

Brokers Beware, Next Antitrust Liability Target: Is Your Brokerage at Risk?

March 22, 2019

A new class action lawsuit alleges that the National Association of Realtors (NAR), along with some of the largest real estate firms in the nation — RE/MAX, Keller Williams, Realogy Holdings, and HomeServices of America — violated federal antitrust laws by conspiring to require home sellers to pay “inflated” brokers’ commissions when listing a home on the multiple listing service (MLS). [*Moehrl v. Nat’l Ass’n of Realtors*](#), No. 1:19-cv-01610 (N.D. Ill. March 6, 2019).

The [complaint](#), filed March 6, attacks the NAR rule that requires all brokers to offer buyer broker commissions when listing a property on MLS, alleging that the rule drives up costs to sellers and restrains price competition among buyer brokers. The plaintiffs seek billions of dollars in damages, which would be trebled under the federal antitrust laws, plus pre- and post-judgment interest, as well as attorneys’ fees and costs, and a permanent injunction preventing further violations.

Liability in these types of cases is potentially catastrophic, and the allegations in the complaint could extend to nearly every broker that abides by the NAR rules and uses MLS. In fact, the complaint alleges that many not-yet-named brokerage companies also conspired with the defendants, making them potential additions to the lawsuit.

Your real estate brokerage firm may be at risk. We can help! A Carlton Fields Real Estate Brokerage Antitrust Liability Audit will evaluate your exposure and recommend practical solutions to mitigate antitrust risks. Contact [David Esau](#) or [Ilan Nieuchowicz](#) for more information.

Authored By



David B. Esau



Ilan A. Nieuchoicz

Related Practices

[Antitrust and Trade Regulation](#)

[Real Estate](#)

[Real Property Litigation](#)

Related Industries

[Real Estate](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.