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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

COMPASS, INC. and COMPASS CALIFORNIA II, INC.,

Plaintiffs,

v.

BAY EAST ASSOCIATION OF REALTORS®,

Defendant.

Case No. 4:26-cv13653

COMPLAINT FOR VIOLATION OF 15 U.S.C. § 1 AND RELATED CAUSES OF ACTION

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Homeowners should be free to choose how to sell their own homes without having a competition-killing real estate industry organization tell them how to do it. Real estate agents should be able to compete fiercely to be hired by clients, and real estate brokers should be able to compete to attract agents to their firms, without their competitors banding together to restrict how they compete. In dozens of cities across the country, homeowners and agents are free to do that. But this much-needed competition and choice are blocked across the California counties that make up the service area of the Bay East multiple listing service because of rules set and enforced by Defendant Bay East Association of REALTORS® ("Bay East"). A majority of the members of Bay East's Board of Directors are working brokers and agents at brokerages that compete with Compass and its agents, and they are dictating how Compass and its agents can and cannot compete, how Compass and its agents can and cannot serve their clients, and how homeowners can and cannot market their own homes. Plaintiffs bring this lawsuit under 15 U.S.C. § 1 and related California law to stop Bay East's anticompetitive behavior.

2. Homeowners want a choice. Plaintiffs Compass, Inc. and Compass California II, Inc. (collectively, "Compass") offer a phased marketing strategy, See It First™ on Compass, that gives homeowners that choice. Some homeowners choose to use a multiple listing service ("MLS") to market their homes. Some want to publicly market their homes before they go into the MLS—through internet websites, yard signs, social media, and newsletters, among other public marketing methods. Compass and its agents do not force homeowners to use phased marketing or any other strategy; in fact, Compass requires the homeowners' written approval to publicly market outside of the Bay East MLS. Under California law, homeowners are entitled to decide how to market their own properties.

3. One reason homeowners like having this choice is that they can use pre-MLS public marketing to test the price of a home with real-world feedback from agents and their clients, which helps ensure the home is not overpriced when it lists in the MLS and the MLS sends the listing to every real estate website and data vendor in the world. Moreover, this strategy helps agents and their clients gather feedback on price without the risk of their listings being permanently soiled by

price cuts and extended "days on market" that hurt the perceived value of the homes. Homeowners love this choice: where MLSs allow phased marketing, approximately 48% of Compass homeowners used it. Even when publicly marketed pre-MLS, the vast majority of those listings actually sold in the last phase (after being submitted to the MLS). Compared with listings sent straight to the MLS, as Bay East requires, homes using phased marketing have sold for 4.6% more, with 34% fewer days on the MLS and 29% fewer price cuts.

4. Bay East, which provides MLS services to thousands of real estate professionals across a service area spanning 22 California counties, is a combination of Compass' direct competitors, and it is governed by a Board of Directors dominated by Compass' direct competitors. Under Bay East's rules, once a homeowner markets the home anywhere on the internet, posts the home anywhere on social media, holds an open house, provides the listing to an agent outside of the listing agent's own brokerage, or publicly markets the home in any other way Bay East defines as "public marketing," the listing must be given to Bay East and its co-conspirators within one business day, and the agent and homeowner must follow the many restrictions set out in Bay East's 66-page MLS rulebook—even if the homeowner gave the agent a lawful marketing instruction that conflicts with Bay East's rules.

5. Although California law states that real estate agents owe their clients a fiduciary duty of "utmost care, integrity, honesty, and loyalty," including a duty to follow their lawful instructions,[1] if a real estate agent follows the client's lawful instruction to publicly market a home outside of the Bay East MLS, the agent then faces escalating citations—$500, then $1,000, then $1,500, with mandatory MLS classes—referral to a disciplinary hearing, suspension, or expulsion from the very MLS they need to do business.[2] More than 40 years ago, in its seminal report on U.S. residential real estate, the U.S. Federal Trade Commission ("FTC") warned that when an MLS forces

[1] Cal. Civ. Code § 2079.16; *Thomson v. Canyon*, 198 Cal. App. 4th 594, 129 Cal. Rptr. 3d 525, 535 (2011).

[2] Bay East Ass'n of REALTORS®, *MLS Rules and Regulations* §§ 14.1–14.3, at 52–53 & app. A § 7.5.1, at 57 (eff. Oct. 26, 2026) ("Bay East Rules").

members to submit their listings, "[a]lternative methods of selling houses are effectively foreclosed."[3] That is what Bay East has done.

6. Compass brings this lawsuit to stop these illegal rules. Competitors may not band together to dictate how their rivals serve customers and deprive homeowners of choice. Yet that is what Bay East is doing: using control of a home listing database that real estate agents in Alameda and Contra Costa Counties (the "East Bay") cannot effectively work without, Bay East and its co-conspirators block Compass' better home marketing product to protect Compass' competitors from having to compete with Compass on the merits for clients and agents.

7. Bay East has not changed course. Instead, it re-adopted the Anticompetitive Rules (defined below) in the version of its MLS rules that took effect on October 26, 2026.[4] And it continues to enforce them against Compass agents, including by issuing a Clear Cooperation warning to a Compass agent in May 2026. Bay East's excuses for punishing agents for phased marketing are meritless. In fact, MLSs serving more than 350,000 brokers and agents in at least 12 states do not fine or punish pre- or off-MLS public marketing, and in these markets, the issues that Bay East claims will result from pre- or off-MLS public marketing have not transpired. Bay East's Clear Cooperation rule, Section 7.5.1, did not take effect until May 1, 2020, and Bay East did not begin citing agents under it until October 1, 2020.[5] On information and belief, before then, Bay East's rules allowed a seller to keep a listing out of the MLS without restricting how the listing was publicly marketed. But now, MLSs like Bay East claim that their rules prevent "free-riding" and promote "transparency." Bay East does not care about homeowners; it is a members-only database that homeowners are unable to access and that fines agents just for following their client's lawful public marketing instructions. Moreover, Compass does not "free ride" as those MLSs claim. Compass agents pay Bay East dues and contribute their listings to Bay East.

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[3] FTC, *The Residential Real Estate Brokerage Industry* 130 (Dec. 1983) ("*Butters Report*").

[4] *See* Bay East Rules §§ 7.5–7.5.1, at 16; *id.* app. A § 7.5.1, at 57.

[5] Bay East Ass'n of REALTORS®, *Clear Cooperation Policy Citations – Effective Oct. 1* (Aug. 31, 2020), https://bayeast.org/?p=70830 ("The Clear Cooperation Policy Section 7.5.1 went into effect May 1, 2020. . . . Effective October 1, Section 7.5.1 will be added to the list of citations, Appendix A of the MLS Rules and Regulations . . . .").

8. Bay East and its co-conspirators have caused significant economic harm to Compass and its agents, in addition to the immense harm Bay East has caused to homeowners. Compass seeks treble damages, to the full extent allowed by the law, for every dollar of harm Bay East and its co-conspirators caused Compass. Compass paid over $175 million to defend and settle lawsuits resulting from MLS policies it could not avoid because rules like Bay East's foreclosed the option for Compass' agents to publicly market a home without giving it to the MLS, thus forcing them to follow MLS policies. Although the settlements were the result of MLS rules, Bay East paid nothing. Bay East forces Compass and its agents to give their valuable home listing data to the Bay East MLS, which Bay East then distributes to third-party websites, licenses for a fee to the IDX vendors it approves, makes available to competing brokerages and the vendors they designate, and, on information and belief, otherwise monetizes by supplying it to other third parties—all while paying Compass nothing. Because Compass is subject to Bay East's rules, Compass has lost commissions on listings and agents it could not win without the ability to offer See It First™ on Compass, as well as ancillary revenue (such as mortgage, title, and escrow). All of these harms, and any others caused by Bay East's illegal rules, must be paid back threefold and the illegal rules must be enjoined.

NATURE OF THE CASE

9. This lawsuit challenges the unlawful conduct of an MLS. MLSs are not pro-consumer, pro-competitive institutions; they are combinations of competing brokers and agents that make rules governing competition among them.[6] As such, MLS rules have long been regarded warily by courts and antitrust enforcers. When a group of competitors like an MLS "join together to cooperate in the conduct of their business, there naturally arise antitrust suspicions."[7] As the FTC observed, the people who control the MLS "control . . . the most important aspects of brokerage practices."[8] That control has been used in the past to do things like fix commission rates,

[6] Except where applicable law or regulations would require otherwise, the terms "agent" and "broker" are used interchangeably throughout this complaint.

[7] *United States v. Realty Multi-List, Inc.*, 629 F.2d 1351, 1370 (5th Cir. 1980).

[8] *Butters Report* at 15.

discriminate against discounters, discriminate against internet brokerages, and discriminate against minorities.

10. In the 1940s, the U.S. Department of Justice ("DOJ") brought civil and criminal charges against MLSs that fixed commission rates.[9] Since then, there have been over 100 antitrust investigations and lawsuits challenging mandatory rules imposed by MLSs—many of which challenged rules controlling the public marketing of homes. For example, in a case brought by the FTC against an MLS, a federal court held that a policy limiting the public distribution and display of listings based on the nature of the listing contract "unreasonably restrained competition."[10] Another federal court ordered that an MLS "shall not adopt, maintain, or enforce any Rule . . . that directly or indirectly . . . prohibits, restricts, or impedes any truthful advertising or marketing activities of any home seller or discriminates against or disadvantages any Member or Licensee for any truthful advertising or marketing activity in which any home seller is engaged."[11]

11. Bay East provides MLS services to more than 5,500 real estate professionals—competing brokers and agents—across a 22-county service area centered on Alameda and Contra Costa Counties.[12] Bay East is governed by a Board of Directors dominated by those competitors. A majority of the officers and directors on Bay East's Board are working brokers or agents affiliated with brokerages that compete with each other and with Compass and its agents.[13] Bay East shares a single listing platform with the Contra Costa Association of REALTORS® ("CCAR") and BridgeMLS, Inc. ("bridgeMLS") (as well as MLSListings®, which serves the South Bay), and CCAR identifies Bay East, bridgeMLS, and itself as the MLSs serving the East Bay.[14]

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[9] *See United States v. Nat'l Ass'n of Real Est. Bds.*, 339 U.S. 485, 487 (1950).

[10] *Realcomp II, Ltd. v. FTC*, 635 F.3d 815, 819 (6th Cir. 2011).

[11] *United States v. Consol. Multiple Listing Serv., Inc.*, No. 3:08-cv-01786-SB, 2009 WL 3150388, at *2 (D.S.C. Aug. 27, 2009).

[12] Press Release, Bay East Ass'n of REALTORS®, *Bay East Association of REALTORS® Install 2026 Leadership Team* (Feb. 7, 2026), https://bayeast.org/wp-content/uploads/02-07-2026-Bay-East-Install-2025-Leadership-Team.pdf; Bay East Rules § 7.7.1, at 17.

[13] Bay East Ass'n of REALTORS®, *Board of Directors*, https://bayeast.org/bod/; Press Release, *supra* note 12.

[14] NorCal MLS Alliance, CCARToday, https://ccartoday.com/mls-resources-information/norcal-mls-alliance/ (listing Bay East, bridgeMLS, and CCAR as each "serving the East Bay Area," and

12. For decades, the Bay East MLS has been an unavoidable and dominant feature of residential real estate brokerage in the East Bay. Participation in the Bay East MLS, or in one of the MLSs with which it shares its listing platform and rules—CCAR and bridgeMLS—is essential for any real estate agent to work in the East Bay; real estate agents cannot effectively represent clients in those areas without being members of one of those MLSs, each of which imposes materially identical mandatory-submission and public-marketing rules. While many homeowners are well served by pre-MLS or off-MLS marketing strategies, the importance of the MLS means it is still essential for agents to belong to the MLS in the area where they work. Thus, agents cannot survive in business without participating in the MLS.

13. Showing Bay East's market power, agents must follow Bay East's rules or Bay East will fine and punish them, potentially by exclusion from the Bay East MLS. Bay East staff issue citations for rule violations under a fine schedule that Bay East's MLS & Business Technology Committee devises and its Board approves, and Bay East's Board may, after a hearing, suspend or expel a Participant or Subscriber, and any Participant or Subscriber with more than four violations in two years must attend a hearing.[15] Bay East also invites competing agents to report rule violations by their competitors.[16] While the MLS is one of the rare private companies that fines and punishes its own customers, agents accept this because Bay East MLS membership is critical

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explaining that members "input [their] listings into one database (Paragon) for automatic syndication to all four participating MLSs"); *see also* Bay East Ass'n of REALTORS®, *Bay East Data Share Coverage*, https://bayeast.org/datashare/ (stating that "[t]he Bay East, Contra Costa, and Bridge Association of REALTOR® associations are working together" on disclosure advisories for Alameda and Contra Costa Counties); Bay East Ass'n of REALTORS®, *IDX Services*, https://bayeast.org/idxservices/ (requiring every IDX display to carry a single disclaimer stating that the listing "information is being provided by the Bay East MLS, or CCAR MLS, or bridgeMLS"); Am. Compl. ¶¶ 11, 33, *Ariz. Reg'l Multiple Listing Serv., Inc. v. Compass, Inc.*, No. 1:26-cv-09253-MKV (S.D.N.Y. Oct. 30, 2026), ECF No. 28 (identifying plaintiff "BridgeMLS, Inc." and alleging that its service area covers Alameda and Contra Costa Counties).

[15] Bay East Rules §§ 14.1–14.3, at 52–53; *id.* app. A, at 56; *id.* § 7.17.2, at 19.

[16] Bay East Ass'n of REALTORS®, *Coming Soon Status Syndication Update – Effective March 30* (Mar. 23, 2026), https://bayeast.org/?p=219319 ("[S]uspected violations should be reported using the Correction button in the MLS or via email to MLSServices@bayeast.org.").

to their business and because it blunts competition they might otherwise face without the MLS rules.

14. Bay East MLS Rules 7.5 and 7.5.1, together with the citation schedule and disciplinary provisions that enforce them (collectively, the "Anticompetitive Rules"), specifically block competition among brokers and agents, and homeowner choice.[17] Rule 7.5 forces homeowners, brokers, and agents to give Bay East their listings and forces them into all of Bay East's restrictions: for exclusive right-to-sell and seller-reserved listings of one-to-four-unit residential property and vacant lots in Bay East's service area, the broker must input the listing into the MLS within one business day of marketing or advertising it to the public, or within two days after all necessary seller signatures are obtained or the listing's start date, whichever is later.[18] Rule 7.5 defines public marketing to include flyers in windows, yard signs, public-facing websites, social media, brokerage and franchise websites (including IDX and VOW displays), email, text, and phone blasts, multi-brokerage listing-sharing networks, flyers and other written material, applications available to the public, and open houses—and Rule 7.5.1 defines "the public" as anyone other than the brokers and agents licensed within a single brokerage and their clients.[19] Even though Bay East does not own the home or represent the homeowner, Bay East is dictating how the homeowner and their agent must sell the home.

15. The effect of these rules is to prevent homeowners and their agents from publicly marketing homes for sale unless those homes are listed in the MLS and marketed how Bay East directs (a choice between two extremes: listing it immediately through an MLS and incurring the disadvantages described above; or not publicly marketing the home at all). Through these rules, Bay East and its co-conspirators control how homeowners and agents market properties on the Bay East MLS and outside it. Bay East and its co-conspirators, thus, control home marketing across the entire real estate industry in much of the East Bay.

[17] Bay East Rules §§ 7.5–7.5.1, at 16; *id.* §§ 14.1–14.3, at 52–53; *id.* § 17.2, at 54–55; *id.* app. A § 7.5.1, at 57.

[18] Bay East Rules § 7.5, at 16. Bay East's fine schedule describes the second deadline as three days. *Id.* app. A § 7.5, at 57.

[19] Bay East Rules §§ 7.5–7.5.1, at 16.

16. These rules stand directly in the way of competition. Compass has invested hundreds of millions of dollars in developing technology, competition with other brokerages for agents and clients, and innovative marketing strategies. If a homeowner chooses phased marketing, it proceeds in three phases. In the first phase, the homeowner chooses to publicly market the property via channels outside of the MLS, such as select internet websites, social media, newsletters, yard signs, word of mouth, or other techniques. Homebuyers do not need to work with a Compass agent to view these listings, and agents at other brokerages can view these listings on request. In the second phase, the listing is displayed on the Compass and Redfin websites as a "Coming Soon," and other agents can learn about the property from the MLS. In the third phase, the listing is published by the MLS to tens of thousands of websites and other data recipients.

17. Phase One is blocked, and Phase Two is restricted, by Bay East's rules. Phase One listings cannot be publicly marketed at all. Bay East permits public marketing of a "Coming Soon" listing, but only if the listing is entered into the Bay East MLS, made visible to every MLS participant, and subject to restrictions the homeowner cannot waive: the listing cannot be placed in the MLS open-house or tour modules; if the homeowner permits any showings, the listing agent must allow showings by every MLS subscriber; once the listing becomes active it can never return to Coming Soon status; and every Coming Soon listing is automatically cancelled thirty days after entry, even if the homeowner wants it to remain in that status longer.[20]

18. The phased marketing strategy has several advantages for homeowners. MLSs append to the listing (which is the ***homeowner's*** sales pitch to buyers) the history of price changes and days on market, which are perceived by buyers as signaling homeowner desperation. Having price changes and days on market in the homeowner's own advertisement often prevents homeowners from obtaining the full value of their property. This is unique to residential real estate: sellers of other goods are not forced to include, in their advertisements, price changes or how long the good has been for sale. By testing an aspirational price in a pre-MLS phase, homeowners may avoid the

[20] Bay East Rules § 9.1.1, at 23; *id.* § 10.1, at 24; *id.* § 10.1.1 & FYI ¶¶ 3–5, 9, 12, at 25; Bay East Ass'n of REALTORS®, *Active-Coming Soon Listings*, https://bayeast.org/active-coming-soon-listings/.

harms of unnecessary price cuts or days on the market being added by the MLS to the listing. Phased marketing also offers the chance to sell a house without the inconvenience and loss of choice that comes with listing it for sale through the MLS. In sum, phased marketing is good for some homeowners, good for agents seeking to represent those homeowners, and good for Compass. It does, however, threaten incumbents (that comprise and control Bay East) by forcing them to compete with Compass for homeowner clients, and to compete with Compass for agents who want a brokerage with innovative marketing strategies and choices they can offer to their clients.

19. The Anticompetitive Rules unreasonably restrain trade in two ways. Bay East's agent members, including a majority of its Board members, compete directly with one another and with Compass' agents for homeowners, and the Anticompetitive Rules block competition from brokers and agents who want to offer innovative, pro-competitive, and pro-consumer public marketing options. As the FTC reported, "[o]n its face, requiring that MLS members submit all of their listings of a designated type restricts the competitive freedom of the broker-members. Alternative methods of selling houses are effectively foreclosed."[21] Moreover, Bay East is blocking competition between competing brokerages (the firms with which agents affiliate) to attract agents with innovative marketing strategies to win more clients.

20. A long history of antitrust enforcement shows why the Anticompetitive Rules violate the law. As recognized by the FTC, to comply with the antitrust laws, an MLS must give real estate brokers, agents, and homeowners true alternatives to the MLS—alternatives that existed for over 50 years.[22] For example, the "Fourteen Points" antitrust policy adopted in 1971 by the National Association of REALTORS® ("NAR"), which governs Bay East as a REALTOR® association,[23] expressly provides that an "***MLS shall not: Make any rule regulating the advertising or promotion of any listing***,"[24] and preserves an alternative to the MLS, which it calls an "office

[21] *Butters Report* at 130.

[22] *Id.* at 129–30.

[23] Bay East Rules § 1, at 7; *id.* § 18, at 55 (changes "mandated by the National Association of REALTORS®" are incorporated automatically, without committee or Board approval).

[24] *Butters Report* at 134 n.354 (emphasis added).

exclusive."[25] On information and belief, before May 2020, Bay East's rules allowed a seller to keep a listing out of the MLS without any restriction on how the listing was publicly marketed. But today, Bay East requires every seller who chooses to keep a listing out of the MLS to sign a Bay East waiver form warning that private listing networks "generally offer less exposure" and that excluding the property from the MLS may lower the number of offers and adversely affect the sales price.[26]

21. The FTC found that the Fourteen Points antitrust policy "may have ameliorated any competitive injury which would otherwise have resulted from 'mandatory' submissions of listings [like Bay East Rule 7.5]. Where 'office exclusives' are allowed, that is, where the seller can specify that his or her listing not be placed on the MLS, the broker and seller appear to be free to contract as they see fit."[27] The Anticompetitive Rules violate the Fourteen Points antitrust policy and cause the exact competitive injury about which the FTC warned. The DOJ commented on a policy similar to Bay East Rule 7.5.1 that the "[p]olicy restrict[ed] home-seller choices and preclude[d] competition from new listing services."[28] The DOJ's comment echoed the FTC's 1983 conclusion that "[o]n its face, requiring that MLS members submit all of their listings of a designated type restricts the competitive freedom of the broker-members. Alternative methods of selling houses are effectively foreclosed."[29]

22. In short, under federal and state law, brokers and agents are entitled to offer, and consumers are entitled to choose from, more than the limited options that the actions of Bay East's combination of competitors have forced upon the industry. But Bay East blocks that choice and the competition that choice would bring.

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[25] *Id.* ("MLS shall not: Prohibit or discourage a member from accepting a listing from a seller (owner) preferring to give [an] 'office exclusive.'").

[26] Bay East Ass'n of REALTORS®, *Seller's Instruction to Exclude Listing from the MLS* ¶¶ 2–3 (rev. Jan. 2025) ("Bay East Waiver Form").

[27] *Butters Report* at 130.

[28] *Nat'l Ass'n of Realtors v. United States*, 97 F.4th 951, 954 (D.C. Cir. 2024) (discussing DOJ investigations).

[29] *Butters Report* at 130.

23. Bay East and its co-conspirators have harmed brokers and agents including Compass, its agents, and homeowners. Compass is blocked from winning clients, from attracting agents, and from receiving the commissions and other benefits that would come from its competition through innovative marketing strategies. Homeowners are hurt because they (1) cannot sell their own properties however they legally want, including in ways that test the market, and manage the sales process; (2) cannot benefit from marketing strategies that, on average, provide them with a 4.6% higher sale price, 34% fewer days on the MLS, and 29% fewer price cuts; and (3) cannot benefit from the fiduciary duty agents owe to their clients of "utmost care, integrity, honesty, and loyalty."[30]

24. Bay East has no valid justifications for its illegal conduct. Any claim Bay East makes is undermined by recent history: on information and belief, until May 2020, Bay East allowed agents and their clients to market listings excluded from the MLS without fines, the Bay East MLS succeeded, and homes were legally sold throughout the East Bay. Moreover, MLSs across the country allow homeowners to publicly market their properties however they want, and those MLSs still exist and succeed, and homes are still sold legally. Bay East's restraints on competition are not about transparency. Bay East does not allow homeowners or homebuyers to become MLS Participants or Subscribers or to directly search its database; its consumer "Find A Home" page simply refers visitors to Realtor.com.[31] Bay East accepts listings only from its broker Participants and Subscribers and does not accept listings directly from homeowners: a homeowner who wants a listing in the Bay East MLS must first hire a broker Participant under a written listing agreement.[32] And Bay East's own rules allow listings to be hidden—as office exclusives, in "Hold" status, or through a seller's instruction to withhold the listing from internet display—just as long as they are not publicly marketed outside of the Bay East MLS.[33] Its restraints also have nothing

[30] Cal. Civ. Code § 2079.16.

[31] Bay East Rules §§ 4.1, 4.1.1(a)–(b), at 7; *id.* §§ 4.2, 4.2.1(a)–(b), at 9; *id.* § 11.7, at 28; *id.* § 12.12, at 36; *id.* § 12.16(a), at 39; Bay East Ass'n of REALTORS®, *Find A Home*, https://bayeast.org/find-a-home/.

[32] Bay East Rules § 4.6, at 11; *id.* § 7.2, at 13; *id.* § 7.21, at 20; *id.* § 8.1, at 21.

[33] Bay East Rules § 7.6.1, at 16–17; *id.* § 10.1, at 24; *id.* § 12.16(b), at 39–40.

to do with "free-riding." The free-riding justification was rejected by a federal appellate court in nearly identical circumstances.[34] Compass also gets nothing for free. Compass agents pay Bay East dues and contribute their listings to Bay East. Even when homeowners publicly market their properties pre-MLS, most would still instruct Compass to give their listings to the MLS before they sell (over 93% of all Compass listings, including listings publicly marketed pre- and off-MLS, are sold after being submitted to the local MLS). On the other hand, Bay East makes listings available to third-party portals and other companies that do not contribute any listings: its rules authorize it to license its MLS compilation, including Compass' listings, to any entity on terms its Board approves and to syndicate listing data to third-party sites, and Bay East charges vendors an annual licensing fee for access to its IDX data.[35]

25. Compass hereby brings claims against Bay East for: (1) violating the Sherman Act, 15 U.S.C. § 1; and (2) violating the Cartwright Act, Cal. Bus. & Prof. Code § 16720 *et seq.*

PARTIES

26. Plaintiff Compass, Inc. is a Delaware corporation with its principal place of business in New York, New York. Compass is an innovative, national real estate technology company and brokerage that provides a proprietary, end-to-end cloud-based platform for agents and their clients. Under the brand names "@properties," "Ansley Real Estate," "Better Homes & Gardens Real Estate," "Century 21," "Christie's International Real Estate," "Coldwell Banker," "Compass," "Corcoran," "ERA," "Latter & Blum," "Sotheby's International Realty," and "Washington Fine Properties," Compass operates brokerages and licenses franchises throughout the United States, including California. Compass empowers thousands of agents with cutting-edge technology to better serve homebuyers and homeowners. Compass also has title & escrow and mortgage joint-venture operations across the United States, including California.

[34] *Realcomp II, Ltd.*, 635 F.3d at 835.

[35] Bay East Rules § 11.6, at 28; *id.* § 12.5.3, at 33; *id.* § 12.20, at 49; Bay East Ass'n of REALTORS®, *IDX Services*, https://bayeast.org/idxservices/ ("After approval as a Bay East IDX vendor, annual licensing fee is required.").

27. Plaintiff Compass California II, Inc. is a Delaware corporation that is licensed by the California Department of Real Estate as a corporate real estate broker and that operates as a real estate brokerage in California, including through branch offices in Oakland, Berkeley, Alameda, Fremont, Livermore, and Pleasanton, in Alameda County, and in Walnut Creek, Danville, Lafayette, and Hercules, in Contra Costa County. Its main office is located at 891 Beach Street, San Francisco, California.[36] Compass California II, Inc. is a wholly-owned indirect subsidiary of Compass, Inc.

28. Compass California II, Inc. ("Compass California II") is a Participant in the Bay East MLS, is the party to the listing agreements with Compass' homeowner clients in the East Bay, and is the entity against which Bay East enforces its rules.

29. Defendant Bay East Association of REALTORS® is a California nonprofit mutual benefit corporation with its principal place of business at 7021 Koll Center Parkway, Pleasanton, California 94566, in Alameda County.[37] Bay East operates the Bay East MLS itself, as a service of the association, rather than through a separate entity: its rules provide that the MLS is maintained by the association, subject to the association's bylaws and to rules adopted by the association's Board of Directors, and that every action of the committee that governs the MLS is subject to that Board's approval.[38] Bay East serves more than 5,500 REALTORS® and Affiliates, and under a regional cross-pollination agreement, the listing data of the Bay East MLS is displayed in, and Bay East displays the listing data of, eight other MLSs: MetroList®, the San Francisco Association of REALTORS® MLS, bridgeMLS, Contra Costa Association of REALTORS®, BAREIS MLS, MLSListings®, CLAW, and the California Regional Multiple Listing Service

[36] Cal. Dep't of Real Estate, *Public License Lookup*, License ID 01527235 (Compass California II, Inc.), https://www2.dre.ca.gov/PublicASP/pplinfo.asp?License_id=01527235.

[37] Bay East Ass'n of REALTORS®, *Data Access Agreement for Internet Data Exchange (IDX)*, at 11 (rev. May 2019); Press Release, *supra* note 12; Cal. Sec'y of State, Business Search, Entity No. 219358 (initial filing Aug. 7, 1947).

[38] Bay East Rules §§ 1, 3, at 7.

("CRMLS").[39] The majority of officers and directors on Bay East's Board are working brokers and agents at brokerages that compete with each other and with Compass and its agents.

30. Bay East is a contract, combination, or conspiracy of competing agents and brokers. Bay East's participating brokers and agents compete directly with one another and with Plaintiffs for homeowner clients, homebuyer clients, and agents. Those brokers and agents follow and enforce Bay East's rules, each Participant and Subscriber has signed a written agreement to abide by those rules, and Bay East is governed by a Board of Directors dominated by competing brokers and agents.[40]

31. Bay East Rule 7.7.1 defines the Bay East MLS service area as the California counties of Alameda, Contra Costa, Marin, Mendocino, Napa, Solano, Sonoma, Amador, El Dorado, Merced, Placer, Sacramento, San Joaquin, Stanislaus, Yolo, Monterey, San Benito, Santa Clara, Santa Cruz, San Mateo, Tuolumne, and San Francisco.[41] Bay East identifies Alameda, Contra Costa, and Tuolumne Counties as its primary counties.[42] And under Rule 7.7, where Bay East has entered into regional, data-share, or cross-pollination agreements that enlarge its service area, submission of listings is mandatory throughout the combined service areas of the participating MLSs.[43]

BAY EAST'S CO-CONSPIRATORS

32. Competing agents, including those enforcing Bay East's rules, members of Bay East's Board of Directors, members of Bay East's MLS & Business Technology Committee and/or Task Force(s), which propose Bay East's MLS rules and fine schedule, and members of Bay East's Professional Standards Committee, which hears disputed citations and rules violations, conspired with each other and with Bay East to design, approve, enforce, and implement the Anticompetitive Rules. Bay East's Board of Directors approves every action of the MLS & Business Technology Committee, approves the fine schedule, imposes discipline after hearings, and reviews the

[39] Bay East Rules § 6.1, at 13; Press Release, *supra* note 12.

[40] Bay East Rules § 4.1.1(d), at 7; *id.* § 4.2.1(c), at 9; *id.* § 4.11, at 11–12.

[41] Bay East Rules § 7.7.1, at 17.

[42] Bay East Ass'n of REALTORS®, *Bay East Data Share Coverage*, https://bayeast.org/datashare/.

[43] Bay East Rules § 7.7, at 17.

decisions of Professional Standards hearing panels.[44] Under Bay East's bylaws, a nine-member Nominating Committee of REALTOR® members, appointed by Bay East's President subject to the Board's approval, selects a single candidate for each open officer and director seat; additional candidates may be nominated only by a petition signed by at least ten percent of Bay East's REALTOR® members; and if no seat is contested, the Board may declare the Nominating Committee's slate elected by acclamation.[45] Bay East describes its Board as having authority above all of its committees and work groups to carry out all duties within Bay East's management jurisdiction.[46] On information and belief, Bay East has encouraged other MLSs to adopt and maintain rules similar to the Anticompetitive Rules.

33. Bay East's co-conspirators also include the other MLSs with which Bay East shares its listing platform, its data, and its rules, including CCAR and bridgeMLS. Through the NorCal MLS Alliance, launched on January 20, 2021, Bay East, CCAR, bridgeMLS, and four other Northern California MLSs integrated their listing data so that a listing entered once on the shared platform is distributed to each participating MLS. The Alliance MLSs' rules committees also developed a set of "Common MLS Rules," including a uniform deadline for submitting listings to the MLS and a uniform deadline for submitting the form a seller must sign to keep a listing off the MLS. And under Bay East Rule 6.1, Bay East, CCAR, bridgeMLS, and other California MLSs, including MetroList®, the San Francisco Association of REALTORS® MLS, BAREIS MLS, MLSListings®, CLAW, and CRMLS, are parties to a regional "Cross Pollination Agreement," under which each organization's listing data is displayed in the MLS systems of all the others.[47]

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[44] Bay East Rules § 3, at 7; *id.* §§ 14.1, 14.3, at 52–53; *id.* § 18, at 55; *id.* app. A, at 56, 65.

[45] Bay East Ass'n of REALTORS®, *Bylaws* art. X, § 20(a)–(b), (f), at 26–27 (rev. May 28, 2025) ("Bay East Bylaws").

[46] Bay East Ass'n of REALTORS®, *CPP Article I, Section 6, BoD Job Description*, https://bayeast.org/wp-content/uploads/CPP-Article-I-Section-6-BoD-Job-Description.pdf.

[47] NorCal MLS Alliance, CCARToday, *supra* note 14 (Alliance launched January 20, 2021; members "input [their] listings into one database (Paragon) for automatic syndication to all four participating MLSs"); NorCal MLS Alliance, *Common MLS Rules* items 1–2 (n.d.), https://assets-ccartoday.s3.us-west-1.amazonaws.com/_pdfs/mls/norcal_alliance_common_rules.pdf (linked from Alliance page); Bay East Rules § 6.1, at 13.

Bay East, CCAR, and bridgeMLS also jointly set MLS policy through the MLS Management Group, made up of representatives of all three, which reviews, recommends, and implements MLS rules, tools, and system changes that apply across all three MLSs. Bay East's own bylaws confirm that the three East Bay MLSs operate together: they provide that the Bay East MLS is administered under rules adopted by the "MLS Management Group (MMG)," and that it is "operated under the supervision of the Bay East MLS / Contra Costa MLS / bridgeMLS combined Multiple Listing Service Group (MMG)," subject to the approval of Bay East's Board.[48]

34. bridgeMLS and CCAR require their participants to submit listings, and restrict public marketing, on terms materially identical to the Anticompetitive Rules.[49]

35. Bay East's co-conspirators performed acts and made statements in furtherance of Bay East's anticompetitive conduct. Bay East is jointly and severally liable for the acts of its co-conspirators, whether or not they are named as defendants in this complaint.

JURISDICTION, VENUE, AND DIVISIONAL ASSIGNMENT

36. **Jurisdiction.** This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 because Compass brings this action under Sections 4 and 16 of the Clayton Act, 15 U.S.C. §§ 15, 26, seeking injunctive relief, damages, treble damages, cost of suit, and reasonable attorneys' fees, arising from Bay East's and unnamed co-conspirators' violations of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

37. This Court may grant declaratory relief under 28 U.S.C. §§ 2201 and 2202 and has supplemental jurisdiction over Compass' state-law claim under 28 U.S.C. § 1367(a) because that claim arises from the same nucleus of operative fact as the federal claims.

38. This Court has personal jurisdiction over Bay East because it is a California corporation whose headquarters and principal place of business are in Pleasanton, California, in this District, and Bay East conducts substantial business in this District.

[48] Bay East Bylaws art. XVII, §§ 1(a), 2, at 37.

[49] bridgeMLS, MLS Rules §§ 7.5–7.6.2, at 12–13 (eff. June 2026); Contra Costa Ass'n of REALTORS®, MLS Rules and Regulations §§ 7.5–7.6.2, at 14–15 (rev. July 2026).

39. **Venue.** Venue is appropriate in this District because Bay East's headquarters and principal place of business are in this District and because a substantial portion of the transactions and events giving rise to this action—the agreement among the competing brokerages and the actual and threatened enforcement of anticompetitive rules—occurred in this District. 28 U.S.C. § 1391(b)(1)–(2); 15 U.S.C. § 22.

40. **Divisional Assignment.** This action arises in Alameda County, where Bay East is headquartered and where a substantial part of the events or omissions giving rise to the claims occurred, including the adoption and enforcement of the Anticompetitive Rules. Under Civil Local Rule 3-2(c)–(d), this action is properly assigned to the San Francisco Division or the Oakland Division. Plaintiffs respectfully submit that the Oakland Division is appropriate.

TRADE AND COMMERCE

41. Bay East has entered into written agreements with each of its thousands of MLS Participants and Subscribers, each of whom must sign a written agreement to abide by Bay East's MLS rules. Those brokers and agents use the Bay East MLS to market and sell thousands of residential homes and condominiums each year, with total closings valued in the billions of dollars.[50] These transactions, together with the associated mortgage financing, out-of-state buyers and homeowners, and national title insurance, are in and have a substantial effect on interstate commerce, as used in 15 U.S.C. § 1.

RELEVANT MARKETS

42. **Relevant Product Markets.** There are at least three relevant product markets: (1) provision of real estate brokerage services to homeowners (the "Brokerage Services Market"); (2) provision of real estate brokerage services to agents who represent homeowners (the "Agent Services Market"); and (3) provision of multiple listing services to brokers and agents who represent homeowners (the "MLS Market") (collectively, the "Relevant Markets").

43. The Brokerage Services Market includes the services that brokerages and agents provide their homeowner clients. Those services include, among other things, advising on pricing and

[50] Bay East Rules § 4.1.1(d), at 7; *id.* § 4.2.1(c), at 9; *id.* § 4.11, at 11–12; Press Release, *supra* note 12.

marketing, conducting marketing activities, and negotiating with buyers. A hypothetical profit-maximizing firm, not prevented by regulation from increasing prices or worsening terms, that was the only present and future seller of brokerage services likely would undertake at least a small but significant and non-transitory increase in price or other worsening of terms. Compass and the brokerages and agents who participate in and control Bay East compete in the Brokerage Services Market.

44. The Agent Services Market consists of services that brokerages provide to agents. Those services include, among other things, sharing commissions with the agent, developing and maintaining a strong brand that appeals to consumers, investing in and providing technology agents can use in representing clients, and supporting agents in representing their clients, including by offering innovative and appealing ways to better serve their clients. A hypothetical profit-maximizing firm, not prevented by regulation from increasing prices or worsening terms, that was the only present and future seller of agent services likely would undertake at least a small but significant and non-transitory increase in price or other worsening of terms. Compass and the brokerages who participate in and control Bay East compete in the Agent Services Market.

45. The MLS Market consists of the services that MLSs provide to brokers and agents. Those services include a repository of property listings, distribution of listings to other agents, and syndication of those listings through data sharing feeds to other participants, including the other real estate brokers and agents in the area and the large public-facing aggregator websites such as third-party portals. A hypothetical profit-maximizing firm, not prevented by regulation from increasing prices or worsening terms, that was the only present and future seller of multiple listing services likely would undertake at least a small but significant and non-transitory increase in price or other worsening of terms. Bay East participates in the MLS Market.

46. **Relevant Geographic Market.** The relevant geographic market for each of the defined product markets is no larger than Alameda and Contra Costa Counties, the area served by Bay East, CCAR, and bridgeMLS, the three MLSs that share a single listing platform. A hypothetical profit-maximizing firm, not prevented by regulation from increasing prices or worsening terms, that was the only present and future seller of each of the relevant products in this geographic market

likely would undertake at least a small but significant and non-transitory increase in price or other worsening of terms.

47. Brokers and agents cannot avoid Bay East's rules by using a neighboring MLS or an MLS with a data sharing agreement with Bay East for several reasons:

a. Brokers and agents need to be members of the MLS that covers their region because being an "out-of-region" broker or agent makes it harder to attract clients and agents.

b. Bay East's rules extend mandatory submission across the combined service areas of the MLSs with which Bay East has regional, data-share, or cross-pollination agreements that enlarge its service area, and treat submission of a listing to a cross-pollination partner as satisfying—not excusing—Bay East's submission requirement.[51] The MLSs that share Bay East's listing platform, CCAR and bridgeMLS, enforce materially identical rules, and Bay East members who enter a listing in MetroList®'s service area agree to be bound by MetroList®'s rules.[52] A broker therefore cannot escape the Anticompetitive Rules by moving to a neighboring MLS.

c. Bay East's rules apply to all agents and listings affiliated with a broker "Participant." Each Participant must sign a written agreement to abide by Bay East's rules and must give Bay East a list of every licensee affiliated with the Participant's firm; whenever the rules refer to the "listing broker," the term includes the Participant's affiliated licensees without relieving the Participant of responsibility; the Participant pays MLS fees for every affiliated salesperson who uses the MLS; the Participant may be disciplined for violations committed by a salesperson or clerical user affiliated with it who is not itself a Participant or

[51] Bay East Rules § 7.7, at 17.

[52] Bay East Rules § 6.1, at 13; bridgeMLS, MLS Rules §§ 7.5–7.6.2, at 12–13 (eff. June 2026); Contra Costa Ass'n of REALTORS®, MLS Rules and Regulations §§ 7.5–7.6.2, at 14–15 (rev. July 2026).

> Subscriber, with lack of knowledge going only to mitigation; and the Participant receives notice of, and must attend any hearing on, its Subscribers' violations.[53] Thus, if one agent in a brokerage needs Bay East MLS access, then all agents in that brokerage are bound by Bay East's rules.

48. To serve their clients and compete in the East Bay, brokers and agents must have access to the Bay East MLS, or to one of the MLSs that share its listing platform and rules, and follow Bay East's rules or materially identical ones. Thus, in both the Brokerage Services Market and the Agent Services Market, the brokers and agents that combine to adopt, follow, and enforce Bay East's rules collectively have market power. In the MLS Market, Bay East—together with CCAR and bridgeMLS, with which it shares a single listing platform—has market power.

49. As the DOJ has alleged, "By virtue of industry-wide participation and control over a critically important input, the MLS (a joint venture of competing brokers) has market power in almost every relevant market."[54] And, as the DOJ and FTC reported, "[a]s the primary source of information about homes currently for sale and the prices at which other, comparable homes have been sold, the MLS is an extraordinarily important resource for sellers, buyers and brokers. . . . MLSs are so important to the operation of real estate markets that, as a practical matter, any broker who wishes to compete effectively in a market must participate in the local MLS."[55]

FACTUAL ALLEGATIONS

MLSs and the Antitrust Laws

50. An MLS aggregates listings submitted by participating agents into a common database and makes the resulting data available to MLS participants and subscribers. Bay East describes its MLS as "a means by which cooperation among Participants is enhanced" and "a facility for the orderly

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[53] Bay East Rules § 4.1.1(d), at 7; *id.* §§ 4.4, 4.6, at 10–11; *id.* § 5.1.2, at 12; *id.* § 14.1(c), at 52–53; *id.* app. A ¶¶ C–D, at 56.

[54] Am. Compl. ¶ 24, *United States v. Nat'l Ass'n of Realtors*, No. 05-C-5140 (N.D. Ill. Oct. 4, 2005), *reprinted in* 73 Fed. Reg. 47,613, 47,615 (Aug. 14, 2008).

[55] DOJ & FTC, Competition in the Real Estate Brokerage Industry 12 (Apr. 2007) ("2007 DOJ/FTC Report"), *available at* https://www.ftc.gov/sites/default/files/documents/reports/competition-real-estate-brokerage-industry-report-federal-trade-commission-and-u.s.department-justice/v050015.pdf.

correlation and dissemination of listing information among the Participants." In operating its MLS, Bay East:

a. collects listing information from its broker Participants and Subscribers, who license Bay East to include that information in Bay East's copyrighted MLS compilation, which Bay East may license to any entity on terms its Board of Directors approves;

b. accumulates and disseminates that information, including sold and comparable data, so that Participants can prepare appraisals and other valuations of real property; and

c. correlates and disseminates listing information among its Participants, and among the participants of the other MLSs with which it has cross-pollination agreements.

51. MLSs also make and enforce rules. Bay East staff issue citations for violations of Bay East Rule 7.5.1 under the fine schedule in Appendix A of Bay East's rules, and the Committee or Board may instead charge violations through a disciplinary hearing.[56] Bay East encourages competing agents to help enforce its rules. It also maintains a Compliance Department, with a dedicated email address and online contact form, to receive and process reports of violations, including violations of Rule 7.5.1.[57] Bay East also tells its members that "[s]uspected violations should be reported using the Correction button in the MLS or via email to MLSServices@bayeast.org."[58]

52. In addition to operating this members-only database, some MLSs sell agent and homeowner data to third parties, such as real estate web portals, data aggregators, lenders, insurers, and technology vendors, which monetize it in various ways, *e.g.*, selling leads for potential buyers to agents by displaying the data on websites with advertising alongside, and by creating tools to

[56] Bay East Rules § 14.3, at 53; *id.* app. A ¶ D, at 56; *id.* app. A § 7.5.1, at 57.

[57] Bay East Ass'n of REALTORS®, *Clear Cooperation Policy Citations – Effective Oct. 1* (Aug. 31, 2020), https://bayeast.org/?p=70830 (directing questions to "the Compliance Dept. at 925.730.4060 or bayeastcompliancedept@bayeast.org"); Bay East Ass'n of REALTORS®, *MLS Rules & Forms*, https://bayeast.org/rules-forms/ ("Contact Compliance Dept" form); Bay East Rules app. A ¶ B, at 56.

[58] Bay East Ass'n of REALTORS®, *Coming Soon Status Syndication Update – Effective March 30* (Mar. 23, 2026), https://bayeast.org/?p=219319.

recruit agents from brokerages. For example, CRMLS—one of Bay East's cross-pollination partners—co-founded REdistribute, which sells MLS data to lenders, insurers, and other institutional buyers and returns most of the revenue to the participating MLSs, and other MLSs charge vendors monthly fees for each data feed they license.[59] Bay East also charges vendors an annual licensing fee, after Bay East approves them, for access to its IDX data. Bay East's rules expressly authorize it to license the MLS compilation, or any portion of it, to any entity on terms approved by its Board of Directors, and to syndicate listing data to third-party sites through an approved API feed. They also require Bay East to provide every Participant, and any vendor the Participant designates, "all real property listing and roster information in the MLS database, including all listings of all Participants," for uses that include "[a]gent and brokerage productivity and ranking tools," with "no option for Participants to opt out their listings," and they permit Bay East to "impose reasonable licensing provisions and fees" for that access.[60]

53. Brokerages that have adopted the traditional, mutually aligned business model of real estate sales rely passively on one another to provide their listings to each other via the MLS. MLSs that are composed of or governed by brokerages and agents with traditional business models have a strong financial incentive to impair the business models of innovators and mavericks who seek to offer marketing options to homeowners that eschew immediate and automatic sharing of their listings on the MLS regardless of the circumstances or preferences of the homeowner. Such MLSs, and the traditional brokerages and agents that control them, try to prevent their members from publicly marketing properties off-MLS, because publicly marketing off-MLS presents a competitive challenge to the traditional brokerages.

54. MLSs are private companies. Unlike agents, MLSs do not owe fiduciary duties to anyone, let alone consumers. They are not government entities or law enforcement agencies, even though they pretend to have similar powers when interacting with agents. MLSs are not inherently pro-

[59] *See REdistribute*, CRMLS, https://go.crmls.org/redistribute/.

[60] Bay East Rules § 11.6, at 28; *id.* § 11.15, at 30–31; *id.* § 12.5.3, at 33; *id.* § 12.11, at 36; *id.* § 12.20, at 49; Bay East Ass'n of REALTORS®, *IDX Services*, https://bayeast.org/idxservices/ ("After approval as a Bay East IDX vendor, annual licensing fee is required.").

consumer, pro-competitive institutions; they are organizations of competing agents that make rules governing competition among them. MLSs enforce those rules by fining and punishing their own customers.

55. As such, MLSs and their rules have long been regarded warily by courts and antitrust enforcers. When competitors "join together to cooperate in the conduct of their business, there naturally arise antitrust suspicions."[61] As the FTC wrote, control over the MLSs gives "Realtor groups the single most powerful tool available for shaping brokerage practice."[62] That control has been used in the past to do things like fix commission rates, discriminate against discounters, discriminate against internet brokerages, and discriminate against minorities.

56. In the 1940s, the DOJ brought civil and criminal charges against MLSs that fixed commission rates.[63] Since then, there have been over 100 antitrust investigations and lawsuits challenging mandatory rules imposed by MLSs—many of which challenged rules controlling the public marketing of homes. For example, in a case brought by the FTC against an MLS, a federal court held that a policy limiting the public distribution and display of listings based on the nature of the listing contract "unreasonably restrained competition."[64] Another federal court ordered that an MLS "shall not adopt, maintain, or enforce any Rule . . . that directly or indirectly . . . prohibits, restricts, or impedes any truthful advertising or marketing activities of any home seller or discriminates against or disadvantages any Member or Licensee for any truthful advertising or marketing activity in which any home seller is engaged."[65]

57. Recognizing the pro-competitive benefits of pre-MLS marketing strategies is consistent with the federal antitrust agencies' long-standing views of the real estate markets. "[T]he Agencies have challenged . . . as antitrust violations, MLS rules that unreasonably restrict competition by

[61] *Realty Multi-List*, 629 F.2d at 1370.
[62] *Butters Report* at 92–93.
[63] *See Nat'l Ass'n of Real Est. Bds.*, 339 U.S. at 487.
[64] *Realcomp II, Ltd.*, 635 F.3d at 819.
[65] *Consol. Multiple Listing Serv., Inc.*, 2009 WL 3150388, at *2.

brokers who use alternative business models."[66] For example, the DOJ and FTC have brought cases ensuring that discount brokers and fee-for-service brokers were not denied MLS access.[67]

58. This history is long-standing and specific. On behalf of all its affiliated MLSs, NAR addressed this antitrust problem in 1971. As the FTC explained:

> By the late 1960's and early 1970's, MLSs had been named in a number of private antitrust actions and Justice Department investigations. Justice Department investigations culminated in 15 consent orders banning price fixing and other alleged anti-competitive activities. In response to these legal problems, the National Association of Realtors developed and enforced a list of policy points.[68]

59. NAR's November 15, 1971, statement, setting out and mandating these policies on the Realtor MLSs, is referred to in the industry as the "Fourteen Points" antitrust policy. Point 11 of the policy specifically addressed the antitrust problem caused by mandatory submission rules by guaranteeing an alternative method of selling residential properties to the MLS: the "office exclusive."[69] Specifically, the antitrust policy expressly provided that "***MLS shall not: Prohibit or discourage a member from accepting a listing from a seller (owner) preferring to give [an] 'office exclusive.'***"[70] Point 10 provided that "***MLS shall not: Make any rule regulating the advertising or promotion of any listing.***"[71] The FTC found that the Fourteen Points antitrust policy "may have ameliorated any competitive injury which would otherwise have resulted from 'mandatory' submissions of listings. Where 'office exclusives' are allowed, that is, where the seller can specify that his or her listing not be placed on the MLS, the broker and seller appear to be free

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[66] 2007 DOJ/FTC Report at 63; *see also Realty Multi-List*, 629 F.2d 1351; *Realcomp II*, 635 F.3d 815.

[67] 2007 DOJ/FTC Report at 64 (describing and citing cases).

[68] *Butters Report* at 109.

[69] *Id.* at 130.

[70] *Id.* at 134 n.354 (emphasis added).

[71] *Id.* (emphasis added).

to contract as they see fit."[72] The term "office exclusive" just meant the listing was not provided to the MLS, and, on information and belief, until May 2020, a Bay East homeowner who excluded her listing from the MLS could market the home however she wanted. Bay East's mandatory submission rules cannot possibly comply with the antitrust laws because agents and homeowners have no freedom to avoid Bay East's restrictions or market their homes how they choose under the Anticompetitive Rules.

The Anticompetitive Rules

60. Bay East's MLS rules are proposed by its MLS & Business Technology Committee and/or Task Force(s), adopted through the MLS Management Group that Bay East shares with CCAR and bridgeMLS, and approved by Bay East's Board of Directors, a majority of whose officers and directors are working brokers and agents at brokerages that compete with Compass. Under Bay East's bylaws, the Board consists of four officers, fifteen REALTOR® directors—each of whom must hold an active California real estate or appraisal license—and one Platinum Affiliate director. Amendments require a two-thirds vote of all members of the Committee, subject to Board approval, and changes mandated by NAR are incorporated automatically.[73] The Committee, subject to Board approval, sets the fine schedule and directs Bay East staff to issue citations. Disputed citations are reviewed by panels of Bay East's Professional Standards Committee, and decisions after a full hearing are subject to review by the Board.[74] Committee chairs are appointed by Bay East's President, committee members are appointed annually by each committee's chair and vice-chairs subject to the Board's approval, and Bay East's President is an ex officio member of every committee except the Nominating Committee.[75]

61. Rule 7.5 requires Broker Participants to input each exclusive right-to-sell or seller-reserved listing of one-to-four-unit residential property or vacant lots in Bay East's MLS service area within

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[72] *Id.* at 130.

[73] Bay East Rules §§ 1, 3, at 7; *id.* § 18, at 55; Bay East Bylaws art. X, §§ 2–3, at 22; *id.* art. XVII, §§ 1(a), 2, at 37.

[74] Bay East Rules § 14.3, at 53; *id.* app. A, at 56.

[75] Bay East Bylaws art. X, § 15, at 26; *id.* art. XII, § 1, at 32; Bay East Ass'n of REALTORS®, *Leadership Opportunities*, https://bayeast.org/leadership-information/.

one business day of marketing or advertising the property to the public, or within two days after all necessary seller signatures are obtained or the listing's start date, whichever is later.[76] Rule 7.5 defines public marketing as follows: "Public marketing or advertising includes, but is not limited to, conveying or displaying any information about the property or its availability for sale through or on any: windows, signs, public-facing websites, social media, brokerage or franchise-operated websites (including IDX and VOW), digital communications marketing (ex: email, text or phone blasts, social media messaging), multi-brokerage or franchise listing sharing networks, flyers or written material or on any applications available to the public or through conducting an open house." Rule 7.5.1 provides: "Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS Participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public-facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public. The public would include anyone outside the Broker(s) and agent(s) licensed within a single brokerage and their clients."[77] The effect of these rules is to prevent homeowners and their agents from publicly marketing homes for sale unless those homes are listed in the MLS.

62. If a Bay East Participant or Subscriber violates Bay East's rules, Bay East can punish the real estate agent and/or brokerage by levying fines or blocking their access to the listings database.[78] Pursuant to Appendix A of Bay East's rules, titled "Citable Infractions," a listing publicly advertised and not submitted to the MLS within one business day as a Coming Soon or Active listing draws a courtesy call for the first violation, a $500 fine for the second, a $1,000 fine and a mandatory MLS class for the third, a $1,500 fine and a mandatory MLS class for the fourth, and referral to Professional Standards for the fifth.[79] Violations are tracked per rule on a rolling

[76] Bay East Rules § 7.5, at 16.
[77] Bay East Rules §§ 7.5–7.5.1, at 16.
[78] Bay East Rules §§ 14.1–14.3, at 52–53; *id.* § 17.1, at 54.
[79] Bay East Rules app. A § 7.5.1, at 57.

two-year basis, and a violation not corrected within two days of notice generates a new violation at the next level.[80] Bay East staff impose the fine by citation, without a hearing; to contest it, the agent must first pay the fine in full; requests based solely on lack of intent or prompt correction do not qualify for review; a reconsideration panel cannot increase or decrease the amount unless it dismisses the citation entirely; and a fine not paid or disputed within 30 days results in suspension of MLS service on 24 hours' notice.[81] Bay East thus punishes public marketing more harshly than nearly every other rule violation. Bay East polices its rules, as do Bay East's members.

63. Bay East cannot attribute these rules to NAR. Bay East chose its own enforcement terms. NAR's guidance states that "[c]ompliance is up to local determination," and Bay East's MLS & Business Technology Committee and Board—not NAR—set Bay East's fine schedule, its mandatory classes, and its deadlines.[82]

See It First™ on Compass

64. A homeowner may decide to submit a property listing immediately to the MLS for distribution. Alternatively, a homeowner may decide to engage in one or more public marketing strategies that precede distribution through the MLS. These pre- and off-MLS strategies may take a number of different forms. Historically, "office exclusives" were a practice of publicly marketing a property off the MLS. Another alternative is a "Coming Soon" listing, where a listing is available to other participants in the MLS and may be posted to an agent's website or to other selected websites.

65. Compass is an innovative, technology-forward real estate brokerage. From its founding in 2012, Compass has invested in and developed pre- and off-MLS marketing strategies. These marketing strategies allow homeowners to choose effective options to meet their goals. Today, Compass refers to these strategies under its "See It First™ on Compass" umbrella; a prior version

[80] Bay East Rules app. A ¶¶ A, C, at 56.

[81] Bay East Rules § 17.2, at 54–55; *id.* app. A, at 64–65.

[82] Nat'l Ass'n of REALTORS®, *MLS Clear Cooperation Policy* (FAQ: "How can an MLS address compliance?"), https://www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy; Bay East Rules § 14.3, at 53; *id.* § 18, at 55; *id.* app. A, at 56; Bay East Bylaws art. XVII, §§ 1(a), 2–3, at 37.

was called Compass' 3-Phased Marketing Strategy. Compass agents offer See It First™ on Compass to clients everywhere it is permitted, although Bay East impedes that competition to protect its members, who are Compass' competition.

66. Compass agents always discuss the advantages and disadvantages of immediate MLS distribution and phased marketing with the homeowner. The homeowner decides what to do. When working with a Compass agent, a homeowner who opts to use See It First™ on Compass as a strategy signs disclosures[83] acknowledging that the listing will not initially appear in the active MLS feed.

67. In the first phase of See It First™ on Compass, agents do not list the property on the MLS but publicly market listings in every off-MLS way allowed by local MLS rules, including informing viewers on Compass' website that (unspecified) off-MLS listings exist in the area in which the user is searching. A prospective buyer need not hire a Compass agent, or any agent, to learn about or obtain access to these listings. A buyer may contact a Compass office directly, ask a non-Compass agent to contact Compass, or register on their own without charge. Agents at other brokerages also can view these listings on request.

68. In the second phase of See It First™ on Compass, the listing moves to a "Coming Soon" status. If the homeowner instructs the agent to do so, Compass advertises "Coming Soon" listings on its own website and also distributes them to Redfin.com, a third-party real estate site, which combined have over 50 million monthly active users. Coming Soon status signals to prospective buyers that the property will soon become active on the MLS and allows the homeowner to gather valuable feedback about the property before that point.

69. Finally, after these first two phases, the property moves to the third phase and goes active on the MLS and is sent by the MLS to tens of thousands of internet websites and data vendors. The homeowner and agent benefit from the pre-MLS phases because they will have provided insight on pricing, staging, and marketing strategy. Some listings sell before reaching broad MLS distribution, but more than 93% continue to the third phase, listing on the MLS.

[83] These disclosures are available at https://www.compass-homeowners.com.

70. The listing is the homeowner's advertisement for the home. Like any seller of property, the homeowner is entitled to say whatever she wants in the listing to sell the home so long as the listing complies with the law. And, just like a seller of anything, a homeowner should not be forced to put things into their advertisement that hurt the homeowner unless required by the law. A homeowner should not be forced to tell a buyer all the ways that the buyer can negotiate against the homeowner. But the MLS forces the homeowner's advertisement—the listing—to contain things that are not required by the law and that no reasonable homeowner would want in their listing, including days on market and history of price changes.

71. The phased marketing strategy has several advantages for homeowners.

a. ***First,*** because MLSs put the history of price changes onto the listing, and price cuts are perceived by buyers as signaling desperation, homeowners often forgo asking a higher price at the outset to avoid the risk of having to cut the price and reduce their bargaining leverage relative to buyers. This can prevent homeowners from obtaining the full value of their properties. By testing an aspirational price in a pre-MLS phase, homeowners may obtain a higher price with less risk of a price cut later. A pre-MLS listing also avoids third-party aggregators applying their own flawed pricing algorithms to public listings, which could reduce the amount potential buyers might offer for the property.

b. ***Second***, because off-MLS pre-marketing reduces the risk to homeowners of attempting to market their property before making costly upgrades, renovations, cosmetic improvements, professional photographs, or other investments, off-MLS pre-marketing can save the homeowner the costs of making such investments.

c. ***Third,*** MLSs publish the number of days a listing has been on the MLS, and a higher number is likewise perceived by buyers as increasing their bargaining leverage relative to sellers. Pre-MLS marketing allows homeowners to test the market, build buyer interest, and refine their strategy without incurring days on the market.

d. ***Fourth,*** pre- and off-MLS marketing offer the chance to sell a house without the inconvenience that comes with publicly listing it for sale and offer the chance to assess whether expensive renovations are necessary to make the house more attractive to the broader market. Indeed, a homeowner may not yet be fully convinced that they want to sell the property or may want to avoid disruptive showings.

72. See It First™ on Compass offers homeowners the ability to market a property prior to full preparation, which may allow homeowners to reduce or avoid the costs, time, and risks associated with pre-sale improvements, while retaining the option to accept or decline early offers. Indeed, reported transactions are consistent with these benefits. For example, a homeowner experiencing a time of distress needed to sell her property quickly and was able to secure a buyer within a short period, without dimensions or even pictures through pre-marketing. Compass agents appreciate the ability to offer innovative strategies that help homeowners achieve their goals. At least nine agents in Northern California who recently joined Compass cited its inventory strategy and phased marketing as reasons for doing so.

73. This phased marketing strategy is good for homeowners, good for agents seeking to represent homeowners, and good for Compass. Compared with listings sent directly to an active MLS feed, properties marketed through Compass' phased marketing strategy sold for 4.6% more, had 34% fewer days on the MLS, and experienced 29% fewer price cuts. The phased marketing strategy does, however, threaten incumbent brokerages by forcing them to compete against Compass for homeowner clients and for agents who want to offer such innovative marketing strategies to their homeowner clients.

74. Homeowner demand for phased marketing has been substantial in the many areas of the country where MLSs allow Compass to offer it. By March 2025, approximately 48% of Compass homeowners selected phased marketing. After March 2025, the percentage of phased marketing listings fell due to Zillow's adoption of "Listing Access Standards" banning pre-marketed listings from Zillow and affiliated sites. The Listing Access Standards are similar to the Anticompetitive Rules in that they deny access to a public marketing platform, in that case Zillow's, based solely

on the homeowner's decision to first market a property by other means. In a recent federal antitrust case, Zillow argued that its Listing Access Standards promoted competition by reducing pre-MLS marketing, but the court held both that Zillow failed to prove its claims and that the "record . . . identifie[d] plausible procompetitive effects from" strategies such as Compass' phased marketing strategy.[84]

75. Recognizing the benefits of pre- and off-MLS marketing for many homeowners, many MLSs do not penalize agents and homeowners for such marketing. MLSs serving more than 350,000 brokers and agents in at least 12 states allow homeowners to publicly market their properties, and those MLSs continue to succeed.

Anticompetitive Effects

76. The Anticompetitive Rules restrain trade in several ways.

77. ***First***, because Bay East's participating brokers and agents (including a majority of its Board members) compete directly with one another and with Compass and its agents for homeowners and homebuyers, implementation and enforcement of the Anticompetitive Rules block competition from agents who want to offer innovative, pro-competitive, and pro-consumer public marketing options. As the FTC reported, "On its face, requiring that MLS members submit all of their listings of a designated type restricts the competitive freedom of the broker-members. Alternative methods of selling houses are effectively foreclosed."[85]

78. ***Second***, Bay East is blocking competition by other public marketing methods, identified by Bay East Rule 7.5 as windows, signs, public-facing websites, social media, brokerage and franchise websites, email, text, and phone blasts, multi-brokerage listing-sharing networks, flyers and written material, public applications, and open houses, and most significantly the Compass website itself.

[84] *Zillow Grp., Inc. v. Midwest Real Est. Data LLC*, No. 1:26-cv-5451, 2026 WL 2720641, at *22 (N.D. Ill. Sept. 15, 2026), ECF No. 141.

[85] *Butters Report* at 130.

79. ***Third***, the Anticompetitive Rules also reduce competition among brokers, including Compass, by preventing them from competing through the timing, sequence, and scope of a listing's distribution.

80. ***Fourth***, the Anticompetitive Rules further reduce competition among brokers, including Compass, by preventing them from competing to attract agents by offering them innovative, appealing ways to serve their homeowner clients.

Bay East's Justifications Are Pretextual

81. Bay East has no valid justification for its illegal conduct. On information and belief, Bay East operated without such rules before May 2020, and many MLSs across the country allow homeowners to publicly market their properties however they want, and those MLSs still exist and succeed. These rules are not required for operating a successful MLS. These are not rules that ensure the integrity of the data distributed by Bay East or prohibit its members from selectively editing or excluding the Bay East MLS listings they show their buyer clients. The Anticompetitive Rules govern marketing itself and require brokers and their clients to forgo profitable strategies on pain of being fined by or excluded from the MLS.

82. Bay East's restraints on competition are not about transparency. Bay East does not allow homeowners or homebuyers to become MLS Participants or Subscribers or to directly search its database; its consumer "Find A Home" page simply refers visitors to Realtor.com. Bay East accepts listings only from its broker Participants and Subscribers and does not accept listings directly from homeowners: a homeowner who wants a listing in the Bay East MLS must first hire a broker Participant under a written listing agreement. And Bay East's own rules allow listings to be hidden, just as long as they are not publicly marketed.[86] Nor are Bay East's restraints about equal access for buyers; any buyer, and any buyer's agent, can learn about, tour, and make an offer on a property marketed through See It First™ on Compass without hiring a Compass agent. Indeed,

[86] Bay East Rules §§ 4.1, 4.1.1(a)–(b), at 7; *id.* §§ 4.2, 4.2.1(a)–(b), at 9; *id.* § 4.6, at 11; *id.* § 7.2, at 13; *id.* § 7.6.1, at 16–17; *id.* § 7.21, at 20; *id.* § 8.1, at 21; *id.* § 10.1, at 24; *id.* § 11.7, at 28; *id.* § 12.12, at 36; *id.* § 12.16(a)–(b), at 39–40; Bay East Ass'n of REALTORS®, *Find A Home*, https://bayeast.org/find-a-home/.

without See It First™ on Compass as an option, some homeowners would not choose to sell their property, ultimately reducing the inventory of homes on the market.

83. Bay East tells its members that NAR adopted the Clear Cooperation Policy, which Rule 7.5.1 implements, in response to concerns about "pocket listings" and other tactics to keep properties off the MLS to the disadvantage of homebuyers and sellers.[87] But Bay East's own rules and forms show that its line has nothing to do with exposure. Rule 7.5 treats holding an open house as public marketing that triggers the one-business-day submission deadline, yet Bay East's seller waiver form tells sellers that putting the property on broker tour or holding an open house is not public marketing.[88]

84. Bay East's restraints also have nothing to do with "free-riding." Other MLSs—including three of Bay East's cross-pollination partners, CRMLS, bridgeMLS, and MLSListings®, in declaratory-judgment actions filed against Compass in October 2026—have accused Compass of seeking to "free ride" on the MLS by participating when it chooses but otherwise withholding listings from the MLS.[89] That is nonsense. In the first place, Compass does not seek special treatment. If Compass has its way, ***every*** member of Bay East will be free to offer pre- and off-MLS marketing strategies to their clients.

85. Compass does not benefit from the contributions of other brokerages to the MLS without contributing to the benefits that other brokerages can obtain from the MLS. Compass contributes substantially to the benefits obtained by other brokerages and would continue to do so under the See It First™ on Compass program. Compass agents provide value to Bay East and its members in critical ways, including by paying dues, exposing its buyer clients to listings submitted by other members, and submitting listings to the Bay East MLS for the benefit of all buyer agents in the

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[87] Bay East Ass'n of REALTORS®, *MLS Clear Cooperation Policy*, https://bayeast.org/mls-clear-cooperation-policy/ ("In November 2019, the NAR Board of Directors adopted the Clear Cooperation Policy in response to concerns about the use of pocket listings, and other tactics to keep properties off the MLS to the disadvantage of homebuyers and sellers.").

[88] Bay East Rules § 7.5, at 16; Bay East Waiver Form, *supra* note 26, ¶ 5.

[89] *See* Compl. ¶¶ 1, 6, 10, 38, 41, *Cal. Reg'l Multiple Listing Serv., Inc. v. Compass, Inc.*, No. 1:26-cv-08796-MKV (S.D.N.Y. Oct. 5, 2026), ECF No. 1; Am. Compl. ¶¶ 4–5, 55–56, 80, 84, *Ariz. Reg'l Multiple Listing Serv.*, No. 1:26-cv-09253-MKV, ECF No. 28.

East Bay after the first two phases of the phased marketing strategy, which would happen for over 93% of all pre-marketed listings based on experience elsewhere.

86. Bay East's mandatory waiver form also tells homeowners what is best for them, warning that private listing networks generally offer less exposure and that keeping a property out of the MLS may lower the number of offers and adversely impact the sales price.[90] These are little more than paternalistic judgments about what is best for homeowners and their agents. Competition requires innovation, and consumers will ultimately decide what innovations are worthwhile.

87. Bay East's purported alternatives do not cure the restraint. Bay East Rule 7.6.1, which Bay East calls the "office exclusive," requires the listing broker to submit, within one business day after the seller signs the listing agreement (or the listing's start date, if later), a seller-signed certification that the listing broker will do no public marketing or advertising at all—no yard sign, no website, no social media post, and no open house—and that the seller refuses MLS dissemination; any public marketing triggers mandatory submission within one business day.[91] Bay East's seller waiver form offers only two choices—do not submit the listing until a stated date, or do not submit it during the entire listing period—and under either choice the property cannot be marketed to the public until it is listed on the MLS.[92] Bay East's "Coming Soon" status is no alternative either: it requires entry into the MLS and visibility to every participant, permits showings only if every subscriber may show, bars the MLS open-house and tour modules, cannot be resumed once the listing goes active, and is automatically cancelled after thirty days.[93] And although NAR now permits MLSs to offer sellers a delayed-marketing option, Bay East has not adopted one; even after Bay East amended its rules in March 2026 to let sellers choose whether a Coming Soon listing is syndicated to public websites, a seller who wants to delay broad exposure

[90] Bay East Waiver Form, *supra* note 26, ¶¶ 2–3.

[91] Bay East Rules § 7.6.1, at 16–17. The DOJ views mandatory-listing policies, coupled with "exceptions benefitting primarily large brokerages," as anticompetitive. Supplemental Statement of Interest of the United States, *Nosalek v. MLS Prop. Info. Network, Inc.*, No. 1:20-cv-12244-PBS, ECF No. 358, at 7 n.2 (D. Mass. Mar. 17, 2025). Rule 7.6.1 is precisely the sort of "exception" that makes the Anticompetitive Rules anticompetitive.

[92] Bay East Waiver Form, *supra* note 26, ¶ 5.

[93] Bay East Rules § 9.1.1, at 23; *id.* § 10.1, at 24; *id.* § 10.1.1 & FYI ¶¶ 3–5, 9, 12, at 25.

must still disclose the listing to every MLS participant, and the listing expires after thirty days.[94] And Bay East's exemption for "open listings" requires the homeowner and the agent to give up the exclusive representation that most homeowners want and that standard California listing forms provide.[95]

Antitrust Injury to Compass, Its Agents, and Homeowners

88. Bay East's conduct causes significant, direct harm to Compass, its agents, and consumers. The harm resulting from this anticompetitive scheme encompasses the following:

a. *Lost Commissions and Financial Harm to Brokerage*: Compass has suffered direct financial harm through lost commissions due to Compass' inability to offer homeowners its phased marketing strategy, a superior product that attracts homeowners to Compass. Compass has also suffered direct financial harm through lost revenue from those homeowners through ancillary services, such as title and escrow services and mortgage services.

b. *Degradation of Compass Website*: The enforcement of the Anticompetitive Rules degrades Compass' proprietary technology platform by preventing Compass from posting pre-MLS listings in See It First™ on Compass, artificially suppressing web traffic and prospective leads.

c. *Depressed Sales Prices and Lost Sales*: By eliminating Compass' ability to pre-market and test pricing, Bay East's rules force homeowners to launch blind on the MLS, frequently resulting in mispricing that depresses final home values, in lost sales, and in reduced commissions.

d. *Excessive Days on Market and Public Price Drops*: Forcing properties onto the MLS prematurely subjects them to the stigma of accumulating "days on market"

[94] *See* Nat'l Ass'n of REALTORS®, *MLS Clear Cooperation Policy*, https://www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy; Bay East Rules §§ 7.6–7.6.1, at 16–17; Bay East Ass'n of REALTORS®, *Coming Soon Status Syndication Update – Effective March 30* (Mar. 23, 2026), https://bayeast.org/?p=219319; Bay East Rules § 10.1.1 & FYI ¶¶ 3, 12, at 25.

[95] Bay East Rules § 7.5, at 16.

and price reductions on the listing, which depress sale prices and related sales commissions.

e. *Lost Agents*: Compass is unable to compete for agents by offering them a phased marketing strategy that they can offer their clients. Moreover, on information and belief, Bay East currently supplies Compass agent listing and agent transaction data to third-party software vendors, which package those data into products that brokerages buy and use to target and recruit Compass agents. The data that Bay East forces Compass and its agents to give to the MLS should not be sold to a technology company that in turn further sells that data with its agent recruitment technology. An MLS powering competitor recruitment tools strays far beyond the core mission of an MLS—it weaponizes Compass' operational data against Compass for competitor poaching.

f. *Loss of Convenience and Harm to Innovation*: Homeowners are stripped of convenience surrounding their home sale, and consumers suffer from the commoditization of agent services and a reduction in pro-competitive choice.

89. Compass and its agents and homeowners have thus suffered antitrust injury as a result of the rules imposed by Bay East and the agents and brokerages who control it. Bay East's rules are anticompetitive because they foreclose homeowners and their agents from choosing a marketing strategy—limited, staged listing—that a substantial share of the market demands, thereby reducing product variety and consumer choice in the Relevant Markets. This restraint on competition directly causes Compass' injury: because Compass' phased marketing offering depends on the very marketing flexibility that the Anticompetitive Rules foreclose, Bay East's rules prevent Compass from offering phased marketing to homeowners and agents in the East Bay, making Compass less competitive in the Brokerage Services Market and the Agent Services Market. The mechanism of harm to competition and the mechanism of harm to Compass are one and the same: Bay East's rules prevent Compass from offering homeowners and agents innovative strategies they want.

90. Compass is therefore a proper party to bring this action. Compass' injury is direct, not derivative: it flows immediately from Bay East's rules and their enforcement against Compass agents and their homeowner clients. Compass' damages, including lost commissions, lost revenue from ancillary services, and diminished value of its technology platform, are neither speculative nor unduly complex to ascertain.

Bay East's Enforcement of the Anticompetitive Rules Against Compass

91. Because of the Anticompetitive Rules and the escalating sanctions Bay East threatens for violating them, Compass California II cannot offer See It First™ on Compass to homeowners in the East Bay as designed. Instead, it can offer only the limited version those rules permit: an office exclusive that may not be publicly marketed at all, followed by Bay East's "Coming Soon" status, which requires submitting the listing to the MLS, where it is visible to every MLS participant, and which is automatically cancelled after thirty days. Neither option permits the limited public marketing before MLS submission that gives phased marketing its value. Homeowners in the East Bay who would choose pre-MLS public marketing therefore cannot obtain it from Compass, and Compass loses the listings, commissions, ancillary revenue, and agent recruits that See It First™ on Compass would otherwise attract.

92. Bay East also actively enforces the Anticompetitive Rules against Compass agents. On or about May 1, 2026, Bay East issued a Clear Cooperation warning to a Compass California II agent concerning a listing in Pleasanton, in Alameda County.

Bay East's Continuing Violations

93. Within the four years before this complaint was filed, Bay East and its co-conspirators have committed new and independent acts that renew the restraint and inflict new and accumulating injury on Compass, including:

a. issuing, on or about May 1, 2026, a Clear Cooperation warning to a Compass California II agent concerning a listing in Pleasanton, in Alameda County;

b. amending its MLS rules, effective March 30, 2026, to change the treatment of "Coming Soon" listings, while retaining the Anticompetitive Rules;[96]

c. adopting, through its Board of Directors, the version of its MLS rules effective October 26, 2026, which retained the Anticompetitive Rules and created a new category of "Non-Access Broker Participant" for brokers who belong to an MLS with a data-share agreement with Bay East, requiring each such broker to sign a written agreement to abide by Bay East's rules, including the Anticompetitive Rules;[97]

d. adopting amended Bylaws, revised May 28, 2025, that continue to vest control of the Bay East MLS in a Board of Directors controlled by competing brokers and agents and in the MLS Management Group that Bay East shares with CCAR and bridgeMLS;[98]

e. revising its seller waiver form in January 2025 to require sellers who keep a listing out of the MLS for any period to forgo all public marketing until the listing is entered in the MLS;[99]

f. publishing guidance to its members on March 23, 2026, reaffirming that any listing publicly marketed before entry into the MLS must be submitted within one business day, that office-exclusive listings may not be publicly marketed, and that suspected violations should be reported to Bay East;[100] and

[96] Bay East Ass'n of REALTORS®, *Coming Soon Status Syndication Update – Effective March 30* (Mar. 23, 2026), https://bayeast.org/?p=219319 (amending Rules 10.1, 10.1.1, 12.16, and 12.19.15).

[97] Bay East Rules § 4.1.2, at 8; *id.* at 1 (summarizing changes).

[98] Bay East Bylaws art. X, §§ 1–2, at 21–22; *id.* art. XVII, §§ 1–2, at 37.

[99] Bay East Waiver Form, *supra* note 26, ¶ 5.

[100] Bay East Ass'n of REALTORS®, *Coming Soon Status Syndication Update – Effective March 30* (Mar. 23, 2026), https://bayeast.org/?p=219319 ("If a listing is publicly marketed before being entered into the MLS, Clear Cooperation requirements are triggered, and the listing must be submitted within one (1) business day."; office exclusive listings: "Public marketing is not permitted.").

g. continuing, each day, to prohibit Compass and its agents from publicly marketing listings in accordance with homeowners' instructions, and to threaten fines and other sanctions when they do.

94. Bay East's May 1, 2026, warning to a Compass California II agent was a new and independent act, not a mere reaffirmation of a prior one: it required Bay East to make a fresh, discretionary decision to apply the Anticompetitive Rules to a particular Compass listing—a decision Bay East was free not to make—and it inflicted new injury on Compass. Each of the other acts listed above likewise required Bay East to make a fresh, discretionary decision to maintain or tighten the Anticompetitive Rules—a decision Bay East was free not to make—and each inflicted new and accumulating injury on Compass. Compass seeks damages for injuries caused by acts within the applicable limitations periods, and its claims for injunctive relief are timely because Bay East continues to maintain and enforce the Anticompetitive Rules today.

CAUSES OF ACTION

Count I
PER SE ILLEGAL GROUP BOYCOTT IN VIOLATION OF SHERMAN ACT SECTION 1 (15 U.S.C. § 1)

95. Plaintiffs repeat and incorporate by reference each of the foregoing paragraphs of the Complaint.

96. A majority of the officers and directors on Bay East's Board of Directors are brokers or agents who are direct competitors with each other and with Compass in the Brokerage Services Market and the Agent Services Market. They are therefore horizontal competitors with each other and with Compass.

97. Through the Anticompetitive Rules, Bay East forces Compass and its agents to forgo either (1) a critical input to their business (access to the Bay East MLS in the East Bay) or (2) the ability to offer innovative pre- and off-MLS marketing strategies to homeowners and agents.

98. The agreement by and among Bay East and its governing members to implement and enforce these rules is, therefore, a *per se* group boycott—a *per se* illegal combination, contract, or conspiracy in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. *Per se* treatment is

warranted because Bay East, together with the MLSs with which it shares its listing platform and rules, possesses market power in the MLS Market in the East Bay; it controls access to an input—MLS participation—that agents need to compete effectively in the East Bay; and the Anticompetitive Rules lack any plausible efficiency justification, because they govern agents' marketing to the public rather than the integrity or sharing of data within the MLS.

99. As a direct and proximate result of Bay East's enforcement of the Anticompetitive Rules, Compass has been injured in its business and property, is suffering irreparable harm, and is suffering damages in an amount to be proved at trial.

Count II
COMBINATION, CONTRACT, AND CONSPIRACY CONSTITUTING UNREASONABLE RESTRAINT OF TRADE IN VIOLATION OF SHERMAN ACT SECTION 1 (15 U.S.C. § 1)

100. Plaintiffs repeat and incorporate by reference each of the foregoing paragraphs of the Complaint.

101. Bay East, CCAR, and bridgeMLS, which serve the East Bay, operate a single listing platform there and enforce materially identical rules. Membership in Bay East or one of those MLSs, and access to the shared platform, is critical for agents working in the East Bay. Bay East is controlled by agents and brokerages who are horizontal competitors with each other and with Compass in the Brokerage Services Market and the Agent Services Market. Bay East and the agents and brokerages who control it are using their control of Bay East to restrain competition in the Brokerage Services Market and the Agent Services Market by implementing and enforcing the Anticompetitive Rules, which prevent Compass from offering See It First™ on Compass to its homeowner clients and agents and prevent any other agent from offering innovative pre- and off-MLS marketing strategies.

102. The rules' anticompetitive effects—reduced product variety, reduced competition among brokers on the timing, sequence, and scope of listing distribution, and reduced competition for agents—substantially outweigh any pro-competitive benefit. Any legitimate objective could be achieved through substantially less restrictive means, including, on information and belief, the seller-exclusion option Bay East offered before May 2020 and the rules of the many MLSs that

permit pre-MLS public marketing. Alternatively, the anticompetitive character of the rules is obvious enough to warrant an abbreviated, "quick look" analysis.

103. As a direct and proximate result of Bay East's enforcement of the Anticompetitive Rules, Compass has been injured in its business and property, is suffering irreparable harm, and is suffering damages in an amount to be proved at trial.

Count III
COMBINATION IN RESTRAINT OF TRADE
IN VIOLATION OF THE CARTWRIGHT ACT
(CAL. BUS. & PROF. CODE § 16720 *et seq.*)

104. Plaintiffs repeat and incorporate by reference each of the foregoing paragraphs of the Complaint.

105. Bay East and each member of its Board of Directors are each a "person" within the meaning of California Business and Professions Code Section 16702. Bay East's adoption, maintenance, and enforcement of the Anticompetitive Rules is a combination of the capital, skill, or acts of two or more persons—Bay East and its competing Board members and Participants have each agreed in writing to abide by and be bound by its rules—and therefore is a "trust" under Section 16720.

106. The purpose and effect of that combination is to create and carry out restrictions in trade or commerce, in violation of Section 16720(a), by preventing homeowners and their agents in California from publicly marketing listings except through Bay East's distribution and by preventing Compass from offering phased marketing in competition with Bay East's agent-members. The combination is unlawful, against public policy, and void under Section 16726.

107. The combination is a group boycott that is unlawful *per se*. Alternatively, it is an unreasonable restraint of trade because its anticompetitive effects in the relevant markets alleged above substantially outweigh any pro-competitive benefit, which in any event could be achieved through substantially less restrictive means.

108. The combination was formed and carried out in California, is enforced against agents licensed in California, and restrains the marketing of residential real estate located in California.

109. As a direct and proximate result of the combination, Compass has been injured in its business and property, including through lost listing contracts, commissions, and revenue from

ancillary services, and diminished value of its technology platform. Compass' injury flows from that which makes the combination unlawful: the suppression of competition in how, when, and to whom homes are marketed.

110. Under California Business and Professions Code Section 16750(a), Compass is entitled to injunctive relief, three times its damages, interest, and its reasonable attorneys' fees and costs of suit.

REQUESTED RELIEF

Compass requests the following:

A. A declaration that the Anticompetitive Rules are an unlawful restraint of trade under 15 U.S.C. § 1 and California Business and Professions Code Sections 16720 and 16726;

B. An injunction prohibiting Bay East from adopting, maintaining, or enforcing the Anticompetitive Rules, or any similar rule, to penalize any participant or subscriber for publicly marketing a property that the homeowner has directed be withheld from, or submitted later to, the MLS;

C. An award of treble actual, compensatory, and consequential damages in an amount to be proved at trial in addition to pre- and post-judgment interest as allowed by law;

D. An award of Plaintiffs' attorneys' fees and costs of suit; and

E. Such other relief as the Court deems just and equitable.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Compass hereby demands a trial by jury as to all claims so triable.

Dated: November 12, 2026

By: */s/ Joseph Tartakovsky*

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