

PRESS RELEASE

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Sitzer-Burnett Verdict Means Consumers Lose, Class-Action Attorneys Win

SANDY (Nov. 1, 2023) – This week, a federal jury delivered a verdict that will ultimately change the home buying process, making it more complicated and hindering home sales.

The jury's determination alleges a conspiracy to artificially maintain high commissions for home sales. Defendants in the case included the National Association of Realtors® and prominent residential brokerages, holding them liable for approximately \$1.8 billion in damages.

Rob Ockey, President of the Salt Lake Board of Realtors®, said, "Commissions for home sales have always been subject to negotiation. Regrettably, this verdict could potentially hinder both sellers and aspiring homebuyers. In the aftermath, it appears that class-action lawyers have emerged as the beneficiaries, while consumers are left to contend with the fallout."

It's important to note that commissions on home sales have never been universally fixed. Real estate agents always engage in commission negotiations with their clients. Nationally, the average agent commission in the United States is notably less than 6%, and in Utah, the average real estate commission rate stands at 5.36%, ranking the state 18th (tied) for some of the lowest average Realtor® fees, according to Clever.com.

"The agreed upon commission rate paid by the seller occurs during the listing appointment," Ockey said. "That negotiated rate is determined by the value the agent provides and what the seller is willing to pay."

Curtis Bullock, CEO of the Salt Lake Board of Realtors®, said there is nothing wrong with a seller agreeing to pay a listing broker a negotiated commission.

"In practice, this approach has stood the test of time," Bullock said. "Moreover, there is nothing wrong about a broker offering to share a portion of that commission with the buyer's broker in a transparent manner at an amount both parties agree upon. Some critics argue that this system creates an inherent conflict because the seller and buyer have differing interests. While I agree there is some transactional conflict – i.e., seller wants the most money possible and the buyer

wants to pay the least amount possible – there is one overarching common goal all parties (including the buyer, seller and their agents) share: that is to successfully close the transaction.”

Real estate agents play a crucial role in guiding consumers through a complex, infrequent, and often the largest financial purchase of their lives. Their responsibilities encompass a wide range of tasks, such as:

- Meticulously reviewing/explaining legal documents, notices, and forms.
- Ensuring the prompt delivery and deposit of earnest money within stipulated deadlines.
- Skillfully negotiating and professionally presenting offers.
- Effectively marketing properties to qualified buyers.
- Advising the seller on disclosure law related to material defects in a property.
- Providing valuable advice to clients regarding potential legal pitfalls.
- Managing showing appointments and ensuring property security.
- Skillfully handling multiple offers on behalf of their clients.
- Market analysis, problem solving, and handling objections.
- Hours of time spent on phone calls with clients, lenders, title representatives, inspectors, home warranty companies, city officials, and attorneys.

About the Salt Lake Board of Realtors®

The Salt Lake Board of Realtors® is the Wasatch Front's voice of real estate and the No. 1 source for housing market information. The Salt Lake Board of Realtors® is the largest shareholder of UtahRealEstate.com, one of the leading Multiple Listing Services (MLS) in the United States. Since 1917, the Salt Lake Board of Realtors® has been a leader in promoting homeownership and protecting private property rights. The Salt Lake Board of Realtors® empowers its members to better serve the public by providing continuing education, advocacy, and a professional code of ethics.

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