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Dispelling 7 Myths About NAR's Proposed Settlement

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Being a Broker, Working With Buyers, Working With Sellers, Legal, Fostering Consumer-Friendly Real Estate Marketplaces, Residential Real Estate

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You can help correct the record about the association's proposed settlement to resolve nationwide claims brought by home sellers.



National Association of REALTORS® leaders have been talking to reporters and members full-time over the past month to correct the record about the association's decision to resolve nationwide claims brought by home sellers. You can help by challenging inaccurate information that you see appearing in social media posts, news articles or elsewhere.

Myth 1: The proposed settlement covers only a fraction of members.

FACT: Nearly every real estate professional who is a REALTOR®, a member of NAR, is covered by the release that NAR negotiated in the settlement. The agreement would release NAR; more than 1 million NAR members; 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 from liability for the types of claims brought in these cases on behalf of home sellers related to broker commissions.

To be clear, NAR members are covered by the settlement unless:

- They are affiliated with HomeServices of America or one of its affiliates, or
- They are employees of a defendant in the remaining Gibson/Umpa lawsuits in Missouri. *(Note: All independent contractors affiliated with these defendants are covered.)*

Myth 2: NAR left large corporate brokerages and affiliated agents to fend for themselves.

FACT: NAR fought to include as many people and companies in the release as possible and achieved a release for everyone it could. Well over 1 million members are covered, as are tens of thousands of businesses operated by REALTORS®. But, despite NAR's efforts, the plaintiffs did not agree to include everybody. Those that are not released — the largest companies in our industry — are no worse off now than they were before the settlement. In fact, many are better off, as thousands of their independent contractor real estate agents are released by the settlement. Additionally, NAR's settlement provides an avenue for most large corporate brokerages with an NAR member as principal and more than \$2 billion in residential volume in 2022 that were not included in the settlement to pursue inclusion in the release. But the settlement does not obligate them to opt into the settlement. These brokerages will have 60 days after plaintiffs file the motion for preliminary approval of the settlement to complete Appendix C of the settlement agreement, which is required to opt into the settlement if they choose to do so. *(See the estimated timeline and download the settlement and its appendices at facts.realtor.)*

Myth 3: NAR requires a standard 6% commission.

FACT: You know this is untrue, but it's a myth that has persisted in the media. NAR does not set commissions — they are negotiable. The rule that has been the subject of litigation requires only that listing brokers communicate an offer of compensation. That offer can be any amount, including zero. And other rules throughout the MLS Handbook and NAR policy expressly prohibit MLSs, associations and brokers from setting or suggesting any such amount that should be included in that field.

Myth 4: NAR will raise dues to fund the settlement.

FACT: NAR will not change membership dues for 2024 or 2025 because of this settlement.

Myth 5: Brokers representing buyers now have to work for free.

FACT: Under the proposed settlement, the types of compensation available for brokers working with buyers would continue to take multiple forms, including but not limited to a fixed-fee commission paid directly by consumers; concessions from the seller (as long as such concessions are not conditioned on the retention of or payment to a cooperating broker, buyer broker, or other buyer representative); or a portion of the listing broker's compensation. NAR has long believed that it is in the interest of the sellers, buyers, and their brokers to make offers of compensation; however, using the MLS to communicate offers of compensation will no longer be an option. Compensation will continue to be negotiable and should always be negotiated between agents and the consumers they represent.

Myth 6: The practice change will do away with offers of compensation to brokers representing buyers.

FACT: Offers of compensation are an option consumers can pursue off-MLS through negotiation and consultation with real estate professionals. The settlement also expressly provides that sellers may communicate seller concessions — such as buyer closing costs — via the MLS, provided that such concessions are not conditioned on the use of or payment to a buyer broker.

Myth 7: NAR settled because the plaintiffs' allegations are true.

FACT: As the settlement makes clear, NAR denies any wrongdoing in connection with the MLS cooperative compensation model rule. Cooperative compensation arrangements facilitate the process of selling a home and help ensure equal opportunity for buyers. It has always been NAR's goal to resolve this litigation in a way that preserves consumer choice and protects our members to the greatest extent possible. This settlement achieves both of those goals and provides a path forward for the industry and the association.

**At press time on April 10, in addition to HomeServices of America and its related companies, the remaining defendants not covered by NAR's settlement are: At World Properties, LLC; 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; Realty ONE Group, Inc.; Redfin Corporation; United Real Estate; and Weichert, REALTORS®.*

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