

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

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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.

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