United States Court of Appeals
For the Eighth Circuit

No. 24-3473

Don Gibson, individually and on behalf of all others similarly situated; Lauren Criss, individually and on behalf of all others similarly situated; John Meiners, individually and on behalf of all others similarly situated; Daniel Umpa

Plaintiffs - Appellees

v.

National Association of Realtors

Defendant

Compass, Inc.

Defendant - Appellee

eXp World Holdings, Inc.

Defendant

Redfin Corporation

Defendant - Appellee

Weichert Co.

Defendant

United Real Estate; Douglas Elliman, Inc.

Defendants - *Appellees*

Berkshire Hathaway Energy Company; HomeServices of America; BHH Affiliates, LLC; HSF Affiliates, LLC; The Long & Foster Companies, Inc.; Keller Williams Realty, Inc.

*Defendant*s

Five D I, LLC, doing business as United Real Estate

Defendant - *Appellee*

Premiere Plus Realty, Co.; Charles Rutenberg Realty - Orlando, LLC; Hanna Holdings, Inc.

*Defendant*s

Douglas Elliman Realty, LLC; At World Properties, LLC; The Real Brokerage, Inc.; Real Broker, LLC; Realty ONE Group, Inc.; HomeSmart International, LLC; Engel & Volkers GmbH; Engel & Volkers Americas, Inc.

Defendants - *Appellees*

NextHome, Inc.; EXIT Realty Corp. International; EXIT Realty Corp. USA; Windermere Real Estate Services Company, Inc.; William L Lyon & Associates, Inc.; William Raveis Real Estate, Inc.; John L. Scott Real Estate Affiliates, Inc.; The Keyes Company; Illustrated Properties, LLC; Parks Pilkerton Village Real Estate; Crye-Leike, Inc.; Baird & Warner Real Estate, Inc.; Real Estate One, Inc.; The K Company Realty, LLC, doing business as LoKation; eXp Realty, LLC; Weichert Real Estate Affiliates, Inc.; John L. Scott, Inc.; KNIE & SHEALY

*Defendant*s

v.

James Mullis

Objector - Appellant

Chamber of Commerce of the United States of America

Amicus on Behalf of Appellee(s)

No. 24-3478

Don Gibson, individually and on behalf of all others similarly situated; Lauren Criss, individually and on behalf of all others similarly situated; John Meiners, individually and on behalf of all others similarly situated; Daniel Umpa

Plaintiffs - Appellees

v.

National Association of Realtors

Defendant

Compass, Inc.

Defendant - Appellee

eXp World Holdings, Inc.

Defendant

Redfin Corporation

Defendant - Appellee

Weichert Co.; United Real Estate

*Defendant*s

Douglas Elliman, Inc.

Defendant - Appellee

Berkshire Hathaway Energy Company; HomeServices of America; BHH Affiliates, LLC; HSF Affiliates, LLC; The Long & Foster Companies, Inc.; Keller Williams Realty, Inc.; Five D I, LLC, doing business as United Real Estate; Premiere Plus Realty, Co.; Charles Rutenberg Realty - Orlando, LLC; Hanna Holdings, Inc.

*Defendant*s

Douglas Elliman Realty, LLC; At World Properties, LLC; The Real Brokerage, Inc.; Real Broker, LLC; Realty ONE Group, Inc.

Defendants - *Appellees*

HomeSmart International, LLC

Defendant

Engel & Volkers GmbH; Engel & Volkers Americas, Inc.

Defendants - *Appellees*

NextHome, Inc.; EXIT Realty Corp. International; EXIT Realty Corp. USA; Windermere Real Estate Services Company, Inc.; William L Lyon & Associates, Inc.; William Raveis Real Estate, Inc.; John L. Scott Real Estate Affiliates, Inc.; The Keyes Company; Illustrated Properties, LLC; Parks Pilkerton Village Real Estate; Crye-Leike, Inc.; Baird & Warner Real Estate, Inc.; Real Estate One, Inc.; The K Company Realty, LLC, doing business as LoKation; eXp Realty, LLC; Weichert Real Estate Affiliates, Inc.; John L. Scott, Inc.; KNIE & SHEALY

*Defendant*s

v.

Monty March

Objector - Appellant

No. 24-3481

Don Gibson, individually and on behalf of all others similarly situated; Lauren Criss, individually and on behalf of all others similarly situated; John Meiners, individually and on behalf of all others similarly situated; Daniel Umpa

Plaintiffs - Appellees

v.

National Association of Realtors

Defendant

Compass, Inc.

Defendant - Appellee

eXp World Holdings, Inc.

Defendant

Redfin Corporation

Defendant – Appellee

Weichert Co.; United Real Estate

*Defendant*s

Douglas Elliman, Inc.

Defendant - *Appellee*

Berkshire Hathaway Energy Company; HomeServices of America; BHH Affiliates, LLC; HSF Affiliates, LLC; The Long & Foster Companies, Inc.; Keller Williams Realty, Inc.; Five D I, LLC, doing business as United Real Estate; Premiere Plus Realty, Co.; Charles Rutenberg Realty - Orlando, LLC; Hanna Holdings, Inc.

*Defendant*s

Douglas Elliman Realty, LLC; At World Properties, LLC; The Real Brokerage, Inc.; Real Broker, LLC; Realty ONE Group, Inc.

Defendants - *Appellees*

HomeSmart International, LLC

Defendant

Engel & Volkers GmbH; Engel & Volkers Americas, Inc.

Defendants - *Appellees*

NextHome, Inc.; EXIT Realty Corp. International; EXIT Realty Corp. USA; Windermere Real Estate Services Company, Inc.; William L Lyon & Associates, Inc.; William Raveis Real Estate, Inc.; John L. Scott Real Estate Affiliates, Inc.; The Keyes Company; Illustrated Properties, LLC; Parks Pilkerton Village Real Estate; Crye-Leike, Inc.; Baird & Warner Real Estate, Inc.; Real Estate One, Inc.; The K Company Realty, LLC, doing business as LoKation; eXp Realty, LLC; Weichert Real Estate Affiliates, Inc.; John L. Scott, Inc.; KNIE & SHEALY

*Defendant*s

v.

Robert Friedman

Objector - Appellant

No. 24-3564

Don Gibson, individually and on behalf of all others similarly situated; Lauren Criss, individually and on behalf of all others similarly situated; John Meiners, individually and on behalf of all others similarly situated; Daniel Umpa

Plaintiffs - Appellees

v.

National Association of Realtors

Defendant

Compass, Inc.

Defendant - *Appellee*

eXp World Holdings, Inc.

Defendant

Redfin Corporation

Defendant - *Appellee*

Weichert Co.

Defendant

United Real Estate; Douglas Elliman, Inc.

Defendants - *Appellees*

Berkshire Hathaway Energy Company; HomeServices of America; BHH Affiliates, LLC; HSF Affiliates, LLC; The Long & Foster Companies, Inc.; Keller Williams Realty, Inc.

*Defendant*s

Five D I, LLC, doing business as United Real Estate

Defendant - *Appellee*

Premiere Plus Realty, Co.; Charles Rutenberg Realty - Orlando, LLC; Hanna Holdings, Inc.

*Defendant*s

Douglas Elliman Realty, LLC; At World Properties, LLC; The Real Brokerage, Inc.; Real Broker, LLC; Realty ONE Group, Inc.; HomeSmart International, LLC; Engel & Volkers GmbH; Engel & Volkers Americas, Inc.

Defendants - Appellees

NextHome, Inc.; EXIT Realty Corp. International; EXIT Realty Corp. USA; Windermere Real Estate Services Company, Inc.; William L Lyon & Associates, Inc.; William Raveis Real Estate, Inc.; John L. Scott Real Estate Affiliates, Inc.; The Keyes Company; Illustrated Properties, LLC; Parks Pilkerton Village Real Estate; Crye-Leike, Inc.; Baird & Warner Real Estate, Inc.; Real Estate One, Inc.; The K Company Realty, LLC, doing business as LoKation; eXp Realty, LLC; Weichert Real Estate Affiliates, Inc.; John L. Scott, Inc.; KNIE & SHEALY

*Defendant*s

v.

Benny D. Cheatham; Robert Douglass; Douglas Fender; Dena Fender

Objectors - Appellants

Appeal from United States District Court
for the Western District of Missouri - Kansas City

Submitted: January 14, 2026
Filed: September 1, 2026
[Published]

Before L.R. SMITH, ERICKSON, and KOBES, Circuit Judges.

PER CURIAM.

This opinion incorporates by reference the facts and legal analysis of *Burnett v. National Association of Realtors*, No. 24-3444, 2026 WL 2421806 (8th Cir. Aug. 19, 2026). Many of the parties and most of the issues in *Burnett* appear in this related appeal. In short, conspiratorial rules adopted by the National Association of Realtors (NAR) led to inflated home costs and harmed home buyers and home sellers.[1] Avoiding the harms required either listing and selling one's home without the assistance of a broker or finding a broker not affiliated with a NAR multiple listing service (MLS).

I. *Background*

The plaintiffs in *Burnett* challenged the NAR rule in a class action and won at trial. A major settlement followed where the district court[2] expanded the class nationwide and released claims from similar copycat lawsuits. We affirmed the district court's approval of that settlement.

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[1]We grant the various motions to take judicial notice filed by the parties in the consolidated appeals. The district court referenced and relied on documents from the *Burnett* consolidated appeals given the relationship between all the cases.

[2]The Honorable Stephen R. Bough, United States District Judge for the Western District of Missouri.

Other plaintiffs filed two new actions alleging the same claims nationwide against other real estate brokerage companies with other MLSs, asserting that they participated in the same conspiracy: *Gibson v. National Association of Realtors*, Case No. 4:23-cv-00788 (W.D. Mo.), and *Umpa v. National Association of Realtors*, Case No. 4:23-cv-00945 (W.D. Mo.). The district court consolidated these cases under the *Gibson* caption and appointed the *Burnett* plaintiffs' counsel as Interim Lead Counsel on behalf of the *Gibson* class, making them "responsible for any settlement negotiations with Defendants that would propose to resolve [these] claims on a class-wide or aggregate basis." R. Doc. 521, at 10.

In addition to the major *Burnett* settlement, class counsel also settled the cases at issue here as part of the broader agreement. These settlements achieved an additional $110.6 million for the class, increasing the total collected sum to $1,017,687,754. In exchange, each defendant agreed to the same practice change relief discussed in our *Burnett* opinion.

As with the primary *Burnett* settlement, the class reaction was overwhelmingly positive. Only 46 class members opted out, and only 11 submitted objections. Of those initial 11 objectors, four objectors now appeal; most others failed for lack of standing. Each of the four objectors here also appear in the *Burnett* opinion and raise the same arguments on appeal.

Appellant Benny D. Cheatham is represented by two law firms that filed *Burton v. National Association of Realtors*, No. 7:23-cv-05666 (D.S.C.), six days after the *Burnett* verdict.

Appellant Monty March is represented by law firms that filed *March v. Real Estate Board of New York, Inc.*, No. 1:23-cv-09995 (S.D.N.Y.), two weeks after the *Burnett* verdict. Appellant Robert Friedman is represented by law firms that filed *Friedman v. Real Estate Board of New York, Inc.*, Case No. 1:24-cv-00405 (S.D.N.Y.), two months after the *Burnett* verdict. Both March and Friedman assert claims against the Real Estate Board of New York (REBNY) and several defendants here.

Appellant James Mullis is represented by law firms who filed *Batton v. National Association of Realtors*, Case No. 21-cv-430 (N.D. Ill.), about two years after *Burnett*. *Batton* sought recovery for home buyers rather than home sellers, but the plaintiffs lacked standing under the Sherman Act. After the district court dismissed *Batton*, the plaintiffs filed an amended complaint seeking injunctive relief under federal law and raising several state law claims. The district court dismissed the federal law claim but proceeded with some state law claims. *Batton* remains in discovery.

All the objectors sought to set aside the global resolution of the settlements. March and Friedman argue that their New York classes are different from the larger class. Mullis argues that state law indirect purchaser claims are distinct from the other claims in the class. Objectors also argue that the damages are inadequate. Further, they argue that the settlement was plagued by collusion. Objectors additionally contend that the district court violated due process by requiring all objectors to appear in person and waiving objections from those who failed to appear, though the district court nonetheless considered each objection on the merits.

The district court approved the settlements, finding nationwide expansion of the class proper. It found that "[t]he slight differences that the New York Objectors contend exist between the relevant NAR and REBNY rules are not material or sufficient to create a distinct factual predicate." R. Doc. 530, at 33. The district court also found that the state law indirect purchaser claims arose out of the same conspiracy and factual predicate and were therefore properly released. The district court made the same determination for the release of defendants' agents, affiliates, and franchisees. This appeal followed.

II. *Discussion*

The arguments raised here closely mirror those raised in *Burnett*. They differ with respect to the particular settlement approved by the district court. Adopting the legal analysis, facts, and discussion in *Burnett*, we similarly affirm the district court here.

A class action settlement must be "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). The district court may approve a settlement "only on finding" that it satisfies the enumerated factors laid out in Rule 23(e). *Id.* As in *Burnett*, the district court here "considered the Rule 23(e) factors alongside and within the *Van Horn* factors"—our circuit's traditional yardstick for evaluating a settlement—"despite only needing to consider the Rule 23(e) factors. This was not required, but neither was it erroneous."[3] *Burnett*, 2026 WL 2421806, at *8.

The district court appropriately considered the fairness of the class action settlements here. First, the court considered whether "the Class Representatives and Class Counsel have adequately represented the class." Fed. R. Civ. P. 23(e)(2)(A); *see* R. Doc. 530, at 9–20 (discussing class counsel's qualifications and achievements

[3]As in the *Burnett* appeal, Mullis argues that the district court failed to properly "determine whether 'the proposal treats class members equitably relative to each other.'" Mullis's Br. 22 (quoting Fed. R. Civ. P. 23(e)(2)(D)). We disagree. The district court evaluated the various class members and determined that all benefited from the prospective relief and monetary fund. It noted that class members would receive compensation in accordance with their claims. Mullis may disagree with the district court's approach, but this does not equate to an abuse of discretion by the district court. *See, e.g.*, Mullis Br. 24 ("When confronting this problem, the district court failed to *substantively* address the problem (emphasis added)). Similarly, we reject Mullis's argument that the district court applied a presumption of fairness towards the settlement. We recognize that such a presumption would be reversible error, *see Burnett*, 2026 WL 2421806, at *12, but the district court here noted that it did not "rely on any presumption in favor of settlements here because these settlements need no presumption to be found fair, reasonable, and adequate," R. Doc. 530, at 8.

in the litigation).[4] Second, the court considered whether "the proposal was negotiated at arm's length." Fed. R. Civ. P. 23(e)(2)(B); *see* R. Doc. 530, at 10 ("[E]ach Settlement was conducted at arm's length."). Third, the court considered the adequacy of the relief. Fed. R. Civ. P. 23(e)(2)(C). In analyzing the adequacy of relief, the district court considered the "costs, risks, and delay of trial and appeal." Fed. R. Civ. P. 23(e)(2)(C)(i); *see* R. Doc. 530, at 11 ("The Settlements reflect a compromise based on the parties' educated assessments of their best-case and worst-case scenarios, and the likelihood of various potential outcomes. . . . Against these risks, the Settlements provide [ample benefits]."). It also analyzed "the effectiveness of any proposed method of distributing relief to the class." Fed. R. Civ. P. 23(e)(2)(C)(ii); *see* R. Doc. 530, at 12 ("[T]he Settlements effectively distribute relief to the class, including via the proposed method for processing class member claims. The Court-appointed notice and claims administrator . . . will work with Class Counsel in processing Class member claims and distributing relief."). It further looked at "the terms of any proposed award of attorney's fees, including timing of payment." Fed. R. Civ. P. 23(e)(2)(C)(iii); *see* R. Doc. 530, at 52–58 (discussing attorneys' fees and concluding that "Co-Lead counsel are, in accordance with the Settlement Agreements, authorized to withdraw up to the amounts allowed by the Settlement Agreements out of the Escrow Accounts."). Finally, with respect to the adequacy of relief, the district court looked at the "agreement[s] required to be identified under Rule 23(e)(3)." Fed. R. Civ. P. 23(e)(C)(iv); *see* R. Doc. 530 (discussing the settlement generally). And the district court properly followed the final requirement of the Rule. Namely, whether "the proposal treats class members equitably relative to each other." Fed. R. Civ. P. 23(e)(D); *see* R. Doc. 530, at 12

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[4]We reject Mullis's argument that "class counsel's representation of homebuyers' claims was wholly inadequate." Mullis's Br. 38. As the district court recognized, "[n]o objector meaningfully alleges here any *facts* reflecting such collusion in connection with these settlements." R. Doc. 530, at 42. Mullis says that class counsel never pursued homebuyer claims and thus do not deserve the "trust" of the class members. Mullis's Br. 42. That is not the inquiry. The district court determined that the *Burnett* class counsel would continue to represent the interests of the class, and thus we disagree that "Mullis and his counsel" should take the reins. Mullis's Br. 42.

(discussing the equities of the settlements and noting that "[t]he practice change relief applies the same to all Class members nationwide"); *see also Keil v. Lopez*, 862 F.3d 685, 697 (8th Cir. 2017) (finding that "the settlement[s] provide[d] substantial and immediate benefits to the class").

As for Appellants' argument that "a settlement cannot extinguish viable, unpleaded claims that lack an identical factual predicate with the pleaded claims," Mullis's Br. 28, we again refer to our decision in *Burnett*. There, we acknowledged that district courts must apply the identical factual predicate test, *Burnett*, 2026 WL 2421806, at *8; *see also Hesse v. Sprint Corp.*, 598 F.3d 581, 590 (9th Cir. 2010). However,

> under the identical-factual-predicate doctrine, a settlement agreement may release claims that share a common nucleus of operative fact with the claims in the underlying litigation. In practice, the doctrine mirrors res judicata: a release may lawfully bar later actions arising from the same cause as the settled litigation. Res judicata applies not only to the precise legal theory presented in the previous litigation but to all legal theories and claims arising out of a common nucleus of fact.

Burnett, 2026 WL 2421806, at *8 (quoting *In re Blue Cross Blue Shield Antitrust Litig. MDL 2406*, 85 F.4th 1070, 1090 (11th Cir. 2023)) (citation modified)); *see also Thompson v. Edward D. Jones & Co.*, 992 F.2d 187, 191 n.6 (8th Cir. 1993) (stating that released claims need to "rest on the same or similar facts as the class action claims"). We thus reject Mullis's argument—raised in *Burnett* as well—that "homebuying claims do not share identical factual predicates with home-selling claims because buying one home and selling a different home are two distinct transactions." Mullis's Br. 30. The claims nevertheless arise from the same nucleus: the conspiratorial MLS rules that drove up the prices *for all home transactions*. *See Burnett*, 2026 WL 2421806, at *8; *see also* R. Doc. 292-1, at 2 ("The terms 'multiple listing service' and 'MLS' encompass multiple listing services nationwide, regardless of whether they are affiliated with NAR or not, including, for example . . . REBNY/RLS.”).[5] This is not a “superficial similarity between . . . two class actions,” as these claims all share the same factual predicate. *Hesse*, 598 F.3d at 591. As we noted in *Burnett,* the objectors themselves “filed complaints expressly linking their claims to the rules challenged in *Gibson*, including those adopted by NAR.” R. Doc. 530, at 32.[6]

Thus, we also reject Mullis’ argument—also raised in *Burnett*—that the settlements do not reach his claims. The settlement agreements employ “very broad” language, *In re Gen. Am. Life Ins. Co. Sales Practices Litig.*, 357 F.3d 800, 803 (8th Cir. 2004), that “clearly encompasses the claims in question,” *Burnett*, 2026 WL 2421806, at *9 (citation modified). We find the same for Frieman’s argument, also raised in *Burnett*, that the district court erred by holding “that ‘claims involving properties listed on non-NAR’ listing services including REBNY/RLS ‘all share the same factual predicate as those involving properties listed on NAR-affiliated MLS[s].’” Friedman’s Br. 17 (quoting R. Doc. 530, at 33–34); *see also* March’s Br. 14 (arguing that “the nationwide class action settlements improperly released claims from the Manhattan REBNY litigation which do not arise out of the same factual predicate as the NAR litigations”).

[5]This statement is found in the Long Form Notice associated with the settlements. It is on this basis that some of the objectors objected. We find it probative to the point that the nucleus is the relationship between conspiratorial MLS rules and inflated prices, not the geography or the particular MLS involved.

[6]Appellant Friedman also argues that the Appellees here previously asserted that their NAR claims lacked factual similarity to the REBNY claims. The district court’s independent analysis determined that the underlying nucleus of fact is similar across all these claims. We agree that the record indicates that the underlying factual predicates are the same, even if the parties disputed this throughout the litigation. *See, e.g.*, R. Doc. 530, at 32 n.5 (“[A]s Settling Defendants explained, their positions before the [earlier] [Judicial Panel on Multidistrict Litigation] do not support the New York Objectors’ arguments [that the claims lack the same factual predicate.”). We similarly reject Friedman’s argument that the district court improperly interpreted the evidence before it. The district court engaged in a thorough analysis of the record and evidence; it did not abuse its discretion.

Appellants argue here, as they did in *Burnett*, that the district court's in-person requirement was a violation of due process. We disagree.

> Due process is satisfied where class members received notice of the settlement proposal and were able to argue their objections to the district court. Due process does not entitle objectors to dictate the means by which the court considers the fairness of the proposed settlement.

Burnett, 2026 WL 2421806, at *14 (citation modified). Once parties "insert [themselves] into the dispute" by filing an objection, they must "play by the rules that the district court set[s]." *In re T-Mobile Customer Data Sec. Breach Litig.*, 111 F.4th 849, 858 (8th Cir. 2024). Moreover, the district court considered each objection on the merits. The district court did not err in requiring objectors to appear in person.

III. *Conclusion*

For all these reasons, and those expressed in *Burnett*, we affirm.

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