

# ALTA

# inSIGHTS

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## How the NAR Settlement Impacts the Title Industry

July 24, 2024

Today's  
ALTA Insights  
Featured  
Sponsor



# Speakers

- **Linda Grahovec | SVP FNAS Director of Agent Relations  
FNF Family of Companies**
- **Mike LaRosa, Esq. | Chief Operating Officer  
Florida Agency Network**



# Lawsuit Timeline

March 16, 2019                      Moehrl  
Class Action filed against NAR & 4 of the largest RE Broker franchises

April 26, 2019                      Sitzer/Burnett  
Class Action filed against NAR & 4 of the largest RE Broker franchises

November 19, 2020                DOJ  
Simultaneously files a complaint and settlement with NAR

December 17, 2020                Nosalek  
Class action filed against MLS PIN and RE Brokerages  
not named in the above suit by plaintiff

January 25, 2021                    Batton 1  
Class action against NAR and several RE Brokerages



# Lawsuit Timeline

July 1, 2021                      DOJ  
DOJ withdraws from its proposed settlement agreement with NAR

January 25, 2023                DOJ  
Judge rules that the original settlement terms are still valid and DOJ must comply with it

March 27, 2023                 DOJ  
DOJ files an appeal of ruling that it is bound by previous settlement agreement

July 5, 2023                      Nosalek  
Parties reach a settlement agreement

September 5, 2023              Sitzer/Burnett, Moehrl  
Anywhere reaches a settlement for \$83.5 million

September 18, 2023             Sitzer/Burnett, Moehrl  
RE/MAX reaches a settlement agreement for \$55 million



# Lawsuit Timeline

- October 2, 2023                      Nosalek  
DOJ files motion over “significant concerns” with the settlement agreement
- October 30, 2023                      Noselek  
Judge endorses motion to stay, allows plaintiffs to join previous settlement agreements in S/B, M lawsuits
- October 31, 2023                      Sitzer/Burnett  
Missouri jury finds NAR & 2 RE Brokerages liable for colluding to inflate or maintain high commission rates
- October 31, 2023                      Gibson  
Class action against NAR & several of the largest brokerages by same Sitzer/Burnett attorney
- November 2, 2023                      Batton 2  
Class action filed on behalf of the same plaintiffs as Batton 1 against several RE Brokerages not named in the first suit and notably not NAR
- November 6, 2023                      Similar class action filed in South Carolina



# Lawsuit Timeline

- |                   |  |
|-------------------|--|
| November 13, 2023 | Similar class action against RE Board of New York and others   |
| November 13, 2023 | Class action lawsuit against Texas Assoc of Realtors and many others   |
| November 20, 2023 | Sitzer/Burnett, Moehrl & Nosalek<br>Judge grants preliminary approval of RE/MAX and Anywhere settlement agreements |
| November 22, 2023 | Similar class action against NAR, national & Georgia Brokerages  |
| December 4, 2023  | Similar class action against the Florida Association of Realtors and others  |
| December 4, 2023  | Similar class action against West Penn Mult-List Service and other in PA   |
| December 8, 2023  | Similar class action against NAR, national brokerages and CA brokerages  |
| December 8, 2023  | Similar class action against IL Brokerage – later moved to District Court of IL                                    |



# Lawsuit Timeline

|                   |  |
|-------------------|--|
| December 14, 2023 | Similar class action against Texas Association of Realtors and others  |
| December 27, 2023 | Similar class action filed in MO against NAR and several major brokerages  |
| December 29, 2023 | Similar class action against the RE Board of New York and others in NY   |
| January 5, 2024   | Similar class action against Arizona Assoc of Realtors, HomeSmart & others   |
| January 6, 2024   | Sitzer/Burnett<br>NAR, HomeServices of America and Keller Williams file motions for judgement as matter of law and new trail |
| January 16, 2024  | Similar class action against NAR and state and regional Realtor associations in Nevada                                       |
| January 17, 2024  | Similar class action against MAR, 21 Realtor Associations and others in California   |
| January 18, 2024  | Similar class action against MetroList Services, brokerages and RE Assoc in California                                       |





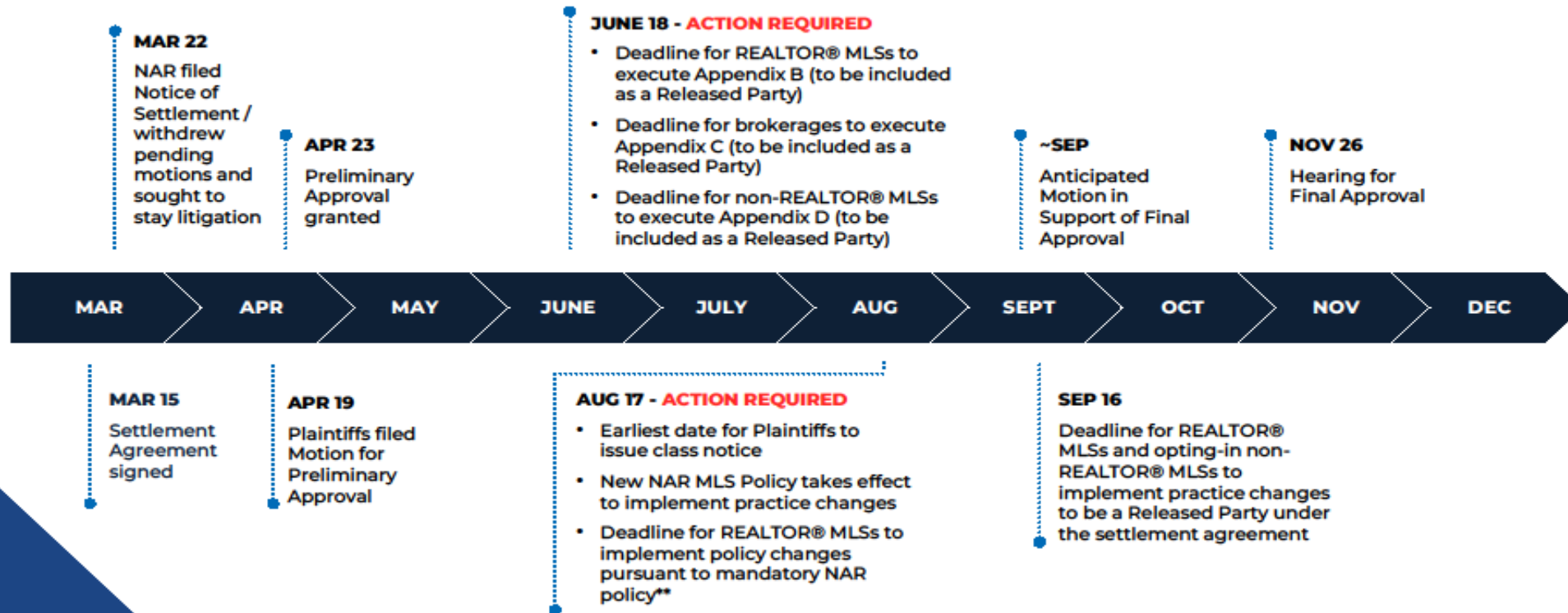
# Lawsuit Timeline

- |                  |   |
|------------------|---|
| January 18, 2024 | Friedman suit (December 28 in NY) is voluntarily dismissed  |
| February 1, 2024 | Keller Williams reached a settlement agreement of \$70m to Sitzer/Burnet plaintiffs   |
| February 2, 2024 | An antitrust lawsuit filed against NAR and national brokerages in Utah  |
| February 2, 2024 | Sitzer/Burnett<br>HomeServices of America asks Supreme Court to reverse lower court ruling and apply arbitration to the Sitzer/Burnett suit |
| March 15, 2024   | Commission Suits<br>The National Association of Realtors agrees to pay \$413 million to settle the commission lawsuits                      |
| March 26, 2024   | Sitzer/Burnett<br>Judge denies motion by HomeServices of American to decertify class in the Sitzer/Burnett suit                             |
| March 28, 2024   | Similar suit – individual against NAR, REBNY and major NY brokerages  |



# Key Details of NAR Settlement

## NAR SETTLEMENT TIMELINE\*



\*As of May 7, 2024. Please refer to the settlement agreement for detailed information on deadlines.  
 \*\*NAR encourages all MLSs to implement the practice changes by August 17, 2024.  
 More information on the effective date of practice changes can be found in our FAQ at [facts.realtor](https://facts.realtor).



# Unintended Consequences

- Miscommunication and/or lack of communication
- Shift toward listing-driven market nationally
- Mega real estate teams
  - Buyer agents possibly part of those teams along with listing group



# Impact on MLSs

- Local MLSs had to make a decision to be part of the settlement or not
- Either decision required each MLS to provide information and education



# Impact on Housing Affordability?

- **What a buyer should keep in mind**
  - Is there a Buyer Broker agreement and what are the terms
  - Will the Buyer Broker negotiate via the real estate contract
  - Realtors can use buyer net sheets similar to seller net sheets
- **Can buyer finance charges with lender?**
  - Buyer should be aware of what they can or cannot finance and plan accordingly
- **Potential buyer savings tied to changes in the commission %s**
  - Will new “buyer representation” options evolve with varied pricing models, fixed rate, etc.
  - Will listing agents possibly charge more but overall drop off of traditional 6% combined commissions



# How will Brokers Get Paid?

- Real estate brokers can be paid the same as they have prior
- It may be a good practice for title agents to request brokers statements from both the listing agent as well as from the buyers agent and those items be placed on the Settlement Statement



# Consolidation in Brokerage Space?

- **Expect significant consolidation in the Realtor and title space**
  - Traditional brokerage models possibly giving way to more tech-forward approaches/models.
  - Mega teams with shared resources and compensation?
- **Smaller real estate brokerages and title agencies may struggle to survive/compete**



# Does It Change How Title Companies Get Business?

- To be determined, but yes
- Will title agents benefit from having attorneys on staff when marketing to Realtors when seller has representation but buyer may not?
  - Need someone on staff capable of answering basic questions while not crossing legal advice line





# Will This Change How Consumers Select Realtors?

- Similar to title agents, Realtors will continue to provide information about the value of their representation to sellers and buyers



# Will More Homebuyers Select Title Company Due to Deal?

- Homebuyers have already had the ability to choose; The title industry needs to continue to educate the consumer in their understanding
- ALTA has made this easy with all the HOP flyers, social media materials and other collateral
  - [ALTA.ORG/HOMEBUYER](https://ALTA.ORG/HOMEBUYER)





**A HOME IS THE SINGLE LARGEST INVESTMENT MOST OF US WILL MAKE IN OUR LIVES. TO BUY WITH CONFIDENCE, GET OWNER'S TITLE INSURANCE. IT'S A SMART WAY TO PROTECT YOUR PROPERTY FROM FINANCIAL CLAIMS. TO HELP YOU UNDERSTAND HOW IT WORKS, HERE ARE ANSWERS TO COMMON QUESTIONS:**



# 7 MOTIVOS POR LOS QUE CADA COMPRADOR DE VIVIENDA NECESITA UN SEGURO DE TÍTULO DE PROPIETARIO



**LA COMPRA DE UNA VIVIENDA ES UN MOMENTO EMOTIVO Y SIGNIFICATIVO PARA MUCHAS PERSONAS. PROCURE OBTENER UN SEGURO DE TÍTULO DE PROPIETARIO PARA COMPRAR SU VIVIENDA CON MAYOR CONFIANZA. A CONTINUACIÓN LE EXPLICAREMOS SU IMPORTANCIA:**



# Can We Expect More ABAs?

- It's already happening
- Existing ABAs may need to be restructured in states where buyer directs title



# Q&A



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