**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MYA BATTON, AARON BOLTON, MICHAEL BRACE, DO YEON IRENE KIM, ANNA JAMES, JAMES MULLIS, THEODORE BISBICOS, and DANIEL PARSONS, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

THE NATIONAL ASSOCIATION OF REALTORS, REALOGY HOLDINGS CORP., RE/MAX LLC, and KELLER WILLIAMS REALTY, INC.,

Defendants.

Case No. 1:21-cv-00430

DECLARATION OF GREGORY P. LINDSTROM

I, Gregory P. Lindstrom, hereby declare:

1. I am a mediator, arbitrator and independent panelist at Phillips ADR Enterprises ("PADRE"). I was retained to act as a mediator between "Allocation Counsel" retained by co-lead counsel for the Plaintiffs in the above-captioned matter and make this declaration in support of their settlement. I have personal knowledge of the facts hereinafter stated.

2. I have functioned as a full-time neutral mediator and arbitrator since 2012. Since then, I have mediated more than 250 cases, typically complex litigation matters involving antitrust, securities, or intellectual property law. Moreover, over the past few years my practice has become almost exclusively focused on antitrust litigation. For example, in addition to this matter, over the last twelve months I have served or am currently serving as the mediator in class action antitrust cases pending in the Northern District of California involving the following companies (listed in

alphabetical order of the primary named defendant): Align, Intuitive aka DaVinci Surgical Robots, Meta Platforms fka Facebook, Sutter Health, and Tesla.

3. I also recently mediated the resolution of more than twenty separate sets of antitrust claims asserted against the National Association of Realtors and a number of large real estate brokerage firms by home sellers, resulting in over $1 billion of settlement payments to the home-seller class and wide-ranging business practice changes regarding commissions and the way real property is sold in the U.S. Included in these results are the *Burnett* settlements described in paragraph 6 below, which are currently on appeal before the Eighth Circuit Court of Appeals.

4. Prior to becoming a mediator and arbitrator, I practiced as an attorney at Latham & Watkins LLP for approximately 30 years, specializing in antitrust disputes, where I rose to the level of senior partner. And following my career at Latham, I served as General Counsel, Corporate Secretary, and member of the Office of the Chairman of The Irvine Company. Once I completed my tenure at The Irvine Company in 2012, I began my career as a mediator. A copy of my biography from the PADRE website is attached as Exhibit A.

5. In December 2025, counsel for the plaintiffs and class in this action, *Batton, et al v NAR, et al*, No. 1:21-cv-00430 (N.D. Ill.) ("*Batton*"), asked me to mediate an issue central to their dispute, *viz*, how to allocate settlement funds between class members who had *only* bought home(s) versus those who had bought *and* sold home(s). Counsel formally retained me to do so in January 2026. By that time, this case had reached an ice-breaker settlement with defendant Keller Williams Realty, LLC after years of litigation.

6. Complicating matters, a parallel litigation—*Burnett v. NAR*, 4:19-CV-00332-SRB (W.D. Mo.) ("*Burnett*")—brought on behalf of classes of home sellers, was litigated to verdict in one venue and subsequently settled on behalf of a nationwide settlement class. The district court

(Bough, J., W.D. Mo.) granted final approvals to the nationwide settlements and enjoined class members (home sellers) from pursuing litigation against settled defendants in any venue nationwide. Certain of the *Burnett* settlement final approvals are the subject of objections and are now on appeal before the Eighth Circuit. One of the issues in the Eighth Circuit proceedings concerns the scope of the *Burnett* settlements release. Relying on the "identical factual predicate doctrine," the release in the *Burnett* case extinguishes all claims of class members who also purchased a home, including the buyer-side claims asserted in this action. I understand that Defendants in this case, who stand to benefit from the *Burnett* settlements release will, or are very likely to, seek to enforce the *Burnett* settlements release if the settlement approvals are affirmed by the Eighth Circuit.

7. The proposed settlement class in *Batton* includes class members who purchased residential real estate in the United States during the settlement class period, where the property was listed on an MLS, and who did not sell a home during that period. They are not subject to the *Burnett* settlements release. The proposed settlement class also includes home buyers who have also sold a home or homes during the relevant period. These *Batton* settlement class members may be subject to the *Burnett* settlements release.

8. To address the differing legal positions of these two groups, interim co-lead counsel in this action engaged experienced antitrust counsel ("Allocation Counsel") to advocate for each group to develop an appropriate allocation considering the various legal and factual issues. How claims should be weighted as between home buyers who did not sell a home versus home buyers who had also sold a home was the subject of the mediation.

9. Upon my retention, I directed Allocation Counsel to submit mediation statements, along with any exhibits that they felt were warranted. Allocation Counsel for each of the groups

(buyers only and buyers-and-sellers) submitted detailed mediation statements and exhibits. I also organized an in-person mediation session for Allocation Counsel to attend in San Francisco, California, on February 9, 2026. Prior to that mediation session, Allocation Counsel and I had discussions regarding the background of the litigation as well as the status of the appeal pending in the Eighth Circuit.

10. The parties mediated in person on February 9, 2026. At the outset, Allocation Counsel disagreed about what level of legal risk discount should be applied to claims of *Batton* class members who fall within the *Burnett* settlement class definitions, relative to those who do not. During that mediation session, Allocation Counsel engaged in a robust and comprehensive airing of the issues including an exhaustive discussion of the relevant case law, the potential application of the identical factual predicate to the proposed settlement class in this action, and importantly a discussion of the recent oral argument in the Eighth Circuit regarding the *Burnett* settlements. I engaged in "shuttle diplomacy" between the parties and ultimately made a "mediator's proposal" regarding the appropriate discount to be applied to claims of class members who were, or might be, subject to the *Burnett* settlements release.

11. Allocation Counsel accepted the mediator's proposal, which applies a 75% discount to the claims of class members who fall within the *Burnett* settlement class definitions, relative to those who are not members of the *Burnett* settlements.[1] This result of the mediation and the resulting allocation was then communicated to interim co-lead counsel.

[1] In addition to settlement class members who purchased a home but did not sell one during the relevant period, the following people also fall outside the *Burnett* settlements: individuals who opted out of the *Burnett* settlements, and people whose only home sale occurred outside the *Burnett* settlements class period. For class members who fall outside the Burnett settlement releases, their claims should receive no discount.

12. Based on my experience and involvement in mediation and follow-on negotiations, this allocation recommendation was reached through zealous, informed advocacy and arm's-length negotiations by experienced antitrust lawyers with decades of experience litigating and trying class cases. Based on my lengthy involvement with the sellers' and buyers' litigations, I was in a position to observe that Allocation Counsel had mastered the relevant caselaw and facts. The interests of all potential class members were considered, without any attempt to unfairly discriminate against any members. Further, it is my belief that the resulting allocation recommendation accounts for the legal and factual risks that are now apparent and treats class members fairly.

13. I am prepared to provide further information to the Court regarding these settlement negotiations, should the Court wish me to do so.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 25, 2026.

Gregory P. Lindstrom