelmingly white and Asian-American—have on hiring decisions.
- Facebook's reliance on peer review—from an overwhelmingly white and Asian-American workforce and management team—to evaluate employees on a biannual basis, its failure to have diverse groups of peers and managers evaluate employees and determine whether they should be considered for and given promotions, and its practice of not ordinarily considering employees who receive a “Meets All Expectations” evaluation for promotions.

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<sup>4</sup> Facebook's 2019 Annual Report, <http://d18rn0p25nwr6d.cloudfront.net/CIK-0001326801/45290cc0-656d-4a88-a2f3-147c8de86506.pdf>

- Facebook’s promotion of or failure to mitigate racial bias, hostility, and stereotypes that Black workers are less effective, entrepreneurial, and creative than other workers of different racial backgrounds, which, in turn, infects the decisions of Facebook’s leadership, managers, and employees in hiring, evaluating, promoting, and setting compensation for employees.
- Requiring employees—like Mr. Venessee, Jr.—to arbitrate all racial discrimination and harassment claims in a secret forum where all rulings are “confidential and not available to the public,” while waiving this requirement for certain types of sex discrimination claims, a policy that subordinates and treats differently racial discrimination claims, which are disproportionately filed by people of color.

These policies, patterns, and practices of discrimination, as well as the specific experiences that the complainants describe below, violate Title VII of the Civil Rights Act of 1964, including 42 U.S.C. § 2000e-2(a)(1) and (2). They have caused Facebook to “fail or refuse to hire” and “otherwise discriminate against” Black applicants and workers “because of” their “race,” *id.* § 2000e-2(a)(1). The same policies, patterns, and practices have also “limit[ed], segregate[d], [and] classif[ied]” “employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s race,” *id.* § 2000e-2(a)(2). Likewise, these policies, patterns, and practices of discrimination, as well as the specific experiences that the complainants describe below, violate the D.C. Human Rights Act, including D.C. Code § 2-1401.11(a)(1), (b), 2-1402.68, and the California Fair Employment and Housing Act, including Cal. Gov. Code § 12940(a), (g), (j), (k).

### **OSCAR VENESZEE, JR.’S EXPERIENCE WITH FACEBOOK**

Oscar Venessee, Jr. is a 46-year-old Black man. Before joining Facebook, Mr. Venessee, Jr. spent one year as a communications operations specialist at the Federal Communications Commission and 23 years in the United States Navy, where he led thousands of servicemembers and in 2012 was one of only seven Black Chief of the Boats in the history of the Navy.

Mr. Venessee, Jr. was hired by Facebook in 2017 as an Operations Program Manager in the infrastructure division, and he remains in that position today. Mr. Venessee, Jr. is based in Facebook’s Washington, DC office and works throughout the country. As an Operations Program Manager at Facebook, Mr. Venessee, Jr. was hired to focus on supporting Veterans’ initiatives within Facebook’s infrastructure division and helping to build relationships with Veterans and Veterans’ organizations across the globe. He regularly collaborates with the military and Veterans so that Veterans understand the opportunities for them at Facebook and so that Facebook maximizes its integration of Veterans into its workforce. In addition, he routinely represents Facebook in reaching out to and recruiting people of color from local communities and Historically Black Colleges and Universities (HBCU) for positions at Facebook’s data centers. When Facebook opens data centers, Mr. Venessee, Jr. routinely conducts outreach to local governments and organizations to ensure that diverse groups of residents understand the opportunities that Facebook provides to local communities.

Mr. Venessee, Jr.'s performance and achievement at Facebook have been highly successful. Despite lacking any direct reports until the past few months and despite having been assigned to several different managers in just three years, Mr. Venessee, Jr. has been recognized within the company for his substantial accomplishments, including significantly increasing the numbers of Veterans at Facebook and skillfully representing Facebook in many communities. Moreover, Mr. Venessee, Jr. is well known for having a positive attitude, an incredible work ethic, and strong relationships with the co-workers on his team. His manager has called him a "powerhouse" in his efforts to recruit Veterans to Facebook, has observed he is "unparalleled in connecting with people and building deep relationships" in his community outreach, and called him a "natural leader." Further describing his leadership skills, his manager observed that Mr. Venessee, Jr. is "intuitive of what people need to activate and eloquent to help them get there."

Notwithstanding his excellent performance at Facebook, since 2017 Mr. Venessee, Jr. has never received an evaluation higher than "Meets All Expectations" on his biannual evaluation, which, in turn, has prevented him from being promoted from an IC-5 position to an IC-6 position. And during the same period, while executing his job successfully Mr. Venessee, Jr. has faced significant challenges, racial discrimination, and hostility at Facebook, which has limited his career advancement at the company.

Mr. Venessee, Jr., like many other Black workers at Facebook, has struggled to receive a fair evaluation and receive a promotion. Even when a promotion does not alter an employee's day-to-day responsibilities at Facebook, a promotion is valuable to the employee. In the case of Mr. Venessee, Jr., if he had been promoted to an IC-6 in 2020 he immediately would have earned tens of thousands of dollars more, with the potential to earn substantially more in base salary in the future. And he would have been eligible for a higher bonus and equity in Facebook. Moreover, a promotion would make it easier for him to be selected for a higher-level position in management, such as being a director of a program.

At Facebook, one must ordinarily receive an evaluation more favorable than "Meets All Expectations" in order to be considered for a promotion. During the biannual evaluation process, each employee's peers and manager evaluate the employee, which contributes to the employee's overall evaluation.

Because Facebook's evaluation process requires employees' peers and managers to evaluate their performance and due to the lack of diversity at Facebook, Mr. Venessee, Jr. has never had a Black person evaluate his performance or determine whether he should be considered for a promotion or be promoted. This dynamic, in conjunction with Facebook's intense and subjective focus on "culture fit" in the context of evaluating and promoting workers, has caused Mr. Venessee, Jr. to receive less positive evaluations than he should have received from Facebook. Mr. Venessee Jr. has not received anything above a "Meets All Expectations" evaluation at Facebook and has not received a promotion. Other employees at Facebook who are familiar with Mr. Venessee, Jr.'s work would be surprised to learn that Mr. Venessee, Jr. has not been promoted, given the success of his work and that he interfaces with directors on a normal routine.

Losing out on the opportunity to receive a promotion has adversely affected his compensation, including his base salary, bonus, and equity, and his career progression at Facebook. If he had been fairly evaluated since 2017, Mr. Venessee, Jr. would have had the opportunity to be considered for a promotion and he would have obtained a promotion.

Like many other Black professionals at Facebook, Mr. Venessee, Jr. has experienced a workplace culture and structure that are hostile to Black people, draw on harmful racial stereotypes, fail to provide assistance to improve their skills, and question them as professionals. For example:

- Mr. Venessee, Jr. and other Black workers have been told that they must have the right “tone” and conform to Facebook’s “culture” in order to be successful.
- Mr. Venessee, Jr. has heard the “N” word in the workplace.
- Mr. Venessee, Jr. has been criticized for offering constructive thoughts about diversity. For example, during a meeting with a recruiter in which they were discussing the recruiter’s intern recruitment plan, Mr. Venessee, Jr. questioned in an appropriate tone why the recruiter had not listed more than one HBCU on her plan. The recruiter stated that she felt personally attacked by him raising that question, and after the meeting Mr. Venessee, Jr.’s manager directed him to smooth things over with the recruiter. Mr. Venessee, Jr. did so, but felt that it was inappropriate to ask him to fall on his own sword for sharing constructive thoughts about promoting diversity.
- Rather than providing Mr. Venessee, Jr. with detailed constructive criticism that would allow him to understand how he can improve his performance, or training opportunities to improve his effectiveness, in his biannual reviews Mr. Venessee, Jr.’s managers have often told him unspecific or unhelpful things. Rather than championing Mr. Venessee, Jr.’s achievements within the company, his managers have asked Mr. Venessee, Jr. to be more vocal about his own achievements.
- Although Mr. Venessee, Jr.’s job duties substantially involve diversity efforts, he has often been assigned to work for managers who do not have experience in diversity and inclusion and lack a sufficient understanding of his work to fairly evaluate it.

On several occasions, Mr. Venessee, Jr. has complained to Facebook about the treatment of Black workers at Facebook, including telling managers that he felt targeted and writing open letters about the negative experiences of Black workers at Facebook. He has not seen significant changes within Facebook in response to his complaints or those of other Black workers.

Other Black workers at Facebook have had similar experiences as Mr. Venessee, Jr. They have been subjected to arbitrary, unfair, and discriminatory evaluations by peers and managers who are nearly all white or Asian-American. They have been mocked, criticized, and investigated for sharing concerns about the lack of diversity and the poor treatment of people of color at Facebook. They have been treated as if they do not belong at the company simply because of their race, both by professional staff and security.

For example, in November 2019, a courageous group of 12 Black and Latino Facebook workers published an anonymous op-ed, “Facebook Empowers Racism Against Its Employees of Color,” in which they stated that Black employees at Facebook “are sad. Oppressed. Depressed. And treated every day through the micro and macro aggressions as if we do not belong here.”<sup>5</sup> Instead of taking seriously the employees’ concerns about systemic racism and discrimination within the company, Facebook’s leadership dismissed their personal examples of hostile treatment and racism as mostly due to inexperienced managers. Managers tried to determine which Black or Latino workers had authored the anonymous statement, and then sought confirmation from their Black direct reports that they did not share the authors’ concerns.<sup>6</sup>

Mr. Venessee, Jr. has been a strong advocate for Facebook in the past and has worked hard to build diversity within Facebook’s ranks—and he plans to do so in the future. He has encouraged Black students and workers to join the company with the hope that doing so would make Facebook a stronger company and a better place for Black workers to build their careers. And he has personally referred many friends and family members to apply for positions at Facebook for which they are highly qualified. However, in many instances he has seen Black workers with stellar qualifications apply for jobs at Facebook and be denied employment opportunities that would have advanced their careers and made Facebook a more effective and cohesive company—even when he personally recommended the workers and was familiar with their excellent qualifications. He has personally experienced and seen how other Black workers must keep their guard up and assume a certain role in order to have a chance of being hired or taken seriously at the company.

Mr. Venessee, Jr. remains hopeful that Facebook will respond to this charge by redoubling its efforts to not only hire and promote more Black people and other people of color, but to finally make Facebook a company where people of color feel respected and that their contributions are critical to the success of the company. Promoting diversity is a win-win opportunity for Facebook and Black workers and is critical to fulfilling Facebook’s mission of bringing people and the world closer together.

### **HOWARD WINNS, JR.’S EXPERIENCE WITH FACEBOOK**

Howard Winns, Jr. is a 30-year-old Black man who lives in Dallas, Texas. Between March and June of 2020, Mr. Winns, Jr. applied for three positions at Facebook, for which he is well-qualified, but he has never been hired by Facebook. He was referred by a current employee of Facebook for two of the three roles. Mr. Winns, Jr. was only contacted to interview for one of the three positions. Facebook was aware that Mr. Winns, Jr. is a Black man when he applied for these positions. Mr. Winns, Jr. has a Bachelor’s degree in Business Management from Clemson University, a Master’s degree in Business Administration (MBA) from the College of William & Mary, a Project Management Professional (PMP) certification from the Project Management Institute (PMI), and a Certified Fraud Examiner (CFE) certification from the Association of Certified Fraud Examiners (ACFE), and a Lean Six Sigma Yellow Belt certification. He has worked since 2012 in a range of positions, including as a Project Manager at BNSF Railway, an Internal Auditor at Union Pacific Corporation, and an Operations Manager at Norfolk Southern

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<sup>5</sup> <https://medium.com/@blindfb2020/facebook-empowers-racism-against-its-employees-of-color-fbbfaf55ab76>

<sup>6</sup> <https://medium.com/@blindfb2020/one-of-twelve-96fed9902461>

Corporation. He is currently a Global Program Manager at another major technology corporation. He has routinely received excellent performance evaluations and has a strong professional reputation.

In 2020, Mr. Winns, Jr. was contacted by a Facebook HR recruiter to interview for the Program Manager, Operational Readiness position at Facebook. Mr. Winns, Jr. was highly qualified for this position, given that he has a graduate degree in business management (when the position required only a bachelor's degree), 4-plus years managing projects with minimal guidance (when the position requires only two years of such experience), and other skills and experience that squarely matched the job description, including global program management (leading projects and operations across multiple time zones), working cross-functionally with various stakeholders, and managing multiple projects simultaneously—all requirements of his current role as a Global Program Manager at a major technology company. The other Facebook employees who are currently in the same position that Mr. Winns, Jr. applied for have comparable or less experience or education than Mr. Winns, Jr. and all of them are white.

Mr. Winns, Jr. was screened by a recruiter and then interviewed with a white woman who had the same role as the job he applied for in the team that he was seeking to join. Both the recruiter and the interviewer told Mr. Winns, Jr. that his background, including his education and experience, were a strong fit for the role and what they were looking for in a candidate for the position. Mr. Winns, Jr. was informed by the recruiter of the five Facebook employees on the hiring team for his position. All five were white. Within 48 hours post his phone interview, Mr. Winns, Jr. was informed that he was not selected for the position and would not progress to onsite interviews.

Mr. Winns, Jr. also applied to Facebook in 2017 for a Product Integrity Specialist position. He was qualified for the role, meeting the basic qualifications outlined in the job description, as well as many preferred qualifications. Similar to his experience in 2020, Mr. Winns, Jr. did an initial phone screening call with HR and progressed to the phone interview stage, but he was denied the position shortly thereafter. Although not selected for the Product Integrity Specialist role, the HR recruiter contacted Mr. Winns, Jr. to pursue other opportunities within Facebook. When Mr. Winns, Jr. followed up regarding those opportunities, including making four attempts to contact the HR recruiter over the course of a month after being denied. The recruiter was unresponsive and never followed up with Mr. Winns, Jr. regarding other opportunities for which he was qualified.

Mr. Winns, Jr. believes that he has not been hired by Facebook because he is Black, including due to Facebook's pattern or practice of racial discrimination described above. If Mr. Winns, Jr. had been hired for one of these positions, he would have earned greater income and benefits than he earns in his current job. He remains interested in working for Facebook in an appropriate position, notwithstanding his familiarity with the diversity concerns that Facebook employees have raised in recent years and that are raised in this charge.

## **JAZSMIN SMITH'S EXPERIENCE WITH FACEBOOK**

Jazmin Smith is a 31-year-old Black woman and a Maryland resident. She has applied for several jobs at Facebook for which she is well-qualified, including in 2012, 2018, and 2020, but has never been hired by Facebook. Facebook was aware that Ms. Smith is a Black woman when she applied for the positions. Ms. Smith has a bachelor's degree in Political Science with a minor in Philosophy from Clemson University, and has worked for nearly a decade in human resources, including for technology companies. She is currently a human resources director at a medium-sized company. She has routinely received excellent performance evaluations and has a strong professional reputation.

In 2012, Ms. Smith applied for two Administrative Assistant positions at Facebook for which she was well-qualified, but Facebook did not schedule a call with a recruiter, and she was not hired for those positions. In 2018, she applied for a Human Resources Business Partner, Infrastructure Data Center position at Facebook for which she was well-qualified and met all of the minimum and preferred qualifications. Again, Facebook did not schedule a call with a recruiter, and she was not hired for this position.

Earlier this year, in April 2020, she applied for a Human Resources Business Partner, Infrastructure Data Center position at Facebook in the D.C. Metropolitan area, for which she was well-qualified and met all of the minimum and preferred qualifications. This time, Ms. Smith was contacted by a Facebook recruiter. During the call, the recruiter told her that she was well-qualified for several positions at Facebook, and that he would send her application to several hiring managers for their consideration. The recruiter emphasized that "culture fit" is very important to the people making hiring decisions at Facebook. Despite having excellent qualifications for the positions, Ms. Smith was not afforded an opportunity to interview for the positions and was informed weeks later that Facebook had decided that she would not move forward with any of those positions.

Ms. Smith believes that she has not been hired by Facebook because she is Black, including due to Facebook's pattern or practice of racial discrimination described above. Ms. Smith had been hired by Facebook in 2020, she would have earned greater income and benefits than she earns in her current job. She remains interested in working for Facebook in an appropriate position, notwithstanding her familiarity with the diversity concerns that Facebook employees have raised in recent years and that are raised in this charge.

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The experiences of Mr. Winns, Jr. and Ms. Smith are similar to those of other highly qualified Black workers who have applied to work at Facebook and been repeatedly denied employment, even when they were highly recommended by current Facebook employees. They have had led successful careers at companies of all sizes, including in technology and other industries, but have not been able to join the ranks of Facebook as its workforce has grown more than 400% since 2014. Mr. Winns, Jr. and Ms. Smith hope that Facebook will take their concerns seriously and recognize that there are thousands of Black workers who would like to be a part of Facebook's future.