United States Court of Appeals
For the Eighth Circuit

No. 24-3444

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

*Defendant*s

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

Spring Way Center, LLC; Nancy Wehrheim; John Moratis; Nancy Moratis;

Danielle Kay; Jessie Kay; Kaitlyn Slavic; Maria Iannome

Objectors - Appellants

No. 24-3450

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

Defendants

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

Monty March

Objector - Appellant

No. 24-3451

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Realogy Holdings Corp.

Defendant

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC; Keller Williams Realty, Inc.

*Defendant*s

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

Robert Friedman

Objector - Appellant

No. 24-3527

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

Defendants

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

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

Objectors - Appellants

No. 24-3585

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

Defendants

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

Tanya Monestier

Interested party - Appellant

Manhattan Institute

Amicus on Behalf of Appellant(s)

No. 24-3619

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

Defendants

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

James Mullis

Objector - Appellant

No. 24-3621

Rhonda Burnett; Jerod Breit; Jeremy Keel; Frances Harvey; Hollee Ellis

Plaintiffs - Appellees

v.

National Association of Realtors; Home Services of America

Defendants - Appellees

Keller Williams Realty, Inc.; Realogy Holdings Corp.

Defendants

BHH Affiliates, LLC; HSF Affiliates, LLC

Defendants - Appellees

RE/MAX LLC

Defendant

v.

Brown Harris Stevens; The Agency

Intervenors - Appellees

v.

Rosalie Doyle; Jessica Winters; John Guerra

Interested parties - Appellants

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

Submitted: January 14, 2026
Filed: August 19, 2026

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

L.R. SMITH, Circuit Judge.

These consolidated appeals seek to undo the nationwide class-action settlement of claims addressing an alleged conspiracy to inflate buyer-broker commissions for home sales involving multiple listing services. We affirm.

I. *Background*

A. *Brokerage Arrangement*

For decades, many American homeowners who wished to sell their houses did so through a real estate agent with a Multiple Listing Service (MLS). "An MLS is a centralized database of properties which allows real estate brokers and agents to identify homes for sale within a defined geographic region." R. Doc. 741, at 3. Real estate brokers and their affiliates or agents may access these shared catalogs if they are in compliance with the MLS's rules.

The National Association of Realtors (NAR) is the national trade association for licensed real estate agents and operates through a network of local associations. Most MLSs in the country are affiliated with NAR, and NAR provides rules that affiliated MLSs must follow. One such rule, the Cooperative Compensation Rule, required the seller's broker to offer the buyer's broker a commission as a condition of using one of NAR's MLSs. NAR first adopted this rule in 1996, and all NAR-affiliated MLSs became obligated to enforce it as a condition of their affiliation. Because NAR-affiliated MLSs dominate the market for residential real estate in the United States, the rule had nationwide reach. "According to NAR, 92% of sellers sold their home with the assistance of a real estate broker in 2017, and 87% of buyers purchased their home with the assistance of a real estate broker in 2017." R. Doc. 759, at 18; *see* R. Doc. 776, at 27 (admission by NAR "that the NAR 2017 Profile of Home Buyers and Sellers reported that 91% of home sellers worked with a real estate agent to sell their home, and that 87% of buyers recently purchased their home through a real estate agent or broker").

Pursuant to the rule, brokers were obligated to make the commission offer upfront in the MLS listing itself before any buyer appeared. In practice, sellers paid a combined commission of roughly 5–6% of the sale price, split roughly evenly between the seller's broker and the buyer's broker. The buyer's broker thus received compensation from the seller, even though the buyer's broker represented the buyer's interests. Brokers' fees increased prices for both buyers and sellers.

In April 2019, a group of Missouri home sellers, aligned with lead plaintiff Rhonda Burnett (collectively "Plaintiffs"), filed a class action in federal court in the Western District of Missouri. The lawsuit named NAR and four other large real estate brokerage franchisors—HomeServices of America and its subsidiaries BHH Affiliates and HSF Affiliates (collectively, "HomeServices"); Anywhere Real Estate; RE/MAX; and Keller Williams—as defendants (collectively, "Defendants"). Plaintiffs alleged a price-fixing conspiracy under Section 1 of the Sherman Antitrust Act.

Plaintiffs' theory was that NAR and the brokerages collectively avoided price competition and commission negotiation with buyers by requiring sellers to offer buyer-broker commissions in the MLSs' listings. Buyers "believed (mistakenly) that the[ir] . . . broker was working on their behalf," R. Doc. 759, at 21, and for free, but in fact the buyer's agent received her pay from the seller, who baked the cost into the price of the home. This scheme, Plaintiffs argued, artificially inflated the commissions paid to buyer brokers and, by extension, inflated the cost of selling and buying a home for every seller and buyer in America.

This original class was certified as Missouri home sellers who used one of a handful of specified MLSs in Illinois, Kansas, and Missouri.

The case went to trial in October 2023. A jury found Defendants liable and awarded $1.785 billion in damages subject to trebling under the relevant antitrust laws.

Defendants filed post-trial motions challenging almost every facet of the case: antitrust standing, the conspiracy finding, the damages methodology, and the sufficiency of the evidence. Those motions remained pending.

B. *Similar Lawsuits*

The initial *Burnett* verdict triggered similar cases nationwide. A parallel class action called *Moehrl v. NAR*, Case No. 1:19-cv-01610 (N.D. Ill.), had been pending since 2019 in the Northern District of Illinois on behalf of sellers who used 20 other MLSs nationally. But new lawsuits sought to represent sellers nationwide; these included *Gibson v. NAR*, Case No. 4:23-cv-00788 (W.D. Mo.), and *Umpa v. NAR*, Case No. 4:23-cv-00945 (W.D. Mo.), both filed in the Western District of Missouri. Another spate of cases sprung up in New York focused on the Real Estate Board of New York (REBNY), a separate trade association that runs its own MLS—the Residential Listing Service (RLS)—exclusively in New York City. REBNY operates independently of NAR and under its own similar rules.

C. *Settlement*

During the post-trial motions period, NAR and Defendants negotiated with the various plaintiffs in all the cases—*Burnett*, *Moehrl*, *Gibson*, and *Umpa*—seeking a global resolution.[1] These resolutions included the REBNY claims. Both sides faced ample uncertainty: Defendants risked an affirmed verdict and potential bankruptcy, and Plaintiffs risked a reversal on the verdict or appeal on any number of grounds. Concerns about Defendants' ability to pay also motivated negotiations.

In early 2024, the parties here reached a settlement agreement (Settlement). The Settlement has two components. First, NAR agreed to pay $418 million into a non-reversionary fund. HomeServices agreed separately to pay $250 million. Other brokerage firms, including Brown Harris Stevens and The Agency (collectively, the New York firms), could opt into the Settlement. Opting-in firms would agree to practice changes and, if their total sales volume exceeded $2 billion, make a cash contribution. The total settlement fund across all Defendants exceeded $1 billion. The Settlement set attorneys' fees for Plaintiffs at $333 million, one-third of the fund.

Second, NAR agreed to practice changes; specifically, to eliminate the Cooperative Compensation Rule. Under the Settlement, sellers will no longer be obligated to offer compensation to buyer brokers in MLS listings. And offers of buyer-broker compensation, if made at all, will need to be disclosed to and approved by sellers in advance. Buyer brokers must enter into written agreements with buyers before touring homes, and these agreements must disclose the broker's fee, identify

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[1]Several Appellants filed motions to take judicial notice of documents in the related *Gibson* case, including an order from the United States Judicial Panel on Multidistrict Litigation denying transfer of a motion to centralize the related litigations with *Burnett* in the Western District of Missouri. We deny these motions. For the reasons discussed in this opinion, we conclude that the district court did not err by finding that these cases share a factual predicate. We also conclude that the district court committed no error in ordering in-person appearance at the fairness hearing. The exhibits accompanying the motions change neither our analysis nor the outcomes of this appeal.

the source of payment, and bar buyer broker's fees from exceeding the buyer's agreed sum. Additionally, buyer brokers can no longer steer buyers toward listings based on commission level. Finally, brokers must tell clients that commissions are negotiable.

In exchange, Defendants receive a settlement that "is nationwide and releases claims arising from sales of homes listed on NAR and non-REALTOR® MLSs, including all claims on behalf of Class Members, as sellers, buyers, or otherwise, arising from the same factual predicate." R. Doc. 1622, at 6. The new class covers essentially any person who sold a home listed on any MLS in the United States between approximately 2014 and 2024. The breadth of the release encompasses home sellers' claims against opt-in brokerages like Brown Harris Stevens, whose members operated under REBNY rules, not NAR rules.

D. *Objections and Fairness Hearing*

The settlement administrator sent notice to tens of millions of class members through mail, email, and media, reaching over 99% of the class. Of the millions reached, 39 opted out and 36 filed formal objections. Over two million claims were submitted.

The district court[2] set a fairness hearing in Kansas City, Missouri, for November 26, 2024, two days before Thanksgiving. Several weeks before the hearing, the district court issued an order requiring all objectors and their attorneys to appear in person at the hearing. Failure to appear would result in their objections being waived. Some objectors could not or chose not to travel to Kansas City on that schedule. Tanya Monestier, one such objector, did not appear; her objection was stricken. Shortly before the hearing, the district court instructed counsel to submit a proposed order approving the settlement; Plaintiffs submitted the draft, but objectors were not notified.

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

The next day, the district court entered an 88-page final approval order. The order certified a nationwide settlement class and approved the settlement as fair, reasonable, and adequate under Federal Rule of Civil Procedure 23. The order also addressed each objection on the merits, including those from objectors who did not appear at the hearing. The district court also simultaneously denied a motion to intervene filed by Rosalie Doyle, a NAR member who was not part of the plaintiff class and sought to challenge the settlement's financial burden on low-volume realtors. Final judgment was entered January 15, 2025.

E. *Parties on Appeal*

Seven entities and individuals (collectively, "Appellants") now appeal the final judgment.[3] Defending the settlement are Plaintiff-Appellees: the *Burnett* class (Burnett), NAR, HomeServices, and Intervenors-Appellees the New York REBNY firms.

F. *Arguments on Appeal*

Appellants raise numerous arguments on appeal. Spring Way argues that (1) the class expansion is legally unprecedented and impermissible; (2) the Settlement is grossly inadequate on its face; and (3) no distribution method was ever established.

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[3]First, Spring Way Center, LLC, et al. (Spring Way)—a group of objectors that includes a Pennsylvania-area real estate entity and individual home sellers—had pending antitrust claims in a separate Pennsylvania action that would be extinguished by the Settlement. Spring Way argues that its claims are improperly released. Second, Monty March, a Manhattan home seller, had claims pending in New York challenging REBNY rules. March argues that his claims arise from a different conspiracy entirely and should not be released. Third, Robert Friedman, a Brooklyn home seller with REBNY-based claims pending in New York, argues that his claims are improperly released. Fourth, Benny Cheatham, et al. (Cheatham) is a group of South Carolina objectors who challenge the release of their claims. Fifth, Monestier challenges several facets of the Settlement and the district court's process. Sixth, James Mullis, an Illinois home seller and home buyer, principally argues that home buyer and home seller claims differ factually. Seventh, Doyle, John Guerra, and Jessica Winters (collectively, "Doyle") are NAR members who sought to intervene but were denied.

Appellants March and Friedman argue that the REBNY/New York claims do not share a factual predicate with the NAR claims.

Appellant Friedman additionally argues that (1) the district court misapplied the factual predicate test and (2) Rule 23(e)(2) was not satisfied as to REBNY class members.

Appellant Cheatham argues that (1) the opt-in brokerages did not comply with the Settlement's own deadlines and that the releases are therefore invalid; (2) small brokerages received releases without providing consideration; and (3) HomeServices franchisees were released without paying anything or making any commitments.

Appellant Monestier argues that (1) the district court lacked Article III jurisdiction to approve the injunctive relief and thus the Settlement must fail; (2) the agreed-to practice changes provide no real benefit to the class; (3) the district court violated Rule 23 and due process by adopting Plaintiffs' ghostwritten order without independent judgment; (4) the district court improperly struck Monestier's objection and the case should be reassigned on remand; (5) the district court ignored the Department of Justice's (DOJ) statement of interest; and (6) the $333 million attorneys' fee award is excessive.

Appellant Mullis argues that (1) the Settlement improperly extinguishes home buyer claims without adequate representation or any consideration; (2) the 2018 amendments to Rule 23(e)(2) required independent analysis of intraclass equity that the district court failed to perform; (3) the buyer claims do not share the same factual predicate as the seller claims; (4) class counsel inadequately represented buyers, or, in the alternative, that the release does not reach Mullis's buyer claims at all; and (5) the district court failed to apply the 2018 Rule 23(e)(2) factors.

Appellant Doyle argues that (1) the district court denied intervention using the wrong legal standards because it confused intervenors with class objectors; (2) the district court should have granted intervention as of right; (3) Doyle's motion to intervene was timely; (4) the practice changes violate antitrust law; (5) the anti-disclosure rules favor large firms and are thus anticompetitive; (6) post-implementation market data shows that the practice changes have failed; and (7) the district court erroneously retained jurisdiction for an improper purpose.

Appellants Spring Way, March, Friedman, and Cheatham all additionally argue that the fairness hearing was constitutionally and procedurally inadequate.

For all the reasons discussed below, we affirm.

II. *Discussion*

A. *Standard of Review*

"We generally review for abuse of discretion a district court's decision to approve a global settlement over objections. Only upon the clear showing that the district court abused its discretion will this court intervene to set aside a judicially approved class action settlement." *Marshall v. Nat'l Football League*, 787 F.3d 502, 508 (8th Cir. 2015) (citation modified). "Great weight is accorded [the district court's] views because [it] is exposed to the litigants, and their strategies, positions and proofs. [It] is aware of the expense and possible legal bars to success." *Van Horn v. Trickey*, 840 F.2d 604, 606–07 (8th Cir. 1988) (citation modified).[4]

We review for abuse of discretion a district court's decision to strike an objection for noncompliance with a court order. *See In re T-Mobile Customer Data Sec. Breach Litig.*, 111 F.4th 849, 855–57 (8th Cir. 2024) (finding district court "abused its discretion" for striking objection because the district court determined "that [the objector] and her attorneys are serial objectors").

[4]Appellants argue that the district court largely adopted the proposed order without change. Although district courts are to avoid "verbatim adoption" of the parties' proposed order, adopting vast swaths of the order does not change our standard of review. *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1150 (8th Cir. 1999).

B. *Injunctive Relief Standing*

Although "[f]ederal courts are not roving commissions licensed to sally forth each day looking for wrongs to right," *Margolin v. NAIJ*, 146 S. Ct. 1285, 1288 (2026) (per curiam) (citation modified), "[w]e have an obligation to assure ourselves of litigants' standing under Article III," *Frank v. Gaos*, 586 U.S. 485, 492 (2019) (per curiam) (citation modified).

On appeal, Monestier argues for the first time that "[t]he district court did not have the authority to approve the injunctive relief in this case because plaintiffs lacked Article III standing." Monestier's Br. 22; *see generally TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021) ("Standing is not dispensed in gross; rather, plaintiffs must demonstrate standing . . . for each form of relief that they seek," including both "injunctive relief and damages.").[5] We disagree.

For the class to have standing here, "at least one" named class representative must have standing. *In re SuperValu, Inc.*, 870 F.3d 763, 768 (8th Cir. 2017). For that named representative to have standing, they must "demonstrate," for their requested injunctive relief, "(i) that [they] ha[ve] suffered or likely will suffer an injury in fact, (ii) that the injury likely was caused or will be caused by the defendant, and (iii) that the injury likely would be redressed by the requested judicial relief." *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 380 (2024).

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[5]We deny Monestier's motion to strike. Monestier raised for the first time on appeal that the named plaintiffs lack standing. We have an unwaivable obligation to review standing. *See Gaos*, 586 U.S. at 492. To help facilitate our review of standing, we may allow some supplementation of the record. *See Ctr. for Biological Diversity v. Strommen*, 114 F.4th 939, 943 (8th Cir. 2024) (allowing supplemental evidence establishing standing filed after oral argument); *Worth v. Jacobson*, 108 F.4th 677, 686 (8th Cir. 2024) (allowing supplementation of the record). In any event, Appellants raised no new arguments in their primary brief; they merely supplemented the brief with additional record citations and governing law to help facilitate the review of standing.

Monestier asserts that because "[t]he class here consists of home sellers overcharged in connection with past home sales," they cannot show the necessary "concrete, prospective harm . . . to pursue injunctive relief." Monestier's Br. 24 (citation modified). We disagree. The record before us reflects an ongoing, continuous injury among the named plaintiffs who determine standing for the class—namely, that home prices remain inflated absent practice changes adopted by the Defendants. Inflated prices harm home sellers and home buyers by channeling funds from the sellers and buyers to agents. Avoiding the harm requires—in markets saturated by agents benefiting from the conspiratorial rules—incurring such costs as self-listing and selling the home or attempting to find an agent not affiliated with the rules. Thus, either "the threatened injury is 'certainly impending,' or there is a 'substantial risk' that the harm will occur." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) (quoting *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 n.5 (2013)). Plaintiff-Appellees "show a real . . . threat that [they] will be wronged again;" consequently, they have standing to pursue injunctive relief. *Rinne v. Camden Cnty.*, 65 F.4th 378, 386 (8th Cir. 2023).

As for redress, the practice changes address the challenged rules and attempt to remediate the harm. *Cf. Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 185–86 (2000) (noting that "a sanction that effectively abates [the harmful] conduct and prevents its recurrence provides a form of redress").[6] Thus, we conclude that Appellants have an injury-in-fact and that the requested relief addresses it.

C. *Settlement Fairness, Reasonableness, and Adequacy*

Class-action settlements must be "fair, reasonable, and adequate." Fed. R. Civ. P. 23(e)(2). Appellants argue, in various forms, that the Settlement violates Rule 23. Spring Way asserts that the district court erred by expanding the settlement class to a nationwide scope and that the Settlement is flatly inadequate on its face. Mullis

[6]The redress provided by the practice changes thus also provides a benefit to the class—reduced costs—despite Monestier's additional, tangential argument that the Settlement provides no benefit to class members.

argues that the Settlement disposes of home buyer claims without adequate representation by class representatives and counsel. March and Freidman similarly contend that the REBNY/New York claims do not share a factual predicate with the Missouri claims, so the Settlement is unfair and inadequate; Mullis says the same for buyer claims. Friedman, building on this argument, challenges the district court's application of the factual predicate test and concludes that the expanded class violates Rule 23 as to REBNY class members. Cheatham adds that small brokerages and HomeServices franchisees that provided no consideration, whether financial or otherwise, to the Settlement nonetheless received releases, rendering the Settlement unfair to class members harmed by those entities. Monestier adds that the district court violated Rule 23 and due process by insufficiently modifying the settlement order proposed by the parties. Mullis also argues that the 2018 amendments to Rule 23 require a more particularized analysis of intraclass equity that the district court failed to oblige. In sum, Appellants collectively challenge the district court's interpretation and application of Rule 23. We, however, conclude that the district court reasonably determined that the Settlement satisfies Rule 23.

1. *The Fairness Factors:* Van Horn *and Rule 23*

Several Appellants argue that the district court applied the Rule 23 factors incorrectly or applied the wrong set of factors. We disagree.

Historically, we have required district courts to

> consider a number of factors in determining whether a settlement is fair, reasonable, and adequate: [1] the merits of the plaintiff's case, weighed against the terms of the settlement; [2] the defendant's financial condition; [3] the complexity and expense of further litigation; and [4] the amount of opposition to the settlement.

Van Horn, 840 F.2d at 607 (citing *Grunin v. Int'l House of Pancakes*, 513 F.2d 114, 124 (8th Cir. 1975)). However, a 2018 amendment to Rule 23 introduced four different enumerated factors for courts to consider. Fed. R. Civ. P. 23(e)(2). According to amended Rule 23, the district court must now

> consider[] whether:
>
> > (A) the class representatives and class counsel have adequately represented the class;
> >
> > (B) the proposal was negotiated at arm's length;
> >
> > (C) the relief provided for the class is adequate, taking into account:
> >
> > > (i) the costs, risks, and delay of trial and appeal;
> > >
> > > (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
> > >
> > > (iii) the terms of any proposed award of attorney's fees, including timing of payment; and
> > >
> > > (iv) any agreement required to be identified under Rule 23(e)(3); and
> >
> > (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

In the commentary to the 2018 Rule 23 amendment, the Advisory Committee on Civil Rules recognized that the various courts of appeals in this country have developed their "own vocabulary for expressing" the fairness, reasonableness, and adequacy of "a proposed class-action settlement," such as our own *Van Horn* factors. Fed. R. Civ. P. 23 2018 advisory committee's note to 2018 amend. The Advisory Committee also observes that "goal of [the] amendment is not to displace any [extant] factor, but rather to focus the court and the lawyers on the core concerns of procedure and substance that should guide the decision whether to approve the proposal." *Id.* The Committee's commentary also highlights that a bulky, multi-factored test can

> distract[] attention from the central concerns that inform the settlement-review process. A circuit's list might include a dozen or more separately articulated factors. Some of those factors—perhaps many—may not be relevant to a particular case or settlement proposal. Those that are relevant may be more or less important to the particular case. Yet counsel and courts may feel it necessary to address every factor on a given circuit's list in every case. The sheer number of factors can distract both the court and the parties from the central concerns that bear on review under Rule 23(e)(2).
>
> This amendment therefore directs the parties to present the settlement to the court in terms of a shorter list of core concerns, by focusing on the primary procedural considerations and substantive qualities that *should always matter* to the decision whether to approve the proposal.

Id. (emphasis added).

Previously, this circuit used only four factors. Those four do differ from the new enumerated factors in amended Rule 23. *Compare* Fed. R. Civ. P. 23(e), *with Van Horn*, 840 F.2d at 607. Interestingly, some district courts in this circuit have added the new factors to the preexisting ones—in varying degrees of rigor—to class-action settlements. *See Swinton v. SquareTrade, Inc.*, 454 F. Supp. 3d 848, 861 (S.D. Iowa 2020) (determining that analysis of Rule 23(e)(2) factor "necessarily include[s] analysis of two related *Van Horn* [f]actors"); *Anderson v. Travelex Ins. Servs. Inc.*, No. 8:18-CV-362, 2021 WL 4307093, at *2 (D. Neb. Sept. 22, 2021) (evaluating settlement under Rule 23 and applying our circuit's factors); *Cleveland v. Whirlpool Corp.*, No. 20-CV-1906, 2022 WL 2256353, at *4–5 (D. Minn. June 23, 2022) (same)); *see also Briseño v. Henderson*, 998 F.3d 1014, 1021 (9th Cir. 2021) (reversing a class-action settlement approval because the district court "stopped short of conducting a Rule 23(e) inquiry[,] [and] [i]nstead[] it merely held that there is substantial overlap between Rule 23(e)(2) factors and [the Ninth Circuit's] factors" (citation modified)); *In re Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg., Sales Practices & Prods. Liab. Litig.*, 952 F.3d 471, 484 n.8. (4th Cir. 2020) (acknowledging that Rule 23(e)(2) was amended to specify factors for evaluating class settlements; noting that the new factors "almost completely overlap" with the existing Fourth Circuit factors; and holding that the outcome would be the same under either set of factors).

Rule 23 unambiguously directs that courts consider its factors. Fed. R. Civ. P. 23(e)(2) ("If the [class-action settlement] proposal would bind class members, the court may approve it only after . . . considering" the enumerated factors.). The district court here correctly identified Rule 23 as providing the authoritative set of factors to consider when judging the fairness, reasonableness, and adequacy of a class-action settlement agreement. *See generally Grunin*, 513 F.2d at 123 ("Under Rule 23(e) the district court acts as a fiduciary who must serve as a guardian of the rights of absent class members."); Joseph M. McLaughlin, *McLaughlin on Class Actions* § 6:4 (Nov. 2025 update) ("Appellate review of settlement approvals is increasingly characterized by (i) more in-depth, less deferential scrutiny, and (ii) reversals where the district court approves a class settlement in which it has presumed the fairness of the settlement because of the presence [of] arm's-length negotiation *or otherwise* without explicitly considering the standards of Rule 23(e)(2)(A)–(D)." (emphasis added)). The district court also considered the Rule 23(e) factors alongside and within the *Van Horn* factors, despite only needing to consider the Rule 23(e) factors. This was not required, but neither was it erroneous, as Appellants argue. We thus take no issue with the district court's fairness analysis.[7]

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[7]Appellant Mullis also argues that the district court failed to "pay close attention to the release language," Mullis's Br. 25, and investigate "whether the scope of the release may affect class members in different ways that bear on the apportionment of relief," Fed. R. Civ. P. 23 2018 advisory committee's note to 2018 amend. The district court determined that "all that is required" is that the "practice change relief applies to all [c]lass members" and that all class members be "eligible to submit and receive compensation for a claim." R. Doc. 1622, at 12. We find that the district court's analysis of claim eligibility and sufficiency of the injunctive relief

2. *The Settlement Satisfies Rule 23*

Appellants also attack the Settlement for violating Rule 23. Many of Appellants' arguments center on an alleged factual disparity between the Missouri claims and other nationwide claims.

Mullis argues that the Second Circuit's holding in *National Super Spuds, Inc. v. New York Mercantile Exchange*, 660 F.2d 9 (2d Cir. 1981), requires settlements to extinguish only claims "asserted in the class action compliant" and that the district court was obligated to employ "the identical factual predicate rule." Mullis's Br. 32. We disagree. It is well established that

> [a] settlement agreement may preclude a party from bringing a related claim in the future even though the claim was not presented and might not have been presentable in the class action, but only where the released claim is based on the identical factual predicate as that underlying the claims in the settled class action.

Hesse v. Sprint. Corp., 598 F.3d 581, 590 (9th Cir. 2010) (citation modified). Moreover, Mullis misreads *National Super Spuds*, as that case concerned bringing additional claims when "the final settlement agreement enlarged the scope of the claims to be released without giving notice to the class members." *In re Gen. Am. Life Ins. Co. Sales Pracs. Litig.*, 357 F.3d 800, 805 (8th Cir. 2004). Here, the class received proper notice that released claims "includ[ed] claims as a seller, buyer, or otherwise." R. Doc. 1595-7, at 78.

The district court also considered the Rule 23(e) factors as applied to the REBNY class members and determined that the claims shared a factual predicate. "It is not at all uncommon for settlements to include a global release of all claims

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was not an abuse of discretion, as the district court did consider the scope of the release.

past, present, and future, that the parties might have brought against each other." *Williams v. Gen. Elec. Cap. Auto Lease, Inc.*, 159 F.3d 266, 274 (7th Cir. 1998).

Moreover,

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

In re Blue Cross Blue Shield Antitrust Litig. MDL 2406, 85 F.4th 1070, 1090 (11th Cir. 2023) (citation modified); *see Thompson v. Edward D. Jones & Co.*, 992 F.2d 187, 191 n.6 (8th Cir. 1993) (holding released claims need to "rest on the same or similar facts as the class action claims").

Mullis argues that because the buyers and sellers occupy different positions, including the New York claims, the class representatives cannot satisfy the identical-factual-predicate test. However, several named plaintiffs both bought and sold homes during the class period. We allow "very broad" releases. *Gen. Am.*, 357 F.3d at 803. This release is no broader than others we have previously affirmed. *See id.* at 805. The Settlement releases "any and all manner of federal and state claims regardless of the cause of action arising from or relating to conduct that was alleged or could have been alleged in the [covered lawsuits] based on any or all of the same factual predicates for the claims alleged in [those lawsuits]." R. Doc. 1518-1, at 17. The factual predicates "includ[e]" but are "not limited to commissions negotiated, offered, obtained, or paid to brokerages in connection with the sale of any residential home." *Id.* Both the New York claims and the Missouri claims "hinge[] on the same operative factual predicate—the concept of" the conspiratorial rules driving up prices. *TBK Partners, Ltd. v. W. Union Corp.*, 675 F.2d 456, 460 (2d Cir. 1982).

Relatedly, Mullis argues that the Settlement itself does not reach his home buyer claims. This argument arises from the same factual predicate position discussed above—the Settlement only fails to reach these claims if they are not contemplated within its terms. However, the Settlement's "language is very broad" and "clearly encompasse[s] the claim[s] in question." *Gen. Am.*, 357 F.3d at 803.

Appellant Cheatham argues that the Settlement improperly releases claims against franchisees because "the franchisees . . . paid no money toward the settlement." Cheatham's Br. 23. We disagree. We have previously enforced a "release protect[ing] noncontributing third parties" where "the district court's interpretation of the intent of the parties" determined that the release was proper. *In re Y & A Grp. Secs. Litig.*, 38 F.3d 380, 384 (8th Cir. 1994). However, we also note that the claims still share the same common factual predicate and the franchisees will be subject to HomeServices direction to change their practices. Thus, although the franchisees make no financial contribution to the Settlement, they are subject to its terms. The district court recognized this and called Cheatham's contention that the franchisees "are not subject to practice changes" "flatly wrong." R. Doc. 1622, at 46. "Put simply, no brokerage is released without practice changes." *Id.*

As for Appellants' argument that the class improperly extends nationwide, we again disagree. The district court determined that

> certifying a nationwide class is warranted, including because [p]laintiffs have conducted extensive discovery into the alleged nationwide conspiracy and have thoroughly litigated the claims, providing a robust factual record on which to assess the claims and base negotiations. A nationwide settlement was a necessary condition of obtaining any settlement for the benefit of the class . . . and [c]lass members were fully apprised of the settlement class definition through the notice process. . . . [T]he record reflects that it was both justified and necessary to achieve any settlement for the [s]ettlement [c]lass to include all MLSs for residential real estate nationwide, however the

> MLSs were named [such as] in *Gibson* (e.g., real estate listing service), and regardless of their formal affiliation with NAR.

R. Doc. 1622, at 7.

We have affirmed nationwide expansion before. *E.g.*, *Rawa v. Monsanto Co.*, 934 F.3d 862, 865–66 (8th Cir. 2019) (affirming nationwide settlement following certification of California-only class). Appellant Spring Way calls the Settlement's nationwide release "extraordinary." Spring Way's Br. 18. But Spring Way raises no Eighth Circuit authority in support of this proposition. The district court determined "the only way that the Settlements were possible was if they provided for a nationwide recovery and release." R. Doc. 1622, at 7. We do not find this conclusion to be legal error.

For the same reasons, we reject the arguments raised by March and Friedman that because the NAR and REBNY rules are "wholly unrelated," Friedman's Br. 43, and share "no common discovery," March's Br. 38, opt-ins by REBNY rule affiliates are improper. They contend that "REBNY has been totally separate from NAR since 1994." March's Br. 4. However, the record shows that the district court had evidence regarding REBNY before it, including expert reports analyzing REBNY and its rules. The REBNY rule also operated in a similar manner to the NAR rule. For example, that rule "required listings to include an offer of buyer-broker compensation" for any sale to a buyer "represented by buyer-brokers." R. Doc. 1622, at 55. March recognized in the initial complaint that the NAR rules were, "in effect, the same rule as REBNY that mandates the payment of a commission by a Seller Broker to a Buyer Broker." R. Doc. 1562-2 ¶ 94. As for the related argument that the opt-in brokerages did not comply with the Settlement's deadlines, the Settlement permits the "modifi[cation] or amend[ment]" of opt-in agreements in a "writing executed by [p]laintiffs and Stipulating Party." R. Doc. 1458-1, at 89–90; *see id.* at 115 ("Stipulated MLS"). As the district court observed,

> [t]he record reflects that Plaintiffs and the Stipulating Parties entered into written supplemental opt-in agreements, and so any alleged "non-

> compliance" with deadlines reflected in the NAR Settlement Agreement would have been cured by the Parties' subsequent written agreements.

R. Doc. 1622, at 44.

Other arguments made by Appellants are simply attacks on the adequacy of the class counsel. Rule 23 requires the district court to ensure that "the class representatives and class counsel have adequately represented the class." Fed. R. Civ. P. 23(e)(2)(A). This requirement protects class members from "conflict[s] of interest that prevent[]" class counsel "from fairly and adequately protecting the interests of all of the class members." *Petrovic*, 200 F.3d at 1145. "[T]he focus" of this requirement at this stage "is on the actual performance of counsel acting on behalf of the class." Fed. R. Civ. P. 23(e)(2) advisory committee's note to 2018 amend. Class counsels' actions reflect adequate representation. The Third Circuit employs a useful test for evaluating the adequacy of class counsel: whether they "(1) possessed adequate experience; (2) vigorously prosecuted the action; and (3) acted at arm's length from the defendant." *In re Nat'l Football League Players Concussion Inj. Litig.*, 821 F.3d 410, 429 (3d Cir. 2016) (citation modified). Applying this test as a guide, we hold that the district court did not err in finding that the class counsel adequately represented the class.

The district court described the class counsel as "qualified, reputable counsel who are experienced in preparing and prosecuting large, complicated class action cases, including those concerning violation of the antitrust laws." R. Doc. 1622, at 6. The district court also noted that class counsel negotiated "significant practice change relief." *Id.* at 10. And the district court observed that "the record reflects that the NAR and HomeServices Settlements were separately conducted at arm's length." *Id.* at 10.

Appellants argue that the class counsel inadequately represented some members of the nationwide class because of supposed differences between buyer and seller claims. These arguments rest on the presumption that "homebuyer class members are . . . receiving nothing for their homebuying claims." Mullis's Br. 41. It may be "true that no separately stated consideration was paid for those claims, but. . . . [n]o part of the consideration on either side [was] keyed to any specific part of the consideration of the other." *Gen. Am.*, 357 F.3d at 805. Instead, the class released "any and all" claims relating to the conspiratorial rules. R. Doc. 1518-1, at 17. And, as Plaintiff-Appellees observe, the defendants "agreed to a substantial monetary settlement and practice changes." HomeServices's Br. 30. "This is the way settlements usually work." *Gen. Am.*, 357 F.3d at 805.[8]

Appellants assert a conflict between the home buyers and home sellers, relying on *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997), and *Ortiz v. Fibreboard Corp.*, 527 U.S. 815 (1999). We have previously noted that both *Amchem* and *Ortiz* "involved a situation in which the parties agreed upon a class definition and a settlement before formally initiating litigation, and then presented the district court with the complaint, proposed class, and proposed settlement." *Petrovic*, 200 F.3d at 1145–46. That was not the case here, and so the district court did not "lack[] the opportunity, present when a case is litigated, to adjust the class, informed by the proceedings as they unfold." *Id.* at 1146 (citation modified). Here, the parties engaged in contentious litigation and produced a settlement only after trial. And "[t]he district court . . . had the benefit of the parties' extensive trial preparation," *id.* including "extensive discovery into the . . . nationwide conspiracy" alleged in the related copycat litigations in reaching its decisions, R. Doc. 1596, at 14–15; *see* R. Doc. 1595, at 17 (discussing the "years of aggressive litigation and settlement negotiations"). Moreover, "the definition of the [settlement] class"

[8]The district court additionally noted that Mullis "offered no evidence to enable the [c]ourt to second-guess" whether buyer claims were a necessary part of the deal. R. Doc. 1622, at 62. Without presenting that evidence to the district court, Mullis cannot "criticize the judgment of the class representative." *Gen. Am.*, 357 F.3d at 805.

remained essentially unchanged as compared to "the definition of the class originally certified" apart from the geography. *Petrovic*, 200 F.3d at 1146.[9]

Monestier and Doyle additionally argue that the district court erred by certifying a settlement that violates antitrust law. *See Grunin*, 513 F.2d at 123 (stating that courts cannot grant approval to any contract or agreement that violates antitrust laws); *Denton v. Mr. Swiss of Mo., Inc.*, 564 F.2d 236, 243 (8th Cir. 1977) (stating that courts should not enforce contracts where the court "would itself be enforcing the precise conduct made unlawful by the (Sherman) Act" (citation modified)). Doyle cites some settlement provisions and concludes that "[t]hese provisions enforce 'the precise conduct made unlawful by the (Sherman) Act.'" Doyle Br. 46 (quoting *Denton*, 564 F.2d at 243). This is the only authority that Doyle provides. Based on the record, we conclude that the district court did not err in finding that the negotiated settlement provides benefit to the class members.[10]

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[9]Mullis raises additional arguments in an effort to liken this case to either *Amchem* or *Ortiz*. We are not convinced. Our extensive record illustrates that class counsel made measured decisions regarding what claims to pursue, and we do not find Mullis's central contention, "that class counsel *never* pursued homebuying claims," persuasive. Mullis's Br. 40.

[10]Doyle also argues that "the district court abused its discretion by retaining exclusive jurisdiction over the antitrust provisions contained within the Settlement. Specifically, the district court retained jurisdiction for an improper purpose to defend an otherwise unlawful agreement and gatekeep non-settling third parties affected by the antitrust provisions of the Settlement Agreement." Doyle's Br. 9–10. The district court did not err by retaining ancillary jurisdiction over the Settlement. *See, e.g.*, *Miener By and Through Miener v. Mo. Dep't of Mental Health*, 62 F.3d 1126, 1127 (8th Cir. 1995) ("Ancillary jurisdiction to enforce the agreement exists in these situations because breach of the agreement violates the district court's judgment."). Retaining jurisdiction to resolve new, related disputes is not an "improper purpose" as Doyle argues, and Doyle provides no authority saying otherwise. Doyle's Br. 55. Doyle also argues that the district court failed to consider market data that shows the prospective relief has made matters worse for the class. We find that the district court did not abuse its discretion by discussing the settlement terms and eschewing the "studies" cited by Doyle. Doyle's Br. 50.

Monestier argues additionally that the district court erred by not responding to a statement of interest filed by the DOJ. According to Monestier, "[t]he DOJ expressed specific concern that 'the new provision that requires buyers and brokers to make written agreements before home tours may harm buyers and limit how brokers compete for clients.'" Monestier's Br. 16 (quoting R. Doc. 1603, at 2)). The district court, however, did address the DOJ entry at the fairness hearing, just not in the substantive manner that Monestier would have preferred. And although the DOJ's concerns are absent from the court order, Appellants lack convincing authority to support their assertion of error by the district court.

We thus conclude that the district court did not abuse its discretion "in finding that the conflict of interest here [between buyers and sellers], if any, failed to rise to a level at which the concerns expressed in *Amchem* and *Ortiz* would become applicable." *Petrovic*, 200 F.3d at 1147. As for the arguments that the Settlement treats different class members inequitably, we disagree. "[S]ettlement payment will take into account the amount of commissions class member claimants paid to a real estate broker or agent," R. Doc. 1622, at 12, and the practice changes will benefit the entire class.[11]

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[11]Mullis submitted a letter pursuant to Federal Rule of Appellate Procedure 28(j) citing to *In Re Clearview AI, Inc. Consumer Privacy Litig.*, No. 25-1673, 2026 WL 2016719 (7th Cir. July 13, 2026). Mullis contends that *Clearview* supports his position that the district court erred by allowing the same class counsel to represent both buyers and sellers. We find *Clearview* distinguishable for several key reasons. First, the relief in *Clearview* is "only monetary in nature." *Id.* at *2. Second, the monetary relief in *Clearview* was to be paid out in shares of the company and depended on the residency of the claimant. Depending on the state of residency, a claimant could receive between 10 shares and 1 share. Third, "[n]one of the eight original class representatives agreed to the settlement," and the replacement representatives "were members of one of the favored state-specific subclasses." *Id.* at *3. We especially note that the claimants' recovery turned on their residence and could differ by ten times. That is not the case here.

3. *Presumption of Fairness*

Mullis argues that the 2018 amendment to Federal Rule of Civil Procedure 23 invalidates any presumption of fairness and that the district court erroneously applied this presumption to the Settlement.

As noted above, if a settlement approval fails even one of the Rule 23 mandatory elements, a court may not approve the settlement. Fed. R. Civ. P. 23(e)(2). Mullis argues that a presumption of validity is therefore logically incompatible with Rule 23's conditional structure, as one cannot presume the answer to a mandatory factual inquiry before conducting it. *See Moses v. New York Times Co.*, 79 F.4th 235, 243 (2d Cir. 2023) ("Rule 23(e)(2) prohibits courts from applying a presumption of fairness to a settlement agreement based on its negotiation at arm's length."); *In re Apple Inc. Device Performance Litig.*, 50 F.4th 769, 783 (9th Cir. 2022) (discussing "revers[al] [of] the district court for beginning its analysis with a presumption that the settlement was fair and reasonable" and "observ[ing] that this presumption once was commonly applied by district courts but is nonetheless erroneous" (citation modified)). Here, however, the district court found the settlement "fair, reasonable, and adequate regardless of any such presumption." R. Doc. 1622, at 8. Thus, the district court did not apply a presumption of fairness to the Settlement.[12]

4. *Attorneys' Fees*

As for Appellants' argument that the district court erred in approving one-third of the settlement for attorneys' fees, we similarly affirm.

> Courts utilize two main approaches to analyzing a request for attorney fees. Under the "lodestar" methodology, the hours expended by an attorney are multiplied by a reasonable hourly rate of compensation so as to produce a fee amount which can be adjusted, up or down, to reflect the individualized characteristics of a given action.

[12]We observe that the district court did discuss the presumption of favor toward settlement in some detail in its order. Nevertheless, the district court explicitly disavowed it. We find that, on this record, satisfactory.

> Another method, the "percentage of the benefit" approach, permits an award of fees that is equal to some fraction of the common fund that the attorneys were successful in gathering during the course of the litigation.

Johnston v. Comerica Mortg. Corp., 83 F.3d 241, 244–45 (8th Cir. 1996) (citation modified). Here, the district court employed the percentage approach, which is preferable "in common fund situations" such as this. *Id.* at 245. One-third is "in line with other awards in the Eighth Circuit. Indeed, courts have frequently awarded attorneys' fees ranging up to 36% in class actions." *Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017). "[W]e find no abuse of discretion in the district court's awarding [this amount] to class counsel who obtained significant monetary relief on behalf of the class," *In re U.S. Bancorp Litig.*, 291 F.3d 1035, 1038 (8th Cir. 2002), particularly in light of the substantial practice changes.

D. *Distribution Method*

Appellants additionally attack the alleged lack of a distribution method in the Settlement. The district court "overruled" this objection. R. Doc. 1622, at 35; *see Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980) (explaining that paying attorneys' fees out of the common fund "rests on the perception that persons who obtain the benefit of a lawsuit without contributing to its cost are unjustly enriched at the successful litigant's expense"). It first determined that parties do not need to include a detailed allocation formula in their class notice or formulate one before final settlement approval, citing several authorities. *See, e.g.*, *In re Agent Orange Prod. Liab. Litig. MDL No. 381*, 818 F.2d 145, 170 (2d Cir. 1987). We agree that

> it "is appropriate, and often prudent, in massive class actions to follow a two-stage procedure" and defer consideration of the plan of distribution until after final settlement approval. *In re Domestic Airline Travel Antitrust Litig.*, 378 F. Supp. 3d 10, 22 (D.D.C. 2019) (quoting *In re NASDAQ Mkt.-Makers Antitrust Litig.*, 187 F.R.D. 465, 480 (S.D.N.Y. 1998)).

> [] This is because "court approval of a settlement as fair, reasonable and adequate is conceptually distinct from the approval of a proposed plan of allocation." 2 McLaughlin on Class Actions § 6:23 (20th ed. Oct. 2023 Update).

R. Doc. 1622, at 36. "To impose an absolute requirement that a hearing on the fairness of a settlement follow adoption of a distribution plan would immensely complicate settlement negotiations and might so overburden the parties and the district court as to prevent either task from being accomplished." *Agent Orange*, 818 F.2d at 170. "There is no sound reason to impose such procedural straitjackets upon the settlements of class actions." *Id.*

In short, in line with our sister circuits, we do not require a manicured distribution method at the settlement approval stage. As we said in *Petrovic*, "[w]e do not agree with the objectors' contention that a mailed notice of settlement must contain a formula for calculating individual awards" because "[t]he notice described with sufficient particularity the stakes involved: the settlement of . . . claims against [the defendant], the award of significant injunctive relief, and the potential aggregate payout of . . . million[s] [of] dollars in compensatory damages." 200 F.3d at 1153. The notice here outlines the settled and released claims and states the total settlement amounts. Any confused class members had the opportunity to contact class counsel or the settlement administrator, as in *Petrovic*. *See id.* at 1153.

E. *The Fairness Hearing*

Appellants also challenge the district court's fairness hearing as unfair. Specifically, they argue that the court erred by mandating in-person attendance. In a docket entry, the district court ordered "all objectors and their attorneys to appear in person" at the final approval hearing. R. Doc. 1566. The district court informed the objectors that "[f]ailure to comply with a [c]ourt's order can result in an objection being struck or waived." *Id.* Nevertheless, at the fairness hearing, the district court permitted counsel for non-appearing objectors to present oral argument. Significantly, the district court's order also addressed each objection on the merits, regardless of whether the objector or his or her counsel appeared at the hearing.

Appellants argue that the district court violated due process. We disagree. Due process is "satisfied where class members received notice of the settlement proposal and were able to argue their objections to the district court." *In re Wireless Tel. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 931 (8th Cir. 2005). Due process does not "entitle[] [objectors] to dictate the means by which the court considers the fairness of the proposed settlement." *Hershey v. ExxonMobil Oil Corp.*, No 07-1300, 2012 WL 5306260, at *4 (D. Kan. Oct. 26, 2012), *aff'd in part, dismissed in part*, 550 F. App'x 566 (10th Cir. 2013). We note that although Rule 23(e)(2) mandates a fairness hearing, it does not mandate oral argument by objectors. The lack of direction in Rule 23 gives district courts "wide latitude." *Int'l Union, United Auto, Aerospace, & Agric. Implement Workers of Am. v. Gen. Motors Corp.*, 497 F.3d 615, 635 (6th Cir. 2007). District courts "need not endow objecting class members with the entire panoply of protections afforded by a full-blown trial on the merits." *Id.* (citation modified). On this record, we find that the district court adequately considered each objection and did not violate due process. *See* R. Doc. 1622, at 18 ("[A]ll objection[s] filed by the above-named Objectors who did not appear in person . . . are waived for failing to comply with the [c]ourt's order. . . . Separate from this waiver, the [c]ourt has carefully considered the objections, and overrules each on its merits."); *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (stating that the fundamental requirement of due process of law is the opportunity to be heard).

F. *Adoption of Proposed Order*

Appellants challenge the district court's adoption of the proposed order prepared by Plaintiffs following their motion to approve the Settlement. Mullis and Monestier argue that consideration of the proposed order constituted error or at least should alter our standard of review. We disagree. The Supreme Court has held that "even when the trial judge adopts proposed findings verbatim, the findings are those of the court and may be reversed only if clearly erroneous." *Anderson v. City of Bessemer City*, 470 U.S. 564, 572 (1985). The district court made no clear error in adopting the proposed settlement. *Cf. Petrovic*, 200 F.3d at 1150 (noting that where "the facts of a case are complex, practical considerations justify the judge's decision not to rewrite those findings which are accepted as proper" (citation modified)).

Moreover, the district court revised the order to its satisfaction, "an act that reflects more than just a cursory analysis and interpretation." *Id.*

G. *Timeliness of Intervention Motion*

Doyle argues that the district court erred in denying his intervention motion. We affirm the district court's determination that Doyle's motion was untimely. "Whether a person moves for 'intervention of right' or for 'permissive intervention,' the motion must be timely." *ACLU of Minn. v. Tarek ibn Ziyad Acad.*, 643 F.3d 1088, 1093 (8th Cir. 2011) (quoting Fed. R. Civ. P. 24).

> Although the timeliness of a motion to intervene is a decision within the district court's discretion, and is based on all of the circumstances, we have articulated factors that the district court should specifically consider: (1) the extent the litigation has progressed at the time of the motion to intervene; (2) the prospective intervenor's knowledge of the litigation; (3) the reason for the delay in seeking intervention; and (4) whether the delay in seeking intervention may prejudice the existing parties.

Id. at 1094 (citation modified). "The district court abuses its discretion when it fails to consider a relevant factor that should have been given significant weight, considers an irrelevant or improper factor and gives it significant weight, or considers all the proper factors but commits a clear error of judgment in weighing those factors." *Id.* at 1093.

In short, the litigation had proceeded for five years before the Doyle intervenors filed their motion, *see In re Uponor, Inc., F1807 Plumbing Fittings Prods. Liab. Litig.*, 716 F.3d 1057, 1066 (8th Cir. 2013) (affirming district court's denial of "ninth-inning-with-two-outs intervention attempt" (citation modified)); Doyle had knowledge of the litigation, as the Doyle appellants are NAR members and did not dispute such knowledge, *see United Food & Com. Workers Union, Local No. 663 v. U.S. Dep't of Agric.*, 36 F.4th 777, 781 (8th Cir. 2022) (stating that because "[n]o Appellant avers that it lacked knowledge of the case. . . . the second factor weighs heavily against [them]"); Doyle offered no explanation for the delay;

and, finally, reopening the Settlement now would cause significant prejudice given the stage of settlement, *see Uponor*, 716 F.3d at 1065–66 (intervention four months after preliminary approval untimely). We conclude that the district court did not err in finding the motion untimely. We similarly conclude that the district court did not err in denying intervention as of right. *See, e.g.*, *United States v. Metro. St. Louis Sewer Dist.*, 569 F.3d 829, 838–39 (8th Cir. 2009) ("For the purposes of Rule 24(a)(2), an asserted interest must be significantly protectable, which has been interpreted to mean legally protectable. General economic interests are not protectable and cannot serve as the basis for intervention." (citation modified)).

III. *Conclusion*

For all of these reasons, we affirm.

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