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**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

**INSURANCE COMMISSIONER
OKLAHOMA**

IN RE: HEARING PURSUANT TO 36 O.S. § 984)
AS TO WHETHER THE OKLAHOMA) Case No. 26-0820-TRN
HOMEOWNERS INSURANCE)
MARKET IS NONCOMPETITIVE)

**THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES, INC. AND
THE AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION, INC.'S
OBJECTION TO THE JOINT MOTION TO STAY**

The National Association of Mutual Insurance Companies, Inc. (“NAMIC”) and The American Property Casualty Insurance Association, Inc. (“APCIA”), requests the OID deny the Joint Motion of the Oklahoma Attorney General and Bob Sullivan to Stay Proceedings Pending Original Action in the Oklahoma Supreme Court (the “Motion”) and state as follows in support thereof:

I. BACKGROUND AND INTRODUCTION

On September 10, 2026, Movants filed an Affidavit seeking the disqualification of Independent Hearing Examiner John Miller based on his granting of an oral motion to continue the deadlines in the case that was opposed by most of the parties to this action. Specifically, Movants took issue with a brief recess held by Examiner Miller to consider the motion while he was at the Insurance Commissioner’s office and in the presence of an Insurance Department paralegal, as well as his contract with the Insurance Department as a hearing examiner. Examiner Miller agreed that a ruling on the Affidavit had to be made pursuant to 75 O.S. § 316, and, therefore, paused these proceedings pending adjudication of the Affidavit by the Insurance Commissioner.

The Insurance Commissioner assigned the Affidavit to Independent Hearing Examiner Stephan S. Mathis. Examiner Mathis issued an Order denying the Affidavit on October 2, 2026. In the Order, Examiner Mathis noted that the determination of a hearing examiner's partiality is objective and that there is a presumption against finding impartiality. *Order*, at 5-6. And upon consideration of the arguments advanced in the Affidavit, Examiner Mathis held that Examiner Miller was not impartial based on the totality of the circumstances. He instead observed that many of Movants' claims amount to nothing more than routine agency practice or otherwise do not evidence impartiality. *Id.* at 7-11. Examiner Mathis further held that Movants' request for the Insurance Commissioner to withdraw from any adjudicative role in the decision of their Affidavit was unnecessary because the Commissioner delegated such authority to Examiner Mathis. *Id.* at 11. Based on the denial of the Affidavit, Examiner Mathis ordered that these proceedings continue "without further delay." *Id.* at 12.

Movants filed the instant Motion to stay these proceedings pending a forthcoming application for a writ of prohibition to the Oklahoma Supreme Court based on Examiner Mathis's Order. Specifically, Movants argue that Examiner Mathis faces similar issues of impartiality based on his contractual agreement with the Insurance Department, and they claim that under 75 O.S. § 316, the Insurance Commissioner lacks the authority to delegate resolution of their Affidavit to another individual. They further contend—cursorily—that the questions raised by their forthcoming application are "substantial", that continuing these proceedings would cause irreparable harm, that no party will be prejudiced by the requested stay, and that the public interest favors a stay.

However, the Motion is procedurally defective and practically unnecessary. *First*, Movants fail to meet the mandatory procedural prerequisites to a stay set forth in the Oklahoma Supreme

Court Rules and the Oklahoma Administrative Procedures Act. This ground alone requires denial of the Motion. *Second*, from a practical standpoint, a stay is wholly unnecessary. There are no pending deadlines in these proceedings and it is possible (if not likely) that their application will be adjudicated before a hearing on the merits of this action

II. ARGUMENTS AND AUTHORITIES

A. Movants have failed to establish their entitlement to a stay under the Oklahoma Supreme Court Rules.

The stay of enforcement of decisions is governed by Oklahoma Supreme Court Rule 1.15.

Under the Rule,

Stay of enforcement of the decision of a lower tribunal in any proceeding other than an appeal from a final decision of a district court *shall be governed by any applicable statutory law or rules governing that tribunal. Except where an applicable statute or rule provides otherwise*, the lower tribunal may in its sound discretion stay enforcement of the decision which is the subject of proceedings in this Court on terms which will protect the rights of the parties. No motion shall be filed in this Court to stay the decision of the lower tribunal where such relief may be sought from the lower tribunal until application has first been presented to and ruled upon by the lower tribunal.

OKLA. SUP. CT. R. 1.15(b) (emphasis added). Thus, if either the Oklahoma Insurance Code, 36 O.S. 101, *et seq.* (“OIC”), or the Oklahoma Administrative Procedures Act, 75 O.S. 250, *et seq.* (“OAPA”), set forth requirements for a stay, such requirements govern this body’s determination of the Motion. And even if no such requirements are applicable to these proceedings, a stay under Rule 1.15(b) is appropriate only to “protect the rights of the parties.”

1. The OIC does not set forth distinct requirements for a stay.

Although several provisions of the OIC address and permit the stay of proceedings in certain instances, *see, e.g.*, 36 O.S. §§ 320, 2020, 2042, none of the enumerated circumstances

addressing the procedure for a stay are present here. Thus, the OIC does not provide for a specific governing procedure for a stay in this case.

2. The OAPA establishes specific requirements for a stay of proceedings, which Movants fail to address in their Motion.

No provision in Article I of the OAPA requires an agency to “stay” its rule-making process for any reason, let alone because a participant in such process objects to the official presiding over the process. *Even if* this was an Article II proceeding, an application for stay of an agency order must be “supported by verified statements of material fact establishing that the enforcement of the order pending final decision would result in present, continuous and irreparable impairment of the constitutional rights of the applicant...” 75 O.S. § 319(2). A cursory review of the Motion reveals that these requirements are not met.

Movants fail to verify any of the statements in their Motion. Instead, they make perfunctory allusion to irreparable harm, lack of prejudice to the non-moving parties, and the public’s interest in a stay. This is plainly insufficient to warrant a discretionary stay under Section 319.

Even ignoring this glaring deficiency, Movants’ still fail to show why a stay is required. *First*, it is likely that any final adjudication in this matter will come after the Supreme Court has ruled on Movant’s forthcoming application for writ, which will likely occur before any hearing in this proceeding. As such, any alleged harm, if any, is indeed reparable.¹ *Second*, the other parties in this proceeding have a clear interest in the resolution of this action and the ultimate

¹ To be sure, no constitutional rights are implicated by the request for a stay to these proceedings pending Movants’ forthcoming application. By way of example, the necessity for a stay pending an application for a writ could be present where the movant claims that the adjudicatory tribunal lacks personal jurisdiction over the movant. In such a case, the very proceeding itself violates the movant’s Fourteenth Amendment rights. That is not the case here. If these proceedings continue while the application is pending, Movants’ rights will not be violated and they make no verified showing to the contrary as required by Section 319.

determination of the question of whether this is a competitive market. That two parties want to hand-pick their own examiner because of a motion the current Examiner granted—which both NAMIC and APCIA also opposed—is not an adequate basis to delay resolution of these proceedings, and such delay plainly prejudices the interests of these other parties by delaying their right to a timely determination of these proceedings. *Third*, Movants’ cursory argument that the public interest favors a stay is nonsensical. A stay does not ensure the finality of any decision in these proceedings, as they may be appealed and reversed following a final adjudication. In fact, the sooner a final decision is made, the sooner any decision can go through the appellate review process and actually be deemed final. As such, the further delay caused by a stay actually harms the public interest.

3. Movants have not established that their requested stay is “necessary to protect the rights of the parties.”

Rule 1.15(b) only permits the OID to—“in its sound discretion”—stay enforcement of a decision “on terms which will protect the rights of the parties.” But further delay will not “protect the rights of the parties” and Movants make no showing to the contrary. If anything, the other parties’ will be harmed through unnecessary delay, while Movants’ rights will be unaffected either way. As such, the indefinite stay requested by Movants does not protect the rights of the parties, and this tribunal should not, in its sound discretion, permit further delay in this matter.

B. The requested stay is unnecessary where—as here—there are neither pending deadlines nor the risk of constitutional violations in play.

From a practical perspective, a stay at this juncture of the proceedings is unnecessary. Following Movants’ Affidavit, Examiner Miller struck the October 26 hearing date and all other deadlines in this case. A new hearing date has not been scheduled, nor have any other deadlines been reset. As such, *Movants may therefore seek their writ while this matter continues without*

any prejudice. Setting a hearing date and making arrangements for an orderly hearing process does not implicate Movants' constitutional rights and simply ensures that these proceedings can proceed in a timely fashion upon the Supreme Court's adjudication of Movants' application, because *a new hearing examiner can be appointed to preside over the hearing at any time before it is commenced.*

If Movants want to seek a writ, they are free to do so. But these proceedings should continue without delay so as to not allow Movants further delay this proceeding with the not-so-well veiled intent to have it conducted only after a new Insurance Commissioner is sworn into office.

III. CONCLUSION

In sum, Movants fail to establish the legal prerequisites for a stay in this action under either the OAPA or under Supreme Court Rule 1.15(b). Even if they had, such a stay is both practically unnecessary and prudentially problematic. Movant's requested relief should therefore be denied. As Examiner Mathis correctly observed, this proceeding should continue "without further delay."

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