



June 5, 2026

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Texas Department of Insurance
P.O. Box 12030
Austin, Texas 78711-2030
Sent via email: ChiefClerk@tdi.texas.gov

Re: Supplemental Comment on Proposed Rule 28 TAC §§5.9800-5.9806, Docket No. 2862

Texas Department of Insurance,

Auto Claim Specialists submits this supplemental comment to reinforce the concerns raised in our initial submission and to reflect the record of opposition to the vendor umpire mechanism heard at the June 2, 2026, public hearing. We write specifically to address three points: the legal case for judicial appointment as the prevailing umpire selection method, the breadth of stakeholder opposition to carrier-controlled vendor appointment, and the need for meaningful enforcement mechanisms to give these rules effect.

1. Judicial Appointment Must Prevail

At the June 2 public hearing, it was noted repeatedly that appraisal is a binding dispute resolution process, and that it is therefore essential to require appraisal provisions to have a judicial appointment option. We agree, and we urge TDI to take that principle one step further in the final adopted rule.

Because the appraisal award is binding on both parties under §5.9802, the process by which the deciding neutral is selected carries the same legal weight as the outcome itself. Texas courts have long recognized that in binding dispute resolution, the integrity of the decision-maker selection process is foundational. An umpire appointed through a vendor list curated by one party to the dispute does not satisfy that standard, regardless of what the individual umpire's qualifications may be.

Numerous stakeholders have now requested that if a party asks for an umpire to be appointed through judicial appointment, that judicial appointment should prevail over any other umpire selection process. Auto Claim Specialists joins that request. The rule should be amended to state plainly that a timely request by either party for judicial appointment of an umpire supersedes any vendor-based selection mechanism in the same policy. This position ensures that a party to a

binding proceeding can always secure a neutral selected by a court rather than by the opposing party's preferred vendor.

2. The Record of Opposition Is Broad

The vendor umpire mechanism has significant public opposition. At the June 2 hearing, multiple stakeholders raised concerns about carrier control over the umpire selection process. TADA, representing approximately 93 percent of Texas franchised motor vehicle dealers, formally requested both that judicial appointment prevail and that non-compliant appraisers and umpires face a complaint and penalty process.

Auto Claim Specialists' own clients submitted over 800 individual comment letters as of this afternoon to TDI opposing the vendor umpire mechanism. In a rulemaking of this kind, that volume of consumer participation is extraordinary. These are not lobbyists or industry representatives. They are Texas policyholders who have been through the auto appraisal process, know what a compromised umpire selection looks like from the receiving end, and took the time to tell TDI directly that they oppose it. The Legislature passed SB 458 to protect these policyholders. TDI should treat the over 800 letters from the people that law was written for as meaningful evidence of what the rule needs to accomplish.

3. The Rule Requires Meaningful Enforcement

A rule without consequences is a suggestion. Auto Claim Specialists raised the need for enforcement mechanisms in our October 2025 comments on the working draft, and we renew that concern here. Without licensing requirements and a complaint process, there is no ramification for an appraiser or umpire who fails to meet the §5.9804 minimum qualifications or who is instructed or coached by a carrier during the process. We urge TDI to establish a formal licensing requirement for all appraisers and umpires operating under these rules. Without a license, there is no mechanism to verify that the §5.9804 qualifications are met, no basis for discipline when they are not, and no way for policyholders to know they are dealing with a qualified neutral. License fees should be set at a level sufficient to fund TDI's administration and oversight of the program. The licensing framework should also require continuing education to keep licensed appraisers and umpires current on valuation standards, claim practices, and changes in applicable law. A licensing regime gives this entire framework the accountability it currently lacks.

We also support strong fines and administrative penalties for carriers, appraisers, umpires and vendors that corrupt the appraisal process, and we believe TDI has the authority to act. Insurance Code Chapter 84 gives TDI express authority to impose administrative penalties of up to \$25,000 per violation per day against any person who violates the Insurance Code or a rule adopted under it. That chapter also allows the commissioner to "establish by rule the amount of an administrative penalty to be imposed... for a specific violation." Tex. Ins. Code §84.004. That authority applies directly here. We urge the Department to adopt explicit administrative penalties pursuant to Chapter 84 for violations of these rules, and to establish a complaint process through which policyholders can report non-compliant conduct by carriers, appraisers, umpires, and vendors.

4. Conclusion

The vendor umpire mechanism, as currently drafted, allows carriers to control a process that is supposed to be neutral. The breadth of opposition to that mechanism, from policyholders, dealers, public adjusters, and consumer advocates, reflects a genuine problem with the rule as written. We urge TDI to amend the rule so that judicial appointment prevails whenever either party requests it, and to pair that protection with enforcement mechanisms that give it teeth.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. McDorman', written in a cursive style.

Robert McDorman

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