### NEWFOUNDLAND AND LABRADOR BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

# Hearing Transcript

# 2017 Automobile Insurance Review

# June 6, 2018

#### PRESENT:

<u>The Board:</u> Darlene Whalen, Chair and CEO Dwanda Newman, Vice-Chair James Oxford, Commissioner **Board Counsel/ Staff:** Jacqueline Glynn, Board Counsel Ryan Oake, Board Staff

Parties (Alphabetical Order) Atlantic Provinces Trial Lawyers Association Libby Kinghorne Ernest Gittens

**Campaign to Protect Accident Victims** Colin Feltham

Jerome Kennedy, Q.C.

**Consumer Advocate** 

Dennis Browne, Q.C. Andrew Wadden

## Insurance Bureau of Canada ( IBC)

Amanda Dean Kevin Stamp, Q.C. Terry Rowe, Q.C.

## **Spinal Cord Injury NL**

Thomas Fraize, Q.C. Lara Fraize-Burry Michael Burry <u>Presenters</u> Paula Elliott, Oliver Wyman

#### 2017 Automobile Insurance Review

June o	9, 2018		2017 Automobile Insurance Review
1	Page 1	1	Page 3
	(9:00 A.M.)	1	excluded as well. So yesterday, I could not
2	CHAIR:	2	remember, so I had to go back and check
3	Q. Good morning, everybody. I guess, we'll	3	that. So it is not unusual. Secondly, in
4	pick up where we left off, Mr. Kennedy.	4	terms of the instructions that are provided
5	KENNEDY, Q.C.:	5	by IBC, I would have read those last fall
6	Q. Yes, thank you, Chair. Ms. Elliott,	6	and didn't recall them all specifically as
7	yesterday we were talking about the	7	you were questioning me yesterday and wanted
8	collection of data and you would agree with	8	to check and review them and refresh my
9	me that the importance – that the	9	memory. So the instructions that are
10	methodology of collecting that data is very	10	provided by IBC, they are an outline of what
11	important?	11	is collected and they also describe the
12	MS. ELLIOTT:	12	quality checks and the validation process
13	A. Yes, and if I could have the opportunity to	12	that they would do. IBC has completed these
13	expand upon my response yesterday, if you	13	similar studies in the past. I have used
15	would allow me that.	14	the data collected by IBC, and as I had
		15 16	2 <i>i</i>
16	KENNEDY, Q.C.:		stated yesterday, I prepared reformed
17	Q. I know, Chair, it's an informal hearing. I	17	costing studies in other provinces and the
18	don't know how you approach that, but, I	18	findings that I had presented in those
19	mean, normally I'd prefer to ask the	19	studies had shown to hold and be valid, and
20	questions and get answers to my questions as	20	that was based upon the data that IBC
21	opposed to the witness coming in and trying	21	provided and collected and would have
22	to expand upon something she said yesterday.	22	validated and checked in the same format as
23	I know you said it's an informal process.	23	they have done here. Then refreshing my
24	CHAIR:	24	memory, re-reading the instructions provided
25	Q. It is an informal process and I think there	25	by IBC under – if we could have the IBC
	Page 2		Page 4
1	were some outstanding issues yesterday that	1	instructions put on the screen, please, and
2	Ms. Elliott had said she was going to go	2	on page 5 of 18 on the pdf counting, which
3	back and reflect on, so she can have the	3	is also page 5 and it's Item 5, the
4	opportunity from our perspective, yes.	4	timeline, IBC describes the timeline and
5	MS. ELLIOTT:	5	they do describe their process. IBC had a
6	A. So a couple of issues arose yesterday. One	6	training session for the staff. They had
7	was with regards to the exclusion of two	7	three training sessions, in fact. They do a
8	individual companies, their data, and	8	rigorous data check, they get a sample of
9	whether I recalled such an occurrence	9	files that they review. They are constantly
10	previously, and as I stated, I couldn't	10	in touch with the companies answering
11	recall, and part of the reason why I can't	11	questions, explaining the data to be
12	recall all the specifics of things happening	12	collected, and then when the data is finally
13	as such before is that we deal with so many	13	collected, they take several weeks to review
13	rate filings data every day, and it's very	14	and validate that data again, the master
14	typical for items on what we review to find	14	file, and after they've completed their
16	some sort of error in the data and the	16	review then it is provided to us So when
16	some sort of error in the data and the	16 17	review, then it is provided to us. So when
17	information is resubmitted or corrected, so	17	we receive the data from IBC, it's our
17 18	information is resubmitted or corrected, so it's a very common occurrence the data is	17 18	we receive the data from IBC, it's our understanding that they have reviewed,
17 18 19	information is resubmitted or corrected, so it's a very common occurrence the data is checked and that process occurs regularly.	17 18 19	we receive the data from IBC, it's our understanding that they have reviewed, validated, checked, made sure the
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		Page 5		Page 7
1		three training sessions for 40 staff that	1	our case.
2		were completing the data collection process,	2	CHAIR:
3		and then in Item 5, they describe the	3	Q. Ms. Elliott yesterday was taken to this
4		various items that they go through for their	4	document.
5		data quality checks before accepting it, and	5	KENNEDY, Q.C.:
6		then rolling down to Item 7 in terms of the	6	Q. And I have further questions on it, but –
7		audit, there are a couple of items in here,	7	CHAIR:
8		and I think it's important to reference (b),	8	Q. Absolutely. Are you almost finished?
9		(c), and (d) first.	9	MS. ELLIOTT:
10	KENN	NEDY, Q.C.:	10	A. Yes.
11	Q.	Excuse me, Madam Chair. I just need some	11	CHAIR:
12		clarification here. I know that we were	12	Q. All right, we'll close it off. Thank you,
13		given the opportunity to ask questions to	13	Mr. Kennedy. No more interruptions, please,
14		presenters. Well, normally with asking	14	today.
15		questions there would be an answer and a	15	KENNEDY, Q.C.:
16		question. This witness has now taken 10	16	Q. Well, Madam Chair, that's the second time.
17		minutes this morning to give – she's not	17	Yesterday your tone – okay, if we're going
18		answering questions, she's not even	18	to get into this – this hearing has to be
19		answering the questions I asked yesterday.	19	fair. We've already been to the Court of
20		I just want to get the procedure down here.	20	Appeal once.
21		It would seem to me that I should be allowed	21	CHAIR:
22		to ask the questions, she would answer, and	22	Q. Absolutely.
23		then if she needs to clarify, fair enough.	23	KENNEDY, Q.C.:
24		That's not what she's doing now. She's	24	Q. And that was over procedural fairness. Your
25		starting to go into the report. She should	25	tone yesterday, with all due respect, Chair,
		Page 6	20	Page 8
1		6	1	-
		have done this yesterday when she did her presentation, I'm suggesting to you, so that		I thought on a couple of occasions when I just asked for clarification, was somewhat
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$		we can ask the questions. If not, we're	2 3	uncalled for, and here today now we're
		-		-
4		going to be here forever because I suggested		raising issues as to procedural fairness and
5		today the length of time for examination.	5	now you're saying there's no more
6		This doesn't seem to me to be the way that	6	interruptions. I'm not interrupting, Chair.
7		it should proceed from a logical and a	/	I'm trying to put forward evidence that you
8	CILAT	commonsense perspective.	8	can consider in making your findings or
9	CHAI		9	whatever it is you're going to do, so are we
10	Q.	Mr. Kennedy, this is our process. This is	10	going to be allowed to ask questions here or
11		our process.	11	not.
12		NEDY, Q.C.:	12	CHAIR:
13	Q.	Yes, it is.	13	Q. Yes.
14	CHAI		14	KENNEDY, Q.C.:
15	Q.	Ms. Elliott is here to provide clarification	15	Q. Because if not, there's going to have to be
16	· · · · · ·	on her reports, five reports that she's –	16	another argument, there's going to have to
17		NEDY, Q.C.:	17	be a transcript, and we may have to break
18	Q.	But we're also entitled, Chair, we're also	18	again.
19	-	entitled to a level of procedural fairness.	19	CHAIR:
20	CHAI		20	Q. You can ask your questions, Mr. Kennedy. I
21	Q.	Absolutely, I understand the level –	21	ask also, though, that you allow Ms. Elliott
22	KENN	NEDY, Q.C.:	22	to answer in full.
23	Q.	And so a level of procedural fairness means	23	KENNEDY, Q.C.:
24		that we have the right to be heard and we	24	Q. Yesterday, Madam Chair, she gave a
25		have the right to ask questions and present	25	presentation.
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1	CHAIR:	1	consideration, yes, that data is used.
2	Q. Yes.	2	KENNEDY, Q.C.:
3	KENNEDY, Q.C.:	3	Q. My question again – maybe again I'm not
4	Q. She made the – her presentation was very	4	making myself clear. The data that is
5	short. We started to ask questions, and now	5	provided to you is the data upon which you
6	today she comes in trying to present again.	6	make your factual assumptions, is that
7	So I just want to know what the procedure	7	correct?
8	is.	8	MS. ELLIOTT:
9	CHAIR:	9	A. Well, what we present are estimates in our
10	Q. My understanding this morning Ms. Elliott	10	report, so we use the data for our
11	was clarifying an answer that she could not	11	calculations to present estimates.
12	recall yesterday in the document that you	12	KENNEDY, Q.C.:
12	took her to. That's what I understand she	12	
		13 14	
14	was doing. If she's completed - finished		of different reports, Ms. Elliott, you
15	now, she's finished, and we're going to	15	state, "We have assumed that the data
16	proceed. So if you have questions, just	16	provided is both accurate and complete",
17	carry on, please.	17	correct, you've used that term?
18	KENNEDY, Q.C.:	18	MS. ELLIOTT:
19	Q. Yes, I have a lot of questions. Thank you.	19	A. Yes.
20	CHAIR:	20	KENNEDY, Q.C.:
21	Q. Carry on.	21	Q. Assumed is the term you used?
22	KENNEDY, Q.C.:	22	MS. ELLIOTT:
23	Q. Did you speak to anyone from IBC yesterday	23	A. Yes.
24	after we left here?	24	KENNEDY, Q.C.:
25	MS. ELLIOTT:	25	Q. Then you go on to state that the results of
	Page 10		Page 12
1	Page 10 A. No.	1	č
-	A. No.		your analysis is based upon this assumption,
2	A. No. KENNEDY, Q.C.:	2	your analysis is based upon this assumption, correct?
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1	be required to do so, but that is not the	1	few files excluded in the New Brunswick
2	case here. We have no evidence that the	2	study, that's a similar situation?
3	data is inaccurate.	3	MS. ELLIOTT:
4	KENNEDY, Q.C.:	4	A. No, it's a situation where there was data
5	Q. Well, you do have, and I'm not going to	5	identified that had to be excluded after the
6	repeat myself on this, but you know that	6	fact, and what I was expressing yesterday –
7	approximately more than 10 percent of the	7	you asked me if I recalled another situation
8	files were excluded from consideration out	8	and I couldn't recall another situation, I
9	of the 1,977 files?	9	would have to go back and check all my
10	MS. ELLIOTT:	10	files.
10	A. That was my decision to exclude it because	10	KENNEDY, Q.C.:
12	older files with larger claims were not	12	Q. So in terms of the closed claims study
12	included, and if I had included it, it might	12	utilized in this case, and we touched upon
13	present savings that would be too high and	13	it briefly, I wonder if I could have the
14	overestimate what the cost savings would be	14	terms of agreement or the retainer agreement
15	with the reform that's under consideration.	15 16	that was entered into, if we could have that
			· · · · · · · · · · · · · · · · · · ·
17	KENNEDY, Q.C.:	17	brought up, please. I wonder if we could go
18	Q. And you never considered that the way that	18	to page 2 of that document. Actually, page
19	evidence was presented to you was done on	19	3 of the document, thank you. So the only
20	purpose, that it might have been done to	20	point I want to touch on on page 3 is that
21	over inflate the savings? Did you consider	21	you make some preliminary findings and
22	that?	22	recommendations and you prepare a draft
23	MS. ELLIOTT:	23	report, correct?
24	A. I have no reason to make an assumption that	24	MS. ELLIOTT:
25	that would be done.	25	A. That's correct, yes.
1	Page 14	1	Page 16
1	KENNEDY, Q.C.:	1	Page 16 KENNEDY, Q.C.:
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	Page 17		Page 19
1		1	
1	Closed Claim Study?	1	A. That would apply to all our work that we do,
2	MS. ELLIOTT:	2	whether it would be for this study or any
3	A. Yes, absolutely. We reviewed every data	3	other study. Yes, the data, the quality of
4	element that would be collected, we asked	4	the data is important.
5	for additional data elements to be	5	KENNEDY, Q.C.:
6	collected, so we wanted to make sure all the	6	Q. And the method that you utilize is only as
7	information that we required for our	7	sound as the assumptions on which it is
8	analysis would be available. So, yes, we	8	based, would you agree with me on that
9	were very specific.	9	statement?
10	(9:15 A.M.)	10	MS. ELLIOTT:
11	KENNEDY, Q.C.:	11	A. Would you repeat that, please?
12	Q. At one point yesterday, and I forget, but	12	KENNEDY, Q.C.:
13	someone was questioning you, Ms. Elliott,	13	Q. Yeah, the method that's utilized by the
14	and at one point I think you made some	14	actuary is only as sound as the assumptions
15	comment about predicting – I don't know if I	15	upon which it is based?
16	got the terminology right, but something	16	MS. ELLIOTT:
17	about predicting the future, it's very	17	A. Well, they are connected and they are
18	difficult to predict the future?	18	independent, but they're both important.
	•		
19	MS. ELLIOTT:	19	KENNEDY, Q.C.:
20	A. We forecast it.	20	Q. I want to now go to the actual Closed Claim
21	KENNEDY, Q.C.:	21	Study itself, if we could have that brought
22	Q. So really that's what actuaries do, you're	22	up, please, and I want to start with the –
23	trying to forecast something that's going to	23	let's start with page 1 of the report. I'm
24	take place in the future, aren't you?	24	not going to go through this in detail,
25	MS. ELLIOTT:	25	we've already talked about this, but this is
	Page 18		
1	Page 18 A In terms of pricing we're often forecasting	1	Page 20
1	A. In terms of pricing, we're often forecasting	1	Page 20 basically the background information in
2	A. In terms of pricing, we're often forecasting what we think the required premium would be,	2	Page 20 basically the background information in terms of the collecting of the data, is that
2 3	A. In terms of pricing, we're often forecasting what we think the required premium would be, yes.	2 3	Page 20 basically the background information in terms of the collecting of the data, is that correct?
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June o	0, 2018		2017 Automobile insurance Review
1	Page 21 window from July 1st 2016 to June 20th	1	Page 23
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	window from July 1st, 2016, to June 30th,	1 2	took or how long was involved in the
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	2017, of claims closed in that timeframe. KENNEDY, Q.C.:	2 3	preparation of the Closed Claims Study? MS. ELLIOTT:
4	Q. So then the IBC, as you've stated here, they	4	A. Gosh, I'd only be guessing if you asked me
5	manage the collection of the data and	5	how long something took in 2005; a couple of
6	compile and validate the data. Now I asked	6	months, but I don't know off the top of my
7	you yesterday, and I didn't really – I don't	7	head.
8	think I got an answer, but I'll try it	8	KENNEDY, Q.C.:
9	again. In terms of who the IBC is, or what	9	Q. Okay. I now want you to go to – if we could
10	kind of group they are, Insurance Bureau of	10	have the letter of the PUB – it's a letter –
11	Canada, what's your understanding of where	11	excuse me one second now. It would be under
12	they get the authority to work with you in	12	correspondence, Ms. Glynn, on the PUB
12	terms of doing this Closed Claim Study? Are	12	website. It's a letter dated April 6, 2018
14	they an advocacy group, an umbrella group?	14	from the Board Secretary, Ms. Blundon, to
15	MS. ELLIOTT:	15	Mr. Feltham of Roebothan, McKay & Marshall.
16	A. Well, they have -	16	If we could have that letter brought up,
17	KENNEDY, Q.C.:	17	please?
18	Q. What is it they do?	18	MS. GLYNN:
19	MS. ELLIOTT:	19	Q. Sorry, I was looking at Ryan's train, he had
20	A. They're multi-pronged. IBC I'm sure can	20	it up before Sara did (phonetic). Is this
21	speak better describing it than maybe I can,	21	the correct document, Mr. Kennedy?
22	but IBC is a service provider for the	22	KENNEDY, Q.C.:
23	General Insurance Statistical Agency and so,	23	Q. Yes, it is. If we could go to the next
24	they're tasked with collecting data as	24	page, please? If I could just ask you now,
25	required by the Superintendent of Insurance.	25	if you look at the top line, "the Closed
	Page 22		Page 24
1	So, the Superintendent of Insurance has the	1	Claims Study in particular is a significant"
2	authority to direct companies to submit data	2	<ul> <li>– second sentence – "significant undertaking</li> </ul>
3	and IBC is the service provider, the	3	requiring the collection of data in the
4	technician. They -	4	industry – from industry and normally
5	KENNEDY, Q.C.:	5	requires nine months to complete." Do you
6	Q. And they are the $-$ sorry, sorry, Ms.	6	agree with that statement? Is that
7	Elliott.	7	accurate?
8	MS. ELLIOTT:	8	MS. ELLIOTT:
9	A. Yes, and they – in addition to that task or	9	A. Sorry, could we scroll up? I'm not really
10	element of being a data collector and	10	familiar with this letter at all.
11	creation of the exhibits that compile that	11	KENNEDY, Q.C.:
12	data and present it, they also have member	12	Q. It's a letter that's on the PUB website.
13	companies and IBC would be a lobby group for	13	It's – there were letters going – it's
14	the insurance industry. Another third area	14	correspondence from Board Secretary, Ms.
15	that falls under the IBC umbrella is the –	15	Blundon, to my colleague, Mr. Feltham, and
16		17	(12 - 1 - 1) = (1 - 1 - 1 - 1 - 1) = 0.1
	it's referred to as vehicle identification,	16	it's dealing with scheduling of the
17	it's referred to as vehicle identification, vehicle rate group collection. So, they	17	Automobile Insurance Review and it refers to
17 18	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that	17 18	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the
17 18 19	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that they manage that segment for the industry as	17 18 19	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the second sentence or the top of that page,
17 18 19 20	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that they manage that segment for the industry as well. And they may do other things, but	17 18 19 20	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the second sentence or the top of that page, second page, "normally requires nine months
17 18 19 20 21	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that they manage that segment for the industry as well. And they may do other things, but that's my general understanding; those three	17 18 19 20 21	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the second sentence or the top of that page, second page, "normally requires nine months to complete". Is that an accurate
17 18 19 20 21 22	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that they manage that segment for the industry as well. And they may do other things, but that's my general understanding; those three main areas.	17 18 19 20 21 22	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the second sentence or the top of that page, second page, "normally requires nine months to complete". Is that an accurate statement?
17 18 19 20 21	it's referred to as vehicle identification, vehicle rate group collection. So, they manage the process – again, it's data that they manage that segment for the industry as well. And they may do other things, but that's my general understanding; those three	17 18 19 20 21	Automobile Insurance Review and it refers to the fact that a Closed Claims Study, on the second sentence or the top of that page, second page, "normally requires nine months to complete". Is that an accurate

	Page 25		Page 27
1	review of that data certainly nine months is	1	KENNEDY, Q.C.:
2	not unusual for that timeframe and it also	2	Q. Okay. If we could go now to paragraph 6?
$\overline{3}$	depends on the amount of data that's to be	3	The fourth sentence down, fifth sentence
4	collected, the target timeframe, but to say	4	down, Ms. Elliott, the last – you'll see
5	from the beginning of when you start to	5	"due to the rigorous timeline set for this
6	collect until you've completed it, nine	6	study", do you see that?
	months is not an unreasonable amount of time	7	MS. ELLIOTT:
8	to estimate.	8	A. Um-hm.
9	KENNEDY, Q.C.:	8 9	KENNEDY, Q.C.:
10		10	Q. Now, do you agree that it was a rigorous
10		10	
11	"considering the work to be done by June	11	timeframe set for this study? MS. ELLIOTT:
	30th, 2018, the timelines are tight for		
13	everyone involved, including the Board."	13	A. Well, it was rigorous, but manageable. It
14	Did you feel that the timelines were tight	14	clearly was completed.
15	here in terms of the preparation of your	15	KENNEDY, Q.C.:
16	Closed Claims Study?	16	Q. Okay. Now, if we go to paragraph 7, this
17	MS. ELLIOTT:	17	was the – IBC states "is not an audit
18	A. There were no $-$ we were given sufficient	18	process; had no access to any supporting
19	time -	19	documentation". They then state "users are
20	KENNEDY, Q.C.:	20	cautioned in their interpretation of the
21	Q. Okay.	21	data in the master file, especially as the
22	MS. ELLIOTT:	22	injury profiling not be understood and
23	A from when the data was provided to us to	23	reported in a consistent manner across all
24	complete our review, yeah.	24	reporting companies". That's a caveat or
25	KENNEDY, Q.C.:	25	it's a – would you agree that it's a – it's
	Page 26		Page 28
	Q. If we could now go to the IBC Notes to Users	1	telling people to be careful?
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	and was brought up earlier by Ms. Elliott,	2	MS. ELLIOTT: A. Well, it's a – and it's referenced there,
3	and I'm going to go to some of the points	3	A. Well, it's a – and it's referenced there,
4		1	
5	that you were going to refer to. That would	4	referencing the 35 injury types and
5	be the document that was up IBC Notes to –	5	referencing the 35 injury types and depending upon whether an injury might be a
5 6 7	be the document that was up IBC Notes to – yeah, that's the document there. There's	5 6	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other
6 7	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need	5 6 7	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference;
6 7 8	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of	5 6 7 8	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report
6 7 8 9	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to	5 6 7 8 9	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person
6 7 8 9 10	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to Users. Okay. Just if you stop at paragraph	5 6 7 8 9 10	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person might think is an injury – fits in the
6 7 8 9 10 11	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to Users. Okay. Just if you stop at paragraph 6.	5 6 7 8 9 10 11	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person might think is an injury – fits in the industry description in one case might go
6 7 8 9 10 11 12	be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to Users. Okay. Just if you stop at paragraph 6. MS. GLYNN:	5 6 7 8 9 10 11 12	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person might think is an injury – fits in the industry description in one case might go from WAD 1 to WAD 2 or some possibility like
6 7 8 9 10 11 12 13	<ul> <li>be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to Users. Okay. Just if you stop at paragraph 6.</li> <li>MS. GLYNN:</li> <li>Q. Paragraph 4?</li> </ul>	5 6 7 8 9 10 11 12 13	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person might think is an injury – fits in the industry description in one case might go from WAD 1 to WAD 2 or some possibility like that.
6 7 8 9 10 11 12 13 14	<ul> <li>be the document that was up IBC Notes to – yeah, that's the document there. There's two different page levels here. So, we need to go to page three of the second part of the document, page 3 of 4, IBC Notes to Users. Okay. Just if you stop at paragraph 6.</li> <li>MS. GLYNN:</li> <li>Q. Paragraph 4?</li> <li>KENNEDY, Q.C.:</li> </ul>	5 6 7 8 9 10 11 12 13 14	referencing the 35 injury types and depending upon whether an injury might be a WAD 1 or a WAD 2 or some other characterization. That is their reference; making sure that interpretation of a report when they're reviewing it, what one person might think is an injury – fits in the industry description in one case might go from WAD 1 to WAD 2 or some possibility like that. KENNEDY, Q.C.:
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	5, 2010		
	Page 29	1	Page 31
	applicable". Again, the same type of issue,	1	skilled at this. They are the collector of
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	isn't it?	2	all the data that is submitted by the
3	MS. ELLIOTT:	3	companies. They go through a very rigorous
4	A. Um-hm.	4	process. Numerous times IBC writes pages
5	KENNEDY, Q.C.:	5	and pages of information on data quality
6	Q. So, there's a subjective element involved,	6	issues, what has been rejected from
7	would you agree with me?	7	exhibits. They are the expert in this
8	(9:30 a.m.)	8	field. That was their task. It was not my
9	MS. ELLIOTT:	9	task to do it.
10	A. And IBC was very clear with us that we asked	10	KENNEDY, Q.C.:
11	to collect that data for Nova Scotia, New	11	Q. Again, my question was quite simple though;
12	Brunswick for the claimant that they're	12	that it's $a - not$ the same as an audit or a
13	reviewing, whether it would have met the	13	spot check, correct?
14	minor injury definition in those provinces	14	MS. ELLIOTT:
15	and IBC was very clear that they could not	15	A. You're correct. They do a very rigorous –
16	provide validated data for that element, and	16	it's not a spot check. They have data and
17	so, we agreed that please collect it and we	17	electronic means to check.
18	understand that it would not be validated,	18	KENNEDY, Q.C.:
19	yeah.	19	Q. You seem to be very – look very favourably
20	KENNEDY, Q.C.:	20	upon the process utilized by the IBC.
21	Q. So, essentially, IBC gave guidance or	21	MS. ELLIOTT:
22	instructions to the people who were – the	22	A. I'm neutral on it. That is their
23	adjusters, whoever went through the files?	23	responsibility. That was the task that they
24	MS. ELLIOTT:	24	were given.
25	A. They gave training, yes.	25	KENNEDY, Q.C.:
	Page 30		Page 32
1	KENNEDY, Q.C.:	1	Q. And I'm having a little bit of difficulty –
2	Q. Okay. Did you give any guidance or	2	you know, you're saying how good a job
3	instructions as to what should be done from	3	they've done. Yet 236 files were excluded.
4	an actuarial perspective?	4	How do you reconcile the two?
5			
1	MS. ELLIOTT:	5	MS. ELLIOTT:
6	A. That's not an actuarial role to collect data	5 6	MS. ELLIOTT: A. I think you – in terms of excluding the two
6 7	A. That's not an actuarial role to collect data and work with claim paper or claim files.	5 6 7	<ul><li>MS. ELLIOTT:</li><li>A. I think you – in terms of excluding the two companies' files and really, it's kind of a</li></ul>
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	Page 33	1	Page 35
	KENNEDY, Q.C.:		collected from them in February and then fly
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	Q. Okay. So, you maintain that the IBC gave	2	out to this province and go to the offices
3	rigorous instructions and training?	3	and check files. That process, as you refer
4	MS. ELLIOTT:	4	to as an audit, was not done by IBC nor
5	A. Um-hm.	5	myself.
6	KENNEDY, Q.C.:	6	KENNEDY, Q.C.:
7	Q. Yet 236 files were incomplete. Again, how	7	Q. Okay. Again, perhaps I'm not making myself
8	do you reconcile it?	8	clear. I'm asking a general question about
9	MS. ELLIOTT:	9	the purpose of an audit, as opposed to what
10	A. That the files were not complete. Those 236	10	took place in this case. Would you not
11	files were not incomplete. Additional files	11	agree with me that the whole purpose of an
12	should have been provided and that was not	12	audit is to ensure that the instructions and
13	provided.	13	guidance given were properly followed on a
14	KENNĖDY, Q.C.:	14	consistent basis?
15	Q. Would you agree with me, Ms. Elliott, that	15	MS. ELLIOTT:
16	the whole purpose of an audit is to ensure	16	A. Yes, but there are other means of checking
17	that the instructions and guidance given	17	that things are followed on a consistent
18	were properly followed on a consistent	18	basis.
19	basis?	19	KENNEDY, Q.C.:
20	MS. ELLIOTT:	20	Q. Which we'll come to right now.
$\begin{vmatrix} 20\\21 \end{vmatrix}$	A. Well, I think what's important and how I	20	MS. ELLIOTT:
$\begin{vmatrix} 21\\22 \end{vmatrix}$	viewed it was that IBC has a role to	21	A. Okay.
$\begin{vmatrix} 22\\23 \end{vmatrix}$	validate and check the data and whether it's	23	KENNEDY, Q.C.:
23	for a Closed Claims Study like this or the	23	Q. That's a very good point. So, let's now
24	Auto Stat Plan data that is collected, that	24	look at the 2005 Closed Claims Study that
23	· ·	23	
1	Page 34	1	Page 36
	is their role. That is their area of		was utilized in Newfoundland and Labrador.
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	expertise. IBC does not go out and audit	2	So, you've indicated that you were involved
3	the data that's collected for the Auto Stat	3	in – there were two closed claims studies in
4	Plan. That's been collected since the	4	2005. There was the Private Passenger
5	1950s. It is all done digitally and they	5	Vehicle and Commercial Vehicles. You were
6	have very sophisticated tools. This is	6	involved in the Private Passenger Vehicle
1	their area of expertise; reviewing and	7	Closed Claims Study, correct?
8	validating that data, and they use their	8	MS. ELLIOTT:
9	expertise in this case as well.	9	A. Um-hm, yes.
10	KENNEDY, Q.C.:	10	KENNEDY, Q.C.:
11	Q. Okay. I appreciate your answer, but I'm	11	Q. We talked about yesterday that the cap and
12	going to ask my question again. Would you	12	deductibles were one of the key issues that
13	agree with me that the whole purpose of an	13	were looked at back in that same review in
14	audit is to ensure that the instructions and	14	2005. Now, I wonder if we could have the
15	guidance given were properly followed on a	15	2005 PUB Report brought up. You've got to
16	consistent basis?	16	go – do you know where it is, so that you
17	MS. ELLIOTT:	17	folks can find it on the – you got to go
18	A. Well, we do know that IBC did go and do	18	into, I think -
19	training sessions with the staff three times	19	MS. GLYNN:
20	and in that process, I would only assume,	20	Q. We have it.
21	and perhaps IBC can answer this, but they	21	KENNEDY, Q.C.:
22	would be explaining and reviewing hands-on	22	Q. Wow! Thank you very much, Ms. Glynn.
23	individual files, how the work should be	23	STAMP, Q.C.:
24	done. And yes, it's correct that IBC did	24	Q. Even without an audit there, Mr. Kennedy.
25	not take the master file, get all the data	25	KENNEDY, Q.C.:
L 23			

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	<b>•</b> • •	Page 37		Page 39
1		nticipated my question. Okay. So, let's	1	Q. Okay. If we could go to page 10 under the
2		ook at this document. If we could now go	2	heading "2.2.1 Automobile Insurance
3		page 3 of this report? And again, I	3	Newfoundland and Labrador: Industry
4		ssume, Ms. Elliott, that you were given	4	Structure". It indicates in 2003 there were
5	n	otice that we were going to be referring to	5	51 automobile insurance companies operating
6	th	nis report. You've had an opportunity to	6	in Newfoundland and Labrador. You see that?
7	re	eview it, have you?	7	MS. ELLIOTT:
8	MS. ELI	LIOTT:	8	A. Yes.
9	A. W	Vell, it's a very big report, so I did not	9	KENNEDY, Q.C.:
10		ave time to read the entire report from	10	Q. Now, the fact that there were more
11		eginning to end, but I'm sure we'll manage	11	companies, did that make the Closed Claims
12	it		12	Study more difficult, less difficult or did
13		DY, Q.C.:	13	it matter in any way?
14		Vell, if you need time, just let us know.	14	MS. ELLIOTT:
15	~	But, if we could look first at page 3 under	15	A. There would have been more companies to
16		he heading – under the chapter	16	train and so, the more people involved, more
17		Introduction". Again, I just want to point	17	companies involved, the less consistency you
18		ut – okay, page 3. It would be Section	18	may have in the data that's collected. So,
19		.3, okay. Keep going, please. Yeah, just	19	I would say when there are more people
20		n December 7th, you see "the Government	20	involved, the process is harder to manage as
20		rovided additional direction". The second	20	a generalization.
21	-	entence, "Government directed the Board to	21	0
				KENNEDY, Q.C.:
23	1	rovide an analysis based on caps and	23	Q. If we could now go to page 17 under the
24		eductibles ranging from 2500 to 15,000 at	24	heading 3.2? So, there's reference now to
25	<b>3</b> .	2500 intervals, as well as a \$4,000 cap,	25	the individual or the consultants that were
1		Page 38	1	Page 40
1		milar to in place number." My only point	1	involved. The first consultant involved was
2		that what was being looked at in 2005 is	2	Mercer, Mercer Oliver Wyman. "The Board
3		milar to what's being looked at in 2017-	3	also engaged the services of an insurance
4		8. Is that correct?	4	consultant," you mentioned this gentlemar
5	MS. ELL		5	yesterday, "Mr. Bern Fitzpatrick, who
6		imilar.	6	with his previous prior experience in the
7	KENNEI		7	industry was able to serve as a primary
8		kay. Yeah, we're looking at caps and	8	liaison with the insurance industry." What
9		eductibles, okay. If we could now go to	9	was your understanding of what Mr.
10		age 5? Now, see if you have any memory of	10	Fitzpatrick did in that Closed Claims Study?
11	th	is, Ms. Elliott. You may or may not.	11	MS. ELLIOTT:
12	U	nder the heading 1.5.4 at page 5, you see	12	A. Training, available to answer questions,
13	he	ere "the Terms of Reference were issued in	13	checking the data. I'm working on memory,
14	0	ctober 2004. The Closed Claims Study was	14	but we were not involved – my firm was not
15	W	ell underway and it and other related	15	involved in the actual collecting of the
16	st	udies were completed by January 2005." Do	16	data, yeah.
17		understand that or do you have any	17	KENNEDY, Q.C.:
18		collection as to whether or not you had	18	Q. In terms of your collaboration with the IBC
19		ctually commenced a closed claims study	19	in this case, did you deem it appropriate or
20		rior to the Terms of Reference being	20	fit to suggest that perhaps we can use an
21	1	sued?	21	insurance consultant similar to 2005?
22	MS. ELL		22	MS. ELLIOTT:
23		have no recollection of the specific	22	A. No, I did not make that suggestion. We were
23		ming, no. I can't speak to that.	23	familiar with IBC, working with IBC in
25		DY, Q.C.:	25	collecting data for Nova Scotia and New
40	INDUMENT	σ1, χ.υ	43	concerning data for two va beolia and thew

1	Page 41		Page 43
1	Brunswick most recently, yeah.	1	case that you might want to use a medical
2	KENNEDY, Q.C.:	2	consultant similar to how it was done in
3	Q. Okay. If we continue in that page, "The	3	2005?
4	Board also engaged the services of a medical	4	MS. ELLIOTT:
5	consultant, Dr. Sue Rideout-Vivian, who,	5	A. Oh, I don't—anything regarding medical
6	with a specialty in occupational medicine,	6	definitions, interpretations, that is not my
7	advise the Board on medical issues arising	7	area of expertise.
8	from the studies." I think you referred	8	KENNEDY, Q.C.:
9	yesterday to a medical consultant. Did you,	9	Q. No.
10	in your collaboration or under your terms of	10	MS. ELLIOTT:
11	engagement, in terms of collaborating with	11	A. So, whoever is collecting the data, and
12	IBC, did you make the suggestion that a	12	understanding that and defining the
13	medical consultant should be retained as it	13	injuries, needs to know that. That's not
14	was in 2005?	14	what I do or claim to have any understanding
15	MS. ELLIOTT:	15	of that. In this case, there was a medical
16	A. I spoke with the medical consultant expert	16	professional that was retained by the Board.
17	who was retained by IBC when I went over the	17	In the case of IBC, they had a resource in
18	injury definitions, the 35 injury	17	terms of the injury definitions and
19	definitions. So, I had a phone call with	19	interpretation of that information. Yeah.
20		20	KENNEDY, Q.C.:
$20 \\ 21$	that person for this study.	20	
	KENNEDY, Q.C.:		Q. I'm not saying that's what you do, but one
22	Q. So, 2005 there was an independent expert	22	of your terms of engagement here was to
23	retained by the Board?	23	develop a Closed Claim Study to collaborate—
24	MS. ELLIOTT:	24	you've indicated you collaborated with IBC.
25	A. Correct.	25	So, in order to insert a level of
	Page 42	-	Page 44
1	KENNEDY, Q.C.:	1	independence, did you consider recommending
2	KENNEDY, Q.C.: Q. And this particular Closed Claim Study	1 2	independence, did you consider recommending that an independent medical consultant be
2 3	<ul><li>KENNEDY, Q.C.:</li><li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is</li></ul>	3	independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?
2 3 4	<ul><li>KENNEDY, Q.C.:</li><li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li></ul>		independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005? MS. ELLIOTT:
2 3 4 5	<ul><li>KENNEDY, Q.C.:</li><li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li><li>MS. ELLIOTT:</li></ul>	3 4 5	<ul><li>independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?</li><li>MS. ELLIOTT:</li><li>A. No, I didn't make that recommendation.</li></ul>
2 3 4 5 6	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li> <li>MS. ELLIOTT:</li> <li>A. I don't know her employment arrangement.</li> </ul>	3 4 5 6	<ul> <li>independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?</li> <li>MS. ELLIOTT:</li> <li>A. No, I didn't make that recommendation.</li> <li>KENNEDY, Q.C.:</li> </ul>
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2 3 4 5 6 7 8 9	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li> <li>MS. ELLIOTT:</li> <li>A. I don't know her employment arrangement. Maybe she's an employee of IBC. I'm not sure, but certainly paid by IBC in some manner or another.</li> </ul>	3 4 5 6 7 8 9	<ul> <li>independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?</li> <li>MS. ELLIOTT:</li> <li>A. No, I didn't make that recommendation.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay.</li> <li>MS. ELLIOTT:</li> <li>A. No.</li> </ul>
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2 3 4 5 6 7 8 9 10 11	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li> <li>MS. ELLIOTT:</li> <li>A. I don't know her employment arrangement. Maybe she's an employee of IBC. I'm not sure, but certainly paid by IBC in some manner or another.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Yes.</li> </ul>	3 4 5 6 7 8 9 10 11	<ul> <li>independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?</li> <li>MS. ELLIOTT:</li> <li>A. No, I didn't make that recommendation.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay.</li> <li>MS. ELLIOTT:</li> <li>A. No.</li> <li>KENNEDY, Q.C.:</li> <li>Q. And you do agree with me that that's an</li> </ul>
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. And this particular Closed Claim Study there's a medical expert retained by IBC, is that what you're saying?</li> <li>MS. ELLIOTT:</li> <li>A. I don't know her employment arrangement. Maybe she's an employee of IBC. I'm not sure, but certainly paid by IBC in some manner or another.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Yes.</li> <li>MS. ELLIOTT:</li> <li>A. Yeah.</li> <li>KENNEDY, Q.C.:</li> <li>Q. But in 2005, Dr. Sue VivianRideout-Vivian was an independent medical consultant retained by the Board?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Is that your understanding?</li> <li>MS. ELLIOTT:</li> </ul>	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>independence, did you consider recommending that an independent medical consultant be utilized as was utilized in 2005?</li> <li>MS. ELLIOTT:</li> <li>A. No, I didn't make that recommendation.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay.</li> <li>MS. ELLIOTT:</li> <li>A. No.</li> <li>KENNEDY, Q.C.:</li> <li>Q. And you do agree with me that that's an important issue because if you're determining whether or not it's a whiplash 1 or 2, minor knee injury, major knee injury, minor back injury, major back injuries, there are very subjective interpretations involved there, aren't there?</li> <li>MS. ELLIOTT:</li> <li>A. Well, there were definitions provided, and what we're really looking for is consistency in that interpretation. So, having one person do the training and explain what</li> </ul>

1       participating in the study, so that when vere the search of the sector of the se	June	, 2010		
2       have an analysis, we know if it's, you know, this injury type 1, it's consistency.       2       A. No.         3       this injury type 1, it's consistenty       3       KEINNEDY, Q.C.:         4       collected, the second injury collected. So, that's more important to me, that       4       Q. Did you even consider any of these recommendations as similar to what was         6       consistency, but it's difficult. Everybody       7       is an individual and when they read the         8       file, the medical file, and file in the report.       7       MS. ELLIOTT:         10       O.Way, We'll come back to that shortly. The experts at collecting data and were going to participate in the study and assist in collecting. Two were aware of that, were you not, in 2005, that NKHK had been involved?       14       KEINNEDY, Q.C.:         11       MS. ELLIOTT:       14       KEINNEDY, Q.C.:       14         12       next comment, "Finally, the Board engaged the services of an accounting firm, NKIIK had been involved?       14       KEINNEDY, Q.C.:         13       and compliance by insurance companies       15       Q. Okay, So, now let's go to page 18 of this, 16         14       KEINNEDY, Q.C.:       14       KEINNEDY, Q.C.:       14         15       MS. ELLIOTT:       12       2       0. Do you know why a three-year period trom July 1st, 20, 0. Kay, We'll, in that case, yes, it's described as an audi		Page 45		e e
3         this injury type I, it's consistently         3         KENNEDY, Q.C.:           4         collected, the second injury collected. So,         5         that's more important to me, that           6         consistency, but it's difficult. Everybody         6         recommendations as similar to what was           6         this injury type I, it's consistency         7         NS. ELLIOTT:         8           8         file, the medical file, and file in the         7         NS. ELLIOTT:         8           10         Colored that IBC has completed these         10         Collecting the data.           11         Q. Okay. We'll come back to that shortly. The         11         3         collecting the data.           12         next comment, "Finally, the Board engaged         10         collecting the data.         11           12         next comment, "Finally, the next consistency it MS. ELLIOTT:         14         KENNEDY, Q.C.:         10         collecting the data.           14         KENNEDY, Q.C.:         10         Set at the asset an addit, but it would be validation and         20         10         so at three-year period from July Ist, 20           15         an Collecting the data.         10         checking of the data, yeah, and -         24         Q. Do you know why a three-year period was 25				
4       collected, the second injury collected. So, that's more important to me, that       4       Q.       Did you even consider any of these recommendations as similar to what was         6       consistency, but it's difficult. Everybody       6       utilized in 2005?         7       tis an individual and when they read the       7       MS. ELLIOTT:         8       file, the medical file, and file in the       8       A.       As I expressed, no, I did not. We         9       report.       10       No, way. We'll come back to that shortly. The       11       expressed, no, I did not. We         12       next comment, "Finally, the Board engaged       12       participate in the study and assist in       collecting the data.       12         13       the services of an accounting firm, NKHK       13       collecting the data.       14       KEINNEDY, Q.C.:       15         14       Chartered Accountants, to ensure consisterey.       14       KEINNEDY, Q.C.:       14       KEINNEDY, Q.C.:       14       NS ELLIOTT:       15       Q.       Okay. So, now let's go to page 18 of his, is a         15       necksing of the data, seq., si, i's described as       as       checking of the data, and -       24       A.       Well, in that case, yes, ii's described as       24       Q.       Do you know wh a three-year period was <t< td=""><td></td><td></td><td></td><td></td></t<>				
5       that's more important to me, that consistency, but it's difficult. Everybody is an individual and when they read the file, the medical file, and file in the 9       5       recommendations as similar to what was utilized in 2005?         8       file, the medical file, and file in the 9       report.       8       A. As I expressed, no, I did not. We 9         10       KENNEDY, Q.C.:       8       A. As I expressed, no, I did not. We 9       9         11       Q. Okay. We'll come back to that shortly. The 10       next comment, 'Finally, the Board engaged 13       10       Closed Claim Studies before. They are the experts at collecting that and were going to 12         13       the services of an accounting firm, NKHK 14       Chartered Accountants, to ensure consistency 16       14       KENNEDY, Q.C.:         16       regarding data collection, 'You were aware 17       of that, were you not, in 2005, that NKHK 18       13       collecting that and were eyere 19       15       Q. Okay. So, now let's go to page 18 of this, 16       the next page of this document. Under the 17         19       MS. ELLIOTT:       19       Sterneby, Q.C.:       18       KEINEDY, Q.C.:         24       Q. They performed an audit? Correct?       23       A. Well, in that case, yes, it's described as 25       18       10       involvement in that?         24       Q. Okay, We'll come to the terms they use 3       A. Well, the period of timethis	3			
6       consistency, but it's difficult. Everybody is an individual and when they read the file, the medical file, and file in the report.       6       utilized in 2005?         7       MS. ELLIOTT:       8       A. S I expressed, no, I did not. We understood that IBC has completed these Closed Claim Studies before. They are the the services of an accounting firm, NKHK         10       O. Okay, We'll come back to that shortly. The next comment, "Finally, the Board engaged the services of an accounting firm, NKHK       10       Collecting the data.         13       the services of an accounting firm, NKHK       12       collecting the data.       12         14       Chartered Accountants, to ensure consistency.       14       KENNEDY, Q.C.:       15       Q. Okay. So, now let's go to page 18 of this, the next page of this document. Under the chart that you see there, there's reference to the fact that the information requested         16       They performed an audii? Correct?       20       I SELLIOTT:       21       MS. ELLIOTT:         20       A. Well, in that case, yes, it's described as 5       an audit, but it would be validation and       25       chosen in 2005? Did you have any         7       MS. ELLIOTT:       2       A. Well, in that case, yes, it's described as 5       3       A. Well, the metas ayeah, and –         1       feecking of the data, yeah, and –       1       involvement in that?         2       Q. Okay. We'	4			
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24A.Well, in that case, yes, it's described as an audit, but it would be validation and24Q.Do you know why a three-year period was chosen in 2005? Did you have any28Page 481involvement in that?Page 481checking of the data, yeah, and –2MS. ELLIOTT:MS. ELLIOTT:3Q.Okay. We'll come to the terms they use shortly.3A.Well, the period of timethis is a different selection process. So, I there were—yeah, there was 6,000 files. So, this was sort of a preliminary listing of the files, and then, from there, we stratified that data to make sure that we were getting a random sample. That was in that study.10engagement, your previous involvement in the 1010In the current study, our approach was to take all the files that were closed over a certain window of time. One of the things that was to make sure in any study is that were closed over a certain window of time. One of the things that were closed over a certain window of time. One of the things that were closed. It was a different appearance of independence.15MS. ELLIOTT:1516A.No, I did not make that recommendation for an appearance of independence.17mapearance of independence.1819Q.Okay. Well, let me take away the "appearance of independence.20MS. ELLIOTT:1921MS. ELLIOTT:2022MS. ELLIOTT:23A.24KENNEDY, Q.C.:24KENNEDY, Q.C.:25MS. ELLIOTT:26MS. ELLI				
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24 KENNEDY, Q.C.: 24 KENNEDY, Q.C.:	22	MS. ELLIOTT:		make sure that the distribution was
	23	A. I didn't make the recommendation.		representative.
25Q.Okay.25Q.My question though was did you recommended				
	25	Q. Okay.	25	Q. My question though was did you recommended

	Page 49		Page 51
1	that the three-year period be utilized in	1	to be collected and completed. And
2	2005?	2	absolutely, my understanding is IBC held
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	MS. ELLIOTT:	$\frac{2}{3}$	three training sessions and was available
4		4	-
	1		for phone calls to explain it.
5	decision, yes.	5	KENNEDY, Q.C.:
6	KENNEDY, Q.C.:	6	Q. Okay. Again, I'm not asking what IBC did.
7	Q. Okay. As opposed to 12 months in this	7	MS. ELLIOTT:
8	particular Closed Claim Study?	8	A. Oh.
9	MS. ELLIOTT:	9	KENNEDY, Q.C.:
10	A. Yes, we did not—it was a different approach	10	Q. My question was are you aware whether as in
11	in that study than this approach, yeah.	11	2005 the Board held information sessions and
12	KENNEDY, Q.C.:	12	weekly conference calls with participating
13	Q. Then, as you just indicated, there were 6100	13	insurance companies? Not what IBC did.
14	files from which Mercer selected a	14	MS. ELLIOTT:
15	proportional random sample for each	15	A. Oh.
16	participating insurer?	16	KENNEDY, Q.C.:
17	MS. ELLIOTT:	17	Q. Do you know if the board did?
18	A. Yeah, um-hm.	18	MS. ELLIOTT:
19	KENNEDY, Q.C.:	19	A. I do not believe they Board did that in this
$\begin{vmatrix} 1 \\ 20 \end{vmatrix}$	Q. Why did you do that in 2005 as opposed to	20	circumstance.
21	the process that you utilized in 2017 and	21	KENNEDY, Q.C.:
22	·18?	22	Q. Okay.
23	MS. ELLIOTT:	23	MS. ELLIOTT:
24	A. Well, for ourselves it was really the first	24	A. That IBC was doing that.
25	Closed Claim Study that we had completed or	25	KENNEDY, Q.C.:
	Page 50		Page 52
1	Page 50 for myself. We wanted to make sure that we	1	Page 52 Q. Let's go to the top of page 19. "The
1 2	6	1 2	-
	for myself. We wanted to make sure that we were managing the process of which files		Q. Let's go to the top of page 19. "The
2	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the	2	Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data
2 3	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and	2 3	Q. Let's go to the top of page 19. "The questionnaires were completed on site by the
2 3 4 5	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random	2 3 4 5	Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"—
2 3 4 5 6	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random sample, so that we didn't get files all from	2 3 4 5 6	Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"— "claimant data was reviewed for accuracy and
2 3 4 5 6 7	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random sample, so that we didn't get files all from the City of St. John's or we didn't get	2 3 4 5 6 7	<ul> <li>Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"—</li> <li>"claimant data was reviewed for accuracy and compliance by the Board with the assistance</li> </ul>
2 3 4 5 6 7 8	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random sample, so that we didn't get files all from the City of St. John's or we didn't get files for everybody that drove a Honda or	2 3 4 5 6 7 8	<ul> <li>Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"—</li></ul>
2 3 4 5 6 7 8 9	for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random sample, so that we didn't get files all from the City of St. John's or we didn't get files for everybody that drove a Honda or anything like that. So, we wanted to manage	2 3 4 5 6 7 8 9	<ul> <li>Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"—</li> <li>"claimant data was reviewed for accuracy and compliance by the Board with the assistance of the insurance consultant, the actuary and NKHK." Obviously, that didn't take place</li> </ul>
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$ \begin{array}{c} 2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\end{array} $	<ul> <li>for myself. We wanted to make sure that we were managing the process of which files would be provided to us as opposed to the companies deciding which files. So, and that it was a proper proportional random sample, so that we didn't get files all from the City of St. John's or we didn't get files for everybody that drove a Honda or anything like that. So, we wanted to manage that process to make sure that the distribution was random and that was the approach that we took at that time.</li> <li>KENNEDY, Q.C.:</li> <li>Q. The next paragraph, page 18, the second sentence, "In addition, the Board held information sessions and weekly conference calls with participating insurance companies to clarify any issues or concerns surrounding the completion of the questionnaire." Do you know if any such step was taken in this present Closed Claim Study?</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. Let's go to the top of page 19. "The questionnaires were completed on site by the participating companies and the data collected was provided in electronic format to the Board. The electronic data"—</li></ul>

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1	Page 53	1	Page 55
	MS. ELLIOTT:	1	A. Um-hm, um-hm. Correct.
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	A. Effectively, yes.	2	KENNEDY, Q.C.:
3	KENNEDY, Q.C.:	3	Q. Okay. Let's now go to page 21. And I want
	Q. Yes.	4	to ask you this question. The Board's
5	MS. ELLIOTT:	5	comments at page 21, "While there was
6	A. Yeah.	6	general support for the methodology employed
7	KENNEDY, Q.C.:	7	in conducting the Closed Claim Study, there
8	Q. Let's now go to—I want to go to page 21.	8	were suggestions for further improvement.
9	I'm almost finished with my references to	9	For example, some participants suggested the
10	this. The—I should—excuse me, for record, I	10	study team would have benefitted from the
11	should indicate then at the top of page 19	11	involvement of a lawyer in addition to the
12	of the Board's report in 2005, page 19, that	12	medical consultant." Do you see that?
13	a total of 1369 claimant records were	13	MS. ELLIOTT:
14	detailed. Page 19, just before 3.3. Okay,	14	A. Um-hm.
15	so –	15	KENNEDY, Q.C.:
16	MS. GLYNN:	16	Q. Now, would a lawyer who is familiar with how
17	Q. Right to the top, Sara.	17	files are closed and how injuries are
18	KENNEDY, Q.C.:	18	classified, the heads of damages, do you
19	Q. Yes.	19	think that that would add anything to a
20	ŇS. GLYNN:	20	study like this or is simply you're
21	Q. There you go.	21	satisfied that IBC did what had to be done?
22	KENNEDY, Q.C.:	22	MS. ELLIOTT:
23	Q. A total of 1369 claimants' records.	23	A. I think, I mean, it's hard to say that more
24	MS. ELLIOTT:	24	resources is an assistance in completion of
25	A. Excuse me.	25	a study, and extra expertise would not help,
	Page 54	20	Page 56
1	KENNEDY, Q.C.:	1	but that said, it's my understanding that
2	Q. That's correct, is it? Your recollection.	2	given IBC has done so many of these at this
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	MS. ELLIOTT:	3	point in time that they would have the
4	A. Well, I mean it says it there.	4	expertise to assist regarding any questions
	KENNEDY, Q.C.:	-+ 	that arise.
		6	KENNEDY, Q.C.:
6 7	Q. Okay. MS. ELLIOTT:	7	, .
		8	
8	A. So, I will assume it's right.	0 9	the Board heard, it is clear that the Closed
9	KENNEDY, Q.C.:		Claim Study methodology and results were
10	Q. You have no reason to dispute it?	10	sounds and reliable." Did you believe in
11	MS. ELLIOTT:	11	2005 and do you believe today that the
12	A. No.	12	results of the Closed Claim Study and the
13	KENNEDY, Q.C.:	13	methodology used were sound and reliable?
14	Q. Okay. So, in this particular case we have a	14	MS. ELLIOTT:
15	12-month study that's expanded for several	15	A. I have no reason to look back and believe
16	months on either side with a total of 1977	16	that they weren't not.
17	Closed Claim Studies reduced by 236 to,	17	KENNEDY, Q.C.:
18	what's that? Seventeen forty-one.	18	Q. Okay. Page 28. You'll see here at the
19	MS. ELLIOTT:	19	second paragraph, "The Board's use of the
20	A. Correct, um-hm.	20	medical consultant in the medical mapping of
21	KENNEDY, Q.C.:	21	injury types was accepted as a refinement to
1			
22	Q. In the 2005 study we have over a three-year	22	previous work including the New Brunswick
22 23	Q. In the 2005 study we have over a three-year period, 6100 files from which 1369 are	23	study where actuaries completed the injury
22	Q. In the 2005 study we have over a three-year period, 6100 files from which 1369 are chosen?	23 24	study where actuaries completed the injury mapping." When there's reference there to
22 23	Q. In the 2005 study we have over a three-year period, 6100 files from which 1369 are	23	study where actuaries completed the injury

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	Page 57		Page 59
1	understanding as to what the Board is	1	MS. ELLIOTT:
2	talking about there?	2	A. Well, I do no medical work. I don't review
3	MS. ELLIOTT:	3	claim files. So, the answer to that would
4	A. Yeah. So, there we're looking at which	4	be no. I am aware of the summary definition
5	injuries would be grouped together to meet a		of a WAD 1, but no, I don't work with claim
6	definition. So, we refer to injury mapping	6	files, don't work with medical experts.
7	and I don't believe we use that term in this	7	KENNEDY, Q.C.:
8	current report that we prepared, but that	8	Q. Okay.
9	would be the terminology, that you want to	9	MS. ELLIOTT:
10	take different injury definitions and map it	10	A. So, no.
11	to a legislative definition.	11	KENNEDY, Q.C.:
12	KENNEDY, Q.C.:	12	Q. Do you know if the insurance personnel at
13	Q. So, in terms of injury mapping, you did not	13	these companies in this particular Closed
14	review any of the files that had been	14	Claim Study simply subjectively determined
15	reviewed by the various insurance company	15	whether an injury fit, for example a
16	personnel?	16	whiplash 1, 2, 3 or 4, or whether they went
17	MS. ELLIOTT:	17	to the medical letters, the letters from the
18	A. I'm sorry, which study are we talking about?		family practitioners or the other doctors to
19	KENNEDY, Q.C.:	19	seek their guidance as to what the injury –
20	Q. The 2018, '17 and '18 study.	20	MS. ELLIOTT:
21	MS. ELLIOTT:	21	A. I'm pretty sure they had the medical records
22	A. That I did not review –	22	because there are notes in the Closed Claim
23	KENNEDY, Q.C.:	23	Study database where there is some
24	Q. Review any of the files themselves, the hard	24	descriptions of some of the injury types and
25	files, hardcopies of the files?	25	why they might not be certain without
	Page 58		Page 60
1	MS. ELLIOTT:	1	further research whether it met the minor
2	A. No, I did no audit.	2	injury definition in Nova Scotia and New
3	KENNEDY, Q.C.:	3	Brunswick. So, based on those notes, which
4	Q. Okay. So, when someone at the insurance	4	were provided, it was clear to me that they
5	company described an injury as a whiplash 1	5	were reading the files and making reference
6	_	6	to medical information in the file.
7	MS. ELLIOTT:	7	KENNEDY, Q.C.:
8	A. Um-hm?	8	Q. So, would it have not been appropriate, do
9	KENNEDY, Q.C.:	9	you think, for you to go back and review
10	Q you basically proceeded on the basis that	10	some of those files –
11	it was a whiplash 1?	11	MS. ELLIOTT:
12	MS. ELLIOTT:	12	A. No, I –
13	A. Well, they would have their file, their	13	KENNEDY, Q.C.:
14	medical reports, and the information that's	14	Q or to suggest that an independent auditor
15	provided in that report would enable them to	15	go back and review some of those files?
16	complete the bucket. Yes, you know, WAD 1	16	MS. ELLIOTT:
17	or maybe it was a WAD 2 or 3, and they would	17	A. Well, no. Certainly not for me because
18	indicate that within the injury types.	18	that's not my area of expertise. I do not
19	Yeah.	19	read medical files. I don't interpret them,
20	KENNEDY, Q.C.:	20	I don't handle claims. So, no, it would not
21	Q. Are you aware or have you ever seen any	21	be appropriate for me to go. It's not my
22		22	area of expertise.
	inedical reports whereby opinions from		
23	medical reports whereby opinions from doctors, whether they be family consultants—	23	-
	doctors, whether they be family consultants-		KENNEDY, Q.C.:
23		23	KENNEDY, Q.C.:

	Page 61		Page 63
1	IBC that that would be a prudent and	1	in this recent study, IBC was fully engaged
2	appropriate step in the circumstances of	2	in the study, yeah.
3	this case to ensure the integrity of the	3	KENNEDY, Q.C.:
4	data collected?	4	Q. Are you aware of whether or not there was
5	MS. ELLIOTT:	5	any independent oversight of the data
6	A. Well, the responsibility that was undertaken	6	provided by participating insurers on behalf
$\begin{vmatrix} 0\\7 \end{vmatrix}$	by IBC was to ensure that the datathat	7	of the Board? Well, do you know if there
8	they validate it, checked it. Were there to	8	was anyone?
9	answer any questions; to train the staff.	9	MS. ELLIOTT:
10		10	A. I'm not aware if that's -
10	That was the role that they played. They	10	KENNEDY, Q.C.:
11 $12$	are the experts in this. They've done this	11	
	before, relied upon on their data collection		Q. Okay.
13	process in a similar format previously for	13	MS. ELLIOTT:
14	studies that have been accepted and adopted		A. To my knowledge, no.
15	in other provinces and have stoodmy	15	KENNEDY, Q.C.:
16	findings have stood the test of time.	16	Q. So, you assumed, and I think you've
17	KENNEDY, Q.C.:	17	indicated this on a number of occasions, you
18	Q. Your findings have. "Your findings have	18	assumed that the data provided you by the
19	stood the test of time"?	19	IBC was, quote, "accurate and complete,"
20	MS. ELLIOTT:	20	closed quote?
21	A. Yes.	21	MS. ELLIOTT:
22	KENNEDY, Q.C.:	22	A. That is a very common assumption that I make
23	Q. What does that mean?	23	in my work day in and day out that the data
24	MS. ELLIOTT:	24	provided to us is reliable and accurate by
25	A. That means that findings that I presented in	25	the party providing it to us, yes.
	Page 62		Page 64
1	my report, a similar report to this, have	1	KENNEDY, Q.C.:
2	my report, a similar report to this, have been referenced and used by many actuaries	2	KENNEDY, Q.C.: Q. So, would you agree with me that it is
2 3	my report, a similar report to this, have been referenced and used by many actuaries since they were published. In regard to	2 3	<ul><li>KENNEDY, Q.C.:</li><li>Q. So, would you agree with me that it is important though as opposed to simply the</li></ul>
2 3 4	my report, a similar report to this, have been referenced and used by many actuaries since they were published. In regard to Nova Scotia and in New Brunswick, the	2 3 4	<ul><li>KENNEDY, Q.C.:</li><li>Q. So, would you agree with me that it is important though as opposed to simply the IBC performing this task, for an independent</li></ul>
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2 3 4 5 6	my report, a similar report to this, have been referenced and used by many actuaries since they were published. In regard to Nova Scotia and in New Brunswick, the percentage changing costs with regards to the reforms that were made. So, we made	2 3 4 5 6	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. So, would you agree with me that it is important though as opposed to simply the IBC performing this task, for an independent person, whether it be an auditor or the kind of consultant we've talked about, to compare</li> </ul>
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>my report, a similar report to this, have been referenced and used by many actuaries since they were published. In regard to Nova Scotia and in New Brunswick, the percentage changing costs with regards to the reforms that were made. So, we made estimates for those provinces for the superintendents, they were provided, there were hearings on those findings. And my reports and our findings have been used in reference by many actuaries in their rate filings.</li> <li>(10:00 a.m.)</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay. So, in conclusion on this point, as we move towards the conclusion of the comparison of the two studies, there were no independentand when I say independent, I'm talking about outside IBC. There were no independent reviews of the Closed Claim Study data as took place in 2005 with—to an insurance person, a medical consultant or a chartered accounting firm, is that correct?</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. So, would you agree with me that it is important though as opposed to simply the IBC performing this task, for an independent person, whether it be an auditor or the kind of consultant we've talked about, to compare the company input for consistency and reasonableness?</li> <li>MS. ELLIOTT:</li> <li>A. Well, part of the validation and checking that IBC would go through would lend themselves to that, but I will not disagree that a process where there is more checking and validation, of course it's always good, so I certainly cannot say that doing more checks is not a good thing or not appropriate, but I do have confidence in the data that was provided to me based on the history of IBC's work and their area of expertise.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Do you know or can you confirm whether anyone involved in the current process,</li> </ul>
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>my report, a similar report to this, have been referenced and used by many actuaries since they were published. In regard to Nova Scotia and in New Brunswick, the percentage changing costs with regards to the reforms that were made. So, we made estimates for those provinces for the superintendents, they were provided, there were hearings on those findings. And my reports and our findings have been used in reference by many actuaries in their rate filings.</li> <li>(10:00 a.m.)</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay. So, in conclusion on this point, as we move towards the conclusion of the comparison of the two studies, there were no independentand when I say independent, I'm talking about outside IBC. There were no independent reviews of the Closed Claim Study data as took place in 2005 with—to an insurance person, a medical consultant or a</li> </ul>	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>KENNEDY, Q.C.:</li> <li>Q. So, would you agree with me that it is important though as opposed to simply the IBC performing this task, for an independent person, whether it be an auditor or the kind of consultant we've talked about, to compare the company input for consistency and reasonableness?</li> <li>MS. ELLIOTT:</li> <li>A. Well, part of the validation and checking that IBC would go through would lend themselves to that, but I will not disagree that a process where there is more checking and validation, of course it's always good, so I certainly cannot say that doing more checks is not a good thing or not appropriate, but I do have confidence in the data that was provided to me based on the history of IBC's work and their area of expertise.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Do you know or can you confirm whether</li> </ul>

Page 65 1 MS. ELLIOTT: 1 Board itself, it appears, had access to th	ge 67
	e
2 A. Sorry? 2 data in the files, is that correct?	
3 KENNEDY, Q.C.: 3 MS. ELLIOTT:	
4 Q. We went to this yesterday and I can bring it 4 A. Well they were physically there, yes.	
5 up for you, IBC's Note to Users, please? 5 KENNEDY, Q.C.:	
6 And if we could go to, again, it's that 6 Q. Yes. So do you or are you aware of any	one
7 second part of the document, paragraph 7, 7 else in this present process, has any way	
8 "Despite IBC's best effort to ensure that 8 knowing whether the data reported on e	
9 data integrity before accepting claimant 9 file could be supported by documentation	
10 cases into the master file, this is not an 10 the closed files?	
11 audit process, IBC"—this is my question for 11 MS. ELLIOTT:	
12 you, "IBC had no access to any supporting 12 A. Well if you went and opened the paper	ile,
13 documentation or paper files." 13 if you hopped on a plane and flew to the	
14 MS. ELLIOTT: 14 office and opened the paper file, then ye	
15 A. Right, so they were not in the physical 15 would be doing a physical audit and you	
16 office of each of the insurers looking at 16 could check.	
17 the paper file and doing, as you referenced, 17 KENNEDY, Q.C.:	
18 a physical audit. 18 Q. But you're the one who is making the	
19 KENNEDY, Q.C.: 19 assumptions on the data provided, so	
20 Q. And you certainly had no access to these 20 shouldn't you, as an actuary and having	
21 files. So the only people who would have 21 regards to your term of engagement, en	
22 accessed the files, themselves, would have 22 at a minimum that someone is checking	
been the insurance personnel, whether there 23 than the proponent, IBC themselves?	
24 were adjusters, statisticians, whoever was 24 MS. ELLIOTT:	
25 reviewing the actual files? 25 A. No. IBC is a manager, an expert of	
Page 66 Pa	ge 68
1 MS. ELLIOTT: 1 collecting and managing data. They ar	e a
2 A. It's the company's document, it's like – 2 service provider for the Superintendent	of
3 KENNEDY, Q.C.: 3 Insurance offices, that is their role, so	
4 Q. So, do you or anyone else involved in this 4 that's their area of expertise, that's what	ıt 🛛
5 process have any way to tell whether the 5 the company does, so that's not my, yo	u
6 insurers were consistent in their completing 6 know, our role in this, and that's what	
7 of the data requests on each closed file? 7 their role was, and is, and that's what t	1ey
8 MS. ELLIOTT: 8 did. They stated that they checked,	
9 A. Within a company, my understanding is that 9 validated, trained the staff that was	
10 there would be a small number of people that 10 collecting it.	
11 would be, you know, maybe 2 to 5 people out 11 KENNEDY, Q.C.:	
12 of 40 people trained, that are trained to 12 Q. And you accept that just absolutely?	
13 complete these files. And that enables 13 MS. ELLIOTT:	
14 consistency within a company. But that 14 A. Yeah, and as I've said, they have done	this
15 said, then the next company it would, that 15 in the past, they are the expert, they	
16group of people are trained, so I think16collect data since the 1950s or earlier of	
17 within an entity there would be good 17 industry data, they validate it, they reje	ct
18consistency and like anything, when you go18data, they are the experts at this. I've	
19 to the next entity, there may be some 19 used the data that's been provided by I	
20 differences. I can't speak to that, but if 20 the past. I'm repeating myself, but it's	
21 there are going to be differences, it would 21 the same answer. I accepted the data	
be amongst the company, as opposed to within 22 provided to us. I accepted that they	
23the company.23completed checks and validation of the	data.
24 KENNEDY, Q.C.: 24 KENNEDY, Q.C.:	
25 Q. In 2005, the different consultants and the 25 Q. They are also an advocacy organization	n for

<ol> <li>the insurance industry which is a proponent</li> <li>for the bringing in of the cap, correct?</li> <li>MS. ELLIOTT:</li> <li>Just because we're doing an analysis of what</li> <li>a cap or a deductible or whatever is</li> <li>decided, this is a process of a calculation</li> <li>that we are providing for the Board as we</li> <li>are asked to.</li> <li>KENNEDY, Q.C.:</li> <li>You're aware of different kinds of biases,</li> </ol>	June o	, 2018		2017 Automobile insurance Review
2       for the bringing in of the cap, correct?       2       Q. You're suggesting that they are unbiased, you are accepting that they are unbiased.         3       MS. ELLIOTT:       3       you are accepting that they are unbiased, you are accepting that they are not biased         4       A. Just because we're doing an analysis of what       4       5       MS. ELLIOTT:         6       decided, this is a process of a calculation       6       A. Well I do not believe that the individuals         7       that we are providing for the Board as we are asked to.       8       adjuster, has any intention other that to         8       are asked to.       9       fill that form in as to the best of their         10       Q. You're suggesting that they are not biased in the proper are intentional biases, there are biases that       13       saying "ha, let me just give this wrong dia aster, that a fact that people are intentional biases, there are biases, of       14       poole filling in the form are doing it to         16       aware of these things?       15       the best of their kids.       16         18       A. Well Tm politically aware of biases, of       18       They ye no mata's biased.         19       pooles is on and my thinking       pooles at A-0 at night to ther kids.         19       pooles is on and my thinking       pooles at A-0 at night to ther kids.         10		Page 69		Page 71
3       MS. ELLIOTT:       3       you are accepting that they are not biased in the collection of their data.         4       A. Just because we're doing an analysis of what a cap or a deductible or whatever is decided, this is a process of a calculation in the we are providing for the Board as we are asked to.       3       you are accepting that they are not biased in the collection of their data.         6       A. Well, I do not believe that the individual that we are providing for the Board as we are asked to.       4       A. Well, I do not believe that the individual that work in a company, the claim's adjuster, has any intention other than to fill that form in as to the best of their adjuster, has any intention other than to fill that form in as to the best of their adjuster, has any intention other than to fill that form in as to the best of their adjuster, has any intention other than to fill that form the study will be wrong?, institutional biases, there are biases that fill any analysis. It's not my opinion for course. My focus is on and my thinking porcess is on whether any data is biased.         10       course. My focus is on and my thinking porcess is on whether any data is biased.         21       when I do my analysis. It's not my opinion for course. My focus is on and my thinking porcess is on whether any data is biased.         23       being biased in asked to provide information for the at a cap is introduced, as it is in other for provinces, Albert and Nova Scott and New for a source adifferent that clearly, and changing a product such for that a cap is introduced, as it is in other for provinces, Albert and wear also and now, for words bias.you re usity oure down the reforms in Alberta, we cang goon and on, for both yandr				
4       A. Just because we're doing an analysis of what       in the collection of their data.         5       acap or a deductible or whatever is       in the collection of their data.         6       decided, this is a process of a calculation       MS. ELLIOTT:         7       are asked to.       a defuctible or whatever is         8       are asked to.       asked to.         9       KENNEDY, Q.C.:       9         10       Q. You're aware of different kinds of biases,       10         11       saging "ha, let me just give this wrong data       that is not how 1 think. Tbelive what the'         12       institutional biases, there are biases that       13       that sou do, do you agree with me? You're         15       that you do, do you agree with me? You're       15       the best of their ability, that's what I         16       aware of these thing?       17       they go home at 4:00 at night to their kids.         18       A. Well I'm politically aware of biases, of       18       They 're not filling in that form to try to         19       porcess. is on and my thinking       10       porcess. is on and my thinking         20       process. is on and my thinking       10       that a.       20         12       Q. But you are assuming that IBC is unbiased.       20       KENNEDY,				
5       a cap or a deductible or whatever is       5       MS. ELI.IOTT:         6       A. Well, I do not believe that the individuals         7       that we are providing for the Board as we       adjuster, has any intention on ther than to         8       are asked to.       8         9       Filt hat form in as to the best of their         10       Q. You're aware of different kinds of biases,         11       institutional biases, there are biases that         12       intentionally skewering data, but there are         13       institutional biases, there are biases that         14       can come into play as a result of the job         15       that you do, do you agree with me? You're         16       aware of these things?         17       MS. ELLIOTT:         18       A. Well I'm policially aware of biases, of         19       course. My focus is on and my thinking         20       process is on whether any data is biased         21       when I do my analysis. It's not my opinion         22       kENNEDY, Q.C:         24       A. They've given me—l understand that they are         3       A. They've given me—l understand that they are         3       A. They ve given me—l understand that they are         4				
6       decided, this is a process of a calculation that we are providing for the Board as we are asked to.       6       A.       Well, I do not believe that the individuals that work in a company, the claim's and juster, has any intention other than to fill that form in as to the best of their ability, that they're not filling it in and 11         9       KENNEDY, Q.C.:       9       fill that form in as to the best of their ability, that they're not filling it in and 11         10       Q. You're aware of different kinds of biases, 11       institutional biases, there are biases, there are biases that 12       16       believe, that the individual that's wrong', 13         13       that you do, do you agree with me? You're aware of these things?       13       that is not how 1 think. 1 believe that the individual that's inted, 14         14       can come into play as a result of the job 15       that you do, do you agree with me? You're aware of these things?       13       that is not how 1 think. 1 believe that the individual that's inted, 14         17       MS. ELLIOTT:       17       they go home at 4:00 at night to their kids. 16       18         20       KENNEDY, Q.C.:       20       But if you don't check it, how do you know 141?         21       Q. But you are assuming that IBC is unbiased. 16       14       29       Well. They oblight has a state 17         22       KENNEDY, Q.C.:       23       MS. ELLIOTT: 24       A. Thegv've given mc—1       14 <t< td=""><td></td><td><b>v</b> ,</td><td></td><td></td></t<>		<b>v</b> ,		
7       that we are providing for the Board as we are asked to.       7       that work in a company, the claim's are asked to.         8       are asked to.       8       adjuster, has any intention other than to to to their ability, that they're not filling it in and the best of their ability, that they're not filling it in and to the best of their ability, that they are of the they are or biases, that the carcem into play as a result of the job they are or biases, of they are of these things?       10       ability, that they're not filling it in and to the job they are or biases, that they out on, do you agree with me? You're aware of these things?       13       that is not how 1 think. Thelive that the individual that's hired, they go home at 4:00 at night to their kids.         18       A. Well I'm politically aware of biases, of to assume that IBC or any other party is being biased in asked to provide information is being biased in asked to provide information?       13       They're not filling in that form to try to be biased.         20       when I do my analysis, It's not my opinion to assume that IBC or any other party is being biased in asked to provide information?       24       A. They we given me—l understand that they are a lobby group for the industry, I understand that they are a lobby group for the industry, I understand that they are in Alberta, we can go on and on, that clearly, and theang any anduct such that a cap is introduced, as it is in other reforms in Alberta, we can go on and on, that does not make IBC or any other entity in the assignment of the types of injary in my mind biased because of a product such that a cap is introduced, as it is in other reforms in Alberta, we cango on and on, that clearly, and then go home a like that	5	a cap or a deductible or whatever is	5	MS. ELLIOTT:
8       are asked to.       8       adjuster, has any intention other than to         9       KENNEDY, Q.C.:       9       fill that form in as to the best of their         10       Q. You're aware of different kinds of biases,       11       saying "ha, let me just give this wrong dia,         12       institutional biases, there are biases that       12       to Elliotts on the her study will be wrong ",         13       institutional biases, there are biases that       14       people filling in the form are doing it to         16       betry out, aware of these things?       13       that is not how 1 think. 1 believe that the         16       betry out, aware of biases, of       16       betry the individual that's hired,         17       MS. ELLIOTT:       17       they go home at 4:00 at night to their kids.         18       A. Well I'm politically aware of biases, of       18       They're not filling in the form tor tor to to to         20       process is on whether any data is biased       18       KENNEDY, Q.C.:       20       KENNEDY, Q.C.:         24       data.       18       Ns. ELLIOTT:       23       A. They we given me—1 understand that they are       3       A. They we given me—1 understand that they are       3       A. They we given me—1 understand that they are       3       MS. ELLIOTT:       2       You	6	decided, this is a process of a calculation	6	A. Well, I do not believe that the individuals
9       KENNEDY, Q.C.:       9       fill that form in as to the best of their         10       Q. You're aware of different kinds of biases,       10       ability, that they're not filling it in and         12       institutional biases, there are biases that       11       saying "ha, let me just give this wong data         13       institutional biases, there are biases that       12       to Elliot so that her study will be wrong",         14       ca come into play as a result of the job       14       that is not how I think. I believe that the         16       aware of these things?       13       that is not how I think. I believe that the         16       aware of these things?       16       believe, that the individual that's hired,         17       MS. ELLIOTT:       16       beliased.       18         20       process is on admy thinking       19       be biased.       20         21       when I do my analysis. It's not my opinion       21       Q. But if you don't have check in how do you know         24       data.       24       A. I beg your pardon?       25         25       KENNEDY, Q.C.:       26       MS. ELLIOTT:       27         3       A. They've given me—lunderstand that they are       3       MS. ELLIOTT:       3         4       <	7	that we are providing for the Board as we	7	that work in a company, the claim's
10       Q. You're aware of different kinds of biases, though, it's not a fact that people are institutional biases, there are biases that       10       ability, that they're not filling it in and saying "ha, let me just give this wrong data         11       institutional biases, there are biases that       11       saying "ha, let me just give this wrong data         13       institutional biases, there are biases that       13       that is not how I think. I believe that the         14       can come into play as a result of the job       14       people filling in the form are doing it to         16       aware of these things?       15       that is not how I think. I believe that the'         17       MS. ELLIOTT:       16       believe, that the individual that's hired,         19       course. My focus is on and my thinking       19       be this ability, that they re not filling in the torm to try to         20       process is on whether any data is biased       18       They're not filling in the form to try to         21       data.       22       that abes of the inability, that they are       17         23       being biased in asked to provide information       24       A. Tbey we given me—1       14       LIOTT:         24       A. They've given me—1       understand that they are       3       3       They wener checks, there were checks and validation of the data. We	8	are asked to.	8	adjuster, has any intention other than to
11       though, it's not a fact that people are       11       saying "ha, let me just give this wrong data         12       intentionally skewering data, but there are       11       saying "ha, let me just give this wrong",         13       institutional biases, there are biases that       12       to telliot so that he ratuly will be wrong",         14       can come into play as a result of the job       14       that is not how 1 think. I believe, that the individual that's hired,         16       beavare of these things?       17       the best of their ability; that's what 1         17       MS. ELLIOTT:       17       they go home at 4:00 at night to their kids.         18       A. Well I'm politically aware of biases, of       19       be beiaset, that         20       process is on and my thinking       19       be be biased.         21       when I do my analysis. It's not my opinion       20       KENNEDY, Q.C.:         23       being biased in asked to provide information       21       MS. ELLIOTT:         24       data.       24       A. They've given me—I understand that they are       30         3       A. They've given me—I understand that they are       30       MS. ELLIOTT:         4       a lobby group for the industry, Lunderstand       40       There were checks, there were checks and validation of	9	KENNEDY, Q.C.:	9	fill that form in as to the best of their
12       intentionally skewering data, but there are liases that       12       to Elliott so that her study will be wrong", that is not how 1 think. I believe that the doing it to the stor there are doing it to the best of their ability; that's what I         13       avare of these things?       13       that the form are doing it to their kids.         14       can come into logy as a result of the job       14       people filling in the form are doing it to         16       avare of these things?       16       the best of their ability; that's what I         17       MS. ELLIOTT:       17       the you have at 4:00 at night to their kids.         18       A. Well I'm politically aware of biases, of       18       They're not filling in that form to try to         20       process is on whether any data is biased       19       EVENNEDY, Q.C.:         21       Q. But if you don't check it, how do you know       that?         23       being biased in asked to provide information       24       A. Ibeg your pardon?         24       A. They've given me—I understam that they are       14       Q. If you don't have checks done on that, if         3       A. They've given me—I understam dhat they are       14       A. They've given ma are are differm and         7       provinces, Alberta and Nova Scotia and New       76       KENNEDY, Q.C.:       80 <td< td=""><td>10</td><td>Q. You're aware of different kinds of biases,</td><td>10</td><td>ability, that they're not filling it in and</td></td<>	10	Q. You're aware of different kinds of biases,	10	ability, that they're not filling it in and
13       institutional biases, there are biases that       13       that is not how I think. I believe that the         14       can come into play as a result of the job       14       people filling in the form are doing it to         16       aware of these things?       16       the best of their ability, that's what I         17       MS. ELLIOTT:       16       believe, that the individual that's hired,         18       A. Well I'm politically aware of biases, of       17       they go home at 4:00 at night to their kids.         19       course. My focus is on and my thinking       19       believe, that the individual that's hired,         20       process is on whether any data is biased       17       they go home at 4:00 at night to their kids.         21       when I do my analysis. It's not my opinion       12       Q. But if you don't check it, how do you know         22       being biased in asked to provide information       23       MS. ELLIOTT:       24         24       data.       27       28       KENNEDY, Q.C:       25         7       But you are assuming that IBC is unbiased.       1       Q. If you don't have checks done on that, if you don't have and changing a product such that clearly, and changing a product such that a cap is introduced, as it is in other provinces, Alberta and Nova Scotia and New that the and the area of infremate.       3       A. There were che	11	though, it's not a fact that people are	11	saying "ha, let me just give this wrong data
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15       that you do, do you agree with me? You're       15       the best of their ability; that's what I         16       aware of these things?       16       believe, that the individual that's hired,         17       MS. ELLIOTT:       17         18       A. Well I'm politically aware of biases, of       18       They're not filling in that form to try to         19       course. My focus is on and my thinking       19       be biased.         20       process is on whether any data is biased       20       KENNEDY, Q.C.:         21       when I do my analysis. It's not my opinion       21       Q. But iyou are assuming that IBC is unbiased.         25       KENNEDY, Q.C.:       23       KENNEDY, Q.C.:       24       A. They've given me—I understand that they are       3         4       a lobby group for the industry, 1 understand       10       SELLIOTT:       2       you don't have –         3       A. They've given me—I understand that they are       3       MS. ELLIOTT:       4       A. They ve given me—I understand that they are       3       MS. ELLIOTT:         4       a lobby group for the industry, 1 understand       4       A. They ve given and Nova Scotia and Nova       5       MS. ELLIOTT:       4         7       provinces, Alberta, we cang oo n and on,       9       a	13		13	
15       that you do, do you agree with me? You're       15       the best of their ability; that's what I         16       aware of these things?       16       believe, that the individual that's hired,         17       MS. ELLIOTT:       17         18       A. Well I'm politically aware of biases, of       18       They're not filling in that form to try to         19       course. My focus is on and my thinking       19       be biased.         20       process is on whether any data is biased       20       KENNEDY, Q.C.:         21       when I do my analysis. It's not my opinion       21       Q. But iyou are assuming that IBC is unbiased.         25       KENNEDY, Q.C.:       23       KENNEDY, Q.C.:       24       A. They've given me—I understand that they are       3         4       a lobby group for the industry, 1 understand       10       SELLIOTT:       2       you don't have –         3       A. They've given me—I understand that they are       3       MS. ELLIOTT:       4       A. They ve given me—I understand that they are       3       MS. ELLIOTT:         4       a lobby group for the industry, 1 understand       4       A. They ve given and Nova Scotia and Nova       5       MS. ELLIOTT:       4         7       provinces, Alberta, we cang oo n and on,       9       a	14	can come into play as a result of the job	14	people filling in the form are doing it to
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17MS. ELLIOTT:17they go home at 4:00 at night to their kids.18A.Well I'm politically aware of biases, of18They're not filling in that form to try to19course. My focus is on and my thinking19be biased.2020process is on whether any data is biased20KENNEDY, Q.C.:2121when I do my analysis. It's not my opinion22that?2323being biased in asked to provide information23MS. ELLIOTT:2424data.24A.I beg your pardon?2525KENNEDY, Q.C.:25KENNEDY, Q.C.:Page 702Q.But you are assuming that IBC is unbiased.1Q.If you don't have checks done on that, if you don't have checks, there were checks and validation of the data. We spoke about that clearly, and changing a product such for moroinces, Alberta and Nova Scotia and New 87KENNEDY, Q.C.:10MS. ELLIOTT:10that dearly, and changing a product such for my mind biased because of a product regime change.8Q.Okay, we'll deal with this later. Would you agree with me that with any Closed Claim Study the assignment of the types of injury and the amount of compensation paid by category of damage is based upon the adjuster in negotiation most likely with a aluster in negotiation most likely with a lawyer, legal counsel for these bodily19MS. ELLIOTT:14A.Yes, they're reviewed it, they have that information, an assessment was made by tho adjuster in negotiation most likely with a lawyer, legal counsel for th				5,
18       A.       Well I'm politically aware of biases, of course. My focus is on and my thinking       18       They're not filling in that form to try to be biased.         20       process is on whether any data is biased when I do my analysis. It's not my opinion       19       be biased.         21       when I do my analysis. It's not my opinion       20       KENNEDY, Q.C.:       Q.       But if you don't check it, how do you know that?         23       being biased in asked to provide information       23       MS. ELLIOTT:       23         24       data.       24       A.       I beg your pardon?       25         24       But you are assuming that IBC is unbiased.       1       Q.       I f you don't have -       3         3       A.       They're given me—I understand that they are a lobby group for the industry, I understand       1       Q.       If you don't have -       3         4       a lobby group for the industry, I understand       4       A.       There were checks, there were checks and validation of the data. We spoke about that a cap is in inforduced, as it is in other       6       that a cap is in inforduced, as it is in other         7       provinces, Alberta and Nova Scotia and New 8       Brunswick and PEI, and there are different 9       7       KENNEDY, Q.C.:       8       Q.       Okay, we'li deal with this later. Wouldy you agree with me that wit				
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1	Q. It's based upon the judgment of the adjuster	1	So I'm not aware of all the company's
2	who reviewed the file, correct?	2	position on reform changes.
3	MS. ELLIOTT:	3	KENNEDY, Q.C.:
4	A. They know how much is paid, that's not a	4	Q. Okay, well let me ask you this, is it your
5	judgment amount.	5	understanding or do you have any knowledge
6	KENNEDY, Q.C.:	6	that we have two other, Intact and Aviva are
7	Q. Well, we'll come to that in a second. So	7	going to be presenting here, Co-operators
8	you don't agree with, but let me just repeat	8	are going to be presenting here. Do you
9	it again, it's an important statement. Do	9	have any knowledge or understanding that
10	you agree with me that as with any Closed	10	these insurers who provided data for the
11	Claims Study of this nature, the assignment	11	Closed Claims Study are in favor of capping
12	of the type of injury and amounts of	12	victims' claims to general non-pecuniary
13	compensation paid by category of damage is	13	damages? Are you aware of that?
14	based upon the judgment of the adjuster who	14	MS. ELLIOTT:
15	reviewed that claim file?	15	A. I have not read any position papers the
16	MS. ELLIOTT:	16	insurers. That said, whenever you introduce
17	A. In some claimant files I believe that the	17	a cap on a product, it does stabilize costs
18	information will be very clear, and in other	18	to the extent that whether you're a consumer
19	files, there would be more judgment	19	or an insurer, you like costs to be stable,
20	required, yes, that would be my	20	I think that they would be likely in favour
21	understanding.	21	of that, but I have not read anything that
22	KENNEDY, Q.C.:	22	told me that for certainty.
23	Q. Now we talked about the involvement of IBC	23	KENNEDY, Q.C.:
24	and as a proponent for the cap, all of the	24	Q. So would it be fair for me to say that the
25	insurance companies that are involved in	25	data that you have assumed to be complete
	Page 74		
	rage /4		Page 76
1	this review or providing information in	1	Page 76 and accurate for the purpose of making the
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	this review or providing information in		and accurate for the purpose of making the
2	this review or providing information in relation to the Closed Claims Study, you know that they're also proponents of minor	2	and accurate for the purpose of making the findings in your report had been provided by
2 3	this review or providing information in relation to the Closed Claims Study, you	2 3	and accurate for the purpose of making the findings in your report had been provided by parties who want to impose a minor injury
2 3	this review or providing information in relation to the Closed Claims Study, you know that they're also proponents of minor injury cap, aren't they?	2 3	and accurate for the purpose of making the findings in your report had been provided by parties who want to impose a minor injury cap?
2 3 4 5	this review or providing information in relation to the Closed Claims Study, you know that they're also proponents of minor injury cap, aren't they? MS. ELLIOTT:	2 3 4 5	and accurate for the purpose of making the findings in your report had been provided by parties who want to impose a minor injury cap? MS. ELLIOTT:
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	Page 77		Page 79
1	Q. So there would be, I'm assuming, letters	1	without breaking it down to the heads of
2	back and forth between lawyers and	2	damages?
3	adjusters?	3	MS. ELLIOTT:
4	MS. ELLIOTT:	4	A. Yes, and my understanding is and I have
5	A. Uh-hm.	5	worked at insurance companies, so an
6	KENNEDY, Q.C.:	6	adjuster when setting, estimating how much
7	Q. There would be medical reports?	7	will be paid, they will take into
	MS. ELLIOTT:	8	
			consideration the injuries of the claimant,
9	A. Yes.	9	of course, determine what they think is,
10	KENNEDY, Q.C.:	10	what the costs would be based on the
11	Q. There could be charts from massage	11	information available to them, their work
12	therapists, physiotherapists, chiropractors,	12	history, employment, medical needs, and so
13	all of that would be in the file.	13	when they're setting a reserve, they are
14	MS. ELLIOTT:	14	breaking down the costs into the various
15	A. Yeah.	15	buckets, if you will, the heads of damage to
16	(10:15 a.m.)	16	make an estimate of what that reserve will
17	KENNEDÝ, Q.C.:	17	be, so when you get the phone call, the
18	Q. There would be a claim's letter presented by	18	adjuster will, you know, they might have an
19	a lawyer.	19	opening number but as time passes and the
20	MS. ELLIOTT:	20	letters and the correspondence proceed, they
$20 \\ 21$		20	have information to finesse their estimate
22	KENNEDY, Q.C.:	22	of how much they're going to have to pay,
23	Q. There would be responses.	23	and that information is what the adjuster
24	MS. ELLIOTT:	24	does to make an estimate. Then the lawyers
25	A. Uh-hm.	25	are involved and there's a negotiation
			-
	Page 78		Page 80
1	KENNEDY, Q.C.:	1	Page 80 process and in many cases, as you have said,
1 2	-		Page 80 process and in many cases, as you have said, there will be an agreement on an amount. So
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	Page 81		Page 83
1	MS. ELLIOTT:	1	KENNEDY, Q.C.:
2	A. Sure, based on the information provided in	2	Q. But that could include, as we've talked
$\overline{3}$	the file. So they have an estimate of what	3	about, an amount for pain and suffering, an
4	the number will be and sometimes it's going	4	amount for housekeeping, maintenance, future
5	to be higher or lower in the final global	5	care, loss of future income, all of which
6	number that's agreed on.	6	are outlined, can be outlined in a letter
	KENNEDY, Q.C.:	7	and discussed among the adjuster and the
8	Q. But that number that's in the file by the	8	lawyer.
9	adjuster is not one that has necessarily	9	MS. ELLIOTT:
10	been agreed upon by a lawyer as to a	10	A. Uh-hm, but I beg to differ that the wages
11	specific amount for non-pecuniary damages?	11	that that person earns, the medical bills
12	MS. ELLIOTT:	12	that they've incurred, they're pretty –
12	A. Oh, no, I understand that, that's my point	12	KENNEDY, Q.C.:
13	that the adjuster in making their estimate,	13 14	
1		14	
15	what they believe they're going to pay on the file with the back and forth	15 16	talking about the loss or the future loss of
16			income, loss of competitive advantage,
17	negotiations, they're narrowing that number	17	things like that, there are notional or
18	down, what they believe it will be.	18	there are figures put on those.
19	KENNEDY, Q.C.:	19 20	MS. ELLIOTT:
20	Q. So when the file is actually completed, the	20	Q. Uh-hm, right, and the adjuster in the
21	adjuster has been, then breaks it down into	21	negotiation process has a clear idea in
22	the figures under the heads of damages,	22 23	their mind of what they're going to pay
23	correct?	23 24	under each of the heads of damages, they've
24 25	MS. ELLIOTT: A. Yes.	24 25	calculated that, that is their area of
23		23	expertise, but at the end of the day a final
1	Page 82	1	Page 84
	KENNEDY, Q.C.:	1 2	number in some cases and agreed upon, that's more as you referred to it as a global
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	Q. So that would be a highly or there would be		more as you referred to it as a global in the
1 1			
	a high degree of subjectivity involved in	3	number.
4	a high degree of subjectivity involved in that, wouldn't you agree with me, Ms.	3 4	number. KENNEDY, Q.C.:
4 5	a high degree of subjectivity involved in that, wouldn't you agree with me, Ms. Elliott?	3 4 5	number. KENNEDY, Q.C.: Q. Yeah, so I guess my only point on this is
4 5 6	a high degree of subjectivity involved in that, wouldn't you agree with me, Ms. Elliott? MS. ELLIOTT:	3 4 5 6	number. KENNEDY, Q.C.: Q. Yeah, so I guess my only point on this is that even in the cases where this type of
4 5 6 7	<ul><li>a high degree of subjectivity involved in that, wouldn't you agree with me, Ms. Elliott?</li><li>MS. ELLIOTT:</li><li>A. No, it could be proportionately revised or</li></ul>	3 4 5 6 7	number. KENNEDY, Q.C.: Q. Yeah, so I guess my only point on this is that even in the cases where this type of settlement occurs or even if it doesn't
4 5 6 7 8	<ul> <li>a high degree of subjectivity involved in that, wouldn't you agree with me, Ms. Elliott?</li> <li>MS. ELLIOTT:</li> <li>A. No, it could be proportionately revised or some numbers are fixed. It's pretty clear</li> </ul>	3 4 5 6 7 8	number. KENNEDY, Q.C.: Q. Yeah, so I guess my only point on this is that even in the cases where this type of settlement occurs or even if it doesn't occur, we don't know or there is no
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4 5 6 7 8 9 10 11 12 13 14	<ul> <li>a high degree of subjectivity involved in that, wouldn't you agree with me, Ms. Elliott?</li> <li>MS. ELLIOTT:</li> <li>A. No, it could be proportionately revised or some numbers are fixed. It's pretty clear what somebody's wages are.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Yeah, but I'm talking about non-pecuniary damages now and non-pecuniary damages in terms of the pain and suffering.</li> <li>MS. ELLIOTT:</li> </ul>	3 4 5 6 7 8 9 10 11 12 13 14	number. KENNEDY, Q.C.: Q. Yeah, so I guess my only point on this is that even in the cases where this type of settlement occurs or even if it doesn't occur, we don't know or there is no assurance that the allocations match the claimant's lawyer's settlement breakdown of the heads of damages. There's no guarantee that there's coordination between what the adjuster thinks it will settle for under the heads of damages, and what the lawyer agreed
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June 6, 2018

	5, 2018		
	Page 85		Page 87
1	files.	1	KENNEDY, Q.C.:
2	KENNEDY, Q.C.:	2	Q. Okay, so really their claim, a claim of a
3	Q. Okay, if we can go to the closed claim, I'm	3	person—or let me just keep going, if you
4	into my last couple of questions for you.	4	actually look at the claimants over the age
5	Ms. Elliott, if we go to the Closed Claims	5	of 65 and then they're more likely, not
6	Study of April 19, 2018, you have a number	6	guaranteed to retire, but 90 percent of the
7	of numbers, a number of charts attached to	7	claimants appear to be over the age of 65,
8	your report, correct? Appendix A-1, 2, et	8	does that sound approximate, accurate?
9	cetera. Now does your report indicate the	9	MS. ELLIOTT:
10	number of complainants who are over the age	10	A. Sure, uh-hm
11	of 60 when the matters were settled?	11	KENNEDY, Q.C.:
12	MS. ELLIOTT:	12	Q. Okay, so for those claimants over the age of
12	A. We would have the information, I'm just	12	65, they're rear ended, they're in an
		13	
14	going back here, we would be able to		accident, pain and suffering, their claim is
15	identify age. I'm sorry, is your question	15	going to be mostly for pain and suffering.
16	do we know the age of the claimant?	16	MS. ELLIOTT:
17	KENNEDY, Q.C.:	17	A. Uh-hm.
18	Q. Yeah.	18	KENNEDY, Q.C.:
19	MS. ELLIOTT:	19	Q. So that person who might receive, in a minor
20	A. Yes, we know the date of birth, yeah.	20	injury, that might receive 20, 25, \$30,000
21	KENNEDY, Q.C.:	21	today would receive \$2,500 if a cap of
22	Q. Okay, do you know which chart that would be		\$2,500; \$5,000 if there's a cap of \$5,000,
23	in where you break them down in terms of	23	correct?
24	percentages?	24	MS. ELLIOTT:
25	MS. ELLIOTT:	25	A. I'm not under the impression that there was
23	MD. LLLIOTT.	20	The Thin not under the impression that there was
23		20	~
1	Page 86	1	Page 88
1	Page 86 A. I don't know, no, not off the top of my	1	Page 88 a cap of \$2,500 under consideration, we
1 2	Page 86 A. I don't know, no, not off the top of my head. There are so many.	1 2	Page 88 a cap of \$2,500 under consideration, we didn't cost that.
1 2 3	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.:	1 2 3	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.:
1 2 3 4	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page	1 2 3 4	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000?
1 2 3 4 5	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2).	1 2 3 4 5	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT:
1 2 3 4 5 6	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2). MS. ELLIOTT:	1 2 3 4 5 6	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but
1 2 3 4 5 6 7	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2). MS. ELLIOTT: A. Yes, it's there, the age.	1 2 3 4 5 6 7	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and
1 2 3 4 5 6 7 8	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2). MS. ELLIOTT: A. Yes, it's there, the age. KENNEDY, Q.C.:	1 2 3 4 5 6 7 8	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000.
1 2 3 4 5 6 7 8 9	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2). MS. ELLIOTT: A. Yes, it's there, the age. KENNEDY, Q.C.: Q. Okay, so the number of people and you know,	1 2 3 4 5 6 7 8 9	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000. KENNEDY, Q.C.:
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1 2 3 4 5 6 7 8 9 10 11	Page 86 A. I don't know, no, not off the top of my head. There are so many. KENNEDY, Q.C.: Q. Okay, let's look at page, if we look at page A(2), Appendix A(2). MS. ELLIOTT: A. Yes, it's there, the age. KENNEDY, Q.C.: Q. Okay, so the number of people and you know, a rough calculation indicates to me that it's approximately 15 percent of the	1 2 3 4 5 6 7 8 9 10 11	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000. KENNEDY, Q.C.: Q. Okay. But if it was \$5,000, that's what they would be entitled to.
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\end{array} $	<ul> <li>Page 86</li> <li>A. I don't know, no, not off the top of my head. There are so many.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, let's look at page, if we look at page A(2), Appendix A(2).</li> <li>MS. ELLIOTT:</li> <li>A. Yes, it's there, the age.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, so the number of people and you know, a rough calculation indicates to me that it's approximately 15 percent of the claimants were over the age of 60, does that sound right? Just look at the numbers there.</li> <li>MS. ELLIOTT:</li> <li>A. Sure.</li> <li>KENNEDY, Q.C.:</li> <li>Q. So a lot of these complainants or excuse me, claimants, would have no other claims other than general pain and suffering because a</li> </ul>	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\end{array} $	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000. KENNEDY, Q.C.: Q. Okay. But if it was \$5,000, that's what they would be entitled to. MS. ELLIOTT: A. There's no distinguishing in the process of the age of the claimant. The issue is the minor injuries that have been suffered by that claimant and if the claimant would meet the minor injury definition, that amount would be capped in the costing exercise. It does not matter the age of the claimant for the pain and suffering award.
$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\end{array} $	<ul> <li>Page 86</li> <li>A. I don't know, no, not off the top of my head. There are so many.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, let's look at page, if we look at page A(2), Appendix A(2).</li> <li>MS. ELLIOTT:</li> <li>A. Yes, it's there, the age.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, so the number of people and you know, a rough calculation indicates to me that it's approximately 15 percent of the claimants were over the age of 60, does that sound right? Just look at the numbers there.</li> <li>MS. ELLIOTT:</li> <li>A. Sure.</li> <li>KENNEDY, Q.C.:</li> <li>Q. So a lot of these complainants or excuse me, claimants, would have no other claims other than general pain and suffering because a lot of them don't work, correct? They're</li> </ul>	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\end{array} $	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000. KENNEDY, Q.C.: Q. Okay. But if it was \$5,000, that's what they would be entitled to. MS. ELLIOTT: A. There's no distinguishing in the process of the age of the claimant. The issue is the minor injuries that have been suffered by that claimant and if the claimant would meet the minor injury definition, that amount would be capped in the costing exercise. It does not matter the age of the claimant for the pain and suffering award. KENNEDY, Q.C.:
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$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\end{array} $	<ul> <li>Page 86</li> <li>A. I don't know, no, not off the top of my head. There are so many.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, let's look at page, if we look at page A(2), Appendix A(2).</li> <li>MS. ELLIOTT:</li> <li>A. Yes, it's there, the age.</li> <li>KENNEDY, Q.C.:</li> <li>Q. Okay, so the number of people and you know, a rough calculation indicates to me that it's approximately 15 percent of the claimants were over the age of 60, does that sound right? Just look at the numbers there.</li> <li>MS. ELLIOTT:</li> <li>A. Sure.</li> <li>KENNEDY, Q.C.:</li> <li>Q. So a lot of these complainants or excuse me, claimants, would have no other claims other than general pain and suffering because a lot of them don't work, correct? They're retired, a lot of people are retired at that</li> </ul>	$ \begin{array}{c} 1\\2\\3\\4\\5\\6\\7\\8\\9\\10\\11\\12\\13\\14\\15\\16\\17\\18\\19\\20\\21\\22\end{array} $	Page 88 a cap of \$2,500 under consideration, we didn't cost that. KENNEDY, Q.C.: Q. Okay, \$5,000? MS. ELLIOTT: A. I don't know what the decision will be, but we costed estimates of \$5,000, \$7,500 and \$10,000. KENNEDY, Q.C.: Q. Okay. But if it was \$5,000, that's what they would be entitled to. MS. ELLIOTT: A. There's no distinguishing in the process of the age of the claimant. The issue is the minor injuries that have been suffered by that claimant and if the claimant would meet the minor injury definition, that amount would be capped in the costing exercise. It does not matter the age of the claimant for the pain and suffering award. KENNEDY, Q.C.: Q. But what I'm suggesting to you is that there

	Page 89		Page 91
1	income wouldn't come into consideration.	1	Q. Yeah, so those 100 percent who are not at
2	MS. ELLIOTT:	2	fault, if a cap was brought in, then they
3	A. Well, we don't need to look at that. We're	3	would be subject to the cap for a minor
4	not costing a reduction in their loss of	4	injury, correct? Even though they're not at
5	income.	5	fault.
6	KENNEDY, Q.C.:	6	MS. ELLIOTT:
	Q. Okay. Let's also look at in Appendix (2),	7	A. Yes, that's correct, yes.
8	it appears that 55.8 percent or something	8	KENNEDY, Q.C.:
9	like that, 56 percent, 57, 58 percent of	9	Q. Now yesterday, I'm trying to remember where
10	claimants are female.	10	the due diligence, there was a comment, it
11	MS. ELLIOTT:	11	might be in conclusions, and you said we'd
12	A. Uh-hm.	12	come back to it, you wanted to think about
12	KENNEDY, Q.C.:	13	it. Page 16 of the Closed Claims Study,
13	Q. That there are a number of claimants who are	14	this was the comment about the third
15	7 percent, are between the ages of 15 and	15	parties, yeah, "This report should not
16	20.	16	replace the due diligence on behalf of any
17	MS. ELLIOTT:	17	such third party." First, who is the third
17	A. Uh-hm.	17	
10		10 19	party or third party you are referring to;
20	KENNEDY, Q.C.:	20	and secondly, what do you mean by the
$20 \\ 21$	Q. Three percent were under the age of 15. MS. ELLIOTT:	20 21	comment "should not replace due diligence"? MS. ELLIOTT:
$21 \\ 22$		21 22	
$\begin{bmatrix} 22\\23 \end{bmatrix}$	A. Yes, so we've provided this information so you'd have a sense of the distribution by	22	A. This is a standard wording that we would use in our reports and the reference is that
23		23 24	
24	age or gender or whether they're married or not.	24 25	we're preparing this for our client, the Board, and we are not—and this is for the
25	liot.	25	Doard, and we are not—and this is for the
	D 00		D 00
1	Page 90	1	Page 92 Deard's use and we've made this a public
1	KENNEDY, Q.C.:	1	Board's use and we've made this a public
2	KENNEDY, Q.C.: Q. At page—and my last question, I think, I	1 2 3	Board's use and we've made this a public document but we are not providing this
2 3	<ul><li>KENNEDY, Q.C.:</li><li>Q. At page—and my last question, I think, I have to come back to the one on due</li></ul>	3	Board's use and we've made this a public document but we are not providing this report for someone to rely upon it and say,
2 3 4	<ul><li>KENNEDY, Q.C.:</li><li>Q. At page—and my last question, I think, I have to come back to the one on due diligence yesterday, page 4 of your report.</li></ul>	3 4	Board's use and we've made this a public document but we are not providing this report for someone to rely upon it and say, oh gee, the insurance industry is going to
2 3 4 5	<ul><li>KENNEDY, Q.C.:</li><li>Q. At page—and my last question, I think, I have to come back to the one on due diligence yesterday, page 4 of your report.</li><li>MS. ELLIOTT:</li></ul>	3 4 5	Board's use and we've made this a public document but we are not providing this report for someone to rely upon it and say, oh gee, the insurance industry is going to change and I'm going to go buy stock or sell
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	P 02		p 05
	Page 93		Page 95
1	Q. Thank you, Mr. Kennedy. Mr. Gittens?	I	Q. Okay, so we got past that. The collection
2	MR. GITTENS:	2	of the data, as I understand from your
3	Q. Yes, the Board usually breaks at 11, I	3	testimony, was that you were looking for
4	wonder if there's any appetite for breaking	4	2000 files to be able to do the analysis you
5	now? It's up to you, I can proceed, I just	5	were asked to do.
6	wanted to make sure.	6	MS. ELLIOTT:
7	CHAIR:	7	A. That would be an ideal number for us, yes.
8	Q. Can you fill a half hour gainfully and then	8	MR. GITTENS:
9	we can break at 11? Would that –	9	Q. Okay. And what about 50 files, would that
10	MR. GITTENS:	10	have done your –
11	Q. Not a problem, that's easy.	11	MS. ELLIOTT:
12	CHAIR:	12	A. That would have been insufficient.
13	Q. Okay, we'll go with our original plan.	13	MR. GITTENS:
14	MR. GITTENS:	14	Q. Insufficient. So, 1000 files. I'm just
15	Q. Ms. Elliott, I thank you for your immense	15	trying to get a sense of where it becomes of
16	patience so far, but I'm afraid I have to	16	concern to you.
17	start now. From the questioning of Mr.	17	MS. ELLIOTT:
18	Kennedy, it's pretty obvious, I would think	17	A. Well, 1500 would be—typically we're working
10	that we have a certain concern about the	18 19	with 1500 files in these closed claim
$\frac{19}{20}$			
	involvement of the IBC in the gathering of	20	studies. So, more is better. MR. GITTENS:
21	this data, would you say you gathered that	21	
22	from his questioning?	22	Q. More is better, but 1500 would be, not your
23	MS. ELLIOTT:	23	cut off point, but you'd be able to do 1200,
24	A. That?	24	but you wouldn't have the degree of
25	MR. GITTENS:	25	confidence, I guess is the way to express
		23	connucie, i guess is the way to express
20	Page 94	20	Page 96
1	Page 94 Q. That IBC is solely in control of the	1	Page 96 that.
1 2	Page 94 Q. That IBC is solely in control of the gathering of the data here.	1 2	Page 96 that. MS. ELLIOTT:
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1 2	Page 94 Q. That IBC is solely in control of the gathering of the data here.	1 2	Page 96 that. MS. ELLIOTT:
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	Page 97		Page 99
1	A. Right. So, in our reference to that point	1	past, but at the end of the day, the stuff
2	is that IBC wasn't to go out to collect the	2	they gave you, you still had to say, hold
3	data and then say, oh, here's what we got	3	on, there's two companies here, 300 files
4	for you. That we would, before they went to	4	that geez, I can't use, I shouldn't be
5	collect the data, that we would make sure it	5	using.
6	would encompass all the information that we	6	MS. ELLIOTT:
	required to do the cost estimates that we	7	A. It's not that the files that they gave were
8	were asked to get.	8	not usable, they were additional files that
9	MR. GITTENS:	9	were missing. And as a result of that, we
10	Q. So, you ensured that the data points would	10	took out the entirety of the data for those
11	be there, it would be collected and brought	11	two companies. So, there's a little
12	back to you.	12	difference between saying the data that was
13	MS. ELLIOTT:	13	provided by the two companies was erroneous;
14	A. Yes.	14	it was incomplete.
15	MR. GITTENS:	15	MR. GITTENS:
16	Q. Alright. As Mr. Kennedy indicated during	16	Q. I never said it was erroneous.
17	the course of his questioning, the study was	17	MS. ELLIOTT:
18	not as, I would suggest to you, as rigorous	18	A. No, no, and I'm making it clear –
19	or as independent as the 2005 study. He	19	MR. GITTENS:
20	suggests that in this study, you didn't have	20	Q. I said you couldn't—you felt, at the end of
21	an independent medical examiner; you didn't	21	the day you shouldn't use that as part of
22	have an independent audit by an accounting	22	the process.
23	company; you didn't have an insurance	23	MS. ELLIOTT:
24	adjuster looking over the shoulders of the	24	A. Correct.
25	data collection and you didn't have the	25	MR. GITTENS:
	Page 98		Page 100
1	Page 98 Board taking a weekly phone call with the	1	Page 100 Q. Yet, on many, many occasions you keep
	Board taking a weekly phone call with the	1 2	Q. Yet, on many, many occasions you keep
1 2 3	Board taking a weekly phone call with the process to ensure things were going in the		
2	Board taking a weekly phone call with the	2	Q. Yet, on many, many occasions you keep telling the Board that IBC is the cat's
2 3	Board taking a weekly phone call with the process to ensure things were going in the appropriate way.	2 3	Q. Yet, on many, many occasions you keep telling the Board that IBC is the cat's pyjamas. I think that's a very old
2 3 4	Board taking a weekly phone call with the process to ensure things were going in the appropriate way. MS. ELLIOTT:	2 3	Q. Yet, on many, many occasions you keep telling the Board that IBC is the cat's pyjamas. I think that's a very old expression, but it was just the best thing
2 3 4 5	<ul><li>Board taking a weekly phone call with the process to ensure things were going in the appropriate way.</li><li>MS. ELLIOTT:</li><li>A. Right, and that said, the flip side is that</li></ul>	2 3 4 5	Q. Yet, on many, many occasions you keep telling the Board that IBC is the cat's pyjamas. I think that's a very old expression, but it was just the best thing in terms of data gathering. They're done
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	Page 101 Wall you're right and I'm sure there's	1	Page 103
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	A. Well, you're right and I'm sure there's	1	Q. Okay, that—how do you determine that's the
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	probably errors we've all made in our life	2	fact?
3	and we don't even know that we've made them,	3	MS. ELLIOTT:
4	but in this particular case, you know, what	4	A. Because I know it was companies in runoff
5	I do is check information. I don't, as I	5	that were in a separate system. I know that
6	said, we don't audit the data, but we	6	from rate filings that they were merging the
7	certainly review it, make sure that we have	7	entities and the runoff and the data that's
8	a good understanding and comfort with the	8	presented, that that is plausible and
9	data. I do many, many checks that are not	9	appears completely correct to me and answers
10	articulated in our report. And whether I do	10	why I thought there was a problem because of
11	that for rate filing review or any other	11	this. So, that said, that is separate issue
12	matter, I dig and I dig and I ask questions	12	from saying that the data that they give us,
13	and things get uncovered. But that's not to	13	the row by row and the completion of it,
14	say that I find everything, you know. I	14	that IBC did not provide appropriate
15	don't want to express that.	15	validation and check of that data in a
16	MR. GITTENS:	16	rigorous manner. The fact that some other
17	Q. Okay, so first of all—I'm sorry, I didn't	17	files over here, separate from Intact's
18	mean to cut you off. If I understand you	18	regular operation were missed is a separate
19	correctly, despite all the, let's call them	19	issue from IBC. They were not aware of that
20	checks and balances, that the IBC says it	20	being over there.
21	had or it applied in this particular case,	21	MR. GITTENS:
22	all the training it gave to all these	22	Q. From your perspective, that is, on other
23	people, all these three sets of training	23	words, a benign mistake on their part, as
24	sessions, despite all of that, but for you	24	opposed to a deliberate mistake. That's the
25	diligence on this matter, you realized that	25	way I understand you to be saying.
1	Page 102 that data was not complete and would have	1	Page 104 MS. ELLIOTT:
$\begin{vmatrix} 1\\2 \end{vmatrix}$	skewed the results.	2	A. Yes, I do not believe that was intentional
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	MS. ELLIOTT:	$\frac{2}{3}$	in any manner.
4	A. Correct, it would have made the savings	4	MR. GITTENS:
5	higher than I believe it would be otherwise.	5	Q. The odd thing about it is that that
6	MR. GITTENS:	6	particular mistake, if it had not been
7	Q. And –	7	discovered, would have resulted a mistake in
8	MS. ELLIOTT:	8	their favour for the introduction of the
9	A. But we want to make—I want to make sure that	9	cap.
10	I'm clear. This is a separate issue from	10	MS. ELLIOTT:
11	the quality of the data that's completed row	11	A. Well, I don't know if you want to say "their
12			
13	by row for each claimant. That's what they	12	favour" because if let's just be
1 1.7	by row for each claimant. That's what they were checking and validating. The companies	12 13	favour" because if, let's just be hypothetical here, if we said the percentage
	were checking and validating. The companies	13	hypothetical here, if we said the percentage
14	were checking and validating. The companies were asked, give us every file that is	13 14	hypothetical here, if we said the percentage savings reduction in costs would have been
	were checking and validating. The companies were asked, give us every file that is closed in this window of time. And as it	13	hypothetical here, if we said the percentage savings reduction in costs would have been 30 percent if we included that data, but in
14 15 16	were checking and validating. The companies were asked, give us every file that is closed in this window of time. And as it happened, they missed some because they're	13 14 15 16	hypothetical here, if we said the percentage savings reduction in costs would have been 30 percent if we included that data, but in fact, it was only 20 percent, and the
14 15 16 17	were checking and validating. The companies were asked, give us every file that is closed in this window of time. And as it	13 14 15 16 17	hypothetical here, if we said the percentage savings reduction in costs would have been 30 percent if we included that data, but in fact, it was only 20 percent, and the government decided to implement the cap and
14 15 16 17 18	were checking and validating. The companies were asked, give us every file that is closed in this window of time. And as it happened, they missed some because they're on a separate system. MR. GITTENS:	13 14 15 16	hypothetical here, if we said the percentage savings reduction in costs would have been 30 percent if we included that data, but in fact, it was only 20 percent, and the government decided to implement the cap and the Board said, okay Ms. Elliott, I'm going
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1	Page 105		Page 107
1	emerge as the actual saving. So, in fact,	1	different, how many files are closed and
2	no, it is not in their favour.	2	they felt it required to expand that 12
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	MR. GITTENS:	$\frac{2}{3}$	month window in order to meet the 2000
1			
	Q. But by that time the cap would have been	4	target. I guess we were pretty firm, we
5	imposed.	5	wanted 2000 when we had our discussion. So,
6	MS. ELLIOTT:	6	they went that route, but do I know that,
7	A. Yes, and the premiums would have been	7	you know, an adjuster said, I'm not going to
8	reduced lower than what would actually be—	8	do those and left them on the floor and
9	what we'd expect the actual costs to be.	9	didn't do it? I wouldn't know that.
10	So, it's not in their favour.	10	MR. GITTENS:
11	MR. GITTENS:	11	Q. Okay, so the fact of the matter then, there
12	Q. I see. In terms of the selection of this	12	hasn't been, to your satisfaction or any way
13	data, the files, my understanding from you	13	that you can verify that the instructions
14	was that you requested 2000 closed files for	14	that you gave were followed to the T. We
15	a one year period.	15	know there were 300 that you had to discard,
16	MS. ELLIOTT:	16	but in addition to that you have no
17	A. Our estimate was that over that one year	17	mechanism of knowing that the basic
18	period there would be approximately 2000	17	instruction of all the files for that period
10	claimant files.	18 19	1
	MR. GITTENS:		should be part of the study.
20		20	MS. ELLIOTT:
21	Q. Right. And that was for every file that was	21	A. Right. I mean, we had a target number and
22	closed by these companies during that period	22	so, I mean, they either have to go back into
23	to get to that 2000 number.	23	June of 2016 and May 2016 to get the number.
24	MS. ELLIOTT:	24	It wasn't that they said oh here, give us
25	A. Correct.	25	what you have for 12 months and then you're
	Page 106		D 100
	-		Page 108
1	MR. GITTENS:	1	done. They had a target number to achieve.
1 2	MR. GITTENS: Q. What mechanism was in place to ensure that	1 2	-
	MR. GITTENS:	1 2 3	done. They had a target number to achieve.
2	MR. GITTENS: Q. What mechanism was in place to ensure that		done. They had a target number to achieve. So, I'm not sure what the purpose would be
2 3	<ul><li>MR. GITTENS:</li><li>Q. What mechanism was in place to ensure that they gave you all the files for that period,</li></ul>	3	done. They had a target number to achieve. So, I'm not sure what the purpose would be to not give us what they had in the 12
2 3 4 5	<ul><li>MR. GITTENS:</li><li>Q. What mechanism was in place to ensure that they gave you all the files for that period, or that they gave IBC all the files for that period?</li></ul>	3 4 5	done. They had a target number to achieve. So, I'm not sure what the purpose would be to not give us what they had in the 12 months and then do other ones to get the target number. It's the same amount of
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	of months and get them those. What's wrong	1	enough to 2000 and they did do so by adding
2	with that?	2	on additional months until that target was
3	MS. ELLIOTT:	3	met. They might have had to go back –
4	A. Well, your -	4	MR. GITTENS:
5	MR. GITTENS:	5	Q. But they didn't tell you that they had added
6	Q. I'm just giving you a hypothetical.	6	on a number of months until they had given
7	MS. ELLIOTT:	7	you the files.
8	A. I'm not aware that there claims staff would	8	MS. ELLIOTT:
9	make that decision, you know, that –	9	A. That's correct.
10	MR. GITTENS:	10	MR. GITTENS:
11			
	Q. We can—these types of decisions can be made		Q. So, they went about this without consulting
12	on an individual basis, but they can also be	12	with you—I would have thought it would have
13	systemic. As you can tell, we have a high	13	been a reasonable email, reasonable phone
14	level of suspicion of what the IBC does.	14	call, "hey Paula, we can't make the 2000, we
15	That's a fact. So, I'm saying to you –	15	might have to go back to May and perhaps
16	MS. ELLIOTT:	16	even April", but that never happened.
17	A. Yes, you're asking me a hypothetical	17	MS. ELLIOTT:
18	question, did anyone go in and make sure	18	A. No, I found—yes, that's—my knowledge of it
19	that, I guess, just say they hid files and	19	was when I received the data file.
20	didn't include them and did anyone check	20	MR. GITTENS:
21	that, that they did such a thing? No, I'm	21	Q. And you didn't figure that was odd? You
22	not aware they were asked to provide it. If	22	didn't figure that was –
23	they didn't, I mean, I wouldn't know –	23	MS. ELLIOTT:
23	MR. GITTENS:	23	
25	Q. And these folks would never lie. So, based	25	why.
	Page 110	-	Page 112
1 1	on that presumption, you can move forward		
		1	MR. GITTENS:
2	and say, well, I'm sure they gave me	2	Q. Oh, you felt it was odd enough to inquire
3	and say, well, I'm sure they gave me everything they had. Isn't that the basis	3	Q. Oh, you felt it was odd enough to inquire immediately.
3 4	and say, well, I'm sure they gave me everything they had. Isn't that the basis on which you're moving forward?	3 4	<ul><li>Q. Oh, you felt it was odd enough to inquire immediately.</li><li>MS. ELLIOTT:</li></ul>
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1	described and it's the same process that was	1	MS. ELLIOTT:
2	followed for the Nova Scotia closed claim	2	Q. Yeah, well so in that case we have or in
3	study and for the New Brunswick closed claim	3	this case, in Newfoundland, we have the
4	study where we relied upon that data and	4	deductible. And the deductible is a little
5	completed similar studies for those	5	more problematic to estimate in some ways.
6	superintendents of each of those two	6	There is an erosion factor. We had hoped
7	provinces. Yes, so that is the process.	7	that there would be larger percentage
8	MR. GITTENS:	8	savings with the deductible. And it has
9	Q. Because it's was a similar process used by	9	shown that there was pretty limited impact
10	others doesn't mean it was right process. I	10	of the deductible.
11	mean, you're telling me of a consistently-we	11	MR. GITTENS:
12	would be consistently wrong or consistently	12	Q. Let me see if I can translate what you just
13	inadequate in terms of what it is you're	13	said. Are you saying that you guys got it
14	trying to do here, the level of confidence.	14	wrong in 2005? That's what I'm hearing, but
15	MS. ELLIOTT:	15	I'm hearing it in actuarial speak.
16	A. Well, I understand what you're saying, but	16	MS. ELLIOTT:
17	my test of reasonableness is that our	17	A. Well, maybe we didn't get it wrong, maybe
18	finding that we calculated based on the data	18	the system changed and there was more
19	provided by IBC in a similar format of	19	erosion and more inflation of claims that we
20	collecting and validating and checking, our	20	anticipated. So, yeah, it was a difficult
21	estimate has proven to be reasonable in the	21	one, but in hindsight when we look back, and
22	data that has emerged in those provinces.	22	a deductible is a little different because—
23	And you know, I take—it gives me confidence	23	and when we say erosion, there's an
24	in the process and yes, so IBC has done this	24	inflation, there's an incentive to offset
25	before; I've been satisfied with it. They	25	that deductible and to the degree that that
	Page 114		Page 116
1	did it again this circumstance and I'm	1	happens is very hard to predict what
2	satisfied with it. Albeit, they extended	2	consumer behaviour might be. So, looking
3	they period of time, a couple of months to	3	forward to reflect consumer behaviour in
4	add in more files to get the 2000 target and	4	such a regime is very difficult.
5	albeit that in hindsight we discovered to	5	MR. GITTENS:
6	companies has issues with, sort of, off site	6	Q. Okay, let me just—one more step on that. I
7	run off, older files, companies that-and I	7	gather you're saying to some effect, not
8	chose to exclude it.	8	that you were wrong, but that you didn't get
9	MR. GITTENS:	9	it right before the fact that there was a
10	Q. And no audit of them by any independent	10	deductible as opposed to a cap. And you
11	body?	11	know, it's hard to really tell what results
12	MS. ELLIOTT:	12	come from that. Is that what I'm hearing?
13	A. Similar to the Nova Scotia/New Brunswick	13	MS. ELLIOTT:
14	situation, yeah.	14	A. A cap is cleaner, a cap is cleaner, here in
15	MR. GITTENS:	15	this number.
16	Q. I'll just touch on this question because you	16	MR. GITTENS:
17	relied now on saying that your figures have	17	Q. Right and the deductible was more difficult
18	been validated or justified in the Nova	18	to figure out what the figures would be in
19	Scotia and New Brunswick situations. And	19	the future years.
20	Mr. Kennedy had brought you to the issue of	20	MS. ELLIOTT:
21	the Newfoundland experience back in 2005.	21	A. Yes.
22	Is it your position as well that the figures	22	MR. GITTENS:
23	that you or your company produced back then		Q. Okay. But in fact, those future years, that
24	have been also validated in the years that	24	mistake, that—not mistake, if you don't like
25	followed?	25	that word—that differential between what you
25			

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1	expected and what in fact happened resulted	1	reduce their costs to the extent you
2	in the insurance companies making quite	2	expected?
3	larger profits in the 2003, 2004, 2005, 2006	3	MS. ELLIOTT:
4	and 2007 years.	4	A. Well, it's not so much that they got to
5	MS. ELLIOTT:	5	reduce their costs. The costs didn't emerge
6	A. No, I beg to differ.	6	as low as expected with the deductible.
7	MR. GITTENS:	7	MR. GITTENS:
8	Q. Okay. That's what I want to hear.	8	Q. Okay, so they didn't have –
9	MS. ELLIOTT:	9	MS. ELLIOTT:
10	A. Because if we said that there might and I	10	A. The premium was reduced.
11	-	10	MR. GITTENS:
	don't remember the number, a reduction in		
12	costs of 10 percent because of a 2500	12	Q. The cost didn't raise as much as was
13	deductible, and in fact, there were no-and	13	expected or would it raise more?
14	so companies had to reduce their rates for	14	MS. ELLIOTT:
15	that. The Board ordered you have to reduce	15	A. The cost didn't reduce. Because of the
16	your rates for this deductible and in fact,	16	deductible we would expect a reduction cost
17	there was no reduction in costs. The	17	and that didn't materialize, but at the same
		18	
18	companies did not win with that, but the		time the companies were required to reduce
19	opposite.	19	their premium to reflect the anticipation
20	MR. GITTENS:	20	that the costs would go down.
21	Q. I see. Companies didn't win, but the public	21	MR. GITTENS:
22	definitely lost.	22	Q. Okay. So, we'll get to those and the
23	MS. ELLIOTT:	23	numbers later, I guess. There's something I
24	A. You say increased profits.	24	just didn't quite understand and this is
25	MR. GITTENS:	25	just to help educate me, I think. You were
		23	
	Page 118		Page 120
1	Q. Because they didn't get the reduction in	1	talking about, when you did the taxi study
2	their premiums that was promised -	2	and so on, everything seemed to be dependent
3	MS. ELLIOTT:	3	on the year of the event.
4	A. No, I'm sorry, you're not understanding me.	4	MS. ELLIOTT:
5	I said that the companies would be required	5	A. Right, the accident year.
	· ·		MR. GITTENS:
6	to reduce their premiums by the 10 percent.	6	
7	So, the Board would say there should be, we	7	Q. The accident year.
8	anticipate and I'm hypothetically saying 10	8	MS. ELLIOTT:
9	percent, there will be a reduction in costs	9	
10			A. Yes.
10	because of this deductible. And therefore	10	A. Yes. MR. GITTENS:
10 11	because of this deductible. And therefore	10	MR. GITTENS:
11	because of this deductible. And therefore you companies need to reduce your rates to	10 11	MR. GITTENS: Q. Let's pick a year, 2012, there were so many
11 12	because of this deductible. And therefore you companies need to reduce your rates to reflect this 10 percent reduction that's	10 11 12	<ul><li>MR. GITTENS:</li><li>Q. Let's pick a year, 2012, there were so many events in 2012, you were able then to</li></ul>
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11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>because of this deductible. And therefore you companies need to reduce your rates to reflect this 10 percent reduction that's anticipated. And so that would flow through to the premium immediately with reform, but—so the consumer gets the lower premium, but a year or two passes and that reduction doesn't materialize. And so the consumer got the lower rate, but the companies didn't get the lower cost. So, I'm not sure about the winner or loser, but –</li> <li>MR. GITTENS:</li> <li>Q. So, do I understand you to be saying as a</li> </ul>	10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>MR. GITTENS:</li> <li>Q. Let's pick a year, 2012, there were so many events in 2012, you were able then to calculate the premiums that were paid in the year 2012 and you were able to say there were X number of events in 2012, but you didn't care—I use that word loosely—when those claims settled. It could have been 2012, '13, '14, '15, by six years out, you felt most of them would have been, but –</li> <li>MS. ELLIOTT:</li> <li>A. That's an accident year, yes.</li> <li>MR. GITTENS:</li> </ul>

č	Page 123
1 had—I don't remember the number now—three 1 certain date and then project	-
2 hundred and something events, whatever it 2 forward.	0
3 might have been. When we come to the closed 3 MR. GITTENS:	
4 case study, you say well, I really don't 4 Q. Okay, so you're projecting	them forward for
5 care what year the event occurred. I only 5 different years. The basis f	
6 care about, for this year that I'm picking, 6 that will paid in that year w	
7 should have been a 12 month period, that 12 7 related to these files that we	
8 month period for that year, I only care 8 MS. ELLIOTT:	ere erosea.
9 about what file closed in that year. 9 A. These are completely differ	rently things
10MS. ELLIOTT:10Completely different things	
11 A. That's correct. 11 MR. GITTENS:	•
12MR. GITTENS:12Q.Completely different, got y	you okay Inlan
13 Q. And that file could have started in 2012; it 13 to just go through the report	
14 could have started '13, '14, '15, '16, '17. 14 points in the report, Madan	
15So, if you picked '16 as the year, I think15don't know if you would lit16June of one to—July of one to June 30 of the16I can tell you I will be five	
	now, i can go
5	
55	
	)() a m )
21inconsistencies here, I'm sure there is, I21(BREAK - 11:0)22just don't understand.22(RESUME - 11:0)	,
J J	50 a.m.)
23 MS. ELLIOTT: 24 A Sum So it is called a closed claim 24 O Pack to sum Ma Cittana a	
24 A. Sure. So, it is called a closed claim 25 MB CUTTENS	carry on.
25study, so we want closed claims.25MR. GITTENS:	
Page 122	Page 124
1 MR. GITTENS: 1 Q. Thanks you, Madam Chair.	
2 Q. I may have missed that word, but go on. 2 you now, Ms. Elliott, to you	-
3 MS. ELLIOTT: 3 just want to touch a couple of	
4 A. And that's integral to it. So, we're 4 there that frankly I don't un	
5 looking for a period of time when the claims 5 I'm sure you can give expla	
6 are closed and, of course, the claim will 6 prevent me from going off i	-
7 close within this window of time, but we 7 direction. You've already in	-
8 don't know when the claim occurred. We're 8 introduction that you had the	
9 just trying to get a sample of claims that 9 the percentages of the files t	
10are closed and we're trying to get as10brought to you that you turn	•
11 current as possible, a sample of claims that 11 you indicated in the course of	
12 are reflecting the current environment, of 12 collection process, page 1, it	
13 how much is being paid. So, that's why we 13 second to last paragraph, "th	
14 would look for closed claim sample. What 14 was allocated proportionated	
15 you referred to earlier is typically 15 insurers based on market sh	
16 referred to as rate making data when we look 16 you indicate that in the cour	
17 at a particular year, what accidents 17 collection process, 12 month	
18 occurred in that year and how much will they 18 insufficient and then you inc	
19 ultimately cost. And then we take that year 19 that you rejected, in the next	t page, page 2,
20 and try to project it forward for pricing 20 second paragraph, "due to it	ts higher
21 purposes. What would that be from 2012, what 21 distribution of claimants with	th more recent
22 would that look like, those same claims and 22 accident dates, this was cause	sed by system
23 projected forward, what would the cost level 23 issues that prevented the rep	oorting of
be in 2018 and 2019. So, we're dealing with 24 claims with older accident d	
25 sort of a set, claims that occurred in a 25 we've already massaged that	t enough to know
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	that you're saying that the more recent		MR. GITTENS:
2	files would have resulted in a lower cost.	2	Q. And I take it, the next statement is rather
3	MS. ELLIOTT:	3	obvious, your feelings are that even using
4	A. Typically claims that are closed more	4	75 percent of the population as opposed to
5	recently would be easier, smaller files.	5	100 percent of the population doesn't change
6	MR. GITTENS:	6	your results materially.
7	Q. Right. And as a result of your	7	MS. ELLIOTT:
8	determination, 236 of those ones weren't	8	A. Correct, I'm satisfied with the sample size,
9	accompanied by older files.	9	yes.
10	MS. ELLIOTT:	10	MR. GITTENS:
11	A. That's correct.	11	Q. Somehow I knew we would get there. Let's
12	MR. GITTENS:	12	move on, just wanted to touch a couple of
13	Q. You decided to leave that out.	13	other things. Now, if you go to page 5, it'
14	MS. ELLIOTT:	14	the number 3, accounts paid. I was looking
15	A. The sample from those two companies was	15	at the general damages stated as the second
16	incomplete.	16	item in that list of 57.3 million.
17	MR. GITTENS:	17	MS. ELLIOTT:
18	Q. Right. So, in terms of the proportion that	18	A. Um-hm.
19	you had started off with, you said-as I said	19	MR. GITTENS:
20	in the previous paragraph that you had	20	Q. That tells us that then as a result of these
21	broken it down proportionately amongst the	21	closed claims that span the period of about
22	insurers based on market share by dropping	22	14 months, around 2016 when they were closed
23	those two. You simple ignored that and kept	23	that the general damages paid out, I guess,
24	the proportion as it was, is that correct?	24	was 57.3 million. Am I getting that right?
25	MS. ELLIOTT:	25	MS. ELLIOTT:
	Page 126		Page 128
1	A. Well, we used the data that was submitted by	1	A. Correct.
2	the other companies, yes.	2	MR. GITTENS:
3	MR. GITTENS:	3	Q. Okay, but we are not able to correlate that
4	Q. Yes. So, their proportion of, when you have	4	with the cost of the associated premiums
5	let's say, 1977 files, they represent-each	5	that were paid for those particular files or
6	of those other companies represented a	6	that particular year because the years that
7	particular proportion of that 1977.	7	you calculate are based, as we said earlier,
8	MS. ELLIOTT:	8	what I called apples –
9	A. Right. The mass changes, there's no way	9	MS. ELLIOTT:
10	around that.	10	A. I'm sorry, let me interrupt here. There's
11	MR. GITTENS:	11	not premiums associated with this. This
12	Q. Okay, so then you changed it to take their	12	could be a passenger in the car, a
13	number of files in proportion to the 1741.	13	bicyclist, a pedestrian, not every claimant
14	MS. ELLIOTT:	14	pays a premium.
15	A. Um-hm.	15	MR. GITTENS:
16	MR. GITTENS:	16	Q. Okay.
17	Q. So, in fact, this report as a whole now	17	MS. ELLIOTT:
18	doesn't reflect the entire population of	18	A. So, it's not an issue of associating the
19	files for that year period.	19	amounts paid to claimants regardless of how
20	MS. ELLIOTT:	20	they're involved in this accident, event to
21	A. It represents a market share, 74 percent.	21	premiums that they—they may not even be
22	MR. GITTENS:	22	drivers, you know. So, there's no
23	Q. Seventy-four/seventy-five percent.	23	discussion here of premiums in any manner
24	MS. ELLIOTT:	1 24	
1		24	whatsoever.
25	A. Yes, um-hm.	24 25	MR. GITTENS: (700)427 5028 Bage 125 Bage 125

	Page 129		Page 131
1	Q. So, my question that follows from that is,	1	did it cost them to run this business?
2	where is there, in the report, and I'm sure	2	MS. ELLIOTT:
3	it's there, I just can't figure it out, some	3	A. Yes, I understand your question and what
4	correlation between the fact that it costs	4	you're trying to understand, but this report
5	the industry 57.3 million, let's say 2016	5	is a description of the data that was
6	was the year, is that $-$	6	collected. We also provide other reports
7	MS. ELLIOTT:	7	regarding the profit for the industry. And
8	A. That's fine, sure.	8	we will get to discussing that, but there's
9	MR. GITTENS:	9	no premium discussion here. There's no
10	Q. June 1, 2016 to—July 1, 2016 to June 30,	10	discussion on profit or anything of that
11	2017, let's call that year.	10	nature in this. So, your questions
11	MS. ELLIOTT:	12	regarding profit and premium are—I have no
12	A. Um-hm.	12	answers for you with regards to this
13	MR. GITTENS:	13 14	document.
		14	MR. GITTENS:
15	Q. Is there a corresponding cost to the		
16	insurance—I'm sorry, is there a	16	Q. Fair enough, that's to clarify in my own
17	corresponding income to the insurance	17	mind, thank you. Moving on. So, therefore
18	industry for that period that we could find	18	in this report, if I refer to revenues, I'm
19	here?	19	referring to apples, the premiums and this
20	MS. ELLIOTT:	20	really is oranges, this is the costs. I'm
21	A. This is not an exercise to match apples to	21	trying to compare apples to oranges and
22	apples of these claims that were closed in	22	that's a no go.
23	this period of time. The purpose of this	23	MS. ELLIOTT:
24	exercise is to get a sample of claims that	24	A. This is a description of a closed claim
25	were closed in a window of time. And then	25	study, the data that was collected, the
	Page 130	1	Page 132
	to review that sample to say if you	1	sample data. MR. GITTENS:
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	received—you were involved in a bodily	2	
3			
	injury claim and you received compensation	3	Q. Okay, if you would move to the next page,
4	for your injuries that occurred, what were	3 4	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6
4 5	for your injuries that occurred, what were those compensations and how would they	3 4 5	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non-
4 5 6	for your injuries that occurred, what were those compensations and how would they change if there was a cap or deductible	3 4	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non- pecuniary costs, often commonly referred to
4 5 6 7	for your injuries that occurred, what were those compensations and how would they change if there was a cap or deductible applied. It is not a pricing exercise. It	3 4 5 6 7	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non- pecuniary costs, often commonly referred to as pain and suffering were also provided on
4 5 6 7 8	for your injuries that occurred, what were those compensations and how would they change if there was a cap or deductible applied. It is not a pricing exercise. It is completely separate. There's no	3 4 5 6 7 8	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non- pecuniary costs, often commonly referred to as pain and suffering were also provided on a gross of deductible basis". Could you
4 5 6 7 8 9	for your injuries that occurred, what were those compensations and how would they change if there was a cap or deductible applied. It is not a pricing exercise. It is completely separate. There's no discussion here of equating what may be a	3 4 5 6 7 8 9	Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non- pecuniary costs, often commonly referred to as pain and suffering were also provided on a gross of deductible basis". Could you please explain?
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4 5 6 7 8 9 10 11 12 13 14 15 16	<ul> <li>for your injuries that occurred, what were those compensations and how would they change if there was a cap or deductible applied. It is not a pricing exercise. It is completely separate. There's no discussion here of equating what may be a pedestrian or bicyclist receive for an injury, an event they were in with the premium that the driver might have paid. There's no equation here. It's not done.</li> <li>MR. GITTENS:</li> <li>Q. Okay, so if we—and I have to admit, I am as guilty as the next uninformed person, when I</li> </ul>	3 4 5 6 7 8 9 10 11 12 13 14 15 16	<ul> <li>Q. Okay, if you would move to the next page, please, page 6. And at the bottom of page 6 you make a footnote that says, "Non-pecuniary costs, often commonly referred to as pain and suffering were also provided on a gross of deductible basis". Could you please explain?</li> <li>MS. ELLIOTT:</li> <li>A. Sure, right now the system in Newfoundland is that a \$2,500.00 deductible would apply to the non-pecuniary award. And so we asked—so every claimant who would have an award, more than 2,500 should first have—maybe their award was \$3,000.00 for pain and</li> </ul>
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	Daga 122		Daga 125
1	Page 133	1	Page 135
1	wanted to know what the amount would be		this province who collected an award gave
2	before the \$2,500.00 deductible was taken	2	either the government or the insurance
3	off. So, we refer to that as to the gross	3	companies \$2,500.00 before they could start
4	before you take the 2,500 off and then after	4	even taking anything out.
5	the 2,500 was off.	5	MS. ELLIOTT:
6	MR. GITTENS:	6	A. I'm sorry, it takes into account the amount
7	Q. So, all the figures you've used here have	7	that was paid to the claimant. The regime
8	presumed essentially, if we word it another	8	in this province is that there's a
9	way, that the claimant received that 2,500.	9	deductible across all claimants of \$2,500.00
10	The claim itself was –	10	deductible. So, we reflected the amount
11	MS. ELLIOTT:	11	paid to the claimant.
12	A. I've received information that says this is	12	MR. GITTENS:
12		12	
	the amount of money paid to the claimant and it would in all areas have $a = 2500.00$		Q. Okay. Moving on. I will be jumping now to
14	it would, in all cases, have a \$2,500.00	14	page 13. And my learned friend, Mr.
15	deductible. And we also asked how much the	15	Kennedy, did deal with this, but as I go
16	award would have been without the deductible	16	through to summarize, the third to last
17	because it's possible someone would have	17	paragraph, the last line does say, and
18	been awarded a thousand dollars and ended up	18	you're referring now to the numbers that you
19	receiving zero because the deductible would	19	referenced in New Brunswick and Nova Scotia
20	have applied. So, we ask for those two	20	and you say "we provide the following
21	numbers.	21	summary of the responses which were not
22	MR. GITTENS:	22	verified by IBC".
23	Q. Okay. So, the figures you use in this	23	MS. ELLIOTT:
24	report, you got to work with me here, I'm	24	A. That's correct.
25	not the brightest guy. I'm trying to figure	25	MR. GITTENS:
	Page 134		Page 136
	1 age 154		1 426 130 1
1 1	this out. The figures you use in this	1	
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$	this out. The figures you use in this	1	Q. And your intention in that was to suggest
2	report include the \$2,500.00 deductible.	2	Q. And your intention in that was to suggest what, I'm not quite sure.
2 3	report include the \$2,500.00 deductible. When you use fifty three point whatever	2 3	<ul><li>Q. And your intention in that was to suggest what, I'm not quite sure.</li><li>MS. ELLIOTT:</li></ul>
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· .	Page 137		Page 139
1	MS. ELLIOTT:	1	MS. ELLIOTT:
2	A. No, it was in the closed claim study sample.	2	A. I don't understand your question, sorry.
3	It was collected, filled in by the adjuster.	3	MR. GITTENS:
4	I mean, filling in the role of data that's	4	Q. You just told me, if I understood you
5	collected and they're unable to verify that	5	correctly, and it could be a
6	information.	6	misunderstanding, I have a tendency to do
7	MR. GITTENS:	7	that sometimes, but you indicated that the
8	Q. Okay, so that is the same as what we have	8	information that was put in by the adjusters
9	here.	9	or whoever in New Brunswick and Nova Scotia,
10	MS. ELLIOTT:	10	that IBC had, IBC did not do any exercise,
11	A. What do you have here?	11	didn't verify that information, they gave it
12	MR. GITTENS:	12	essentially raw without a verification
13	Q. In this report that you used from IBC.	13	process?
13	MS. ELLIOTT:	14	MS. ELLIOTT:
15	A. No, it's a completely—I'm being very clear	15	A. Sorry, IBC collected or managed the
15	and IBC was very clear in Item No. 7 of	16	collection, the training, the validation,
17	their instructions that we referred to	10	the verification of the data.
17		17	MR. GITTENS:
	earlier today. That was one of the items		
19	listed by IBC that they were unable to	19	
20	validate or verify that data. And I	20	MS. ELLIOTT:
21	referenced it here as well so the reader is	21	A. Yes, and here in Newfoundland.
22	aware of that.	22	MR. GITTENS:
23	(11:45 a.m.)	23	Q. All right.
24	MR. GITTENS:	24	MS. ELLIOTT:
25	Q. Is this data any different than the data	25	A. And in this province for this Closed Claim
	Page 138		Page 140
			c
1	that-the data in Nova Scotia and New	1	Study, we asked for additional information
$\begin{vmatrix} 1\\2 \end{vmatrix}$	Brunswick any different than the data that	1 2	Study, we asked for additional information which was not asked for in the two other
$ \begin{array}{c c} 1\\ 2\\ 3 \end{array} $	Brunswick any different than the data that you received from Newfoundland.	3	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information
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3	<ul><li>Brunswick any different than the data that you received from Newfoundland.</li><li>MS. ELLIOTT:</li><li>A. Well, this is different, we're asking—this</li></ul>	3	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the
3	Brunswick any different than the data that you received from Newfoundland. MS. ELLIOTT:	3	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the
3 4 5	<ul><li>Brunswick any different than the data that you received from Newfoundland.</li><li>MS. ELLIOTT:</li><li>A. Well, this is different, we're asking—this</li></ul>	3 4 5	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the
3 4 5 6	<ul><li>Brunswick any different than the data that you received from Newfoundland.</li><li>MS. ELLIOTT:</li><li>A. Well, this is different, we're asking—this is not what injury did that claimant have.</li></ul>	3 4 5	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the injuries that were suffered by that
3 4 5 6 7	<ul><li>Brunswick any different than the data that you received from Newfoundland.</li><li>MS. ELLIOTT:</li><li>A. Well, this is different, we're asking—this is not what injury did that claimant have. We're asking the adjuster to look at this</li></ul>	3 4 5 6 7	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the injuries that were suffered by that claimant, would they meet the New Brunswick
3 4 5 6 7 8	<ul> <li>Brunswick any different than the data that you received from Newfoundland.</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is different, we're asking—this is not what injury did that claimant have. We're asking the adjuster to look at this file and assess if this claimant had this</li> </ul>	3 4 5 6 7 8	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the injuries that were suffered by that claimant, would they meet the New Brunswick definition of a minor injury, and the same
3 4 5 6 7 8 9	<ul> <li>Brunswick any different than the data that you received from Newfoundland.</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is different, we're asking—this is not what injury did that claimant have. We're asking the adjuster to look at this file and assess if this claimant had this injury in the province of Nova Scotia and</li> </ul>	3 4 5 6 7 8 9	Study, we asked for additional information which was not asked for in the two other studies, and one piece of that information was would the adjuster believe that the claimant, with its attributes and the injuries that were suffered by that claimant, would they meet the New Brunswick definition of a minor injury, and the same for Nova Scotia. It was a judgment
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	5 444		
	Page 141	1	Page 143
	MR. GITTENS:	1	A. There are no claims that closed during the
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	Q. Got you, all right then. Moving on then to	2	window of time that were from those accident
3	page 15, it's fair to say then, Ms. Elliott,	3	years.
4	that based on what you've said so far and	4	MR. GITTENS:
5	the way you made your final comments on page	5	Q. I don't know, but don't you find that odd?
6	15, that we can say a number of things.	6	I mean, you had claims closed that started
7	Number 1, you relied on the IBC for the	7	in 2002, you had one there. You had claims
8	collection, completeness and accuracy of the	8	closed in 2005 that started in 2005, but for
9	information entirely?	9	some year no claims started in 2003 and
10	MS. ELLIOTT:	10	2004?
11	A. Yes, they were responsible for collecting,	11	MS. ELLIOTT:
12	yeah.	12	A. No, it's, I mean, really quite thin. I
13	MR. GITTENS:	13	mean, there's one from 2002.
14	Q. Right. Secondly, that IBC did not bring to	14	MR. GITTENS:
15	your attention that it expanded the	15	Q. Yeah.
16	timeframe or that it had companies that did	16	MS. ELLIOTT:
17	not have full information, the information	17	A. So I don't find that odd. You're going back
18	was incomplete? They did not bring that to	18	– I don't know what that is, 14, 13 years
19	your attention before submitting that	19	that we didn't have a claim closed that was
20	information to you?	20	that old.
21	MS. ELLIOTT:	21	MR. GITTENS:
22	A. Yes. Certainly, I have no email or	22	Q. For a two year period? I'm just saying it
23	recollection of being told that there would	23	strikes me as odd that you had one from
24	be an expansion to collect the target that I	24	2002, but nothing from '03, nothing from
25	requested, the 2000, but they took the	25	'04, and then in '05 you had three; '06,
	Page 142		Page 144
1	initiative to achieve that goal.	1	three; '07, six; and '08, five, and then you
2	initiative to achieve that goal. MR. GITTENS:	2	three; '07, six; and '08, five, and then you start the bigger numbers because you're
	initiative to achieve that goal. MR. GITTENS: Q. I understand, and I'm not going to go into	2 3	three; '07, six; and '08, five, and then you start the bigger numbers because you're getting closer.
2 3 4	initiative to achieve that goal. MR. GITTENS:	2	three; '07, six; and '08, five, and then you start the bigger numbers because you're
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1		Page 145	1	Page 147
1		representation, you know, did the person	1	A. Well, of course, I can't. It's only so much
2		have legal representation and there was a	2	data there, 35 injury types. It's not
3		"yes" by 1,426 people, and there was no	3	possible to show it all here.
4		legal representation for 315, but, in fact,	4	MR. GITTENS:
5		that turns out to be about 82 percent of the	5	Q. Right, all it's saying there is 80 percent
6		people had legal representation and about 18	6	of the people who had lawyers got 95 percent
7		percent didn't. Is that correct, am I	7	of the claim?
8		reading that correctly?	8	MS. ELLIOTT:
9	MS. El	LLIOTT:	9	A. Yeah.
10	A.	Yes.	10	MR. GITTENS:
11	MR. G	ITTENS:	11	Q. And the 18 percent that didn't have lawyers
12	Q.	Okay, and then when you look at the	12	got 5 percent of the total payouts?
13		settlements, you notice that the people who	13	MS. ELLIOTT:
14		had lawyers received 95 percent of the	14	A. That's what it tells us.
15		settlements as opposed to the 18 percent who	15	MR. GITTENS:
16		didn't, and they appear to have only	16	Q. I admitted at the start that I was looking
17		received about 5 percent of the settlement,	17	at that from the perspective of, gee, that
18		is that correct?	18	tells me I have some value, but thank you
19	MS. El	LLIOTT:	19	very much for assisting me in that regard.
20	A.	94 and 6 percent distribution on the non-	20	Thank you, Commission.
21		pecuniary amount, and then on the total	21	CHAIR:
22		distribution –	22	Q. Thank you, Mr. Gittens. Mr. Fraize.
23	MR. G	ITTENS:	23	FRAIZE, Q.C.:
24	Q.	Okay, and as I say, this is purely for my	24	Q. Yes, I have a few questions. I'm going to
25	C C	benefit to elucidate me, but are you telling	25	pick up where you made a statement before
		Page 146		Page 148
1		me that those figures say that if you have a	1	the break. You said that insurance
2		lawyer, you get about 15 percent better	2	companies did not win. I think you made
$\overline{3}$		result; 82 percent with lawyer where they	3	that statement. Do you agree, whether we're
4		collected 95 percent of the settlement, and	4	talking about a cap or a deductible, it's
5		those 18 percent who didn't have lawyers	5	the victim that loses?
6		only collected 4 percent, 5 percent?	6	MS. ELLIOTT:
		LLIOTT:	7	A. Well, I don't –
8		No, I'm not making any inference. We're	8	FRAIZE, Q.C.:
9		just stating those that had legal	9	Q. It's the victim that's affected?
10		representation, what percentage that had	10	MS. ELLIOTT:
11		legal representation and how those costs	11	A. The context there was with respect to
12		were allocated amongst the heads of damages,	12	answering about profit, you make more money,
12		and those that didn't. This is not - in	12	and that was a separate issue, right, and
13		this particular segment of data, we're not	13	it's not about –
15		looking at the injury types for those	15	FRAIZE, Q.C.:
16		claimants with or without, so I don't think	16	Q. I agree, but what we're talking about –
17		it would be an appropriate inference to	10	MS. ELLIOTT:
18		connect the dots and say, gee, if you have a	17	A. There's no winner, and I will not use that
10		lawyer, you're going to get more money than	10 19	term in terms of a claimant. They're
20			20	injured and it's a terrible event that they
$20 \\ 21$		if you don't. ITTENS:	20 21	5
			21 22	go through, and the idea is not that they're a winner or not a winner. It's a terrible
$\begin{vmatrix} 22\\ 22 \end{vmatrix}$	-	You don't distinguish between the – in		
23		either category, you didn't distinguish	23	event, they're injured and they need to be
24		between the type of injury?	24	compensated appropriately. I don't have an
25	MS. EI	LLIOTT:	25	opinion on claimants winning or not.

1       FRAIZE, Q.C.:       1       A.       Fm sorry, this study – the document that         2       Q.       No, no, I'm just making a comment. It just       we're referring to is a Closed Claim Study of information collected for the claimant.         4       taking about here on one side is the value       of information collected for the claimant.         5       of the claims, the resulting higher       of information collected for the claimant.         6       permisms, but yet whether we're talking about a       of information collected for the claimant.         7       read, if's the injured party that's affected?       9         9       MS. ELLIOTT:       0       A.         10       A.       Yes, and there currently is a deductible in the province that applies to every injured       10         11       the province that applies to every injured       10       A.       The event occurred, and we asked the         12       victim.       11       Now as you can probably see, my view on this       13       issee are not asked what causes the         13       reacident, we're looking at the claimants and       iccident, we're looking at the claimants and         14       we're reader two types of situators; a       a       collected.         15       and a person, say, injured in a buiding, a       Q.       Sof I may characterize whaty	June o	, 2018			2017 Automobile Insurance Review
<ul> <li>Q. No, no, 1<sup>m</sup> just making a comment. It just came out in our discussion. So what we're elar making a comment. It just came out in our discussion. So what we're elar making about here on one side is the value of the claims, the resulting higher came one side is the value of the claims, the resulting higher came, it's here in jurced part that's affected?</li> <li>MS. ELLIOTT:</li> <li< td=""><td>_</td><td></td><td>Page 149</td><td>_</td><td>Page 151</td></li<></ul>	_		Page 149	_	Page 151
<ul> <li>a cane out in our discussion. So what we're talking about here on one side is the value of the claims, the resulting higher permiums, but yet whether we're talking about a deductible or we're talking about a cap, it's the injured party that's affected?</li> <li>9 MS. ELLIOTT:</li> <li>10 A. Yes, and there currently is a deductible in the province that applies to every injured 12 victim.</li> <li>11 FRAIZE, Q.C.:</li> <li>12 Victim.</li> <li>13 FRAIZE, Q.C.:</li> <li>14 Q. Now as you can probably see, my view on this 14 issues are not asked what causes the the colleagues view. Now do you not agree that we've created two types of situations; a 12 oslip and fall, same injury, but in the 23 adductible right now, and now it seems like a ductible right now, and now it seems like a ductible right now, and now it seems like a source?</li> <li>11 MS. FLIJOTT:</li> <li>12 A. Well, Tm not aware of a restriction on a slip and fall a same injurt, but in the conter side there is no restriction. Am 21 correct?</li> <li>14 NS. FLIJOTT:</li> <li>15 NS. FLIJOTT:</li> <li>16 MS. FLIJOTT:</li> <li>17 A. Yeah, pedestrians, bicyclists.</li> <li>17 A. Yeah, pedestrians, bicyclists.</li> <li>18 FRAIZE, Q.C.:</li> <li>10 MS. FLIJOTT:</li> <li>14 FRAIZE, Q.C.:</li> <li>15 NS. FLIJOTT:</li> <li>16 A. The vastic them. They are of a restriction on a slip and fall a cap that would occur.</li> <li>17 FRAIZE, Q.C.:</li> <li>18 A. Well, Tm not aware of a restriction on a slip and fall a cap that would occur.</li> <li>19 FRAIZE, Q.C.:</li> <li>10 MS. FLIJOTT:</li> <li>11 FRAIZE, Q.C.:</li> <li>12 FRAIZE, Q.C.:</li> <li>13 A. Well, Pm not aware of a restriction on a slip and fall os a pthat well down the street.</li> <li>14 ave insurance. Inean, they're tod firexer</li> <li>15 active the we're doing here today the vert we're today the vert we're down we restrict them. They are of the vertices of that window, that taget.</li> <li>14 A. Yeah, pedestrians, bicyclists.</li> <li>15 A. Yeah, pedestrians, bicyclists.</li> <li>16 affected by wh</li></ul>					
4       talking about here on one side is the value of the claims, the resulting higher       4       It is not a look at, you know, whether the accident occurred because it was a drunk         5       of the claims, the resulting higher       5       accident occurred because it was a drunk         6       premiums, but yet whether we're talking about a deductible or we're talking about a cap, it's the injured party that's affected?       8       Q.         9       MS, ELLIOTT:       0       A.       The event occurred, and we asked the up to was you can probably see, my view on this the bearing is a little different from my       10       A.       The event occurred, and we asked the up to wo as you can probably see, my view on this the arring is a little different from my       10       A.       The event occurred, and we asked the up to what injuries they suffered and how much the other side here is no restriction, an all aperson, say, injured in a building, a all dot clutible right now, and now it seems like accident we're to oking at the claimants an collected.       11       FRAIZE, Q.C:         1       MS ELLIOTT:       Page 150       1       FRAIZE, Q.C:       23         2       wet eretring to - we have a adductible right now, and now it seems like accident happened and – it happenee 24       1       FRAIZE, Q.C:       Page 150         1       FRAIZE, Q.C:       23       MS ELLIOTT:       Page 150         2       Q. Now on equestion on this 2,000 claimant fill selection process. Am I		Q.			6
5         of the claims, the resulting higher premiums, but yet whether we're talking abut a deductible or we're talking about a cap, it's the injured party that's affected?         5         accident occurred because it was a drunk driver.           9         MS. ELLIOTT:         8         Q. So the question was never asked?           9         MS. ELLIOTT:         10         A. Tes, and there currently is a deductible in the province that applies to every injured victim.         10         A. The event occurred, and we asked the question whether they - the degree of fault, users and not what causes the accident, we're looking at the claimans an ecolleagues view. Now do you not agree that we've created two types of situations; a la automobile sciew ve have a deductible right now, and now it seems like an all parts and information with seems like and a person, say, injured in a building, a lather other side there is no restriction. Am aslip and fall of a cap that would occur.         19         FRAIZE, Q.C.: 20         So if I may characterize what you're saying the usetion was never asked what the caus of the accident was for your purposes?           1         MS. ELLIOTT: 2         A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.         19         FRAIZE, Q.C:: 2         20         Now one question on this 2,000 claimant file selection thappened and – it happened use selection that period of time?           1         MS. ELLIOTT: 2         A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.         1         FRAIZE, Q.C: 2         Q. Now one question on this 2,000 claimant file selection that					
6       premiums, but yet whether we're talking about a deductible or we're talking about a capture party that's affected?       6       driver.         7       FRAIZE, Q.C.:       7         9       MS. ELLIOTT:       9         10       A. Yes, and there currently is a deductible in the province that applies to every injured victim.       10       A. The event occurred, and we asked the the province that applies to every injured victim.         11       40. Now as you can probably see, my view on this to collegues view. Now do you not agree that the hearing is a little different from my       10       A. The event occurred, and we asked the tissues are not asked what causes the accident, we're looking at the claimants an icy road, drunk driver. All those possible         11       we've created two types of situations; a person injured in an automobile accident, an automobile side we're trying to - we have a 21       10       FRAIZE, Q.C.:         11       we've created two types of situations; a person injured in an automobile accident, 22       FRAIZE, Q.C.:       20       So if I may characterize what you're saying 21         23       the insurance companies want a cap, but on 24       the other side there is no restriction on a slip and fall of a cap that would occur.       4       No, an accident happened an - it happenee 25         24       A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.       5       FRAIZE, Q.C.:         24       A. Weal, bedestrians, bicyclis			-		
7       ibout a deductible or we're talking about a       7       FRAIZE, Q.C.:         8       cap, it's the injured party that's affected?       8       Q. So the question was never asked?         9       MS, FLLIOTT:       10       A. Yes, and there currently is a deductible in the province that applies to every injured       11       10       A. The event occurred, and we asked the         11       the province that applies to every injured       11       10       A. The event occurred, and we asked the         12       victim.       10       A. The event occurred, and we asked the         13       regrading is a little different from my       10       accident, we're looking at the claimants and colleagues view. Now do you not agree that         16       colleagues view. Now do you not agree that       16       what injurises they suffered and how much         17       we're created two. Noy and now it seems like       19       FRAIZE, Q.C.:         10       and a person, say, injured in a building, a       19       FRAIZE, Q.C.:         20       slip and fall, same injury, but in the       19       FRAIZE, Q.C.:         21       the outer side there is no restriction. Am       20       So if I may characterize what you're saying         23       the insurance companies want a cap, but on       3       selection proces:. Am I correcti naying<	5			5	
8       cap, it's the injured party that's affected?       9       MS. EL.IJOTT:         9       MS. EL.IJOTT:       9       MS. EL.IJOTT:         10       A. Yes, and there currently is a deductible in the province that applies to every injured in an automobile accident, we're looking at the claimants and to person, injured in a hulding, a person injured in an automobile accident, and person, injurind in a hulding, a person injured in an automobile accident, a person injured in an automobile accident, the 're looking at the claimants and in a person, injured in a hulding, a clap then you is even it is a collected.       10       FRAIZE, Q.C.:         20       slip and fall, same injury, but in the claim for the other side there is no restriction. Am the insurance companies want a cap, but on the other side there is no restriction on a slip and fall of a cap that would occur.       10       FRAIZE, Q.C.:       20       Now one question on this 2,000 claimant file selection process. Am I correct in saying they claim short, they could be in a may characterize what you're saying they a beaction the victims do not file you're as assume 'n' might, okay. So we've for created two. Now some of the victims do not file you're associated with the claims for the period of time?       1       FRAIZE, Q.C.:       9 </td <td>6</td> <td></td> <td>premiums, but yet whether we're talking</td> <td>6</td> <td></td>	6		premiums, but yet whether we're talking	6	
<ul> <li>MS. ELLIOTT:</li> <li>A. Yes, and there currently is a deductible in the province that applies to every injured victim.</li> <li>FRAIZE, Q.C.:</li> <li>FRAIZE, Q.C.:</li> <li>and a person, any injured in a building, a the other side there is no restriction. Am</li> <li>automobile side we're trying to – we have a deductible right now, and now it seems like the insurance companies want a cap, but on the other side there is no restriction. Am</li> <li>MS. ELLIOTT:</li> <li>A. Well, I'm not aware of a restriction on a slip and fall, same injury, but in the automobile side we're trying to – we have a deductible right now, and now it seems like the insurance companies want a cap, but on the other side there is no restriction on a slip and fall of a cap that would occur.</li> <li>MS. ELLIOTT:</li> <li>A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>MS. ELLIOTT:</li> <li>A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>Q. Now one question on his 2,000 claimant fill selection process. Am I correct in asying that when you received the 2,000, they woul be all the claims for that period of time?</li> <li>MS. ELLIOTT:</li> <li>A. Yeah, pedestrians, bicyclist.</li> <li>FRAIZE, Q.C.:</li> <li>Q. No no, but were they all the claims for those insurance companies?</li> <li>A. Yeah, pedestrians, bicyclist.</li> <li>FRAIZE, Q.C.:</li> <li>Q. No no, but were they all the claims for those insurance companies?</li> <li>MS. ELLIOTT:</li> <li>A. Yeah, pedestrians, bicyclist.</li> <li>FRAIZE, Q.C.:</li> <li>Q. Now in your study, let me ask you this</li> <li>the claimatic you folles.</li> <li>that claim closed in that window. That was the request and our estimate was when you had the 12</li></ul>	7		about a deductible or we're talking about a	7	FRAIZE, Q.C.:
10       A. Yes, and there currently is a deductible in the province that applies to every injured 11       10       A. The event occurred, and we asked the question whether they - the degree of fault, 12         11       the province that applies to every injured 12       victim.         13       FRAIZE, Q.C.:       13         14       Q. Now as you can probably see, my view on this 15       accident, we're looking at the claimants and 16       16         17       we've created two types of situations; a 18       person injured in an automobile accident, 19       18         19       and a person, say, injured in a building, a automobile side we're trying to – we hava a 22       deductible right now, and now it scems like 23       19         20       slip and fall, same injury, but in the 24       10       A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur. 7       FRAIZE, Q.C.:         24       the other side there is no restriction on a slip and fall of a cap that would occur. 7       FRAIZE, Q.C.:       1         20       Q. C.: 7       FRAIZE, Q.C.: 7       1       FRAIZE, Q.C.: 7       2         24       the surrance. I'mean, they're not drivers 8       and so forth, they could be walking down the 7       5       FRAIZE, Q.C.: 7       1         25       FRAIZE, Q.C.: 7       1       FRAIZE, Q.C.: 7       1       1         26 </td <td>8</td> <td></td> <td>cap, it's the injured party that's affected?</td> <td>8</td> <td>Q. So the question was never asked?</td>	8		cap, it's the injured party that's affected?	8	Q. So the question was never asked?
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12       victim.       12       but not what caused it, whether it was an         13       FRAIZE, Q.C.:       13       issues are not asked what causes the         14       Now as you can probably see, my view on this       14       issues are not asked what causes the         15       hearing is a little different from my       15       accident, we're looking at the claimants and         16       colleagues view. Now do you not agree that       16       the vere paid in this data that's         18       person injured in an automobile accident,       18       collected.         19       and a person, say, injured in a building, a       17       they were paid in this data that's         20       slip and fall, same injury, but in the       20       So if I may characterize what you're saying         21       the outber side there is no restriction. Am       20       Q. So if I may characterize what you're saying         23       the insurance ompanies want a cap, but on       24       A. No, an accident happened and – it happenee         24       A. Well, I'm not aware of a restriction on a       slip and fall of a cap that would occur.       1         7       have insurance. I mean, they're not divirds       3       selection process. Am I correct in saying         7       have insurance. I mean, they're not divirds       3	10	A.	Yes, and there currently is a deductible in	10	A. The event occurred, and we asked the
<ul> <li>FRAIZE, Q.C.:</li> <li>Now as you can probably see, my view on this</li> <li>hearing is a little different from my</li> <li>colleagues view. Now do you not agree that</li> <li>we've created two types of situations; a</li> <li>person injured in an automobile accident,</li> <li>and a person, say, injured in a building, a</li> <li>attomobile side we're trying to – we have a</li> <li>deductible right now, and now it seems like</li> <li>attomobile side we're trying to – we have a</li> <li>deductible right now, and now it seems like</li> <li>the insurance companies want a cap, but on</li> <li>the other side there is no restriction. Am</li> <li>the other side there is no restriction on a</li> <li>sip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>A. Well, I'm not aware of a restriction on a</li> <li>sip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>Q. Let's assume I'm right, okay. So we've</li> <li>created two. Now some of the victims do not</li> <li>street.</li> <li>go. And be hit by a car, or they could be walking down the</li> <li>street.</li> <li>go. And be hit by a car, or they could be na tweelchair and hit by a vehicle. So the</li> <li>the affected by what we're doing here today</li> <li>certain value, whatever that definition is.</li> <li>Qo. Non on of the things we mentioned</li> <li>guestion. One of the things we mentioned</li> <li>werk closed in that window, that 12 month.</li> <li>the claimants, you fue cars with difficit no.</li> <li>So Now in your study. Let me ak you this</li> <li>the request and our estimate was that would</li> <li>the request and our estimate was that would</li> <li>the request and our estimate was when you had the 12 months, there were not 2,000</li> <li>what caused the acidents, was it drinking,</li> <li>was it –</li> </ul>	11		the province that applies to every injured	11	question whether they - the degree of fault,
14Q.Now as you can probably see, my view on this14issues are not asked what causes the15hearing is a little different from my16accident, we're looking at the claimants and what injuries they suffered and how much17we've created two types of situations; a16what injuries they suffered and how much18person injured in an automobile accident,17they were paid in this data that's19and a person, say, injured in a building, a17they were paid in this data that's20slip and fall, same injury, but in the20Q. So of It may characterize what you're saying21automobile side we're trying to – we have a21C.:23the insurance companies want a cap, but on24A. No, an accident happened and – it happenet24the other side there is no restriction on aslip and fall of a cap that would occur.124FRAIZE, Q.C.:1FRAIZE, Q.C.:25VPage 150226VNow one question on this 2,000 claimant fill selection process. Am I correct in saying 43slip and fall of a cap that would occur.5FRAIZE, Q.C.:4Thave insurance. I mean, they're not drivers a and so forth, they could be walking down the street.5FRAIZE, Q.C.:90. And be hit by a car, or they could be in a 14wheelchair and hit by a vehicle. So the 1516FRAIZE, Q.C.:10MS. ELLIOTT:11A. Yeah, pedestrians, bicyclists.11KELLIOTT:12FRAIZ	12		victim.	12	but not what caused it, whether it was an
15       hearing is a little different from my       15       accident, we're looking at the claimants and         16       colleagues view. Now do you not agree that       16       what injuries they suffered and how much         17       we've created two types of situations; a       16       what injuries they suffered and how much         18       person injured in an automobile accident,       17       they were paid in this data that's         20       slip and fall, same injury, but in the       21       collected.         21       automobile is die w're trying to – we have a       20       O.       So if I may characterize what you're saying         21       the insurance companies want a cap, but on       23       MS. ELLIOTT:       24       A.       No, an accident happened and – it happened         24       the other side there is no restriction on a       slip and fall of a cap that would occur.       7       FRAIZE, Q.C.:       Page 150         7       A.       Well, I'm not aware of a restriction on a       selection process. Am I correct in saying       14         8       and so forth, they could be walking down the       7       A.       That was the target.         9       street.       9       Street.       9       Now, no, but were they all the claims for         10       MS. ELLIOTT:	13	FRAIZ	ZE, Q.C.:	13	icy road, drunk driver. All those possible
16       colleagues view. Now do you not agree that       16       what injuries they suffered and how much         17       we've created two types of situations; a       17       they were paid in this data that's         18       person injured in an automobile accident,       18       collected.         19       and a person, say, injured in a building, a       18       collected.         20       slip and fall, same injury, but in the       20       Q.       So if I may characterize what you're saying         21       automobile side we're trying to – we have a       22       deductible right now, and now it seems like       22         23       the insurance companies want a cap, but on       23       MS. ELLIOTT:       24         24       the other side there is no restriction on a       slip and fall of a cap that would occur.       25       West.       Page 150         1       MS. ELLIOTT:       1       FRAIZE, Q.C.:       20       Now one question on this 2,000 claimant file         3       sip and fall of a cap that would occur.       4       FRAIZE, Q.C.:       4       FRAIZE, Q.C.:         2       Q.       Now some of the victims do not       3       selection process. Am I correct in saying         3       stip and fall of a cap that would occur.       7       A.       Tha	14	Q.	Now as you can probably see, my view on this	14	issues are not asked what causes the
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17we've created two types of situations; a 1817they were paid in this data that's collected.18person injured in an automobile accident, 19and a person, say, injured in a building, a 1917they were paid in this data that's collected.19and a person, say, injured in a building, a 2019FRAIZE, Q.C.:20slip and fall, same injury, but in the 21automobile side we're trying to – we have a 2210Soi II may characterize what you're saying the question was never asked what the caus 2221automobile side we're trying to – we have a 22deductible right now, and now it seems like 2310Soi II may characterize what you're saying the question was never asked what the caus 2223the other side there is no restriction. Am 2523MS ELLIOTT:24A. No, an accident happened and – it happened 2524the other side there is no restriction on a 3slip and fall of a cap that would occur.24Now one question on this 2,000 claimant fild selection process. Am I correct in saying that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the claims for that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the 2,000, they woul to selection process. Am I correct in saying that when you received the accident	16		colleagues view. Now do you not agree that	16	
18       person injured in an automobile accident,       18       collected.         19       and a person, say, injured in a building, a       18       collected.         20       slip and fall, same injury, but in the       20       Q. So if I may characterize what you're saying         21       automobile side we're trying to – we have a       20       Q. So if I may characterize what you're saying         21       automobile side we're trying to – we have a       20       Q. So if I may characterize what you're saying         23       the insurance companies want a cap, but on       24       A. No, an accident happened and – it happened         24       the other side there is no restriction. Am       24       A. No, an accident happened and – it happened         25       I SELLIOTT:       24       A. No, an accident happened and – it happened         25       Q. Cret's assume I'm right, okay. So we've       6       created two. Now some of the victims do not         3       slip and fall of a cap that would occur.       4       FRAIZE, Q.C.:       1         4       FRAIZE, Q.C.:       7       A. That was the target.       8         8       and so forth, they could be walking down the       9       street.       9       No, no, but were they all the claims for         10       MS. ELLIOTT:       14 </td <td>17</td> <td></td> <td></td> <td>17</td> <td></td>	17			17	
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21       automobile side we're trying to – we have a       21       the question was never asked what the caus         22       deductible right now, and now it seems like       22       of the accident was for your purposes?         23       the other side there is no restriction. Am       23       MS. ELLIOTT:         24       the other side there is no restriction. Am       24       A. No, an accident happened and – it happened         25       I correct?       Page 150       Page 150         1       MS. ELLIOTT:       2       Q. Now one question on this 2,000 claimant fill         3       slip and fall of a cap that would occur.       4       FRAIZE, Q.C.:       1         5       Q. Let's assume I'm right, okay. So we've       6       reated two. Now some of the victims do not         6       created two. Now some of the victims do not       5       MS. ELLIOTT:         7       have insurance. I mean, they're not drivers       8       and so forth, they could be walking down the         9       street.       9       Q. No, no, but were they all the claims for         10       MS. ELLIOTT:       1       MS. ELLIOTT:         12       A. Yeah, pedestrians, bicyclists.       1         13       Q. And be hit by a car, or they could be in a       wheelchair and hit by a vehicle. So the <td>20</td> <td></td> <td></td> <td>20</td> <td></td>	20			20	
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<ul> <li>the insurance companies want a cap, but on the other side there is no restriction. Am I correct?</li> <li>MS. ELLIOTT:</li> <li>A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>A. Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.</li> <li>FRAIZE, Q.C.:</li> <li>G. Let's assume I'm right, okay. So we've created two. Now some of the victims do not have insurance. I mean, they're not drivers and so forth, they could be walking down the street.</li> <li>MS. ELLIOTT:</li> <li>A. Yeah, pedestrians, bicyclists.</li> <li>FRAIZE, Q.C.:</li> <li>FRAIZE, Q.C.:</li> <li>MS. ELLIOTT:</li> <li>A. Yeah, pedestrians, bicyclists.</li> <li>G. And be hit by a car, or they could be in a wheelchair and hit by a vehicle. So the lower rates will not affect them. They are for affected by what we're doing here today for the equest and our estimate was that would strate the end of the day the cap was it a certain value, whatever that definition is.</li> <li>Now in your study, let me ask you this question. One of the things we mentioned the caused the accidents, was it drinking, was it –</li> <li>MS. ELLIOTT:</li> <li>G. And be this, did you take a look at what caused the accidents, was it drinking, was it –</li> <li>Mater acused the accidents, was it drinking, 24 was it –</li> </ul>					-
24       the other side there is no restriction. Am       24       A. No, an accident happened and – it happened 25         25       I correct?       Page 150       Page 150         7       MS. ELLIOTT:       2       Q. Now one question on this 2,000 claimant fills         3       slip and fall of a cap that would occur.       4       FRAIZE, Q.C.:       2         4       FRAIZE, Q.C.:       4       that when you received the 2,000, they would be all the claims for that period of time?         5       Created two. Now some of the victims do not have insurance. I mean, they're not drivers and so forth, they could be walking down the street.       7       A. That was the target.         9       street.       9       No, on but were they all the claims for those insurance companies?         11       A. Yeah, pedestrians, bicyclists.       1       1         12       FRAIZE, Q.C.:       9       No, no, but were they all the claims for those insurance companies?         11       A. Yeah, pedestrians, bicyclists.       11       12         12       FRAIZE, Q.C.:       9       No, no, but were they all the claims that         13       Q. And be hit by a car, or they could be in a       14       window, every claim that was closed and all         15       lower rates will not affect them. They are       15       that claim closed i			-		
25I correct?25yes.Page 1501MS. ELLIOTT:1FRAIZE, Q.C.:2A.Well, I'm not aware of a restriction on a slip and fall of a cap that would occur.1FRAIZE, Q.C.:4FRAIZE, Q.C.:2Q.Now one question on this 2,000 claimant fill selection process. Am I correct in saying that when you received the 2,000, they woul be all the claims for that period of time?5Q.Let's assume I'm right, okay. So we've created two. Now some of the victims do not for have insurance. I mean, they're not drivers and so forth, they could be walking down the 9street.7have insurance. I mean, they're not drivers a and so forth, they could be walking down the 9street.8and so forth, they could be walking down the 9street.9Q.No, no, but were they all the claims for those insurance companies?11A.Yeah, pedestrians, bicyclists.12FRAIZE, Q.C.:13Q.And be hit by a car, or they could be in a 1414wheelchair and hit by a vehicle. So the 1615lower rates will not affect them. They are 1616affected by what we're doing here today 1717certain value, whatever that definition is.20Now in your study, let me ask you this 2121question. One of the things we mentioned 2223what caused the accidents, was it drinking, 2424was it -					
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24 was it – 24 MS. ELLIOTT:			when we started this, did you take a look at		claims settled in the 12 months?
			what caused the accidents, was it drinking,		
25 MS. ELLIOTT: 25 A. Right, this is – yes.					
		MOD	I LIOTT.	25	A Right this is – ves

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	Page 153		Page 155
1	FRAIZE, Q.C.:	1	reserves in their system and they have to
2	Q. Now going back to 2005, the previous time we	2	work through the components of the amount
3	had this discussion about insurance rates,	3	that will ultimately be paid, and so they
4	it strikes me there seemed to be more	4	just don't ball park a number, they work
5	safeguards then as to data than there is	5	through –
6	now. There was an independent insurance	6	FRAIZE, Q.C.:
7	adjuster, there was an independent medical	7	Q. I'm not suggesting they'll ball park. I'm
8	person, and there was an accounting firm.	8	saying they receive an offer to settle. Then
9	Why didn't we have it this time?	9	they come back and say, well, we'll give you
10	MS. ELLIOTT:	10	a global amount of this, whatever this
11	A. Well, I mean, I'll repeat what I've answered	11	amount is. How do we know how that's
12	earlier, IBC is the service provider for the	12	reflective? I may think it's broken down a
13	Superintendent of Insurance. They collect	13	certain way, but the adjuster provided a
14	the data from all the insurers. That is	14	global amount. Maybe he put it all in pain
15	their role, their area of expertise. They	15	and suffering as opposed to dealing with
16	have done this before. They agreed to	16	housekeeping and some loss of income. How do
17	facilitate this exercise again of collecting	17	you safeguard that?
18	the data. Their role was to manage, train	18	MS. ELLIOTT:
10	the staff, validate it, check it, and they	10	A. Right. Well, you know, we are relying upon
20	did it in the past and they did it again.	20	the adjusters, that they have been trained
	1 5 6		
21	It's simply that.	21 22	and they diligently want to complete this
22	FRAIZE, Q.C.:		accurately, that they would have their
23	Q. But why was it done back in 2005? Why was	23	worksheets to understand the amount that
24	it necessary to have the doctor independent	24	they estimated that they were going to pay,
25	and the –	25	and how those estimates were built up to the
1	Page 154	-	Page 156
1	MS. ELLIOTT:	1	total according to the various heads of
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	A. IBC wasn't $-$ I don't remember the specifics,	2	damages, and that they would use that
3	that would be hard for me to recall, but I	3	information. They would know the person's
4	think the process was just managed	4	income, they would know what medical
5	differently at that time, and IBC wasn't	5	treatments that they have, what the future
6	part of our interaction with them. They	6	loss of income that might be expected, and,
7	hadn't done that previously, to my	7	of course, the aggregate total amount that
8	knowledge, so –	8	is being paid out.
9	FRAIZE, Q.C.:	9	FRAIZE, Q.C.:
10	Q. Now back to the data once again. What I'm	10	Q. Would I be correct, do you think I would be
11	trying to get my mind around, a lot of	11	correct to say that the auditors that – or
12	claims are settled with a lump sum.	12	these accountants that were used back in
13	MS. ELLIOTT:	13	2005 would have looked at the individual
14	A. Uh-hm.	14	files to see what the settlement amount was,
15	FRAIZE, Q.C.:	15	and what component pain and suffering was?
16	Q. Usually they're the smaller claims.	16	MS. ELLIOTT:
17	MS. ELLIOTT:	17	A. I suspect that they would have, yes.
18	A. Uh-hm.	18	FRAIZE, Q.C.:
19	FRAIZE, Q.C.:	19	Q. So they would have gone into the files to
20	Q. The adjuster – even though the lawyer may	20	make sure that what's identified as pain and
21	provide a claim in components, the adjuster	21	suffering was, in fact, the amount? They
22	provides a lump sum payment.	22	probably did a mini-audit.
23	MS. ELLIOTT:	23	MS. ELLIOTT:
24	A. The adjuster will work through the heads of	24	A. I suspect that would have been –
25	damages in estimating. They have to set	25	FRAIZE, Q.C.:
·			, <b>.</b>

	Page 157		Page 159
1	Q. Or would they have checked all the files?	1	but I'm sure within paragraph of some
2	MS. ELLIOTT:	2	description, it is in there.
3	A. Sure, yeah, of course.	3	FRAIZE, Q.C.:
4	FRAIZE, Q.C.:	4	Q. From a victim's side, we have to look at
5	Q. They could have checked all the files?	5	what causes the accident. Sometimes we got
6	MS. ELLIOTT:	6	to control what the cause was. It's
7	A. All the files, no. I thought you meant all	7	speeding? Is it drinking? Is it people not
8	of the file when they get it, but not all	8	being attentive? If we could control that
9	the files.	9	presumably we reduce the accidents and
10	FRAIZE, Q.C.:	10	thereby reduce the premiums, presumably?
11	Q. No, no, the function of the accountants at	10	MS. ELLIOTT:
11	the time presumably would be to look at the	12	A. Well -
12	file to see the amount that's put in for	12	FRAIZE, Q.C.:
13		13 14	, .
14	pain and suffering was, in fact, the amount	14	Q. Or is that a sticky wicket to go down? MS. ELLIOTT:
	that was reflected in the negotiations, I		
16	assume?	16	A. No, I mean, it would be – there are – we're
17	MS. ELLIOTT:	17	looking at accidents that have occurred and
18	A. I assume too.	18	the costs that are paid out. That is the
19	FRAIZE, Q.C.:	19 20	focus of the work and data was collected and
20	Q. Okay. Now the medical professional that was	20	then analyzed to estimate if a reform change
21	used back in 2005 was employed by the Board?	21	was to occur.
22	MS. ELLIOTT:	22	FRAIZE, Q.C.:
23	A. She's contracted by the Board.	23	Q. For the purpose of reducing premium?
24	FRAIZE, Q.C.:	24	MS. ELLIOTT:
25	Q. Yeah, but we don't have that right now. We	25	A. Correct. It was not an exercise – and I'm
	Page 158	1	Page 160
1	don't have an independent medical person	1	not saying that it's not a good exercise –
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	contracted by the Board, correct?	2	to look at whether it's road safety or drunk
3	MS. ELLIOTT:	3	driving or any other attribute or change
4	A. Correct.	4	that could affect a reduction in severity of
)	FRAIZE, Q.C.:	2	injuries or the number of accidents that
6	Q. So whatever – what we've got now is we don't		occur. They would all be good things to
7	have those safeguards we had before, the	7	happen. But that is outside of the review
8	independent medical person, the so-called	8	of a technical actuarial exercise that I'm
9	independent adjuster, and the accountants	9	doing.
10	who did the audit. One further question.	10	FRAIZE, Q.C.:
11	As you probably can see, we're more	11	Q. Those are all our questions. Thank you.
12	concerned with the victim's situation	12	CHAIRPERSON:
13	because the insurance policy is there to	13	Q. Thank you, Mr. Fraize. IBC, Mr. Stamp.
14	provide protection to a victim that's	14	STAMP, Q.C.:
15	injured by the insured. Going back to one	15	Q. Yes, thank you, Madam Chair. Ms. Elliott,
16	of the comments we started with, would I be	16	today in particular, you spoke a bit about
17	correct to say it wouldn't have been too	17	the role of IBC or the several roles of IBC
18	difficult to find out what the causes of the	18	and yesterday, at times there was discussion
19	accidents were if it was asked in the	19	about GISA and IBC. Could you just explain
20	beginning? Would that be a fair statement?	20	the distinction between GISA and IBC?
21	MS. ELLIOTT:	21	MS. ELLIOTT:
22	A. I don't know that information is always –	22	A. Well, IBC would be a service provider. So,
23	it's probably somewhere in the file. I'm not	23	they're contracted by GISA. So, GISA is the
24	sure, but as far as I know that data is not	24	General Insurance Statistical Agency where
25	captured readily the cause of the accident, Discoveries Unlimite	25	regulators are a part of that board and the

Page 161         Page 163           1         superintendents of insurance have mandated         1         O'Brien, I believe.           2         that auto insurance data is collected and         3         A. Tm not aware, but -           3         each insurer must report that data and GISA.         3         A. Tm not aware, but -           4         manages the format of the Auto Stat Plan and         5         NS. ELLIOTT:           7         STAMP, Q.C.:         7         A. Strawp, Q.C.:         7           8         Q. So, GISA would be entirely independent of         8         STAMP, Q.C.:         7           10         MS. ELLIOTT:         7         A. Strawp, Q.C.:         7           11         A. Yes, they are separate, yes.         11         MS. ELLIOTT:         12           12         STAMP, Q.C.:         13         G. Right, and Hooked at the website a little         13         STAMP, Q.C.:           13         of it, and I see, as you say, that it's the         15         STAMP, Q.C.:         17         STAMP, Q.C.:           14         O. They sequators, J guess, who are in the varius         16         A. Yes.         17           15         of it, and J see, as you say, that it's the         15         STAMP, Q.C.:         20         Hot		, 2010		2017 Tutomobile insurance review
2       that auto insurance data is collected and       2       MS. ELJ.IOTT:         3       each insurer must report that data and GISA       4       STAMP, Q.C.:         6       to provide that service.       5       Q. But that's the role that -         7       STAMP, Q.C.:       7       A. C. mo taware, but -         8       Q. So, GISA would be entirely independent of       8       STAMP, Q.C.:         9       BEC?       9       Q. These are the regulators. This is the         10       MS. ELLIOTT:       10       MS. ELLIOTT:         12       STAMP, Q.C.:       12       A. Yes.         13       Q. Right, and I looked at the website a little       15       MS. ELLIOTT:         14       bit yesterday evening, just to get a sense       14       Q. To assist them?         15       oft, and I see, as you say, that if the this Stell.IOTT:       18       Q. And somehow GISA, on their behalf, engages         17       provinces, Alberta I think, Ontario -       18       Q. And somehow GISA, on their behalf, engages         18       A. Their regulators are, Iguess, this is who -       21       MS. ELLIOTT:         21       Q. Their regulators are, Iguess, this is who -       23       10       that data which is a         25       GTAMP, Q.		Page 161		Page 163
3       each insurer mus report that data and GISA       4       A       Fm not aware, but -         4       manages the format of the Auto Stat Plan and       4       STAMP, QC:         6       to provide that service.       6       MS. ELLIOTT:         7       STAMP, QC:       7       A. Stare.         8       Q. So, GISA would be entirely independent of       8       STAMP, QC:         9       D       These are the regulators. This is the         10       MS. ELLIOTT:       10       organization that they control?         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:       2         12       STAMP, QC:       12       A       Yes         13       Q. Right, and I looked at the website a little       13       STAMP, QC:       14       bit yesterday evening, just to get a sense       14       MS. ELLIOTT:       16       A       Yes         14       bit yesterday evening, just to get a sense       14       Q. These anotherw GISA, on their behalf, engages         15       off it, and i see, as you say, that its the       15       A. Yes       16       A. Yes         12       Q. New Brunswick, Atlantic region for sure, some of the territories.       20       that -       12 <t< td=""><td>1</td><td>superintendents of insurance have mandated</td><td>1</td><td>O'Brien, I believe.</td></t<>	1	superintendents of insurance have mandated	1	O'Brien, I believe.
4       manages the format of the Auto Stat Plan and       4       STAMP, Q.C.:         5       IBC is the employed contracted through GISA       5       But Hat's the role that -         6       to provide that service.       6       MS. ELLIOTT:         7       STAMP, Q.C.:       7       A. Sure.         9	2	that auto insurance data is collected and	2	MS. ELLIOTT:
5       IBC is the employed contracted through GISA to provide that service.       6       MS. ELLIOT:         6       0       STAMP, QC:       6       MS. ELLIOT:         7       A. Sure.       8       STAMP, QC:       9         9       IBC?       9       Organization that they control?         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:       12         12       STAMP, QC:       12       A. Yes.         13       Q. Right, and I looked at the website a little       13       STAMP, QC::         14       bit yesterday evening, just to get a sense       14       Q. To assist them?         15       off it, and I sec, as you say, that it's the       16       A. Yes.         16       regulators, I guess, who are in the various       16       A. Ves.         17       provinces, Alberta I think, Ontario -       17       STAMP, QC::       10         20       - New Brunswick, Atlantic region for sure, some of the territories.       21       MS. ELLIOTT:       18         21       Q. Their regulators are, I guess, this is who -       21       STAMP, QC::       24       1       report.       Page 164         22       STAMP, QC::       25       STAMP, QC::       3 <td< td=""><td>3</td><td>each insurer must report that data and GISA</td><td>3</td><td>A. I'm not aware, but -</td></td<>	3	each insurer must report that data and GISA	3	A. I'm not aware, but -
5       IBC is the employed contracted through GISA       5       Q. But that's the role that -         6       to provide that service.       6       MS. ELLIOTT:         7       A. Sure.       8       STAMP, Q.C.:         8       Q. So, GISA would be entirely independent of BC?       9       Q. These are the regulators. This is the organization that they control?         10       MS. ELLIOTT:       10       A. Yes.       11         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:       2         12       STAMP, Q.C.:       12       A. Yes.       13         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:       10       To assist them?         15       off it, and I see, asy ous say, that it's the       16       A. Yes.       17       provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:       10       that -         12       Q New Brunswick, Atlantic region for sure, some of the territorics.       20       that -       12       that -       13       time to time, but it's - they manage the collection of all the data which is a massive amount of data that companies         13       MS. ELLIOTT:       25       STAMP, Q.C.:       25       Their regulators are, Iguess, this is who-         24	4	manages the format of the Auto Stat Plan and	4	STAMP, Q.C.:
6       to provide that service.       6       MS. ELLIOTT:         7       STAMP, Q.C.:       8       STAMP, Q.C.:         9       IBC?       9       Q. These are the regulators. This is the         9       MS. ELLIOTT:       9       Q. These are the regulators. This is the         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:         12       STAMP, Q.C.:       12       A. Yes.         13       Q. Right, and I looked at the website a little       15       of it, and see, as you say, that if's the         16       regulators, I guess, who are in the various       17       STAMP, Q.C.:         14       O. New Brunswick, Atlantic region for sure,       18       Q. And somehow GISA, on their behalf, engages         19       A. Atlantic.       19       IBC from time to time to provide data? Is         20       STAMP, Q.C.:       20       that -         21       Q New Brunswick, Atlantic region for sure,       23       time to time, but it's - they manage the         23       MS. ELLIOTT:       23       time to time, but it's - they manage the         24       A. Yes.       23       Time, but it's - they manage the         3       Their regulators are, I guess, this is who-       1       report.				
7       STAMP, Q.C.:       7       A. Sure.         8       Q. So, GISA would be entirely independent of BC?       9       Q. These are the regulators. This is the organization that they control?         10       MS, ELLIOTT:       10       organization that they control?         11       A. Yes, they are separate, yes.       11       MS ELLIOTT:         12       STAMP, Q.C.:       12       A. Yes.         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:         14       bit yesterday evening, just to gat a sense       15       of it, and I see, as you say, that it's the         16       regulators, I guess, who are in the various       16       A. Yes.         17       provinces, Alberta I think, Ontario -       18       Q. And somehow GISA, on their behalf, engages         19       STAMP, Q.C.:       18       Q. And somehow GISA, on their behalf, engages         10       A. Atlantic.       19       IBC from time to time to time to provide data? Is         21       STAMP, Q.C.:       20       that -         22       STAMP, Q.C.:       21       MS ELLIOTT:         23       STAMP, Q.C.:       23       massive amount of data that companies across the collection of all the drat which is a 25         24       A. Y				
8       Q. So, GISA would be entirely independent of 9       8       STAMP, Q.C.:         9       Q. These are the regulators. This is the 0       0         11       A. Yes, they are separate, yes.       11         12       STAMP, Q.C.:       12         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:         14       bit yesterday evening, just to get a sense       14       Q. To assist them?         15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various       17       STAMP, Q.C.:         17       provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:       20         18       MS. ELLIOTT:       18       Q. And somehow GISA, on their behalf, engages         19       A. Atlantic       19       IBC from time to time to provide data? Is         21       Q New Brunswick, Atlantic region for sure, some of the territories.       20       that -         23       MS. ELLIOTT:       23       time to time, but it's they manage the         24       A. Yeah.       24       collection of all the data which is a         25       STAMP, Q.C.:       25       STAMP, Q.C.:         3				
9       IBC?       9       Q. These are the regulators. This is the organization that they control?         10       MS. ELLIOTT:       10       organization that they control?         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:       12         12       STAMP, Q.C.:       12       A. Yes.       13         13       O. Right, and I look at the website a little       13       STAMP, Q.C.:         14       D. Trovinces, Alberta I think, Ontario -       15       organization that they control?         15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various       16       A. Yes.         20       STAMP, Q.C.:       18       MS. ELLIOTT:       18       Q. And somehow GISA, on their behalf, engages         21       Q New Brunswick, Atlantic region for sure, some of the territories.       20       that -       21       MS. ELLIOTT:       23       time to time, but it's - they manage the         23       MS. ELLIOTT:       24       A. Yeah.       25       massive amount of data that companies         24       A. Yeah.       26       STAMP, Q.C.:       3       Q. This is GISA now you mean?         3       A. A part of GISA.       1				
10       MS. ELLIOTT:       10       organization that they control?         11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:         14       bit yesterday evening, just to get a sense       14       Q. To assist them?         15       of it, and I sec, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various       16       A. Yes.         17       provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:       18       Q. And somehow GISA, on their behalf, engages         19       A. Atlantic.       19       IBC from time to time to provide data? Is       14         20       STAMP, Q.C.:       20       that       21       MS. ELLIOTT:       23       time to time, but it's - they manage the         24       A. Yeah.       25       massive amount of data that companies       25       staMP, Q.C.:       Page 164         2       MS. ELLIOTT:       2       A. A part of GISA.       3       Q. This is GISA now you mean?       4       MS ELLIOTT:       5       A. A part of GISA.       5       A. No, IBC manages the process of collecting       6       A. No, BC manages the process of col				, .
11       A. Yes, they are separate, yes.       11       MS. ELLIOTT:         12       STAMP, Q.C.:       12       A. Yes.         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:       13       STAMP, Q.C.:         14       bit yesterday evening, just to get a sense       14       Q. To assist them?       16         15       of it, and I see, as you say, that it's the       16       A. Yes.         16       or egulators, Iguess, who are in the various provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:         18       MS. ELLIOTT:       18       Q. And somehow GISA, on their behalf, engages         19       IBC from time to time to provide data? Is       15         20       STAMP, Q.C.:       20       that-         21       QNew Brunswick, Atlantic region for sure,       21       MS. ELLIOTT:       23       time to time, but it's - they manage the         24       A. Yeah.       24       Collection of all the data which is a       25       statu companies         25       STAMP, Q.C.:       25       massive amount of data that companies       Page 164         1       QGISA is working for supposedly?       5       A. No, IBC manages the process of collecting       and validating and checking all this data<				· ·
12       STAMP, Q.C.:       12       A. Yes.         13       Q. Right, and I looked at the website a little       13       STAMP, Q.C.:         14       Q. To assist them?       14       Q. To assist them?         15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various       16       A. Yes.         17       STAMP, Q.C.:       18       Q. And somehow GISA, on their behalf, engages         19       A. Atlantic.       19       IBC from time to time to provide data? Is         20       some of the territories.       20       that.         21       Q New Brunswick, Atlantic region for sure,       21       MS. ELLIOTT:         22       some of the territories.       23       time to time, but it's - they manage the         23       STAMP, Q.C.:       24       collection of all the data which is a         24       A. Yesh, ot figsA.       30       This is GISA now you mean?         3       Yes, not the public insurance companies, BC,       7       MS. ELLIOTT:         4       STAMP, Q.C.:       25       STAMP, Q.C.:         6       Maritoba, Quebec.       7       That comes from all the companies across the         7 </td <td></td> <td></td> <td></td> <td></td>				
13       Q.       Right, and I looked at the website a little       13       STAMP, Q.C.:         14       bit yesterday evening, just to get a sense       14       Q.       To assist them?         15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:       16         16       regulators, I guess, who are in the various       16       A. Yes.         17       provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:         18       MS. ELLIOTT:       18       Q. And somehow GISA, on their behalf, engages         19       BC from time to time to provide data? Is       18         20       STAMP, Q.C.:       20       that -         21       Q.       New Brunswick, Atlantic region for sure,       20       time to time, but it's - they manage the         23       MS. ELLIOTT:       23       time to time, but it's - they manage the       24         24       A. Yeah.       25       STAMP, Q.C.:       7       Page 162       Page 164         1       report.       report.       report.       Page 164       1       report.       Page 164         7       MS. ELLIOTT:       2       STAMP, Q.C.:       3       Q. This is GISA now you mean?       4         8 <td></td> <td></td> <td></td> <td></td>				
14       bit yesterday evening, just to get a sense of it, and I see, as you say, that it's the       14       Q. To assist them?         15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various provinces, Alberta I think, Ontario -       17       STAMP, Q.C.:         18       MS. ELLIOTT:       18       Q. And somehow GISA, on their behalf, engages         19       A. Aduatic.       19       IBC from time to time to provide data? Is ome of the territories.         20       some of the territories.       20       time to time, but if's - they manage the         24       A. Yeah.       24       collection of all the data which is a         25       STAMP, Q.C.:       23       time to time, but if's - they manage the         24       A. Yeah.       24       collection of all the data which is a         25       STAMP, Q.C.:       2       STAMP, Q.C.:         2       MS. ELLIOTT:       2       STAMP, Q.C.:         3       A. A part of GISA.       3       Q. This is GISA now you mean?         4       MS. ELLIOTT:       4       MS. ELLIOTT:       2         5       Q GISA is working for supposedly?       5       A. No, IBC manages the process of collecting <td< td=""><td></td><td></td><td></td><td></td></td<>				
15       of it, and I see, as you say, that it's the       15       MS. ELLIOTT:         16       regulators, I guess, who are in the various       16       A. Yes.         17       provinces, Alberta I think, Ontario -       18       Q. And somehow GISA, on their behalf, engages         19       A. Atlantic.       19       IBC from time to time to provide data? Is         20       STAMP, Q.C.:       20       that -         21       QNew Brunswick, Atlantic region for sure,       20       that -         23       me to time, but it's - they manage the       24       collection of all the data which is a         23       STAMP, Q.C.:       25       massive amount of data that companies         24       A. Yeah.       24       collection of all the data which is a         25       STAMP, Q.C.:       25       massive amount of data that companies         24       A. Yeah.       24       collection of all the data which is a         25       STAMP, Q.C.:       3       Q. Their regulators are, I guess, this is who -       2         3       A. A part of GISA.       3       Q. This is GISA now you mean?       4         4       STAMP, Q.C.:       5       A. No, IBC manages the process of collecting       and validating and checkenig all this data </td <td></td> <td></td> <td></td> <td></td>				
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10Q.Sure, right. And in fact, I actually saw that one of the directors of GISA is actually a – Mr. O'Brien I believe his name 1310Q.And I had looked as well at GISA governance.11that one of the directors of GISA is actually a – Mr. O'Brien I believe his name 1311It said somewhere along the way, I thought, 1213is, he's actually a board member of the 1412that Ernst and Young, that accounting firm, 1313is, he's actually a board member of the 1413their role was to oversee IBC's service14Public Utilities Board here in Newfoundland, 1514delivery to GISA. Do you know that that's15I believe.15the case?16MS. ELLIOTT:16MS. ELLIOTT:17A.Okay.1718STAMP, Q.C.:18STAMP, Q.C.:19Q.You don't know Mr. O'Brien, I take it? I 201920don't either, but -20see GISA data, that's that data that's held21MS. ELLIOTT:21and collected for this statistical agency22A.No, I'm not aware of who's on the board, no.2223STAMP, Q.C.:23STAMP, Q.C.:24Q.So, this is the – he's, I think, a former superintendent of insurance here, Mr.2425STAMP, Q.C.:2526STAMP, Q.C.:2527STAMP, Q.C.:	8	Manitoba, Quebec.	8	country on behalf of GISA.
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25superintendent of insurance here, Mr.25STAMP, Q.C.:	1			
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	1			

	Page 165		Page 167
1	-	1	MS. ELLIOTT:
	Q. Okay. Now, I want to come back to the		
$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	instruction, the 2017 instruction. I know	2	A. Yeah.
3	you spent a lot of time on it already, but I	3	STAMP, Q.C.:
4	just want to try and clarify some things in	4	Q. So, I want to just come to the sample size
5	my mind about all of that. So, you said,	5	and reporting issues and so on, page 5 of
6	for example, that last fall you had seen	6	that, page 5 of the paper document. That's
7	this document, I think?	7	it there, yes. So, item number three. So,
8	MS. ELLIOTT:	8	what – first of all, I could ask you this,
9	A. Yes.	9	Ms. Elliott. How did the number 2,000 come
10	STAMP, Q.C.:	10	up? Was that because that was what would
11	Q. And by the document, I mean the one that's –	11	result – that was what the result would be
12	perhaps we can show the – not the note, but	12	for any given year or did you look for 2,000
13	the preceding part. Yes, that's it there.	13	and say where I can find 2,000?
14	Does that show up on your screen, Ms.	14	MS. ELLIOTT:
15	Elliott?	15	A. Well, we know how many claims occur on
16	MS. ELLIOTT:	16	average in a year.
17	A. Yes.	10	STAMP, Q.C.:
		17	
18	STAMP, Q.C.:		Q. Right.
19	Q. Okay. So, that's the – that's what I call	19	MS. ELLIOTT:
20	the Closed Claim instruction?	20	A. We have an approximation of how many
21	MS. ELLIOTT:	21	claimants there would be per claim. So, we
22	A. Yeah.	22	can do the math to figure out approximately
23	STAMP, Q.C.:	23	if we had every single claim in the province
24	Q. And so you saw that last fall?	24	on average how many claimants we would have.
25	MS. ELLIOTT:	25	We also know that there'd be some companies
	Page 166		Page 168
1	A. Um-hm.	1	for a variety of reasons, resources or
2	STAMP, Q.C.:	2	whatever, that may not be able to
3	Q. And the Oliver Wyman role was to assist in	3	participate, and that there are – sometimes
4	the design of this document?	4	the data that's provided might be erroneous
5	MS. ELLIOTT:	5	or it's rejected or – so, you're not going
6	A. Yes. We would have, in all fairness,	6	to get all the claims that could possibly be
7	reviewed the draft and provided comments,	7	in the province in that window of time. So,
8	yeah.	8	we said well, 2,000, we'd be quite happy
9	STAMP, Q.C.:	9	with that volume of claimant data and that
10	Q. Sure, right. And so, one of the things that	10	would be credible for our purposes.
10	you did, of course, as you say, was you	11	(12:15 p.m.)
12	provided comments, looked at the draft, but	12	STAMP, Q.C.:
13	actually asked for additional information,	13	Q. And that 2,000, if I understand what you've
14	additional data to be collected?	14	been saying, that 2,000 is an approximation
15	MS. ELLIOTT:	15	of what the closed claims are in any given
16	A. Correct.	16	year?
17	STAMP, Q.C.:	17	MS. ELLIOTT:
18	Q. And we talked about the Nova Scotia and New	18	A. Right.
19	Brunswick definition issue.	19	STAMP, Q.C.:
20	MS. ELLIOTT:	20	Q. Is that more or less what you're saying?
21	A. Um-hm.	21	MS. ELLIOTT:
22	STAMP, Q.C.:	22	A. Yes.
1 00		23	STAMP, Q.C.:
23	Q. We'll come to that a little bit later. But	25	~
23	Q. We'll come to that a little bit later. But that was part of what you saw as might be	24	Q. Okay. And so, when you picked July 1

	Page 169		Page 171
1	•	1	•
	through June 30th, overlap the two years, but	1	STAMP, Q.C.:
2	you're looking for – you took a 12-month	2	Q. And am I also correct then that your
3	period and said "we want all of the claims –	3	understanding is that about 2,000 close a
4	we look at all the claims that are closed in	4	year?
5	that year, all of them"?	5	MS. ELLIOTT:
6	MS. ELLIOTT:	6	A. Yes. I mean, yes, the industry is not
7	A. Right. We wanted the most recent sample we	7	growing that rapidly or the number of
8	could get. So, we put – picked a cut-off	8	either. It's a bit of a decline in the
9	date and a window of time that we thought	9	frequency rate but that's the last couple of
10	we'd get a sample of that size.	10	
1	•		years.
11	STAMP, Q.C.:	11	STAMP, Q.C.:
12	Q. Right. And then in – and you knew from your	12	Q. There is that rough balance?
13	experience, I suppose, that those claims	13	MS. ELLIOTT:
14	that closed in that period of time we just	14	A. Yeah, it's a good approximation of how many
15	spoke about, July to June '16-17, that a lot	15	claims there would be, yeah.
16	of those claims would come out of certain	16	STAMP, Q.C.:
17	specific years because of the way claims	17	Q. Now, and so, given that your understanding
18	typically settle?	18	was that there'd be about 2,000 claims that
19	MS. ELLIOTT:	19	would close in a 12-month period, you worked
20	A. Correct.	20	from that and that number in your mind was a
21	STAMP, Q.C.:	21	sufficient, I guess, data size, sample size
$\begin{vmatrix} 21\\22 \end{vmatrix}$	Q. That was your understanding or expectation?	22	to make you comfortable with your
$\begin{vmatrix} 22\\23 \end{vmatrix}$	MS. ELLIOTT:	23	conclusions?
$23 \\ 24$	A. Um-hm.	23 24	MS. ELLIOTT:
25	STAMP, Q.C.:	24 25	A. Correct.
<u> </u>		25	
	Page 170		Page 172
1	Page 170 Q. So, my understanding is then that, you know,	1	Page 172 STAMP, Q.C.:
1 2	Page 170 Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066	1 2	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out.
1	Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm	1	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide
1 2	Page 170 Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066	1 2	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out.
1 2 3	Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm	1 2 3	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I
1 2 3	Page 170 Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm sorry, in 2000 – they closed in - MS. ELLIOTT:	1 2 3 4 5	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide
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1 2 3 4 5 6 7	Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm sorry, in 2000 – they closed in - MS. ELLIOTT: A. Well, this is an approximation of what would be, yes, for that period of time.	1 2 3 4 5 6 7	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis.
1 2 3 4 5 6 7 8	<ul> <li>Page 170</li> <li>Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm sorry, in 2000 – they closed in -</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is an approximation of what would be, yes, for that period of time.</li> <li>STAMP, Q.C.:</li> </ul>	1 2 3 4 5 6 7 8	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis. STAMP, Q.C.:
1 2 3 4 5 6 7 8 9	<ul> <li>Page 170</li> <li>Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066</li> <li>claims closed in that period of time? I'm sorry, in 2000 – they closed in -</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is an approximation of what would be, yes, for that period of time.</li> <li>STAMP, Q.C.:</li> <li>Q. Yeah. But, you're looking at GISA data and</li> </ul>	1 2 3 4 5 6 7 8 9	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis. STAMP, Q.C.: Q number of claims to claimants?
1 2 3 4 5 6 7 8 9 10	<ul> <li>Page 170</li> <li>Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm sorry, in 2000 – they closed in -</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is an approximation of what would be, yes, for that period of time.</li> <li>STAMP, Q.C.:</li> <li>Q. Yeah. But, you're looking at GISA data and it's, I guess, some kind of a GISA 2016 data</li> </ul>	1 2 3 4 5 6 7 8 9 10	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis. STAMP, Q.C.: Q number of claims to claimants? MS. ELLIOTT:
1 2 3 4 5 6 7 8 9 10 11	<ul> <li>Page 170</li> <li>Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066 claims closed in that period of time? I'm sorry, in 2000 – they closed in -</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is an approximation of what would be, yes, for that period of time.</li> <li>STAMP, Q.C.:</li> <li>Q. Yeah. But, you're looking at GISA data and it's, I guess, some kind of a GISA 2016 data piece and it says that 2,066 BI claims,</li> </ul>	1 2 3 4 5 6 7 8 9 10 11	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis. STAMP, Q.C.: Q number of claims to claimants? MS. ELLIOTT: A. That's an estimate and the data provided
$ \begin{array}{c} 1\\ 2\\ 3\\ 4\\ 5\\ 6\\ 7\\ 8\\ 9\\ 10\\ 11\\ 12\\ \end{array} $	<ul> <li>Page 170</li> <li>Q. So, my understanding is then that, you know, there's no guess work here. It's 2,066</li> <li>claims closed in that period of time? I'm sorry, in 2000 – they closed in -</li> <li>MS. ELLIOTT:</li> <li>A. Well, this is an approximation of what would be, yes, for that period of time.</li> <li>STAMP, Q.C.:</li> <li>Q. Yeah. But, you're looking at GISA data and it's, I guess, some kind of a GISA 2016 data piece and it says that 2,066 BI claims, private passenger BI claims, closed in 2012.</li> </ul>	1 2 3 4 5 6 7 8 9 10 11 12	Page 172 STAMP, Q.C.: Q. And even lower than that, as it turns out. So, you took the 2,066. Now, did you decide that we should apply a 1.2 ratio to, I guess, aggregate that - MS. ELLIOTT: A. To a claimant basis. STAMP, Q.C.: Q number of claims to claimants? MS. ELLIOTT: A. That's an estimate and the data provided what the actual number was, which I think
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1	MS. ELLIOTT:	1	Q. And brings it down to 2320?
2	A. Yeah.	2	MS. ELLIOTT:
$\begin{vmatrix} -3 \end{vmatrix}$	STAMP, Q.C.:	$\begin{vmatrix} -3 \end{vmatrix}$	A. Um-hm.
4	Q. That would have claims closed in that year?		STAMP, Q.C.:
5	MS. ELLIOTT:	5	
			Q. You agreed with all of that, I take it?
	A. Right. That would be in that range to	6	MS. ELLIOTT:
7	expect it, yeah.	7	A. Yeah.
8	STAMP, Q.C.:	8	STAMP, Q.C.:
9	Q. And as I understood the instructions, you	9	Q. That was perfectly reasonable in your mind?
10	wanted all aspects of a claim to close to	10	MS. ELLIOTT:
11	make it – to be considered a closed claim?	11	A. Yeah.
12	MS. ELLIOTT:	12	STAMP, Q.C.:
13	A. Yes.	13	Q. Okay. And then is it reasonable then that
14	STAMP, Q.C.:	14	this rough approximation of 15 percent
15	Q. So, if there was three, you know, claimants	15	that'll be data you won't be able to use,
16	in a car, for example, you wanted all three	16	won't get at, lost files, incomplete data?
17	to be done with before you'd consider it	17	MS. ELLIOTT:
18	closed?	18	A. There would be rejections due to quality
19	MS. ELLIOTT:	19	issues when IBC would be reviewing it, yeah.
20	A. Right.	20	So, that was their ballpark.
21	STAMP, Q.C.:	21	STAMP, Q.C.:
22	Q. So, you were sending, I guess, instructions	22	Q. And so, that applying that adjustment, that
23	essentially to IBC to give to the insurers	23	15 percent adjustment, that meant you were
24	"go and take that 12-month period, July to	24	down to 1972 claims. So, for the number of
25	June, and gather up all of your closed	25	insurers you were focusing on, that's the
	Page 174		Page 176
1	claims for that period"?	1	people who were going to open the files and
2	MS. ELLIOTT:	2	do the work? Those six insurers, when you
$\begin{vmatrix} 2\\3 \end{vmatrix}$	A. Correct.	$\begin{vmatrix} 2\\3 \end{vmatrix}$	took out what would be – might be lost files
		4	-
4	STAMP, Q.C.:	-	and so on, they should have something in the
5	Q. And so, given that we have, I think, six	5	order of 1972 closed files?
6	insurers, essentially six insurers -	6	MS. ELLIOTT:
7	MS. ELLIOTT:	7	A. Right. So, that's how the target of 2,000
8	A. Groups, yes.	8	was approached, yes.
9	STAMP, Q.C.:	9	STAMP, Q.C.:
10	Q. Groups, yes – who were working – who were	10	Q. Right. And then when I read the rest of
11	involved in this process who had 93.5	11	this paragraph, the last sentence in
12	percent or something, then the expectation,	12	particular of that same paragraph that does
13	I presume, is that their relative	13	that adjustment with 15 percent, it says "if
14	involvement in those closed claims is going	14	the actual reported number of claimants is
15	to match their involvement in the industry	15	significantly below this expected target,
15	generally?	16	IBC would ask participating companies to
	e ;		
17	MS. ELLIOTT:	17	report additional claimant files to fill the
18	A. Yes, yes, it's proportional, yeah.	18	gap". So, I mean, I understand you had a
19	STAMP, Q.C.:	19	lot on your plate. It appears to suggest
20	Q. So, then what was done was the 2479 was	20	that they are going to go somewhere else,
	modified by the 02 means the the sin	21	different timeframes, I guess -
21	multiplied by the 93 percent for the six		
21 22	insurer groups?	22	MS. ELLIOTT:
22	insurer groups?	22	MS. ELLIOTT:
22 23	insurer groups? MS. ELLIOTT:	22 23	MS. ELLIOTT: A. Yeah.

	Page 177		Page 179
1	don't find 1972?	1	STAMP, Q.C.:
$\begin{vmatrix} 1\\2 \end{vmatrix}$	MS. ELLIOTT:	2	, .
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$		3	-
	8		be slightly ahead of where I was hoping to
4	you could have a year perhaps where it was a	4	be at the moment, but I will come to that
5	mild winter and there are fewer claims.	5	certainly. But, I mean, the period of time
6	STAMP, Q.C.:	6	that they were directed to use, July 1 to
7	Q. Sure.	7	June 30th '16-17, that did not have enough
8	MS. ELLIOTT:	8	data in it to give you the 2,000 you'd asked
9	A. And so, IBC certainly, you know, achieved or	9	for?
10	tried to achieve collecting the 2,000	10	MS. ELLIOTT:
11	claimant files and they took an approach,	11	A. As it happened.
12	you know, to do that. They had a job to do	12	STAMP, Q.C.:
13	and they went about and did it.	13	Q. As it happens, sure, of course.
14	STAMP, Q.C.:	14	MS. ELLIOTT:
15	Q. So, as they noted in the report that you	15	A. Yeah.
16	would have seen in the fall of 2017, this is	16	STAMP, Q.C.:
17	what they would do? They would go – they	17	Q. But, and then so, to give you the data that
18	would expand outside the designated period?	18	you'd asked for, to bring it to the 2,000 or
19	MS. ELLIOTT:	19	whatever that number is going to be, they
20	A. Um-hm.	20	had to go outside of the designated period,
21	STAMP, Q.C.:	21	did they not?
22	Q. Because the designated period would only	22	MS. ELLIOTT:
23	give 1972?	23	A. Right, the window.
24	MS. ELLIOTT:	24	STAMP, Q.C.:
25	A. Um-hm.	25	Q. There's nowhere else to get it, is there?
	Page 178		Page 180
1	STAMP, Q.C.:	1	MS. ELLIOTT:
2	Q. So, they expanded outside it. I don't know	2	
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$			A NO
			A. No. STAMP O C ·
	which way they went, either way, I suppose.	3	STAMP, Q.C.:
4	which way they went, either way, I suppose. And it was there that you encountered, in		STAMP, Q.C.: Q. No. So, they went, as you say – I don't
4 5	which way they went, either way, I suppose. And it was there that you encountered, in your mind, concern with the two companies,	3 4 5	<ul> <li>STAMP, Q.C.:</li> <li>Q. No. So, they went, as you say – I don't know which way they went, either side, they</li> </ul>
4 5 6	which way they went, either way, I suppose. And it was there that you encountered, in your mind, concern with the two companies, the data that was maybe going to be	3 4 5 6	<ul> <li>STAMP, Q.C.:</li> <li>Q. No. So, they went, as you say – I don't know which way they went, either side, they did something.</li> </ul>
4 5 6 7	which way they went, either way, I suppose. And it was there that you encountered, in your mind, concern with the two companies, the data that was maybe going to be misleading in some way?	3 4 5 6 7	<ul> <li>STAMP, Q.C.:</li> <li>Q. No. So, they went, as you say – I don't know which way they went, either side, they did something.</li> <li>MS. ELLIOTT:</li> </ul>
4 5 6 7 8	<ul> <li>which way they went, either way, I suppose.</li> <li>And it was there that you encountered, in your mind, concern with the two companies, the data that was maybe going to be misleading in some way?</li> <li>MS. ELLIOTT:</li> </ul>	3 4 5 6 7 8	<ul> <li>STAMP, Q.C.:</li> <li>Q. No. So, they went, as you say – I don't know which way they went, either side, they did something.</li> <li>MS. ELLIOTT:</li> <li>A. Earlier, older files.</li> </ul>
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4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>which way they went, either way, I suppose. And it was there that you encountered, in your mind, concern with the two companies, the data that was maybe going to be misleading in some way?</li> <li>MS. ELLIOTT:</li> <li>A. Right. So, I guess two things. One is IBC didn't call me up, email me and say "hey, we have to go outside the 12-month window" and we would have said "oh, okay" if they had, but they didn't and I didn't realize that until I received the data, but okay, because we had been, you know, pretty firm that we want this solid full sample. And so, that was fine, but in the process of that, we did then segment the data by month of closure and saw the matrix of each company and how many they reported in each month and then assessed how many were outside the 12-month window and that's where two companies struck</li> </ul>	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>STAMP, Q.C.:</li> <li>Q. No. So, they went, as you say – I don't know which way they went, either side, they did something.</li> <li>MS. ELLIOTT:</li> <li>A. Earlier, older files.</li> <li>STAMP, Q.C.:</li> <li>Q. Earlier period.</li> <li>MS. ELLIOTT:</li> <li>A. Yeah.</li> <li>STAMP, Q.C.:</li> <li>Q. So, they went back to like what – so, they had July 1 to June 30th, so they what, did June maybe?</li> <li>MS. ELLIOTT:</li> <li>A. The bulk of it was adding on May and June, the bulk.</li> <li>STAMP, Q.C.:</li> <li>Q. Okay, sure.</li> <li>MS. ELLIOTT:</li> </ul>

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	Page 181		Page 183
	Q. So, they – instead of starting in July 1st,	1	MS. ELLIOTT:
2	they had to act back to June 1st, 2016 and	2	A. And so, the data that came to you, as you
3	then if that wasn't enough, go back to May?	3	said, when they gave you the – I think it's
4	MS. ELLIOTT:	4	somebody said it's 230 or 36 or something –
5	A. Right.	5	data pieces, you know, claims, claimants, I
6	STAMP, Q.C.:	6	guess, that were identified, those 236, they
7	Q. So, that's what they did. They extended	7	were from Metro and Union?
8	outside the timeframe that you had directed	8	MS. ELLIOTT:
9	them to use because they had to do that to	9	A. No. The ones that we excluded were a
10	get the data. They did it. This is when	10	combination of Intact and RSA.
11	the situation occurred. And so, although	11	STAMP, Q.C.:
12	they didn't pick up the phone and call, they	12	Q. But you used the RSA and Intact data, did
13	certainly told you or certainly you had	13	you not?
14	approved that they would go outside to get	14	MS. ELLIOTT:
15	the data if they needed to?	15	A. No, no, because – so, let's take Metro, for
16	MS. ELLIOTT:	16	example.
17	A. Yeah. If they had said that they were going	17	STAMP, Q.C.:
18	to do that, I would have agreed. I wouldn't	18	Q. Sure.
19	have objected.	19	MS. ELLIOTT:
20	STAMP, Q.C.:	20	A. Metro was acquired by Intact and they rolled
21	Q. There's nothing mischievous about it though,	21	all the new policies that were written onto
22	is there?	22	the Intact system, but when they acquired
23	MS. ELLIOTT:	23	the company, which I think might have been
24	A. No, no.	24	2013 or I don't remember specifically, but
25	STAMP, Q.C.:	25	there could have been a claim from say 2010
	Page 182		Page 184
1	Q. No. So, and they had said here, "that's	1	and that claim stayed on the old Metro
2	what we'll do. We'll actually go outside	2	system and so, when they were reporting for
3	that period to get it, if we need to"?	3	this, they were only using the Intact system
4	MS. ELLIOTT:	4	and that old claim was not part – wasn't
5	A. In hindsight, reading it, yes.	5	made part of the sample, even though it
6	STAMP, Q.C.:	6	could have closed for Metro in the window of
7	Q. Sure, of course. And look, I understand	7	time. But because it was on this other
8	you've read a lot and you've been asked a	8	system, it didn't get captured.
9	lot in this time. I don't expect you to	9	STAMP, Q.C.:
10	remember everything. But that was there.	10	Q. But I had understood you to say that RSA
11	So, now come back to the point you made. I	11	independent, for example – and we aren't
12	think you mentioned two companies maybe	12	particularly talking about RSA, but just
13	yesterday, Metro and Union I think you said,	13	using RSA for an example, but RSA, of
14	and those companies had been acquired and	14	course, had an obligation to deliver a
15			-
		15	certain number of files, closed files data?
16	their, I don't know, data processing or	15 16	certain number of files, closed files data? MS. ELLIOTT:
16	their, I don't know, data processing or record keeping or whatever you call that had	16	·
16 17	their, I don't know, data processing or record keeping or whatever you call that had been changed?	16 17	MS. ELLIOTT: A. That were closed in that -
16 17 18	their, I don't know, data processing or record keeping or whatever you call that had been changed? MS. ELLIOTT:	16 17 18	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.:
16 17 18 19	<ul><li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li><li>MS. ELLIOTT:</li><li>A. Yes. An old system where claims that were</li></ul>	16 17 18 19	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.: Q. Because they were – based on the percentage?
16 17 18 19 20	<ul><li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li><li>MS. ELLIOTT:</li><li>A. Yes. An old system where claims that were still running off were there and then some</li></ul>	16 17 18 19 20	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.: Q. Because they were – based on the percentage? MS. ELLIOTT:
16 17 18 19 20 21	<ul><li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li><li>MS. ELLIOTT:</li><li>A. Yes. An old system where claims that were still running off were there and then some newer claims were on the acquiring company's</li></ul>	16 17 18 19 20 21	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.: Q. Because they were – based on the percentage? MS. ELLIOTT: A. Yeah.
16 17 18 19 20 21 22	<ul> <li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li> <li>MS. ELLIOTT:</li> <li>A. Yes. An old system where claims that were still running off were there and then some newer claims were on the acquiring company's system. So, they were really running two</li> </ul>	16 17 18 19 20 21 22	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.: Q. Because they were – based on the percentage? MS. ELLIOTT: A. Yeah. STAMP, Q.C.:
16 17 18 19 20 21 22 23	<ul> <li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li> <li>MS. ELLIOTT:</li> <li>A. Yes. An old system where claims that were still running off were there and then some newer claims were on the acquiring company's system. So, they were really running two systems.</li> </ul>	16 17 18 19 20 21 22 23	<ul> <li>MS. ELLIOTT:</li> <li>A. That were closed in that - STAMP, Q.C.:</li> <li>Q. Because they were – based on the percentage?</li> <li>MS. ELLIOTT:</li> <li>A. Yeah.</li> <li>STAMP, Q.C.:</li> <li>Q. And that percentage, whatever it was,</li> </ul>
16 17 18 19 20 21 22	<ul> <li>their, I don't know, data processing or record keeping or whatever you call that had been changed?</li> <li>MS. ELLIOTT:</li> <li>A. Yes. An old system where claims that were still running off were there and then some newer claims were on the acquiring company's system. So, they were really running two</li> </ul>	16 17 18 19 20 21 22	MS. ELLIOTT: A. That were closed in that - STAMP, Q.C.: Q. Because they were – based on the percentage? MS. ELLIOTT: A. Yeah. STAMP, Q.C.:

	, 2010		
1 .	Page 185		Page 187
	300 for argument sake. And of that 300,	1	MS. ELLIOTT:
2	let's say some of the Metro files were 20.	2	A. They had too high a proportion outside the
3	I'm just picking these numbers out of my	3	12-month window.
4	head. I don't know anything about it. But	4	STAMP, Q.C.:
5	so, when the 20 files were looked at, did	5	Q. So, overall, Intact material comes in.
6	you discard the 20?	6	Let's say it's 200 or something claims data
7	MS. ELLIOTT:	7	points that come into you and you say "this
8	A. No, all, all Intact, because it came to us	8	looks to me there's a higher percentage of
9	as – in this case, Intact and Metro are	9	more recent claims here than elsewhere"?
10	together; that was acquired. So, all Intact	10	(12:30 p.m.)
11	files are – that's the main system that	11	MS. ELLIOTT:
12	they're running. They have a few files on	12	A. They had a higher proportion outside the 12-
13	their old system that were never transferred	13	month window.
14	onto the new Intact system.	14	STAMP, Q.C.:
15	STAMP, Q.C.:	15	Q. Okay, okay. So, you looked at – that's what
16	Q. Yes.	16	you identified? Those files that came from
17	MS. ELLIOTT:	17	outside the 12-month window?
18	A. And they were not included. And as a	18	MS. ELLIOTT:
19	result, even though it could have been	19	A. Yeah.
20	closed in our 12-month window, they were not	20	STAMP, Q.C.:
21	included.	21	Q. Did you know they were Metro, for example?
22	STAMP, Q.C.:	22	MS. ELLIOTT:
23	Q. I understood that, yeah.	23	A. I didn't know what they were at the moment
24	MS. ELLIOTT:	24	when I identified this oddity up through
25	A. Yeah. So, I can't just include the ones	25	investigation.
	Page 186		Page 188
1	that Intact did report, even though they	1	STAMP, Q.C.:
2	could have been reported each individual	2	Q. So, when you identified – sorry, sorry, I
3	file accurately. Their sample from Intact	3	didn't mean to interrupt you.
	was incomplete and therefore I had to	4	MS. ELLIOTT:
5	eliminate all of Intact.	5	A. Well, through investigation then we could
6	STAMP, Q.C.:	6	
		6	identify.
	Q. And what you said was there's nothing wrong	7	STAMP, Q.C.:
	with the data they supplied. It was	7 8	STAMP, Q.C.: Q. Yeah, because there's a dialog and then you
9	with the data they supplied. It was accurate. It just was you wanted more data	7 8 9	<ul><li>STAMP, Q.C.:</li><li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's</li></ul>
9 10	with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?	7 8 9 10	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers</li> </ul>
9 10 11	with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data? MS. ELLIOTT:	7 8 9 10 11	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300</li> </ul>
9 10 11 12	<ul><li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li><li>MS. ELLIOTT:</li><li>A. I wanted the complete picture of all the</li></ul>	7 8 9 10 11 12	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of</li> </ul>
9 10 11 12 13	<ul><li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li><li>MS. ELLIOTT:</li><li>A. I wanted the complete picture of all the files closed.</li></ul>	7 8 9 10 11 12 13	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some</li> </ul>
9 10 11 12 13 14	<ul><li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li><li>MS. ELLIOTT:</li><li>A. I wanted the complete picture of all the files closed.</li><li>STAMP, Q.C.:</li></ul>	7 8 9 10 11 12 13 14	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire</li> </ul>
9 10 11 12 13 14 15	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear</li> </ul>	7 8 9 10 11 12 13 14 15	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> </ul>
9 10 11 12 13 14 15 16	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how</li> </ul>	7 8 9 10 11 12 13 14 15 16	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> </ul>
9 10 11 12 13 14 15 16 17	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when</li> </ul>	7 8 9 10 11 12 13 14 15 16 17	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> </ul>
9 10 11 12 13 14 15 16 17 18	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> </ul>
9 10 11 12 13 14 15 16 17 18 19	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> <li>MS. ELLIOTT:</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19 20	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> <li>MS. ELLIOTT:</li> <li>A. Well, I didn't have it to know it, so I</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> <li>MS. ELLIOTT:</li> <li>A. Well, I didn't have it to know it, so I couldn't tell you.</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> <li>MS. ELLIOTT:</li> <li>A. Well, I didn't have it to know it, so I couldn't tell you.</li> <li>STAMP, Q.C.:</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. Okay. I was – okay, I understand that now.</li> </ul>
9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>with the data they supplied. It was accurate. It just was you wanted more data to balance some of that data?</li> <li>MS. ELLIOTT:</li> <li>A. I wanted the complete picture of all the files closed.</li> <li>STAMP, Q.C.:</li> <li>Q. So, again, I'm not sure if I – if I'm clear on this. So, I mean, you had to know how much of that data was Metro, did you, when you saw that material, in Intact and Metro situation?</li> <li>MS. ELLIOTT:</li> <li>A. Well, I didn't have it to know it, so I couldn't tell you.</li> </ul>	7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>STAMP, Q.C.:</li> <li>Q. Yeah, because there's a dialog and then you understand what's happening. So, then let's assume, just picking these numbers arbitrarily, that Intact had supplied 300 claims data, you know, pieces. Because of the skewing where they had included some more recent claims, you took the entire Intact data out of your study?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> <li>Q. And the same thing happened with RSA?</li> <li>MS. ELLIOTT:</li> <li>A. Yes.</li> <li>STAMP, Q.C.:</li> </ul>

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1	A. Right.	1	So, that was the data that we had to work
2	STAMP, Q.C.:	2	with, the actual minor injury reform
3	Q. And still 1741 from a statistical	3	costing. In addition, we had other data
4	perspective, you had no concerns, no	4	collected in those studies which were—so,
5	reservations that that would be a suitable	5	there were more filed, but with respect to
6	sample?	6	the comparable number, the similar type
7	MS. ELLIOTT:	7	work, there were just—there were fewer in
8	A. Correct.	8	Nova Scotia and New Brunswick that what we
9	STAMP, Q.C.:	9	have here.
10	Q. Yeah. And am I right as well, yesterday	10	STAMP, Q.C.:
11	that you said that that sample, 1741 in	11	Q. Right.
12	Newfoundland, was actually bigger than the	12	MS. ELLIOTT:
13	sample in Nova Scotia when you did the work	13	A. Yeah.
14	over there for the Closed Claims Study?	14	STAMP, Q.C.:
15	MS. ELLIOTT:	15	Q. But still represented a proper sample?
16	A. Right, for the costing of the minor injury	16	MS. ELLIOTT:
17	reform changes, yeah.	17	A. Oh yeah, yeah. We did the work.
18	STAMP, Q.C.:	18	STAMP, Q.C.:
19	Q. Right. Similar thing that was going on	19	Q. So, the percentage or the ratio, whatever
20	there as is going on here now?	20	way you describe that, of data to private
21	MS. ELLIOTT:	21	passenger in Nova Scotia and New Brunswick,
22	A. Um-hm.	22	you had a better sample in Newfoundland
23	STAMP, Q.C.:	23	proportionately or by ratio -
24	Q. So, the study in Nova Scotia, you had a	24	MS. ELLIOTT:
25	smaller sample than 1741 and the same in New	25	A. Yes.
	Page 190		Page 192
1	Brunswick? Is that what you said?	1	STAMP, Q.C.:
2	MS. ELLIOTT:	2	Q than you did with those provinces, and as
3	A. Um-hm. Yes, that's correct.	3	you say, that you were perfectly content
4	STAMP, Q.C.:	4	that that gave you a very adequate sample to
5	Q. And would it be – maybe you have a better	5	study and respond to?
6	idea. I mean, I know the populations of	6	MS. ELLIOTT:
7	those provinces is bigger than Newfoundland.	7	A. That's correct.
8	Would that stand to suggest that the private	8	STAMP, Q.C.:
9	passenger, I don't know, cohort in those	9	Q. Now, you've mentioned any number of times
10	provinces is likely bigger as well?	10	about the question about the comparison or
11	MS. ELLIOTT:	11	the request that claims examiners here
12	A. Oh, they are bigger in both provinces than	12	completing this questionnaire, delivering
13	ri. On, they are offfer in both provinces than		
	Newfoundland.	13	the data, would make some indication as to
14	Newfoundland.	13 14	the data, would make some indication as to whether they were of the view that the Nova
	Newfoundland. STAMP, Q.C.:		·
14	Newfoundland.	14	whether they were of the view that the Nova Scotia and/or New Brunswick definition would
14 15 16	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT:	14 15 16	whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply?
14 15 16 17	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT: A. Yes.	14 15 16 17	whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply? MS. ELLIOTT:
14 15 16 17 18	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT: A. Yes. STAMP, Q.C.:	14 15 16 17 18	whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply? MS. ELLIOTT: A. Well, if that claimant would meet the
14 15 16 17 18 19	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT: A. Yes. STAMP, Q.C.: Q. So, even though they had a bigger private	14 15 16 17 18 19	<ul> <li>whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply?</li> <li>MS. ELLIOTT:</li> <li>A. Well, if that claimant would meet the definition.</li> </ul>
14 15 16 17 18 19 20	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT: A. Yes. STAMP, Q.C.: Q. So, even though they had a bigger private passenger cohort in both provinces, a number	14 15 16 17 18 19 20	<ul> <li>whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply?</li> <li>MS. ELLIOTT:</li> <li>A. Well, if that claimant would meet the definition.</li> <li>STAMP, Q.C.:</li> </ul>
14 15 16 17 18 19 20 21	Newfoundland. STAMP, Q.C.: Q. Okay. MS. ELLIOTT: A. Yes. STAMP, Q.C.: Q. So, even though they had a bigger private passenger cohort in both provinces, a number less than 1741 was perfectly adequate for	14 15 16 17 18 19 20 21	<ul> <li>whether they were of the view that the Nova Scotia and/or New Brunswick definition would apply?</li> <li>MS. ELLIOTT:</li> <li>A. Well, if that claimant would meet the definition.</li> <li>STAMP, Q.C.:</li> <li>Q. Right.</li> </ul>
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	Page 193		Page 195
1	it's page 10 of the paper piece. And I'm	1	A. A link.
2	looking for Question Number 30. Do you see	2	STAMP, Q.C.:
3	that, Ms. Elliott?	3	Q. What do you call that? $A -$
4	MS. ELLIOTT:	4	MS. ELLIOTT:
5	A. Yes.	5	A. A link.
6	STAMP, Q.C.:	6	STAMP, Q.C.:
7	Q. Okay. So, is this one the questions you	7	Q. A link, yes. Thanks. A link forhow to
8	asked to have added?	8	get to that question?
9	MS. ELLIOTT:	9	MS. ELLIOTT:
10	A. Yes.	10	A. To get there.
11	STAMP, Q.C.:	11	STAMP, Q.C.:
12	Q. This is essentially your question?	12	Q. Or how to get to that study I suppose, or
13	MS. ELLIOTT:	13	how to get to that regulation, regulation of
14	A. Um-hm.	14	course. And then, it said even more
15	STAMP, Q.C.:	15	direction, it said, "The underlying claim
16	Q. And you've already explained that the answer	16	file may not provide sufficient information
17	you were going to get was likely going to be	17	for a claim adjustor to make this
18	soft?	18	determination. Reporting companies are
19	MS. ELLIOTT:	19	cautioned not to answer this question with
20	A. Um-hm.	20	yes or no unless there is evidence on the
21	STAMP, Q.C.:	21	file to support this judgment. Otherwise,
$\begin{vmatrix} 21\\22 \end{vmatrix}$	Q. I think you used the word "soft" maybe,	22	please answer this question with `Do not
$\begin{vmatrix} 22\\23 \end{vmatrix}$	meaning not terrifically reliable perhaps?	23	know."
$23 \\ 24$	MS. ELLIOTT:	23	MS. ELLIOTT:
25	A. Right. There'd be—and as the responses are	25	A. Correct.
		23	
			$\mathbf{D}_{a} \approx 106$
	Page 194	1	Page 196
1	shown, it's either yes, they're sure,	1	STAMP, Q.C.:
2	shown, it's either yes, they're sure, they're—no, it definitely isn't, or they	2	STAMP, Q.C.: Q. So, that was the instruction that the people
$\begin{vmatrix} 2\\ 3 \end{vmatrix}$	shown, it's either yes, they're sure, they're—no, it definitely isn't, or they don't know.	2 3	<ul> <li>STAMP, Q.C.:</li> <li>Q. So, that was the instruction that the people who had the files opened on their desks –</li> </ul>
2 3 4	shown, it's either yes, they're sure, they're—no, it definitely isn't, or they don't know. STAMP, Q.C.:	2 3 4	<ul> <li>STAMP, Q.C.:</li> <li>Q. So, that was the instruction that the people who had the files opened on their desks –</li> <li>MS. ELLIOTT:</li> </ul>
2 3 4 5	shown, it's either yes, they're sure, they're—no, it definitely isn't, or they don't know. STAMP, Q.C.: Q. Don't know, right.	2 3 4 5	<ul> <li>STAMP, Q.C.:</li> <li>Q. So, that was the instruction that the people who had the files opened on their desks –</li> <li>MS. ELLIOTT:</li> <li>A. Um-hm.</li> </ul>
2 3 4 5 6	shown, it's either yes, they're sure, they're—no, it definitely isn't, or they don't know. STAMP, Q.C.: Q. Don't know, right. MS. ELLIOTT:	2 3 4 5 6	<ul> <li>STAMP, Q.C.:</li> <li>Q. So, that was the instruction that the people who had the files opened on their desks –</li> <li>MS. ELLIOTT:</li> <li>A. Um-hm.</li> <li>STAMP, Q.C.:</li> </ul>
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1	STAMP, Q.C.:	1	MS. ELLIOTT:
2	Q. That was the choice, okay. Excuse me, Madam	2	A. Right. So, the same individual that managed
3	Chair. I just want to check my notes.	3	the collection and validation process on
4	CHAIR:	4	behalf of IBC for Nova Scotia and New
5	Q. Yes.	5	Brunswick was managing Newfoundland.
6	STAMP, Q.C.:	6	STAMP, Q.C.:
7	Q. Thank you. Ms. Elliott, there's been quite	7	Q. Okay.
8	a lot of criticism about what's been alluded	8	MS. ELLIOTT:
9	to, I suppose really, you know, whatit	9	A. So, we have continuity and knowledge of
10	sounds a bit like there's an allusion to	10	experience in it. You know, and just
11	insurance companies being dishonest, and I	11	because something was completed before,
11	know my friend, Mr. Kennedy, and Mr.	12	doesn't mean that we always believe that it
12	Gittens, you know, they've got a tent set up	12	will be, you know, perfect again because we
13	on the grassy knoll, but my question is, did	13	were happy before, but we were happy before
14		14	
	anybody do an audit in Nova Scotia or New		and that gives me some confidence. It
16	Brunswick when that data was done over	16	doesn't mean that going forward we'll—any of
17	there?	17	us will never make a mistake, but anyway,
18	MS. ELLIOTT:	18	that said, experience doing it, satisfied
19	A. No, not to my knowledge, no.	19	that the data that we used for the analysis
20	STAMP, Q.C.:	20	which is similar in the situation, has
21	Q. So, tell me this, you did say as well, after	21	resulted as the data has emerged that it
22	the fact, in hindsight, looking back at what	22	supported our findings.
23	you had studied and what the information was	23	STAMP, Q.C.:
24	and the report that you gave, how it had—I	24	Q. Yes.
25	think you said it stood the test of time.	25	MS. ELLIOTT:
	Page 198		Page 200
1	Maybe that's what you said. In other words,	1	A. And so, on that basis, I have no concern. I
2	the conclusions that were reached proved to	2	mean, if we had collected data for Nova
3	be valid?	3	Scotia and collected data for New Brunswick,
4			Scotta and concetted data for New Dranswick,
	MS. ELLIOTT:	4	and we found that it was a nightmare, it was
5	A. Correct.		
-	A. Correct.	4	and we found that it was a nightmare, it was all wrong, and our analysis was wrong, yeah,
5	A. Correct. STAMP, Q.C.:	4 5	and we found that it was a nightmare, it was all wrong, and our analysis was wrong, yeah, I'd be worried using the—you know, working
5 6 7	A. Correct.	4 5 6 7	and we found that it was a nightmare, it was all wrong, and our analysis was wrong, yeah, I'd be worried using the—you know, working with the same person again, but that wasn't
5 6 7 8	<ul><li>A. Correct.</li><li>STAMP, Q.C.:</li><li>Q. Is that what that meant?</li><li>MS. ELLIOTT:</li></ul>	4 5 6 7 8	and we found that it was a nightmare, it was all wrong, and our analysis was wrong, yeah, I'd be worried using the—you know, working with the same person again, but that wasn't my experience. I worked with them. I
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	Page 201		Page 203
1	STAMP, Q.C.:		this target of 2000 files," yes.
2	Q. The identification of some, you know, class	2	STAMP, Q.C.:
3	1 or 2 or whatever –	3	Q. And so, did you looking at—looking ahead
4	MS. ELLIOTT:	4	when you were doing the work in Nova Scotia
5	A. Right, WAS 1, WAS 2. Yes, all of the	5	and New Brunswick, did you see—were you
6	different –	6	apprehensive of bias?
7	STAMP, Q.C.:	7	MS. ELLIOTT:
8	Q. Right.	8	A. No, no, I'm not. You know, as I tried to
9	MS. ELLIOTT:	9	express, I believe that they take their
10	A. Yeah.	10	stack of files and the individual does their
11	STAMP, Q.C.:	11	best to fill it in.
12	Q. So, the same approach was taken over there,	12	STAMP, Q.C.:
13	and the people in Nova Scotia, the claims	13	Q. Yes.
14	people in Nova Scotia, just as they did	14	ŇS. ELLIOTT:
15	here, they were tasked with trying to	15	A. And you know, they complete their day and
16	identify or record –	16	they come back and do it again until they're
17	MS. ELLIOTT:	17	_
18	A. Identical task, yes. Yeah.	18	STAMP, Q.C.:
19	STAMP, Q.C.:	19	Q. And after the fact, in New Brunswick and
20	Q for the data for you, what that injury -	20	Nova Scotia, now that you can look back at
21	MS. ELLIOTT:	21	it somewhat, was anything about what was
$\begin{vmatrix} 21\\22 \end{vmatrix}$	A. Yeah.	$\begin{vmatrix} 21\\22 \end{vmatrix}$	provided to you in the way of data, is there
$\begin{vmatrix} 22\\23 \end{vmatrix}$	STAMP, Q.C.:	$\begin{vmatrix} 22\\23 \end{vmatrix}$	any suggestion that it had any bias within
24	Q what their impression was of that injury?	23	it?
27	MS. ELLIOTT:	25	MS. ELLIOTT:
	Page 202	20	Page 204
1	-	1	c
$\begin{vmatrix} 1 \\ 2 \end{vmatrix}$			A. No, I have no—if I had any inclination that
$\begin{vmatrix} 2\\ 2 \end{vmatrix}$	STAMP, Q.C.:	$\begin{vmatrix} 2 \\ 2 \end{vmatrix}$	the data was biased, I assure you I would have spoken up.
3	Q. So, no one went into those offices with a	3	nave spoken up
4		1	1 1
	warrant for example and investigated this	4	STAMP, Q.C.:
5	stuff? It was done by the internal	5	STAMP, Q.C.: Q. Sure.
5 6	stuff? It was done by the internal investigators, the internal claims managers?	5 6	STAMP, Q.C.: Q. Sure. MS. ELLIOTT:
5 6 7	stuff? It was done by the internal investigators, the internal claims managers? MS. ELLIOTT:	5 6 7	STAMP, Q.C.: Q. Sure. MS. ELLIOTT: A. And I had no inclination, no—of that
5 6 7 8	stuff? It was done by the internal investigators, the internal claims managers? MS. ELLIOTT: A. Yes, the people that are familiar with the	5 6 7 8	<ul> <li>STAMP, Q.C.:</li> <li>Q. Sure.</li> <li>MS. ELLIOTT:</li> <li>A. And I had no inclination, no—of that whatsoever in those, for Nova Scotia, New</li> </ul>
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5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>stuff? It was done by the internal investigators, the internal claims managers?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, the people that are familiar with the files and trained to complete this template of data, yeah.</li> <li>STAMP, Q.C.:</li> <li>Q. Sure, okay. So, that being the case, what we have here is, I mean, and it's been, you know, repeated I guess over and over, that there's been some sort of bias, some sort of misleading effort on the part of insurers to give you the data that they want you to have, but since the data that you were given was all of the closed claims for that period, I mean there's no option as to what to give you. It was every claim?</li> <li>MS. ELLIOTT:</li> <li>A. That was the purpose that—that's what the</li> </ul>	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>STAMP, Q.C.:</li> <li>Q. Sure.</li> <li>MS. ELLIOTT:</li> <li>A. And I had no inclination, no—of that whatsoever in those, for Nova Scotia, New Brunswick or here in Newfoundland. Yeah.</li> <li>STAMP, Q.C.:</li> <li>Q. Okay. That's all I have. Thank you, Madam Chair.</li> <li>CHAIR:</li> <li>Q. Thank you, Mr. Stamp. Mr. Browne?</li> <li>BROWNE, Q.C.:</li> <li>Q. Yes, thank you, Chair, Commissioners. Just on a point of clarification, Ms. Elliott, if we can go to the introduction of your report on page 1, the introduction, it says, "The Board of Commissioners of Public Utilities Newfoundland and Labrador, the Board has been directed to review the impact on rates of a monetary cap on claims for non-economic</li> </ul>

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1	and to review the impact on rates of	1	A. No, they were not given instructions to look
2	continuing with the current deductible or	2	at 2004, forward, or any particular year.
3	increasing the deductible." So, these were	3	They were given instruction to provide all
4	parts of your mandate?	4	claims closed in the 12-month window
5	MS. ELLIOTT:	5	regardless of the year or occurrence. Yeah.
6	A. Yeah.	6	BROWNE, Q.C.:
7	BROWNE, Q.C.:	7	
			Q. In terms of the 2005 report, the report was
8	< compared with the second sec	8	from July 1, the survey period, July 1, 2001
9	MS. ELLIOTT:	9	to June 20—to June 30th, 2004. It's a three-
10	A. Yes.	10	year period.
11	BROWNE, Q.C.:	11	MS. ELLIOTT:
12	Q. Okay. Now someone asked concerning the	12	A. Right.
13	schedule there with all the datesyou'll	13	BROWNE, Q.C.:
14	find it at Appendix A1. So, Appendix A1,	14	Q. And the survey numbers were 1369, and you
15	someone asked concerning 2002, two thousand-	15	focused on a one-year period between 2016
16	why 2003 and 2004 are not there. Are you	16	and 2017 and came up with a number of 1741.
17	aware that the deductible did not come into	17	Is there any significance in that, that the
18	effect? It was announced by government in	18	2005 report was over a three-year period and
19	2004 and came into effect shortly	19	this was over a one-year period?
20	thereafter, the 2004/2005 period. Would	20	MS. ELLIOTT:
21	that be one reason that 2002, 2003, 2004	21	A. Well, we were looking at that time to draw
$\begin{vmatrix} 21\\22 \end{vmatrix}$	were not included?	22	in first an initial sample, the 6000-odd
$\begin{vmatrix} 22\\23 \end{vmatrix}$	MS. ELLIOTT:	23	files, and then, make sure that our
$23 \\ 24$	A. No, that wouldn't be why. It would just be	23 24	distribution that we would take from that
24	because there were no claims that were	24 25	
23		23	initial sample was a good representation by
	Page 206	1	Page 208
1	closed in this 12-month window that occurred	1	area, not just, you know, the City of St.
2	back in 2003 or '04.	2	John's, but the whole province and the
3	BROWNE, Q.C.:	3	distribution by age. So, we wanted to make
4	Q. But if the legislation didn't go retroactive	4	sure that the claimant database that we had
5	to –	5	was a proper representation of the whole
6	MS. ELLIOTT:	6	province, and we followed that approach at
7	A. Well, there were still claims that occurred	7	that time. So –
8	in those years.	8	BROWNE, Q.C.:
9	BROWNE, Q.C.:	-	, (
1 10	BROWNE, Q.C	9	Q. But in terms of the 12 months versus the 36
10	Q. There was still claims that occurred?	9 10	
10			Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered
11	Q. There was still claims that occurred? MS. ELLIOTT:	10 11	Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more
11 12	<ul><li>Q. There was still claims that occurred?</li><li>MS. ELLIOTT:</li><li>A. Yes, but that would mean that they—there was</li></ul>	10 11 12	Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is
11 12 13	<ul><li>Q. There was still claims that occurred?</li><li>MS. ELLIOTT:</li><li>A. Yes, but that would mean that they—there was no deductible applied to the pain and</li></ul>	10 11 12 13	Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –
11 12 13 14	<ul> <li>Q. There was still claims that occurred?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, but that would mean that they—there was no deductible applied to the pain and suffering award. That's what that would</li> </ul>	10 11 12 13 14	<ul> <li>Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –</li> <li>MS. ELLIOTT:</li> </ul>
11 12 13 14 15	<ul> <li>Q. There was still claims that occurred?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, but that would mean that they—there was no deductible applied to the pain and suffering award. That's what that would mean.</li> </ul>	10 11 12 13 14 15	<ul> <li>Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –</li> <li>MS. ELLIOTT:</li> <li>A. Yes, and in that case, I mean, in this case</li> </ul>
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11 12 13 14 15 16 17 18	<ul> <li>Q. There was still claims that occurred?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, but that would mean that they—there was no deductible applied to the pain and suffering award. That's what that would mean.</li> <li>BROWNE, Q.C.:</li> <li>Q. So, from the perspective of those who presented the evidence, could that have been</li> </ul>	10 11 12 13 14 15 16 17 18	<ul> <li>Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –</li> <li>MS. ELLIOTT:</li> <li>A. Yes, and in that case, I mean, in this case here, we took the approach that let's ask essentially for everything in that 12-month window. And when you do that, well, if you</li> </ul>
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11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>Q. There was still claims that occurred?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, but that would mean that they—there was no deductible applied to the pain and suffering award. That's what that would mean.</li> <li>BROWNE, Q.C.:</li> <li>Q. So, from the perspective of those who presented the evidence, could that have been a consideration in their minds, perhaps erroneously as you maintain it might be, that the deductible did not come into effect until 2004, and therefore, the—what they looked at and what they presented was from</li> </ul>	10 11 12 13 14 15 16 17 18 19 20 21 22 23	<ul> <li>Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –</li> <li>MS. ELLIOTT:</li> <li>A. Yes, and in that case, I mean, in this case here, we took the approach that let's ask essentially for everything in that 12-month window. And when you do that, well, if you ask for everything, then that is a proper representation for the province. You don't have to then stratify it to make sure that it is random. Whereas in the prior study, we took several years, and then we wanted to</li> </ul>
11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. There was still claims that occurred?</li> <li>MS. ELLIOTT:</li> <li>A. Yes, but that would mean that they—there was no deductible applied to the pain and suffering award. That's what that would mean.</li> <li>BROWNE, Q.C.:</li> <li>Q. So, from the perspective of those who presented the evidence, could that have been a consideration in their minds, perhaps erroneously as you maintain it might be, that the deductible did not come into effect until 2004, and therefore, the—what they</li> </ul>	10 11 12 13 14 15 16 17 18 19 20 21 22	<ul> <li>Q. But in terms of the 12 months versus the 36 months, would the 36 months be more watered down? Your sampling seems to be more condensed in a 12-month period and theirs is over –</li> <li>MS. ELLIOTT:</li> <li>A. Yes, and in that case, I mean, in this case here, we took the approach that let's ask essentially for everything in that 12-month window. And when you do that, well, if you ask for everything, then that is a proper representation for the province. You don't have to then stratify it to make sure that it is random. Whereas in the prior study,</li> </ul>

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	approach.	l	Q. So, you've been across the country?
2	BROWNE, Q.C.:	2	MS. ELLIOTT:
3	Q. Ms. Elliott, yes, thank you. No one has	3	A. Yeah.
4	asked, but it's somewhere there in the	4	BROWNE, Q.C.:
5	record, your credentials, but can we put	5	Q. And testifying in proceedings such as these?
6	some of this on the record? Can you tell us	6	MS. ELLIOTT:
7	how you started in this business and give	7	A. Yes.
8	some of your personal history in reference	8	BROWNE, Q.C.:
9	to this matter?	9	Q. Just by way of clarification, the Insurance
10	MS. ELLIOTT:	10	Bureau of Canada, and data collection, and
11	A. Sure, gosh. I've been working for—I have	11	we've talked about GISA, the Insurance
12	over 40 years' experience. I'm a fellow of	12	Bureau of the Canada. Is there to your
13	the Canadian Institute of Actuaries. I'm a	13	knowledge annually statistics coming from
14	fellow of the Casualty Actuarial Society.	14	insurance companies here to the Insurance
15	I've been with Oliver Wyman or its	15	Bureau of Canada or to GISA? Are they
16	predecessors for over 20 years, and my focus	16	providing statistics?
17	as a consulting actuary has been in the	17	MS. ELLIOTT:
18	automobile insurance aspect for prompting	18	A. Yes, and all—every policy and every claim
19	(phonetic) casualty companies. Prior to	19	that occurs for automobile insurance is
20	that, I was employed with insurance	20	reported in a set format, referred to it as
21	companies in senior roles in pricing	21	the Auto Stat Plan. That-every automobile
22	departments, finance departments. So, my	22	premium and claim is reported in a set
23	background is P&C. I'm –	23	format to the IBC as a service provider for
24	BROWNE, Q.C.:	24	GISA which is acting on behalf of the
25	Q. Your studies and your actuarial studies have	25	Superintendent of the province to collect
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1	taken you to how many provinces?	1	this data. So, there's not a premium that's
2	MS. ELLIOTT:	2	paid or a claim that occurs that is not
3	A. I provide consulting services to	3	required to be reported to GISA.
4	Newfoundland here, of course; to Nova	4	BROWNE, Q.C.:
5	Scotia, both the Board and the	5	Q. So, all these, butyet, the Insurance
6	Superintendent. We provide services to the	6	Bureau of Canada comes to the insurance
7	Attorney General Office in New Brunswick,	7	companies here to get the close study
8	and also to the Superintendent of Insurance	8	information. Do they in fact have a
9	in New Brunswick. We provide services to	9	semblance of that information already,
10	both the Minister of Finance Office in	10	previously?
11	Alberta and the Board, the rate-making board	11	MS. ELLIOTT:
12	in Alberta. We've provided services for,	12	A. No, so the Auto Stat Plan collects
13	gosh, about 30 years to, my colleague as	13	information that is more related to pricing
14	well, who since or recently retired, to	14	the premium. So, the driver record, of
15	Ontario, the Financial Services Commission.	15	course accidents are reported. So, various
16	So, for myself for over 20 years and the	16	rating variables associated with that
17	account with our company for over 30 years.	17	premium are reported. In this case, for
18	We provide services to the Saskatchewan	18	these types of studies, we are looking at
19	Government. They have a regulatory panel	19	the injury types which is not reported to
20	that reviews the rates for the—Saskatchewan,	20	IBC. So, in the—on a regular ongoing basis.
21	government run. And we provide services to	21	So, that's why this is done on a special ad
22	the British Columbia Utilities Commission	22	hoc basis, to look at the claimant data and
23	who oversees the rates for ICBC. We review	23	what injuries were suffered and how much was
24			
24	those rate filings, too.	24	paid under the head of damage. In the
24 25	those rate filings, too. BROWNE, Q.C.:	24 25	paid under the head of damage. In the claims that are reported regularly to IBC

Page 213Page 2151ongoing, that reflects how much was paid, information, but not the descriptive1there, it says "There are few insurance options. Currently the top four insurers in Newfoundland and 1 abrador comprise 873information about the claim.4percent of the market", so I guess I'm assuming those two statements are trying to market.5BROWNE, Q.C.:58A. Yes.89BROWNE, Q.C.:79BROWNE, Q.C.:710Q. Okay, thanks for that clarification. Now I911think ny colleague might have a few1112questions or if you don't, have I asked them already?1213MR WADDEN:1414MR WADDEN:1415Q. Just a couple of points for clarification.1516And Paula, just ounderstand, again 1 think 161717I mentioned this yesterday, we come to this1718from a perspective of we, at the end of the probably best for the consumer after we ve2020probably best for the consumer after we ve2121have to give an opinion as to what is 191922make sure we're clear on what you're saying 212223the introduction, page 1 of this report, 1'm2324properly interpreted all of the ovin summary and the we'ne 232425The introduction, page 1 of this report, 1'm2526our report, okay, and thave we have 24 <t< th=""><th>June 6</th><th>·</th><th></th><th>2017 Automobile Insurance Review</th></t<>	June 6	·		2017 Automobile Insurance Review	
2     what the reserve was. So, the basic information, but not the descriptive 3     2     options. Currently the top four insurers in Newfoundland and Labrador comprise 87       3     information, but not the descriptive 3     3     Newfoundland and Labrador comprise 87       4     information, but not the descriptive 3     3     Newfoundland and Labrador comprise 87       5     BROWNF, Q.C: 3     5     5     assuming those two statements are trying to figure out is if four insurers intar comprise around 87 percent of the market', so I guess 1'm assuming those two statements are trying to figure out is if four insurers intar comprise 3       6     Q. More of a general nature. 3     7     6     market. 3     7       7     BROWNE, Q.C: 4     9     insurers that comprise 87 percent of the market. 4     10       10     Q. Okay, thanks for that clarification. Now 1     10     market. 4     11       11     think my colleague might have a few aready? 4     11     MS.FLI.IOTT: 4     12     A.       12     A Data Ligits to understand, again 1 think 1     16     document, Paula, I just thought maybe yo angit be able to help me out. 4     17     MS.ELLIOTT: 4     18       13     MR WADDEN: 4     10     10     market was acclatale, IBC       14     Mare dail of the evidence. We just want to 4     10     provided that to us, kay and thatw have 4     propent, kay and that we have 4 <td< td=""><td></td><td>_</td><td></td><td></td></td<>		_			
3       information, but not the descriptive       3       Newfoundland and Labrador comprise 87         4       information about the claim.       4       percent of the market", so I guess I'm         6       Q. More of a general nature.       6       maske the same point. T'm just trying to         6       Q. More of a general nature.       6       maske the same point. T'm just trying to         7       MS ELLIOTT:       7       figure out is it four insurers that comprise 87 percent of the         8       A. Yes.       8       around 87 percent of the market or is it six         9       BROWNE, Q.C.:       9       market.         11       think my colleague might have a few       10       market.         12       questions or if you don't, have I asked them       12       A. Uh-hm.         13       already?       13       MR. WADDEN:       14       Q. And I appreciate you didn't write this IBC         14       MR WADDEN:       14       Q. And I appreciate you report how may be you might be able to belp me out.       17         17       I mentioned this yesterday, we core to this       18       A. Right, no, I'm sory I can't answer         18       from a perspective of we, at the end of the       19       Ms ELLIOTT:       10         14       mark sure we'				-	
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5       BROWNE, Q.C.:       5       assuming those two statements are trying to make the same point. I'm just trying to figure out is it four insurers that comprise around 87 percent of the market or is it six insurers that comprise 87 percent of the market.         8       A. Yes.       8         9       BROWNE, Q.C.:       9         10       Q. Okay, thanks for that clarification. Now I       10         11       think my colleague might have a few       11         12       questions or if you don't, have I asked them       13         13       already?       14         14       MR, WADDEN:       14       Q. And I appreciate you didn't write this IBC         15       Q. Just a couple of points for clarification.       16       MR. WADDEN:         18       from a perspective of we, at the end of the       18       A. Right, no, I'm sorry I can't answer         19       day have to give an opinion as to what is       19       specifically. I do know for our report how?         20       make sure w're clear on what you're saying       22       what their differences are here, how they're         21       properly interpreted all of your comments.       24       MR. WADDEN:       Page 216         21       just trying to reconcile a couple of       1       rather referring to the sin insurers, you	3	information, but not the descriptive	3		
6       Q. More of a general nature.       6       make the same point. I'm just trying to         7       MS. ELLIOTT:       7       figure out is it four insurers that comprise         8       A. Yes.       9       anound 87 percent of the market or is it six         9       BROWNE; Q. C.:       9       market.         11       think my colleague might have a few       11       MS. ELJ.IOTT:         12       questions or if you don't, have I asked them       11       MR. WADDEN:         13       already?       13       MR. WADDEN:         14       MR. WADDEN:       14       Q. And I appreciate you din't write this IBC         16       And Paula, just to understand, again 1 think       16       might be able to help me out.         17       I mentioned this yesterday, we come to this       17       MS. ELLIOTT:       18         18       from a perspective of we, at the end of the       18       A. Right, no, I'm sorry I can't answer         19       day have to give an opinion as to what is       19       specifically. I do know for our report how         20       probably best for the consumer after we've       20       the 86.7 percent was calculated, IBC         21       hoard all of the evidence. We just want to       21       provided that to us, but I can't speak	4	information about the claim.	4	percent of the market", so I guess I'm	
7       MS, FLLOTT:       7       figure out is it four insurers that comprise         8       A. Yes.       8       around 87 percent of the market or is it six         10       Q. Okay, thanks for that clarification. Now I       10       market.       9         11       think my colleague might have a few       11       MS. ELLIOTT:       12         12       questions or if you don't, have I asked them       13       MR. WADDEN:       13       MR. WADDEN:         14       MR, WADDEN:       14       Q. And I appreciate you didn't write this IBC.         15       Q. Just a couple of points for clarification.       16       MR. WADDEN:       14       Q. And I appreciate you didn't write this IBC.         16       And Paula, just to understand, again I think.       16       might be able to help me out.       17         17       I mentioned this yesterday, we come to this       19       specifically. I do know for our report tow       10         20       probably best for the consumer after we've       20       what the i' differences are here, how they're       20         21       make sure we're clear on what you're saying       2       grouping companies, I don't know.       2         22       make sure we're clear on what you're saying       2       what the i differences are here, how they'r	5	BROWNE, Q.C.:	5	assuming those two statements are trying to	
7       MS, FLLOTT:       7       figure out is it four insurers that comprise         8       A. Yes.       8       around 87 percent of the market or is it six         10       Q. Okay, thanks for that clarification. Now I       10       market.       9         11       think my colleague might have a few       11       MS. ELLIOTT:       12         12       questions or if you don't, have I asked them       13       MR. WADDEN:       13       MR. WADDEN:         14       MR, WADDEN:       14       Q. And I appreciate you didn't write this IBC.         15       Q. Just a couple of points for clarification.       16       MR. WADDEN:       14       Q. And I appreciate you didn't write this IBC.         16       And Paula, just to understand, again I think.       16       might be able to help me out.       17         17       I mentioned this yesterday, we come to this       19       specifically. I do know for our report tow       10         20       probably best for the consumer after we've       20       what the i' differences are here, how they're       20         21       make sure we're clear on what you're saying       2       grouping companies, I don't know.       2         22       make sure we're clear on what you're saying       2       what the i differences are here, how they'r	6	Q. More of a general nature.	6	make the same point. I'm just trying to	
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10       Q.       Okay, thanks for that clarification. Now I       10       market.         11       think my colleague might have a few       11       MS. ELLIOTT:         13       already?       13       MR. WADDEN:       14         14       MR. WADDEN:       14       Q.       And Paula, just to understand, again I think       16         16       And Paula, just to understand, again I think       16       MR. WADDEN:       17         18       from a perspective of we, at the end of the       18       A.       Right, no, I''' sorry I can't answer         19       day have to give an opinion as to what is       19       specifically. I do know for our report how         20       probably best for the consumer after we've       20       make sure we're clear on what you're saying         21       heard all of the evidence. We just want to       21       properly interpreted all of your comments.         23       in your report, okay, and that we have       23       grouping companies, I don't know.         24       properly interpreted all of your comments.       25       Okay, but the information in your report         25       the introduction, page 1 of this report, I''n       25       Okay, but the six insurer groups representing 86.7         3       to do with a couple of insurers being					
11       think my colleague might have a few questions or if you don't, have I asked them if questions or if you don't, have I asked them if a darkedy?       11       MS. ELLIOTT:         12       already?       13       MR WADDEN:       14       Q. And I appreciate you didn't write this IBC document, Paula, I just thought maybe you might be able to help me out.         15       Q. Just a couple of points for clarification.       16       And Paula, just thought maybe you might be able to help me out.         17       I mentioned this yesterday, we come to this       17       MS. ELLIOTT:         18       from a perspective of we, at the end of the ard all of the evidence. We just want to       make sure we're clear on what you're saying in your report, okay, and that we have       21       provided that to us, but I can't speak to         23       in your report, okay, and that we have       23       grouping companies, I don't know.         24       properly interpreted all of your comments.       25       Q. Okay, but the information in your report         25       statements here and this may have something       2       acrive that from information provided by         3       to do with a couple of insurers being       1       rather referring to the six insurers, you         2       statements here and this may have something       3       IBC?         4       removed from your calculations at the end of the argaraph fr					
12       questions or if you don't, have 1 asked them       12       A. Uh-hm.         13       already?       13       MR. WADDEN:         14       MR. WADDEN:       14       Q. And 1 appreciate you didn't write this IBC document, Paula, I just thought maybe you might be able to help me out.         16       And Paula, just to understand, again 1 think 16       16       And Paula, just to understand, again 1 think 17         18       from a perspective of we, at the end of the 19       day have to give an opinion as to what is 10       7         20       probably best for the consumer after we've 20       the 86.7 percent was calculated, IBC 21       provided that to us, but 1 can't speak to 21         21       make sure we're clear on what you're saying 22       what their differences are here, how they're 20       what their differences are here, how they're 20         23       make sure we're clear on what you're saying 22       what their differences are here, how they're 23       grouping companies 1 don't know.         24       properly interpreted all of your comments.       24       MR. WADDEN:         25       The introduction, page 1 of this report, I'm       25       Q. Okay, but the information provided by 3         3       to do with a couple of insurers being 4       MS. ELLIOTT:       Fage 216         4       rather referring to the six insurers, you 20       derive that from					
13       already?       13       MR. WADDEN:         14       MR. WADDEN:       14       Q. And I appreciate you didn't write this IBC         15       Q. Just a couple of points for clarification.       15       document, Paula, I just thought maybe you         16       And Paula, just to understand, again I think       16       might be able to help me out.         17       I.mentioned this yesterday, we come to this       17       MS. ELLIOTT:         18       from a perspective of we, at the end of the       18       A. Right, no, I'm sorry I can't answer         19       day have to give an opinion as to what is       19       specifically. I do know for our report how         20       probably best for the consumer after we've       20       the 86.7 percent was calculated, IBC         21       heard all of the evidence. We just want to       21       provided that to us, but I can't speak to         23       in your report, okay, and that we have       23       grouping companies, I don't know.         24       properly interpreted all of your comments.       24       MR. WADDEN:         25       The introduction, page 1 of this report, I'm       25       Q. Okay, but the information provided by         3       to do with a couple of insurers being       3       IBC?         4       rerove					
14       MR. WADDÉN:       14       Q.       And I appreciate you didn't write this IBC document, Paula, Just thought maybe you might be able to help me out.         15       Q.       Just a couple of points for clarification.       16       MR. WADDEN:         16       And Paula, just to understand, again I think if       16       might be able to help me out.         17       Inentioned this yesterday, we come to this       17       MS. ELLIOTT:         18       from a perspective of we, at the end of the       18       A.       Right, no, I'm sorry I can't answer         20       probably best for the consumer after we've       20       provided that to us, but I can't speak to         21       heard all of the evidence. We just want to       21       provided that we have       23         23       in your report, okay, and that we have       23       grouping companies, I don't know.       24         24       properly interpreted all of your comments.       24       MR. WADDEN:       29       Okay, but the information in your report         25       The introduction, page I of this report, I'm       25       Q. Okay, but the information provided by       3         3       to do with a couple of insurers being       4       MS. ELLIOTT:       Page 216         5       the day, but I guess it's the second <td< td=""><td></td><td></td><td></td><td></td></td<>					
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16       And Paula, just to understand, again I think       16       might be able to help me out.         17       Imentioned this yesterday, we come to this       17       MS. ELLIOTT:         18       from a perspective of we, at the end of the       18       A.       Right, no, I'm sorry I can't answer         20       probably best for the consumer after we've       20       the add all of the evidence. We just want to       21       provided that to us, but I can't speak to         22       make sure we're clear on what you're saying       22       what their differences are here, how they're         23       in your report, okay, and that we have       23       grouping companies, I don't know.         24       properly interpreted all of your comments.       24       MR. WADDEN:       24         25       The introduction, page 1 of this report, I'm       25       Q.       Okay, but the information in your report         2       statements here and this may have something       2       derive that from information provided by       3         3       to do with a couple of insurers being       4       MS. ELLIOTT:       7       Page 216         6       paragraph from the bottom, the biggest       6       A.       Yes, based on the certain year for this         7       paragraph on the page, scond sentence, "The <td></td> <td></td> <td></td> <td></td>					
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19day have to give an opinion as to what is 2019specifically. I do know for our report how the 86.7 percent was calculated, IBC 2121heard all of the evidence. We just want to 2221provided that to us, but I can't speak to 2223in your report, okay, and that we have 2421provided that to us, but I can't speak to 2324properly interpreted all of your comments. 2524MR. WADDEN: 2525The introduction, page 1 of this report, I'm25Q. Okay, but the information in your reportPage 214Page 2141Page 2141Page 214Page 2161gate statements here and this may have something 33IBC?4removed from your calculations at the end of 551paragraph from the bottom, the biggest 6610Newfoundland and Labrador" and then in 1010Newfoundland and Labrador" and then in 11brackets you have (representing 86.711MR WADDEN:13insurer groups representing 86.714MR WADDEN:15MS. ELLIOTT: <td c<="" td=""><td>I</td><td></td><td></td><td></td></td>	<td>I</td> <td></td> <td></td> <td></td>	I			
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1       be vehicles insured like Newfoundland       1       costs for general damages awards, the non-pecuniary number being net of the deductible, obviously. That 43.9, is it anywhere in the report, I'm not sure that 1         3       Newfoundland that were perhaps travelling outside the province?       anywhere in the report, I'm not sure that 1         4       outside the province?       anywhere in the report, I'm not sure that 1         5       MS. ELLIOTT:       5         6       A. Yes.       6         7       MR. WADDEN:       7         8       Q. That's what that would be, okay. That's a sociated with external claim handling costs, allocated loss adjustment expenses, 12       No. This is all aggregated, yes, all companies, yeah.         11       costs, allocated loss adjustment expenses, 12       WR. WADDEN:       12         13       claim handling costs, 1 presume, vary from 14       13       Q. Okay, Notwithstanding some insurers would 18         15       MS. ELLIOTT:       15       groups?         16       A. Yes.       16       MS. ELLIOTT:         17       MR. WADDEN:       17       A. No, we did not provide any data that would indicate how that varies or is distributed amongst those groups?         17       MR. WADDEN:       20       Okay. Notwithstanding some insurers would 18       MR. WADDEN:         20       No, we did no		Page 217		Page 219
2       vehicles insured under policies here in Newfoundland that were perhaps travelling outside the province?       2       pecuniary number being net of the deductible, obviously. That 43.9, is it anywhere in the report, I'm not sure that 1         5       MS. ELLIOTT:       5       anywhere in the report, I'm not sure that 1         6       A. Yes.       6       anywhere in the report, I'm not sure that 1         7       MR. WADDEN:       7       missed it, what the distribution is of that associated with external claim handling otss, allocated loss adjustment expenses, iz were also collected." So these external claim handling costs, 1 presume, vary from ic company to company?       0       A. This is all aggregated, yes, all companies, iz yeah.         13       claim handling costs, 1 presume, vary from ic company to company?       13       Q. Okay, is that something that's in the report, how it's distributed amongst those groups?         14       would include leagh fees, on in a bodily undificed tell ress, on a bodily injury claim normally ther's outside injury claim normally ther's outside injury claim normally ther's outside injury claim normally ther's outside injury claim normally ther's outside indicate how you spent a number of months on this, as to whether one insurer was paying         14       Would include leagh fees, on in a bodily injury claim normally ther's outside injury claim normally ther's to the case injury claim and they just injury claim norespecial damages or is would hill would also in	1	•	1	-
3       Newfoundland that were perhaps travelling outside the province?       3       deductible, obviously. That 43 9, is it anywhere in the report. Fit m to sure that 1         4       anywhere in the report. Fit m to sure that 1       5       missed it, what the distribution is of that anongst the insurers? That's a cumulative mumber for those six insurers, right, those         8       Q. That's what that would be, okay. That's 9       fit. The next page, page 5, "The cost most of the termal claim handling costs, allocated loss adjustment expenses, 12       were also collected." So these external 13       A. This is all aggregated, yes, all companies, yeah.         13       claim handling costs, 1 presume, vary from company to company?       13       Q. Okay. Notwithstanding some insurers would 14       MR. WADDEN:         14       Were involved in this study, doing that?       14       report, how it's distributed amongst insurers, no, it's an aggregated 20       are all the insurers, at least the ones that 21       MR. WADDEN:       17       A. No, we did not provide any data that would 22         23       A. Yes, it would be very typical, and this 24       would include legal fees, so in a bodily 25       17       A. We didn'to the wean outside adjuster, yeah.         24       would night induce us using outside 3       3       MS ELLIOTT:       2         25       would hight induce us using outside 3       as to whether one insurer was provident?       3         34       WADDEN:		· · · · · · · · · · · · · · · · · · ·		• •
4         outside the province?         4         anywhere in the report. I'm not sure that I           5         MS, FLLIOTT:         5         missed it, what the distribution is of that           7         MR. WADDEN:         6         anoget the insurers? That's a cumulative number for those six insurers, right, those           8         Q. That's what that would be, okay. That's         9         MS. ELLIOTT:         0           10         associated with external claim handling         10         A.         This is all aggregated, yes, all companies,           12         were also collected." So these external         10         A.         This is all aggregated, yes, all companies,           13         caim handling costs, allocated loss adjustment expenses,         10         A.         This is all aggregated, yes, all companies,           14         company to company?         13         Q.         Okay, is that something that's in the           15         MS, ELLIOTT:         17         A.         No, we did not provide any data that would indicate how that varies or is distributed           16         A.         Yes, it would be very typical, and this         20         O.Kay, I. Appreciate it's an aggregated           20         are all the insurers, at least the ones that         20         satow, I. appreciate it's an aggregated           21		•		
5       MS. ELLIOTT:       5       missed it, what the distribution is of that         6       A. Yes,       6       amongst the insurers? That's a cumulative amongst the insurers? That's a cumulative amongst the insurers? That's a cumulative for those six insurers, right, those groups?         9       fine. The next page, page 5, "The cost       9       MS. ELI JOTT:         10       associated with external claim handling costs, I presume, vary from company to company?       10       A. This is all aggregated, yes, all companies, yeah.         11       company to company?       16       A. Yes.       17       A. No, we did not provide any data that would indicate how that varies or is distributed amongst those groups?         16       A. Yes.       16       MS. ELLIOTT:       17       A. No, we did not provide any data that would indicate how that varies or is distributed amongst insurers, no, it's an aggregated study.         20       oar all the insurers, at least the ones that would include legal fees, so in a bodity injury claim normally there's outside       18       amongst insurers, no, it's an aggregated study.         21       counsel that they have, so all those costs— or they have an outside adjuster, yeah.       19       as to whether one insurer was paying injury claim normally there's outside         22       O. Kay, so the external claims handling costs with would also include the fait was pertaps a minor claim and they just infine to outson of mult, you know, if is first yoy are any of the data in the c				
6       A. Yes.       6       amongst the insurers? That's a cumulative number for those six insurers, right, those groups?         9       finat's what that would be, okay. That's       7       mumber for those six insurers, right, those groups?         10       associated with external claim handling       9       MS. ELLIOTT:         11       costs, allocated loss adjustment expenses, law ere also collected." So these external claim handling costs, 1 presume, vary from company to company?       10       A. This is all aggregated, yes, all companies, yeah.         12       were also collected." So these external claim bandling costs, allocated the insurers, and it's in the company to company?       10       A. Yes.         15       MS. ELLIOTT:       13       Q. Okay, Notwithstanding some insurers would include he insurers, a least the ones that varies or is distributed anongst finuers, no, it's an aggregated study. Yes, it would be very typical, and this would include leagt fees, so in a bodity         14       would include leagt fees, so in a bodity       20       Okay. 1 appreciate it's an aggregated study. Do you have any recollection, and I know you spent a number of months on this, as to whether one insurer was paying         12       Vers, to know an outside adjuster, yeah.       3       3         3       MR. WADDEN:       3       4       Ne didn't do it. We didn ot review any of the data in the context of who is paying more, finue you gene at aumother insurer       4       4       We didn'I—I		1		
7       MR. WADDEN:       7       number for those six insurers, right, those         8       Q. That's what that would be, okay. That's       9       fine. The next page, page 5, "The cost       9       MS. ELLIOTT:       10       A. This is all aggregated, yes, all companies,         10       associated with external claim handling       10       A. This is all aggregated, yes, all companies,         11       costs, allocatel loss adjustment expenses,       10       A. This is all aggregated, yes, all companies,         12       were also collected." So these external       10       A. This is all aggregated, yes, all companies,         14       company to company?       14       This is all aggregated, yes, all companies,         16       A. Yes.       16       MS. ELLIOTT:         17       MR WADDEN:       17       A. No, we did not provide any data that would         18       utilize outside entities more than others,       10       amongst insurers, no, it's an aggregated         20       are all the insurers, at least the ones that       20       study. Do you have any recollection, and I         21       were involved in this study, doing that?       21       MR. WADDEN:       23         23       A. Yes, it would be very typical, and this       24       Wed Mot t— have no recollection sthand is study. doy ou have any recollection.				·
8       Q.       That's what that would be, okay. That's       9       groups?         9       fine. The next page, page 5, "The cost stand loss adjustment expenses, the external claim handling costs. J presume, vary from the company to company?       9       MS. ELLIOTT:         10       associated with external claim handling costs. J presume, vary from the company to company?       10       A.       Yes.         11       company to company?       10       A.       Yes.       11       12       MR. WADDEN:         12       MR. WADDEN:       17       A.       No, we did not provide any data that would the insurers, at least the ones that work in this study, doing that?       20       Study.       20       Study.       20       Study.       20       Okay. Study.       20       Study.       20       Okay. Study.       20       Study.       20       Study.       20       20       Okay. Study.       20       Study.       20       Study.       20       20       Okay. Study.       21       MR. WADDEN:       22       Q.       Okay. Study.       21       MR. WADDEN:       23       A.       Yes. I's on the next page, page 6, fairst on the ext page, page 6, fairst on the ext page, page 6, fairst paragraph, there's that number ogain, first would be way sourgervice provider?       3       MS. ELLIOTT:       A.       Yee dha't on the conterst o				
9       fine. The next page, page 5, "The cost associated with external claim handling costs, allocated loss adjustnert expenses, vary from claim and ling costs, allocated loss adjustnert expenses, vary from company to compa				
10       associated with external claim handling       10       A. This is all aggregated, yes, all companies, yeah.         11       costs, allocated loss adjustment expenses,       yeah.         13       claim handling costs, I presume, vary from       13       Q. Okay, is that something that's in the         14       company to company?       14       report, how it's distributed amongst those         16       A. Yes.       16       MS. ELLIOTT:         17       MR. WADDEN:       17       A. No, we did not provide any data that would         18       Q. Okay. Notwithstanding some insurers would       18       indicate how that varies or is distributed         19       are all the insurers, at least the ones that       19       amongst insurers, no, it's an aggregated         21       were involved in this study, doing that?       21       MR. WADDEN:       21         23       A. Yes, it would be very typical, and this       23       study. Do you have any recollection, and I know you spent a number of months on this, 23         24       would nicude legal fees, so in a bodily       25       as to whether one insurer was paying         25       otkay, so the external claims handling costs       you know, this first paynents under section         3       MR. WADDEN:       1       A. Yeah.       9       perspective, no. </td <td>8</td> <td>Q. That's what that would be, okay. That's</td> <td>8</td> <td></td>	8	Q. That's what that would be, okay. That's	8	
11       costs, allocated loss adjustment expenses,       11       yeah.         12       were also collected." So these external       12       MR. WADDEN:         13       claim handling costs, 1 presume, vary from       13       Q. Okay, is that something that's in the         14       company to company?       13       Q. Okay, is that something that's in the         15       MS. ELLIOTT:       16       M. Yes.       16       MS. ELLIOTT:         16       A. Yes.       17       A. No, we did not provide any data that would       18       amongst insurers, no, it's an aggregated         20       are all the insurers, at least the ones that       20       study. Do you have any recollection, and I         21       were involved in this study, doing that?       22       Q. Okay, 1 appreciate it's an aggregated         23       A. Yes, it would be very typical, and this       23       study. Do you have any recollection, and I         24       would n't just include us using outside       26       sas to whether one insurer was paying         25       would h't just include us using outside       26       data in the context of who is paying more, doy u get more if you're with, you know, fi         3       MR. WADDEN:       3       MR. WADDEN:       3         4       A. Yeah.       9	9	fine. The next page, page 5, "The cost	9	MS. ELLIOTT:
12       were also collected." So these external claim handling costs, I presume, vary from formation of that is in the report, how it's distributed amongst those groups?         13       company to company?         14       company to company?         15       MS. ELLIOTT:         16       A. Yes.         17       MR. WADDEN:         18       Q. Okay. Notwithstanding some insurers would         19       utilize outside entities more than others, 20         20       are all the insurers, at least the ones that 21         21       Ws. ELLIOTT:         22       MS. ELLIOTT:         23       A. Yes, it would be very typical, and this 24       vould include legal fees, so in a bodily 24         24       would include legal fees, so in a bodily 25       vould include legal fees, so in a bodily 26         25       injury claim normally there's outside 25       more more insurer was paying 26         26       counsel that they have, so all those costs— 27       or they have an outside adjuster, yeah.         26       adjusting firm, it would also include the 27       MR. WADDEN:         3       MR. WADDEN:       4         4       Q. Okay. Let's go to the next page, page 6, 27       11         17       I ast paragraph, there's that number again, 28       12	10	associated with external claim handling	10	A. This is all aggregated, yes, all companies,
12       were also collected." So these external claim handling costs, 1 presume, vary from 14       12       MR. WADDEN: 15         13       company to company?       14         14       company to company?       15         15       MS. ELLIOTT:       16         16       A. Yes.       16         17       MR. WADDEN:       17         18       Q. Okay. Notwithstanding some insurers would       18         19       utilize outside entities more than others, 20       17         20       are all the insurers, at least the ones that 21       20         22       MS. ELLIOTT:       20         23       A. Yes, it would be very typical, and this 24       20         24       would include legal fees, so in a bodily 25       21         25       injury claim normally there's outside 26       23         26       counsel that they have, so all those costs— 27       7         27       or they have an outside adjuster, yeah.       24         3       MR. WADDEN:       4         4       Q. Okay, so the external claims handling costs 5       5         4       M. We did not review any of the 4       6         6       adjusting firm, it would also include the 7       7	11	costs, allocated loss adjustment expenses,	11	yeah.
13       claim handling costs, 1 presume, vary from company to company?       13       Q.       Okay, is that something that's in the report, how it's distributed amongst those groups?         15       MS. ELLIOTT:       15       groups?         16       A.       Yes.       16       MS. ELLIOTT:         17       MR. WADDEN:       17       A.       No, we did not provide any data that would indicate how that varies or is distributed amongst insurers, no, it's an aggregated amongst insurers, no, it's an aggregated study.         20       are all the insurers, at least the ones that 21       were involved in this study, doing that?       21         21       were involved in this study, doing that?       21       MR. WADDEN:       22         23       A.       Yes, it would be very typical, and this 23       23       as to whether one insurer was paying         24       would include legal fees, so in a bodily 24       know you spent a number of months on this, as to whether one insurer was paying       Page 218         25       mounsel that they have, so all those costs— or they have an outside adjuster, yeah.       1       WS. ELLIOTT:         3       MR. WADDEN:       3       MS. ELLIOTT:       4       Ne did not review any of the data in the context of who is paying more, didn't do it. We did not review any of the data in the context of who is paying more, didn't do it. We did not review any of the data in the context of who	12		12	MR. WADDEN:
14       company to company?       14       report, how it's distributed amongst those groups?         15       MS. ELLIOTT:       16       MS. ELLIOTT:         16       A. Yes.       16       MS. ELLIOTT:         17       MR. WADDEN:       17       A. No, we did not provide any data that would indicate how that varies or is distributed amongst insurers, no, it's an aggregated study.         20       are all the insurers, at least the ones that would include legal fees, so in a bodily injury claim normally there's outside       20       Study. Do you have any recollection, and I know you spent a number of months on this, as to whether one insurer was paying         21       counsel that they have, so all those costs-       1       proportionately more than another insurer         23       A. Yes, it would as include the firm you use as your service provider?       1       A. We didn'tI have no recollection because I         24       would n't just include us using outside       1       3       MS. ELLIOTT:         3       MR. WADDEN:       4       A. We didn'tI have no recollection because I       1         4       adjusting firm, it would also include the firm you use as your service provider?       3       MS. ELLIOTT:       2         4       A. Yeah.       10       10       10       10       10       10         5       explanation			13	
15       MS. ELLIOTT:       15       groups?         16       A. Yes.       16       MS. ELLIOTT:         17       MR. WADDEN:       17       A. No, we did not provide any data that would indicate how that varies or is distributed amongst insurers, no, it's an aggregated study.         20       are all the insurers, at least the ones that utilize outside entities more than others, are all the insurers, at least the ones that       19       study.         21       were involved in this study, doing that?       21       MR. WADDEN:         23       A. Yes, it would be very typical, and this injury claim normally there's outside       23       study. Do you have any recollection, and I         24       would include legal fees, so in a bodily injury claim normally there's outside       23       study. Do you have any recollection, and I         25       injury claim normally there's outside       23       study. Do you have any recollection, and I         26       or they have, so all those costs— or they have, so all those costs— or they have, so the external claims handling costs       1       Page 218         7       firm you use as your service provider?       3       MS. ELLIOTT:       4       A. We didn't—I have no recollection because I         8       MS. ELLIOTT:       4       A. We didn't do it. We did not review any of the dadn't to it. We all contruct review any of the dadn't to the context of who is paying		·		
16       A. Yes.       16       MS. ELLOTT:         17       MR. WADDEN:       17       A. No, we did not provide any data that would         18       Q. Okay. Notwithstanding some insurers would       18       indicate how that varies or is distributed         20       are all the insurers, at least the ones that       20       study.       21         21       were involved in this study, doing that?       22       MR. WADDEN:       22         23       A. Yes, it would be very typical, and this       23       study. Do you have any recollection, and I         24       would include legal fees, so in a bodily       24       study. Do you have any recollection, and I         24       counsel that they have, so all those costs—       1       proportionately more than another insurer         2       or they have an outside adjuster, yeah.       3       MS. ELLIOTT:       3         3       MR. WADDEN:       3       MS. ELLIOTT:       4       A. We didn't—I have no recollection because I         4       Q. Okay, so the external claims handling costs       5       would hight to it. We did not review any of the         6       adjusting firm, it would also include the       6       didn't to it. We did not review any of the         7       firm you use as your service provider?       7				-
17       MR. WADDEN:       17       A.       No, we did not provide any data that would         18       Q.       Okay. Notwithstanding some insurers would       18       indicate how that varies or is distributed         19       utilize outside entities more than others, are all the insurers, at least the ones that       19       amongst insurers, no, it's an aggregated         20       are all the insurers, at least the ones that       20       Study.       21         21       Ws. ELLIOTT:       22       Q.       Okay. 1 appreciate it's an aggregated         23       A.       Yes, it would be very typical, and this       23       study.       Do you have any recollection, and I         24       would include legal fees, so in a bodily       24       study.       Do you have any orecollection, and I         25       injury claim normally there's outside       25       as to whether one insurer was paying       Page 218         26       counsel that they have, so all those costs-       1       proportionately more than another insurer       would n'tI have no recollection because I         3       MR. WADDEN:       3       MS. ELLIOTT:       MS. ELLIOTT:       A.       Yeah.         4       Q.       Okay, Let's go to the next page, page 6,       10       MR. WADDEN:       10       MR. WADDEN:				
18       Q.       Okay. Notwithstanding some insurers would utilize outside entities more than others, are all the insurers, at least the ones that were involved in this study, doing that?       18       indicate how that varies or is distributed amongst insurers, no, it's an aggregated study.         20       are all the insurers, at least the ones that were involved in this study, doing that?       20       study.         21       WR. WADDEN:       22       Q.       Okay. I appreciate it's an aggregated study. Do you have any recollection, and I know you spent a number of months on this, as to whether one insurer was paying         24       would include legal fees, so in a bodily 25       26       order the main of months on this, as to whether one insurer was paying         25       counsel that they have, so all those costs— or they have an outside adjuster, yeah.       1       ms. ELLIOTT:       Page 218         3       MR. WADDEN:       3       MS. ELLIOTT:       3       MS. ELLIOTT:         4       A. Yeah.       5       didn't do it. We did not review any of the data in the context of who is paying more, frim you use as your service provider?       7       Ms. WADDEN:         10       Okay. Let's go to the next page, page 6, 12       11       MR. WADDEN:       10         13       1741 claimants, only 11 claimants did not 14       receive non-pecuniary award. Is there any 15       11       MR. WADDEN:       12 <t< td=""><td></td><td></td><td></td><td></td></t<>				
19utilize outside entities more than others, are all the insurers, at least the ones that 2119amongst insurers, no, it's an aggregated study.21were involved in this study, doing that? 22MR. WADDEN: 2321MR. WADDEN: 2422Q. Okay. I appreciate it's an aggregated study. Do you have any recollection, and I know you spent a number of months on this, as to whether one insurer was paying23A. Yes, it would be very typical, and this injury claim normally there's outside or they have an outside adjuster, yeah.21MR. WADDEN: vould be?2Okay, so the external claims handling costs 5mould also include the adjusting firm, it would also include the adjusting firm, it would also include the firm you use as your service provider?3MS. ELLIOTT: would also include the 63MR. WADDEN: MR. WADDEN:4A. We didn't do it. We did not review any of the data in the context of who is paying more, firm you use as your service provider?3MR. WADDEN: MR. WADDEN:11Q. Okay. Let's go to the next page, page 6, 1211MR. WADDEN:10(1:00 p.m.)11Q. Okay. Let's go to the next page, page 6, last paragraph, there's that number again, 131741 claimants, only 11 claimants did not receive non-pecuniary award. Is there any explanation of that? I'm just trying to it was perhaps a minor claim and they just settled for some special damages or something like that?10Okay. Can we go to page 13 of the document?20MS. ELLIOTT: explanation of that?11B. For the majority of claimants, 87 percent, these items were reported as<				
20       are all the insurers, at least the ones that were involved in this study, doing that?       20       study.         21       MS. ELLIOTT:       21       MR. WADDEN:         23       A. Yes, it would be very typical, and this would include legal fees, so in a bodily injury claim normally there's outside       21       MR. WADDEN:         25       injury claim normally there's outside       23       study.       Do you have any recollection, and I         26       counsel that they have, so all those costs— or they have an outside adjuster, yeah.       25       as to whether one insurer was paying         2       would in't just include us using outside       1       proportionately more than another insurer         3       MR. WADDEN:       3       MS. ELLIOTT:         4       Q. Okay, so the external claims handling costs       MS. ELLIOTT:         4       Q. Okay, so the external claims handling costs       MS. ELLIOTT:         5       would'n't use include us using outside       6       data in the context of who is paying more,         6       adjusting firm, it would also include the firm you use as your service provider?       Now MADDEN:       1         10       MR. WADDEN:       1       Q. Okay. Let's go to the next page, page 6,       1       B''. "Insurers were asked to report medical         13       1741 claimants, only				
21were involved in this study, doing that?21MR. WADDEN:22A.Yes, it would be very typical, and this23study. Do you have any recollection, and I23A.Yes, it would be very typical, and this23study. Do you have any recollection, and I24would include legal fees, so in a bodily24know you spent a number of months on this,25injury claim normally there's outside23as to whether one insurer was paying26counsel that they have, so all those costs—proportionately more than another insurer2or they have an outside adjuster, yeah.1proportionately more than another insurer3MR. WADDEN:3MS. ELLIOTT:4Q.Okay, so the external claims handling costsMS. ELLIOTT:5wouldn't just include us using outside6data in the context of who is paying more,6adjusting firm, it would also include the6data in the context of who is paying more,7do you get more if you're with, you know,8Intact versus Royal or anything from that9A.Yeah.9perspective, no.10MR. WADDEN:10(1:00 p.m.)11Q.Okay. Let's go to the next page, page 6,1112last paragraph, there's that number again,13131741 claimants, only 11 claimants did not1414receive non-pecuniary award. Is three any1515explanation of that? I'm just trying to1616understand w				
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25for skipping this, when you look at the25under accident benefits from this claimant				
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1 2 3 4 5 6	Page 221 on its own benefits, Section B? But that information isn't necessarily available in	1 2	Page 223 MR. WADDEN:
2 3 4 5	information isn't necessarily available in	1	
3 4 5	-	()	
4 5			Q. It's not something Oliver Wyman does, I get
5	the file that you have when you're	3	that. Is that something you would ever do
	defending, you know, your insured.	4	in a study of this nature or –
6	MR. WADDEN:	5	MS. ELLIOTT:
0	Q. Okay.	6	A. No.
7	MS. ELLIOTT:	7	MR. WADDEN:
8	A. So we asked them and that was what came	8	Q. Okay.
9	back.	9	MS. ELLIOTT:
10	MR. WADDEN:	10	A. Not me, no. Actuaries don't go and fill in
11	Q. Okay. Just a couple of more questions,	11	Excel templates and, no, that's not what we
12	Paula. So much has been made through	12	do.
	e		MR. WADDEN:
13	various questioning so far in this	13	
14	proceeding as to issues that may be related	14	Q. And the only other thing I wanted to ask you
15	to data collection or rather from where and	15	about, Mr. Kennedy was asking you yesterday
16	how the data was procured. And clearly	16	some questions in relation to the six
17	Oliver Wyman producing these reports, this	17	insurers and then RSA and Intact having
18	one in particular, worked with IBC and I	18	acquisitions, two lots of data being
19	guess GISA to get the data that they needed.	19	dropped, and Mr. Stamp today, as well, was
20	MS. ELLIOTT:	20	asking questions around and I'm trying to
21	A. Well, yes, an employee of IBC that is a	21	get clarification, I have to apologize, I'm
22	service provider for GISA, yeah.	22	still not entirely clear on it. So I just
23	MR. WADDEN:	23	want to make sure I understand, and I went
24	Q. My question is simple: is there somewhere	24	back and I looked at the transcript from
25	else you could have gone to get it?	25	yesterday, is that something that's
-	Page 222		Page 224
1	MS. ELLIOTT:	1	available to bring up, Jacqui? I'm only
2	A. Well, of course there always is, but would	2	bringing it up just to refer you to
$\frac{2}{3}$	there be another better, faster alternative	$\frac{2}{3}$	yesterday, I'm just trying to get a clear
	<i>'</i>		
4	with the skillset and knowledge base readily	4	sense of what happened, right. I'd be going
5	available? No. But could the Board have	5	to page 181 where Mr. Kennedy was
6	said well we're going to go find an adjuster	6	questioning Ms. Elliott. Okay, 181, great.
7	who knows how to do this and collect it,	7	You can go down to about line 14, you said,
8	we're going to find these people and line	8	"Metro and L'Union, I believe are the two
9	all of that up? Of course that's possible,	9	acquisitions that were required (sic.) by
10	but who was the best readily available	10	Intact and RSA respectfully and so
11	knowledge based, that was clearly IBC.	11	therefore, Intact and RSA in its entirety I
12	MR. WADDEN:	12	threw out." And I think you said something
13	Q. Right, and I appreciate, I think you said	13	similar to that today.
14	earlier, to paraphrase you, "It's not an	14	MS. ELLIOTT:
15	actuarial role to collect data", I think is	15	A. Uh-hm.
16	what you said.	16	MR. WADDEN:
17	MS. ELLIOTT:	17	Q. And then Mr. Kennedy kind of reaffirmed what
18	A. Correct.	18	your answer was. When you go down to line
19	MR. WADDEN:	19	8, he said, "No, if I could just ask my
20		20	question, six of the companies that
	Q. Right, okay. Would another way to achieve		1 1
21	receiving the data that you did receive	21	represent"—sorry, I'm on page 181 now, at
22	would have been to actually go to the	22	line 8, "six of the companies that represent
23	insurers, the groups yourselves and do that?	23	86.7 percent of the provincial market share
24	MS. ELLIOTT:	24	are listed in footnote 2. Two of those
25	A. Me?	25	companies, Intact and RSA, you excluded

1			
1	Page 225		Page 227
	their documentation?" And you said, "No",	1	telling me.
2	and then you go on and give some more	2	MS. ELLIOTT:
3	explanation, so maybe the best way to do it	3	A. Yeah, we're left with 18 companies. We
4	is just by way of specific example. Here's	4	started with 20, we're left with 18, yeah.
5	what I'm trying to get, okay, I apologize	5	MR. WADDEN:
6	the question is a bit long, but I wanted to	6	Q. Okay, that's fine, Paula, thank you.
7	give you some preamble so you know what I'm	7	BROWNE, Q.C.:
8	getting at. So we know that Metro and	8	Q. Thank you very much.
9	L'Union were acquired by Intact and RSA,	9	CHAIR:
10	respectfully, and you say you threw out all	10	Q. Thank you, Consumer Advocate and Mr. Wadden.
11	the data from RSA, but for example, we know	11	COMMISSIONER OXFORD:
12	RSA owns many companies, brokerages, et	12	Q. No questions.
12		12	CHAIR:
	cetera, they own Johnson and Unifund here,		
14	so did you look at data from Johnson and	14	Q. Okay, and I have no questions. Thank you,
15	Unifund?	15	Paula.
16	MS. ELLIOTT:	16	MS. GLYNN:
17	A. Okay, the companies—maybe if I can help	17	Q. Madam, I would suggest if we could take a
18	explain to be clear.	18	five-minute break for Ms. Elliott to switch
19	MR. WADDEN:	19	gears before we start with the next report.
20	Q. Yes, go ahead.	20	CHAIR:
21	MS. ELLIOTT:	21	Q. It's 1:10. We'll hear Paula's presentation
22	A. For example, Intact in this province, the	22	and go to questions in the morning, is that
23	Intact Group, my recollection is they at	23	the suggestion?
24	least write under the name of Novex	24	MS. GLYNN:
25	Insurance and Intact Insurance and they are	25	Q. We can discuss that as well. Her
	Page 226		Page 228
1	part of the Intact Group, so the issue was	1	presentation may take a bit longer, so
2	only with the company under the name of	2	that's something that we can discuss at the
3	$\mathbf{L}_{\mathbf{r}}$		
	Intact Insurance Company. That company—and	3	break, but I would suggest a five-minute
4	each company has a three-digit identifying		
		3	break, but I would suggest a five-minute
4	each company has a three-digit identifying number, so the data that we collect doesn't	3 4 5	break, but I would suggest a five-minute break to discuss further matters. (BREAK 1:09 P.M.)
4 5	each company has a three-digit identifying number, so the data that we collect doesn't say Intact in the row, it says 167 is Intact	3 4 5	break, but I would suggest a five-minute break to discuss further matters.
4 5 6 7	each company has a three-digit identifying number, so the data that we collect doesn't say Intact in the row, it says 167 is Intact and there's another number, 731 for Royal,	3 4 5 6	break, but I would suggest a five-minute break to discuss further matters. (BREAK 1:09 P.M.) (RESUME 1:12 P.M.) CHAIR:
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Page 229         1       person will be utilizing tomorrow morning—         2       this afternoon, I'm sorry, as soon as we         3       leave here. I have it here now, but my         4       phone won't let me send it out for some         5       reason. So as soon as I get back to my         6       office I'll have that done.         7       CHAIR:         8       Q.         9       we're adjourned, we'll see you in the         10       morning at 9:00 a.m.         11       MR. FELTHAM:         12       Q.       Excuse me, Madam Chair, just one more thing         13       in terms of housekeeping, the order of         14       questioning, it's our understanding that for         15       that particular report that Mr. Gittens in         16       referring to having co-counsel to assist on,         17       that we would prefer to adjust the order of         18       questioning between the Campaign and APTLA         19       so that APTLA proceeds first on that issue,         20       just for that report, is that's acceptable         21       to the Board.         22       CHAIR:         23       Q.         24       MR. GITTENS	Page 231 CERTIFICATE I, Judy Moss, hereby certify that the foregoing is a true and correct transcript of the 2017 Automobile Insurance Review hearing on the 6th day of June, 2018 before the Board of Commissioners of Public Utilities, 120 Torbay Road, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by means of a sound apparatus. Dated at St. John's, Newfoundland and Labrador this 6th day of June, 2018. Judy Moss
Page 230 1 CHAIR: 2 Q. No objections? Good, thank you. 3 MS. GLYNN: 4 Q. Thank you. 5 Upon conclusion at 1:15 p.m. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	

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