

The Truth About the NAR Settlement Agreement

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[Legal](#)

Misinformation has been pervasive in the media over real estate commissions. Here are the facts you should know. The national conversation around real estate commissions reached a crescendo since the National Association of REALTORS® announced a settlement agreement that would resolve litigation brought on behalf of home sellers related to broker commissions. Brokers and agents have their own questions about what comes next for their businesses, while at the same time trying to answer consumer inquiries. And many headlines aren't separating fact from fiction, feeding misinformation to you and your clients.

Let's clear the air: There's no doubt the litigation—including copycat lawsuits that were filed after the Sitzler-Burnett verdict—caused considerable uncertainty in an industry already dealing with the effects of low inventory and interest rate increases. The settlement, which must be approved by a judge, provides a path forward for real estate professionals, REALTOR® associations, brokerages, MLSs and other industry stakeholders. Most importantly, it gives NAR members the chance to refocus on their core mission to support buyers and sellers.

Facts First

There's much the media has gotten wrong about NAR's settlement, which would require the association to pay \$418 million over four years. Some outlets have suggested that NAR previously set or guided commissions to a standard rate of 6%. Even President Joe Biden, in recent comments, [misspoke](#) in suggesting that the settlement makes commissions negotiable for the first time.

You know that is false. NAR does not set commissions, and commissions were negotiable long before this settlement. They are and will remain entirely negotiable between brokers and their clients. And housing prices are dictated by market forces beyond members' control.

Getting the facts right is important, especially because the settlement agreement is complex. NAR is continuing to engage with media to correct inaccurate reporting about the settlement. Members are also encouraged to refer to official NAR sources, like [facts.realtor](#), for the most accurate and up-to-date information about the settlement and what it means for consumers.

The settlement achieves two important goals: protecting members to the greatest extent possible and preserving consumer choice. The proposed settlement:

1. Resolves claims against NAR and nearly every member; all state, territorial and local REALTOR® associations; all association-owned MLSs; and all brokerages with an NAR member as principal whose residential transaction volume in 2022 was \$2 billion or below.
2. Preserves cooperative compensation as an option for consumers looking to buy or sell a home—as long as such offers of compensation occur off of the MLS.
- 3.

NAR fought for a release that covered all industry players, but large settlements reached by other corporate defendants shaped the negotiations. Throughout the settlement process, NAR also engaged with a diverse range of members to consider their perspectives and interests.

“Ultimately, continuing to litigate would have hurt members and their small businesses,” NAR Interim CEO Nykia Wright said in a statement. “While there could be no perfect outcome, this agreement is the best outcome we could achieve in the circumstances. It provides a path forward for our industry, which makes up nearly one-fifth of the American economy, and NAR. For over a century, NAR has protected and advanced the right to real property ownership in this country, and we remain focused on delivering on that core mission.”

How To Know If You're Covered

Nearly every member is covered by the release NAR negotiated in the settlement. The members not covered are those affiliated with HomeServices of America, the last co-defendant in the Sitzler-Burnett litigation, and the employees of the co-defendants in the Gibson and Umpa cases.

If you are affiliated with any of the following brokerage groups and are an independent contractor licensee, you are covered by the proposed settlement, even if your brokerage may not be covered:

- At World Properties LLC
- Compass Inc.
- Douglas Elliman Inc.
- Douglas Elliman Realty LLC
- eXp Realty LLC
- eXp World Holdings Inc.
- Hanna Holdings Inc.
- HomeSmart International LLC
- Howard Hanna Real Estate Services
- Real Broker LLC
- The Real Brokerage Inc.
- Realty ONE Group Inc.
- Redfin Corporation
- United Real Estate
- Weichert, REALTORS®

All other REALTORS® who are members of NAR on the date of class notice are covered by the release. The date of class notice is anticipated to be in mid-July.

Members on the date of class notice and state/territorial and local REALTOR® associations must abide by the practice changes set forth in the agreement, but they do not need to take any other action in order to benefit from the negotiated release.

The release does not cover brokerage firms with residential transaction volume above \$2 billion in 2022, despite NAR's effort to include them. For those companies, the settlement provides an avenue to pursue inclusion in the release but does not obligate them to do so.

Changing Business Practices

The settlement agreement also mandates two key changes to the way members and MLS participants do business.

1. NAR agreed to create a new MLS rule prohibiting offers of compensation on the MLS. This would mean that offers of compensation could not be communicated via an MLS, but they could continue to be an option consumers could pursue off-MLS through negotiation and consultation with real estate professionals.
2. NAR also agreed to create a new rule requiring MLS participants working with buyers to enter into written agreements with their buyers before the buyer tours a home. NAR has long encouraged its members to use written agreements to help consumers understand exactly what services and value they provide, and for how much.

NAR continues to deny any wrongdoing and maintains that cooperative compensation is in the best interest of consumers. NAR members can use these changes as an opportunity to explain their clients' options. Both changes would go into effect in mid-July under the terms of the proposed settlement.

NAR considered a range of legal options throughout the litigation process, including reaching a settlement or continuing to appeal the Sitzler-Burnett verdict and litigate the related copycat cases. The latter could have forced

the association to file for Chapter 11 bankruptcy protection, leaving members, associations, MLSs and brokerages exposed.

Resources for Members

NAR is committed to supporting members through these changes. Members can get the facts about the settlement at facts.realtor, which is regularly updated with new information and resources, including FAQs.

For those who want to prepare for the new MLS rule requiring buyer representation agreements, consider taking the [Accredited Buyer's Representative \(ABR®\) designation course\(link is external\)](#), which NAR is offering to members at no cost through the end of the year.

“NAR exists to serve our members and American consumers, and while the settlement comes at a significant cost, we believe the benefits it will provide to our industry are worth that cost,” NAR President Kevin Sears said in a statement. “NAR is focused firmly on the future and on leading this industry forward. We are committed to innovation and defining the next steps that will allow us to continue providing unmatched value to members and American consumers.

“This will be a time of adjustment, but the fundamentals remain: Buyers and sellers will continue to have many choices when deciding to buy or sell a home, and NAR members will continue to use their skill, care and diligence to protect the interests of their clients.”