

NAR LEGAL UPDATE

Three years ago, in March 2019, NAR and four corporate defendants were sued in class action lawsuits filed in Missouri and Illinois alleging that home sellers have been damaged because their listing broker compensates the buyers' representatives. These lawsuits allege that various NAR rules and our members' adherence to those rules have led to artificially fixed and inflated commissions being paid to real estate professionals.

Class action litigation is long and arduous, and we have been keeping you and your associations updated on relevant milestones as they have transpired over the years. We have also been asking you to do what you can to help us prevail in the court of public opinion. Now it is time for another update and another ask.

The update:

On Friday, April 22, a federal judge in Missouri granted class certification. This is not a victory for the plaintiffs and does not change the facts of the case. The ruling was only procedural and now allows others who have allegedly been impacted to join the litigation as plaintiffs. It is expected that it will be a lengthy process before the case is fully resolved.

We are extremely disappointed in the decision, believe it was wrongly decided and plan to appeal. NAR continues to believe the pro-competitive, pro-consumer local broker marketplaces serve the best interests of buyers and sellers. Particularly, sellers making offers of compensation to buyer brokers also gives first-time, low/middle-income and all homebuyers a better shot at affording a home and professional representation. As you know, it's only the free market that organically establishes commission costs within local real estate markets based on service, consumer preference and what the market can bear.

The ask:

This decision does not require any action or comments on the part of members. We will keep you informed of any notable litigation milestones, but there is something you can do to help us prevail in the court of public opinion. Please review the new Competition.Realtor website, which provides a comprehensive overview of how REALTORS® and the local MLS broker marketplaces benefit consumers. Use this information to tell your clients and customers what value you bring to the transaction, what they can expect from your services, and how you will be compensated. Use this information to start an education campaign or publish articles (like this article) in your local media outlets. Use this information to show why the American real estate system

that honors cooperation amongst professionals serves the best interest of home buyers and sellers alike. The page will continually be updated with new developments, information and materials, so we want members to consider it their go-to resource.

In addition, we highly encourage the continued use of Buyer Representation Agreements to formalize your professional working relationship with clients and to detail what services consumers are entitled to and what the buyer agent expects from their client in return.

Antitrust Litigation News

Finally, in other antitrust litigation news. Yesterday, we received a disappointing opinion from the 9th Circuit Court of Appeals reversing a lower court's decision granting our motion to dismiss a lawsuit challenging the Clear Cooperation Policy. This too only addresses a procedural issue in the litigation and does not address the merits of the underlying challenge. While we are disappointed in this decision, we will continue to defend the lawsuit as we firmly believe that the Clear Cooperation Policy advances equal opportunity in housing by ensuring listings are widely available and accessible to all. Without the protections from the CCP, consumers would be disadvantaged because agents could refuse to give them or their agents access to those listings. We look forward to the next stage of this case, in which we will show the CCP is pro-competitive and pro-consumer and consistent with all laws and regulations.

It's been quite a week in litigation to be sure. As we look forward to the future, let us take time each and every day to tell the world who we are, how local broker cooperative marketplaces create equitable and transparent transaction experiences for all buyers and sellers, and remind them that REALTORS® are everyday working Americans who champion homeownership and property rights for the communities they serve.

I will keep you updated as these lawsuits progress!

Respectfully,

Jennifer Garula, CEO

East Polk County Association of Realtors