

Burnett v. Nat'l Association of Realtors et al. (2023)
Largest Antitrust Verdict in History

PANEL

Moderator: Thom Lambert, Professor of Law, University of Missouri
Panelist: Eric Dirks, Partner, Williams Dirks Dameron LLC
Panelist: Brandon Boulware, Partner, Boulware Law LLC

The panel includes the plaintiff trial lawyers involved in *Burnett v. Nat'l Association of Realtors* (W.D. Mo.). The class action by home sellers challenged an alleged antitrust conspiracy by the National Association of Realtors (NAR) and the nation's largest real estate brokerages to follow and enforce rules that had the alleged purpose or effect of artificially stabilizing broker commissions. After four years of litigation (including two trips to the Eighth Circuit), trial resulted in a \$1.78 billion jury verdict in October 2023. The verdict is the largest known jury verdict under the Sherman Act.

Law Professor Thom Lambert (University of Missouri) will moderate the discussion among lawyers who tried the case. The panel will discuss a range of topics about the case and trial, including:

- The origin and impact of NAR's Buyer Broker Rule on commissions.
- Evidence of the alleged conspiracy to follow and enforce Rule.
- The primary defenses/narratives of defendants.
- Application of the *per se* standard versus rule of reason analysis to the claims.
- Efforts by the trial teams to simplify complex legal and factual issues and streamline the trial.

I. National Association of Realtor's "Buyer Broker Rule"

- A. Brief history of NAR's rules
- B. Origin and Impact of the Buyer Broker Rule

II. The Case: *Burnett v. Nat'l Association of Realtors et al.*

- A. Sherman Antitrust Act (15 U.S.C. § 1)
- B. Theory of the Case
- C. Legal Standard: *Per Se* versus Rule of Reason

III. The Trial

- A. Simplifying Complex Case: Two Week Trial
- B. Plaintiffs' Evidence
- C. Defendants' Narratives/Defenses

IV. The Impact of *Burnett* Verdict

- A. Increased Competition and Lowering of Commissions
- B. Changes in How Real Estate Brokers are Paid and Homes are Bought and Sold