

## **AGENT**

### **Judges decline to 'centralize' commission lawsuits for now**

A panel of judges considering whether to consolidate real estate commission lawsuits into one cited the recent NAR settlement as a reason to deny the request

BY [TAYLOR ANDERSON](#)

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A panel of judges has denied a request to fold the growing list of lawsuits targeting the real estate industry into one consolidated case, saying in its Friday order that a wave of recent settlements made it premature to issue an opinion on the matter.

Some of the plaintiffs and defendants involved in lawsuits filed by homesellers in numerous court districts across the country had sought to roll the lawsuits into one district, though they didn't agree on which. Other plaintiffs and defendants opposed the request altogether.

The motion to consolidate was made in part to make litigating the sprawling list of cases more efficient, as attorneys for dozens of real estate companies defend their clients from accusations that the real estate industry was operating illegally.

It was also made before [the National Association of Realtors](#) and other major real estate companies reached agreements to settle litigation targeting them. The order, and reaction to it, made clear just how impactful NAR's settlement was at influencing the lawsuits.

In their four-page order, which was issued midday, the panel's six judges said they preferred allowing the roughly two dozen cases to continue playing out before they issued a ruling on the request.

"Given the broad contours of this new settlement agreement and the changing landscape of the parties' positions on centralization, we think it wise to deny centralization at this time," [the panel judges wrote](#).

NAR [reached an agreement](#) on March 15 that, if approved, would protect over 1 million of its 1.5 million members, and those at most brokerages in the U.S., from the threat of existing and future litigation.

NAR agreed to pay \$418 million to settle the cases and agreed to make sweeping changes to the rules Realtors follow.

The proposed settlement followed those by [Anywhere Real Estate](#), [RE/MAX](#) and [Keller Williams](#), which had each already reached settlement agreements with plaintiffs that would protect their firms. Earlier this week, [The Real Brokerage](#) agreed to pay \$9.25 million to reach a settlement in lawsuits targeting that brokerage.

HomeServices of America is among a relatively [small list of companies](#) that hasn't yet agreed to settle the cases in which it's named as a defendant. The firm had opposed the motion to consolidate the lawsuits into one, multi-district case.

“Certainly, the settlement announced by NAR last month carried a great deal of weight in the decision as well,” HomeServices Executive Vice President Chris Kelly told Inman in an email. “However, the order today does not alter HomeServices’ ongoing aggressive efforts to resolve its involvement in the underlying litigation.”

Because of the shifting nature of the litigation caused by the proposed settlements, the panel denied the request to roll the existing lawsuits together.

“The settlement may well resolve at least some claims in this litigation if not many,” the panel wrote. “We cannot speculate on the number of parties and claims that will remain once this and any other settlements are approved.”

The panel stopped short of saying how it would have ruled had the settlements not been reached.

“After settlement proceedings conclude, and it becomes evident how many claims and parties still remain and the extent to which they overlap, if at all, it may be that formal centralization is needed,” the order said.

The real estate defendants had largely been in support of consolidating the cases, either into the Northern District of Illinois or the Eastern District of Texas. Other defendants didn’t take a position on the request to consolidate the cases either way.

Michael Ketchmark, the lead attorney representing plaintiffs in the [landmark Sitzler | Burnett case](#), told Inman on Friday that the ruling showed the importance of the recent settlements and could push more brokerages to settle their own cases.

“What the federal court did today was said, because of these settlements, it doesn’t look like right now there’s a need for consolidation,” Ketchmark said. “It looks like this is headed toward responsible brokers and companies finding a way to settle with NAR and the other corporate defendants. If it plays out that way, there’s not going to be a need to have a consolidation.”

Ketchmark said that he was involved in active settlement talks with companies, though he declined to name them, citing confidentiality agreements. He called those who haven’t yet settled “holdouts” who are more likely to settle after Friday’s ruling.

“It’s our belief that today, because of this ruling by the court, there’s going to be a push by these folks to join in,” Ketchmark said.

*This post will be updated.*