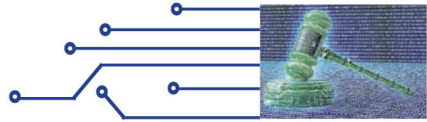


Daily Journal

JANUARY 23, 2019

TOP CYBER LAWYERS 2019

Jonathan H. Blavin



As upstart disruptors like Airbnb Inc. erode established commercial sectors like the hospitality industry, litigation is sure to follow. Blavin and his Munger, Tolles team represent the online lodging services marketplace when municipal and regulatory challenges or private litigation arise.

“It’s a very active practice,” Blavin said. “The questions often come down to those of intermediate liability and platform immunity.”

Blavin won dismissal of a suit by a real estate investment company alleging that Airbnb interfered with its lease agreements and aided and abetted trespass. U.S. District Judge Dolly M. Gee agreed with Blavin that the Communications Decency Act’s immunity provision for online services providers applied. *La Park La Brea A LLC v. Airbnb Inc.*, 2:17-cv-04885. (C.D. Cal., filed July 3, 2017).

Courts have come to conflicting conclusions on the issue. After Airbnb and HomeAway.com unsuccessfully sued the City of Santa Monica over an ordinance prohibiting short-term housing rentals, Blavin and the team took the case to the 9th U.S. Circuit Court of Appeals. U.S. District Judge Otis D. Wright II of Los Angeles granted the city’s dismissal motion, rejecting Blavin’s argument that the Communications Decency Act protects Airbnb’s business model from Santa Monica’s effort to impose liability on it based on content supplied by third parties.

Blavin also contended that the ordinance is a content-based restriction that impermissibly chills Airbnb’s protected commercial speech. Wright didn’t buy either argument.

Munger, Tolles & Olson
LLP
San Francisco
Practice: Litigation
Specialties: Privacy and data security, technology, platform liability

“The law is developing rapidly here,” Blavin said. *HomeAway.com v. City of Santa Monica*, 2:16-cv-06641 (C.D. Cal., filed Sept. 2, 2016).

Briefing to a 9th Circuit panel underscored the importance that e-commerce sites place on the outcome. Blavin’s client got amicus support from eBay Inc., Glassdoor Inc., Lyft Inc., Uber Technologies Inc. and others. The League of California Cities, the International Municipal Lawyers Association and others backed Santa Monica. Blavin hopes to persuade the panel that Wright ignored case law holding that the Communications Decency Act protects websites that facilitate third-party transactions. *HomeAway.com v. City of Santa Monica*, 18-55367 (9th Cir., filed March 21, 2018).

Blavin led the defense and argued the successful appeal for Airbnb in a potential class action over alleged nuisance claims. The plaintiffs contended Airbnb is liable for harms caused by short-term rentals. A state appellate panel affirmed the grant of Blavin’s demurrer on multiple grounds. *Gamache v. Airbnb Inc.*, CGC-14-541477 (S.F. Super. Ct., filed Sept. 3, 2014).

He is also a key member of the team



representing Facebook Inc. in a nationwide class action challenging the social media company’s advertising platform for allegedly allowing ads that discriminate against users seeking housing, employment and credit in violation of state and federal laws. Blavin’s motion to dismiss, based on the CDA, is pending. *Mobley v. Facebook Inc.*, 16-cv-06440 (N.D. Cal., filed Nov. 3, 2016).

“It’s an exciting and invigorating practice with cutting-edge questions to be answered,” Blavin said. “It is helping us see what the digital future will look like for all of us.”

— John Roemer