

# D.C. Circuit Court of Appeals Decision

## Q&A

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### **1. What was the D.C. Circuit Court of Appeals' decision?**

In a 2-1 decision, the D.C. Circuit Court of Appeals held that a 2020 settlement between the Department of Justice and NAR does not prevent the DOJ from reopening its investigation into NAR's policies, including the cooperative compensation rule and clear cooperation policy.

### **2. What was NAR's position in this appeal?**

NAR maintained that the district court correctly held that the 2020 settlement agreement prevented the government from reopening its investigation, and that more broadly, the government should be held to the terms of its contracts. Judge Walker articulated this view in his dissenting opinion, which begins on page 22 of the decision.

### **3. Does the D.C. Circuit Court of Appeals' decision in the DOJ litigation have any impact on the recently announced settlement agreement to resolve claims from home sellers?**

No. The recently announced settlement agreement remains subject to court approval by the district court in Missouri. For more information about the recently announced settlement agreement, including the latest FAQs and an estimated timeline, please visit [facts.realtor](https://facts.realtor).

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## **4. How does the recently announced settlement agreement in the class action litigation affect this appeal?**

The reality is that much has changed since this appeal was filed. NAR entered into a settlement agreement in March 2024 to resolve nationwide litigation over claims from home sellers related to broker commission. As part of that agreement, NAR agreed to put in place a new rule prohibiting offers of compensation on the MLS – meaning that one of the policies that the DOJ has been seeking to investigate through this litigation will no longer exist.

## **5. What are NAR's options? What are the potential next steps?**

NAR may seek rehearing of the appeal by the full D.C. Circuit Court of Appeals, file a petition to seek U.S. Supreme Court review, or choose not to seek further review of the matter. We have 45 days to determine whether to pursue rehearing by the D.C. Circuit. We are reviewing the decision and evaluating our options.

## **6. Is NAR in touch with the DOJ about this matter and/or the class action settlement agreement?**

Yes. We are committed to working with all stakeholders to protect and advance property ownership in this country, and that includes working directly with the DOJ as appropriate.