

EXHIBIT I



Airbnb takes its fight to court



By David McCabe - 07/04/16 07:31 AM EDT

Getty

Airbnb is taking its hometown to court in an unprecedented lawsuit for the popular home-sharing service.

The company's suit against the city of San Francisco over a new law highlights both the limits of Airbnb's political efforts and the way on-demand economy companies are increasingly find themselves in the courtroom.

"I think that this is going to be the first of many of these kinds of cases," said Vivek Krishnamurthy, a clinical instructor at Harvard Law School's Cyberlaw Clinic. "I think other platforms are going to try these arguments."

Last month, San Francisco's Board of Supervisors — similar to a city council — approved new rules requiring Airbnb and similar services to police hosts who are not registered with the city.

Home-sharing hosts have been required to register for over a year and a half. But most hosts have failed to comply with the law. If Airbnb and its competitors don't make those hosts comply, they'll face fines of up to \$1,000 a day.

Airbnb filed suit this week in federal court to challenge the rules, which take effect July 27.

The company's suit makes three claims, first that San Francisco's rules are preempted by Section 230 of the Communications Decency Act, which protects internet platforms from liability for what their users say. Many legal experts consider that shield to be a key to the success of companies like Facebook and Twitter.

"Section 230 is crucial to the Internet we know and love," said Santa Clara University law professor Eric Goldman in an email. "[Nine] of the top 10 most popular websites are user-generated content [UGC] websites" and the law has allowed those websites "to flourish without overly controlling, restricting or delaying their users' content."

Airbnb also alleges that San Francisco law violates federal privacy safeguards by requiring them to give up user information without a subpoena. The company is also raising a First Amendment claim that the law restricts speech.

"This legislation ignores the reality that the system is not working and this new approach will harm thousands of everyday San Francisco residents who depend on Airbnb," the company said in a blog post. "It also violates federal law."

Experts say Airbnb's lawsuit has a shot at prevailing.

"I think the CDA 230 and First Amendment claims are very interesting, I think they have a reasonable chance of succeeding, said Krishnamurthy.

"I'm not sure that they're slam dunks for Airbnb, however," he cautioned.

"The primary weakness is whether the courts will see Airbnb as an online marketplace or as the principal retailer," said Goldman. "If it's the latter, the courts will find it easier to accept the regulatory obligations.

"However, if the courts view Airbnb as an online marketplace, then the law should more clearly protect it from being liable for its vendors' activities."

Airbnb's high-profile fight with regulators is nothing new.

On-demand economy companies like Airbnb and Uber that let users order goods and services with a simple tap on their smartphone's screen have been shaking up established businesses and drawing scrutiny since they launched.

Increasingly, they are being dragged into the court system.

Airbnb was sued five times in federal court in 2015, up from once in 2014, **according to a Fusion analysis**. Uber leads the pack among on-demand companies facing lawsuits; it was sued roughly fifty times in federal court in 2015.

But as the San Francisco lawsuit highlights, the companies are also beginning to see the courts as a venue to protect their business model when other efforts fall short.

Airbnb's decision to ask the courts for help in San Francisco shows the limits of an aggressive lobbying and political operation that has spent years at war with the hotel industry.

In San Francisco last year, the company led a successful campaign against a ballot measure that would have severely restricted the number of short term housing rentals in the city. Housing advocates have long complained about Airbnb, saying the service leads to higher housing prices and cuts into the availability of rental properties.

The company said after their victory against the ballot measure that they hoped to establish 100 political clubs around the country to fight similar battles. They also cracked down on illegal hotels using their website in San Francisco.

But its unclear if those efforts have swung the fight.

The lawmakers behind the San Francisco law are confident of their legal case.

They say the law helps combat the shortage in affordable housing. And they argue they aren't restricting speech but going after actual violations of regulations already on the books.

"We're not regulating content, we're regulating the entirety of the conduct," said San Francisco Supervisor David Campos (D), who helped to write the law in question. "I don't even understand how they can make the argument they're making with a straight face."

Campos, who said he wasn't surprised by the lawsuit, characterized the changes as modest and focused on enforcement, not new regulation.

"We are actually not changing any of the regulations that are in place," he said. "The only change that we are making is in terms of enforcement of those regulations."

The case will be closely watched and could signal an interest in similar suits by other on-demand companies.

Airbnb said Tuesday that it tried to find a workable solution on how to register its users with San Francisco, painting the lawsuit only as a measure of last resort.

"Over the last year, we have held eleven town hall meetings to explain the registration process, repeatedly emailed hosts to encourage them to register, and convened scores of meetings with individual hosts to help walk them through the required registration steps," the company said in a post.

"This is an unprecedented step for Airbnb, and one we do not take lightly," the company added, "but we believe it's the best way to protect our community of hosts and guests."

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