

NAR AND THE DOJ - 2019 TO 08/17/2024

HOW WE GOT HERE

On March 6, 2019, the National Association of REALTORS® (NAR) and four corporate defendants were sued in class action lawsuits filed in the Northern District of Illinois and then Missouri alleging that home sellers are damaged when their listing broker offers to compensate the buyers' representative. The lawsuit alleges that various NAR rules and members' adherence to those rules have led to artificially fixed and inflated commissions being paid to real estate professionals.

Sitzer-Burnett is a class-action lawsuit that was filed in Missouri federal court by a group of home sellers in the state against NAR and other defendants who are part of the Settlement Agreement due to take effect 08/17/2024. The plaintiffs claimed that real estate commission rates are too high, buyers' representatives are paid too much, and NAR's Code of Ethics and MLS Handbook, along with the corporate defendants' practices, lead to inflated commission rates.

In April 2020, a federal judge in Missouri granted class certification in the case.

The plaintiffs in the case were consumers who used a real estate broker or agent to sell a home between April 29, 2014, or later in Missouri (April 29, 2015, or later in Illinois or Kansas). Sellers must have listed their home for sale on one of the following MLSs: Heartland MLS, MARIS MLS, Columbia Board of Realtors MLS, or Southern Missouri Regional MLS. Most of which are in Columbia, MO; Kansas City, Springfield, MO; or St. Louis and used an agent from Keller Williams, RE/MAX, Realogy (under its brands Coldwell Banker, Century 21, Sotheby's, or Better Homes and Gardens) or HomeServices of America (under its brands ReeceNichols or Berkshire Hathaway).

At the October 2023 trial, the plaintiffs took particular issue with cooperative compensation, i.e., when a listing broker makes an offer of compensation to the selling (buyer) broker. The jury found for the plaintiffs and awarded them \$1,785,310,872 potentially trebled to \$5,355,932,616.

NAR had three choices 1) file bankruptcy 2) appeal the verdict or 3) attempt to settle with the plaintiffs for a lesser amount. On March 15, 2024, the plaintiffs and the defendants signed a Settlement Agreement. The defendants agreed to pay the plaintiffs \$ 414 million dollars and NAR AGREED to changes in the way it operates.

The Settlement agreement is 108 pages long, with NAR agreeing to 13 Practice Changes spelled out in less than 4 of the pages. The bottom line comes down to the elimination of 3 data fields on one line on the MLS.