FILED
SUPREME COURT
STATE OF OKLAHOMA
OCT 15 2026
SELDEN JONES
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. GENTNER DRUMMOND, ATTORNEY GENERAL OF THE STATE OF OKLAHOMA, and BOB SULLIVAN,	)	No. #124489
Petitioners,	)	(OID Case No. 26-0820-TRN)
v.	)	
THE HONORABLE JOHN D. MILLER, Independent Hearing Examiner; GLEN MULREADY, Insurance Commissioner of the State of Oklahoma; and the OKLAHOMA INSURANCE DEPARTMENT,	)	
Respondents.	)	

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
OCT 19 2026
LEGAL DIVISION

APPENDIX

INDEX OF CONTENTS

Submitted under Okla. Sup. Ct. R. 1.191(d). One appendix and one copy are filed. The appendix is securely bound on the left side. For each item the index states a description, the item's date, a concise statement of relevancy, and a synopsis. Only the relevant portions of lengthy instruments are included.

App. 1. Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan in Support of Disqualification of the Independent Hearing Examiner and of the Insurance Commissioner Pursuant to 75 O.S. § 316, executed by Reggie N. Whitten and Michael J. Hunter, with both jurats notarized, without its exhibits

Date: September 10, 2026

Relevancy: The affidavit required by 75 O.S. § 316 and by 12 O.S. § 1455, and an affidavit presenting facts not of record in this Court. Rule 1.191(d)(1)(c).

Synopsis: Fifty-two numbered paragraphs. Part II addresses timeliness; Part III states the grounds as to the Hearing Examiner; Part IV states the grounds as to the Commissioner; Part V states the governing standard; Part VI addresses disposition and preservation, reserving this remedy at ¶ 51; ¶ 52(a)–(j) states the grounds with particularity.

Pages: 1–17

App. 2. Order Denying the Joint Affidavit Seeking Disqualification of the Independent Hearing Examiner and the Insurance Commissioner, Case No. 26-0820-TRN, signed by Stephan S. Mathis, Independent Hearing Examiner, Designated Pursuant to 75 O.S. § 316

Date: October 2, 2026

Relevancy: The order which has precipitated the bringing of this action. Rule 1.191(d)(1)(b).

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

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Synopsis: Recites that the Commissioner designated Mr. Mathis to determine the Affidavit (App. 18, 23). Overrules the Joint Objection (App. 23). Finds that neither the individual grounds nor their totality would cause a reasonable observer to doubt the Hearing Examiner's impartiality (App. 19, 24–28), and disposes of the compensation ground on the basis that the arrangement "is not alleged to be materially different than any other hearing examiner utilized by the Department" (App. 27). Denies as moot the request that the Commissioner withdraw, because he "does not preside, and cannot review, the Hearing Examiner's final order" (App. 28). Denies the request that no substantive ruling issue, directs that the proceeding "resume under the Hearing Examiner without further delay," and grants the requests for preservation of the September 4, 2026 record and for a written order (App. 29).

Pages: 18–29

App. 3. Order for Continuance, Case No. 26-0820-TRN, signed by John Miller, Hearing Examiner

Date: September 10, 2026

Relevancy: Records the alignment of the participants on the continuance, and the merits setting later stricken on September 15, 2026 (App. 17).

Synopsis: Continues the pre-hearing conference to September 15, 2026 at 10:00 a.m.; sets objection, reply and witness-list deadlines; and continues the merits hearing to October 26, 2026 at 9:00 a.m. at the Oklahoma State Capitol, Multi-Purpose Room 100. Recites that the continuance issued at the request of the Oklahoma P&C Advocacy Association, over the objection of the Attorney General, Bob Sullivan, NAMIC and APCIA, and without objection from the Department.

Pages: 30–33

App. 4. Transcript of Pre-Hearing Conference, Case No. 26-0820-TRN, certified by Becky Dame Steinkamp, CSR, complete, excluding only the reporter's word index

Date: September 4, 2026

Relevancy: The record of the conference at which the grounds arose, and the record of the proceeding for which this Court is asked to assume original jurisdiction. Rule 1.191(d)(1)(d).

Synopsis: The conference convened at 9:05 a.m. and concluded at 9:53 a.m. Cover page at App. 34; Tr. page N appears at App. 34 + N; the reporter's certificate at Tr. 35 (App. 68). Passages relied upon: Tr. 6:10–11, 7:11–19 and 8:6–9 (the examiner's appearance from the Department's building and the legal assistant's participation); 13:3–8 (his statement on the hearing date); 13:9–20 (the oral motion to continue); 13:21–14:4 (the Department's reversal); 14:7–20, 15:18–24, 16:5–8 (the three objections); 18:7–10 (the recess, 9:21 to 9:34 a.m.); 18:25 (the ruling); 19:1–13 (no pending motion decided); 23:18–25:5 (the Commissioner as anticipated witness).

Pages: 34–68

App. 5. Order Regarding Request for Section 984 Hearing, Case No. 26-0215-COR, cover page and the page containing ¶ 24 only

Date: April 7, 2026

Relevancy: The Commissioner's written answer to the question now noticed for hearing, entered without a hearing. Relevant to prejudgment.

Synopsis: Cover page at App. 69; the page containing ¶ 24 at App. 70. Paragraph 24 concludes that "the evidence supports a finding that the Oklahoma homeowners insurance market is competitive," that the requesting party had not carried the burden of proof, and that "[n]or has Mr. Sullivan established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1."

Pages: 69–70

App. 6. Notice of Hearing, Case No. 26-0820-TRN

Date: July 14, 2026

Relevancy: Establishes the question set for hearing and the terms on which participation was invited.

Synopsis: Sets the matter for hearing before an independent hearing examiner under 36 O.S. §§ 307 and 984 and OAC 365:1-7-1(a) to determine whether the homeowners insurance market in Oklahoma is noncompetitive, and invites all interested parties with a direct, immediate and substantial interest to participate.

Pages: 71–82

App. 7. Oklahoma Insurance Department release, "Economic Indicators Show Oklahoma's Homeowners Insurance Market Is Competitive"

Date: January 7, 2026

Relevancy: Public prejudgment of the question set for hearing.

Synopsis: The Commissioner states that "objective, well-established economic tools . . . show that the Oklahoma homeowners insurance market is competitive."

Pages: 83–84

App. 8. Oklahoma Insurance Department release announcing this hearing

Date: May 20, 2026

Relevancy: Prejudgment reaffirmed in the announcement of the hearing convened to decide the question.

Synopsis: The Commissioner states: "I also stand by my position that we have a competitive market for homeowners insurance coverage."

Pages: 85–86

App. 9. Invitation to fundraising reception benefiting Marty Quinn

Date: July 23, 2026

Relevancy: Relevant to the Commissioner's public opposition to a party, and to the alignment of the participant who moved for the continuance.

Synopsis: Names Commissioner Glen Mulready among the hosts and lists "Karma & Brett Robinson" among the hosts. Dated nine days after the Notice of Hearing issued.

Pages: 87

App. 10. Facebook post of Commissioner Glen Mulready

Date: June 16, 2026

Relevancy: Relevant to the Commissioner's public opposition to a party to this proceeding.

Synopsis: Posted on the day of the primary: "I encourage you to vote for Marty Quinn," whose opponent was Petitioner Bob Sullivan.

Pages: 88–89

App. 11. Omnibus Pre-Hearing Motion of the Attorney General, Case No. 26-0820-TRN, the motion, without its Exhibits A through E

Date: August 25, 2026

Relevancy: The pending business of the September 4, 2026 conference. Establishes what was fully briefed and remained undecided when the Hearing Examiner adjourned, and that Petitioners have pressed this proceeding forward rather than delayed it. Rule 1.191(d)(1)(d).

Synopsis: Eleven numbered motions with supporting authority, at App. 90–119, concluding at App. 120. Motion 1 asks that the proceeding be conducted as a contested individual proceeding governed by Article II of the Administrative Procedures Act; the remaining motions address the official record, pre-filed exhibits, allocation of hearing time, the burden of proof under 36 O.S. § 984(A), and written rulings. Certificate of service at App. 122.

Pages: 90–123

App. 12. Entry of Appearance of Michael J. Hunter for Bob Sullivan, Case No. 26-0820-TRN

Date: August 26, 2026

Relevancy: Establishes Mr. Sullivan's status as a party of record below. Rule 1.191(d)(1)(d).

Synopsis: Enters the appearance of Michael J. Hunter of Michael J. Hunter, PLLC as counsel of record for Bob Sullivan.

Pages: 124–126

App. 13. Motion to Dismiss Parties Due to Lack of Standing, filed by the Oklahoma Insurance Department, Case No. 26-0820-TRN, the motion, without its exhibits

Date: September 3, 2026

Relevancy: The filing made at approximately 5:00 p.m. on the evening before the conference, after stipulated briefing had closed, seeking to remove two announced candidates for Insurance Commissioner, one of whom is a Petitioner here. Its statement that the Department did not wish the conference delayed is quoted in the Application. Rule 1.191(d)(1)(d).

Synopsis: Asks the Hearing Examiner to dismiss Craig MacIntyre and Bob Sullivan for lack of standing. The conclusion, at App. 132, states that "the Department urges that the issue of standing in these proceedings is important and should be ruled on by the Hearing Examiner. However, the Department does not wish for the scheduled pre-hearing conference to be delayed or continued further and believes any briefing and/or hearing on this matter could be scheduled and addressed after the pre-hearing conference."

Pages: 127–134

App. 14. Response of the Attorney General to the Department's Motion to Dismiss, Case No. 26-0820-TRN, the response, without its exhibits

Date: September 10, 2026

Relevancy: The opposition referred to in Proposition I of the Brief. Establishes that the alternative characterization discussed there was advanced in the alternative and not as a concession. Rule 1.191(d)(1)(d).

Synopsis: Opposes dismissal and maintains that this is a contested individual proceeding under Article II of the Administrative Procedures Act. At App. 142 it observes that the motion fails even if the proceeding were legislative in character, in which case standing doctrine would have no application to participation at all.

Pages: 135–156

App. 15. Response of Bob Sullivan to the Department's Motion to Dismiss, with his affidavit, Case No. 26-0820-TRN, the response, without its exhibits

Date: September 10, 2026

Relevancy: Mr. Sullivan's opposition to the motion that sought his removal, referred to in Proposition I of the Brief. Rule 1.191(d)(1)(d).

Synopsis: Opposes dismissal and addresses standing in the alternative at App. 164 and App. 167. Accompanied by the executed affidavit of Bob Sullivan.

Pages: 157–173

App. 16. Administrative Order, Case No. 26-0820-TRN, signed by the Independent Hearing Examiner

Date: September 14, 2026

Relevancy: Records that the Hearing Examiner, on reviewing the Affidavit, struck the pre-trial conference set for September 15 and set the Affidavit alone in its place. Rule 1.191(d)(1)(d).

Synopsis: Recites that the Hearing Examiner "has seen and reviewed the Motion this afternoon," strikes the September 15, 2026 pre-trial conference, and provides that "[t]he issue of the Motion to Disqualify only will be heard" at that time.

Pages: 174

App. 17. Transcript of Hearing on Disqualification, Case No. 26-0820-TRN, certified by Becky Dame Steinkamp, CSR, complete

Date: September 15, 2026

Relevancy: The record of the referral of the Affidavit to the Commissioner and of the stay, later memorialized by written order (App. 18). Rule 1.191(d)(1)(d).

Synopsis: Cover page at App. 175; Tr. page N appears at App. 175 + N; the reporter's certificate at Tr. 21 (App. 194). Passages relied upon: Tr. 7:24–8:1 (the Hearing Examiner will present nothing until the Affidavit is resolved); 9:18–10:11 (the Department's two courses); 15:18–21 (the Commissioner "will not be making the determination himself"); 16:7–16 (the Attorney General's response); 16:22–17:10 (the stay and referral); 17:20–18:1 (every setting stricken, including October 26); 18:2–21 (notice required to reset).

Pages: 175–195

App. 18. The Oklahoma Insurance Department's Response Opposing the Disqualification of the Independent Hearing Examiner and the Insurance Commissioner, Case No. 26-0820-TRN, the Response with its Exhibits A through D, without Exhibits E and F

Date: September 22, 2026

Relevancy: The submission, in the name of the officer to whom 75 O.S. § 316 commits the determination, asking that the Affidavit be denied; and the Department's affidavits concerning September 4, 2026. Rule 1.191(d)(1)(d).

Synopsis: Response page N appears at App. 195 + N. Brought by "the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner" (App. 196) and signed over the Commissioner's name (App. 207). States that the Commissioner "is required to rule on this issue" (App. 203) and that he "has appointed and delegated all of his authority to the Hearing Examiner" (App. 204). Asks that the Affidavit "be denied in its entirety and that this matter proceed on the merits before Independent Hearing Examiner John Miller" (App. 207). Exhibit A, the Teams invitation (App. 209); Exhibits B and C, affidavits of Department counsel (App. 210–11); Exhibit D, affidavit of the Department's legal assistant, attesting that she recorded the conference (App. 212–13).

Pages: 196–213

App. 19. Administrative Order, Case No. 26-0820-TRN, signed by the Independent Hearing Examiner

Date: September 28, 2026

Relevancy: Memorializes the stay announced September 15, 2026 and refers the Affidavit to the Commissioner; shows that relief was first sought and obtained below, as Rule 1.15(c)(2) requires. Rule 1.191(d)(1)(d).

Synopsis: Recites the September 15, 2026 hearing, the Affidavit, and the parties' positions. Finds that 75 O.S. § 316 requires that "[t]he issue shall be determined promptly by the administrative head of the agency." Orders "that this matter be stayed and the issue of disqualification shall be directed to Glen Mulready, Commissioner and administrative head of the Oklahoma Insurance Department for his consideration and decision on the issue of disqualification of the hearing examiner," and strikes all hearing dates.

Pages: 214–215

App. 20. Joint Objection of the Oklahoma Attorney General and Bob Sullivan to the Filing by the Oklahoma Insurance Department on September 22, 2026, and Renewed Request for Prompt Determination Pursuant to 75 O.S. § 316, Case No. 26-0820-TRN, file-stamped copy

Date: September 29, 2026

Relevancy: Petitioners' written demand below for a prompt, written determination of the Affidavit, which shows that relief was first sought below as Rule 1.15(c)(2) requires. Rule 1.191(d)(1)(d).

Synopsis: Objects to the Response as a submission on the merits by "[t]he officer to whom § 316 commits the determination" (App. 217); asks that the Commissioner rule by written order stating reasons and findings by noon on October 2, 2026 (App. 217–18); asks that the recording of September 4, 2026 be furnished with a statement whether

it captured the recess (App. 218); and asks that the determination address both officers named in the Affidavit and that the stay remain in effect until it does (App. 218–19).

Pages: 216–222

App. 21. The National Association of Mutual Insurance Companies, Inc. and American Property Casualty Insurance Association, Inc.'s Response Brief Opposing the Affidavit in Support of Disqualification, Case No. 26-0820-TRN

Date: September 14, 2026

Relevancy: The participants' contention that this proceeding is rulemaking, answered in Propositions I and V of the Brief. Rule 1.191(d)(1)(d).

Synopsis: Filed by GableGotwals for NAMIC and APCIA. Asks that the Affidavit be denied in its entirety and contends that the proceeding is rulemaking, in which disqualification requires an "unalterably closed mind" (App. 223).

Pages: 223–226

App. 22. Joint Motion of the Oklahoma Attorney General and Bob Sullivan to Stay Proceedings Pending Original Action in the Supreme Court of Oklahoma, Case No. 26-0820-TRN, as filed and served by electronic mail, with the transmittal email

Date: October 5, 2026

Relevancy: Shows that a stay pending this Court's disposition was first sought below, as Rule 1.15(c)(2) requires. Rule 1.191(d)(1)(d).

Synopsis: Asks the Hearing Examiner to stay substantive rulings and any evidentiary hearing pending this Court's disposition of the Application, addressing the likelihood of success, irreparable harm, the absence of prejudice, and the public interest, and requests a ruling by noon on October 7, 2026 (App. 230). The transmittal email shows filing with OIDlegal@oid.ok.gov and service on the parties at 10:16 a.m. on October 5, 2026 (App. 234–35).

Pages: 227–235

FILED
SEP 10 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

JOINT AFFIDAVIT OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN IN SUPPORT OF DISQUALIFICATION OF THE INDEPENDENT HEARING EXAMINER AND OF THE INSURANCE COMMISSIONER PURSUANT TO 75 O.S. § 316

COME NOW the State of Oklahoma, *ex rel.* Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(22) and the Notice of Hearing filed herein on July 14, 2026, and Bob Sullivan, an interested party of record who entered his appearance on August 26, 2026 (together, "Movants"), and pursuant to 75 O.S. § 316 jointly submit this Affidavit seeking the disqualification of the Honorable John D. Miller, Independent Hearing Examiner (the "Hearing Examiner"), and the disqualification of the Insurance Commissioner (the "Commissioner") from any adjudicative, decisional, or supervisory role in this proceeding.

Movants each advocate the position that the Oklahoma homeowners insurance market is noncompetitive and, under 36 O.S. § 984(A), bear the burden of proof on that issue. This Affidavit is filed promptly upon discovery of the grounds stated below, which arose at the pre-hearing conference held September 4, 2026, and states those grounds with particularity as 75 O.S. § 316 requires. The transcript of that conference is attached as Exhibit H and is cited herein as "Tr." In support, Movants state as follows.

I. THE AFFIANTS AND THE PROCEEDING

STATE OF OKLAHOMA	)	
	)	ss.
COUNTY OF OKLAHOMA	)	

1. We, Reggie N. Whitten and Michael J. Hunter, each being of lawful age and first duly sworn upon oath, state that we are attorneys licensed to practice law in the State of Oklahoma, OBA Nos. 9576 and 4503 respectively; that Mr. Whitten is counsel of record for the Attorney General and Mr. Hunter is counsel of record for Bob Sullivan in this proceeding; that each of us personally appeared for his respective client at the pre-hearing conference held September 4, 2026; and that each of us is competent to testify to the matters set forth herein. The statements below are made upon our personal knowledge, except those expressly made upon information and belief, which we believe to be true. Where a statement is personal to one affiant, he is identified by name.

2. **The proceeding.** On July 14, 2026, the Commissioner issued a Notice of Hearing pursuant to 36 O.S. §§ 307 and 984 and OAC 365:1-7-1(a), setting this matter for hearing before an independent hearing examiner on September 14, 2026, "for the purpose of determining whether the homeowners insurance market in Oklahoma is noncompetitive." The Notice was served upon the Attorney General and upon more than one hundred property and casualty insurers, and invited "all interested parties with a direct, immediate, and substantial interest" to "participate in the public hearing and offer evidence and argument on the issues involved." Exhibit A.

3. By Order filed July 29, 2026, the Hearing Examiner set a pre-hearing conference and an August 26, 2026 deadline for entries of appearance. Seven participants appeared: the Department, the Attorney General, Bob Sullivan, Craig MacIntyre, NAMIC, APCIA, and the Oklahoma P&C Advocacy Association. No individual insurance company appeared.

4. The Attorney General filed his Omnibus Pre-Hearing Motion on August 25, 2026. Under the parties' Joint Motion for Clarification and Stipulation, responses were due at noon on September 1, 2026, and replies at noon on September 3, 2026. The pre-hearing conference at which that motion was to be heard convened September 4, 2026, at 9:05 a.m., by Microsoft Teams.

5. **The decisional structure.** Under 36 O.S. § 319, the Commissioner may appoint an independent hearing examiner "who shall sit as a quasi-judicial officer." Under 36 O.S. § 313(A), "[a] final order signed by an independent hearing examiner, after hearing, shall be final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes." The Hearing Examiner is therefore the sole and final adjudicator of this matter. There is no intra-agency review of what he decides, and no officer within the Department capable of curing a defect in his impartiality.

II. TIMELINESS

6. Section 316 requires that an affidavit of disqualification be filed "promptly upon discovery of the alleged disqualification." 75 O.S. § 316. The statute runs from discovery of the ground, not from the inception of the proceeding.

7. **The grounds are of two kinds, and each is timely.** The grounds stated in Part III, and the ground stated in Part IV.A, arose at or were first disclosed at the September 4, 2026 conference: the Hearing Examiner's appearance from within the Department's offices and in the company of the Department's staff; his statement of position on the hearing date, followed by a thirteen-minute recess taken beyond the observation of every remote participant and his reversal upon returning; and the Department's disclosure, made for the first time on the record that day, that it anticipates calling the Commissioner as a witness at the merits hearing. This Affidavit is filed within the shortest interval in which counsel could obtain the transcript of that conference and reduce those events to a verified writing. The facts recited in Parts IV.B and IV.D are of a different character, and Movants do not represent otherwise. The Commissioner's April 7, 2026 order, the Department's public statements, and the Commissioner's participation in the 2026 Insurance Commissioner election were each public when made. What was not known before September 4, 2026, and could not have been known, is that the Department would call the Commissioner as its own witness in the very proceeding convened to decide the question he had already answered. Section 316 runs from discovery of the alleged disqualification, not from the

date of each fact of which it is composed, and the disqualification alleged here is the configuration those facts assumed on September 4. Mr. Hunter states further that Mr. Sullivan entered his appearance in this proceeding on August 26, 2026, and that Mr. Sullivan was not a party who could request disqualification under Section 316 before that date.

8. **Prompt filing is consequential.** Movants are mindful of the consequences of delay. *See Leo v. Okla. Water Res. Bd.*, 2023 OK 96, ¶ 49, 536 P.3d 939, 954–55; *Robbins v. Okla. Alcoholic Beverage Control Bd.*, 1969 OK 202, 461 P.2d 610; *Gann v. State ex rel. Okla. Corp. Comm'n*, 2026 OK 24 (a disqualification issue not raised at the administrative proceeding may not be raised for the first time on appeal). They file now, before the continued hearing and before any evidence is received.

9. **The engagement is context, not a freestanding ground.** The Hearing Examiner's continuing engagement by the Department, described at paragraphs 25 and 26 below, is not offered as a ground newly discovered on September 4, 2026. It is offered as the structural setting in which the September 4 conduct occurred and against which that conduct must be assessed. The September 4 conduct is independently sufficient, and this Affidavit rests upon it.

III. GROUNDS FOR DISQUALIFICATION OF THE HEARING EXAMINER

10. **The Department's late filing.** At approximately 5:00 p.m. on September 3, 2026 — after the stipulated briefing on the Omnibus Pre-Hearing Motion had closed, and roughly sixteen hours before the conference convened to decide it — the Department filed a Motion to Dismiss Parties Due to Lack of Standing directed at two participants, both announced candidates for Insurance Commissioner. In that Motion the Department stated that it "does not wish for the scheduled pre-hearing conference to be delayed or continued further." Motion at 6.

11. **The conference.** We each appeared at the September 4, 2026 conference — Mr. Whitten for the Attorney General and Mr. Hunter for Mr. Sullivan. It was conducted by Microsoft Teams.

12. **The adjudicator appeared from within a party's space.** The Hearing Examiner appeared on video against a background denoting the Oklahoma Insurance Department. As his connection was being established, a woman could be heard speaking with him and assisting him in setting up his appearance, and she was briefly visible on screen with him. She is Sherry Standerfer, the Department's paralegal and the individual through whom the filings in this proceeding are routed. Ms. Standerfer thereafter conducted portions of the roll on the record. Tr. 5:11–19, 6:6–11. It was apparent that the Hearing Examiner was appearing from within the Department's space and in the physical company of Ms. Standerfer. The Department is a party to this proceeding.

13. **The Hearing Examiner stated he did not want to move the hearing date.** Early in the conference, and before any motion to continue had been made, the Hearing Examiner stated on the record that he was "not particularly wanting to move the date or time of the actual hearing itself, but I want to make sure it's conducted in a fair and impartial way." Tr. 14:3–8.

14. **The continuance was moved from the floor.** Brett Robinson, appearing for the Oklahoma P&C Advocacy Association, then moved orally for a continuance of the September 14, 2026 hearing. Tr. 14:9–20. No written motion had been filed and no notice of that request had been given.

15. **The Department reversed its written position.** The Department, which had represented in writing hours earlier that it did not wish the conference delayed, stated through counsel that it "has no objection to any motions for a continuance." Tr. 14:21–15:4.

16. **Three parties objected; only the movant asked for it.** Three participants objected. Mr. Whitten, on behalf of the Attorney General, stated that his client "would strenuously object to moving," that four out-of-state expert witnesses had set their schedules, and that "we're ready to go." Tr. 15:7–20. Mr. Hunter objected on Mr. Sullivan's behalf and stated that he would rather argue the pending motion that day. Tr. 16:18–24. J. Blake Patton, for NAMIC and APCIA, noted a "forceful, full-throated objection to any . . . continuation of the merits hearing." Tr. 17:5–8. No participant other than Mr. Robinson supported the continuance.

17. **The movant.** Mr. Robinson, the sole participant to seek the continuance, is a co-host of a fundraising reception held July 23, 2026 for Marty Quinn, then a candidate for Insurance Commissioner. The invitation to that reception reads: "Oklahoma Insurance Commissioner Glen Mulready & Commissioner John Doak (2011–2019) invite you for a fundraising reception benefiting Marty Quinn, Insurance Commissioner," and lists among its hosts "Karma & Brett Robinson." Exhibit I. Mr. Quinn's opponent in that election was Bob Sullivan, a party to this proceeding and one of the two participants the Department moved the previous evening to remove. Movants do not suggest that Mr. Robinson was disabled from seeking a continuance. They state the fact because it bears on whose interests the ruling served: the request came from a co-host of the Commissioner's fundraiser, the Department abandoned its written objection to delay in order to accommodate it, and the three participants who opposed it were overruled.

18. **The recess.** The Hearing Examiner then announced, "we're going to be in recess for about five minutes here, and then I'll come back and issue a decision." Tr. 19:7–9. The recess in fact ran from 9:21 to 9:34 a.m. Tr. 19:10. It lasted thirteen minutes, not five.

19. **What occurred during the recess is unknown and unknowable.** No participant appearing remotely could see or hear anything that occurred during that recess. No party knows whether Ms. Standerfer remained with the Hearing Examiner during it, or whether anything was said to him concerning the continuance. Nothing in the record answers either question, and no party has any means of answering them.

20. **The ruling reversed the position he had just stated.** Upon returning, the Hearing Examiner granted the motion to continue. Tr. 19:25. He thereby reached, after an unobserved recess inside a party's offices, the opposite of the disposition he had announced from the bench minutes earlier, over the objection of three of the four participants who addressed the question, and in favor of the one participant who requested it and the party that had abandoned its written position.

21. **No pending motion was decided.** The Hearing Examiner did not rule upon the Omnibus Pre-Hearing Motion, which had been fully briefed under the stipulated schedule and

which was the announced business of the conference. Apart from the stipulated exchange of witnesses, he did not rule upon any pending motion. He set argument on the Department's late-filed motion to dismiss for September 15, 2026, and deferred all other pending motions to that date. Tr. 20:1–13. The merits hearing was left unset, with the week of October 26, 2026 discussed as a target subject to securing a location. Tr. 22:20–25.

22. **The objection is not to the ruling.** Movants do not contend that the continuance was, standing alone, an abuse of discretion, and they are aware that a disqualification request resting solely upon a ruling is insufficient. *See Frazier v. Bruce*, 2021 OK 14, 484 P.3d 285. The objection is not to the ruling. It is to the circumstances in which the ruling was reached: an adjudicator who had just stated his disinclination to continue the hearing withdrew, for thirteen minutes and not the five he announced, into the physical custody of one party's offices and the company of that party's paralegal, beyond the observation of every other participant, and emerged having reversed himself.

23. **Oklahoma law does not tolerate that configuration.** In *Arbuckle Simpson Aquifer Protection Federation of Oklahoma, Inc. v. Oklahoma Water Resources Board*, 2013 OK 29, 343 P.3d 1266, the Supreme Court held that *ex parte* communications between a hearing officer and witnesses, relayed through the agency, created the impression of partiality and warranted a writ of mandamus compelling their disclosure. The Court emphasized that the object of administrative adjudication is a fair hearing before a neutral hearing officer, avoiding even the appearance of impropriety, and that the lack of due process resulting from a biased tribunal cannot be corrected on appeal. There the agency served as a conduit. Here no conduit was required: the adjudicator was already inside the party's space, attended by that party's staff, and deliberated there unobserved.

24. **The ex parte prohibition.** Title 75 O.S. § 313 forbids those assigned to render a decision from communicating, "directly or indirectly, in connection with any issue of fact, with any person or party," except upon notice and opportunity for all parties to participate. The Hearing Examiner is a contract examiner, not an agency member; Ms. Standerfer is not his personal assistant but the employee of a party. Whether the recess produced a communication within § 313, no party can say. That is the vice. The appearance of partiality is measured by what a reasonable observer may conclude, not by what the parties can prove about what they were prevented from observing.

25. **Structural context: the Hearing Examiner's engagement.** On information and belief, the Hearing Examiner has served as a contract hearing examiner for the Department for a period of years under a continuing, compensated engagement, the renewal of which lies within the Department's discretion. Oklahoma law presumes that one "who has a financial interest in the outcome of a decision, even a pretrial decision, cannot render a decision with 'the cold neutrality of an impartial judge.'" *Johnson v. Bd. of Governors of Registered Dentists*, 1996 OK 41, ¶ 37, 913 P.2d 1339, 1348. That presumption is not confined to a personal stake in the merits. *See Ward v. Village of Monroeville*, 409 U.S. 57, 59–62 (1972).

26. The word the Legislature chose is "independent." 36 O.S. § 319. Movants do not ask this Court to hold that every contract examiner is disqualified in every case, and they do not seek the production of the Hearing Examiner's contracts, invoices, or compensation records. They ask only that the September 4 conduct be assessed in the setting in which it occurred: a sole and

final adjudicator, compensated by a party, appearing from that party's space and attended by that party's staff, who then deliberated there beyond the sight and hearing of everyone else.

27. **The totality.** In *Bowen v. State ex rel. Oklahoma Real Estate Appraiser Board*, 2011 OK 86, 270 P.3d 133, the Supreme Court nullified a disciplinary proceeding because "the totality of the circumstances created an appearance of impartiality/conflict of interest," holding that "the appearance of impartiality is as important as an actual impartiality or a conflict of interest," *id.* ¶ 20, 270 P.3d at 137, and doing so where the conflicted individual was merely a witness who "was not a member of the Board, nor did she participate in the decision to discipline the appraiser," *id.* ¶ 21, 270 P.3d at 137–38. A conflict borne by the sole adjudicator himself is *a fortiori* disqualifying.

IV. GROUNDS FOR DISQUALIFICATION OF THE COMMISSIONER

A. The Commissioner is an anticipated witness for the Department.

28. During the scheduling discussion that followed the continuance ruling, counsel for the Department stated that the Commissioner was traveling for a conference during the week under discussion, that the Department anticipated he would be present for the hearing, and, in answer to the Hearing Examiner's question whether his presence was desired, that "we are anticipating that he may be a witness." Tr. 24:18–25:3. The Hearing Examiner responded: "Well, that — that's important." Tr. 25:4–5. That disclosure was made for the first time on September 4, 2026.

29. **Wilson controls.** In *Wilson v. Oklahoma Horse Racing Commission*, 1996 OK 3, 910 P.2d 1020, the Supreme Court vacated an administrative proceeding where the presiding steward had taken an active role in the underlying matter, presided over the hearing, and testified as a witness in it. The Court held that "the actions of Steward Charlie Cox in initiating and taking an active role in the matter . . . coupled with his presiding over the three-person Board and testifying in the case created a situation in which he should have disqualified himself," *id.* ¶ 15, 910 P.2d at 1023–24, and observed that there is no provision in law for a hearing examiner to testify as a witness in the proceedings. The Court adopted the rule that "[a] tribunal is not impartial if it is biased with respect to the factual issues to be decided at the hearing." *Id.* ¶ 16, 910 P.2d at 1024.

30. The Commissioner occupies each of the positions *Wilson* found intolerable in combination. He has already answered the question, having ruled by written order on April 7, 2026 that the presumption of a competitive market stood unrebutted. He convened this proceeding and stands at the head of the agency before which it is pending, and it is he who under 75 O.S. § 316 would ordinarily determine this very Affidavit. And the Department now anticipates calling him as its witness upon the identical question. *Accord Pitman v. Doty*, 1968 OK 16, 441 P.2d 428 (mandamus compelling a judge to certify his disqualification where he would be a material witness on the issues involved).

B. The Commissioner has formally and publicly decided the question presented.

31. **The April 7, 2026 order.** On April 7, 2026, in Case No. 26-0215-COR, the Commissioner denied a demand for a hearing on the competitiveness of the homeowners market, concluding that "the evidence supports a finding that the Oklahoma homeowners insurance market is competitive" and that the requesting party had "not provided any information or evidence sufficient to establish the burden of proof necessary to overcome the presumption of a competitive market." Exhibit G, ¶ 24. He resolved, by written order and without receiving evidence, the identical question of fact now noticed for hearing, and resolved it against the party bearing the burden of proof under 36 O.S. § 984(A).

32. **The public statements.** In an official Department release dated January 7, 2026, the Commissioner stated that "objective, well-established economic tools . . . show that the Oklahoma homeowners insurance market is competitive," and that this "reflects a competitive marketplace." In the Department's May 20, 2026 release announcing this hearing, he stated: "I also stand by my position that we have a competitive market for homeowners insurance coverage." He has written publicly that "Oklahoma operates within a competitive market" and that "declaring [homeowners] as noncompetitive would not be an option." Exhibits B, C, and E; see also Exhibits D and F. These statements are also catalogued at paragraphs 80 through 85 of the Omnibus Pre-Hearing Motion.

33. **Reaffirmation in the notice itself.** The significance of the May 20, 2026 statement is its timing. The Commissioner reaffirmed his conclusion in the very announcement that he would convene a hearing to determine it. A conclusion restated at the moment the evidentiary process is opened is a conclusion held independent of that process.

34. **Firm public statements before hearing disqualify.** *Wilson* expressly approved *Staton v. Mayes*, 552 F.2d 908, 914 (10th Cir. 1977), where "firm public statements before the hearing" by decisionmakers "reveal[ed] a tribunal not meeting the demands of due process for a hearing with fairness and the appearance of fairness." Federal courts apply the same measure to agency heads, asking whether "a disinterested observer may conclude that (the agency) has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it" — the test adopted in *Cinderella Career & Finishing Schs., Inc. v. FTC*, 425 F.2d 583, 591 (D.C. Cir. 1970).

35. **Folsom is inapposite.** Should the Department invoke *Folsom Auto Supply v. Bristow*, 1954 OK 254, 275 P.2d 706, the case does not reach these facts. The prior ruling there arose from the commissioner's participation in review of evidence already in the record. The Commissioner here received no evidence. He denied a hearing, announced his conclusion publicly before any evidentiary process began, and reaffirmed it in the notice opening that process.

C. The Department cannot be neutral and an advocate at once.

36. The Department has represented to this Court that "[t]he Commissioner has appointed an independent hearing examiner to ensure that an objective determination is made based on the law and evidence presented." Department's Response to Omnibus Pre-Hearing Motion at 7. It has simultaneously moved to remove two participants who advocate the position it opposes, filed that motion after briefing closed, abandoned its written objection to delay within a day of making it, and now anticipates calling the agency head as its witness to prove the conclusion

he has already announced. Those postures cannot be reconciled, and Movants do not attempt to reconcile them. They ask only that the tribunal be constituted so that the question is decided by someone who has not already answered it.

D. The Commissioner publicly opposed the candidacy of a party to this proceeding.

37. Bob Sullivan is the person whose demand for a § 984 hearing the Commissioner denied by the April 7, 2026 order described above, and he is now a party to this proceeding and one of the two participants the Department has moved to remove. He was also a candidate for Insurance Commissioner in 2026.

38. Ten weeks after entering that order, on the day of the June 16, 2026 primary, the Commissioner posted publicly: "If anyone has questions or looking for insight on any candidates, I'm happy to discuss. Give me a call or text," and "I encourage you to vote for Marty Quinn." Exhibit J. Nine days after issuing the Notice of Hearing in this matter, on July 23, 2026, the Commissioner co-hosted a fundraising reception benefiting Mr. Quinn. Exhibit I. Mr. Sullivan defeated Mr. Quinn in the runoff held August 25, 2026.

39. Nine days after that runoff, the Department moved to remove Mr. Sullivan from this proceeding, and the hearing at which Movants intend to carry the burden of proof was continued on the motion of one of the fundraiser's co-hosts. Movants do not contend that the Commissioner was disabled from taking part in an election. They contend that an officer who campaigned publicly, and solicited contributions, against the person whose demand he had denied and who now appears before him cannot also be the officer who rules on that person's participation, presides over the agency prosecuting that question, and determines the affidavit seeking his own disqualification.

V. THE GOVERNING STANDARD

40. **Withdrawal is mandatory.** Under 75 O.S. § 316, a "hearing examiner or agency member *shall* withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration," and any party may request disqualification by affidavit filed promptly and stating the grounds with particularity. The obligation to withdraw is not discretionary.

41. **Section 316 rests upon a constitutional floor.** Due process "entitles a person to an impartial and disinterested tribunal," and "[t]he lack of due process resulting from a biased tribunal cannot be corrected on appeal." *Johnson*, 1996 OK 41, ¶ 14, 913 P.2d at 1344 (adopting *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980)); *see* Okla. Const. art. II, § 7. Every litigant is entitled to "the cold neutrality of an impartial judge," and where "circumstances and conditions surrounding litigation are of such a nature that they might cast doubt and question as to the impartiality of any judgment the trial judge may pronounce, said judge should certify his disqualification." *Id.* ¶ 32, 913 P.2d at 1347–48. That standard "applies equally to administrative boards acting in an adjudicatory capacity as it does to judges." *Id.* ¶ 33, 913 P.2d at 1348.

42. **The standard is objective.** The question "is an objective standard and is not dependent on the judge's belief." *Id.* ¶ 32, 913 P.2d at 1348. It asks "whether the circumstances are of such nature to cause doubt as to his or her partiality, bias, or prejudice." *Bowen*, 2011 OK 86, ¶ 22, 270 P.3d at 138; *accord Merritt v. Hunter*, 1978 OK 18, 575 P.2d 623. Neither the Hearing Examiner's nor the Commissioner's subjective confidence in his own impartiality answers it. Due process is offended where "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." *Withrow v. Larkin*, 421 U.S. 35, 47 (1975); *accord Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 877 (2009).

43. **The combination of functions is not the objection.** Movants do not contend that the combination of investigative and adjudicative functions within a single agency offends due process. *Withrow*, 421 U.S. at 47, 54–55; *cf. Cherokee Data Computer Parts & Servs., Inc. v. Okla. Dep't of Labor*, 2005 OK CIV APP 81, ¶¶ 15–17, 122 P.3d 56, 61–62. The objection here is narrower and different in kind. *Withrow* itself preserves this case-specific inquiry, requiring disqualification where "special facts and circumstances" render "the risk of unfairness . . . intolerably high." 421 U.S. at 58. *Wilson* drew the same line, disqualifying an individual adjudicator for his own conduct while acknowledging that combined agency functions are generally permissible. 1996 OK 3, ¶¶ 13, 15, 910 P.2d at 1023–24.

VI. DISPOSITION OF THIS AFFIDAVIT AND PRESERVATION

44. **Who decides.** The Hearing Examiner, and not the Commissioner, is the decisional officer in this proceeding. 36 O.S. §§ 313(A), 319. His order after hearing is final agency action, and the Commissioner has no power to review it. To the extent 75 O.S. § 316 would nonetheless commit the determination of this Affidavit to the administrative head of the agency, that determination cannot be made by an officer who is himself the subject of it and whom the Department anticipates calling as its witness. Movants accordingly request that the Commissioner take no part in the determination of this Affidavit. That a Commissioner may withdraw under § 316 is not novel in this Department: in *Roussel v. State ex rel. Grimes*, 1980 OK 101, 614 P.2d 53, the Insurance Commissioner disqualified himself and his staff under § 316 because a hearing conducted by them "might give the appearance that the hearing examiner was not impartial."

45. **The Governor has no role in replacing a hearing examiner.** Section 316 provides that "[u]pon the entry of an order of disqualification affecting a hearing examiner, the agency shall assign another in his stead or shall conduct the hearing itself." The duty runs to the agency, and the statute prescribes no method of selection. The Supreme Court has confirmed the negative. Construing this same section, it held that "the Governor is not authorized to appoint hearing examiners, but is only authorized to appoint individuals to serve in the place of disqualified members of the agency, such as the Insurance Commissioner." *Roussel v. State ex rel. Grimes*, 1980 OK 101, ¶ 20, 614 P.2d 53, 57. The successor examiner is assigned by the agency.

46. **The member pro tempore provision is conditional, and the condition post-dates Roussel.** Section 316 separately provides that upon the disqualification of an agency member the agency shall proceed if a quorum remains, and that "[i]f a quorum no longer exists, by virtue of the member's disqualification, the Governor immediately shall appoint a member pro tempore." That condition did not exist when *Roussel* was decided. The statute there construed read

simply: "Upon the disqualification of a member of an agency, the Governor immediately shall appoint a member pro tem to sit in place of the disqualified member in that proceeding." 75 O.S. 1971, § 316, quoted in *Roussel*, 1980 OK 101, ¶ 5, 614 P.2d at 55. The Legislature has since conditioned the Governor's role upon the agency's inability to proceed.

47. **No member pro tempore is required here.** Movants do not dispute that Roussel describes the Insurance Commissioner as "a member of an agency." *Id.* ¶ 20. The reason a member pro tempore was needed there is that the Commissioner was himself the adjudicator: his disqualification left no one to hear the application, and the Court accordingly held that the Governor's appointee "became an Insurance Commissioner pro tem" and "was acting as the Insurance Commissioner" for purposes of conducting the hearing and issuing the order. *Id.* This proceeding is not built that way. Under 36 O.S. §§ 319 and 313(A) the independent hearing examiner receives the evidence and signs the final order, and that order is final agency action. The Commissioner's withdrawal from a decisional and supervisory role therefore leaves the agency able to proceed — the adjudication continues before the examiner. Nothing remains that a member pro tempore would be needed to do, and the quorum condition is not engaged. What remains is a single ministerial act: the assignment of a successor examiner, which § 316 commits to the agency without prescribing how the agency must choose.

48. **The successor should be one the parties agree upon.** Two statutes govern the character of that appointment. Section 319 requires that the examiner be *independent*. Section 307 requires that matters be heard "in person, by authorized *disinterested* employees or by hearing examiners appointed by the Commissioner for that purpose." 36 O.S. § 307. Those are the Legislature's words. Where the objection is precisely that the examiner was selected and is compensated by one party, the selection method that plainly satisfies both words is one in which no party selects alone. Movants accordingly request that the parties of record be directed to confer and to submit an agreed successor examiner within ten (10) days; that if the parties do not agree, they be directed to assemble a list of no more than seven (7) qualified persons, none having any present or prior contractual, compensated, or employment relationship with the Department, and to arrive at a selection by alternating strikes. Nothing in § 316 forbids that procedure. It is the procedure most likely to produce an examiner whose neutrality no party will later be heard to question — and it removes from the Department the very act that gave rise to this Affidavit.

49. **No further substantive rulings should issue.** A decision-maker's continued participation while a disqualification request is pending deprives a party of due process. The rule is settled for trial judges, and the reasoning applies with equal force to a § 316 administrative adjudicator. *Clark v. Bd. of Educ. of Indep. Sch. Dist. No. 89*, 2001 OK 56, 32 P.3d 851; *Miller Dollarhide, P.C. v. Tal*, 2007 OK 58, 163 P.3d 548 (it is not a matter of discretion to refrain from presiding over the case until the disqualification ruling is memorialized and the movant has exhausted the available procedure). Movants request that no further substantive ruling issue until this Affidavit is determined, including the argument presently set for September 15, 2026.

50. **A written order is necessary.** Judicial review of this proceeding is confined to the record. 75 O.S. § 321; *Leo*, 2023 OK 96, 536 P.3d at 953. Movants request that the disposition of this Affidavit be memorialized in a written order stating the reasons for the ruling and the findings on which it rests, and that the record of the September 4, 2026 conference — including the fact and duration of the recess — be preserved.

51. **Preservation.** Movants reserve the right to seek an original writ of mandamus or prohibition in the Supreme Court of Oklahoma under Article VII, Section 4 of the Oklahoma Constitution should this Affidavit be denied. *See Arbuckle Simpson*, 2013 OK 29, 343 P.3d 1266 (issuing the writ before final order, because a lack of due process from a biased tribunal cannot be corrected on appeal). They further reserve the right to supplement this Affidavit should additional facts concerning the September 4, 2026 recess become known.

VII. GROUNDS STATED WITH PARTICULARITY

52. The grounds upon which it is claimed that a fair and impartial hearing cannot be accorded are:

(a) the Hearing Examiner appeared at the September 4, 2026 conference from within the Department's space, against a Department background and in the physical company of the Department's paralegal, while the Department is a party;

(b) the Hearing Examiner stated on the record that he was not particularly wanting to move the hearing date, then recessed for thirteen minutes after announcing a five-minute recess, and returned and granted a continuance over the objection of three participants;

(c) that recess was taken inside the party's offices, beyond the observation of every remote participant, in circumstances in which no party can determine what was said to him and nothing in the record answers the question;

(d) the Hearing Examiner declined to rule upon the fully briefed Omnibus Pre-Hearing Motion or upon other pending motions, and deferred them to a date set for argument on the Department's late-filed motion;

(e) the Hearing Examiner is compensated by the Department under a continuing engagement subject to the Department's renewal, while 36 O.S. § 319 requires that he be independent and 36 O.S. § 313(A) makes his order final agency action subject to no intra-agency review;

(f) the Department anticipates calling the Commissioner as its witness upon the question to be adjudicated;

(g) the Commissioner determined that same question by written order on April 7, 2026, without receiving evidence, against the party bearing the burden of proof;

(h) the Commissioner has publicly and repeatedly announced that the Oklahoma homeowners insurance market is competitive, including in the Department release announcing this hearing; and

(i) ten weeks after denying Bob Sullivan's demand for this hearing, the Commissioner publicly urged voters to support Mr. Sullivan's opponent, and nine days after issuing the Notice of Hearing co-hosted a fundraising reception for that opponent, of which the sole participant who moved for the continuance was also a host; and

(j) the Commissioner, so situated, would otherwise be the officer determining this Affidavit.

VIII. RELIEF REQUESTED

WHEREFORE, PREMISES CONSIDERED, the State of Oklahoma, ex rel. the Attorney General, and Bob Sullivan respectfully request that:

1. the Honorable John D. Miller withdraw from this proceeding pursuant to 75 O.S. § 316, and that another hearing examiner having no contractual, compensated, or continuing engagement with the Oklahoma Insurance Department be assigned in his stead;

2. the Insurance Commissioner withdraw from any adjudicative, decisional, or supervisory role in this proceeding, including any determination of this Affidavit;

3. no further substantive ruling be entered in this proceeding, including the argument set for September 15, 2026, until this Affidavit is determined;

4. the parties of record be directed to confer and to submit an agreed successor hearing examiner within ten (10) days of the order of disqualification; and that, failing agreement, they assemble a list of no more than seven (7) qualified persons, none having any present or prior contractual, compensated, or employment relationship with the Oklahoma Insurance Department, and arrive at a selection by alternating strikes;

5. the determination of this Affidavit be memorialized in a written order stating the reasons for the ruling and the findings on which it rests, and that the record of the September 4, 2026 pre-hearing conference be preserved and made available to the parties; and

6. the Court grant such other and further relief as is fair, reasonable, necessary, and proper to secure a fair and impartial tribunal.

VERIFICATION

Each of the undersigned declares under penalty of perjury under the laws of the State of Oklahoma that the factual statements set forth in this Affidavit are true and correct of his own personal knowledge, except those matters expressly stated upon information and belief, which he believes to be true, and except those matters expressly attributed to the other affiant.

Reggie N. Whitten, OBA No. 9576
Counsel for the Oklahoma Attorney General

Subscribed and sworn to before me this 10th day of September, 2026.

Notary Public

My Commission Expires: 01-05-28
Commission No.: 24000271



Michael J. Hunter, OBA No. 4503
Counsel for Bob Sullivan

Subscribed and sworn to before me this 10th day of September, 2026.

Notary Public

My Commission Expires: 01-05-28
Commission No.: 24000271



Respectfully submitted,

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INDEX OF EXHIBITS

Exhibit A	Notice of Hearing, filed July 14, 2026 (Case No. 26-0820-TRN)
Exhibit B	Okla. Ins. Dep't, "Economic Indicators Show Oklahoma's Homeowners Insurance Market Is Competitive" (Jan. 7, 2026)
Exhibit C	Okla. Ins. Dep't, "Insurance Commissioner Comments on Legislative Changes; Announces Intent to Hold Public Hearing" (May 20, 2026)
Exhibit D	Jeff Elkins, "Oklahoma Insurance Department to Host Market Competitiveness Hearing," The Oklahoman
Exhibit E	Okla. Ins. Dep't, "Understanding the Evolving Insurance Landscape"
Exhibit F	"OK Insurance Department Will Hold Public Hearing in September," The Oklahoman (June 5, 2026)
Exhibit G	Order Regarding Request for Section 984 Hearing, entered April 7, 2026 (Case No. 26-0215-COR)
Exhibit H	Transcript of Pre-Hearing Conference held September 4, 2026 (Case No. 26-0820-TRN)
Exhibit I	Invitation to fundraising reception benefiting Marty Quinn, hosted by Insurance Commissioner Glen Mulready and others (July 23, 2026)
Exhibit J	Facebook post of Glen Mulready (June 16, 2026)

CERTIFICATE OF SERVICE

I, Reggie N. Whitten, hereby certify that on this 10th day of September 2026, a true and correct copy of the above and foregoing *Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan in Support of Disqualification of the Independent Hearing Examiner and of the Insurance Commissioner Pursuant to 75 O.S. § 316* was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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Reggie N. Whitten

FILED
OCT 02 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

ORDER DENYING THE JOINT AFFIDAVIT SEEKING DISQUALIFICATION OF THE INDEPENDENT HEARING EXAMINER AND THE INSURANCE COMMISSIONER

This matter comes before the undersigned Independent Hearing Examiner, designated by the Insurance Commissioner ("Commissioner") pursuant to 75 O.S. § 316, to determine the *Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan in Support of Disqualification of the Independent Hearing Examiner and of the Insurance Commissioner Pursuant to 75 O.S. § 316,* filed September 10, 2026 (the "Affidavit") by the State of Oklahoma, ex rel. Genter Drummon, Attorney General of the State of Oklahoma ("Attorney General") and Bob Sullivan ("Sullivan")(collectively referred to as "Movants").

The undersigned has considered the Affidavit; *The Oklahoma Insurance Department's Response Opposing the Disqualification* filed September 22, 2026 (the "Response") by the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner (the "Department" or "OID") and its supporting affidavits; *The National Association of Mutual Insurance Companies Inc. and American Property Casualty Insurance Associations, Inc.'s Response Brief Opposing the Affidavit in Support of Disqualification* filed September 14, 2026 (the "NAMIC Response") by The National Association of Mutual Insurance Companies, Inc. ("NAMIC") and The American Property Casualty Insurance Association, Inc. ("APCIA"); the *Joint Objection of the Oklahoma Attorney General and Bob Sullivan to the Filing by the Oklahoma Insurance Department on September 22, 2026, and Renewed Request for Prompt Determination Pursuant to 75 O.S. § 316*

filed September 29, 2026 ("Joint Objection") by the Movants, the transcript of the September 4, 2026 pre-hearing conference; and the applicable governing law.

For the reasons set forth below, the undersigned finds that the Movants have not met their burden of overcoming the presumption of impartiality, and that neither the individual grounds asserted nor their totality would cause a reasonable, disinterested observer to doubt the impartiality of Independent Hearing Examiner, John D. Miller (the "Hearing Examiner"). Therefore, the relief requested in the Affidavit is **DENIED in part and GRANTED in part.**

I. Summary of the Parties' Contentions

The Movants seek the disqualification of both Hearing Examiner and the Commissioner under 75 O.S. § 316, from any adjudicative, decisional, or supervisory role in this proceeding, contending that the circumstances deprive them of a fair and impartial tribunal. *See* Affidavit, p. 1. Movants argue that the governing standard is objective, and that disqualification is required where the circumstances would cause a reasonable observer to doubt the adjudicator's impartiality, regardless of the adjudicator's own belief in his neutrality, and that the appearance of partiality is measured by what a reasonable observer may conclude rather than by what the Movants can prove. *See* Affidavit, p. 5, 8, and 9.

As to the Hearing Examiner, the Movants contend that he appeared at the September 4, 2026 pre-hearing conference from within the Department's offices and in the physical company of the Department's paralegal, while the Department is a party. *See* Affidavit, p. 11. Movants contend that the Hearing Examiner stated he was disinclined to move the hearing date; however, after he took a thirteen-minute recess beyond the observation of every remote participant, he returned and granted a continuance over the objection of three of the four participants who addressed it, declined to rule on the fully briefed Omnibus Pre-Hearing Motion, and deferred the

pending motions to a date set for argument on the Department's late-filed motion. *See id.* Movants appear to contend that because it was impossible to know what occurred during the recess, there is an appearance of impropriety. Movants further contend that the Hearing Examiner is compensated by the Department under a continuing engagement subject to the Department's renewal, notwithstanding that 36 O.S. § 319 requires an "independent" examiner. *See id.* For these reasons, Movants contend that the totality of the circumstances creates an appearance of partiality/conflict of interest that requires the Examiner to be disqualified.

As to the Commissioner, the Movants contend that the Department anticipates calling him as a witness on the very question to be adjudicated. *See* Affidavit, p. 11. Specifically, Movants contend that he determined that question by written order on April 7, 2026 without receiving evidence, and that Commissioner has publicly and repeatedly announced that the market is competitive, including in the release announcing this hearing. *See id.* Movants further contend that the Commissioner publicly opposed Mr. Sullivan's candidacy and co-hosted a fundraiser for his opponent. *See id.* Based upon these contentions, Movants contend that the Commissioner should withdraw from any adjudicative, decisional, or supervisory role in this proceeding, including any determination of this Affidavit. *See id.* p. 12.

The Department opposes disqualification, contending that administrative adjudicators are presumed capable of judging a controversy fairly and that the Movants bear the burden of overcoming that presumption. *See* Response, p. 1-2. The Department argues that holding hearings at agency facilities is routine and proper, that agency staff assistance to a hearing examiner is a recognized and lawful practice, and that no ex parte communication concerning the merits occurred. *See id.*, p. 3-5. The Department contends that the Hearing Examiner's statement about the hearing date was not a ruling and preceded argument, that his continuance ruling was a single

decision made after hearing all parties, and that an adverse ruling is insufficient to establish that a fair and impartial hearing cannot be afforded. *See id.*, p. 5-6. The Department further contends that the Hearing Examiner's compensated engagement does not disqualify him, noting that his contract is not set for renewal until next year, once the next Oklahoma Insurance Commissioner is in office. *See id.* at 7.

As to the Commissioner, the Department contends that he is not presiding over these proceedings, having delegated his adjudicative authority to the Hearing Examiner, which distinguishes the authorities on which the Movants rely. *See* Response, p. 9. The Department further contends that the Administrative Procedures Act does not bar an agency head from testifying in an administrative hearing conducted by that agency, that the Commissioner is called only as a fact witness, and that his constitutionally protected political activity and prior ruling in a separate case are not grounds for disqualification. *See id.* p. 10-11. The Department contends that the disqualification issue may be heard by an independent examiner appointed by the Commissioner pursuant to 36 O.S. § 319. *See id.* p. 8. Finally, the Department contends that any successor examiner must be assigned by the agency rather than selected by the parties, but that in any event, the Affidavit should be denied and the matter should proceed before the currently appointed Hearing Examiner. *See id.* at 11-12.

NAMIC and APCIA also oppose disqualification and urge that the Affidavit be denied in its entirety. *See* NAMIC Response. They contend that in conducting a § 984 proceeding the Department acts in a rulemaking capacity rather than a judicial one, so that the only requirement is that the decisionmaker not have an "unalterably closed mind on matters critical to the disposition of the rulemaking," a burden the Movants fail to meet. *See id.* p. 1-2. They contend that even under an adjudicative standard the Movants cannot meet their burden. They contend that the Department

offered in-person attendance and the Movants elected to appear remotely, and Movants should not be heard to speculate about the recess. *See id.* at p. 2. They further contend that a prior ruling or opinion on the issue does not disqualify an adjudicator, and political activity and a salary paid by the Department are not grounds for disqualification. *See id.*

II. Legal Standard

Under 75 O.S. § 316, "[a] hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration," and any party may request disqualification "by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded." Due process requires that every litigant receive a decision that is the product of "the cold neutrality of an impartial judge," a standard that "applies equally to administrative boards acting in an adjudicatory capacity as it does to judges." *Johnson v. Bd. of Governors of Registered Dentists of State of Okl.*, 1996 OK 41, ¶¶ 32-33, 913 P.2d 1339, 1347-1348.

The standard for determining disqualification of a hearing examiner is objective and does not turn on proof of actual bias or actual misconduct. The question "is not whether one personally believes herself or himself to be unprejudiced, unbiased, and impartial," but "whether the circumstances are of such nature to cause doubt as to his or her partiality, bias, or prejudice." *Bowen v. State ex rel. Oklahoma Real Est. Appraiser Bd.*, 2011 OK 86, ¶22, 270 P.3d 133, 139. The parties are entitled to a hearing that "avoids the appearance that fairness and impartiality are lacking." *Arbuckle Simpson Aquifer Prot. Fed'n of Oklahoma, Inc. v. Oklahoma Water Res. Bd.*, 2013 OK 29, ¶15, 343 P.3d 1266, 1272. Whether an appearance of unfairness and partiality exists is assessed on the totality of the circumstances. *Bowen*, 2011 OK 86, ¶23, 270 P.3d 133, 139.

That objective inquiry operates against a presumption of impartiality that the challenging party bears the burden to overcome. *See Casey v. Casey*, 2011 OK 46, ¶ 11, 270 P.3d 109, 112("The burden is on the party seeking disqualification to substantiate a claim that the appearance of a fair trial is not present, or that the judge's impartiality might reasonably be questioned.") Administrators are "assumed to be men of conscience and intellectual discipline, capable of judging a particular controversy fairly on the basis of its own circumstances," and a party asserting a disqualifying risk of bias "must overcome a presumption of honesty and integrity in those serving as adjudicators." *Withrow v. Larkin*, 421 U.S. 35, 47, 55 (1975). "Agency administrators are presumed to be capable of judging a particular controversy fairly." *Wilson v. Oklahoma Horse Racing Comm'n*, 1996 OK 3, ¶13, 910 P.2d 1020, 1023.

III. Analysis

a. Preliminary matters

Because the Affidavit names the Commissioner and the Department anticipates calling him as a witness, the Commissioner has designated the undersigned, an independent hearing examiner having no role in the merits of this proceeding, to determine the Affidavit in his stead.

The undersigned has considered the Movants Joint Objection, and finds that said objection is **OVERRULED**. While there is nothing in Section 316 that expressly authorizes parties to submit responsive pleadings to an affidavit seeking the disqualification of a hearing examiner, there is nothing in Section 316 that precludes the filing of responsive pleadings. As such, the undersigned exercises his inherent authority to control the proceedings over which he is appointed, and finds that the Response and the NAICO Response should remain part of the record, and has taken them under consideration.

The NAICO Response asserts that the Department is operating in a rulemaking capacity under Section 984, rather than a judicial capacity. As such, NAICO and APCIA contend that the Hearing Examiner could only be disqualified if it was demonstrated that he had an "unalterably closed mind on matters critical to the disposition of the rulemaking." NAICO Response, p. 1. However, because the undersigned finds that the Hearing Examiner is not disqualified under the more stringent standard applied when a Hearing Examiner is operating in a judicial capacity, the undersigned does not reach a decision regarding whether or not the Hearing Examiner is operating in a rulemaking capacity or a judicial capacity.

a. Grounds for disqualifying the Hearing Examiner

Movants have identified numerous alleged issues that they contend, when viewed together, create an appearance of impartiality/conflict of interest, and require the Hearing Examiner to be disqualified. The undersigned will address these contentions below.

i. The Hearing Examiner's appearance from the Department's building with the administrative court clerk present

The undersigned finds that the fact the Hearing Examiner appeared from the Department's building, with the Department's administrative court clerk assisting him, would not cause a reasonable observer to doubt his impartiality. Oklahoma law expressly contemplates that an insurance-code hearing be conducted "in person, by authorized disinterested employees or by hearing examiners appointed by the Commissioner for that purpose." 36 O.S. § 307. For a host of practical reasons, the administrative hearings carried out by independent hearing examiners are routinely and permissibly held at agency facilities. Further, there is no record of any party to this proceeding objecting to the location of the hearing prior to it taking place.

The ex parte prohibition of 75 O.S. § 313 forbids a decision-maker from communicating on issues of fact "with any person or party," and on issues of law "with any party or his

representative," except on notice and an opportunity for all parties to participate, but it expressly permits the decision-maker to "have the aid and advice of one or more personal assistants." Okla. Stat. Ann. tit. 75, § 313. A hearing examiner's use of agency staff for administrative and clerical support during a hearing taking place at an agency facility is a routine practice. There is nothing to suggest that the Hearing Examiner communicated with the agency support staff regarding issues of fact or issues of law related to the case. The allegations contained in the Affidavit reflect only routine clerical assistance by the Department's administrative court clerk. As such, the fact the Hearing Examiner was assisted by an administrative clerk during the hearing does not create any appearance of impartiality. [1] Further, the undersigned agrees with the Department that setting such a precedent would call into question the validity of a majority of administrative hearings held at agency facilities.

ii. The recess and continuance ruling

An adverse ruling is not evidence of partiality. The Movants concede that the continuance was not, standing alone, an abuse of discretion and that a disqualification request resting solely on a ruling is insufficient. *See* Affidavit, p. 5. Movants object, instead, to the circumstances in which the ruling was reached. *See id.* However, the Movants' contention that the Hearing Examiner reversed a prior "ruling" after a recess is inaccurate. The record reflects that the Hearing

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[1] The undersigned's specifically rules that the Hearing Examiner's conduct at the September 4, 2026 hearing does not create an objective appearance of impartiality or bias without the need to rely upon the affidavits provided by the Department stating that no ex parte communications took place. However, if should be noted that in the event there was evidence that an ex parte communication had taken place, the remedy would not be to disqualify the Hearing Examiner, but to order that the alleged ex parte communications be disclosed so that all parties may respond accordingly. *See Arbuckle Simpson Aquifer Prot. Fed'n of Oklahoma, Inc. v. Oklahoma Water Res. Bd.*, 2013 OK 29, ¶ 0, 343 P.3d 1266, 1267 (Wherein the Oklahoma Supreme Court refused to order the disqualification of a hearing examiner, but held "in the interest of fairness and in order to remedy any appearance of impropriety we issue a writ of mandamus compelling the hearing officer to notify the parties to the administrative proceeding of any and all ex parte communications that occurred between her and federal agencies and to include those communications in the record, so that the parties may have an opportunity to respond.") Here, the Department has already provided sworn affidavits describing the communications between the Hearing Examiner and the administrative support staff on the day of the hearing. Nevertheless, because these affidavits do not serve as the basis of this order, the undersigned will not provide any further comment on the affidavits.

Examiner's initial remark that he was disinclined to move the hearing date was made before any continuance motion and before hearing from the parties. The fact that the Hearing Examiner ultimately decided to grant a continuance, after an oral motion for continuance was made and the parties addressed the merits of the motion, does nothing more than reflect that the Hearing Examiner made a decision on fuller consideration of the issues. Measured objectively, a recess taken to deliberate before announcing a ruling, is ordinary adjudicative conduct that would not cause a reasonable observer to doubt impartiality, even if the ultimate decision differed from the examiner's initial remark.

The Movants identify no communication during the recess. They contend only that what occurred is "unknown and unknowable." However, this is true of every recess taken by a judge or hearing examiner. Movants assert that the location of the hearing at an agency facility creates an appearance of impropriety. However, Movants advocate for a rule that would render it impractical to conduct proceedings at agency facilities, as any break in the proceedings would render the hearing examiner subject to disqualification due to the potential for unknowable ex parte communications. This type of speculation is insufficient to meet the Movant's burden to substantiate a claim that the appearance of a fair proceeding is not present. Accordingly, the undersigned finds that no objective person could consider the circumstances surrounding the recess and continuance ruling as creating an appearance of partiality.

iii. Deferral of the pending motions

The Hearing Examiner's decision to set a briefing schedule and oral argument on the Department's motion to dismiss, and to defer the remaining motions to that date rather than rule at the pre-hearing conference, is an ordinary exercise of case-management authority. A hearing examiner authorized to preside over the proceeding, necessarily has the authority to do all things

necessary and incidental to conducting the proceeding. Looked at objectively, the decision to defer consideration of the pending motions did not create an appearance of impartiality.

iv. The Examiner's compensation agreement

The Hearing Examiner's status as a compensated, contract examiner does not disqualify him. The Movants concede that they "do not ask this Court to hold that every contract examiner is disqualified in every case." Affidavit, p. 5. Given this concession, it is unclear how the compensation arrangement of the Hearing Examiner, which is not alleged to be materially different than any other hearing examiner utilized by the Department, would be relevant to the analysis here. It is presumed that "someone who has a financial interest in the outcome of a decision, even a pretrial decision, cannot render a decision with 'the cold neutrality of an impartial judge.'" *Johnson v. Bd. of Governors of Registered Dentists of State of Okl.*, 1996 OK 41, 913 P.2d 1339. But the disqualifying interest recognized in Oklahoma law is a substantial, outcome-dependent pecuniary stake in the particular controversy. *See Johnson v. Bd. of Governors of Registered Dentists of State of Okl.*, 1996 OK 41, 913 P.2d 1339)(disqualifying an adjudicator who was a business competitor of the respondent). Here, the Hearing Examiner has no comparable stake in whether the homeowners market is found competitive or noncompetitive. As such, the fact the Hearing Examiner is compensated for his services by the Department does not provide a basis for disqualification.

v. The totality of the circumstances does not create an appearance of partiality

Because the appearance of partiality is assessed on the totality of the circumstances, the undersigned has considered the asserted grounds not only individually but in the aggregate: a contract examiner, compensated by the Department, who appeared for a video conference from the Department's building attended by the Department's administrative court clerk, took a recess

beyond the remote participants' observation, and returned to grant a continuance that differed from his preliminary inclination. Taken together, these circumstances would not cause a reasonable, disinterested observer to doubt the Hearing Examiner's impartiality. Each issue raised by Movants is either expressly authorized by statute, ordinary adjudicative conduct, or a compensation arrangement that is no different than any other hearing examiner and is unrelated to the outcome of this proceeding. An aggregation of individually lawful and unremarkable circumstances does not become an appearance of partiality merely by being listed together.

Accordingly, Movants request to disqualify the Hearing Examiner is **DENIED**.

b. Withdrawal of the Commissioner

The Movants request to for an order directing the Commissioner to withdraw from "any adjudicative, decisional, or supervisory role" is also **DENIED** as moot. The relief is unnecessary because the Commissioner occupies no such role. The Commissioner has appointed and delegated his adjudicative authority to the Hearing Examiner, and as such, does not preside, and cannot review, the Hearing Examiner's final order, which is final agency action under 36 O.S. § 313(A). Further, none of the issues raised by the Movant regarding the Commissioner, such as his anticipated appearance as a witness, his April 7, 2026 order, his public statements, and his political activity, have any bearing on the impartiality of the Hearing Examiner, who is a separate quasi-judicial officer and the sole adjudicator of this proceeding.

In addition, as noted above, the Commissioner has appointed the undersigned to make a determination regarding the Affidavit. As such, the Commissioner has no adjudicative, decisional, or supervisory role in the determination of the Affidavit.

c. Additional request for relief

i. Request that no substantive rulings issue pending determination.

Because the request to disqualify the Hearing Examiner is denied, the request to stay all substantive rulings is **DENIED,** and the proceeding shall resume under the Hearing Examiner without further delay.

ii. ***Request for a party-selected successor examiner.***

The request that the parties confer and select an agreed successor examiner is **DENIED**. Because no order of disqualification has been entered, no successor is required.

iii. ***Request to preserve the record.***

The request that the record of the September 4, 2026 pre-hearing conference, including the fact and duration of the recess, be preserved and made available to the parties is **GRANTED**. The undersigned orders that the transcript and any video or audio recording of the hearing be preserved by the Department and made available to the parties.

iv. ***Request for a written order.***

The request for a written order is **GRANTED**. This Order satisfies the request that the disposition of the Affidavit be memorialized in a written order stating the reasons for the ruling and the findings on which it rests.

IT IS SO ORDERED.

Dated: October 2, 2026

Stephan S. Mathis
Independent Hearing Examiner
Designated Pursuant to 75 O.S. § 316

FILED
SEP 10 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

ORDER FOR CONTINUANCE

The pre-hearing conference in the above-styled case previously scheduled for September 4, 2026 at 9:00 o'clock a.m. is hereby continued until **September 15, 2026 at 10:00am** via Microsoft TEAMS. Additionally:

1. Any objections to the Oklahoma Insurance Department's (the "Department") *Motion to Dismiss Parties Due to Lack of Standing* ("Motion to Dismiss") shall be filed by **September 10, 2026 at 5:00pm**.

2. Any replies to objections filed regarding the Department's Motion to Dismiss shall be filed by **September 14, 2026 at 12:00pm**.

3. Oral argument regarding the Department's Motion to Dismiss shall be heard on **September 15, 2026 at 10:00am** via Microsoft Teams.

4. At the request of the Oklahoma P&C Advocacy Association, over the objection of the Oklahoma Attorney General, Bob Sullivan, the National Association of Mutual Insurance Companies, Inc. and the American Property and Casualty Insurance Association, and without objection from the Department, the hearing for the purpose of determining whether the homeowner's insurance market in Oklahoma is noncompetitive previously scheduled for September 14, 2026 at 09:00 o'clock a.m. is hereby continued until **October 26, 2026 at 09:00 o'clock a.m.** and will be held at the Oklahoma State Capitol, Multi-Purpose Room 100, 2300 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

5. The deadline for all parties to file their list of witnesses who will be called to testify at the October 26, 2026 hearing shall be **September 14, 2026 at 12:00pm**.

6. The deadline for all parties to file their list of exhibits which will be presented at the October 26, 2026 hearing shall be determined at the next pre-hearing conference held in this matter.

WITNESS My Hand and Official Seal this 10th day of September 2026.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

John Miller
Hearing Examiner

CERTIFICATE OF MAILING

I, Antuanya "Bo" DeBose, hereby certify that a true and correct copy of the above and foregoing *Order of Continuance* was mailed by first class U.S. Mail and by certified mail with postage prepaid and return receipt requested, along with electronic mail on this 10th day of September, 2026 to:

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Michael Burrage, OBA No. 1350
Blake Sonne, OBA No. 20341
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Antuanya "Bo" DeBose

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF OKLAHOMA

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

PRE-HEARING CONFERENCE

BEFORE HONORABLE JUDGE JOHN D. MILLER

On September 4, 2026, beginning at 9:05 a.m.

Via Teams

Becky Steinkamp, CSR, RPR
Court Reporter
Professional Reporters
511 Couch Drive, Suite 100
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(405) 272-1006

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APPEARANCES

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Honorable Judge John D. Miller
c/o Sherry Standerfer
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Also present:
Sherry Standerfer, OID
Craig MacIntyre, Observer
Paul Martin, NAMIC
Walter Gonzales, APCIA
Denise Johnson, Observer
Chelsea Stallings, NAMIC
Ryan Kilpatrick, APCIA
Joanna Coll, APCIA
Jerrell Harris, Observer

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PROCEEDINGS

THE COURT: Good morning, everybody morning.

UNIDENTIFIED SPEAKER: Good morning.

THE COURT: Everybody hear me? Anybody not hear me?

UNIDENTIFIED SPEAKER: Good morning.

THE COURT: Okay.

All right. We've got some matters to address this morning. I just want to first of all make sure that I've got a list of those -- let's see.

We've got for the Oklahoma Insurance Department Mr. DeBose and Ms. Nash. You're present; is that correct?

MR. DeBOSE: Yes, sir, Judge.

THE COURT: Ms. Steinkamp, court reporter, present. Welcome.

Mr. Blake Shelton -- I mean, Blake Patton. Excuse me. You are appearing on behalf of counsel for American Property Casualty Insurance Association and National Association of Mutual Insurance Companies, Inc.? Is that correct, Mr. Patton?

MR. PATTON: Yes, Your Honor, along with myself and Mr. Caleb Evans and Jason Seay, and we

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have some client representatives on as well.

THE COURT: Right. Would that be Ms. Stallings and Mr. Gonzales?

MR. PATTON: And Mr. Martin as well, I believe.

THE COURT: Is there a Mr. Martin online?

MR. MARTIN: Good morning, Judge. I'm here.

THE COURT: Okay. All right. And then, let's see.

Good morning, Mr. MacIntyre. How are you, sir?

MR. MacINTYRE: Good morning, Judge. I'm going great. How about you?

THE COURT: Great. I'm doing well. Thank you.

Okay. Let's see.

Good morning, Mr. Hunter. How are you, sir?

MR. HUNTER: Hey, Judge. Good morning.

THE COURT: All right. And then, let's see. We've got Mr. Cameron Capps and Kristin Siegel on behalf of the AG's office; is that correct?

MR. CAPPS: That's correct.

THE COURT: And then we've got, in regards

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to the Whitten Burrage firm, we have -- who's appearing for Whitten Burrage this morning?

MR. WHITTEN: Good morning, Judge. Reggie Whitten, Michael Burrage, and Hannah Whitten, and we're here on behalf of the Oklahoma Attorney General, as well, with --

THE COURT: Right.

MR. WHITTEN: -- Mr. Capps and Ms. Siegel.

THE COURT: Mr. Siegel. Okay.

MS. STANDERFER: Is Mr. Denny on? He was on last time.

THE COURT: Is Mr. Denny on this call also? He was previously.

Mr. Whitten, you said that yourself, Hannah Whitten, and Mr. Burrage are --

MR. WHITTEN: Yes, sir.

THE COURT: -- on behalf of the AG; is that correct? Okay.

MR. WHITTEN: Me, Reggie Whitten, Mike Burrage, Hannah Whitten, Cameron Capps, and Kristin Siegel all for the AG. Thank you.

THE COURT: I think we've got that. Thank you.

All right. I had previously had an appearance from a Dr. Robert Hartwig.

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MR. PATTON: Judge, he is an expert associated with the American Property Casualty Insurance.

THE COURT: Okay. All right. So he's -- okay. He's not -- is he an attorney?

MR. PATTON: No, sir. He's --

THE COURT: Okay.

MR. PATTON: -- a professor --

THE COURT: Okay. All right.

Okay. Anybody I haven't --

MS. STANDERFER: You've got Brett and Mr. MacIntyre.

THE COURT: And Mr. Robinson is present here.

MS. STANDERFER: And Mr. MacIntyre, I believe.

THE COURT: Yes, Mr. MacIntyre, I've addressed him.

MS. STANDERFER: Okay.

MR. MacINTYRE: Yep. I am here.

THE COURT: Anybody else that I've not addressed that is present as a part of this Teams call pretrial conference?

MR. WHITTEN: Judge, we saw some other names up there earlier, but we can't get everybody

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on our gallery view. It doesn't -- our screen --

THE COURT: Right.

MR. WHITTEN: -- isn't big enough.

I think there was some other faces --

THE COURT: I see a Denise Johnson.

MS. STANDERFER: I think she's just here to --

THE COURT: Observe?

MS. STANDERFER: Yeah. She's --

THE COURT: Okay. Just observance?

MS. JOHNSON: Yep.

THE COURT: Okay. Thank you.

MS. COLL: Good morning, sir --

MR. WHITTEN: Yeah, Judge --

THE COURT: Good morning.

MR. WHITTEN: Ofor the record -- oh, I'm sorry.

THE COURT: Yes, sir.

MS. COLL: I'm so sorry. Just an observer, Joanna Coll, from APCIA. Just observing.

THE COURT: Okay. Thank you.

MR. KILPATRICK: And same for me, Judge. Ryan Kilpatrick on behalf of APCIA, just observing.

THE COURT: Okay. Thank you.

MR. WHITTEN: Judge, this is Reggie

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Whitten. We were just going to say, for the record, if anybody is observing who has not announced their name and who they are observing on behalf of, we would like to just have that on the record, as well, please.

THE COURT: Absolutely.

All right. Anybody else that's not announced their presence that's just an observer?

(No response)

All right. Hearing none.

All right. Let's do a formal entry.

Comes out of this 4th day September 2026, the matter of Case Number 26-0820-TRN, in reference to Hearing pursuant to 36 Oklahoma Statute Section 984 as to whether the Oklahoma homeowners insurance market is noncompetitive.

This matter has previously been set for pretrial last week, was continued due to filings that have been made in order to give parties opportunity to review those and respond to those. Those responses have been made and are a part of the record of the Oklahoma Insurance Department file.

Having read those, I will state starting out that I have received -- I saw this morning a motion that had been filed last -- yesterday

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afternoon on behalf of the OID that was addressing a Motion to Dismiss Parties Due to a Lack of Standing. I have received that, and that is in regards to whether or not Mr. Sullivan and Mr. MacIntyre have standing as a party to this action.

With the lateness of filing that, what I'm going to do -- Mr. Hunter, on behalf of Mr. Sullivan and Mr. MacIntyre, with this being a holiday weekend, I'm going to ask that any response to that be filed with the Department by noon next Wednesday, which will be the 9th.

And then, upon receipt of those, I will issue a ruling that same day in regards to those motions -- or that motion. Excuse me. In regards specifically to the Motion to Dismiss. But you can file any response to that, Mr. Hunter, on behalf of Mr. Sullivan, Mr. MacIntyre, and yourself with the Department prior to that.

All right. Any questions in regards to that motion?

MS. NASH: Your Honor?

THE COURT: Uh-huh.

MS. NASH: Could the Department just make a statement for the record, please?

THE COURT: Is it in addition to, or does

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it include what your motion --

MS. NASH: It's in addition to.

THE COURT: Okay. All right.

MS. NASH: We would just like to apologize for the late hour filing. We certainly did not mean to appear in any way unprofessional or like we're ambushing. We asked in the motion that it not be considered today and be set for --

THE COURT: Oh, is that right?

MS. NASH: -- another time. We just wanted to ensure that it was before the Court because we thought it might impact the timing decisions that were made today.

THE COURT: Sure.

MS. NASH: But we regret -- I want to take personal ownership. I should have called Mr. Hunter as a professional courtesy, and I want on the record that I apologize for not doing so.

THE COURT: Okay. Thank you.

MR. WHITTEN: Your Honor, this is Reggie Whitten. May I expand, make an inquiry about one thing?

THE COURT: Is it related to that motion?

MR. WHITTEN: It is. I just have a question.

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THE COURT: Okay.

MR. WHITTEN: We are fine with that procedure, of course, but my question is: Will we have an opportunity to have oral argument on their motion? This is such a critically important issue because it may affect us taking issue with other parties.

I don't want to argue the motion now, obviously, but there are --

THE COURT: Yeah. Sure.

MR. WHITTEN: -- parties now who are on this call that we have not objected to, but they're not insureds. They don't own -- they're not paying for homeowners insurance either. Some of these trade associations, if there's a problem with standing for Mr. Sullivan, on behalf of the attorney general, we could advocate that there are problems with other parties. And so we do think oral argument would be very helpful on this issue.

THE COURT: Okay.

MR. ROBINSON: Your Honor, if I may.

THE COURT: Yes. Go ahead, Mr. Robinson.

MR. ROBINSON: I don't know if they can hear me online, but I would also -- along those same lines, would there be an opportunity to reply to any

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responses by Mr. Sullivan or Mr. MacIntyre?

THE COURT: Yeah. We're -- our time docket -- and I'm not -- you know, I'm not particularly wanting to move the date or time of the actual hearing itself, but I want to make sure it's conducted in a fair and impartial way, and any motions, or whatever, are appropriately dealt with and --

MR. ROBINSON: I think now is as good a time as any, as well, but I'd like to offer a motion for a continuance of the September 14th hearing.

THE COURT: Okay.

MR. ROBINSON: I think that with all the things considered -- potential witnesses, trading witnesses, all the things that are set out in the order, as far as Motions in Limine, and such, and all these legal issues that have now been raised in the responses of NAMIC and APCIA and the Department, that I think it would probably serve the public interest to move this hearing to a later date.

THE COURT: Any response from the Department with regards to that?

MR. DeBOSE: The Department has no objection to any motions for a continuance. We understand the concerns and the constrained

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timeline. I mean, we've got a lot of issues here still posed, and it looks like Monday after next we're set to go to hearing, so we understand a motion.

THE COURT: All right.

Mr. Whitten, on behalf -- go ahead.

MR. WHITTEN: Yes, sir. Thank you, sir.

On behalf of the Attorney General, just for the record, this is a matter of critical public interest. It's incredibly important.

We've been preparing for months. We have the four out-of-state expert witnesses that have set their schedule, and one of them cannot physically travel here. That's why we asked for him to appear -- it's Robert Hunter, for him to appear by Zoom.

We've got so much work put into this, and we would strenuously object to moving. There's no reason we can't argue all of these motions easily before the 14th, and, I mean, we're ready to go.

THE COURT: Okay.

Let's see.

MR. ROBINSON: We don't even know who those witnesses are, Your Honor.

THE COURT: Right. They haven't been

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disclosed as part of this pretrial hearing.

MR. WHITTEN: Yes. We're ready to disclose. We just -- the only thing we argue is we simultaneously disclose them. And we're the only party that's disclosed one witness.

THE COURT: Okay.

MR. HUNTER: Judge, may I be heard briefly?

THE COURT: Yes, sir. You may proceed.

MR. HUNTER: So this motion really throws a wrench in the machinery with regard to how we proceed, in my opinion. There's advocacy for a separation of time between parties in between positions. And I don't want to be too melodramatic here, but removing two parties from this hearing at this late date is important to the consideration of how time is allocated.

As far as I'm concerned, this motion is frivolous. The cases that are cited apply to the ability to participate in an appeal, not to participate in a hearing or trial below.

So with regard to a continuance, I also object to that, and I'd, frankly, like to argue this motion today.

THE COURT: Okay. Thank you for your

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position.

MR. HUNTER: Thank you, Judge.

THE COURT: Uh-huh.

MR. PATTON: Judge, if I may, this is Blake Patton on behalf of NAMIC and APCIA. Just for the record, I'd like to note our forceful, full-throated objection to any merits -- continuation of the merits hearing. These are all issues that we believe can be resolved in advance of the hearing. As noted in our papers, we believe this to be more of a rule-making proceeding as opposed --

THE COURT: Right.

MR. PATTON: -- to an individual proceeding under the APA.

Under that framework, we believe this Court is more than able to address these issues, appear, hear testimony on the Section 984 factors, make a decision, and the parties can do what they will with that decision, but we don't think there's any reason or need for a continuance of the merits hearing.

THE COURT: Okay. Thank you, sir.

All right. Anybody else wish to address that?

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MR. WHITTEN: On behalf of the Attorney General, we would be pleased to argue all these motions today. We think they could be argued today.

But, again, going back to the objection to Bob Sullivan. If Bob Sullivan doesn't have standing, then we want to file a motion. Some of these trade associations don't have standing either.

So I -- we had no objection to anybody participating in this. You know, both sides are definitely going to have to make a complete and fair record just in case someone does appeal.

THE COURT: Sure. Well, I anticipate it will be appealed, whatever the decision is.

MR. WHITTEN: Yeah. Well, it's just so hard to put the genie back in the bottle. It would be better to let everybody conduct the hearing, say what they want to say, call the witnesses they want to say.

And then, you know, if there is an appeal, that could all be sorted out later, but to cut parties out on the front end destroys every -- I mean, it puts a reversible error in this thing from the very beginning.

So we're prepared to argue all these motions today if the Court wants to. Or set them --

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we'll bend our schedule if you want to set them after we all agree. That's fine too, Your Honor. Whatever you want to do.

THE COURT: Okay. All right. Thank you.

Any further response?

(No response)

THE COURT: Okay. I'm going to take -- we're going to be in recess for about five minutes here, and then I'll come back and issue a decision.

(Short recess from 9:21 to 9:34 a.m.)

THE COURT: All right. After a short recess, based on the Motion to Continue that's been offered the morning and taken into account, the Motion to Dismiss based on standing of Mr. Sullivan and Mr. MacIntyre, this hearing is entered. In pursuant of a fair and impartial hearing in regards to all these matters, I'm going to issue the following rulings:

I'm going to order that any objections to the standing argument filed by the Department be filed in writing by 5:00 next Wednesday -- excuse me. By 5:00 Thursday, the 10th. If there should be any response to that, it would need to be filed with the Department by noon on Monday the 14th. The Motion to Continue is going to be granted.

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The Court is going to continue oral argument on the Motion to Dismiss for 10:00 a.m., via Teams, on Tuesday, September 15th, and that motion -- oral motion will be heard. Additionally, the Court will proceed to conduct its pretrial in regards to this matter.

After the oral argument on the motions, then I will rule on other motions pending by the parties, which will constitute another pretrial date for the 15th at 10:00 a.m., via Teams. And I will advise the parties, as far as resetting the hearing date, that's going to take consultation with the Capitol people.

And as far as me as the hearing examiner, I'm not looking to limit this hearing to one or two days. If it takes a whole week for relevant evidence to be presented, I'm open to that. So I don't see the need -- which will be addressed in the pretrial in regards to setting time limits and things, any relevant evidence or argument, or whatever, I'm willing to consider in making my decision.

We're roughly looking at the week of October 19th, and I'm asking to see if the whole week is available. I hope it doesn't take that

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long, but if it does, then that's what it's going to be. But I should know next Tuesday when we conduct our 10:00 oral argument on the Motion to Dismiss and the pretrial that should have a new date, time, and location secured.

All right. Noted to the objections of the parties that have expressed their objection to the continuance, that will be noted as a part of the record.

MR. HUNTER: Judge, Mike Hunter here. I will be out of the country on October 19th. Just FYI.

THE COURT: Okay. All right. Mr. Hunter, that -- when will you be back, sir?

MR. HUNTER: I believe that I'm back and hopefully will have my sea legs by the 25th, Your Honor.

THE COURT: Okay.

MR. WHITTEN: Your Honor, Reggie Whitten here. May I ask a question about scheduling?

THE COURT: Yes, sir, you may.

MR. WHITTEN: It's along the same lines as what Mr. Hunter just said. Mr. Burrage and I are set for two trials on the same day --

THE COURT: Yes, sir. Okay.

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MR. WHITTEN: -- in Lawton, and that is November 2. So, for us, we certainly don't want this to push any further --

THE COURT: Sure.

MR. WHITTEN: -- than October because -- I mean, we can't try --

THE COURT: Yes, sir.

MR. WHITTEN: -- two cases at the same time --

THE COURT: Absolutely.

MR. WHITTEN: -- but we will try one of them, I'm pretty sure.

THE COURT: Yeah. Well --

MR. WHITTEN: So we'd love to get it over with in October, if that's possible.

THE COURT: Yes, sir. I'm all in favor of that also, and with Mr. Hunter's conflict and you having a trial the next week, would anybody have a known conflict, provided we can coordinate a room, October 20 -- the week of October 26th? Does anybody have a known conflict that week?

MR. WHITTEN: We'll make it work here.

MR. PATTON: Judge, it works for us. We'll confer with our witness, but that works for us.

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THE COURT: Okay. All right. And I'm willing -- I understand with witnesses' situations, sometimes -- I mean, you don't know at this point in time, and I'm willing, if there is a major conflict, or whatever, to do everything we can to make sure that that gets included in the record, so that's not a problem.

And, like I say, in regards -- we'll be addressing this next week in detail on the 15th in regards to time limits and stuff, but I'm more of the school, if it's relevant, or whatever, I'm not looking to -- I may set some time limits in regards to any opening or closing statements, but in regards to presentation of evidence that's deemed to be relevant to the issues, then I'm not -- however long it takes, I'm willing to listen, so...

MR. PATTON: Yes, sir. Thank you.

MS. NASH: Your Honor?

THE COURT: Yes.

MS. NASH: I have some information on the Commissioner's travel schedule.

THE COURT: Okay.

MS. NASH: The best week of availability for him, if possible for the other parties, would be the week of October 12th through 16th. Is there any

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way to make that timing work?

THE COURT: Well, the only thing with that week is -- I don't think it's a State holiday, but it's Columbus Day and Indigenes People's Day, and it's Thanksgiving in Canada. So I don't want -- if anybody celebrates that date, I'm not necessarily wanting to deprive you of that holiday, but --

MR. ROBINSON: Your Honor, I'm gone most of that week in a client meeting.

THE COURT: Okay.

MR. HUNTER: Your Honor, that's the front end of my time out of the country, so I apologize --

THE COURT: Okay. All right.

MR. HUNTER: -- for not being flexible.

THE COURT: No, no. Congratulations. No need to apologize.

MR. HUNTER: Thank you.

THE COURT: So, Ms. Nash, will you again state -- tell me again the conflict that week?

MS. NASH: I believe the Commissioner is traveling for a conference.

THE COURT: So as far as the Department, or whatever, he's designated, I assume, you, as counsel, to act on behalf of the Department, or whatever. Were you anticipating him to be present

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for the hearing? Is that his desire?

MS. NASH: Yes. And we are anticipating that he may be a witness.

THE COURT: Well, that -- that's important. Okay. So what part of that week is he definitely unavailable?

MS. NASH: The whole week. But we can push to see if we can get some travel arrangements changed.

MR. WHITTEN: Your Honor, may I inquire?

THE COURT: Sure.

MR. WHITTEN: I mean, there's so many moving parts to this --

THE COURT: Absolutely.

MR. WHITTEN: -- and so many witnesses. I mean, it's pretty feasible today -- we do it all the time -- to take a video deposition of one person that's the hang up that can't be there. So it would be real easy to put him on videotape deposition, and then they can play it at trial. I hate to hold the whole thing up.

You know, we had this set for two days, so -- on behalf of the AG, I think we could say Monday, October 12th, Tuesday the 13th, Wednesday the 14th, those are three really good days for us.

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Surely we could finish this then. If the Commissioner wants to testify, he can give video deposition before then. That would be easy to do.

Just like if one of my witnesses couldn't be there, I could always, with the permission of the Court, of course, take his video deposition.

THE COURT: Sure.

MR. WHITTEN: That wouldn't hang it up. I mean, there's so many witnesses involved here, it's almost --

THE COURT: I understand it's a -- it's a -- right. All right.

MR. DeBOSE: Judge, as regards to the potential Commissioner's testimony --

THE COURT: Right.

MR. DeBOSE: -- I definitely understand where opposing counsel is coming from regarding the deposition option; however, I think -- it seems like -- and I don't mean to get into the issue, but it seems like we are all in agreement on allowing some witnesses to testify remotely, so if that is an option we can work out with the Commissioner, we would be open to that. That might be more convenient to us and the parties when it comes to direct and cross-examination.

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THE COURT: And are you referring to the availability for the week of the 26th through the 28th?

MR. DeBOSE: Yes, sir.

THE COURT: Okay. So provided -- okay.

MR. WHITTEN: Well, we agree with Bo that testimony should be able to be given remotely. I share those thoughts. That would be helpful.

THE COURT: That's going to be a part of our pretrial, and that testimony will be -- I'll just tell you, it's going to be allowed. In this day and time, that's part of the motion that we'll specifically address, but for your knowledge, there is no problem with testimony in that capacity, in that manner.

MR. WHITTEN: Judge, can I also inquire? That's very helpful what you just said for us planning. So, as of today, the only motions in our omnibus brief that are disputed are 2, 3, 5, 9, and 11. Would the Court like to -- I think you just resolved one of them, but would the Court like today to hear argument and maybe consider ruling on 2, 3, 5, 9, and 11 so we can get something done while we're all here?

THE COURT: Well, let me address the

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projected date of the hearing first before we do anything further.

In regards to -- based on what has been disclosed, our target date is going to be the week of the 26th of October. And Mr. Whitten, you have, on behalf of the AG's office, felt like you're comfortable that within three full days, we can have all -- if they're full days, that we can accomplish and everybody, at least from your perspective, have an opportunity to present whatever testimony and evidence that was needed?

MR. WHITTEN: I think so. Just speaking for the Attorney General alone --

THE COURT: Right.

MR. WHITTEN: -- I think we can put ours on in one day.

THE COURT: Right. Okay.

Well, and Mr. DeBose, Ms. Nash, on behalf of the Department, do you believe, if we set three days aside and it doesn't take all of that, are you confident that would provide sufficient timing for the presentation of anything the Department wishes to present?

MR. DeBOSE: Yes, sir, Judge.

THE COURT: Okay. And assuming in regards

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to -- there's not been any ruling in regards to the standing by Mr. MacIntyre or Mr. Hunter on behalf of Mr. Sullivan, do you believe that three full days would be sufficient to present anything based on what you know at this point?

MR. HUNTER: Yes, Your Honor.

MR. MacINTYRE: Yes, Your Honor.

THE COURT: Thank you, sir.

And, Mr. Robinson, on behalf of who you're representing, do you feel like three full days --

MR. ROBINSON: Yes, sir.

THE COURT: Okay. And then, let's see.

Mr. Patton --

MR. PATTON: Yes, sir. Same answer.

THE COURT: -- from your perspective, do you think three full days should -- will that question be sufficient timing for everything to be presented that needs to be presented for a determination under this matter?

MR. PATTON: Yes, sir.

THE COURT: Okay. All right.

Who have I missed? Okay.

Okay. So we're going to target the 26th through the 28th for the actual hearing on this matter, subject to approval by -- I assume we'll

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still have it at the Capitol, provided they've got facilities available during that time period, and we'll confirm that. She'll be able to confirm that with the person in charge of that, who is on vacation but should be back next week.

All right. Let me see. Pardon me just a moment.

I'm going to reserve my ruling on the motions 2, 3, 5, 9, and 11 until next Tuesday at 10:00 after the hearing on the Motion to Dismiss. In regards to standing, in regards to them too.

Anything -- so to clarify, any objection to that motion on behalf of either Mr. Sullivan, Mr. MacIntyre, or any of the other parties, needs to be in writing, submitted to the Department by 5:00 next Thursday, the 10th, and then any response to that either by the Department or any other party would be filed with the Department by noon on the 14th, and hearing, via Teams, on that motion and further rulings on the motions pending about the trial will be at 10:00 next Tuesday the 15th.

Anything else --

MR. BURRAGE: May I address one thing with regards to scheduling?

THE COURT: Yes.

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MR. WHITTEN: With regard to the conference on the 15th, I think it might be helpful in knowing what to present at the pretrial or what needs to be done. The sooner we could have the names of the witnesses, the better off we would be.

THE COURT: Well --

MR. BURRAGE: You might want to address that on the 15th, but it would be helpful if we had them prior to the pretrial.

THE COURT: Well, let me ask -- is that your Motion Number 3, Mr. Whitten?

MR. WHITTEN: I think that's right, Your Honor. And the way we look at it, we'd give all of our witnesses' names up today if everyone else would give their names up today. All we wanted was a simultaneous exchange.

But Mr. Burrage is right. With the Internet, you can do a lot of research. So we don't have to just sit around on our hands. We can actually be researching witnesses.

And we just -- you know, due process requires everybody to have the same level playing field --

THE COURT: That's right.

MR. WHITTEN: -- and we're okay giving

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names up, like I said, today. We just want to know who their witnesses are.

THE COURT: Sure. Well, I'll --

MR. PATTON: Judge?

THE COURT: Yes.

MR. PATTON: Blake Patton here. Maybe it's sensible just to build in a witness disclosure deadline as part of the, you know, order that will be issued today. That might make sense.

MR. WHITTEN: And the same goes for exhibits. I agree with Blake. I mean, we do need a date. The sooner is better, but, you know, due process requires no surprise.

THE COURT: Sure.

MR. WHITTEN: And we'll give all our exhibits up simultaneously if they give their --

THE COURT: Well, sure. And we've got -- we've got about a month and a half from our pretrial on the 15th, or whatever.

Mr. DeBose, Ms. Nash, on behalf of the Department, there's no doubt that there will be an order of disclosure of the witnesses, or whatever. Do you have those ready to do? Do you want to argue -- do you want to further clarify that on our hearing on the 15th? If everybody is in agreement,

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there's no problem. If not, I'll issue the ruling on the 15th, but what's the Department's position?

MR. DeBOSE: No. We get the position stated. I don't -- we don't have to wait all the way to the 15th to set that date to exchange. It can be set sometime next week or anytime prior to the 15th. We can agree to that, Judge. No problem.

THE COURT: Okay. All right. The order --

MR. PATTON: Judge, my only -- I'm sorry, Judge. My only add on to that is --

THE COURT: Yes, sir.

MR. PATTON: -- I think it might make sense to bifurcate witness and exhibit disclosures.

THE COURT: Right. Sure.

MR. PATTON: I think we're in the process of working with witnesses, so we may have a better picture of exhibits maybe further down the line.

THE COURT: Okay.

Okay. I'm going to order that the witness list be exchanged by any parties to the matter by noon next Monday, the 14th. And then, in regards to any witness exhibits, or whatever, on the pretrial next Tuesday at 10:00, I'll set a deadline for those exhibits to be exchanged.

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MR. PATTON: Yes, sir.
THE COURT: Anything further that anybody -- needs to be raised at this point or any point for clarification?
MR. WHITTEN: No, sir.
MR. BURRAGE: We're good.
MR. WHITTEN: Thank you.
THE COURT: All right. Thank you very much. Hope y'all have a nice Labor Day weekend, and we'll see you next week.
MR. HUNTER: Thank you, Judge.
MR. DeBOSE: Thank you, Judge.
MR. WHITTEN: Bye, everybody.
(HEARING CONCLUDED AT 9:53 A.M.)

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CERTIFICATE

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)

I, Becky Dame Steinkamp, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing hearing was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 8th day of September, 2026.



Becky Dame Steinkamp, CSR, RPR

FILED

APR 07 2026

INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

IN RE:	**Request by BOB SULLIVAN, an Oklahoma resident, for a hearing pursuant to 36 O.S. § 984**	)))	**Case No. 26-0215-COR**

ORDER

The State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, having fully reviewed the correspondence from Mr. Sullivan and comprehensive data relating to the current Oklahoma homeowners' insurance market, finds and orders as follows:

JURISDICTION AND APPLICABLE LAW

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma ("Commissioner") and as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 *et seq.*

2. In particular, the Insurance Commissioner has jurisdiction over the Property and Casualty Competitive Loss Cost Rating Act, 36 O.S. §§ 981 – 999, which regulates the use and filing of homeowners insurance rates for the State of Oklahoma.

3. Pursuant to 36 O.S. § 985(A)(1), "No rate in a competitive market may be determined to be excessive. A rate in a noncompetitive market may be determined to be excessive if it is likely to produce a profit that is unreasonably high for the insurance provided."

4. Pursuant to 36 O.S. § 984(A), "A competitive market is presumed to exist for a line of insurance unless the Commissioner, after a hearing, issues an order stating that a reasonable degree of competition does not exist in the market. The burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist. Any ruling that a market is not competitive shall identify the factors causing the market not to be competitive...."

Id. Yet, in 2015, earthquake insurance carriers filed twelve (12) rate increase filings ranging from four percent (4%) to three hundred percent (300%). Audio Recording of May 24, 2016 Hearing, Case No. 16-0391-TRN.

CONCLUSIONS OF LAW

24. Taking into consideration the factors listed in 36 O.S. § 984(B)(1) and applying the findings of facts provided above, the evidence supports a finding that the Oklahoma homeowners insurance market is competitive and does not support a hearing pursuant to 36 O.S. § 984. Mr. Sullivan has not provided any information or evidence sufficient to establish the burden of proof necessary to overcome the presumption of a competitive market. Nor has Mr. Sullivan established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1.

25. The evidence establishes that the current Oklahoma homeowners insurance market is not similar to the earthquake insurance market that existed in Oklahoma in 2016. The most significant contributing factor to the determination of a noncompetitive market for earthquake insurance in 2016 was the fact that earthquake carriers were seeking rate increases of four percent (4%) to three hundred percent (300%) despite high profitability over the previous five (5) years and only a 3% direct loss ratio. Those facts contrast greatly with the current homeowners market where rate increases filed range from 2.6% to 31.9% and the top twenty (20) homeowners carriers in Oklahoma have overall experienced underwriting losses over the past five (5) years.

ORDER

IT IS THEREFORE ORDERED that Mr. Sullivan's request for a hearing pursuant to 36 O.S. § 984 and OAC 365:1-7-1 is denied. However, the Insurance Commissioner is extremely focused on protecting Oklahoma consumers on this very important issue. The Insurance Commissioner has been actively and diligently working with the legislature to pursue legislation

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INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the Oklahoma Insurance Commissioner, pursuant to his authority under 36 O.S. §§ 307 and 984 and OAC 365:1-7-1(a), shall hold a hearing for the purpose of determining whether the homeowners insurance market in Oklahoma is noncompetitive. This hearing is set before an independent hearing examiner for **Monday, September 14, 2026, at 9 A.M., at the Oklahoma State Capitol, Multi-Purpose Room 100, 2300 N. Lincoln Blvd., Oklahoma City, OK 73105.**

NOTICE IS FURTHER GIVEN that the Oklahoma Insurance Commissioner invites all interested parties with a direct, immediate, and substantial interest in the determination of whether or not the homeowners insurance market in Oklahoma is noncompetitive, including all property and casualty insurers writing homeowners insurance business in Oklahoma and the Oklahoma Attorney General pursuant to 74 O.S. § 18b(22), to participate in the public hearing and offer evidence and argument on the issues involved. Persons wishing to participate shall file an entry of appearance by emailing OIDlegal@oid.ok.gov.

NOTICE IS FURTHER GIVEN that the independent hearing examiner may, after hearing and taking of all evidence and argument presented at the hearing, issue an order determining whether or not the homeowners insurance market in Oklahoma is noncompetitive and grant such other relief as he deems fair, reasonable, necessary, proper, and equitable in the premises. This hearing is NOT for the purpose of determining whether any particular homeowners rates are excessive; nor is it for

addressing any claims issues.

Pursuant to 36 O.S. § 984, a competitive market for a line of insurance is presumed to exist. The burden of proving the market for a line of insurance is noncompetitive is placed upon the party(ies) advocating the position that competition does not exist. *Id.* In determining whether a reasonable degree of competition exists within a line of insurance, the following factors shall be considered:

a. the number of insurers actively engaged in writing coverage,
b. market shares of the leading writers and the changes in market shares over a reasonable period of time,
c. existence of financial or economic barriers that could prevent new firms from entering the market,
d. measures of market concentration and changes of market concentration over time,
e. whether long-term profitability for insurers in the market is reasonable in relation to industries of comparable business risk, and
f. the relationship of insurers' costs to revenue over a reasonable period of time.

Id. Currently, Oklahoma is a "use and file" state for homeowners rate filings, meaning insurers must file rates with the Oklahoma Insurance Department ("OID") no later than thirty (30) days after the effective date. 36 O.S. § 987. "In a noncompetitive market, every insurer shall file with the Commissioner all rates, supplementary rate information and supporting information at least thirty (30) days before the proposed effective date." *Id.* In a competitive market, no rate may be determined to be excessive. 36 O.S. § 985(A)(1). If a determination is made that a market is noncompetitive, any rate in effect at that time "shall be deemed to be in compliance with the laws of this state unless disapproved pursuant to the procedures and rating standards contained in Sections 985 through 989 of Title 36 of Oklahoma Statutes that are applicable to noncompetitive markets." 36 O.S. § 985.1.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

CERTIFICATE OF MAILING

I, Nicole M. Nash, hereby certify that a true and correct copy of the above and foregoing *Notice of Hearing* was sent by certified mail with postage prepaid and return receipt requested on this 14th day of July, 2026, to:

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State Farm Fire & Casualty Company 1 State Farm Plaza Bloomington, IL 61710-0001	CERTIFIED MAIL NO. 9589 0710 5270 3996 5730 29
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Farmers Insurance Company, Inc. 6301 Owensmouth Avenue Woodland Hills, CA 91367	CERTIFIED MAIL NO. 9589 0710 5270 3996 5730 05
Homesite Indemnity Company 290 Congress St., Suite 400 Boston, MA 02210	CERTIFIED MAIL NO. 9589 0710 5270 3996 5729 92
American Economy Insurance Company 175 Berkeley St. Boston, MA 02116-5066	CERTIFIED MAIL NO. 9589 0710 5270 3996 5729 85
United Services Automobile Association P.O. Box 34330 D-2W San Antonio, TX 78265-4330	CERTIFIED MAIL NO. 9589 0710 5270 3996 5729 78
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CSAA General Insurance Company 3055 Oak Road Walnut Creek, CA 94597	CERTIFIED MAIL NO. 9589 0710 5270 3996 5729 54
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Oklahoma Farm Bureau Mutual Insurance Company 2501 N. Stiles Ave. OKC, OK 73105	CERTIFIED MAIL NO. 9589 0710 5270 3996 5729 16
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Allstate North American Insurance Company 3100 Sanders Road, Suite 201 Northbrook, IL 60062-7154	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 93
USAA General Indemnity Company 9800 Fredericksburg Road San Antonio, TX 78288	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 86
American Strategic Insurance Corp. 1 ASI Way St. Petersburg, FL 33702-23514	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 79
American Modern Property & Casualty Insurance Company P.O. Box 5323 Cincinnati, OH 45201-5323	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 62
Encompass Insurance Company of America 3100 Sanders Road, Suite 201 Northbrook, IL 60062-7154	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 55
Travelers Personal Insurance Company 1 Tower Sq. Hartford, CT 06183	CERTIFIED MAIL NO. 9589 0710 5270 3996 5728 48
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Liberty Mutual Personal Insurance Company 175 Berkeley St. Boston, MA 02116	CERTIFIED MAIL NO. 9589 0710 5270 3996 5727 94

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Foremost Insurance Company, Grand Rapids, Michigan P.O. Box 2450 Grand Rapids, MI 49501	CERTIFIED MAIL NO. 9589 0710 5270 3996 5727 25
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Alliance Indemnity Company P.O. Box 1401 McPherson, KS 67460	CERTIFIED MAIL NO. 9589 0710 5270 4100 3949 81
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Esurance Insurance Company 3100 Sanders Road. Suite 201 Northbrook, IL 60062-7154	CERTIFIED MAIL NO. 9589 0710 5270 4100 3948 44
Farmers Property & Casualty Insurance Company 6301 Owensmouth Avenue Woodland Hills, CA 91367	CERTIFIED MAIL NO. 9589 0710 5270 4100 3948 37
Liberty Mutual Insurance Company 175 Berkeley St. Boston, MA 02117	CERTIFIED MAIL NO. 9589 0710 5270 4100 3948 20
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Homesite Insurance Company 290 Congress St., Suite 400 Boston, MA 02210	CERTIFIED MAIL NO. 9589 0710 5270 4100 3946 60
Trisura Insurance Company 210 Park Avenue, Suite 1300 OKC, OK 73102	CERTIFIED MAIL NO. 9589 0710 5270 4100 3946 53
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Zurich American Insurance Company 1299 Zurich Way Schaumburg, IL 60196	CERTIFIED MAIL NO. 9589 0710 5270 4100 3946 39
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Hartford Accident & Indemnity Company 1 Hartford Plaza Hartford, CT 06155	CERTIFIED MAIL NO. 9589 0710 5270 4100 3945 61
MS Transverse Specialty Insurance Company 15 Independence Blvd, Suite 430 Warren, NJ 07059	CERTIFIED MAIL NO. 9589 0710 5270 4100 3945 54
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Nicole M. Nash

OKLAHOMA INSURANCE DEPARTMENT

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For Immediate Release:
January 7, 2026

Insurance Market Is Competitive

By Oklahoma Insurance Commissioner Glen Mulready

Public discussion about Oklahoma's homeowners insurance market has intensified in recent months, with some critics suggesting the market lacks competition. However, objective, well-established economic tools that are widely accepted by the Department of Justice, Federal Trade Commission, fellow regulators, and economists show that the Oklahoma homeowners insurance market is competitive. This isn't determined by rhetoric or perception, and it doesn't mean that premium costs aren't rising or invalidate homeowners' concerns about affordability, which is my top focus along with legislative leaders.

Two of the most commonly used measures of market concentration are the Herfindahl-Hirschman Index (HHI) and the Four-Firm Concentration Ratio (CR4). These tools provide a clear, data-driven way to assess whether a market is competitive or dominated by a small number of firms.

The Herfindahl-Hirschman Index, the primary benchmark for measuring market concentration, uses companies' market shares to yield a single score. Markets with scores below 1500 are considered unconcentrated and competitive, while those above 2500 are highly concentrated and non-competitive. Oklahoma's HHI score is 1362, indicating its homeowners insurance market is clearly competitive by this standard. Oklahoma's score is below this threshold for at least the past five years. The HHI is relied upon by federal entities when evaluating mergers, acquisitions, and potential antitrust concerns.

Less reliable but often cited is the CR4, or Four-Firm Concentration Ratio, that measures the combined market share of the four largest firms in a given market. Scores 0-40% are considered low concentration. Scores 40-70% are considered medium concentration, and scores 70-100% are considered high concentration. Oklahoma's CR4 score is 60%. Used alongside the HHI, it helps confirm whether competition is robust or limited.

When these objective economic tools are applied to Oklahoma's homeowners insurance market, they show a market characterized by multiple active insurers and meaningful consumer choice. No single company—or small group of companies—controls an outsized share of the market. By the standards used nationally and internationally, this reflects a competitive marketplace.

Based on previous news stories, it is important for consumers to know these facts. Insurance market competition is not decided by individual opinions, but by transparent, repeatable economic analysis using metrics that are universally recognized by regulatory authorities.

As critical discussions about insurance affordability and availability continue, grounding the conversation in objective economic analysis—rather than speculation—will help ensure policy decisions are informed by facts rather than perception.

Media questions or comments should be directed to
Chief of Communications, Liz Heigle
Liz.Heigle@oid.ok.gov | (405) 819-2221

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Insurance Commissioner Comments on Legislative Changes; Announces Intent to Hold Public Hearing

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For Immediate Release:
May 20, 2026

Insurance Commissioner Comments on Legislative Changes; Announces Intent to Hold Public Hearing

OKLAHOMA CITY – Insurance Commissioner Glen Mulready today made the following statements regarding legislation signed into law and the announcement of a public hearing regarding homeowners market status:

"I have shared many times over the past year that there was no authority in our statutes to intervene in filed rates from insurers in our homeowners market. I'm pleased to see this addressed with the signing of HB 3781. The department has already begun preparing for this new file and use process, which will become effective on July 1, 2027. This new process allows us to review filed rates throughout the year and push back against any excessive rate that is not actuarily confirmed by our own regulatory team."

"However, I am very disappointed that other opportunities to pass consumer protection legislation we highlighted in December last year were killed by industry lobbyists and trial lawyers this session. These were simple reforms that have been implemented in other states where markets have rebounded, including mandatory mediation. For too long, trial lawyers have disguised profit-driven litigation as consumer protection while Oklahoma families and businesses pay the price through higher insurance premiums. We cannot allow excessive litigation to become a business model that drives affordability further out of reach for hardworking Oklahomans."

"I also stand by my position that we have a competitive market for homeowners insurance coverage. All significant indicators (including those used by the Department of Justice, Federal Trade Commission, Federal Reserve, and the National Association of Insurance Commissioners) support our analysis of market concentration. However, considering this new law and to provide certainty for future rate filing processes, I am announcing today that we will convene a public hearing in September to determine whether a reasonable degree of concentration does or does not exist in Oklahoma's homeowners insurance market. This hearing will allow presentations of evidence from different parties about this topic so that we can receive a formal opinion from an independent hearing officer and move forward accordingly."

"Finally, I am keenly aware of the political posturing and maneuvering that takes place around policy issues facing Oklahomans during campaign season. This hearing is being set beyond our upcoming primary elections so that it is not a runaway train for political candidates to get an extra soundbite. We have worked hard to stay in our lane and have remained laser focused on developing policy ideas, getting homes FORTIFIED™ and wrapping up investigations into roof claims. We look forward to a new rate filing process and future next steps."

Media questions or comments should be directed to
Chief of Communications, Liz Heigle
Liz.Heigle@oid.ok.gov | (405) 819-2221

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Oklahoma Insurance Commissioner Glen Mulready & Commissioner John Doak (2011-2019)

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INSURANCE COMMISSIONER

Thursday
July 23rd
5:30 pm - 7:30 pm

Regal Room on Britton
420 E. Britton Road
Oklahoma City, OK 73114

Hosts

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Susan & Gregory Bradford	Chris Meredith	Jeramy Rich
Scott Blubaugh	Rodd Moesel	Karma & Brett Robinson
Charlie Caldwell	Jamey Mullen	Marshall Snipes
Monica & John Collison	Tinker Owens	Senator John Sparks
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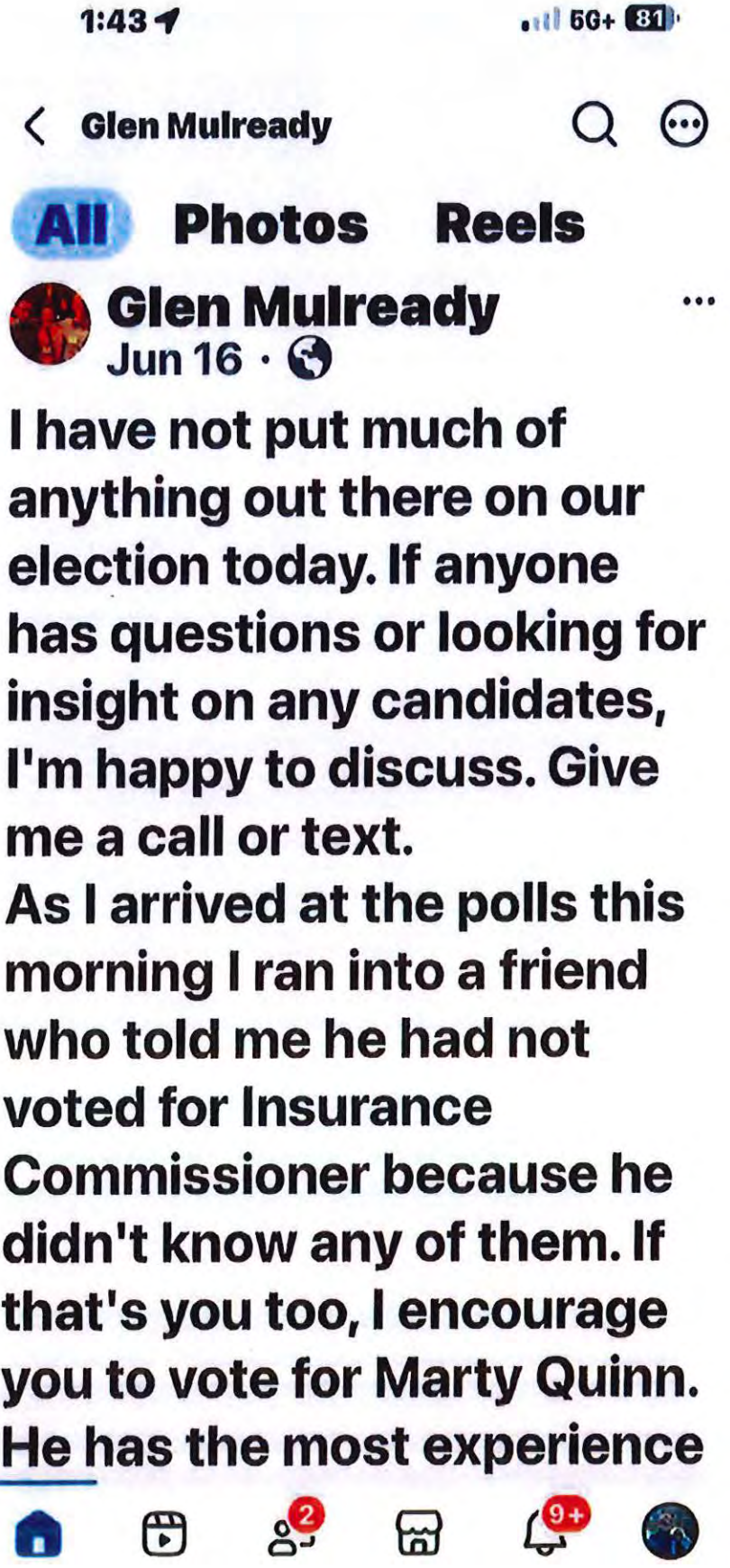
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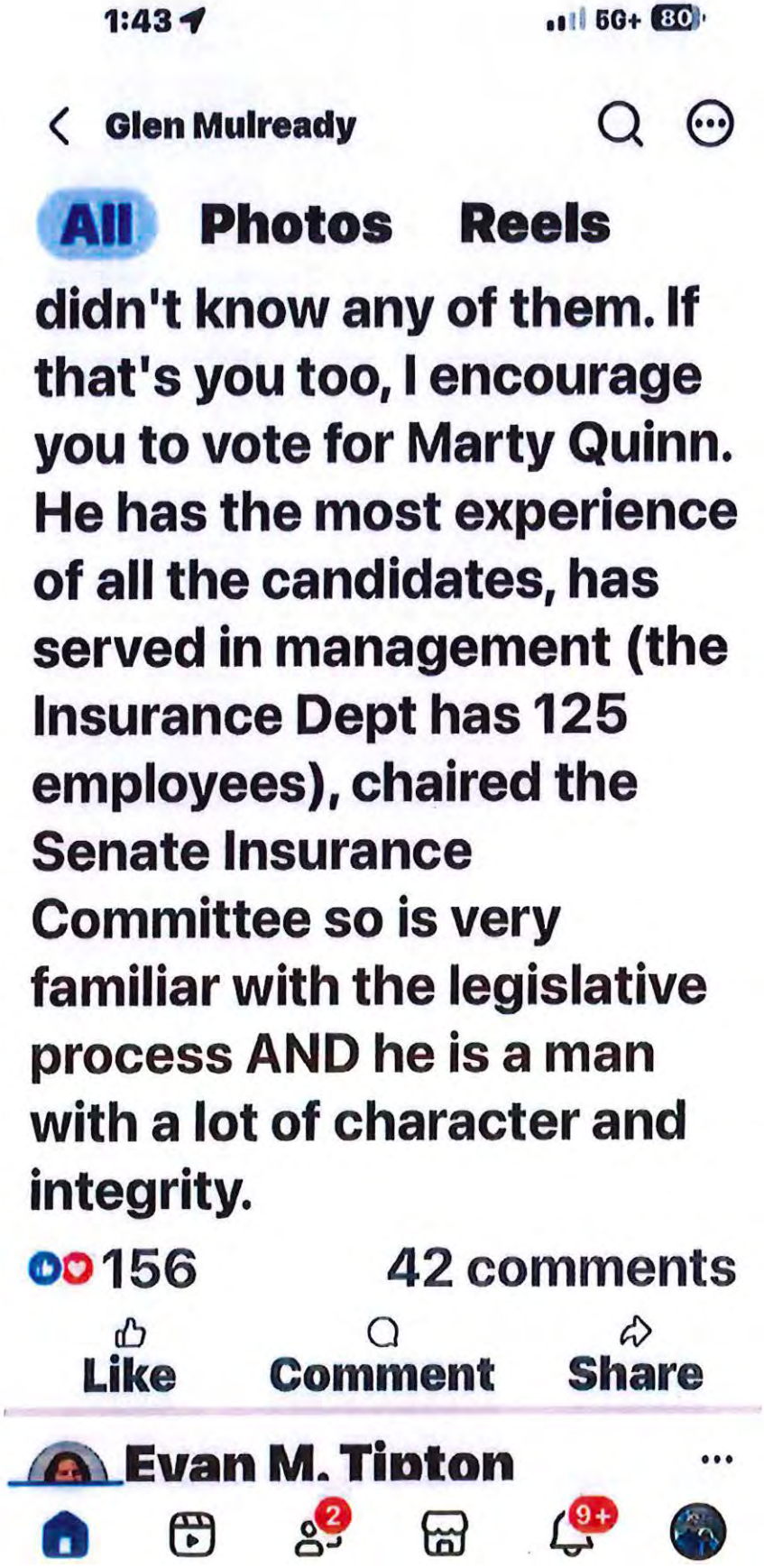


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Glen Mulready
All
Photos
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Glen Mulready
Jun 16 ·
I have not put much of anything out there on our election today. If anyone has questions or looking for insight on any candidates, I'm happy to discuss. Give me a call or text.
As I arrived at the polls this morning I ran into a friend who told me he had not voted for Insurance Commissioner because he didn't know any of them. If that's you too, I encourage you to vote for Marty Quinn. He has the most experience
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Reels
didn't know any of them. If that's you too, I encourage you to vote for Marty Quinn. He has the most experience of all the candidates, has served in management (the Insurance Dept has 125 employees), chaired the Senate Insurance Committee so is very familiar with the legislative process AND he is a man with a lot of character and integrity.
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AUG 2 5 2026

INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

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

OMNIBUS PRE-HEARING MOTION OF THE OKLAHOMA ATTORNEY GENERAL

COMES NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(22) and the Notice of Hearing filed herein on July 14, 2026, and respectfully submits this Omnibus Pre-Hearing Motion. The Attorney General advocates the position that the Oklahoma homeowners insurance market is noncompetitive and, under 36 O.S. § 984(A), bears the burden of proof on that issue.

This Omnibus Motion presents eleven related requests for pre-hearing relief. Each is addressed to the procedural and timing parameters this Court identified in its Order entered July 28, 2026, and filed July 29, 2026, as the subject matter of the August 27, 2026, pre-hearing conference. The Attorney General submits them together, in a single filing, to conserve the resources of the Court and the parties and to permit the Court to resolve them in one written pre-hearing order. In support of this Motion, the Attorney General states as follows.

I. BACKGROUND AND PROCEDURAL POSTURE

1. On July 14, 2026, the Insurance Commissioner ("Commissioner") issued a Notice of Hearing pursuant to 36 O.S. §§ 307 and 984 and OAC 365:1-7-1(a), setting this matter for hearing before an independent hearing examiner on **Monday, September 14, 2026, at 9:00 a.m.**, at the

Oklahoma State Capitol, Multi-Purpose Room 100, 2300 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105.

2. The Notice of Hearing was served by certified mail upon the Attorney General and upon more than one hundred (100) property and casualty insurers writing homeowners insurance business in Oklahoma. The Notice expressly invites "all interested parties with a direct, immediate, and substantial interest" in the determination — "including all property and casualty insurers writing homeowners insurance business in Oklahoma and the Oklahoma Attorney General pursuant to 74 O.S. § 18b(22)" — "to participate in the public hearing and offer evidence and argument on the issues involved."

3. On July 28, 2026, the Honorable John D. Miller, Independent Hearing Examiner, entered an Order, filed July 29, 2026, granting the Commissioner's Motion for Pre-Hearing Conference and Deadline to File Entry of Appearances. That Order sets a pre-hearing conference for **August 27, 2026, at 9:30 a.m., via Microsoft Teams**, and identifies as subjects for determination at that conference:

a. deadlines for exchanging witness and exhibit lists and pre-marked exhibits, together with a standardized exhibit numbering system;

b. procedures for identifying and organizing common and insurer-specific issues, including the potential grouping of insurers to minimize duplicate presentations;

c. reasonable time limits for opening statements, direct and cross-examinations, and closing arguments, with the ability to allocate additional time upon a showing of good cause;

d. stipulation procedures to narrow issues of fact and law, including deadlines for proposed joint stipulations; and

e. any additional procedures the independent Hearing Examiner deems necessary to ensure an efficient, orderly, and fair hearing, consistent with 36 O.S. § 984.

4. That Order further set **August 26, 2026, at 5:00 p.m.**, as the deadline for filing entries of appearance.

5. Each request presented below falls squarely within the categories the Court has already designated for resolution at the August 27, 2026, conference, or within the Court's authority under paragraph 5 of the Order to adopt "any additional procedures . . . necessary to ensure an efficient, orderly, and fair hearing, consistent with 36 O.S. § 984."

II. GOVERNING LEGAL FRAMEWORK

6. **The Insurance Code.** Under 36 O.S. § 984(A), "[a] competitive market is presumed to exist for a line of insurance unless the Commissioner, after a hearing, issues an order stating that a reasonable degree of competition does not exist in the market," and "[t]he burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist." Section 984(B)(1) enumerates the six statutory factors governing the determination, and § 984(B)(2) requires that "[a]ll determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law."

7. **The Administrative Procedures Act applies.** Title 36 O.S. § 313(B) provides that "[i]n the exercise of the powers and the performance of the duties enumerated in this title, the Commissioner shall comply with the procedures of the Administrative Procedures Act." This is a

contested "individual proceeding" governed by Article II of the Oklahoma Administrative Procedures Act ("OAPA"), 75 O.S. §§ 308a *et seq.*

8. **The Hearing Examiner's order is final agency action.** Under 36 O.S. § 313(A), "[a] final order signed by an independent hearing examiner, after hearing, shall be final agency action, notwithstanding the provisions of Section 311 of Title 75 of the Oklahoma Statutes." Judicial review is available under 36 O.S. § 320 and the OAPA, and venue lies in the District Court of Oklahoma County.

9. **Review is confined to the record.** Under 75 O.S. § 321, "[t]he review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the agency, not shown in the record, testimony thereon may be taken in the court." *Accord Stipe v. State ex rel. Bd. of Trs. of Okla. Pub. Emps. Ret. Sys.*, 2008 OK 52, ¶ 6, 188 P.3d 120, 122 (judicial review of administrative final orders under the OAPA is limited to the record presented at the agency hearing); *Pharmcare Okla., Inc. v. State Health Care Auth.*, 2007 OK CIV APP 5, ¶ 10, 152 P.3d 267, 269 (review "confined to the record made before the administrative tribunal"); *Leo v. Okla. Water Res. Bd.*, 2023 OK 96, ¶ 42, 536 P.3d 939, 953. Under 36 O.S. § 320(A), the Commissioner "shall thereupon certify and file in such court a transcript of the record of such hearing and a copy of the order appealed from."

10. **Due process.** Oklahoma Constitution Article II, § 7 guarantees that no person shall be deprived of life, liberty, or property without due process of law. Before any deprivation may occur, "a fundamental requirement of due process must be satisfied: the opportunity to be heard in a meaningful time and in a meaningful manner." *Flandermeyer v. Bonner*, 2006 OK 87, ¶ 10, 152 P.3d 195, 198–99. "[D]ue process requires notice and a meaningful opportunity to appear and be heard," and "[t]he right to a full hearing includes a reasonable opportunity to know the claims of

the opposing party and to meet them." *Maxwell v. Sprint PCS*, 2016 OK 41, ¶ 19, 369 P.3d 1079, 1090 (quoting *Wolfenbarger v. Hennessee*, 1974 OK 38, ¶ 15, 520 P.2d 809, 812). Administrative adjudication must "be preceded by notice calculated to provide knowledge of the exercise of adjudicative power and an opportunity to be heard." *Purcell v. Parker*, 2020 OK 83, ¶ 19, 475 P.3d 834, 842; *DuLaney v. Okla. State Dep't of Health*, 1993 OK 113, ¶ 9, 868 P.2d 676, 680.

11. The relief requested below is directed at a single objective: ensuring that this proceeding produces a complete, certified, reviewable record and that the party bearing the statutory burden of proof has a meaningful — not merely nominal — opportunity to carry it.

III. MOTIONS

MOTION 1 — MOTION TO PERMIT EXPERT WITNESSES TO APPEAR AND TESTIFY REMOTELY

12. The Attorney General moves for an order authorizing his expert witnesses to appear and testify remotely, by videoconference or other available electronic means, at the September 14, 2026 hearing.

13. **Express regulatory authority.** OAC 365:1-7-1(c) provides that "[a]ppearances by parties of record and testimony by witnesses may be offered remotely, via telephone or other available electronic means, at a hearing," including, under subsection (c)(3), "[u]pon request of a party of record, made in writing at least five (5) business days prior to the scheduled date of the hearing, and a determination by the Commissioner or hearing examiner that: (A) Requestor has shown good cause for the request, and (B) An in-person hearing is not necessary for the effective and efficient presentation of evidence or argument."

14. **This request is timely.** The hearing is set for September 14, 2026. This Motion is filed well in advance of the five-business-day deadline imposed by OAC 365:1-7-1(c)(3), and is presented at the pre-hearing conference the Court itself convened for the resolution of such matters.

15. **Good cause exists.** The Attorney General anticipates offering expert testimony from **J. Robert ("Bob") Hunter**, former Insurance Commissioner of the State of Texas and Director of Insurance for the Consumer Federation of America, and from additional expert witnesses to be identified in the Attorney General's witness list. Each of these witnesses resides outside the State of Oklahoma. Mr. Hunter, in particular, is advanced in years and has physical limitations that make travel to Oklahoma City burdensome and potentially prohibitive. Requiring any of these witnesses to travel to Oklahoma City or forfeit their testimony would, as a practical matter, deprive the Attorney General of evidence bearing directly on the six statutory factors enumerated in 36 O.S. § 984(B)(1) — the very questions this proceeding exists to answer.

16. **An in-person appearance is not necessary to the effective and efficient presentation of this evidence.** Expert testimony on market concentration, barriers to entry, long-term profitability, and the relationship of insurer costs to revenue is documentary and analytical in character. It is presented through exhibits, data, and explanation. Remote videoconference testimony permits full direct examination, full cross-examination, real-time display of exhibits, and full observation of the witness by the Court and by opposing parties. Indeed, OAC 365:1-7-1(d) expressly contemplates this, providing that "[a]ny pleading, other document, or exhibit used in a proceeding conducted by telephone or videoconference may be transmitted between the Department's location and any remote site by electronic means," with electronically transmitted signatures having "the same force and effect as an original signature."

17. **The Oklahoma Insurance Department ("Department") has already demonstrated its capacity to conduct these proceedings remotely.** This Court's own Order sets the pre-hearing conference to be conducted via Microsoft Teams. The technological capability is in place and is already being used in this very case.

18. **Remote testimony raises no due process concern for any opposing party.** Oklahoma authority rejects the premise that physical co-presence is what due process protects. In *Bell v. Great Lakes Container Corp.*, 1985 OK CIV APP 23, ¶ 12, 702 P.2d 387, 390–91, the Court of Civil Appeals observed that "neither due process of law nor the concept of a full and fair hearing require that the actual taking of testimony be before the same officers as are to determine the matters involved," and that "[t]he fact that the deciding authority is not present when the evidence is presented does not violate due process if the authority considers and acts on the evidence received in the administrative process." *Bell* did not address a judge deciding on remote testimony, as we have in this case, but rather on a cold record. Therefore, the Attorney General cites it as persuasive reasoning rather than as controlling authority on this point. But the reasoning applies a fortiori here: if due process tolerates a decision-maker who was wholly absent when the evidence was taken, it should comfortably tolerate a witness who appears by live video while the Hearing Examiner, all parties, and all counsel observe and examine him in real time. Conversely, denial of the request would curtail the Attorney General's opportunity to be heard "in a meaningful time and in a meaningful manner," *Flandermeyer*, 2006 OK 87, ¶ 10, 152 P.3d at 198–99, by excluding his principal expert evidence.

WHEREFORE, the Attorney General requests an order finding good cause under OAC 365:1-7-1(c)(3) and authorizing his expert witnesses, including J. Robert Hunter, to appear and

testify remotely by videoconference at the September 14, 2026 hearing, with a reciprocal accommodation available to any other party of record on the same terms.

MOTION 2 — MOTION FOR A VIRTUAL ATTENDANCE OPTION FOR THE PUBLIC

19. The Attorney General moves for an order directing that the September 14, 2026, hearing be conducted in a hybrid format, with a publicly accessible livestream or videoconference link permitting members of the public to observe the proceeding remotely, in addition to attending in person.

20. **This is a public hearing by the Commissioner's own designation.** The Notice of Hearing describes the proceeding as a "public hearing" and invites "all interested parties with a direct, immediate, and substantial interest" to "participate . . . and offer evidence and argument on the issues involved."

21. **The subject matter is of direct and substantial public consequence.** As the chief legal officer of the state, the Attorney General appears in this matter pursuant to an express statutory duty to represent and protect the collective interest of insurance consumers. The question presented is whether the market in which every Oklahoma homeowner purchases insurance on the family residence is competitive. The outcome determines whether insurers must file rates thirty days *before* the effective date under 36 O.S. § 987, and whether rates may be found excessive at all. *See* 36 O.S. §§ 985(A)(1), 985.1. Few administrative determinations touch a broader cross-section of Oklahoma citizens. Absent accessible livestream or videoconference, aggrieved members of the public who the Attorney General appears on behalf of are deprived of a meaningful opportunity to observe.

22. **Oklahoma public policy favors public visibility of adjudication.** In *State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 76, 489 P.3d 36, 63, the Oklahoma Supreme Court described "a public policy set by our Legislature that the exercise of judicial power should be within the public view unless confidentiality is required by law, or a compelling privacy interest outweighs the public's interest," and recognized "a strong public policy allowing access to public records which includes records used by courts to adjudicate legal controversies." *Rivero* arose from a protective order sealing portions of an administrative record rather than from a question of public attendance, and the Attorney General cites it for the public-visibility policy it articulates. That policy is fully engaged where an agency exercises quasi-judicial power to decide a question affecting every homeowner in the State, and no confidentiality interest of any kind has been asserted here.

23. **Practical necessity.** The Notice was served on more than one hundred insurers, each of which may appear with counsel, corporate representatives, and witnesses. When that number is added to counsel for the Department, counsel for the Attorney General, witnesses, and members of the press and public, the seating capacity of Multi-Purpose Room 100 becomes a real constraint. A remote viewing option is the least burdensome means of ensuring that physical capacity does not become a de facto limit on public access to a proceeding the Commissioner has designated as public.

24. **No burden, and no new capability required.** The Department is already conducting the August 27, 2026, pre-hearing conference by Microsoft Teams. The Oklahoma State Capitol is equipped for the broadcast of proceedings held in its meeting rooms. The Attorney General requests only that the existing capability be extended to this hearing and is prepared to confer with the Department regarding logistics.

25. The Attorney General emphasizes that this request is for **observation only**. It does not seek to permit remote members of the public to offer evidence, argument, or comment, and it is not a request to expand the universe of parties beyond those who file timely entries of appearance.

WHEREFORE, the Attorney General requests an order directing that the September 14, 2026, hearing be livestreamed or made available by videoconference for public observation, with the access link published on the Department's website not later than five (5) business days before the hearing.

MOTION 3 — MOTION FOR ADVANCE DISCLOSURE OF ALL MATERIALS THE COMMISSIONER OR HEARING EXAMINER INTENDS TO NOTICE OR CONSIDER

26. The Attorney General moves for an order requiring the Commissioner and the Department to disclose, not later than **September 4, 2026** (ten days before the hearing), all staff memoranda, market analyses, rate filing data, actuarial reports, consultant reports, statistical compilations, and other materials that the Commissioner, the Department, or the Hearing Examiner intends to officially notice, rely upon, or submit for consideration in this proceeding.

27. **This request rests on an express statutory mandate.** Title 75 O.S. § 310(4) provides:

> Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. **Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.**

28. The Oklahoma Supreme Court quoted this provision in *Arbuckle Simpson Aquifer Protection Federation of Oklahoma, Inc. v. Oklahoma Water Resources Board*, 2013 OK 29, ¶ 8, 343 P.3d 1266, 1270, and the principle animating that decision governs here. *Arbuckle Simpson*

concerned undisclosed communications reaching a hearing officer through the agency conducting the proceeding. The Court held that allowing the agency "to [act] as a conduit for favorable witnesses to present further unchallenged testimony to the hearing officer without notice to the other parties allows one to question the hearing officer's impartiality," and that "[t]he goal of the proceedings should be to ensure that all parties receive a fair hearing from a neutral hearing officer, avoiding even the appearance of impropriety." *Id.* ¶ 13, 343 P.3d at 1271. The Court issued a writ of mandamus compelling the hearing officer to notify all parties of the communications, to disclose their contents, and to incorporate them and any responses into the record. *Id.* ¶ 17, 343 P.3d at 1272. The same structural risk is present whenever material reaches the decision-maker from one quarter without notice to the others.

29. **The record must reflect what was noticed.** Under 75 O.S. § 309(F)(3), the record of an individual proceeding "shall include . . . [a] statement of matters officially noticed." OAC 365:1-7-5(b)(2) imposes the identical requirement in Insurance Department proceedings: the record shall include "[a]ll evidence received or considered including a statement of matters officially noted."

30. **Reliance is conditioned on prior access.** Under 75 O.S. § 309(F)(7), the record includes "[a]ll other evidence or data submitted to the hearing examiner or administrative head in connection with their consideration of the case **provided all parties have had access to such evidence**." The Oklahoma Supreme Court set out § 309(F) in full, including this proviso, in *State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 67, 489 P.3d 36, 60–61, holding that the enumerated categories define what the administrative record must contain. Material that has not been made accessible to all parties does not qualify under § 309(F)(7), and therefore cannot lawfully support the findings in the final order.

31. **Findings must rest exclusively on disclosed evidence and properly noticed matters.** Title 75 O.S. § 309(H) requires that "[f]indings of fact shall be based exclusively on the evidence received and on matters officially noticed in the individual proceeding." OAC 365:1-7-6 is to the same effect: "All findings of fact shall be based exclusively on the evidence presented and on matters officially noticed."

32. **This concern is concrete, not hypothetical.** The Commissioner is simultaneously the convening authority for this hearing and the custodian of the rate filings, market share data, financial statements, and market conduct information that bear directly on all six statutory factors under 36 O.S. § 984(B)(1). The Department "may utilize existing relevant information, analytical systems and other sources" in monitoring competition. 36 O.S. § 984(C). Whatever the Department has generated or compiled on this subject is precisely the material most likely to be noticed — and precisely the material the Attorney General must see in advance if he is to have "a reasonable opportunity to know the claims of the opposing party and to meet them." *Maxwell*, 2016 OK 41, ¶ 19, 369 P.3d at 1090.

33. **Failure to disclose is a due process violation.** "[F]ailure to provide notice of the specific issues in administrative hearings violates procedural due process." *In re Income Tax Protest of Grasso*, 2011 OK CIV APP 37, ¶ 10, 249 P.3d 1258, 1262 (quoting *Jackson v. Indep. Sch. Dist. No. 16 of Payne Cnty.*, 1982 OK 74, ¶ 10, 648 P.2d 26, 30, for the proposition that "procedural due process of law contemplates a fair and open hearing . . . with . . . information concerning the claims of the opposing party with reasonable opportunity to controvert them")).

WHEREFORE, the Attorney General requests an order that:

(a) requires the Commissioner and the Department to file and serve, not later than September 4, 2026, a written designation identifying every staff memorandum, data

compilation, market analysis, actuarial or consultant report, and other material they intend to officially notice or submit for the Hearing Examiner's consideration, together with copies of each such item;

(b) provides that any such material not so designated and produced may not be officially noticed or relied upon in the final order absent a showing of good cause and an opportunity for the parties to contest it;

(c) affords all parties a reasonable opportunity to contest any material so noticed, including by written objection and by evidence and argument at the hearing; and

(d) requires that all such material be docketed as part of the official record under 75 O.S. § 309(F) and OAC 365:1-7-5(b).

MOTION 4 — MOTION FOR A COURT REPORTER AND A FULL STENOGRAPHIC RECORD

34. The Attorney General moves for an order directing that a full stenographic record of the September 14, 2026, hearing — and of the August 27, 2026, pre-hearing conference — be made by a competent court reporter.

35. **Express regulatory authority.** OAC 365:1-7-5(a) provides that "[u]pon written request reasonably made by a person affected by the hearing, and at such person's expense, a full stenographic record of the proceedings shall be made by a competent court reporter." **This Motion constitutes that written request.** The rule further provides that "[w]hen such transcription shall be made a part of the record of the Insurance Commissioner, any other person having a direct interest therein shall be furnished with a copy of such stenographic record at his expense."

36. **Independent statutory authority.** Title 75 O.S. § 309(G) provides that "[p]arties to any proceeding may have the proceedings transcribed by a court reporter at their own expense." The Oklahoma Supreme Court relied on § 309(G) in *State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 24, 489 P.3d 36, 45, where it reviewed the printed hearing transcript "as an aid for the Court's exercise of appellate review as authorized by 75 O.S. 2011 § 309(G)" — a concrete illustration of the role a transcript plays on review. Section 309(G) separately requires that "[o]ral proceedings shall be electronically recorded" and that "[s]uch recordings shall be maintained for such time so as to protect the record through judicial review." The Attorney General requests a stenographic record **in addition to**, not in lieu of, the electronic recording the statute independently mandates.

37. **The record is what makes procedural error reviewable.** The narrow exception permitting a reviewing court to look beyond the administrative record is confined to "alleged irregularities in procedure before the agency, **not shown in the record**," as to which "testimony thereon may be taken in the court." 75 O.S. § 321; *Leo v. Okla. Water Res. Bd.*, 2023 OK 96, ¶ 42, 536 P.3d 939, 953. In *Baggett v. Webb*, 1976 OK 176, ¶¶ 14–16, 557 P.2d 433, 435, the Supreme Court applied that provision to reverse where the district court had refused to permit the appellant to introduce testimony supporting his allegations of irregularities in the administrative hearing. *Baggett* thus illustrates the two paths available to a party complaining of procedural error: the irregularity is shown in the record, or it must be proved by extrinsic testimony in a collateral evidentiary contest. A certified stenographic transcript makes the first path available and renders the second unnecessary, and it preserves the substantive evidence in reviewable form under 36 O.S. § 320.

38. **This proceeding warrants a certified transcript.** The hearing will involve expert economic and actuarial testimony, numerous exhibits, evidentiary objections, and potentially rulings excluding evidence. It may involve more than one hundred participating parties. A stenographic record produced by a certified court reporter, capable of accurate designation of speakers and of exhibit references, is materially more reliable for these purposes than an audio recording alone.

39. The Attorney General is prepared to bear the cost of the court reporter and transcript as OAC 365:1-7-5(a) and 75 O.S. § 309(G) contemplate, and to make copies available to other interested parties at their expense as the rule provides. Should the Court prefer that the reporter be retained by the Department with costs apportioned among the parties, the Attorney General does not object.

WHEREFORE, the Attorney General requests an order (a) granting this written request under OAC 365:1-7-5(a); (b) directing that a competent court reporter make a full stenographic record of the September 14, 2026, hearing and of the August 27, 2026, pre-hearing conference; (c) directing that the transcript be certified and made part of the official record of this proceeding; and (d) confirming that the electronic recording required by 75 O.S. § 309(G) will also be made and preserved.

MOTION 5 — MOTION FOR LEAVE TO FILE INDEPENDENT PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

40. The Attorney General moves for leave to file independent proposed findings of fact and conclusions of law following the hearing, and for the establishment of a post-hearing briefing schedule.

41. **Findings and conclusions are statutorily required.** Under 36 O.S. § 984(B)(2), "[a]ll determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law." Section 984(A) further requires that "[a]ny ruling that a market is not competitive shall identify the factors causing the market not to be competitive." OAC 365:1-7-6 requires that "[a] final order adverse to a party in an individual proceeding shall include findings of fact and conclusions of law, separately stated," and that "[f]indings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings."

42. **A party's proposed findings must each be ruled upon.** Title 75 O.S. § 312 provides that "[i]f, in accordance with agency rules, a party submitted proposed findings of fact, the final agency order shall include a ruling upon each proposed finding." The Commissioner's rule supplies the corresponding agency procedure: OAC 365:1-7-6 provides that "**[i]f, upon request, a party submits proposed findings of fact, the order shall include a ruling upon each proposed finding.**" *See also* 75 O.S. § 309(F)(5) (record includes "[p]roposed findings and exceptions"); OAC 365:1-7-5(b)(4) (same). **This Motion is the "request" contemplated by OAC 365:1-7-6.** The Attorney General acknowledges that in *Oklahoma Department of Public Safety v. McCrady*, 2007 OK 39, ¶ 12, 176 P.3d 1194, 1201, the Supreme Court held that the § 312 requirement is satisfied "[w]here the findings cover all facts material and necessary to support [the] conclusion," and that an adjudicator's findings "need not follow any prescribed form." That is precisely why leave to submit proposed findings matters: the findings ultimately entered can only "cover all facts material and necessary" to the six statutory factors if the parties have first been permitted to identify, on the record, what those facts are.

43. **The requirement is one of substance.** The Oklahoma Supreme Court has held that the requirement of findings of fact and conclusions of law is "a matter of substance and not a mere technicality, and if the administrative agency fails to supply such findings its determination will not be sustained." *Allied Inv. Co. v. Okla. Sec. Comm'n*, 1969 OK 53, ¶ 0 (syllabus), 451 P.2d 952, 952; *accord Sw. Pub. Serv. Co. v. State*, 1981 OK 136, ¶ 30, 637 P.2d 92, 101 (quoting *Allied*).

44. **"Independent" filing matters here.** The Attorney General requests leave to file his *own* proposed findings and conclusions, separately from any joint or Department-prepared submission. Because the six factors of 36 O.S. § 984(B)(1) are multi-factor and evidence-intensive, and because the Attorney General bears the burden of proof, he must be able to frame proposed findings on each factor in the terms his evidence supports — and to obtain a ruling on each. A consolidated or Department-drafted submission would not preserve those specific factual contentions for review.

45. **Judicial review depends on it.** Under 75 O.S. § 322, a reviewing court may set aside agency findings that are unsupported by substantial evidence or affected by error of law. That review is only possible where the record shows what findings were proposed, and how each was resolved.

WHEREFORE, the Attorney General requests an order (a) granting leave to file independent proposed findings of fact and conclusions of law; (b) establishing a deadline of twenty (20) days after the court reporter's certified transcript is delivered to the parties for the simultaneous filing of proposed findings and conclusions by all parties, with optional responses ten (10) days thereafter; and (c) confirming, consistent with 75 O.S. § 312 and OAC 365:1-7-6, that the final order will include a ruling upon each proposed finding submitted.

MOTION 6 — MOTION TO FORMALLY DESIGNATE THE OFFICIAL RECORD AND TO REQUIRE TRANSMISSION OF A COMPLETE CERTIFIED RECORD ON REVIEW

46. The Attorney General moves for an order formally designating the components of the official record in this proceeding and directing that a complete, certified record be assembled and transmitted in the event of judicial review.

47. **The contents of the record are statutorily prescribed.** Title 75 O.S. § 309(F) provides that the record in an individual proceeding "shall include": (1) all pleadings, motions and intermediate rulings; (2) evidence received or considered; (3) a statement of matters officially noticed; (4) questions and offers of proof, objections, and rulings thereon; (5) proposed findings and exceptions; (6) any decision, opinion, or report by the officer presiding at the hearing; and (7) all other evidence or data submitted to the hearing examiner in connection with consideration of the case, provided all parties have had access to it. OAC 365:1-7-5(b) prescribes a parallel list for Insurance Department hearings.

48. **Transmission on review is mandatory.** Under 36 O.S. § 320(A), upon the filing of a petition for review the Commissioner "shall thereupon certify and file in such court a transcript of the record of such hearing and a copy of the order appealed from." Under 75 O.S. § 318, an aggrieved party is entitled to judicial review of a final agency order, and the agency must transmit the record or a certified copy.

49. **A deficient record is fatal.** Review is "confined to the record made before the administrative tribunal," *Pharmcare Okla.*, 2007 OK CIV APP 5, ¶ 10, 152 P.3d 267, 269, and is "limited to the record presented at the agency hearing," *Stipe*, 2008 OK 52, ¶ 6, 188 P.3d 120, 122. Whatever is omitted from the record is, for practical purposes, invisible to the reviewing court. The time to prevent that outcome is now, before the hearing, not after a final order issues.

50. This proceeding presents particular record-assembly risks: an unusually large number of noticed parties, a substantial volume of documentary and data exhibits, a pre-hearing conference conducted remotely, and a Department that is simultaneously the convening authority and the custodian of much of the relevant data. A clear, written designation of the record's components — entered before the hearing — eliminates ambiguity later.

WHEREFORE, the Attorney General requests an order that:

(a) formally designates the official record in this proceeding to consist of all items enumerated in 75 O.S. § 309(F) and OAC 365:1-7-5(b), together with the certified stenographic transcript and the electronic recording of the hearing;

(b) requires all pre-filed exhibits, motions, responses, and written rulings to be docketed, numbered, and maintained as part of the official record;

(c) requires that any staff memorandum, market analysis, data compilation, or other material received or reviewed by the Commissioner, the Department, or the Hearing Examiner in connection with this proceeding be made part of the record and accessible to all parties;

(d) requires that all rulings made at the August 27, 2026, pre-hearing conference be transcribed and reduced to a written order incorporated into the record; and

(e) directs that, in the event of a petition for judicial review under 36 O.S. § 320, the Department certify and transmit the complete record so designated, including all exhibits offered and refused, all offers of proof, and all objections and rulings.

MOTION 7 — MOTION TO PRE-FILE EXHIBITS AND TO ESTABLISH A PRE-HEARING EXHIBIT EXCHANGE PROCEDURE

51. The Attorney General moves for an order establishing a mandatory, reciprocal pre-filing and exchange procedure for all exhibits and witness lists. This request corresponds directly to paragraph 1 of the Court's Order.

52. **Statutory foundation.** Under 75 O.S. § 309(F)(2), the record must include all "[e]vidence received or considered at the individual proceeding," and under § 309(H), "[f]indings of fact shall be based exclusively on the evidence received and on matters officially noticed." Under 75 O.S. § 310(2), "[d]ocumentary evidence may be received in the form of copies or excerpts," and "[u]pon request, parties shall be given an opportunity to compare the copy with the original" — a right that is meaningful only if the copies are produced in advance.

53. **Advance access is required.** Section 309(F)(7) conditions the record status of evidence submitted to the hearing examiner on all parties "hav[ing] had access to such evidence." *Arbuckle Simpson*, 2013 OK 29, ¶¶ 13, 17, 343 P.3d 1266, 1271–72, reinforces the point structurally: information that reaches the decision-maker without notice to the opposing parties, and without an opportunity to respond, compromises the appearance of impartiality and must be disclosed and placed in the record.

54. **The evidence in this case is not suited to presentation on sight.** The six factors of 36 O.S. § 984(B)(1) turn on market share tables, concentration indices, entry and exit data, multi-year profitability comparisons against industries of comparable business risk, and cost-to-revenue ratios. Meaningful cross-examination of such material requires the opportunity to review the underlying data, check the calculations, and consult one's own experts. Presenting a concentration study for the first time from the witness stand would make the "reasonable opportunity to know

the claims of the opposing party and to meet them," *Maxwell*, 2016 OK 41, ¶ 19, 369 P.3d at 1090, illusory for every party in the room.

55. **The Attorney General seeks a reciprocal obligation and is prepared to comply first.** The Attorney General's market data, actuarial reports, and expert analyses are substantially prepared and he is prepared to pre-file them on the schedule requested.

56. **Preservation.** Pre-filing also protects the ability to object to late-disclosed evidence and to preserve those objections.

WHEREFORE, the Attorney General requests an order that:

(a) requires all parties to file and serve, not later than **September 4, 2026,** (ten days before the hearing), their witness lists (with a brief summary of each witness's expected testimony and, for expert witnesses, the substance of the opinions to be offered) and all exhibits they intend to offer;

(b) adopts a standardized exhibit numbering convention, with a distinct alphabetical or numerical prefix assigned to each party or party group, and requires all exhibits to be pre-marked accordingly;

(c) requires all pre-filed exhibits to be docketed into the official record upon filing, whether or not later admitted;

(d) establishes a deadline of **September 9, 2026,** for the filing of written objections to pre-filed exhibits, so that evidentiary disputes may be resolved efficiently at or before the outset of the hearing; and

(e) provides that exhibits not timely pre-filed may be offered only upon a showing of good cause, a showing of foundation and authenticity, and an opportunity for opposing parties to be heard.

MOTION 8 — MOTION TO ESTABLISH A FORMAL OFFER OF PROOF PROCEDURE FOR EXCLUDED EVIDENCE

57. The Attorney General moves for an order expressly authorizing formal offers of proof, on the record, as to any evidence, testimony, or exhibit excluded by the Hearing Examiner.

58. **Offers of proof are a prescribed component of the record.** Title 75 O.S. § 309(F)(4) provides that the record shall include "[q]uestions and offers of proof, objections, and rulings thereon." OAC 365:1-7-5(b)(3) is identical: the record shall include "[q]uestions or offers of proof, objections and rulings thereon." Title 75 O.S. § 310(1) likewise provides that "[o]bjections to evidentiary offers may be made and shall be noted in the record."

59. **Without an offer of proof, exclusion is unreviewable.** An exclusion ruling that is not accompanied by an offer of proof leaves the reviewing court with no way to assess whether the excluded evidence was material — and the record-confinement rule of 75 O.S. § 321 forecloses supplying it later.

60. **A pre-hearing order avoids a mid-hearing dispute.** The Attorney General does not anticipate that the Hearing Examiner would refuse an offer of proof. But the format and mechanics — whether an offer may be made by narrative summary, by written proffer, or by examination outside the presence of other witnesses; whether it is made contemporaneously or at a recess — are matters better settled in advance than litigated in the middle of a hearing with potentially more than one hundred parties present. Settling them now also ensures that the procedure itself does not become the subject of a procedural irregularity claim.

61. Given that the Attorney General bears the burden of proof under 36 O.S. § 984(A), the exclusion of any material item of his evidence is potentially outcome-determinative. Preserving such exclusions for review is essential.

WHEREFORE, the Attorney General requests an order that:

(a) expressly authorizes any party to make a formal offer of proof, on the record, as to any evidence, testimony, or exhibit excluded by the Hearing Examiner;

(b) permits offers of proof to be made by narrative summary of counsel, by written proffer filed within three (3) business days of the ruling, or by brief examination of the witness, at the offering party's election;

(c) directs that all offers of proof be transcribed in the court reporter's stenographic record and, together with any excluded exhibit, be docketed and maintained as part of the official record under 75 O.S. § 309(F)(4) and OAC 365:1-7-5(b)(3), whether or not admitted; and

(d) directs that any excluded exhibit be retained in the record, marked as offered and refused.

MOTION 9 — MOTION FOR EQUITABLE ALLOCATION OF HEARING TIME

62. The Attorney General moves for an order allocating hearing time equally between the two positions before the Court: fifty percent (50%) to the parties advocating that the Oklahoma homeowners insurance market is noncompetitive, and fifty percent (50%) to the parties advocating that it is competitive. This request corresponds directly to paragraphs 2 and 3 of the Court's Order.

63. **This proceeding presents a single binary question with two sides — but a profoundly asymmetric number of participants on each.** The question is whether a reasonable

degree of competition exists in the Oklahoma homeowners insurance market. 36 O.S. § 984(A). The Notice of Hearing was served on more than one hundred insurers, all of whom share an interest in the finding that the market *is* competitive — a finding that preserves "use and file" treatment under 36 O.S. § 987 and forecloses any determination that a rate is excessive under 36 O.S. § 985(A)(1). Arrayed against that group is the Attorney General.

64. **Per-party time allocation would produce a structurally unfair result.** If hearing time is allocated per participant rather than per position, the competitive-market side would receive time in proportion to the number of insurers that appear, while the noncompetitive-market side would receive a single share. That is not a neutral rule. It is a rule that assigns hearing time according to how many corporate entities hold a given view — which has no bearing on the merits of the six factors the Court must weigh under § 984(B)(1).

65. **The Attorney General bears the burden of proof and requires meaningful time to carry it.** Under 36 O.S. § 984(A), "[t]he burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist," and a competitive market is *presumed* to exist. Overcoming a statutory presumption requires affirmative proof on six distinct statutory factors, through expert testimony that must be developed on direct examination and defended on cross. A party who must prove six factual propositions cannot do so in the time it takes an opposing party to deny them.

66. **The OAPA and due process require a meaningful opportunity.** Title 75 O.S. § 309(C) provides that "[o]pportunity shall be afforded all parties to respond and present evidence and argument on all issues involved." The controlling constitutional standard is that "due process requires notice and a meaningful opportunity to appear and be heard," and that "[t]he right to a full hearing includes a reasonable opportunity to know the claims of the opposing party and to meet

them." *Maxwell v. Sprint PCS*, 2016 OK 41, ¶ 19, 369 P.3d 1079, 1090. The opportunity to be heard must come "in a meaningful time and in a meaningful manner." *Flandermeyer v. Bonner*, 2006 OK 87, ¶ 10, 152 P.3d 195, 198–99. That guarantee is hollow if one side of a two-position proceeding operates against a fixed clock while the other's time expands with the number of appearances it files.

67. **Grouping is already contemplated by this Court's Order.** Paragraph 2 of the Order identifies "the potential grouping of insurers to minimize duplicate presentations" as a subject for the pre-hearing conference. An equal-time allocation is the natural companion to grouping: the insurers coordinate among themselves, designate lead counsel and lead witnesses, and allocate their collective share as they see fit. The Attorney General takes no position on how the competitive-market side apportions its half and does not ask this Court to referee that allocation.

68. **The request is administrable.** Equal division applies to each phase — opening statements, direct examination, cross-examination, and closing argument — with each side free to distribute its allotment among witnesses and issues as it chooses. Time consumed by a party in cross-examining an opposing witness is charged to the cross-examining side, which is the standard convention and prevents the use of cross-examination to exhaust an opponent's case-in-chief time.

69. This request does not restrict any insurer's right to appear, to be represented by counsel, to present evidence, or to cross-examine. It asks only that the total time be divided by position rather than by headcount, consistent with paragraph 3 of this Court's Order, which expressly preserves "the ability to allocate additional time upon a showing of good cause."

WHEREFORE, the Attorney General requests an order that:

(a) allocates hearing time equally — 50% to the parties advocating the noncompetitive-market position and 50% to the parties advocating the competitive-market position — as to opening statements, direct examination, cross-examination, and closing arguments;

(b) directs the parties advocating the competitive-market position to confer and designate lead counsel and lead witnesses, and to allocate their collective share among themselves;

(c) designates a timekeeper and directs that a running time record be maintained and reflected in the transcript;

(d) provides that time consumed in cross-examination is charged to the cross-examining side;

(e) provides that if the parties on either side collectively exceed their allocated share, the opposing side shall receive an equivalent amount of additional time; and

(f) preserves the ability of any party to seek additional time upon a showing of good cause, consistent with paragraph 3 of the Court's Order.

MOTION 10 — MOTION FOR A WRITTEN PRE-HEARING ORDER MEMORIALIZING ALL AUGUST 27, 2026, CONFERENCE RULINGS

70. The Attorney General moves for the entry of a written pre-hearing order memorializing all rulings made at the August 27, 2026, pre-hearing conference.

71. **Rulings not in the record are not reviewable.** Under 75 O.S. § 321, judicial review is "confined to the record," and the sole exception concerns procedural irregularities "not shown in the record," as to which testimony may be taken in the reviewing court. *Leo v. Okla. Water Res. Bd.*, 2023 OK 96, ¶ 42, 536 P.3d 939, 953. A party should not be relegated to reconstructing an

oral ruling by testimony when a written order would place it squarely in the record. Under 75 O.S. § 309(F)(1) and OAC 365:1-7-5(b)(1), the record must in any event include "[a]ll pleadings, motions and intermediate rulings."

72. **Substantial rights turn on these rulings.** Under 75 O.S. § 322, a reviewing court may reverse where agency action has prejudiced "the substantial rights of the appellant" through, among other things, unlawful procedure. Rulings on remote expert testimony, advance disclosure, exhibit exchange, time allocation, and offers of proof each bear directly on the Attorney General's ability to carry his statutory burden. Whether granted or denied, each ruling should appear in the record in unambiguous written form. *See Allied Inv. Co.*, 1969 OK 53, ¶ 0 (syllabus), 451 P.2d 952, 952; *Sw. Pub. Serv. Co.*, 1981 OK 136, ¶ 30, 637 P.2d 92, 101.

73. **The conference is being conducted remotely.** Because the August 27, 2026, conference will be held via Microsoft Teams, a written order is particularly important to ensure that the parties and any reviewing court have a clear and uncontested account of what was decided.

WHEREFORE, the Attorney General requests that the Court enter a written pre-hearing order memorializing all rulings made at the August 27, 2026, pre-hearing conference — including rulings on each motion presented herein — and directing that the order be filed and docketed as part of the official record; and further requests that the August 27, 2026, conference be stenographically recorded as set forth in Motion 4.

MOTION 11 — MOTION FOR FAIR AND IMPARTIAL HEARING

74. The Attorney General moves for an order guaranteeing and affirming that he shall receive a fair and impartial hearing and consideration.

75. **Governing standard.** This hearing was requested under 36 O.S. § 984 (A), which provides "[a] competitive market is presumed to exist for a line of insurance unless the

Commissioner, after a hearing, issues an order stating that a reasonable degree of competition does not exist in the market. The burden of proof in any hearing shall be placed on the party or parties advocating the position that competition does not exist." Importantly, "all determinations by the Commissioner shall be made on the basis of findings of fact and conclusions of law." 36 O.S. § 984 (B)(2).

76. **Requirements for individual proceedings.** Under §250.3 and 312 of the OAPA, a final agency order includes findings of fact and conclusions of law and "is dispositive of an individual proceeding." An individual proceeding is the "formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature." Prior to the entry of agency order with findings of fact and conclusions of law, due process requires that an individual proceeding be conducted at which evidence can be presented. *See* 75 O.S. § 310.

77. **Impartiality.** Additionally, Oklahoma law unambiguously requires that "[a] hearing examiner or agency member **shall** withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration." 75 O.S. § 310.

78. **The Department's role is that of a neutral factfinder, not an advocate for competitiveness.** Contrary to other agency hearings, § 984 market competition hearings are not administrative enforcement proceedings in which the Department investigates an alleged violation, prosecutes the alleged violator, and then asks its adjudicator to determine whether the violation occurred. § 984 does not contemplate the Department serving as an advocate for a position on the issue the Commissioner is statutorily obligated to decide, but rather, the statute carefully provides for an adjudicative process the Commissioner must preside over as a neutral fact finder. In other words, § 984 establishes a **fact-finding proceeding between competing positions**. The parties

advocating noncompetition bear the burden of establishing that proposition over a presumption that the market is competitive; those advocating continued competition may contest it. In exercising the Commissioner's delegated authority, the hearing examiner's function is therefore to receive and evaluate the evidence presented by the parties and make the appropriate findings, as opposed to advocating for one side of the controversy.

79. That the Legislature intended for the Commissioner's role to be neutral rather than that of an advocate in § 984 market competition hearings is further illustrated by the vesting of the Attorney General with the authority to represent aggrieved insurance consumers in rate-related proceedings. Had the Legislature intended the Commissioner to represent the interests of those who believe the market is competitive, the Legislature could and would have vested the Commissioner with such authority.

80. **Bias in public statements.** The Commissioner has publicly taken a position concerning the very subject matter of this hearing, declaring that Oklahoma's homeowners insurance market is competitive through Department communications and media statements. *See* Exhibits A, B, C, D, E. These statements amount to an application of law to facts found by the Commissioner in reliance on evidence propounded by Department, absent the individual proceeding required by statute.

81. **Past hearing denied without hearing evidence.** Additionally, the Commissioner has recently formally decided the question of homeowners market competitiveness at issue here. On April 7, 2026, without hearing evidence, he denied a request for a hearing on competition on the ground that the requesting party did "not provided any information or evidence sufficient to establish the burden of proof necessary to overcome the presumption of a competitive market." *See* Exhibit F.

82. The Commissioner has pre-decided the identical questions of fact and law that he is now duty bound to determine after hearing and has done so without hearing any evidence to the contrary from the party bearing the burden of proof under 36 O.S. § 984(A).

83. Contrary to all other communications, orders, and statements, the Department appears to acknowledge the fact this is a proceeding in front of a neutral "independent hearing examiner" and invites all interested parties to participate and "offer evidence and argument on the issues involve." *See* Exhibit E. The Commissioner and the Department are not intended to be interested parties in such a hearing, but the statutes require the office to be a neutral decision maker on a topic that broadly affects all Oklahomans.

84. If the Department advocates for a position, it no longer operates in a neutral role as intended by law, but rather, it is effectively operating as though it has an interest in the outcome. The only interest the Department should have is hearing all the evidence to ensure it is doing what is best for Oklahomans who pay some of the highest insurance premiums in the country.

85. Rather that alleviating any of the above concerns in setting the hearing at issue, the Commissioner doubled down on his position that the market is competitive and further stated he invited "an objective opinion from an independent hearing officer." The Commissioner's public prejudgment of the central issue and advocacy for the position that the market is competitive creates an objective probability of bias and a reasonable appearance that a fair and impartial hearing cannot be accorded in this proceeding.

WHEREFORE, the Attorney General requests that the Court enter a written order guaranteeing and affirming the movant in this matter shall be afforded a fair and impartial hearing and consideration, free from influence, bias or pre-decision by the Commissioner.

IV. CONCLUSION

86. Each request set forth above is grounded in express statutory or regulatory authority, in the constitutional guarantee of a meaningful opportunity to be heard, or in both. None asks this Court to depart from the framework of 36 O.S. § 984 or the Oklahoma Administrative Procedures Act. Several — the request for a court reporter under OAC 365:1-7-5(a), the request to submit proposed findings under 75 O.S. § 312 and OAC 365:1-7-6, the request for advance disclosure of noticed materials under 75 O.S. § 310(4) — are requests the governing rules entitle the Attorney General to make and this Court to grant as a matter of course.

87. Collectively, these requests serve a single purpose: to ensure that the determination this Court makes on September 14, 2026, rests on a complete evidentiary record, developed through a fair and orderly process, and preserved in a form that permits meaningful judicial review under 36 O.S. § 320.

WHEREFORE, PREMISES CONSIDERED, the State of Oklahoma, ex rel. the Attorney General, respectfully requests that this Court grant this Omnibus Pre-Hearing Motion in all respects; enter a written pre-hearing order granting the relief requested in Motions 1 through 11; and grant such other and further relief as is just, equitable, and proper.

Respectfully submitted,

Reggie Whitten

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Attorneys for the State of Oklahoma, ex rel. Gentner Drummond, Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August 2026, a true and correct copy of the above and foregoing **Omnibus Pre-Hearing Motion of the Oklahoma Attorney General** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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The Honorable John D. Miller
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Reggie Whitten

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INSURANCE COMMISSION
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

Entry of Appearance

Michael J. Hunter hereby enters his appearance as counsel of record for Bob Sullivan, an interested party, in the above captioned case.

Respectfully submitted,

Michael J. Hunter, OBA No. 4503

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CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of August 2026, a true and correct copy of the above and foregoing **Entry of Appearance** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

MOTION TO DISMISS PARTIES DUE TO LACK OF STANDING

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner (the "Department"), by and through counsel, Antuanya "Bo" DeBose and Nicole Nash, and hereby files this motion to dismiss parties Craig MacIntyre and Bob Sullivan from participating in the hearing set in this matter on September 14, 2026 (the "Hearing") due to lack of standing, and in support states as follows:

I. BACKGROUND

1. On July 14, 2026, the Insurance Commissioner exercised his authority under 36 O.S. § 307 and OAC 365:1-7-1(a) to initiate the Hearing, and the Department issued a Notice of Hearing pursuant to 36 O.S. § 984, setting this matter for hearing before an independent hearing examiner on Monday, September 14, 2026, at 9:00 a.m.

2. On July 28, 2026, independent hearing examiner John D. Miller (the "Hearing Examiner") entered an Order, filed July 29, 2026, granting the Department's Motion for Pre-Hearing Conference and Deadline to File Entry of Appearances. The Order set a pre-hearing conference for August 27, 2026 at 9:30 a.m. via Microsoft Teams. The Order also set the deadline for filing entries of appearance for August 26, 2026 at 5:00 p.m.

3. Seven (7) separate parties filed entries of appearance prior to the deadline, including Craig MacIntyre ("Mr. MacIntyre") and Bob Sullivan ("Mr. Sullivan").

4. Mr. MacIntyre is the Democratic candidate for the November 2026 Insurance Commissioner election. To the best of the Department's knowledge, Mr. MacIntyre has experience working in the insurance industry but is not an insurer or otherwise directly or personally impacted by the outcome of the hearing pursuant to 36 O.S. § 984. *See* Ex. 1, Campaign Website for Craig MacIntyre, https://craigforcommish26.com/about (Sept. 3, 2026); *see also* Ex. 2, LinkedIn Website for Craig MacIntyre, https://www.linkedin.com/in/craig-macintyre/ (Sept. 3, 2026).

5. Mr. Sullivan is the Republican candidate for the November 2026 Insurance Commissioner election. To the best of the Department's knowledge, Mr. Sullivan is a licensed Oklahoma producer and surplus lines broker but is not an insurer or otherwise directly or fiscally impacted by the outcome of the hearing pursuant to 36 O.S. § 984. *See* Ex. 3, Campaign Website for Bob Sullivan, https://votebobsullivan.com/ (Sept. 3, 2026); *see also* Ex. 4, LinkedIn Website for Bob Sullivan, https://www.linkedin.com/in/bobsullivaninsurance/ (Sept. 3, 2026).

6. On August 27, 2026, the pre-hearing conference was continued until September 4, 2026 at 9:00am via Microsoft Teams.

II. BRIEF IN SUPPORT

Under Oklahoma law, "It is patent that a 'party invoking a court's jurisdiction has the burden of establishing his or her standing (when contested) to pursue the action in court.'" *Heritage Vill. Apartments, Ltd. v. Okla. Hous. Fin. Agency*, 2001 OK CIV APP 4, ¶ 7, 18 P.3d 1085, 1087 (*citing Toxic Waste Impact Group, Inc. v. Leavitt*, 1994 OK 148, 890 P.2d 906, 910). The Oklahoma Supreme Court has held "[s]tanding has traditionally been defined as whether a party has a sufficient interest in an otherwise justiciable controversy to obtain judicial resolution of the controversy. If reliance is not placed on any specific statute authorizing invocation of the judicial process, the question of standing depends upon whether the party has alleged a personal stake in

the outcome of the controversy." *Indep. Sch. Dist. No. 9 of Tulsa Cnty. v. Glass*, 1982 OK 2, ¶ 8, 639 P.2d 1233, 1237. Such "personal stake" must be "'because of an actual or threatened distinct injury which has a causal connection between the alleged wrong and the action challenged.'" *Okla. Elec. Co-op., Inc. v. State ex rel. Okla. Corp. Comm'n*, 1995 OK 91, ¶ 13, 903 P.2d 321, 324 (*citing Turley v. Flag–Redfern Oil Co., 782 P.2d 130, 134-135*); see also *Heritage Vill. Apartments, Ltd.*, 2001 OK CIV APP 4, ¶ 10, 18 P.3d 1085, 1088 (finding that party has standing when an agency action invades a legally protected interest). The agency action "should 'by its own force, operate to impose a burden or obligation....' on the party," and "[t]he effect of a judgment must be ... immediate rather than contingent on some future event." *Okla. Elec. Co-op., Inc.*, 1995 OK 91, ¶ 13, 903 P.2d 321, 324 (*citing Cleary Petroleum Corp. v. Harrison,* 1980 OK 188, 621 P.2d 528, 530). Thus, it is Mr. MacIntyre's and Mr. Sullivan's burden to prove that a determination by this Court that the homeowner's insurance market in Oklahoma is competitive or noncompetitive would immediately and directly result in a burden, obligation, or actual injury to them personally that is sufficient to establish standing under Oklahoma law.

There are currently two possible outcomes following the Hearing: 1) the Hearing Examiner determines that the Oklahoma homeowner's insurance market is competitive and insurers continue to file with the Department all homeowners insurance rate filings no later than thirty (30) days after the effective date, or 2) the Hearing Examiner determines that the Oklahoma homeowner's insurance market is not competitive, which would require insurers to file all rate filings and supporting information with the Department at least thirty (30) days before the effective date. In a competitive market, no rate may be determined to be excessive, while rates in a noncompetitive market may be determined to be excessive if it is likely to produce a profit that is unreasonably high for the insurance provided. *See* 36 O.S. § 985(A)(1). However, even if a determination is

made that a market is noncompetitive, any rate in effect at that time "shall be deemed to be in compliance with the laws of this state unless disapproved pursuant to the procedures and rating standards contained in Sections 985 through 989 of Title 36 of Oklahoma Statutes that are applicable to noncompetitive markets. *See* 36 O.S. § 985.1.

To the extent Mr. MacIntyre's and Mr. Sullivan's participation in the hearing rests on the representation and/or protection of Oklahoma policyholders, the Legislature has already statutorily imbued the Oklahoma Insurance Commissioner and the Oklahoma Attorney General with that authority. *See* OKLA. CONST. art. 6, §§ 1, 22 and 23; 36 O.S. §§ 301 and 307; 74 O.S. § 18b(22). Neither candidate has yet to be elected by the citizens of Oklahoma to serve as their representative for the regulation and enforcement of insurance laws in this state.

Additionally, as Oklahoma insurance consumers, Mr. Sullivan and Mr. MacIntyre are already represented in this matter by the Oklahoma Insurance Commissioner and the Oklahoma Attorney General. As established by the Oklahoma Supreme Court in *Okla. Elec. Co-op*, the effect must be immediate rather than contingent upon some future event. *Okla. Elec. Co-op., Inc.*, 1995 OK 91, ¶ 12, 903 P.2d 321, 324. Even if the homeowners insurance market is found to be noncompetitive, this outcome would not immediately or directly result in the reduction of homeowners insurance rates/premium amounts. *See* 36 O.S. §§ 987 – 989. In fact, it may not result in any reductions of any homeowners insurance rate/premiums amounts. It will give the Department authority to disapprove rates as excessive but only after a hearing is held and that hearing results in an order disapproving the rate. 36 O.S. § 989(B)(2). Thus, for purposes of standing, any interest or stake Mr. MacIntyre and Mr. Sullivan have in this hearing as consumers or as the next insurance commissioner is too tangential and dependent upon a future event to establish standing.

With all due respect and recognition of the contributions Mr. MacIntyre and Mr. Sullivan provide to the Oklahoma insurance industry, the outcome of the Hearing will not directly affect any legally protected interests they have related to their business and their professional licenses, if any. The outcome of the Hearing will affect the way insurance companies file rates in Oklahoma, along with how the Department is statutorily required to review and approve or disapprove those rates.

Lastly, mere participation in an administrative hearing alone, does not establish standing. Pursuant to 75 O.S. § 250.3(15), "[p]arty means a person or agency named and participating, or properly seeking and entitled by law to participate, in an individual proceeding. While this definition encompasses those "participating" in the individual hearing, the *Toxic Waste Impact Group, Inc.* decision makes clear that satisfying the definition of "party" under the Oklahoma Administrative Procedure Act is a separate and insufficient basis for standing. Specifically, "[t]he protesting party must still show it is somehow aggrieved or adversely affected by the administrative order." *Toxic Waste Impact Grp.*, 1994 OK 148, ¶ 13, 890 P.2d 906, 912. Both Mr. MacIntyre and Mr. Sullivan have filed entries of appearance and participated in the pre-hearing conference, however they have not shown how they would be aggrieved or adversely affected by the outcome of the Hearing.

As established above, Mr. MacIntyre and Mr. Sullivan do not have a personal stake in the outcome of this hearing sufficient to meet the well-establishing requirements for standing under Oklahoma law.

III. Conclusion

The Department urges that the issue of standing in these proceedings is important and should be ruled on by the Hearing Examiner. However, the Department does not wish for the scheduled pre-hearing conference to be delayed or continued further and believes any briefing and/or hearing on this matter could be scheduled and addressed after the pre-hearing conference.

WHEREFORE, the Department respectfully asks the Hearing Examiner to consider this motion, and grant such relief as he deems just.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

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CERTIFICATE OF MAILING

I, Antuanya "Bo" DeBose, hereby certify that a true and correct copy of the above and foregoing *Motion to Dismiss Parties* was mailed by first class U.S. Mail with postage prepaid and return receipt requested, along with electronic mail on this 3rd day of September, 2026 to:

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FILED
SEP 10 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

RESPONSE OF THE OKLAHOMA ATTORNEY GENERAL TO THE DEPARTMENT'S MOTION TO DISMISS PARTIES FOR LACK OF STANDING

COMES NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(22), and responds to the Motion to Dismiss Parties Due to Lack of Standing filed by the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner (the "Department") on September 3, 2026 (the "Motion").

I. INTRODUCTION AND SUMMARY

1. **The Attorney General opposes the Motion.** He asks that Mr. MacIntyre and Mr. Sullivan remain participants in this proceeding. The question this Court must answer under 36 O.S. § 984 is whether a reasonable degree of competition exists in a market that touches every homeowner in Oklahoma. That question is better answered on a fuller record than a narrower one, and nothing about the participation of two additional individuals impairs the orderly conduct of the hearing.

2. **The Motion applies the wrong legal standard.** Every authority the Department cites addresses standing to invoke a court's jurisdiction — the showing required to obtain judicial review of an agency order under 75 O.S. § 318. None addresses who may participate in an agency proceeding in the first instance. The Department cites no authority holding that a showing of injury

is a precondition to appearing before an Oklahoma agency, and the Attorney General is aware of none. Its authorities run in the opposite direction: they hold that participation below does not, by itself, carry a right of review above.

3. **The Commissioner's own Notice supplies the participation standard, and it was met.** The Notice of Hearing invited "all interested parties with a direct, immediate, and substantial interest" in the determination "to participate in the public hearing and offer evidence and argument on the issues involved." Mr. MacIntyre and Mr. Sullivan accepted that invitation and filed timely entries of appearance by the August 26, 2026, deadline the Department itself proposed.

4. **Oklahoma applies a permissive standing analysis in rate proceedings, and has done so for more than fifty years.** That body of authority — which supports the participation of the trade associations now before this Court — supports the participation of Mr. Sullivan and Mr. MacIntyre for the same reasons and by the same logic.

5. **If a stricter test is to be adopted, it cannot be applied to two participants and not to five.** The Attorney General does not ask that any participant be dismissed. But the Motion asks this Court to remove the only two individual participants while leaving untouched three associations, in a proceeding in which — by the Department's own account — not one insurance company has appeared at all. Part V explains why the test the Department proposes, applied evenhandedly, either accommodates everyone or empties the room.

6. **Two procedural matters warrant this Court's attention.** First, the Attorney General, counsel for Mr. Sullivan, and counsel for NAMIC and APCIA all opposed continuing the September 14, 2026 hearing; the sole request came from the Oklahoma P&C Advocacy Association, and the Department — which had told this Court that it did not wish the conference "delayed or continued further," Motion at 6 — stated that it had "no objection." Ex. 2, Tr. 14:9–11,

14:21–15:4. Second, the Omnibus Pre-Hearing Motion filed August 25, 2026, is now largely resolved by stipulation, and the five motions still in dispute stand reserved for the same setting as this Motion. Those matters are addressed in Part VI.

II. THE MOTION APPLIES A JUDICIAL-REVIEW STANDARD TO A QUESTION OF HEARING PARTICIPATION

A. Each authority the Department cites concerns standing to sue, not standing to participate.

7. The Motion's framework rests on four cases. Each arose from an effort to obtain relief in court, and each states its rule in those terms.

8. *Toxic Waste Impact Group, Inc. v. Leavitt*, 1994 OK 148, 890 P.2d 906, decided whether an organization could appeal the granting of a construction permit under § 318 of the Administrative Procedures Act. The Court framed the burden accordingly: "the party invoking a court's jurisdiction has the burden of establishing his or her standing (when contested) to pursue the action in court." *Id.* at 911 (emphasis added). The passage the Department quotes says the same thing: "the right to protest and submit evidence before an agency does not *ipso facto* grant the protesting party the right to maintain an appeal from the agency decision. The protesting party must still show it is somehow aggrieved or adversely affected by the administrative order." *Id.* at 912 (emphasis added). That is a rule about who may appeal. It is not a rule about who may be heard.

9. *Independent School District No. 9 of Tulsa County v. Glass*, 1982 OK 2, 639 P.2d 1233, concerns "invocation of the judicial process." *Oklahoma Electric Cooperative, Inc. v. State ex rel. Oklahoma Corporation Commission*, 1995 OK 91, 903 P.2d 321, concerns an appeal from a Corporation Commission order and the effect of "a judgment." *Heritage Village Apartments, Ltd. v. Oklahoma Housing Finance Agency*, 2001 OK CIV APP 4, 18 P.3d 1085, concerns an action filed in district court. None of the four asked who may appear at an agency hearing.

10. The formula the Motion applies confirms the point. Its "direct, immediate, and substantial" test descends from decisions fixing who may take an appeal. In *Cleary Petroleum Corp. v. Harrison*, 1980 OK 188, 621 P.2d 528 — a case *Toxic Waste* itself cites on standing — the Supreme Court held that a party is aggrieved by a judgment where the judgment's adverse effects are "direct, substantial and immediate" rather than contingent on some future event, and that a party not so affected may not bring an appeal from it. That is a rule of appellate jurisdiction over a district court judgment. Lifting it out of that setting and installing it as a condition of appearing at a public hearing is the error at the center of this Motion.

11. **The distinction is not a technicality.** A person excluded from the hearing cannot build a record; a person who participates and is later found to lack aggrieved status simply cannot appeal. The first deprives this Court of evidence. The second costs no one anything. Where the two standards diverge, the participation standard is necessarily the broader one.

12. **That one-way structure is long settled.** In *National Motor Club*, a protestant appeared before the State Insurance Board, demanded a hearing, presented evidence, and objected to a license — and the Court dismissed its appeal, holding that "[o]ur statutory law specifically prescribes who may appeal from an order of the Board," that "[t]he fact that National appeared before the Board and protested the issuance of the license are not controlling as to who may perfect an appeal," and that "[t]he Board may not grant a party the right to appeal, but such right is granted by legislative enactment." 1964 OK 138, ¶ 23, 393 P.2d 511. Nothing in the opinion suggests the protestant should have been excluded from the proceeding; the holding is that his presence in it did not carry him into court. The Court applied the same rule in an insurance context in *Roussel v. State ex rel. Grimes*, 1980 OK 101, 614 P.2d 53, holding that a company's participation in an administrative hearing on an acquisition application was not a material consideration in

determining whether it was an "aggrieved or adversely affected" party entitled to appeal, and distinguishing the Administrative Procedures Act's definition of "party" from the standard governing review. *Roussel* is instructive in a second respect. The Court had no difficulty treating the participant there as a "party" within 75 O.S. § 250.3 — "a person or agency named and participating . . . in an individual proceeding" — while holding that party status did not itself confer the aggrieved-or-adversely-affected status § 318 requires for review. *Id.* ¶¶ 14–15. Participation makes a party; it does not make an appellant. The Department's Motion inverts that order, treating the appellate test as the price of admission.

13. **The Supreme Court applied that structure again this year.** In *Gann v. State ex rel. Oklahoma Corporation Commission*, 2026 OK 24, the appellant sought review of a utility ratemaking order although, as the Court recorded, he "did not file an entry of appearance or otherwise attempt to intervene at the Corporation Commission." *Id.* ¶ 11. The Court nonetheless found him aggrieved, holding that "[a] ratepayer subject to a ratemaking order is a person aggrieved by the order." *Id.* ¶ 21. Two things follow, and both are fatal to the Motion. First, the entry of appearance is the mechanism Oklahoma law recognizes for becoming a participant in a rate proceeding — the step Mr. MacIntyre and Mr. Sullivan took and Mr. Gann did not. Second, if the aggrieved-party showing required to *appeal* is satisfied by the bare status of a person subject to the resulting order, the Department cannot coherently demand more than that as the price of *appearing*. Its Motion asks this Court to impose a higher threshold on participation below than the Supreme Court applies to review above.

14. *Gann* bears on a second point as well. The same paragraph records that "[t]he Attorney General, who represents and protects the collective interests of all utility consumers of this state in rate-related proceedings, entered an appearance in the proceeding." *Id.* ¶ 11. That is the collective

role 74 O.S. § 18b(22) assigns the Attorney General here — "[t]o represent and protect the collective interests of insurance consumers of this state in rate-related proceedings before the Insurance Commissioner." The Attorney General's appearance in *Gann* did not make the individual ratepayer's participation unnecessary, and it does not do so here.

15. **The direction of that authority matters on a motion to dismiss.** Every case in this line answers the question whether participation suffices to obtain **review**. None answers the question the Department poses — whether injury must be shown to obtain **participation** — and the Department, as movant, has offered no authority that does.

B. *Toxic Waste* itself preserves broad participation and recognizes participation standing untethered to injury.

16. The Department's lead case makes the point affirmatively. Discussing the statute at issue there, the Court explained that "[t]he Legislature clearly has the authority to grant standing to someone by statute and has done so in other contexts," citing *Northwest Datsun v. Oklahoma Motor Vehicle Commission*, 1987 OK 31, 736 P.2d 516. *Toxic Waste*, 890 P.2d at 911. The Court continued: "Such standing is not necessarily based on any injury to a property right, constitutional right or other legally recognized right, which may be done to the qualified interest group. Merely, it is a legislative policy decision in the context of the OCIWDA qualified interest groups, that request a public hearing, are granted standing to participate in the permitting process." *Id.* (emphasis added).

17. **Footnote 9 of the same opinion removes any doubt.** The Court observed that the governing act there "allows for the requesting of a public meeting by any person residing or doing business in Oklahoma," and that "even if it is assumed all persons who participate in the meetings are parties to an individual proceeding, to obtain judicial review under § 318 of the OAPA aggrieved or adversely affected status must be shown." *Id.* at 912 n.9 (emphasis added). Broad

participation below; a narrower class on review. That is precisely the structure the Department asks this Court to collapse.

18. **The facts of *Toxic Waste* cut against the Motion as well.** TWIG lost because it forwent the agency proceeding: "Although taking part in public meetings before OSDH on the matter, TWIG did not request a public hearing, as it would have been allowed to do as a qualified interest group." *Id.* at 909. Having declined the hearing available to it, TWIG then sought review in court. Mr. MacIntyre and Mr. Sullivan did the opposite. They appeared, on time, and participated. The rule the Department invokes exists to encourage exactly what they did.

C. The Department's own authority contains the condition that resolves this Motion.

19. The Motion quotes *Glass* for the proposition that "[i]f reliance is not placed on any specific statute authorizing invocation of the judicial process, the question of standing depends upon whether the party has alleged a personal stake in the outcome of the controversy." Motion at 2–3 (quoting *Glass*, 1982 OK 2, ¶ 8, 639 P.2d at 1237) (emphasis added). The conditional is the operative clause. Where a specific statute supplies the right to participate, the common-law personal-stake inquiry is not the governing test.

20. **Here reliance is placed on specific statutory and regulatory provisions.** Section 984(A) assigns the burden of proof to "the party or parties advocating the position that competition does not exist" — a formulation that identifies participants by the position they advance, not by the injury they can plead. Title 36 O.S. § 313(B) directs that in exercising the powers enumerated in Title 36 "the Commissioner shall comply with the procedures of the Administrative Procedures Act." OAC 365:1-7-1(a) authorizes hearings on the Commissioner's own motion or on demand by "any person aggrieved by any act, threatened act, or failure to act of the Insurance Commissioner." OAC 365:1-7-4(a) provides that "[a]ll hearings shall be open to the public," and OAC 365:1-7-4(b)

that "[a]ny person affected by the hearing shall have the right to appear in person and by counsel." And 75 O.S. § 309(C) requires that "[o]pportunity shall be afforded all parties to respond and present evidence and argument on all issues involved."

21. **Neither the examiner's quasi-judicial role nor the finality of his order supplies the missing authority.** It does not assist the Department to observe that an independent hearing examiner "shall sit as a quasi-judicial officer," 36 O.S. § 319, or that his order is final agency action, 36 O.S. § 313(A). Both are so. Neither speaks to who may appear. Quasi-judicial status prescribes the manner of decision — impartially, on a record, by findings of fact and conclusions of law, 36 O.S. § 984(B)(2). Section 313(A), by designating the final order as the agency action reviewable under 36 O.S. § 320, marks the point at which the standing inquiry the Motion presses becomes relevant. That point has not arrived.

22. **The Motion fails on either characterization of this proceeding.** NAMIC and APCIA describe it, as they did at the September 4 conference, as "more of a rule-making proceeding as opposed . . . to an individual proceeding under the APA." Ex. 2, Tr. 17:11–15. The Attorney General maintains, as he has throughout, that this is a contested individual proceeding governed by Article II of the Administrative Procedures Act. He observes only that the Motion cannot succeed under either characterization. If this is an individual proceeding, the Act and the Commissioner's rules govern participation and are satisfied. If the proceeding is instead legislative in character — one that "looks to the future and changes existing conditions by making a new rule to be applied thereafter," *Cox*, 2007 OK 55, ¶ 11 (quoting *Prentis v. Atlantic Coast Line Co.*) — then standing, a doctrine addressed to who may obtain adjudication of a dispute, supplies no test for participation at all.

III. THE COMMISSIONER'S NOTICE ESTABLISHED THE PARTICIPATION STANDARD, AND THE PARTIES RELIED ON IT

23. **Whatever the outer bounds of participation standing, the Commissioner defined the standard for this proceeding himself.** The Notice of Hearing filed July 14, 2026, states that the Commissioner "invites all interested parties with a direct, immediate, and substantial interest in the determination of whether or not the homeowners insurance market in Oklahoma is noncompetitive . . . to participate in the public hearing and offer evidence and argument on the issues involved," and directs that "[p]ersons wishing to participate shall file an entry of appearance by emailing OIDlegal@oid.ok.gov."

24. **That is an invitation extended to "interested parties," conditioned on a single procedural act.** The Department proposed the deadline for that act; this Court set it at August 26, 2026 at 5:00 p.m.; and seven participants met it. The Department does not contend that Mr. MacIntyre or Mr. Sullivan filed late, filed improperly, or misrepresented anything.

25. **The Department has itself treated these participants as parties.** On September 1, 2026 — two days before it filed this Motion — the Department signed a Joint Motion for Clarification and Stipulation beginning: "COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, the Oklahoma Attorney General, Bob Sullivan, [APCIA], [NAMIC], and Oklahoma P&C Advocacy Association, each appearing by and through their respective counsel, and Craig MacIntyre, appearing pro se (hereinafter, the "Parties")." That motion asked this Court to set deadlines "for all responses," and refers throughout to "the Parties." A litigant that jointly moves with a person as a co-party does not persuasively contend two days later that the person was never a party, on facts it has held since April.

26. **The sequence matters.** The Department published the standard, set the deadline, received the entries of appearance, appeared at the August 27 conference alongside these

participants, and raised no objection. It filed this Motion on the evening of September 3, 2026 — the day before the continued pre-hearing conference and eleven days before the scheduled hearing. Participants who accepted a public invitation to appear, and who ordered their affairs around it, were entitled to expect that the announced standard would govern. An agency is required to follow the procedures it promulgates; "[f]ailure to do so can result in an invalidation of the proceeding." *Pub. Serv. Co. of Okla. v. State ex rel. Corp. Comm'n*, 1996 OK 43, ¶ 13, 918 P.2d 733.

27. **The Attorney General does not contend that the objection is jurisdictionally waived.** Standing may ordinarily be raised at any stage, and this Court may take it up on its own motion. *See Nat'l Motor Club of Okla., Inc. v. State Ins. Bd.*, 1964 OK 138, 393 P.2d 511 (addressing standing though the question was not raised below). The point is one of equity and of weight, not of forfeiture. When an agency writes the participation standard, proposes the deadline, accepts the appearances, signs a joint motion identifying the appearing persons as "the Parties," and then objects on the eve of the conference — on facts available to it since April — its own construction of its own Notice is the most probative evidence before this Court of what that Notice required. And the timing bears directly on the relief. The Department has held this objection since April 7, 2026. It raised it on the evening of September 3 — after the August 26 deadline for entries of appearance that the Department itself proposed, after the pre-hearing conference held August 27, two days after it signed the Joint Motion identifying both men among "the Parties," and eleven days before the hearing then set for September 14. An objection surfaced on that schedule is not a reason to shorten the record. It is a reason to resolve the question once, for all participants.

IV. MESSRS. SULLIVAN AND MACINTYRE SATISFY THE STANDARD THE DEPARTMENT PROPOSES

28. Even measured against the Motion's own test, dismissal is unwarranted on this record.

29. **Mr. Sullivan.** The Department concedes that Mr. Sullivan "is a licensed Oklahoma producer and surplus lines broker." Motion at 2. A producer's livelihood consists of selling the very product whose regulatory treatment is at issue. A determination under § 984 changes when and how the rates for that product are filed and whether they may be disapproved as excessive. 36 O.S. §§ 985, 985.1, 987. That is a present business interest in a regulated line, not a speculative one. The Department's contrary submission — that Mr. Sullivan is "not an insurer," Motion at 2 — states a criterion the Notice of Hearing never imposed and that, on this record, no participant at all could or has satisfied.

30. **Oklahoma has recognized that interest, in this industry, against this Department.** In *Dean v. State ex rel. Doak*, 2012 OK CIV APP 105, 292 P.3d 58, licensed insurance producers challenged the Insurance Department's construction of the Insurance Code. The court held they had standing because they faced a direct danger of injury from the Code's operation as the Department interpreted it — their "very livelihoods are dependent on it." Notably, the court reached that conclusion while expressly distinguishing *Heritage Village Apartments*, the authority the Department cites here: the complainant in *Heritage Village* alleged only a competitive disadvantage arising from a benefit conferred on others, while the producers in *Dean* invoked a specific statutory scheme governing their own conduct. Mr. Sullivan stands with the producers in *Dean*. He is a licensee of this Department, in the line of insurance whose regulatory treatment is the subject of this hearing.

31. Mr. Sullivan's connection to this proceeding is also more direct than the Motion acknowledges. It was his request — by letter dated February 24, 2026, hand-delivered on or about March 9, 2026 — that prompted the Commissioner's April 7, 2026 Order in Case No. 26-0215-COR, and the Commissioner has since convened this hearing on the same question. A person

whose request set this subject in motion, and who then timely appeared when the Commissioner noticed a hearing on it, is not a stranger to the controversy.

32. That order also bears on the timing of the present Motion. Its conclusions of law state that the evidence "supports a finding that the Oklahoma homeowners insurance market is competitive," that Mr. Sullivan had not carried the burden of proof, and that "[n]or has Mr. Sullivan established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1." Ex. 1, ¶ 24. The proportions of that order are worth noting. It runs nine pages. Its findings of fact occupy sixteen numbered paragraphs across five of them, addressing the number of insurers writing in Oklahoma, market share, the Herfindahl-Hirschman Index, the four-firm concentration ratio, five years of combined ratios, and the 2025 rate filings. Ex. 1, ¶¶ 8–23. Its conclusions of law occupy two paragraphs on a single page. Ex. 1, ¶¶ 24–25. Standing is one sentence — the last sentence of ¶ 24, entered without a hearing and without any inquiry of Mr. Sullivan. The Department has nonetheless held the objection since April 7, 2026. It did not raise it when Mr. Sullivan entered his appearance on August 26, at the August 27 conference, or in the Joint Motion it signed on September 1. It raised it on the evening of September 3.

33. **Mr. MacIntyre.** The Department concedes that Mr. MacIntyre "has experience working in the insurance industry." Motion at 2. He is also, like Mr. Sullivan, an Oklahoma consumer of homeowners insurance in a proceeding about the competitiveness of the Oklahoma homeowners insurance market. The Department does not suggest otherwise.

34. **Oklahoma's rate-proceeding cases answer this question in the administrative forum, and they answer it permissively.** In *Oklahoma State Senate v. State Board for Property & Casualty Rates*, 2000 OK 69, 11 P.3d 1242, the Supreme Court addressed who may be heard in a rate proceeding before the Board — a question governed by 36 O.S. § 901.4(C), which permits a

person aggrieved with respect to a filing then in effect to apply in writing for a hearing on it. Describing its own earlier decision, the Court said it had "broadly applied the concept of standing in a rate hearing." *Id.* ¶ 10. The Court took the same approach to participation before an agency in *City of Oklahoma City v. Oklahoma Corporation Commission*, 2024 OK 77, ¶ 24, 558 P.3d 1231, where the Oklahoma Municipal League "possessed standing to participate in the Commission proceeding." Those decisions concern appearing before the agency, not appealing from it.

35. The decision the Court was describing goes further still. In *Oklahoma State AFL-CIO v. State Board for Property & Casualty Rates*, 1970 OK 3, 463 P.2d 693, a labor federation and a trial lawyers association were held to "have 'standing' to represent their members in connection with the proposed rate increase." *Id.* ¶ 3. The Court supplied the members' interest by judicial notice, observing that some of them "carry insurance with companies which seek the rate increases, or will be applicants for insurance coverage by such companies." *Id.* ¶ 5, 463 P.2d at 694–95. The same approach obtains in analogous rate matters. *See State ex rel. Henry v. Sw. Bell Tel. Co.*, 1991 OK 134, ¶ 9, 825 P.2d 1305 (AARP's "membership is composed of individuals who presumably are ratepayers"). If members who merely carry insurance with the affected companies may be heard through their associations — on an interest the Court was willing to notice without proof — then a licensed producer who places that insurance, and an Oklahoma homeowner who buys it, may be heard in their own names.

36. The Department may answer that both decisions arose under 36 O.S. § 901.4(C) and that their generosity is a product of that particular statute. The answer favors the Attorney General rather than the Department. Where the Oklahoma Legislature has addressed participation in a rate proceeding, it has addressed it generously — and it has addressed it here. Section 984(A) identifies the participants in this hearing by the position they advance, "the party or parties advocating the

position that competition does not exist," not by the injury they can plead. Section 313(B) imports the Administrative Procedures Act. OAC 365:1-7-1(a) permits the hearing to be demanded by "any person aggrieved." OAC 365:1-7-4(a) makes the hearing public, and OAC 365:1-7-4(b) gives "[a]ny person affected by the hearing" the right to appear in person and by counsel. Nothing in that scheme is narrower than § 901.4(C), and the Department cites no authority holding that § 984 silently imports a common-law injury test that its own rules do not contain.

37. **The "already represented" argument does not hold.** The Department urges that both men, "as Oklahoma insurance consumers, . . . are already represented in this matter by the Oklahoma Insurance Commissioner and the Oklahoma Attorney General." Motion at 4. The Attorney General appears under 74 O.S. § 18b(22) to represent the collective interests of insurance consumers; he does not appear as counsel for Mr. MacIntyre or Mr. Sullivan, does not speak for their individual interests, and does not consent to being treated as a substitute for their participation. As for the Department, it has elsewhere told this Court that it does not advocate a position and that "[t]he Commissioner has appointed an independent hearing examiner to ensure that an objective determination is made based on the law and evidence presented." Department's Response to Omnibus Pre-Hearing Motion at 7. A neutral cannot simultaneously be the consumers' representative. The Department cannot claim neutrality as to the outcome and representation as to the consumers whose participation it seeks to end. At the September 4 conference, moreover, counsel for the Department advised that the Department "are anticipating that [the Commissioner] may be a witness." Ex. 2, Tr. 24:18–25:3. An agency whose head is an anticipated witness is a participant in the contest, not a substitute for those on the other side of it.

38. **Contingency proves too much.** The Motion argues that a noncompetitive finding "would not immediately or directly result in the reduction of homeowners insurance rates" and that

further proceedings under 36 O.S. § 989(B)(2) would be required. Motion at 4. That is true — and it is equally true of every participant. No insurer's rate is disapproved by this determination either. If contingency defeats participation, it defeats it for everyone whose interest runs through the rate-regulation machinery that a § 984 finding switches on. The Department does not explain why that reasoning stops where it does. And the Supreme Court has declined to treat a change in the intensity of regulatory oversight as too remote to support standing: "this potential for economic harm that results from a diminution in regulatory oversight by the Commission gives Cox standing to press for relief." *Cox Okla. Telecom, LLC v. State ex rel. Okla. Corp. Comm'n*, 2007 OK 55, ¶ 8, 164 P.3d 150. The doctrine "should never be applied mechanistically to bar from the courthouse those who are truly aggrieved." *Id.* ¶ 5. The KeyCite caution flag *Cox* carries reflects a modification by *Oklahoma Gas & Electric Co. v. State ex rel. Oklahoma Corporation Commission*, 2025 OK 15, 565 P.3d 418, that goes to the scope and standard of appellate review. The standing analysis at ¶¶ 5 through 8 is undisturbed.

39. **The determination does not end with this hearing, and it does not end with this Commissioner.** Section 984(A) provides that an order finding a market noncompetitive "shall expire no later than one (1) year after issue unless rescinded earlier by the Commissioner or unless the Commissioner renews" it "after a hearing and a finding." A determination that the market is competitive is no less durable in its consequences: for as long as it stands, 36 O.S. § 985(A)(1) forecloses any finding that a homeowners rate in this state is excessive. And the consequences that attach to the determination are themselves about to change. House Bill 3781, 2026 Okla. Sess. Law Serv. ch. 316, amends 36 O.S. §§ 985, 987, and 989 effective July 1, 2027, and keys the intervals it prescribes for rate filings to the very determination this hearing will make. Whatever this Court decides will therefore be administered — renewed, rescinded, or applied under an amended statute

— by a Commissioner other than the one who convened this hearing. Commissioner Mulready's term ends in January 2027.

40. That sequence answers the Department's contingency argument, and it answers the suggestion that these participants are adequately represented by the officeholder. The Department describes a § 984 determination as too remote to matter to Mr. MacIntyre and Mr. Sullivan. In fact the determination is the first step in a regulatory sequence that runs past the current Commissioner's term, and the Department's own exhibits to this Motion are the two men's campaign materials for the office that will carry it forward. The Attorney General does not suggest that a candidacy is itself a ground of standing, and he does not ask this Court to weigh the election. He asks only that the Department not be permitted to call an interest speculative when the record it has assembled shows the opposite.

V. IF A STANDING SHOWING IS REQUIRED, IT MUST BE REQUIRED OF ALL PARTICIPANTS

41. The Attorney General states plainly at the outset of this Part what he does not seek: he does not ask that NAMIC, APCIA, or the Oklahoma P&C Advocacy Association be dismissed. He would prefer that all seven participants remain. But if this Court concludes that participation in this proceeding requires an affirmative showing of a direct, personal, and immediate stake, that conclusion cannot be confined to the two participants the Department has chosen to name.

42. **The associations are not insurers either.** The Department's stated ground for dismissal is that Mr. MacIntyre and Mr. Sullivan are "not an insurer or otherwise directly or personally impacted by the outcome." Motion at 2. NAMIC and APCIA are trade associations. They do not write homeowners insurance in Oklahoma. They have no rates on file with the Department. No filing obligation of theirs changes if this Court finds the market noncompetitive;

§§ 985 through 989 operate on insurers, not on their trade groups. The Oklahoma P&C Advocacy Association stands in the same position.

43. **The Notice did not name them.** The Notice of Hearing invited participation by "all interested parties with a direct, immediate, and substantial interest . . . including all property and casualty insurers writing homeowners insurance business in Oklahoma and the Oklahoma Attorney General pursuant to 74 O.S. § 18b(22)." The two categories the Commissioner specifically identified were insurers and the Attorney General. The associations are neither. They participate, as Mr. MacIntyre and Mr. Sullivan do, on the strength of the Notice's broader invitation to "interested parties."

44. **No insurer is before this Court at all.** The Department has advised that "no individual insurance companies have filed EOAs or asked to participate in the Hearing." Department's Response to Omnibus Pre-Hearing Motion at 8. The consequence is that not one entity whose rate filings would actually change under a noncompetitive finding is a participant. If the Motion's premise is that only those directly and immediately regulated may appear, the proceeding would consist of the Department, the Attorney General, and no one else.

45. **The Department's own authority frames association standing through members.** *Toxic Waste* analyzed the organization's standing as depending on whether "it (or more probably one or more of its members) was in fact aggrieved or adversely affected," and on whether it had shown that it or any of its members "has been or will be adversely affected in any direct, substantial and immediate way." 890 P.2d at 911, 913. Oklahoma law is to the same effect: "an association's standing is based upon members of that association possessing standing to sue in their own right." *City of Okla. City*, 2024 OK 77, ¶ 23, 558 P.3d 1231. No such member-specific showing has been made here by any association — because none has been asked for. The Attorney General does not

suggest the associations could not make one. He observes only that the Motion demands from two individuals a showing it does not demand from three organizations, and offers no principle that distinguishes them.

46. **The asymmetry has a practical consequence.** Removing Mr. MacIntyre and Mr. Sullivan while retaining the associations would leave a proceeding in which the competitive-market position is advanced by three organizations and the noncompetitive position by one office, with the two individual Oklahomans who asked to be heard excluded. That result would be difficult to reconcile with a Notice that called this a "public hearing," with OAC 365:1-7-4(a), or with the obligation to conduct these proceedings so as to avoid "even the appearance of impropriety." *Arbuckle Simpson Aquifer Prot. Fed'n of Okla., Inc. v. Okla. Water Res. Bd.*, 2013 OK 29, ¶ 13.

47. **The allocation of hearing time makes the asymmetry concrete.** Motion 9 of the Omnibus Pre-Hearing Motion asks that time be divided equally between the positions advanced — half to those advocating that the market is noncompetitive, half to those advocating that it is competitive — rather than parceled out by participant. The Department and the associations would allocate by participant instead. That preference cannot be reconciled with this Motion: if time is apportioned per participant, then removing two participants from one side of the question redistributes the hearing itself, in favor of the side that loses no one.

48. **If a showing is required, it should be required once, of everyone, on one schedule.** The Attorney General accordingly requests that any such requirement be imposed uniformly: that every participant other than the Department and the Attorney General be directed to state, on a common schedule and in a single round of filings, the basis on which it claims a direct, immediate, and substantial interest in the determination. That approach resolves the question once, for

everyone, on an equal record — and it avoids the appearance that the standing inquiry has been aimed rather than applied.

49. If, notwithstanding the foregoing, any participant's appearance is to be limited, the Attorney General respectfully submits that the affected participant should be afforded the opportunity to preserve its showing by formal offer of proof. Judicial review of the final order will be confined to the record, 75 O.S. § 321, and under 36 O.S. § 313(A) only the final order signed after hearing constitutes final agency action. An exclusion not reflected in the record would not be meaningfully reviewable.

VI. THE CONTINUANCE AND THE RESERVED OMNIBUS MOTIONS

50. **The continuance was not sought by any party that had prepared to try this case.** At the September 4, 2026 conference, Brett Robinson, appearing for the Oklahoma P&C Advocacy Association, orally moved to continue the September 14 hearing, Ex. 2, Tr. 14:9–11; no written motion had been filed and no notice given. Counsel for the Department responded that "[t]he Department has no objection to any motions for a continuance," Ex. 2, Tr. 14:21–15:4 — the day after telling this Court in writing that the Department "does not wish for the scheduled pre-hearing conference to be delayed or continued further and believes any briefing and/or hearing on this matter could be scheduled and addressed after the pre-hearing conference." Motion at 6. The Attorney General, Mr. Sullivan's counsel, and counsel for NAMIC and APCIA each objected. The motion was granted and the hearing reset to the week of October 26, 2026.

51. **The Attorney General asks that the hearing proceed as reset.** He has retained out-of-state expert witnesses and prepared market and actuarial evidence, and the public interest in a prompt determination of this question is not served by further postponement occasioned by a motion filed eleven days before the original setting.

52. **The Omnibus Pre-Hearing Motion is now largely resolved, and what remains is set for the same day as this Motion.** That motion was filed August 25, 2026. The Department responded on September 1, 2026, stipulating or agreeing in principle to the substance of Motions 1, 4, 6, 7, 8, and 10. NAMIC and APCIA responded the same day, and the Attorney General replied to both. At the September 4 conference this Court stated that remote testimony "is going to be allowed," Ex. 2, Tr. 27:9–15, counsel identified Motions 2, 3, 5, 9, and 11 as the matters still in dispute, Ex. 2, Tr. 27:18–20, and this Court reserved ruling on those five "until next Tuesday at 10:00 after the hearing on the Motion to Dismiss," Ex. 2, Tr. 30:8–11. This Court further ordered witness lists exchanged by noon on Monday, September 14, 2026, and stated that the deadline for exchanging exhibits would be set at the September 15 setting. Ex. 2, Tr. 33:20–25.

53. **Motion 9 and the present Motion should be decided together, and this Motion first.** Motion 9 asks that hearing time be divided between the two positions advanced rather than parceled out among individual participants; the Department and the associations would allocate by participant. That question cannot sensibly be separated from this one. If time is allocated per participant, an order removing two participants from one side of the question redistributes the hearing itself in favor of the side that loses no one. The Attorney General accordingly asks that the present Motion be resolved before Motion 9 is taken up on September 15, 2026, and that any ruling on Motion 9 reflect the composition of the proceeding as this Court leaves it. He remains prepared to stipulate to any extension of the 36 O.S. § 319 deadline that the revised schedule may require.

VII. CONCLUSION

54. **The Department has applied the law of appellate standing to a question of hearing participation, and has applied it to two of seven participants.** The correct answer is the simple

one: this is a public hearing on a market-wide question, the Commissioner invited interested parties to appear, seven did so on time, and all seven should be heard.

WHEREFORE, PREMISES CONSIDERED, the State of Oklahoma, ex rel. the Attorney General, respectfully requests that this Court:

(a) deny the Motion to Dismiss Parties Due to Lack of Standing;

(b) in the alternative, if this Court determines that a showing of standing is required to participate in this proceeding, direct that every participant other than the Department and the Attorney General make that showing on a common schedule and in a single round of filings, and defer ruling until all such filings are before this Court;

(c) permit any participant whose appearance is limited to preserve its showing by formal offer of proof;

(d) confirm the reset hearing date under 36 O.S. § 984 and permit no further continuance absent good cause shown;

(e) resolve this Motion before taking up Motion 9 of the Omnibus Pre-Hearing Motion, which this Court has reserved for the September 15, 2026 setting; and

(f) grant such other and further relief as is just, equitable, and proper.

Respectfully submitted,

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INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

RESPONSE OF BOB SULLIVAN IN OPPOSITION TO THE MOTION TO DISMISS PARTIES DUE TO LACK OF STANDING

COMES NOW Bob Sullivan, an interested party to this proceeding pursuant to the Notice of Hearing filed herein on July 14, 2026, by and through his attorney of record, and respectfully submits his response to the Motion to Dismiss Parties Due to Lack of Standing (the "Motion") filed by the Oklahoma Insurance Department (the "Department") on September 3, 2026.

Why Mr. Sullivan Is in This Proceeding

This hearing exists because Bob Sullivan asked for it.

By letter dated February 24, 2026, hand-delivered to the Department on or about March 9, 2026, Mr. Sullivan asked Commissioner Mulready to convene a hearing under 36 O.S. § 984 and OAC 365:1-7-1 to determine whether a reasonable degree of competition exists in Oklahoma's homeowners insurance market. His letter stated — in the Commissioner's own summary of it — that Mr. Sullivan "represents Oklahoma policyholders who intend to participate as parties to the proceedings." Ex. 1, ¶ 11. The Commissioner denied the demand by written order on April 7, 2026, in Case No. 26-0215-COR. The order runs nine pages. Sixteen numbered paragraphs of findings of fact, spread over five of them, address the number of insurers writing in Oklahoma, market share, the Herfindahl-Hirschman Index, the four-firm concentration ratio, five years of combined ratios, and the 2025 rate filings. Ex. 1, ¶¶ 8–23. Two paragraphs of conclusions of law follow, on a single page. Ex. 1, ¶¶ 24–25. In the first of them the Commissioner wrote that "the evidence supports a finding that the Oklahoma homeowners insurance market is competitive," that Mr. Sullivan had "not provided any information or evidence sufficient to establish the burden of proof necessary to

overcome the presumption of a competitive market," and — in one sentence, the last of the paragraph — that "[n]or has Mr. Sullivan established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1." Ex. 1, ¶ 24. That is the whole of the standing analysis: one sentence in a nine-page order, entered without a hearing and without a single question put to Mr. Sullivan. Six weeks later the Commissioner announced that he would convene a hearing on the same question, and on July 14, 2026 he issued the Notice of Hearing under the same rule Mr. Sullivan had invoked.

That last sentence matters here, because it shows the Department has held this objection since April. It did not raise it when Mr. Sullivan entered his appearance on August 26. It did not raise it at the August 27 conference. On September 1 it joined Mr. Sullivan in a motion that named him as one of "the Parties." It raised the objection for the first time at approximately 5:00 p.m. on September 3 — after the stipulated briefing on the Attorney General's Omnibus Pre-Hearing Motion had closed, and roughly sixteen hours before the conference at which that motion was to be heard. Its evidence consists of two campaign websites and two LinkedIn pages, downloaded that afternoon.

The Motion should be denied. Mr. Sullivan is the person whose demand produced this proceeding. He is a licensee of this Department whose business is placing the coverage at issue. He is an Oklahoma homeowner who pays the premiums at issue. And Oklahoma law has for more than half a century construed participation in rate proceedings generously — generously enough to admit associations whose members merely "carry insurance" with the affected companies. The standard the Department urges is drawn from cases about who may take an appeal to a court, and it is being urged against two of seven participants in a proceeding where, on the Department's own account, no insurance company has appeared at all.

What the Record Shows

1. By letter dated February 24, 2026, hand-delivered to the Department on or about March 9, 2026, Mr. Sullivan requested a hearing under 36 O.S. § 984 and OAC 365:1-7-1. The

letter set out market-share and concentration data for the Oklahoma homeowners market, compared that data to former Commissioner John Doak's 2016 order finding earthquake insurance to be a noncompetitive line, and stated, as the Commissioner's order recounts, that Mr. Sullivan "represents Oklahoma policyholders who intend to participate as parties to the proceedings." Ex. 1, ¶ 11. The order observes that the letter did not name those policyholders. Mr. Sullivan's participation here does not rest on that representative capacity. He appears in his own right, as the person who demanded this hearing, as a licensee of this Department, and as an Oklahoma homeowner who pays the premiums at issue.

2. On April 7, 2026, in Case No. 26-0215-COR, the Commissioner denied the demand. His conclusions of law state that the evidence "supports a finding that the Oklahoma homeowners insurance market is competitive," that Mr. Sullivan had not carried the burden of proof, and that "[n]or has Mr. Sullivan established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1." Ex. 1, ¶ 24. The Department has therefore had its standing objection in hand since April 7, 2026.

3. On May 20, 2026, the Commissioner announced a hearing on the same question. On July 14, 2026, the Department issued the Notice of Hearing under 36 O.S. §§ 307 and 984 and OAC 365:1-7-1(a), serving it on the Attorney General and on more than one hundred insurers. The Notice invites "all interested parties with a direct, immediate, and substantial interest" in the determination "to participate in the public hearing and offer evidence and argument on the issues involved," and provides that "[p]ersons wishing to participate shall file an entry of appearance by emailing it to OIDlegal@oid.ok.gov." It requires nothing else.

4. The Hearing Examiner's Order of July 29, 2026 set the entry-of-appearance deadline at August 26, 2026, 5:00 p.m., on the Department's own motion. Seven participants appeared on time: the Department, the Attorney General, Mr. Sullivan, Craig MacIntyre, NAMIC, APCIA, and the Oklahoma P&C Advocacy Association. No individual insurance company appeared. The Department has so advised this Court. Department's Response to Omnibus Pre-Hearing Motion at 8.

5. The Attorney General filed his Omnibus Pre-Hearing Motion on August 25, 2026. Mr. Sullivan filed a response supporting it on August 31, 2026. Under the parties' Joint Motion for Clarification and Stipulation, responses were due at noon on September 1 and replies at noon on September 3. The pre-hearing conference was continued to September 4, 2026 at 9:00 a.m.

6. At approximately 5:00 p.m. on September 3, 2026 — after the stipulated briefing had closed, and hours before the conference — the Department filed and served the Motion. Its exhibits are printouts of Mr. MacIntyre's and Mr. Sullivan's campaign websites and LinkedIn profiles, retrieved that same day. The Department offers no affidavit, no licensing record, and no testimony.

7. Mr. Robinson, who appears for the Oklahoma P&C Advocacy Association, asked orally at the September 4 conference that the September 14 hearing be put off. Ex. 2, Tr. 14:9–11. He had filed no written motion and given no notice. Counsel for the Department responded that "[t]he Department has no objection to any motions for a continuance." Ex. 2, Tr. 14:21–15:4. Mr. Sullivan's counsel, the Attorney General, and counsel for NAMIC and APCIA each objected. The Hearing Examiner, who had said before the motion was made that he was "not particularly wanting to move the date or time of the actual hearing itself," Ex. 2, Tr. 14:3–8, granted it. The hearing has been reset to the week of October 26, 2026. Counsel identified Motions 2, 3, 5, 9, and 11 of the Omnibus Pre-Hearing Motion as the matters still in dispute, Ex. 2, Tr. 27:18–20, and the Hearing Examiner reserved ruling on those five until the September 15 setting, Ex. 2, Tr. 30:8–11.

8. The Hearing Examiner set argument on the present Motion for 10:00 a.m. on Tuesday, September 15, 2026, and set the ruling on Motions 2, 3, 5, 9, and 11 for the same setting, "after the hearing on the Motion to Dismiss." Ex. 2, Tr. 30:8–11. He directed that objections to the present Motion be filed by 5:00 p.m. on Thursday, September 10, 2026, and permitted replies to those objections by noon on Monday, September 14, 2026. This response is filed pursuant to that order.

This Hearing Exists Because Mr. Sullivan Asked for It

OAC 365:1-7-1(a) permits the Commissioner to hold a hearing "either upon his/her own motion or upon written demand therefor by any person aggrieved by any act, threatened act, or

failure to act of the Insurance Commissioner." Mr. Sullivan invoked that rule. Under subsection (b), the Commissioner was required to "either set down the matter for hearing within thirty (30) days from the receipt of the demand therefor or . . . issue a written order denying hearing." He chose the second course. His order addressed the merits at length and added, in a single sentence, that Mr. Sullivan had not "established that he or any other consumer has standing under 36 O.S. § 984 and OAC 365:1-7-1." Six weeks later the Commissioner convened the same hearing himself, under the same rule, on the same question — and then invited "all interested parties" to appear in it.

The Department is of course free to argue that the April 7 order settled Mr. Sullivan's standing. It has not made that argument, and it could not: the order was entered without a hearing, in a separate cause, on a record Mr. Sullivan never had the opportunity to develop, and the Commissioner thereafter issued a Notice inviting participation on terms that say nothing about injury. What the order does establish is that the Department has known of this objection since April, and chose to raise it on the evening of September 3.

The Department now seeks to exclude Mr. Sullivan from the hearing his demand produced. Its Motion does not mention that he demanded it, and it does not mention the April 7 order. That order matters for two reasons. First, a person whose petition the Commissioner answered at length — with findings on market share, the Herfindahl-Hirschman Index, the four-firm concentration ratio, and five years of combined ratios — is not fairly described as a stranger to the subject. Second, the order shows that the Department has held the objection it now presses since April 7, 2026. It is not newly discovered. It was available on August 26, when Mr. Sullivan entered his appearance; on August 27, at the first conference; and on September 1, when the Department joined him in a motion describing him as one of "the Parties." It surfaced only on the evening of September 3.

Section 984(A) reinforces the point. It places "[t]he burden of proof in any hearing . . . on the party or parties advocating the position that competition does not exist." The statute identifies participants by the position they advance. Mr. Sullivan advances that position and is prepared to

carry that burden. To remove him before evidence is taken is not to rule on standing; it is to resolve the merits by subtraction.

The record confirms as much. Undersigned counsel's entry of appearance for Mr. Sullivan has been of record and served on every participant since August 26, 2026, the deadline the Department itself proposed. Two days before it filed this Motion, the Department put its own signature on a Joint Motion for Clarification and Stipulation. That motion opens this way: "COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, the Oklahoma Attorney General, Bob Sullivan, [APCIA], [NAMIC], and Oklahoma P&C Advocacy Association, each appearing by and through their respective counsel, and Craig MacIntyre, appearing pro se (hereinafter, the "Parties")." That motion asked the Hearing Examiner to set deadlines "for all responses" and refers throughout to "the Parties."

A litigant that jointly moves with a person as a co-party on Monday does not credibly contend on Wednesday that the person was never a party at all — least of all on facts it has held since April. The Department was free to raise standing when Mr. Sullivan appeared, at the August 27 conference, or in place of signing the Joint Motion. It did none of those things. It is not necessary to reach waiver or estoppel to see that the Department's own conduct is the best evidence of how it understood the Notice of Hearing it wrote.

He Is a Licensee of This Department and an Oklahoma Policyholder, and Oklahoma Construes Participation in Rate Proceedings Generously

The Department concedes that Mr. Sullivan "is a licensed Oklahoma producer and surplus lines broker." Motion at 2. His livelihood consists of placing property coverage for Oklahoma consumers in the market whose competitiveness is at issue. The determination made here fixes the regime under which every homeowners rate in this state is filed: as the Notice explains, a finding of noncompetitiveness moves insurers from filing within thirty days after the effective date to filing at least thirty days before it. It also determines whether those rates may be found excessive at all. "No rate in a competitive market may be determined to be excessive." 36 O.S. § 985(A)(1). Mr.

Sullivan is also an Oklahoma homeowner who insures his residence and pays those premiums. His affidavit, submitted herewith, sets out both. That a licensee's interest in a regulated line is a cognizable one is not a novel proposition. *Toxic Waste* itself observes that the Legislature "clearly has the authority to grant standing to someone by statute and has done so in other contexts," citing *Northwest Datsun v. Oklahoma Motor Vehicle Commission*, 1987 OK 31, 736 P.2d 516 — a case about a licensed dealer's place in a regulated distribution chain. 890 P.2d at 911. And the Court of Civil Appeals has recognized the interest of insurance producers, against this very Department. In *Dean v. State ex rel. Doak*, 2012 OK CIV APP 105, 292 P.3d 58, licensed producers challenged the Department's construction of the Insurance Code and were held to have standing because they faced a direct danger of injury from the Code's operation as the Department read it — their "very livelihoods are dependent on it." The court reached that result while distinguishing *Heritage Village Apartments*, one of the four cases the Department cites here: the complainant there alleged only a competitive disadvantage from a benefit given to someone else, while the producers in *Dean* invoked a statutory scheme that governed their own conduct. Mr. Sullivan is in the position of the producers in *Dean*.

Oklahoma law does not measure participation in a rate proceeding by the yardstick the Department proposes. The cases that decide who may be heard *before the agency* — as distinct from who may appeal afterward — construe the question broadly. In *Oklahoma State Senate v. State Board for Property & Casualty Rates*, 2000 OK 69, 11 P.3d 1242, the Supreme Court took up participation in a rate proceeding before the Board, a question governed by 36 O.S. § 901.4(C). Under that statute a person aggrieved by a filing already in effect may ask the Board in writing for a hearing on it. Looking back at its own precedent, the Court said it had "broadly applied the concept of standing in a rate hearing." *Id.* ¶ 10. And in *City of Oklahoma City v. Oklahoma Corporation Commission*, 2024 OK 77, ¶ 24, 558 P.3d 1231, the Court held that the Oklahoma Municipal League "possessed standing to participate in the Commission proceeding." Neither case is about an appeal.

The precedent the Court was describing is more generous still. In *Oklahoma State AFL-CIO v. State Board for Property & Casualty Rates*, 1970 OK 3, 463 P.2d 693, a labor federation and a trial lawyers association were held to "have 'standing' to represent their members in connection with the proposed rate increase." *Id.* ¶ 3. The Court did not require proof of the members' interest; it took judicial notice that some of them "carry insurance with companies which seek the rate increases, or will be applicants for insurance coverage by such companies." *Id.* ¶ 5, 463 P.2d at 694–95. The same approach obtains in analogous rate matters. *See State ex rel. Henry v. Sw. Bell Tel. Co.*, 1991 OK 134, ¶ 9, 825 P.2d 1305 (AARP's "membership is composed of individuals who presumably are ratepayers").

If persons who simply carry insurance with the affected companies may be heard through their associations, then the licensed producer who places that insurance, and the homeowner who buys it, may be heard in their own names.

The Department answers that a noncompetitive finding would not immediately lower anyone's premium. Motion at 4. That misdescribes the injury. The injury is the loss of the protection itself — the difference between a market in which rates are reviewable for excessiveness and one in which, by statute, they are not. The Supreme Court has held that precisely such a change supports standing. In *Cox Oklahoma Telecom, LLC v. State ex rel. Oklahoma Corporation Commission*, 2007 OK 55, 164 P.3d 150, the appellees argued that the challenger's injury from an order relaxing regulatory oversight was "speculative and contingent on future events." *Id.* ¶ 6. The Court disagreed: "this potential for economic harm that results from a diminution in regulatory oversight by the Commission gives Cox standing to press for relief." *Id.* ¶ 8. It added that the doctrine "should never be applied mechanistically to bar from the courthouse those who are truly aggrieved." *Id.* ¶ 5. (*Cox* carries a KeyCite caution flag, but what *Oklahoma Gas & Electric Co. v. State ex rel. Oklahoma Corporation Commission*, 2025 OK 15, 565 P.3d 418, modified was how a reviewing court examines a Commission order. It left the standing discussion at ¶¶ 5 through 8 alone.)

The Motion Measures Hearing Participation by the Standard for Taking an Appeal

The authorities the Department marshals are appellate-standing cases. *Heritage Village* was a petition for judicial review under 75 O.S. § 318 and speaks of "a party invoking a court's jurisdiction." 2001 OK CIV APP 4, ¶ 7, 18 P.3d 1085, 1087. *Glass* was a district-court action and asks whether a party may "obtain judicial resolution of the controversy." 1982 OK 2, ¶ 8, 639 P.2d 1233, 1237. *Oklahoma Electric Cooperative* was an appeal from a Corporation Commission order. So was *Cleary Petroleum Corp. v. Harrison*, 1980 OK 188, 621 P.2d 528 — and it is worth pausing on, because it is the source of the formula the Department borrows. *Cleary Petroleum* asks who is an "aggrieved party" entitled to take an appeal from a *judgment*, and answers that a party is aggrieved where the adverse effects of the judgment are "direct, substantial and immediate" rather than contingent on some future event. That is a rule about appellate jurisdiction. The Department has lifted it out of the appellate context and offered it as a condition of appearing at a hearing. None of these four cases concerns who may appear before an agency.

Toxic Waste addresses the relationship between the two directly, and its holding runs the other way. Describing standing to participate, the Court explained that "[t]he Legislature clearly has the authority to grant standing to someone by statute," and that such standing "is not necessarily based on any injury to a property right, constitutional right or other legally recognized right . . . . Merely, it is a legislative policy decision in the context of the OCIWDA qualified interest groups, that request a public hearing, are granted standing to participate in the permitting process." 890 P.2d at 911. The sentence the Department quotes appears a page later, in the Court's discussion of appeals: "the right to protest and submit evidence before an agency does not *ipso facto* grant the protesting party the right to maintain an appeal from the agency decision." *Id.* at 912. That proposition traces to *National Motor Club of Oklahoma, Inc. v. State Insurance Board*, 1964 OK 138, 393 P.2d 511. In both cases the rule runs one way only: participating below does not guarantee review above. Neither case makes the standard for review a condition of participating below.

That one-way structure has been Oklahoma law for sixty years. *National Motor Club* is the model for it. The protestant there did everything a participant does. It appeared before the State

Insurance Board, demanded a hearing, put on its evidence, and objected to the license. Its appeal was dismissed all the same. The Court explained that "[o]ur statutory law specifically prescribes who may appeal from an order of the Board," that "[t]he fact that National appeared before the Board and protested the issuance of the license are not controlling as to who may perfect an appeal," and that "[t]he Board may not grant a party the right to appeal, but such right is granted by legislative enactment." 1964 OK 138, ¶ 23. The Court did not suggest that the protestant should have been kept out of the hearing. It held only that having been in it did not carry him into court. *Roussel v. State ex rel. Grimes*, 1980 OK 101, 614 P.2d 53, carried the rule into an insurance proceeding. A company had taken part in an administrative hearing on an acquisition application. That participation, the Court held, was not a material consideration in deciding whether the company was aggrieved or adversely affected so as to appeal, and the Court kept the Administrative Procedures Act's definition of "party" separate from the standard that governs review. The distinction cuts in Mr. Sullivan's favor. The Court had no trouble treating the hearing participant there as a "party" under 75 O.S. § 250.3 — "a person or agency named and participating . . . in an individual proceeding" — while holding that being a party did not by itself make it aggrieved for purposes of § 318. *Id.* ¶¶ 14–15. Participating makes a party; it does not make an appellant. The Department has the sequence backwards.

This year the Supreme Court made the point unmistakable. The appellant in *Gann v. State ex rel. Oklahoma Corporation Commission*, 2026 OK 24, had stayed out of the Corporation Commission proceeding altogether. He "did not file an entry of appearance or otherwise attempt to intervene at the Corporation Commission." *Id.* ¶ 11. He was aggrieved even so: "[a] ratepayer subject to a ratemaking order is a person aggrieved by the order." *Id.* ¶ 21. If a person who never appeared below is aggrieved for purposes of review, the Department cannot demand a greater showing from a person who did appear, merely to let him in the door. The same paragraph notes that the Attorney General, "who represents and protects the collective interests of all utility consumers of this state in rate-related proceedings, entered an appearance in the proceeding" — and his appearance did not render the individual ratepayer's participation unnecessary there either.

The Department has not identified — and undersigned counsel has not found — any Oklahoma decision holding that a person must demonstrate injury in fact before he may appear at an agency hearing. That is the proposition the Motion requires, and it is unsupported. The Department is the movant here; the burden of supplying that authority is its own.

The facts of *Toxic Waste* are instructive. The group lost because it stayed out of the agency proceeding: "Although taking part in public meetings before OSDH on the matter, TWIG did not request a public hearing, as it would have been allowed to do as a qualified interest group." *Id.* at 909. Having passed up the hearing, it went to court. Mr. Sullivan did the reverse. He demanded the hearing, and when it was noticed he appeared in it. The Department cites the case that rewards what he did as grounds for removing him. On the Department's own lead authority, the single fact that distinguishes a participant who may be heard from one who may not is whether he requested the hearing. Mr. Sullivan requested this one.

The Department may respond that an independent hearing examiner "shall sit as a quasi-judicial officer," 36 O.S. § 319, and that his order is final agency action, 36 O.S. § 313(A). Neither observation reaches the question. The first describes how the officer must decide — impartially, on a record, by findings and conclusions, 36 O.S. § 984(B)(2). The second identifies the order from which review may be taken under 36 O.S. § 320, and so identifies when the Department's cases begin to apply. That time is not now.

NAMIC and APCIA take the opposite view of the proceeding's character, describing it at the September 4 conference as "more of a rule-making proceeding as opposed . . . to an individual proceeding under the APA." Ex. 2, Tr. 17:11–15. Mr. Sullivan does not adopt that characterization. He notes only that the Motion fails under either one. Treat it as an individual proceeding and the Administrative Procedures Act and the Commissioner's rules supply the test, which Mr. Sullivan meets. If instead the proceeding is legislative in character — one that, in the language our Supreme Court adopted from *Prentis v. Atlantic Coast Line Co.*, "looks to the future and changes existing conditions by making a new rule to be applied thereafter," *Cox*, 2007 OK 55, ¶ 11 — then standing doctrine, which exists to identify who may obtain adjudication of a dispute, has no application to it

at all. The Department cannot borrow the framework of judicial adjudication for the purpose of excluding participants while the proceeding is described as rule-making for every other purpose.

The Rules That Actually Govern Are the Commissioner's Own

Title 36 O.S. § 313(B) requires that "[i]n the exercise of the powers and the performance of the duties enumerated in this title, the Commissioner shall comply with the procedures of the Administrative Procedures Act." Under the Act, a "party" is "a person or agency named and participating, or properly seeking and entitled by law to participate, in an individual proceeding." 75 O.S. § 250.3. The Department quotes that definition and then applies a different one. The second clause asks whether a person properly sought participation and whether law entitled him to it. Section 309(C) then provides that "[o]pportunity shall be afforded all parties to respond and present evidence and argument on all issues involved." The "aggrieved" limitation the Department presses belongs to 75 O.S. § 318, which governs judicial review of a final order.

The Commissioner's own rules say the same. OAC 365:1-7-4(a): "All hearings shall be open to the public." OAC 365:1-7-4(b): "Any person affected by the hearing shall have the right to appear in person and by counsel," and may "examine and inspect all documentary evidence, may examine witnesses and may present evidence in the party's own behalf." There is no injury requirement in that rule, and no requirement that the person be an insurer.

And the Notice of Hearing set the standard for this proceeding directly: file an entry of appearance. Mr. Sullivan did. Having published that procedure, requested the deadline, accepted seven appearances and appeared at a conference alongside them, the Department is not free to substitute a different test afterward. "Once these rules are in place an agency is required to follow them. Failure to do so can result in an invalidation of the proceeding." *Pub. Serv. Co. of Okla. v. State ex rel. Corp. Comm'n*, 1996 OK 43, ¶ 13, 918 P.2d 733; *accord Cox*, 2007 OK 55, ¶ 18 (an agency "cannot arbitrarily ignore its duly-promulgated procedural rules").

The Department Cannot Be Neutral as to the Outcome and the Policyholders' Representative at the Same Time

The Motion argues that Mr. Sullivan is unnecessary because Oklahoma consumers "are already represented in this matter by the Oklahoma Insurance Commissioner and the Oklahoma Attorney General." Motion at 4. The Department has told this Court something different elsewhere: that it does not advocate a position, and that "[t]he Commissioner has appointed an independent hearing examiner to ensure that an objective determination is made based on the law and evidence presented." Department's Response to Omnibus Pre-Hearing Motion at 7. Both cannot be so. A party that disclaims any position on the outcome is not representing the policyholders who have one. And at the September 4 conference, counsel for the Department advised the Hearing Examiner that the Department "are anticipating that [the Commissioner] may be a witness." Ex. 2, Tr. 24:18–25:3. An agency whose head is an anticipated witness in support of one answer to the question presented is a participant in this proceeding, not a stand-in for those who favor the other answer.

There is a further difficulty with the Department's theory of representation. A determination under § 984 does not end when this hearing does. An order finding the market noncompetitive "shall expire no later than one (1) year after issue unless rescinded earlier by the Commissioner or unless the Commissioner renews" it "after a hearing and a finding." 36 O.S. § 984(A). An order finding the market competitive is equally durable in its effect: while it stands, no homeowners rate in Oklahoma may be found excessive. 36 O.S. § 985(A)(1). And the statutes that give the determination its operative consequences are themselves changing — House Bill 3781, 2026 Okla. Sess. Law Serv. ch. 316, amends 36 O.S. §§ 985, 987, and 989 effective July 1, 2027. Commissioner Mulready's term ends in January 2027. The officeholder who will administer, renew, or rescind the order entered in this proceeding is therefore not the officeholder now said to represent Mr. Sullivan's interests in it.

Nor does the Attorney General's presence answer the question. He has never appeared as counsel for Mr. Sullivan in this proceeding, and nothing in the Notice of Hearing, in the

Commissioner's rules, or in 74 O.S. § 18b(22) makes one participant's appearance a substitute for another's; the authority that section confers is to represent the *collective* interests of insurance consumers. Adequacy of representation is in any event an intervention concept; it is not an element of standing. Oklahoma has never treated the Attorney General's authority as displacing private participation in matters of public concern. "Generally the Attorney General as chief law officer of the State, would be the proper party to maintain litigation to enforce a matter of public interest. However, where the main object of the suit is to vindicate a public right, a court may rightfully take jurisdiction upon the relation of a private citizen . . . ." *State ex rel. Howard v. Okla. Corp. Comm'n*, 1980 OK 96, 614 P.2d 45. Mr. Sullivan relies on *Howard* for that proposition alone. He does not urge it as a general rule of citizen standing, and the Court has declined to extend it that far.

The Motion Rests on No Competent Evidence, and Dismissal on This Record Would Foreclose Review

Contested standing presents a question of fact. That is why *Toxic Waste* reversed and remanded rather than dismissing, so the question could be resolved "in the first instance" on a record. 890 P.2d at 908–09. The Department has offered campaign literature. It has not offered — and did not seek — anything about Mr. Sullivan's licenses, his book of business, his own coverage, or his premiums. It asked him no questions at the August 27 conference. The accompanying affidavit supplies what the Motion omits.

Should the Motion be granted in any part, the manner matters. Review of the final order is confined to the record, 75 O.S. § 321, and under 36 O.S. § 313(A) only the final order signed after hearing is final agency action. An exclusion order entered on the present record would leave a reviewing court nothing to examine, and would leave the person who demanded this hearing without a means of testing the order removing him from it. Mr. Sullivan accordingly requests that, in that event, he be permitted to preserve his showing by formal offer of proof.

If a Standing Showing Is Required, It Must Be Required of Every Participant

Mr. Sullivan does not ask that any participant be dismissed. He asks that all seven be heard. Section 984(B) requires findings on six factors bearing on the structure and performance of a statewide market, and that inquiry is served by a fuller record, not a thinner one.

But the standard the Department proposes cannot be applied to two participants and withheld from the rest. Its stated ground is that Mr. Sullivan and Mr. MacIntyre are "not an insurer or otherwise directly or fiscally impacted by the outcome," Motion at 2, and that participation grounded in "the representation and/or protection of Oklahoma policyholders" is insufficient, Motion at 4. NAMIC is an Indiana nonprofit corporation. APCIA appears through the same counsel. Neither writes homeowners insurance in Oklahoma, neither has a rate on file, and no obligation of either changes if this market is found noncompetitive; §§ 985 through 989 operate on insurers, not on their trade associations. The Oklahoma P&C Advocacy Association describes itself only as "an interested party whose members possess a direct, immediate, and substantial interest," and identifies no member.

The decisive fact is the one the Department itself has reported: "no individual insurance companies have filed EOAs or asked to participate in the Hearing." Department's Response to Omnibus Pre-Hearing Motion at 8. Not one entity whose filings would actually change under a § 984 determination is before this Court. If participation is limited to those the outcome directly and immediately regulates, this proceeding consists of the Department and the Attorney General, and no one else.

Mr. Sullivan does not contend that the associations could not make the showing the Department demands of him. Under Oklahoma law an association's standing "is based upon members of that association possessing standing to sue in their own right," *City of Okla. City*, 2024 OK 77, ¶ 23, 558 P.3d 1231, and *Toxic Waste* framed the inquiry the same way, asking whether the organization "or more probably one or more of its members" was aggrieved. 890 P.2d at 911. The point is narrower and it is this: no member-specific showing has been asked of any association, and the Department offers no principle that would require one of Mr. Sullivan while excusing three

organizations. A rule of decision that credits representational participation on the industry side of this proceeding and rejects it on the consumer side is not a rule of decision.

The allocation of hearing time makes the asymmetry concrete. Motion 9 of the Omnibus Pre-Hearing Motion would split the hearing clock between the two positions rather than among the people in the room: half the time to the side arguing that the market is noncompetitive, half to the side arguing that it is not. The Department and the associations want the clock divided by participant instead. Those two positions cannot be held together with this Motion. If time is apportioned per participant, then removing two participants from one side of the question, eleven days before hearing, redistributes the hearing itself. As counsel observed on the record on September 4, "removing two parties from this hearing at this late date is important to the consideration of how time is allocated." Ex. 2, Tr. 16:15–17.

If the Hearing Examiner concludes that a direct, personal, and immediate stake must be shown, Mr. Sullivan respectfully requests that every participant other than the Department and the Attorney General be directed to make that showing, on one schedule and in one round of filings, with notice and an opportunity to be heard. Proceedings of this kind should be conducted so as to avoid "even the appearance of impropriety." *Arbuckle Simpson Aquifer Prot. Fed'n of Okla., Inc. v. Okla. Water Res. Bd.*, 2013 OK 29, ¶ 13. A standing inquiry directed at two of seven participants, on the eve of a hearing, does not meet that description. Mr. Sullivan reserves the right to seek relief as to other participants should the Department's standard be adopted.

Relief Requested

The Commissioner told the public that anyone with an interest in this question could participate by filing an entry of appearance. Mr. Sullivan had already asked him to hold the hearing. He filed his appearance on time. No one objected when he filed it, at the conference that followed the next day, or when the Department signed a joint motion naming him as one of "the Parties." The objection came on the evening of September 3. The law the Department invokes governs appeals to courts; the law that governs here — the Administrative Procedures Act, the

Commissioner's own rules, and the Commissioner's own Notice — entitles Mr. Sullivan to be heard, as it entitles the other six participants to be heard.

WHEREFORE, PREMISES CONSIDERED, Bob Sullivan respectfully requests that the Hearing Examiner deny the Motion to Dismiss Parties Due to Lack of Standing; that the hearing under 36 O.S. § 984 proceed as reset, without further delay; that this Motion be resolved before Motion 9 of the Attorney General's Omnibus Pre-Hearing Motion, which the Hearing Examiner has reserved for the same setting, Ex. 2, Tr. 30:8–11, is taken up, since the allocation of hearing time cannot sensibly be fixed while a motion to remove two participants is pending; that, in the alternative, if a showing of standing is required to participate, every participant other than the Department and the Attorney General be directed to make that showing on a common schedule and in a single round of filings; that, if the Motion is granted in any part, Mr. Sullivan be permitted to preserve his showing by formal offer of proof; and that he be granted such other and further relief as is just, equitable, and proper.

Respectfully submitted,

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FILED
SEP 14 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

ADMINISTRATIVE ORDER

The undersigned hearing examiner was notified that Motion to Disqualify the Independent Hearing Examiner was filed on September 10, 2026 by the Attorney General's office and on behalf of Bob Sullivan. The hearing examiner has seen and reviewed the Motion this afternoon. As a result of that Motion, this hearing examiner orders the Pre-Trial Conference hearing set to be conducted on September 15, 2026 at 10:00 a.m. via Microsoft Teams be stricken. The issue of the Motion to Disqualify only will be heard at the time previously set for the Pre-Trial Conference hearing and will be conducted via Microsoft Teams.

SO ORDERED, ADJUDGED AND DECREED this 14th day of September, 2026.

JOHN D. MILLER
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF OKLAHOMA

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

PRE-HEARING CONFERENCE

BEFORE HONORABLE JUDGE JOHN D. MILLER

On September 15, 2026, beginning at 10:03 a.m.

Via Teams

Becky Steinkamp, CSR, RPR
Court Reporter
Professional Reporters
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APPEARANCES

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(Appearances continued on next page)

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Also present:
Sherry Standerfer, OID
Craig MacIntyre, Observer
Paul Martin, NAMIC
Walter Gonzales, APCIA
Denise Johnson, OCPAA
Chelsea Stallings, NAMIC
Seth Coldiron, OID
Colleen Shiel, APCIA
Steven Barker, Observer
Katrina Crumbacher, Observer
Liz Heigle, OID

9:57 PROCEEDINGS

THE COURT: All right. Comes now this 15th day of September, 2026, in the matter of Case Number 26-0820-TRN in reference to the hearing
10:06 pursuant to 36 O.S. Section 984 as to whether the Oklahoma homeowners insurance market is noncompetitive.

This matter comes on for hearing today. As of yesterday, upon me receiving and reading a
10:06 Motion for Disqualification filed on behalf of the Oklahoma Attorney General's Office by the Whitten Burrage firm and Mr. Hunter on behalf of Bob Sullivan, I issued an order canceling the pretrial hearing that was previously scheduled for today in
10:06 order to address the Motion for Disqualification. I'm hoping everybody got notice of that. So this matter comes on, and the matter to be addressed is the Motion for Disqualification.

Who --

10:07 MR. HUNTER: Your Honor, at this point, I'm going to object to holding any kind of a hearing today. There's no Motion to Dismiss. The interests of Mr. Sullivan are aligned with the Attorney General. And if it's okay, I'd like for Judge
10:07 Burrage to be recognized on this issue.

10:07 THE COURT: Sure. Mr. Burrage?

MR. BURRAGE: Yes, Your Honor. These are difficult hearings to have, but I don't believe Your Honor has any authority to hear this motion for a 10:07 couple of reasons.

THE COURT: Okay.

MR. BURRAGE: One, 75 O.S. Section 316, the Senate says that if there's a Motion to Disqualify filed, quote, the determination shall be 10:07 determined by the administrative head of agency. You are not the administrative head of agency. So that's --

THE COURT: I'm sorry, Mr. Burrage. Can you give me that statutory citation again, sir?

10:08 MR. BURRAGE: I'm sorry. It's 75 O.S. Section 316.

THE COURT: Okay.

MR. BURRAGE: It says, on the issue of disqualification -- and I'm quoting from the 10:08 statute, the second sentence.

THE COURT: Yes, sir.

MR. BURRAGE: Quote, the issue shall be determined promptly by the administrative head of the agency, or, if it affects a member -- and it 10:08 goes on to have some other language in there that I

don't think applies here --

THE COURT: Okay.

MR. BURRAGE: -- and, in fact, you're not the administrative head of the agency.

THE COURT: Absolutely. Okay.

MR. HUNTER: So, respectfully, Judge, we would move for this matter to be stayed while Commissioner Mulready is deliberating on the affidavit.

MR. BURRAGE: And that brings up another issue, Your Honor. It says he is to make this determination. We believe he is also disqualified for a number of reasons, and I can put those in the record if you want, but --

THE COURT: Sure. Put them in the record.

MR. BURRAGE: But, basically, under the law -- I mean, the common law of this country, if a Motion to Disqualify is entered, there's an automatic stay of everything until that motion is determined. Then there's the question of who determines that motion.

Now, the Administrative Procedures Act is silent on that issue, so we would have to look to the common law, you know, as to how that issue should be determined.

10:09 Mr. Hunter sent you an email on Monday, September 14, 2026, at 11:15 a.m. and outlined that there is an AG opinion, AG Opinion Number 132-1985, that says the same standard of disqualification for 10:09 conflict of interest as apply to judges also applies to administrative tribunals.

And there's a prohibition against proceeding on anything. Rule 15, if it's analogous, says everything is stayed until the issue of 10:10 disqualification is determined. So we have the --

THE COURT: -- disagree with that position.

MR. BURRAGE: I can read it from the statute, Your Honor.

10:10 THE COURT: No. I said, "I do not disagree with your position."

MR. BURRAGE: Oh, okay. I'm sorry.

THE COURT: If you want to argue that, go ahead, but I think --

10:10 MR. BURRAGE: No.

THE COURT: -- at this point, as the issue of the hearing examiner or the judge, as it would be, based on the situation, or whatever, I think that issue has to be resolved first. I have no 10:10 intent to present anything until this issue is

resolved.

MR. BURRAGE: That's good.

MR. HUNTER: Thank you, Judge. We would, at this point, press our motion to continue this matter pending Mr. Mulready's decision on the affidavit.

THE COURT: Okay. Does the Department, who was the moving party that requested the hearing, do you wish to respond to that?

MR. DeBOSE: Yes, Judge. Thank you. Thank you for hearing this.

First, for the record, the Department would like to strongly object to the affidavit that's been filed. Simply, we just don't agree that there are grounds for any disqualification in this matter as it relates to this hearing examiner or the Commissioner himself.

In that affidavit, there were strong allegations of misconduct by the hearing examiner, by departmental staff, and, indirectly, I guess, departmental counsel. So, again, we would strongly object to that and disagree with many of those notions.

However, it has been stated, the only matter that's pending today is who is going to hear

this Affidavit of Disqualification. The Department would disagree that Rule 15 of the District Court applies here as it relates to a stay. As we've all agreed, all the parties I mean, through pleadings that's already been filed, it looks like the APA applies to this matter.

Now, there has been some disagreement. That was one of the motions that was supposed to be ruled on today about whether Article I or Article II of the APA applies; however, whichever applies, we are all in agreement that the APA applies. So that is strictly 75 O.S. 316 as it relates on who rules in the event that someone files an Affidavit for Disqualification.

And as opposing counsel has already stated, that statute says it has to be the administrative head of an agency. In this matter, that would be the Insurance Commissioner. Now, the Insurance Commissioner in this matter has already removed himself from any decision making by appointing the independent hearing examiner, but this affidavit by this statute, 316, puts the decision on him. Puts it right back in his court.

We would offer for this Court, in the Insurance Code, 36 O.S. 319 states that the

Insurance Commissioner can appoint a hearing examiner to hear any matter.

So it looks like there are a couple options here: We could have the Insurance Commissioner decide this, which seems like counsel disagrees with, thinks that he's conflicted out of that; or the Insurance Commissioner could appoint another hearing examiner to decide the matter of disqualification. I think those are the two options before the Court today as it relates to disqualification.

Really, that's all from the Department on this matter. Again, we plan to file a written objection to this affidavit either today or tomorrow, but, on the record here, orally, we would like to object that there's any need for disqualification at all.

Thank you, Judge.

MR. BURRAGE: Your Honor, may I address the second point that he brought up, that the Insurance Commissioner can appoint the judge who hears this. There's a problem with that. He's disqualified. He's already taken a position on this issue. He's taken a public position on this issue, and he's --

10:14 THE COURT: What is that position, Mr. Burrage?

MR. BURRAGE: Sir?

THE COURT: What is that position?

10:14 Because I haven't heard anything --

MR. BURRAGE: He said --

THE COURT: -- about that.

MR. BURRAGE: Well, he said the market is competitive. He said it a couple --

10:14 THE COURT: The filing of the hearing -- I mean, in my reading it, it's just for a determination of whether it was or wasn't, so -- I haven't heard anything, so I don't know what his position is.

10:14 So you're representing that their position is: It's a competitive market? Is that what you're saying?

MR. BURRAGE: That's exactly what I'm saying.

10:14 MR. WHITTEN: He came out in the media, Your Honor, I believe more than once.

MR. BURRAGE: Yes, more than once. He's come out in the media that it's a competitive market.

10:14 THE COURT: I don't know what's read in

the media. I haven't read it so I don't know that. I'm here to determine what's presented before me, not what's out there -- Okay? -- for your record.

MR. BURRAGE: This goes to his ability, though, to appoint somebody to hear it.

The second thing is that when we got the witness list yesterday from OID, he is their main witness to testify in this case. Can the guy that's taken an adverse position to the Attorney General's position in this case and is going to testify as a witness -- he's not qualified. He's disqualified from appointing anybody to hear this. He can't select his own judge.

MR. HUNTER: Judge, I press my motion to continue this proceeding under these matters that are being discussed today, particularly matters brought up by OID are ripe for your decision making. The Commissioner needs to either disqualify or not disqualify under 316, and until we have definitive determination by the Commissioner, this matter needs to be continued, respectfully, Judge.

MR. BURRAGE: I agree, Your Honor.

MR. PATTON: Judge, Blake Patton, if I may, briefly.

THE COURT: Sure.

10:16 MR. PATTON: We filed a written response objection to the affidavit. We stand on that.

THE COURT: Okay.

MR. PATTON: I think Mr. DeBose articulated the main points there, but I would just like to re-emphasize that all of this needs to be viewed through the lens of the evidence of alleged bias or impartiality.

THE COURT: Sure.

10:16 MR. PATTON: It is astoundingly weak. We do not dispute that 75 O.S. 316 is on point here. I think it governs. I think any attempt by any party to modify that is improper. The legislature provided this mechanism.

10:16 I think the Commissioner is certainly able to effectuate the mandate of the statute. There is no authority for a stay here, so any insinuation that the merits hearing needs to be continued is unfounded and should be rejected. But we will stand on our response.

10:16 THE COURT: Okay. Thank you.

Anyone else have a response from any other parties that haven't spoken?

MR. DeBOSE: Nothing further from the Department. I think we've made our points. Thank

10:17

you, Judge.

THE COURT: All right.

I'm going to do a statutory review real quick here, gentlemen. Bear with me.

MR. DeBOSE: Judge, not to interrupt your reading, but the Department would like to make one more point, if the Court's open to it.

THE COURT: Yeah. Let me finish reading this and then I'll give you an opportunity, Mr. DeBose, to make a response.

MR. DeBOSE: Absolutely, Judge. Thank you.

THE COURT: Okay. Mr. DeBose, you wish to add something for the Department?

MR. DeBOSE: Yes, sir, Judge. One more point. I appreciate it.

I think we're talking about two separate issues here, as it comes to the Insurance Commissioner. Is he disqualified from hearing the hearing on the merits and is he disqualified from hearing the disqualification issue.

The disqualification issue, if you read the statute, is limited to the record thus far and if there was any propriety done. I don't think there's anything that would disqualify him from

making a ruling on that or, again, appointing another hearing examiner to decide that. I think even public statements that might go to the merit of the case, I think that has absolutely nothing to do with his ability to rule on this disqualification or appoint someone to do so.

So that's just the last point we wanted to make for the record.

MR. WHITTEN: May I address that, Your Honor?

MS. NASH: And I would say, Your Honor, also, that there's a difference between him hearing this matter and him appointing an independent hearing examiner to hear this matter. And I would respectfully submit that that is the entire purpose of the law that allows him to put and appoint an independent hearing examiner over a matter.

He will not be making the determination himself. He will not be having any influence over an independent hearing examiner who will be making a decision on recusal or on the overall determination of this hearing, and, therefore, there is no bias or impartiality or disqualification under 316 that would prohibit him from appointing an independent hearing examiner to determine those matters.

10:21 MR. BURRAGE: May I address that, Your Honor?

THE COURT: Sure.

MR. BURRAGE: First of all, the public 10:21 statements, they're in the affidavit that's before the Court.

The second issue, if he's disqualified, he's disqualified from everything. In other words, we don't get to pick the judge. If he's 10:21 disqualified, he shouldn't be able to pick the judge. And it's just inherently wrong if a person is disqualified from hearing something, that they get to pick the judge who hears it. I think it's a violation of due process, at the very least. And, 10:21 you know, we can submit authority on that, but I think he's disqualified from picking a successor.

But maybe the thing to do is refer it to him and see what he does. That's what the statute says. I don't know.

10:22 THE COURT: Yeah. I understand. Let's see if we can make some law. Okay?

So, anyway, as hearing examiner, this matter will be stayed. I believe, under 75 O.S. 316, he does have the authority, and the statute 10:22 says he has the authority, and I'm going to stay the

matter at this time until there's a determination made by the Insurance Commissioner. Whatever decision is made or the procedure in which that is handled will be subject to further review.

So -- but, at this time, I'm going to stay this matter. I will not be making any decisions based on 75 O.S. 316. It will go back to Mr. Mulready for a determination, and then I assume we'll proceed from there, depending on what that decision is.

Anything further?

MR. HUNTER: Thank you, Judge.

MR. PATTON: Judge --

MR. DeBOSE: No, sir. Thank you, Judge.

MR. PATTON: Yes, one housekeeping question. This may be a distinction without a difference, but merits hearing -- I mean, what deadlines are stricken, are they still in place, are they stayed? How --

THE COURT: Everything's stricken. Everything's stricken at this point.

MR. WHITTEN: Your Honor, this is Reggie Whitten. May I inquire? Does that include the October 26th hearing?

THE COURT: It -- I'm going to say it --

I'm just going to say yes, it will be. Yes.

MR. WHITTEN: Thank you. The reason I'm asking, Your Honor, that -- I put this on the record the other day, but we have up to at least four witnesses. They're all out of state. It was a tremendous burden on the state and a lot of money was lost because they had travel arrangements, hotels, flights --

THE COURT: Sure.

MR. WHITTEN: -- and prep time, and we can't -- we can't turn on a dime. We would need at least six weeks, eight weeks notice before that hearing could take place, so if I'm hearing you correctly --

THE COURT: I understand. I understand that, and so it will be stricken so they can cancel any reservation, or whatever. Depending if I'm involved or somebody else, then the date will be picked that takes those factors into consideration, if I'm doing it or somebody else. That will be up to them.

MR. WHITTEN: Very good. Thank you, sir.

THE COURT: All right. Thank you.

MR. HUNTER: Thank you, Your Honor.

THE COURT: You're welcome. Have a good

day.

(HEARING CONCLUDED AT 10:24 A.M.)

10:24

CERTIFICATE

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)

I, Becky Dame Steinkamp, Certified Shorthand Reporter within and for the State of Oklahoma, do hereby certify that the above and foregoing hearing was by me taken in shorthand and thereafter transcribed; and that I am not an attorney for nor relative of any of said parties or otherwise interested in the event of said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 16th day of September, 2026.

_____
Becky Dame Steinkamp, CSR, RPR

FILED
SEP 22 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

THE OKLAHOMA INSURANCE DEPARTMENT'S RESPONSE OPPOSING THE DISQUALIFICATION OF THE INDEPENDENT HEARING EXAMINER AND THE INSURANCE COMMISSIONER

The State of Oklahoma, *ex rel.* Glen Mulready, Insurance Commissioner (the "Department" or the "OID"), by and through counsel, Antuanya "Bo" DeBose and Nicole Nash, hereby responds to the "Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan in Support of Disqualification of the Independent Hearing Examiner and of the Insurance Commissioner Pursuant to 75 O.S. § 316" (the "Affidavit"), filed on September 10, 2026, and states as follows:

I. THERE ARE NO GROUNDS TO DISQUALIFY THE INDEPENDENT HEARING EXAMINER

1. **Administrative hearing examiners are presumed to be capable of judging a proceeding fairly.** Pursuant to 75 O.S. § 316, the determination at issue is whether the appointed hearing examiner is able "to give a fair and impartial hearing." Administrative proceedings are unique in that the state agency who acts as a party advocating a certain position in the hearing is also the adjudicating body and forum of that hearing. Oklahoma law permits the hearing examiner of an administrative hearing to be the head of the agency, a third-party appointed by the head of the agency, or even another staff member of the agency appointed by the head of the agency. See 75 O.S. §§ 250.3(7), 313 and 316; 36 O.S. §§ 307 and 319. The Oklahoma Supreme Court has held that this is not a violation of due process. Lowrey v. Hodges, 1976 OK 132, ¶ 23, 555 P.2d 1016, 1024.

> . . . due process is not necessarily denied by the fact that the hearing is before the same authority which has preferred the charges upon which the hearing is had, or by the fact that the trier of the fact has personal knowledge of the matter in issue or has expressed an opinion that the conduct in question is illegal. The combination in the same person of the functions of investigation or advocacy and the function of deciding is a recognized evil which, to some extent, the specific provisions of the Federal Administrative Procedure Act ameliorate, and even where such a statute does not apply, such a combination of functions has been held not to support a claim of denial of due process of law.

Id. at ¶ 23, 1024 (citing 2 Am.Jur.2d, Administrative Law, s 413). In Wilson, the Oklahoma Supreme Court held the fact that an agency investigates, prosecutes, and adjudicates a matter does not violate due process. Wilson v. Oklahoma Horse Racing Comm'n, 1996 OK 3, ¶ 13, 910 P.2d 1020, 1023 (citing Withrow v. Larkin, 421 U.S. 35, 46–47, 95 S.Ct. 1456, 1463 64, 43 L.Ed.2d 712 (1975)). "Agency administrators are presumed to be capable of judging a particular controversy fairly, on the basis of its own circumstances." Id. Parties challenging the impartiality of a hearing examiner must therefore bear the burden of overcoming this presumption. The Parties in this case have not done so.

2. **State agency hearings are held at state facilities.** The Department's administrative hearings are routinely held at the OID building (400 NE 50th Street, Oklahoma City, Oklahoma). This arrangement is not foreign to other Oklahoma state agencies and there is no statute, regulation or case law that suggests this arrangement is improper. It is not uncommon for most state agencies to hold administrative hearings at their own facilities, including but not limited to the Oklahoma State Department of Education (OSDE), the Oklahoma Corporation Commission (OCC), the Oklahoma State Department of Health (OSDH), and the Oklahoma Workers Compensation Commission (OWCC). On September 4, 2026, Independent Hearing Examiner John Miller (the "Hearing Examiner") appeared via Microsoft Teams from the second (2nd) floor conference room of the OID building for the scheduled pre-hearing conference ("PHC").

3. **Staff assistance is allowed.** It is a common and recognized practice in Oklahoma agency administrative proceedings for agency staff to assist independent hearing examiners during administrative hearings, subject to important limitations designed to preserve impartiality and due process. There are several examples in Oklahoma law where this practice has been formally recognized. The Oklahoma Administrative Procedures Act ("OAPA"), specifically 75 O.S. § 313, prohibits ex parte communications "in connection with any issue of law" but permits the decisionmaker of a hearing to "have the aid and advice of one or more personal assistants." In Arbuckle, the Oklahoma Water Resources Board's procedural rules (OAC 785: 4-3-4) expressly provide that the hearing examiner may designate any Board staff member to assist the hearing examiner in the conduct of the proceedings. Arbuckle Simpson Aquifer Protection Federation of Okla., Inc. v. Okla. Water Resources Bd., 343 P.3d 1266, 1268 (2013). Similarly, the Oklahoma Department of Rehabilitation Services' administrative rules provide that once selected, the impartial hearing officer will assume responsibility for arranging and conducting the fair hearing with the assistance of agency staff as necessary. See OAC 612: 10-1-6. While staff assistance during administrative hearings is permitted, it must not compromise the hearing examiner's impartiality. The Oklahoma Supreme Court in Arbuckle addressed a situation where the Oklahoma Water Resources Board acted as a conduit for favorable witnesses to present further unchallenged testimony to the hearing examiner without notice to the other parties. Id. at 1271. The court in Arbuckle found that this arrangement allowed one to question the hearing officer's impartiality, and that such ex parte communications between the hearing officer and agencies serving as witnesses created the impression of partiality on the part of the hearing officer. Id. at 1271. Those facts do not exist in this case. And importantly, despite these findings, the Oklahoma Supreme Court held, "We do not hold that the hearing officer failed to provide a fair and impartial hearing

during the MAY proceeding in question, and ***will not require her disqualification*** and a restart of the proceedings." Id. at ¶ 16, 1272 (emphasis added).

During OID administrative hearings, Sherry Standerfer acts as the administrative court clerk for the Department. In that capacity, Ms. Standerfer files and maintains the administrative court records, records the administrative hearings, and assists the hearing examiners with scheduling and other administrative functions. Ms. Standerfer has performed these duties for the Department for thirty (30) years and is experienced and trained on the duty to not discuss or attempt to influence in any way the decisions of a hearing examiner on any legal issue arising in an administrative proceeding. See Exhibit D: Affidavit of Sherry Standerfer. Ms. Standerfer did not engage in any ex parte communications with Judge Miller relating to the merits of any decision in this case. Id. The fact that she communicates with Judge Miller outside the record regarding administrative functions cannot be construed as creating the appearance of partiality or grounds for recusal. Setting such a precedent would call into question the validity of administrative hearings across the State. As stated above, it is a common and recognized practice allowed by Oklahoma law for agency staff to provide administrative support to hearing examiners.

4. **Parties were invited to attend the PHC in person or virtually.** Pursuant to the "Order of Continuance" filed September 1, 2026, the PHC previously scheduled for August 27, 2026 at 9:30 am was continued until September 4, 2026 at 9:00 am via Microsoft Teams. The Microsoft Teams invite sent to all parties stated "[a] conference room at the OID has been reserved. If you would like to attend in person, you may do so. If you prefer to attend via TEAMS, the correct link is below." See Exhibit A: Microsoft Teams Invite. All seven (7) of the parties to this matter appeared at the September 4th PHC; six (6) parties appeared virtually and Brett Robinson, attorney for the Oklahoma P&C Advocacy Association (the "P&C Association")

appeared in person. Both attorneys for the Department appeared from Antuanya "Bo" DeBose's office on the first (1st) floor of the OID building via Microsoft Teams and remained downstairs before, during, and after the pre-hearing conference. See Exhibit B: Affidavit of Antuanya "Bo" DeBose; Exhibit C: Affidavit of Nicole Nash. Counsel for the Department did not have any communications, directly or indirectly, with the hearing examiner except for statements made during the hearing in the presence of all the other parties. Counsel for the Oklahoma Attorney General (the "OAG") and counsel for Bob Sullivan ("Mr. Sullivan"), who chose not to attend the September 4th PHC in person, cannot now allege that improper conduct occurred during a recess of the hearing, or that "[n]o participant appearing remotely could see or hear anything that occurred during the recess," or that "no party knows whether Ms. Standerfer remained with the Hearing Examiner during it, or whether anything was said to him concerning the continuance." See The Affidavit, ¶ 19. No ex parte communication, or other improper conduct occurred during the recess of the PHC, and the Affidavit has supplied nothing but speculation to support that claim. See Exhibit D: Affidavit of Sherry Standerfer.

5. **An adverse ruling is insufficient to claim a fair and impartial hearing cannot be afforded.**

a. **Ruling on the continuance request.** The Hearing Examiner stated during the September 4th PHC that he was "not particularly wanting to move the date or time of the actual hearing itself, but I want to make sure it's conducted in a fair and impartial way." Tr. 14: 2-8. This statement by the Hearing Examiner was not a ruling and was made before hearing from the parties. Counsel for the P&C Association orally moved for a continuance of the September 14, 2026 hearing on the merits. Tr. 14: 9-20. Four (4) of the parties objected to the request for continuance, while the Department offered no objection. After

hearing the position of each party, the Hearing Examiner took a brief recess, then issued the ruling reflected in the "Order of Continuance" filed September 10, 2026. A single ruling from a hearing examiner, made after hearing from all the parties, is not improper. The fact that ruling was over the objection of certain parties is not grounds for the Hearing Examiner to disqualify himself. The OAG and Mr. Sullivan even acknowledge in the Affidavit that the ruling alone is not an abuse of discretion and insufficient to request the disqualification of the Hearing Examiner. See The Affidavit, ¶ 22.

b. **The recess.** The OAG and Mr. Sullivan have offered no evidence that any ex-parte communication occurred with the Hearing Examiner during the September 4th PHC. The fact is the OAG and Mr. Sullivan cannot offer any evidence to that effect because no ex-parte communication occurred. As previously stated, both counsel for the Department appeared from Antuanya "Bo" DeBose's office on the first (1st) floor of the OID building via Microsoft Teams and remained downstairs before, during, and after the pre-hearing conference. See Exhibit B: Affidavit of Antuanya "Bo" DeBose; Exhibit C: Affidavit of Nicole Nash; Exhibit D: Affidavit of Sherry Standerfer. No members of the Department had any improper ex parte communications with the hearing examiner.

6. The Hearing Examiner's Engagement. Pursuant to 36 O.S. § 319, "[i]n conducting any hearing pursuant to the Insurance Code, the Insurance Commissioner may appoint an independent hearing examiner who shall sit as a quasi-judicial officer." (emphasis added). This appointment authority is reinforced by 36 O.S. § 307, which provides that the Commissioner shall hear all matters either in person, by authorized disinterested employees, or by hearing examiners appointed by the Commissioner for that purpose. The OAG has similar authority pursuant to OAC 75: 1-5-8(a), which states in part "[e] very hearing before the Office of the Attorney General shall

be conducted by the Attorney General or designated Hearing Officer . . ." Further, pursuant to OAC 75: 1-5-9(a), "[t]he Attorney General shall appoint at least one individual who is a licensed attorney to act as the Administrative Hearing Officer in individual proceedings filed before the Office of the Attorney General. The Administrative Hearing Officer shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings . . ." Additionally, it should be noted that the OAG receives and reviews the OID's hearing examiner's contracts pursuant to 74 O.S. § 20i. The OAG received and did not disapprove the contract of the Hearing Examiner currently assigned to this matter, effective July 1, 2026 through June 30, 2027. *See* Exhibit E: July 30, 2026 letter from the OAG and Exhibit F: Oklahoma Attorney General - 20i Attorney Listing. That means the Hearing Examiner's contract was approved while this current administrative proceeding was ongoing, and the contract is not set for renewal until next year, once the next Oklahoma Insurance Commissioner is in office. Alleged bias due to pecuniary interest, if any, lies in favor of the next insurance commissioner who will be charged with renewing the contracts for the Department's hearing examiners, not the current insurance commissioner. Lastly, asking for a Hearing Examiner to be disqualified due to being contracted with the OID is illogical. The Affidavit appears to acknowledge that at ¶ 26, which states "[m]ovants do not ask this Court to hold that every contract examiner is disqualified in every case . . ." See The Affidavit, ¶26.

7. **The Department's Motion to Dismiss.** The Department's "Motion to Dismiss Parties due to Lack of Standing" (the "Motion to Dismiss") was filed September 3, 2026. The Motion to Dismiss was not untimely, late, or in violation of any scheduling order issued by the court. Unlike the Affidavit, which must be filed upon discovery, the issue of standing can be raised at any time. *See Wells Fargo Bank, N.A. v. Heath*, 2012 OK 54, ¶¶ 8–9 and 12, 280 P.3d 328, 332 334 ("Standing may be raised at any stage of the proceeding, and when raised, the party invoking

the court's jurisdiction has the burden of establishing his or her standing."). The Motion to Dismiss clearly states the Department did not intend for the motion to be heard at the PHC scheduled for September 4, 2026. Despite this, counsel for Mr. Sullivan stated he was ready to argue the Motion to Dismiss during the September 4th PHC and the OID did not object. However, the Hearing Examiner set a briefing schedule for the Motion to Dismiss, along with setting September 15, 2026 at 10:00 am as the date for oral argument regarding the motion. The OAG's and Mr. Sullivan's Affidavit prevented oral argument from occurring on September 15, 2026, along with argument regarding the other pending motions in this matter. The Hearing Examiner's decision to continue the 36 O.S. § 984 hearing and schedule briefing allowed fair opportunity for all parties to be heard on the Motion to Dismiss, and there is no indication that the Hearing Examiner acted in an unfair or impartial manner regarding this issue.

II. THE ISSUE OF DISQUALIFICATION OF THE HEARING EXAMINER MUST BE DETERMINED BY THE ADMINISTATIVE HEAD OF THE AGENCY

8. **The administrative head of the agency.** Pursuant to 75 O.S. § 316, when a party requests the disqualification of a hearing examiner or agency member ". . . [t]he issue shall be determined promptly by ***the administrative head of the agency,*** or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum" (emphasis added). The latter part of that provision referencing a quorum is inapplicable here, therefore this disqualification is statutorily required to be decided by the administrative head of the agency. In this case, the administrative head of the Insurance Department is the Insurance Commissioner pursuant to 36 O.S. § 301, and he is required to rule on this issue. However, 36 O.S. § 319 states "[i]n conducting any hearing pursuant to the Insurance Code, the Insurance Commissioner may appoint an independent hearing examiner who shall sit as a quasi-judicial officer." See also 36 O.S. § 307. The Insurance Commissioner has the authority to appoint another independent hearing

examiner to hear the issue(s) raised in the Affidavit to determine if there are grounds to disqualify the current Hearing Examiner pursuant to 75 O.S. § 316.

III. THERE ARE NO GROUNDS FOR DISQUALIFICATION OF THE INSURANCE COMMISSIONER

9. **The Insurance Commissioner is not presiding over this matter.** As allowed by 36 O.S. § 319, the Insurance Commissioner has appointed and delegated all of his authority to the Hearing Examiner to hear this matter and therefore is not presiding over the case on the merits in any capacity. This fact is important and distinguishes this case from the Wilson case cited in the Affidavit. See The Affidavit, ¶ 29. In Wilson, the Court ruled that one of the stewards of the three-person Oklahoma Horsing racing Commission Board of Stewards should have recused himself. Wilson v. Oklahoma Horse Racing Comm'n, 1996 OK 3, ¶ 15, 910 P.2d 1020, 1023. In Wilson, horse trainer Jack Wilson ("Wilson") requested a hearing regarding the suspension of his license. Prior to the hearing, Wilson moved to disqualify the Board of Stewards. Steward Charlie Cox, who had participated in the investigation against Wilson, did not disqualify. A hearing on the allegations was set before a three-person Board of Stewards, presided over by Steward Charlie Cox. At that hearing Wilson called Steward Charlie Cox as a witness. Steward Cox was sworn, testified both on direct and cross-examination, then resumed presiding over the hearing. Id. at 1022. This current matter is distinguishable from Wilson because the Insurance Commissioner is not presiding over the hearing in this case and he has appointed the Hearing Examiner to do so.

The fact that the Insurance Commissioner is not presiding over this matter also makes this case distinguishable from Staton v. Mayes, 552 F.2d 908 (10th Cir. 1997) and Cinderella Career & Finishing Sch., Inc. v. F.T.C., 425 F.2d 583 (D.C. Cir. 1970). Pursuant to 36 O.S. § 313(A), a final order signed by an independent hearing examiner, after hearing, shall be final agency action. Therefore, the Insurance Commissioner has no authority to interfere with a final agency order

issued by the independent Hearing Examiner. Even the Affidavit acknowledges this fact. See The Affidavit, ¶ 44 ("The Hearing Examiner, and not the Commissioner, is the decisional officer in this proceeding. 36 O.S. §§ 313(A), 319. His order after hearing is final agency action, and the Commissioner has no power to review it.")

10. **Testimony by an agency head is not barred.** The OAPA does not prohibit the head of an agency from testifying in an administrative hearing conducted by that agency, and the statutory framework expressly contemplates the administrative head's active participation in individual proceedings. The OAPA grants broad authority to compel and present witness testimony in individual proceedings. Pursuant to 75 O.S. § 315(A), the agency conducting any individual proceeding or investigation has the power to require the furnishing of such information, the attendance of such witnesses, and the production of such books, records, papers or other objects as may be necessary and proper for the purposes of the proceeding or investigation. This language confirms that the Insurance Commissioner is a recognized participant in the hearing process with authority to compel witness attendance — and by extension, there is no statutory bar on the administrative head serving as a witness. 75 O.S. § 316 states a hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration. However, that provision is inapplicable in this case, as the Insurance Commissioner is not presiding over this matter and has removed himself from any decision-making role. As shown on the Department's witness list, the Insurance Commissioner is being called as a fact witness to testify.

11. **Prior statements or actions are not sufficient grounds for disqualification.** The fact that the Commissioner engaged in constitutionally protected political activities by supporting an insurance commissioner candidate that is no longer in the election race, and the fact that the

Insurance Commissioner has issued a ruling on the subject of this matter in a completely separate case, are irrelevant to the current proceeding. In this proceeding, the independent hearing examiner must issue a ruling based on the evidence presented at the hearing on the merits.

IV. THE HEARING ON THE MERITS SHOULD PROCEED WITHOUT FURTHER DELAY

12. Any successor hearing examiner is statutorily required to be selected by the Insurance Commissioner. The OAG's and Mr. Sullivan's request that the parties confer and select a new hearing examiner is unsupported by law. 75 O.S. § 316 states in part that the disqualification issue ". . . shall be determined promptly by the ***administrative head of the agency***, or, if it affects a member or members of the agency, by the remaining members thereof, if a quorum." (emphasis added). Additionally, 36 O.S. § 319 states "[i]n conducting any hearing pursuant to the Insurance Code, the Insurance Commissioner may appoint an independent hearing examiner who shall sit as a quasi-judicial officer." The statutes are clear that the administrative head of the OID, the Insurance Commissioner, is required to either rule on the Affidavit himself, or designate another independent hearing examiner rule on the matter of disqualification.

V. CONCLUSION

The facts of what took place at the September 4th PHC are simple. A party requested a continuance of the September 14, 2026 hearing on the merits, multiple parties objected to the request, and after taking a brief recess, the hearing examiner chose to grant the request for continuance. No ex-parte communications took place during the recess and the Affidavit's claim that such conduct occurred is meritless. It should also be noted that the OAG and Mr. Sullivan did not raise these concerns of partiality after the August 27, 2026 pre-conference hearing, which was also held remotely with Ms. Standerfer in the presence of the Judge, and expressed no concern

regarding the Hearing Examiner's ability to accord a fair and impartial hearing until their objection at the September 4, 2026 PHC was overruled. An adverse ruling is insufficient to claim a fair and impartial hearing cannot be afforded.

WHEREFORE, the Department respectfully asks that the Affidavit be denied in its entirety and that this matter proceed on the merits before Independent Hearing Examiner John Miller.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

ASDeBose

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CERTIFICATE OF MAILING

I, Antuanya "Bo" DeBose, hereby certify that a true and correct copy of the above and foregoing *Response* was mailed by first class U.S. Mail and by certified mail with postage prepaid and return receipt requested, along with electronic mail on this 23 day of September, 2026 to:

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Michael Burrage, OBA No. 1350
Blake Sonne, OBA No. 20341
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Accepted | Busy | Join

26-0820-TRN/In Re: Hearing Pursuant to 36 O.S. § 984 as to Whether the Oklahoma Homeowners Insurance Market is Noncompetitive/(Prehearing Conference)(Miller)(SMS)/sstanderfer 08272026

Sherry Standerfer; OID DOCKET2 Cal; Judge John Miller; Bo DeBose; Nicole Nash; mike@mjhlaw.net; rwhitten@whittenburragelaw.com; mburrage@whittenburragelaw.com; Blake Sonne; Hannah Whitten; +10 others | Tracking

Fri 9/4/2026 9:00 AM - 1:00 PM | Scheduler

2026-07-14 26-0820-TRN N... 5 MB | 2026-07-14 26-0820-TRN N... 5 MB | 2026-07-29 26-0820-TRN N... 3 MB | 2026-08-25 26-0820-TRN N... 7 MB | 2026-12-26 26-0820-TRN N... 999 KB

5 attachments (21 MB) | Save all to OneDrive - State of Oklahoma | Download all

OID 2 North Conference Room Declined | OID 2 North Conference Room Declined

Meeting recap

File

Transcript

View recap



A conference room at the OID has been reserved. If you would like to attend in person, you may do so. If you prefer to attend via TEAMS, the correct link is below.

Microsoft Teams meeting

Join: https://teams.microsoft.com/meet/281488125014081?p=yXBiuWazXaibySWJec

Meeting ID: 281 488 125 014 081

Passcode: pA9CX9mG

Need help? | System reference

Tracking

Organizer

SS Sherry Standerfer
Sent on Thursday, 8/27/2026 at 12:13 PM

Attendees

You responded "Accept"

Accepted: 9

OC OID DOCKET2 Cal
Required

Bo DeBose
Required

M mike@mjhlaw.net
Required

R rwhitten@whittenburragelaw.com
Required

B bpatton@gablelaw.com
Required

T tshores@gablelaw.com
Required

J jseay@gablelaw.com
Required

B brobinson@hbstrategies.us
Required

DJ Denise Johnson
Optional

Declined: 1

OID 2 North Conference Room

Didn't respond: 10

JM Judge John Miller
Required

NN Nicole Nash
Required

M mburrage@whittenburragelaw.com

App 209

EXHIBIT 4

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

AFFIDAVIT OF ANTUANYA DEBOSE

I, Antuanya "Bo" DeBose, of lawful age, being first duly sworn upon oath, state:

1) I reside in Canadian County, Oklahoma.

2) I am Deputy General Counsel at the Oklahoma Insurance Department ("OID").

3) I am one of two attorneys of record for the OID in OID case number 26-0820-TRN.

4) On September 4, 2026, I appeared virtually for the pre-hearing conference ("PHC") scheduled in OID case number 26-0820-TRN *via Microsoft Teams.*

5) I attended the September 4th PHC virtually from my office on the first (1st) floor of the OID building, alongside General Counsel Nicole Nash.

6) I remained in my office prior to, during, and after the September 4th PHC.

7) I have never, directly or indirectly, communicated ex parte with Hearing Examiner John Miller regarding any matters in 26-0820-TRN.

8) All of my communication with the Hearing Examiner has been done on the record, in the presence of the other parties. **FURTHER, Affiant sayeth not.**

ASDeBose

ANTUANYA "BO" DEBOSE

Subscribed and sworn before me on this 22nd day of September 2026.

MariaTorres

NOTARY PUBLIC

My Commission No.: 23015625

Expiration Date: 11/30/2027

MARIA TORRES NOTARY PUBLIC STATE OF OKLAHOMA #23015625 EXP. 11/30/27

EXHIBIT B

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

AFFIDAVIT OF NICOLE NASH

I, Nicole Nash, of lawful age, being first duly sworn upon oath, state:

1) I reside in Oklahoma County, Oklahoma.

2) I am General Counsel at the Oklahoma Insurance Department ("OID").

3) I am one of two attorneys of record for the OID in OID case number 26-0820-TRN.

4) On September 4, 2026, I appeared virtually for the pre-hearing conference ("PHC") scheduled in OID case number 26-0820-TRN via Microsoft Teams.

5) I attended the September 4th PHC virtually alongside Deputy General Counsel Antuanya "Bo" DeBose, from his office on the first (1st) floor of the OID building.

6) I remained in Deputy General Counsel's office prior to, during, and after the September 4th PHC.

7) I have never, directly or indirectly, communicated ex parte with Judge John Miller regarding any matters in 26-0820-TRN.

FURTHER, Affiant sayeth not.

Nicole Nash

NICOLE NASH

Subscribed and sworn before me on this 22 day of September 2026.

Maria Torres

NOTARY PUBLIC

My Commission No.: 23015625

Expiration Date: 11/30/27

(seal or stamp)

MARIA TORRES NOTARY PUBLIC STATE OF OKLAHOMA # 23015625 EXP. 11/30/27

EXHIBIT C

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

AFFIDAVIT OF SHERRY STANDERFER

I, Sherry Standerfer, of lawful age, being first duly sworn upon oath, state:

1) I reside in Cleveland County, Oklahoma.

2) I am a Legal Assistant at the Oklahoma Insurance Department ("OID").

3) I also act as the OID's administrative court clerk. In that capacity, I file and maintain the administrative court records, record the administrative hearings, and assist the hearing examiners with scheduling and other administrative functions.

4) I have performed administrative court clerk duties for the Department for thirty (30) years and I am experienced and trained to not discuss or attempt to influence in any way the decisions of a hearing examiner on any legal issue arising in an administrative proceeding.

5) On September 4, 2026, as the OID's administrative court clerk, I assisted Independent Hearing Examiner John Miller appear virtually from the second (2nd) floor of the OID building for the pre-hearing conference ("PHC") scheduled in OID case number 26-0820-TRN *via Microsoft Teams.* I also recorded the audio from the September 4th PHC for the administrative record.

6) None of my communications with OID Hearing Examiners involve decision making or the merits of the case.

7) None of my communications with the Hearing Examiner during the September 4th PHC involved any of his decision making or rulings. **FURTHER, Affiant sayeth not.**

SHERRY STANDERFER

Subscribed and sworn before me on this 22nd day of September 2026.

EXHIBIT

App 212

NOTARY PUBLIC

My Commission No.: 23015625

Expiration Date: 11/30/2027

(seal or stamp)



FILED
SEP 28 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

ADMINISTRATIVE ORDER

On September 15, 2026, this matter came on for hearing only on issue of the disqualification of the currently appointed hearing examiner for this case. On September 10, 2026, A Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan was filed of record in support of the disqualification of the currently assigned independent hearing examiner and the Insurance Commissioner pursuant 75 O.S. § 316. This Motion was made by the Whitten Burrage firm as attorneys for the Attorney General of Oklahoma and Michael J. Hunter, Attorney for Bob Sullivan. The Oklahoma Insurance Department's attorneys objected to the motion to disqualify and The National Association of Mutual Insurance Companies, Inc. and American Property Casualty Insurance Association, Inc. represented by the Gable Gotwals law firm filed a written brief opposing the Affidavit in support of the disqualification.

Without further proceeding and no testimony or evidence presented other than counsel for the parties stating their positions on the disqualification issue, this hearing examiner finds after review of 75 O.S. § 316 that based upon the language and grounds stated in the Affidavit in Support of the Disqualification, that the Administrative Procedures statute cited above requires, "*The issue shall be determined promptly by the administrative head of the agency*",

As such. this hearing examiner finds and orders that this matter be stayed and the issue of disqualification shall be directed to Glen Mulready, Commissioner and administrative head of the Oklahoma Insurance Department for his consideration and decision on the issue of disqualification

of the hearing examiner. This hearing examiner additionally strikes any hearing dates or schedules previously set.

IT IS SO ORDERED, ADJUDGED AND DECREED on this 28th day of September, 2026.

JOHN D. MILLER
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

FILED
SEP 29 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

JOINT OBJECTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN TO THE FILING BY THE OKLAHOMA INSURANCE DEPARTMENT ON SEPTEMBER 22, 2026, AND RENEWED REQUEST FOR PROMPT DETERMINATION PURSUANT TO 75 O.S. § 316

COME NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(A)(22) and the Notice of Hearing filed herein on July 14, 2026, and Bob Sullivan, an interested party of record who entered his appearance on August 26, 2026 (together, "Movants"), and object to the filing made by Ms. Nash and Mr. DeBose on behalf of Commissioner Mulready and the Oklahoma Insurance Department (the "Department") on September 22, 2026, styled "The Oklahoma Insurance Department's Response Opposing the Disqualification of the Independent Hearing Examiner and the Insurance Commissioner" (the "Filing"), since 75 O.S. § 316 does not provide for any pleading practice nor has the Department adopted any rule allowing same.[1]

Commissioner Mulready's statutory mandate under § 316 is simple:

"A hearing examiner or agency member shall withdraw from any individual proceeding in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing examiner or agency member, on the ground of his inability to give a

[1] OAC 505:1-7-14, the Board of Examiners in Optometry's disqualification rule, implements § 316 and supplies a review structure. The Insurance Department has adopted no counterpart.

fair and impartial hearing, by filing an affidavit, promptly upon discovery of the alleged disqualification, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined **promptly** by the administrative head of the agency..." (emphasis added).

1. **The Filing is made in the name of the officer who must decide.** The Filing is brought by "the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner," is signed over a block reading "GLEN MULREADY / INSURANCE COMMISSIONER / STATE OF OKLAHOMA," and asks that the Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan filed September 10, 2026 (the "Affidavit") "be denied in its entirety." Filing at 1, 12. It states that the Commissioner "is required to rule on this issue." *Id.* ¶ 8. The officer to whom § 316 commits the determination has thus appeared, through the Department's counsel of record, as an advocate for one outcome of it. Movants object to the Filing on that ground and ask that it not be treated as a submission on the merits of the Affidavit.

2. **The determination should issue promptly and in writing.** The Affidavit was filed September 10, 2026. On September 15, 2026, the Hearing Examiner stayed this matter and referred the Affidavit to the Commissioner: "It will go back to Mr. Mulready for a determination." Transcript of Hearing, Sept. 15, 2026 ("Sept. 15 Tr.") at 18:7–8. He added that "[w]hatever decision is made or the procedure in which that is handled will be subject to further review." *Id.* at 18:2–4. The Hearing Examiner memorialized the stay by Administrative Order filed September 28, 2026 (the "September 28 Order"), which directs the issue of disqualification to the Commissioner "for his consideration and decision" and strikes "any hearing dates or schedules previously set." September 28 Order at 1–2. Section 316 requires that the issue be "determined promptly." Movants respectfully request that Commissioner Mulready comply with 75 O.S. § 316

on or before Friday, October 2, 2026, at noon by a written order entered of record in this matter stating the reasons for the ruling and the findings on which it rests, as paragraph 5 of the Affidavit's Relief Requested asked.

3. **Movants make no response to the substance of the Filing and concede none of it.** Inasmuch as there is no legal authority or agency rule for the Filing, no response or comment is made on the substance thereof, and none of it is conceded. Movants note only what the Filing itself confirms: that on September 4, 2026 the Hearing Examiner appeared from the Department's building in the company of the Department's legal assistant, and that none of the three affidavits attached to the Filing states what occurred during the recess taken that morning. Filing ¶¶ 2–4 & Exs. B–D.

4. **The recording of the September 4 conference should be produced.** The Department's legal assistant attests that she "recorded the audio from the September 4th PHC for the administrative record." Filing, Ex. D ¶ 5. Paragraph 5 of the Affidavit's Relief Requested asked that the record of that conference be preserved and made available to the parties. Movants request that a copy of the recording be furnished to all parties together with a statement whether the recording captured the recess.

5. **The determination should address both officers named in the Affidavit.** The Affidavit seeks the disqualification of the Hearing Examiner and of the Commissioner. Affidavit, Relief Requested ¶¶ 1–2. The September 28 Order directs to the Commissioner "the issue of disqualification of the hearing examiner" and does not refer to the Commissioner's own disqualification. September 28 Order at 1–2. Movants request that the written determination, by whichever officer makes it, rule on the disqualification of each officer named in the Affidavit, and

that the stay entered by the September 28 Order remain in effect until the Affidavit has been determined as to both.

WHEREFORE, PREMISES CONSIDERED, Movants respectfully request that (1) the Filing not be treated as a submission on the merits of the Affidavit; (2) the Affidavit be determined by written order stating the reasons for the ruling and the findings on which it rests, entered of record on or before Friday, October 2, 2026, at noon; (3) the audio recording of the September 4, 2026 pre-hearing conference be furnished to all parties with a statement whether it captured the recess; (4) the determination rule on the disqualification of both the Hearing Examiner and the Commissioner, as the Affidavit requested, and the stay entered by the September 28, 2026 Administrative Order remain in effect until the Affidavit is determined as to each.

Respectfully submitted,

Reggie N. Whitten, OBA No. 9576
Michael Burrage, OBA No. 1350
Blake Sonne, OBA No. 20341
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Attorney for Bob Sullivan

CERTIFICATE OF SERVICE

I, Michael J. Hunter, hereby certify that on this 29TH day of September, 2026, a true and correct copy of the above and foregoing **JOINT OBJECTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN TO THE FILING BY THE OKLAHOMA INSURANCE DEPARTMENT ON SEPTEMBER 22, 2026, AND RENEWED REQUEST FOR PROMPT DETERMINATION PURSUANT TO 75 O.S. § 316** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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The Honorable John D. Miller
Independent Hearing Examiner
Oklahoma Insurance Department [via OIDlegal@oid.ok.gov]

Craig MacIntyre
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Michael J. Hunter

FILED
SEP 14 2026
INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

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

THE NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES INC. AND AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION, INC.'S RESPONSE BRIEF OPPOSING THE AFFIDAVIT IN SUPPORT OF DISQUALIFICATION

The National Association of Mutual Insurance Companies, Inc. ("NAMIC") and The American Property Casualty Insurance Association, Inc. ("APCIA") state as follows in Response to the "Joint Affidavit of the Oklahoma Attorney General and Bob Sullivan in Support of Disqualification of the Independent Hearing Examiner and of the Insurance Commissioner Pursuant to 75 O.S. § 316," filed on Sept. 10, 2026:

ARGUMENT AND AUTHORITIES

The relief requested in the Affidavit in Support of Disqualification filed by Messrs. Reggie Whitten and Michael Hunter (collectively, "Movants") should be denied in its entirety, and its attempt to make this proceeding into a political circus should not be well-taken.

Generally, a judge should disqualify himself "where there are circumstances of such a nature to cause doubt as to his partiality, bias or prejudice." *Johnson v. Bd. of Governors of Registered Dentists of State of Okla.*, 1996 OK 41, ¶ 33, 913 P.2d 1339, 1348, *as corrected*. "This rule applies equally to administrative boards acting in an adjudicatory capacity as it does to judges." *Id.* (citing *Gibson v. Berryhill*, 411 U.S. 564, 579 (1973)). However, the OID is acting in a rulemaking capacity under Section 984, not a judicial capacity. Therefore, the only requirement is that an agency head or hearing examiner have no "unalterably closed mind on matters critical to the disposition of the rulemaking." *Assn. of Nat. Advertisers, Inc. v. F.T.C.*, 627 F.2d 1151, 1154 (D.C. Cir. 1979). Movants'

self-serving suspicions and general references to political activities by the Insurance Commissioner and the hearing examiner fail to meet this tall burden.

Even if Article II of the Act were applicable here, Movants fail to meet their burden to demonstrate that disqualification is required. Movants make much ado about a recess that was taken by the hearing examiner during a pre-hearing conference. It is worth noting that OID offered to have meeting participants appear live at OID offices, and anyone could have attended the conference in person at the OID. Movants, however, declined that invitation and instead appeared via video conference. If there were actual concern about the hearing examiner, Movants' should have been at OID office to participate in the meeting in-person. They choose to do otherwise. They should not be heard to make bald accusation about what may or may have not transpired at a recess when they waived any right to attend the hearing in person.

Movants level extremely serious allegations against the Hearing Examiner based on an astoundingly weak record of alleged impermissible conduct. The fact that the Commissioner has already entered a ruling contrary to Movants' desires is not a grounds for disqualification. "[A]n administrator can ordinarily participate in an adjudication after opining on disputed issues in the course of other proceedings. After all, judges must often decide issues after squarely deciding the same issues in other proceedings." *Zen Magnets, LLC v. Consumer Prod. Safety Comm.*, 968 F.3d 1156, 1171 (10th Cir. 2020). Movants point to the Hearing Examiner's decision to grant continuance, over the objection of multiple parties, as evidence of impartiality. The undersigned was one of the parties that objected to the continuance, and in no way views this decision as motivated by bias or impartiality. The fact that the Commissioner or a hearing examiner engaged in constitutionally protected political activities is also irrelevant. "[C]omments by adjudicators outside their official duties are not enough, standing alone, to require disqualification." *Id.* at 1175. Movants also claim the fact that the hearing examiner is paid for work by the OID demonstrates the hearing examiner has a "financial interest in the outcome of the decision." *Affidavit* at § III, ¶ 24. This nonsense argument entails that every judge

in Oklahoma should be disqualified from criminal proceedings because they receive a salary from the State government – a true absurdity. The fact that the hearing examiner is paid by the OID for services rendered does not demonstrate bias in any way. None of these allegations, alone or in conjunction, establish that disqualification is required here.

Assuming disqualification were required, which it clearly is not, the appropriate remedy is not to permit the proceeding participants to pick their own hearing examiner, as Movants request. *See Affidavit* at § VI, ¶ 48 (stating "[t]he successor should be one the parties agree upon"). The appropriate remedy is to appoint a new hearing examiner in accordance with OID statutes and rules. Article II of the Act expressly states the process to be followed if a hearing examiner is disqualified: "[u]pon the entry of an order of disqualification affecting a hearing examiner, the agency shall assign another in his stead or shall conduct the hearing itself." 75 O.S. 2021 § 316 (underline added). The use of "shall" is dispositive here. It demonstrates that the Legislature requires, rather than permits, the OID to replace a disqualified hearing examiner with another hearing examiner. It does not permit the proceeding participants to pick their own hearing examiner. Nothing in any of Movants' authorities even suggests a contrary result, and for good reason – this is an unheard of request so out of bounds that it should be forcefully denied. It is further evidence that Movants are intent on impermissibly making this proceeding a political circus, and the OID should not tolerate the injection of such chicanery into its processes.

Finally, counsel for the Attorney General asserts that "Rule 15 of the District Court applies and this matter is stayed." *Reggie Whitten Email* from 13 September 2026 at 5:50 pm. This is an administrative proceeding, not a lawsuit in district court. Rule 15 has no application here, and nothing in Title 36, OID regulations, or the Administrative Procedures Act demands a contrary conclusion. Nothing is stayed by operation of law, and no one has presented a legally cognizable reason why even more delay is necessary. Moreover, since Rule 15 has no application here, there is no basis for Movants to claim that this proceed is, or should be, stayed.

For these reasons, the disqualification request should be firmly denied. It is a stark reminder of why Article I applies to this proceeding. This is not a political circus. It is rulemaking and should be treated as such.

Submitted by:



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FILED

OCT 06 2026

INSURANCE COMMISSIONER
OKLAHOMA

BEFORE THE INSURANCE COMMISSIONER
STATE OF OKLAHOMA

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

JOINT MOTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN TO STAY PROCEEDINGS PENDING ORIGINAL ACTION IN THE SUPREME COURT OF OKLAHOMA

COME NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(A)(22) and the Notice of Hearing filed herein on July 14, 2026, and Bob Sullivan, an interested party of record who entered his appearance on August 26, 2026 (together, "Movants"), and move the Hearing Examiner to stay further substantive proceedings in this matter pending the disposition of an application to assume original jurisdiction and petition for writs of prohibition and mandamus that Movants will file in the Supreme Court of Oklahoma. In support, Movants state:

1. **The October 2 Order.** On October 2, 2026, Stephan S. Mathis, apparently designated by the Commissioner under 75 O.S. § 316, entered an Order Denying the Joint Affidavit Seeking Disqualification of the Independent Hearing Examiner and the Insurance Commissioner (the "Order"). The Order denies the request that the Hearing Examiner be disqualified, denies as moot the request that the Commissioner withdraw, and directs that "the proceeding shall resume under the Hearing Examiner without further delay." Order at 11–12. Movants will seek review of the Order by original action. By making this motion they concede none of the Order's findings.

2. **Relief is sought here first.** The rules of the Supreme Court require a motion to stay proceedings below to show that relief was first sought from the tribunal below. Okla. Sup. Ct. R.

1.15(c)(2). Movants make this motion so that the Hearing Examiner may rule on it before the Supreme Court is asked to act. The Order recognizes that a hearing examiner presiding over a proceeding "necessarily has the authority to do all things necessary and incidental to conducting the proceeding." Order at 9–10.

3. **The questions presented to the Supreme Court are substantial.** The Affidavit named both the Hearing Examiner and the Commissioner. The Commissioner, a subject of the Affidavit and the Department's anticipated witness, selected the officer who determined it, without notice to the parties and over the objection Movants stated on September 15, 2026. Sept. 15 Tr. 17:7–16. The officer he selected is the Department's other contract hearing examiner. One ground of the Affidavit was the Hearing Examiner's compensated engagement with the Department, Affidavit ¶ 26, and the Order disposed of that ground on the basis that the arrangement "is not alleged to be materially different than any other hearing examiner utilized by the Department." Order at 10. The Order disposed of the request as to the Commissioner on the basis that he has no adjudicative, decisional, or supervisory role and cannot review the Hearing Examiner's final order, while holding that the Commissioner's anticipated testimony, his April 7, 2026 order, and his public statements have no bearing on the impartiality of the examiner who will weigh that testimony. Order at 11.

4. **Movants do not acquiesce in the designation.** Section 316 commits the issue to "the administrative head of the agency," and the Department has stated that the Commissioner "is required to rule on this issue." Response ¶ 8. The authority it invoked to designate another officer, 36 O.S. §§ 307 and 319, permits the Commissioner to have matters heard by hearing examiners he appoints and, "[i]n conducting any hearing pursuant to the Insurance Code," to appoint an independent hearing examiner. Neither provision addresses who determines an affidavit under 75

O.S. § 316, and nothing in the Insurance Code displaces that section, so 36 O.S. § 313(B) has no conflict to resolve. As to the Commissioner's own disqualification, § 316 assigns the issue to "the remaining members" of the agency, of which there are none, and the Department claimed authority to designate only "to determine if there are grounds to disqualify the current Hearing Examiner." Response ¶ 8. Movants objected on September 15, 2026 that the Commissioner could not select the officer who decides, Sept. 15 Tr. 13:11–13, 17:7–16, and received no notice of the designation before the Order issued. Movants preserve their objection that the Order was entered without authority under § 316.

5. **Proceeding now would cause harm that later review cannot repair.** If the Supreme Court grants relief, rulings entered in the meantime would be exposed to vacatur and repetition. The Supreme Court has affirmed the "nullification and reversal" of a proceeding marked by an appearance of impropriety and conflict of interest. *Bowen v. State ex rel. Oklahoma Real Estate Appraiser Board*, 2011 OK 86, ¶ 23, 270 P.3d 133, 139. "[T]he lack of due process resulting from a biased tribunal cannot be corrected on appeal." *Johnson v. Board of Governors of Registered Dentists*, 1996 OK 41, ¶ 14, 913 P.2d 1339, 1344.

6. **A stay prejudices no participant.** This matter has been stayed since September 15, 2026, and the Hearing Examiner's Administrative Order of September 28, 2026 struck "any hearing dates or schedules previously set," including the October 26, 2026 merits hearing. A short further stay preserves that position. While the matter is stayed, the statutory presumption that a competitive market exists continues to govern. 36 O.S. § 984(A). No insurer is subject to any order in the interval.

7. **The public interest favors a stay.** The question below, whether the homeowners insurance market of this State is noncompetitive, affects insurance consumers statewide, and the

Attorney General appears to represent their collective interest. 74 O.S. § 18b(A)(22). That question should be decided once, by a tribunal whose composition is settled, and not twice.

8. **The stay requested is limited.** Movants intend to file the original action on or before October 8th, 2026. They ask that the stay extend to substantive rulings, including rulings on the pending motions, and to the conduct of any evidentiary hearing. They do not ask that the exchange of filings or any other non-substantive step be suspended.

9. **A ruling is requested by a date certain.** So that the Supreme Court may have the Hearing Examiner's ruling, Movants request a written ruling on or before October 7th, 2026, at noon. If no ruling has issued by then, Movants will so advise the Supreme Court.

WHEREFORE, PREMISES CONSIDERED, Movants respectfully request that (1) further substantive proceedings in this matter, including rulings on the pending motions and any evidentiary hearing, be stayed pending the Supreme Court's disposition of Movants' original action; (2) the Hearing Examiner rule on this motion by written order entered on or before October 7th, 2026, at noon; and (3) Movants be granted such other and further relief as is fair and proper.

Respectfully submitted,

Reggie N. Whitten, OBA No. 9576
Michael Burrage, OBA No. 1350
Blake Sonne, OBA No. 20341
Hannah Whitten, OBA No. 35261
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Attorney for Bob Sullivan

CERTIFICATE OF SERVICE

I, Michael J. Hunter, hereby certify that on this 5TH day of October, 2026, a true and correct copy of the above and foregoing **JOINT MOTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN TO STAY PROCEEDINGS PENDING ORIGINAL ACTION IN THE SUPREME COURT OF OKLAHOMA** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

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The Honorable John D. Miller
Independent Hearing Examiner
Oklahoma Insurance Department [via OIDlegal@oid.ok.gov]

The Honorable Stephan S. Mathis
Independent Hearing Examiner
Designated Pursuant to 75 O.S. § 316
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Michael J. Hunter

From:	Mike Hunter
To:	Cameron Capps; Kristin Siegel
Subject:	[EXTERNAL] FW: Filings in Case No. 26-0820-TRN
Date:	Monday, October 5, 2026 11:30:07 AM
Attachments:	image001.png image001.png Stay.pdf Production.pdf

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Please see Attachments.
Thank you.
Mike

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