

NAR LAWSUIT... WHAT YOU NEED TO KNOW

Under the recent NAR Settlement stemming from a Class Action lawsuit, Realtors and MLS Participants must comply to the following as outlined on Page 27-31 of the Settlement Agreement, Section H, Subsection 58-60.

Here's the SUMMARY in PLAIN LANGUAGE:

H. Practice Changes

58. As soon as practicable, and in no event later than the date of Class Notice (as provided in Paragraph 30 of this Settlement Agreement), the National Association of REALTORS® (defined for purposes of this paragraph to include present and future, direct and indirect subsidiaries, predecessors, and successors) will implement the following practice changes:

- i. Eliminate the requirement for Sellers or Seller's Brokerage to pay Buyer's Brokerage.
- ii. Prohibit Realtors, agents, brokers, etc from (a) offering compensation on the MLS or (b) disclosing such compensation on MLS
- iii. Require all MLS systems to remove ALL references of Buyer Agent Commission (BAC) field on the MLS system.
- iv. MLS can NOT require Realtors and Brokers to participate in the MLS in order to participate in any offer of compensation.
- v. Agree to to circumvent this agreement by displaying the BAC via any and all other forms of data distribution channels and/or syndication. In other word, don't get cute.

THIS IS the BIG ONE...

vi. Unless inconsistent with state or federal law or regulation before or during the operation of this Paragraph 58(vi) of this Settlement Agreement, require that all REALTOR® MLS Participants working with a buyer enter into a written agreement before the buyer tours any home with the following:

CONTINUED...

- a. **must include how much and how this amount will be determined.**
- b. **the amount of compensation can NOT be open ended. In other words, it can NOT be “whatever the seller or seller’s brokerage is offering.”**
- c. **the amount of compensation can never be greater than what is agreed upon in the “written agreement” signed before looking at homes.**

vii. Buyer agents and brokerage can not promote or advertise that their services are FREE, as in paid for by the Sellers.

viii. If Buyer compensation is offered by Sellers, Realtors, and Brokerage it must be disclosed in writing to Sellers how much they plan to offer. This is NOT NEW for us in the state of Utah.

ix. Realtors and Brokerage must disclose that commissions are not set by law and are fully negotiable in (a) the Listing Agreement with Sellers, (b) Buyer Agency Agreement with Buyers, and (c) in pre-closing disclosure documents. If an MLS or Board offers forms for Realtors and Brokerage to use, those forms must also contain the same.

x. Realtors can NOT filter out and only show homes based on the existence and or the amount of compensation.

xi. Realtors, Brokerage, MLS, Boards and Associations can not make any changes to any existing rules to circumvent the terms of this agreement.

xii. Educate Realtors on these changes.

xiii. These changes do not extend to transactions that are NOT listed on the MLS and it does NOT prevent Sellers from offering “Buyer Incentives/Concessions”, as long as those incentives/concessions are not a condition of Buyer agency compensation.

TO HIRE OR NOT TO HIRE... THE WRITTEN AGREEMENT

BASED ON THESE NEW REQUIREMENTS, ALL BUYER(S) SHOULD ASK THE FOLLOWING:

- [1] How do Buyer Agents get paid?
- [2] Should I hire a Realtor to Protect me and my best interest in a transaction where the Seller(s) have representation?
- [3] Can I start without signing an Agency and sign one after we find a home to purchase?
- [4] Why do I need to make this decision NOW? Can I make this decision LATER?
- [5] What are the BENEFITS of Hiring a Realtor and how does Agency benefit me?
- [6] Should I ask for References?
- [7] Can I ask the Seller to Pay for my Buyer Agent Fees?
- [8] Can I ask for Closing Costs and my Agent Fees?
- [9] How do I choose the BEST Realtor and how do I determine a fair price to pay for Buyer Representation?
 - a. Experience vs. Time on the Job. Should I choose based on how many years in the business or how many transactions they have done?
 - b. LOWEST fee or the HIGHEST quality?
 - c. Does Time = Money? Is the fee less if I buy sooner?
 - d. What does a Realtor do during a transaction?
 - e. Should I and can I ask for References?
- [10] Outside the scope of Agency, what other BENEFITS does the agent provide before, during and after the transaction?