

PRESS RELEASE

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National Class-Action Settlement Will Hurt Home Buyers and Sellers

SANDY (March 28, 2024) – A recent class-action settlement will likely hurt home buyers who can't afford professional representation. In addition, sellers unwilling to pay for the costs of a buyer's agent may see a diminished pool of buyers.

"The settlement isn't really what the media have portrayed it to be," said Dawn Stevens, president of the Salt Lake Board of Realtors®. "The absence of a buyer's agent leaves the buyer to navigate an intricate process of drafting offers, negotiating repairs, and signing legal contracts. Conversely, homeowners seeking to bypass the buyer's agent commission might find themselves significantly reducing their asking price to attract buyers. It really is going to hurt buyers and sellers in the end."

Here are nine things you need to know about the settlement:

1. **Does the Settlement Force Real Estate Agents to Slash Their Commissions?** No. The settlement has nothing to do with commission rates. Real estate agents have the flexibility to negotiate their commission rates or fees according to their discretion. There are no standard or fixed charges in the industry, a policy that has always been in place and will continue indefinitely. Traditionally, when a house is sold, the listing agent (the seller's agent) gets their payment from the sale's proceeds. Out of this payment, they also cover the buyer's agent's fee. This method of paying buyers' agents started in the 1990s in response to consumer advocates to ensure that buyers, too, had representation in real estate transactions. Before the 1990's, the concept of "buyer beware" prevailed, leaving buyers without representation and vulnerable to exploitation.
2. **Does the Settlement Require Sellers to No Longer Pay a Commission to the Buyer's Agent?** No. According to the settlement, details about how much a buyer's agent will be paid cannot be listed on the Multiple Listing Service (MLS). However, this doesn't mean that sellers can't compensate the buyer's agent. They're still allowed to do so outside of the MLS, through other means like direct marketing, negotiations, or discussions with real estate professionals. Not being able to list commission details on the MLS doesn't take away the importance of compensating the buyer's agent. Offering a commission to the buyer's agent can be crucial in making your property more affordable for many buyers who wish to have professional representation on one of the largest investments of their life. Without a commission offer, if

buyers must cover the cost of professional representation themselves — on top of their down payment and closing costs — the dream of home ownership could become unattainable for many.

3. **Will Buyers Need to Sign a Formal Agreement with Their Agent?** Yes. Starting in July, pending court approval, home buyers will be required to sign a formal Buyer Broker Agreement prior to touring properties with a Realtor®. The agreement will clearly define the compensation that the buyer's agent is to receive. Utah Realtors® have been required by Utah law to use Buyer Broker Agreements for years, so this isn't much of a change. Signing an agreement with a buyer's agent, which includes compensation terms, formalizes the relationship, ensuring clarity on the services provided.
4. **Will the Settlement Lower Housing Costs?** No. If a real estate commission were lowered by 1%, would a \$500,000 home automatically be worth \$495,000? No. A seller would not reduce the sale price to \$495,000 simply because the commission was lowered. The market value of the home is dictated by the real estate market itself. Housing costs have soared over the past several years due to an underbuilding gap of more than 5.5 million housing units in the U.S. The housing shortfall has been exacerbated by an even larger decrease in the supply of entry-level single-family homes, or starter homes (1,400 square feet or less), according to Freddie Mac. Until there is an all-of-government approach to a historic lack of inventory in communities across the country, the dream of homeownership will remain out of reach for millions of middle-class Americans.
5. **Are Commissions in Real Estate Transactions Fixed?** No. Commissions have never been fixed and never will be. The range of a commission can vary significantly, spanning from as low as a flat-fee of \$300 for listing services to as high as 7%-8%, with numerous options in between. Real estate commissions will continue to be negotiable going forward under the settlement terms. Alternatively, homeowners have the option to sell their property independently at no cost. The current landscape offers an unparalleled level of consumer choice, with a multitude of diverse business models available. It's worth noting that consumers should not be compelled to pay for services they neither desire nor utilize. In the realm of real estate, homeowners have the freedom to decide whether to engage a real estate agent, just as they have the option to handle their taxes without hiring a CPA or fix a leaking faucet without calling a plumber. The power of choice remains firmly in the hands of consumers.
6. **How Does the MLS Benefit Consumers?** UtahRealEstate.com or the MLS remains the preferred choice for most consumers, primarily due to its unparalleled accuracy, extensive reach, and overall superiority. UtahRealEstate.com is one of the largest MLS's in the United States, serving more than 8 million consumers each year. Utilizing the MLS typically results in sellers finding qualified buyers in the shortest possible time frame and maximizing their financial returns from the transaction. In the end, the consumer benefits significantly.
7. **Why Do Nine in 10 Home Sellers Hire a Realtor®?** The Wall Street Journal suggested that the real estate market is not a genuine free market, but a "rigged game" that pads the pockets of Realtors® at the expense of consumers. Critics argue that the role of a real estate agent is merely to fill out "paperwork." Yet, nine in 10 home sellers today hire a real estate agent to sell their home. Why? Because the process of buying or selling a home often represents the most significant financial transaction in people's lives. As the real estate landscape has grown increasingly complex and litigious, people rely on Realtors® to guide them through legal contracts, disclosure law, property security, and negotiations.
8. **Do Real Estate Agents Make Too Much Money?** It is ironic that class-action attorneys, who stand to make 30% to 40% of any judgment or settlement, are accusing Realtors® of charging a 5% to 6% commission. Class-action attorneys will take hundreds of millions of dollars from their

clients at the end of the day, leaving them with just a fraction of the winnings, sometimes just a few dollars. Remember, there are more than 500,000 plaintiffs in the Sitzer-Burnett lawsuit. A report by TLR, a Texas-based organization that discourages non-meritorious lawsuits or outrageous claims for damages, examined eight years of consumer class actions in federal court and found that consumers received only a tiny fraction of the money awarded in cases while plaintiff lawyers frequently claimed a bigger share of the settlement than their clients. While attorneys make millions, the median annual wage for real estate sales agents was \$49,980 as of May 2022, according to the most recent statistics by the U.S. Bureau of Labor Statistics.

9. **Will Realtors® Continue to Play a Crucial Role in the Real Estate Transaction?** Yes. Realtors® are experts of the real estate transaction – a process that, for most consumers, is rare and filled with complexities. For instance, agents advise clients on disclosure law, competitive bidding situations, earnest money deposits, property security, and stipulated deadlines. Some oversimplify the vital role of real estate agents, who engage in an intricate, regulated, and state-licensed activity that demands ongoing education and training. Remember, Realtors® only get paid if the house sells.

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.

About UtahRealEstate.com

Founded in 1994, UtahRealEstate.com is the leading provider of real estate technology in Utah and one of the largest multiple listing services in the United States. The company provides one of the top-ranked real estate websites in the country, serving more than 8 million consumers each year. It also provides multiple listing services to approximately 20,000 real estate professionals, accounting for nearly 97% of all Realtors® in the state of Utah.