

Buyers seek surprise injunction to halt commission suit settlements

The plaintiffs in a suit known as Batton 1 have filed for a temporary restraining order preventing the final approval of the Keller Williams, Anywhere and RE/MAX settlements

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Homebuyer plaintiffs are asking a court for a preliminary injunction to stop the final approval of nationwide settlements to resolve antitrust claims against major real estate franchisors Anywhere, Keller Williams and RE/MAX.

Today, the plaintiffs in a case known as [Batton 1](#) (formerly, Leeder), filed a [motion](#) for a temporary restraining order and preliminary injunction, arguing that the franchisors “did not reveal their intent to release homebuyer claims” until Friday and didn’t reveal that they planned to specifically prevent the Batton 1 plaintiffs from pursuing their claims until yesterday.

Until now, the proposed settlements were widely understood to resolve claims brought by homesellers in the major commission-related suits known as [Sitzer | Burnett](#) and [Moehrl](#) as well as similar homeseller suits. The deals have received preliminary approval and a hearing for their final approval is currently scheduled for tomorrow, May 9, in the U.S. District Court for the Western District of Missouri Western Division.

Given the proximity of that hearing, a temporary restraining order is “urgently needed,” attorneys for the Batton 1 plaintiffs wrote in the motion. The filing seeks to prevent the defendants from seeking entry of a proposed order granting final approval of the deals.

“The Proposed Order, if entered, will irreparably harm homebuyer Plaintiffs and putative class members who both bought and sold homes in two ways: (1) it improperly enjoins them from continuing to litigate their claims in this case before this Court; and (2) releases their claims without additional compensation, let alone adequate notice and representation for the unique claims held by homebuyers,” the motion reads.

The Batton 1 plaintiffs filed the motion in Chicago’s U.S. District Court for the Northern District of Illinois Eastern Division, where the case was originally filed back [in January 2021](#).

The suit, which seeks class-action status, names the National Association of Realtors, Anywhere (formerly, Realogy), RE/MAX and Keller Williams as defendants and alleges some NAR rules have inflated agent commissions and resulted in higher home prices paid by the buyers in violation of state and federal antitrust laws.

Anywhere and RE/MAX reached the settlements at issue in today’s motion in the fall, for [\\$83.5 million](#) and [\\$55 million](#), respectively. [Keller Williams settled](#) on Feb. 1 for \$70 million.

According to the Batton 1 plaintiffs’ motion, the defendants’ plans came as a “surprise” because the language in the settlement agreements doesn’t identify homebuyer claims as being released, the Sitzer/Burnett and Moehrl cases don’t contain claims about harm to homebuyers, settlement class definitions and notices to class members don’t mention homebuyers, and the settlement website instructs class members to submit claims based only on their home sales.

Moreover, the motion points out that when the Anywhere and RE/MAX settlements were first announced and Judge Andrea R. Wood, who is presiding over the Batton 1 case, stated in a September status conference her understanding that the settlements “had no impact” on Batton 1, “one Settling Defendant agreed and no others contradicted.”

On April 13, “in an abundance of caution,” one of the Batton 1 plaintiffs, James Mullis, filed an [objection](#) to the franchisor settlements in the Sitzler/Burnett court in Missouri. (Mullis also sold a home in addition to buying one.)

“The Court should approve the settlements only if the settling parties expressly carve out claims asserted in the *Batton* action from the definition of ‘Released Claims’ or otherwise clarify that the settlements do not release damages claims related to transactions in which class members purchased homes,” attorneys for Mullis wrote.

“If not, the Court should reject the settlements as not fair and reasonable and as not providing adequate representation to class members who purchased homes.”

Mullis’ objection indicated his intent to have a lawyer representing him at the May 9 final approval hearing.

On May 6, the judge presiding over the Sitzler/Burnett case, Judge Stephen R. Bough, ordered that four objecting parties who had indicated their intentions to attend the hearing be allowed five minutes to voice their objections: Mullis’ counsel from the law firm Korein Tillery; homebuilder [PulteGroup](#); a plaintiff in another homeseller case, [Spring Way Center](#); and law firm Knie and Shealy on behalf of [South Carolina homesellers](#) in another commission suit.

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Whether the Batton 1 plaintiffs’ motion affects tomorrow’s final approval hearing remains to be seen.

Keller Williams declined to comment for this story. Anywhere and RE/MAX did not immediately respond to requests for comment. Inman will update this story if and when they provide responses.

Tomorrow’s hearing will not consider NAR’s proposed settlement of multiple commission cases nationwide. A final approval hearing for that deal is scheduled for November 26.

At NAR’s midyear conference, the Realtors Legislative Meetings, this week, the 1.5-million member trade group’s legal team has repeatedly told attendees, “In large class action settlements like this one, objections and opt outs are common, and the plaintiffs and NAR will handle them as they come.”

Editor’s note: This story has been updated.