

Lawsuit Trends Against Real Estate Agents and Brokers: Effective Defense Strategies

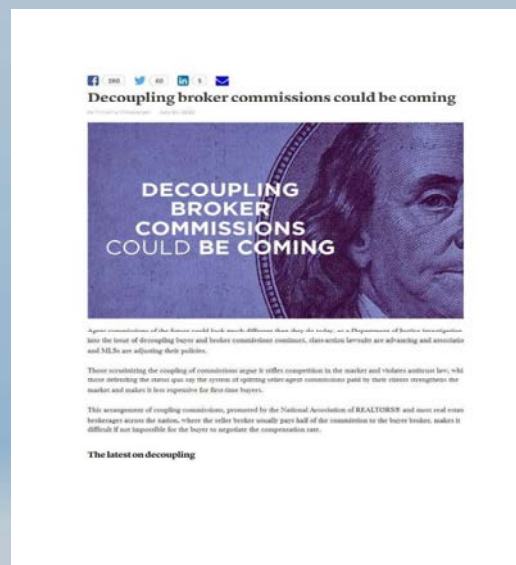
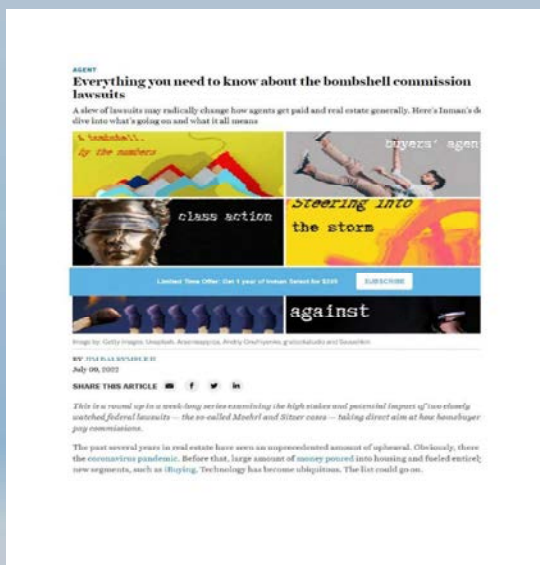
56th Annual William W. Gibson, Jr.
MORTGAGE LENDING AND SERVICING INSTITUTE



Craig Dowis
Partner
Dallas

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Litigation Trends: Agent/Broker Commissions Under Fire



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Game-Changing Broker Commission Lawsuits



Moehrl v. The National Association of Realtors, No.
492 F. Supp. 3d 768 (N.D. Ill. 2020)

Facts: An antitrust lawsuit filed by home sellers, who listed properties on 20 Multiple Listing Services (MLSs), against Defendants, the National Association of Realtors, Realty Holdings Corp., HomeServices of America, Inc., RE/Max Holdings, Inc., and Keller Williams Realty, Inc.

Claims: Home sellers accuse Defendants of conspiring to require home sellers through a Mandatory Rule Adopted by NAR (“the Buyer Broker Commission Rule”) to pay buyer brokers at an inflated commission amount, in violation of federal antitrust law. Plaintiffs challenge NAR’s adoption and implementation of a mandatory rule requiring all brokers to make a blanket, non-negotiable offer of buyer broker compensation (the “Buyer Broker Commission Rule”) when listing a property on a MLS.

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Moehrl v. NAR, et. al.



Moehrl v. The National Association of Realtors

Case Impact:

- * If successful, Plaintiffs’ lawsuit will fundamentally shift how buyer agents are compensated in the U.S. and how much they are compensated.
- * Could signal a move to less buyer-agent involvement as more homeowners find properties online and work directly with seller agents.
- * Case is brought as an antitrust action. With class action status, damages could reach \$41B Dollars (*Source: Inman*).
- * Case criticizes buyer agents from receiving mandatory commission in instances where buyer agents play no role or a passive role in the process.

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Sitzer/Burnett v. NAR, et. al.



Facts: Another lawsuit filed against NAR and others challenging commission payment practices in relation to buyer broker compensation. Case is similar to the Moehrl v. NAR case.



Significance: A federal judge in Missouri granted Plaintiffs class-action status which widens the class of potential Plaintiffs and places more pressure on the real estate industry as a whole when it comes to how brokers are compensated.

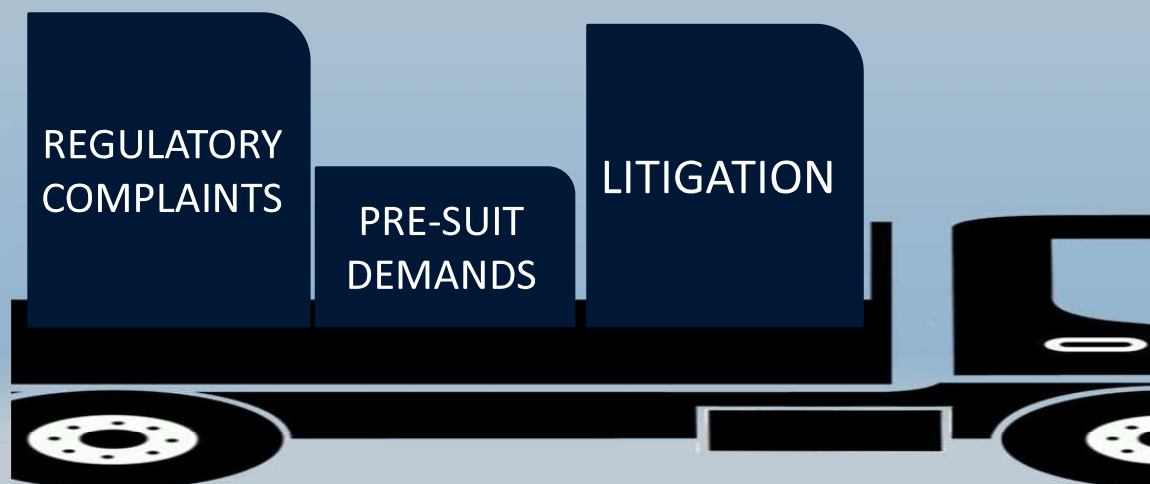


Case Citation: *Sitzer v. National Association of Realtors*, 420 F.Supp.3d 903 (W.D. Mo. 2019).

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VEHICLE OF CLAIMS AGAINST REAL ESTATE PROFESSIONALS



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Title search: Claims Against Real Estate Agents and Brokers

Also available as part of the eCourse

[2022 Special Topics in Residential Lending: Legal Issues for Lending Counsel: Claims Against Agents; and Employment Issues](#)

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