



**03/15/2024**

**Please review the FAQ regarding today's headlines regarding the NAR preliminary settlement**

Q: What just happened in the NAR lawsuit?

A: The NAR announced earlier today that it has reached a preliminary proposed settlement of the Burnett vs. NAR lawsuit. The settlement must be approved by the United States District Court in Missouri before it goes into effect. If approved, the settlement would be effective this summer.

Q: What was the settlement?

A: NAR agreed to pay \$418 million dollars over four years. This settlement is in addition to the settlements reached by ReMax and other brokerages named in the suit. HomeServices has not reached a settlement.

Q: Were there any other terms to the settlement?

A: Yes, NAR affiliated MLSs will discontinue offers of cooperating agent compensation as part of the listing itself. Seller-paid buyer commissions may still be negotiated between the parties off MLS, just the same as other seller-paid closing costs.

Q: What about commissions? Are commissions affected?

A: The proposed settlement provides for the elimination of a "standard" commission (the so-called "6% commission"). Listing broker and selling broker commissions will be negotiated between the brokerages and their clients or customers. Of course, commissions have, in actuality, been negotiable – and negotiated – for years.

Q: Does the proposed settlement also cover individual brokerages, like Capstone, or just NAR?

A: The proposed settlement includes individual brokerages with an NAR member as principal that had a residential transaction volume in 2022 of \$2 billion or below. This includes Capstone.

Q: How will this affect the way we do business?

A: Until the settlement is approved and goes into effect (July 2024 at the earliest), our daily business activities will not be affected. As the MLS starts to implement changes in listing data related to cooperating brokerage commissions, the MLS will offer guidance to members about how to communicate seller's willingness to assist buyers with commissions and closing costs.

Q: Will our listing and buyer agency forms change?

A: Capstone has already started a comprehensive review of our brokerage forms, and it is likely we will make some revisions to the forms generally, as well as in response to the terms of the settlement, if it becomes effective as proposed.

Q: How do we respond to a seller who does not offer cooperating brokers compensation?

A: That is the seller's decision. However, as we've discussed at Capstone, you should stress to those sellers that offering cooperating broker compensation will: (a) make their property more attractive to buyers and their agents; (2) draw a larger population of buyers to the home; and (3)



likely result in a shorter time on the market, offsetting any additional cost that the seller may offer to pay in cooperating broker compensation.

Q: How do we respond to a seller or buyer that asks us to discount our commission?

A: Stress that Capstone is a full-service brokerage firm, not a discounter, and that in exchange for a reasonable commission, we offer our clients not only an MLS listing, but comprehensive marketing resources that go well beyond an MLS listing, and that Capstone agents are trained to not only list the house in the MLS but to help the seller present the home in the best possible manner to ensure the highest reasonable offers for the property. Stress that Capstone listed properties generally sell for a very high percentage of the listing price, and that Capstone agents' efforts in selling the property, not just putting a listing in the MLS, helps ensure a quicker sale for a higher percentage of asking price. **NEVER** sell yourself short. **You are worth the commission you ask for.**

Q: How will other brokers respond?

A: Every brokerage will have to develop its own response to the proposed settlement, as will local associations and MLSs. Associations and the MLSs will issue guidance to members as policies and procedures change. Some brokerages undoubtedly will offer and advertise lower commission rates. We are not a discounter, but rather deliver a premium service for a reasonable commission, and we work hard to earn our commissions. Other brokerages that choose to compete on price will unquestionably not be able to provide the level of service and offerings to customers that Capstone provides. Remind customers that Capstone works with the best owners and buyers by providing the best service.

Q: What is next?

A: List and sell real estate. That is what we do. The lawsuit and the settlement will work itself out. We will adapt our processes to ensure that we are in compliance with the terms of any final, approved settlement of the NAR lawsuit. There will be some changes to the way we write offers and the way we list properties, but neither the lawsuit nor the settlement changes the public's demand for housing, and despite the availability to the general public of additional data and information about properties and the home purchaser process, REALTORS® will continue to be the primary source of information and assistance to the public in the sale and purchase of real estate. Capstone agents will be the best of those REALTORS®.

Q: What if a former customer or client contacts me about a settlement communication they received?

A: Tell them that if they wish to participate in any settlement, they should follow the steps listed in the letter or email they received from the Court or the claims administrator. You may tell them that their participation will not result in any cost to you.