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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, Realty 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.

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