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## MLS PIN Lawsuit Deal Could Up Pressure in Other Cases

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A federal judge has given her preliminary approval to a deal that would settle a lawsuit between three local home sellers and the state's largest multiple listings service, MLS PIN.

After selling homes they owned in Massachusetts, Jennifer Nosalek, Randy Hirschorn and Tracy Hirschorn had sued the listings service along with Coldwell Banker parent Anywhere, Berkshire Hathaway Home Services' and Real Living Real Estate's parent companies, Keller Williams, RE/MAX claiming that MLS PIN's commission rules, and the brokerages' roles in upholding them, violated federal antitrust laws.

The final version of the settlement would see the \$3 million MLS PIN agreed to pay out held in a special fund instead of given to the plaintiffs to continue their suit against the brokerages involved.

More significantly for individual real estate agents, MLS PIN has agreed to modify its listing rules to no longer require that sellers pay the buyer's agent's commission. The rule changes agreed leave who pays the buyer's agent's commission open to negotiation between the buyer and their agent and between the seller and the buyer's agent. Under the changes, the seller can request a Realtor association tribunal adjudicate disputes over commissions. The seller's agent will be required to notify their client that sellers no longer have to pay the buyer's



commission and that they can decline any request from the buyer's agent to pay their commission.

In addition, regardless of how much a listing offers to pay the buyer's agent, should the buyer make an offer different from the terms spelled out in the listing, the seller can negotiate who pays the buyer agent's commission.

While the ultimate impact on buyers' agents is still unclear, some local industry leaders have privately speculated it will be minimal, with buyer's agents likely to be unwilling to represent clients in deals where they don't receive a share of the commission according to whatever common industry practice emerges after the changes.

The National Association of Realtors and the country's major real estate brokerages are ensnared in multiple high-profile antitrust lawsuits that make claims similar to the Nosalek lawsuit.

This settlement deal, in addition to an \$83 million settlement Anywhere agreed to in a separate lawsuit, could start setting the terms for industry-wide changes in broker compensation, said Davis Malm real estate attorney Anthony Panebianco.

"MLS PIN is one of the biggest listing services in the Northeast. And Anywhere has about 16 percent of the market – if they change how their brokerage compensation structure works, they'll set the industry standard. We like uniformity in this industry," he said. "[Anywhere's] market cap hasn't changed following the settlement announcement, their stock market valuation hasn't changed, so clearly the markets don't think this is a bad thing for them. I think other larger brokerages and NAR are going to look at that and say, 'Yeah, we can make these changes.'"

The judge's final order approving the settlement is expected in early January. ◀

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