

COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

October 18, 2008

Appearances:

Sandra Chaytor, Q.C. Commission Co-counsel

Rolf Pritchard/Jackie Brazil, Q.C. . Her Majesty in Right of NL

Peter Browne, Q.C. Doctors Kara Laing et al

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. Testing Class Action

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Regional Integrated Health Authorities

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Certificate

1 THE COMMISSIONER:

2 Q. Please be seated. Ms. Chaytor?

3 MS. HEATHER PREDHAM, EXAMINATION BY SANDRA CHAYTOR, Q.C.

4 (CONTINUED)

5 CHAYTOR, Q.C.:

6 Q. Good morning, Commissioner. Good morning, Ms.
7 Predham.

8 MS. PREDHAM:

9 A. Good morning.

10 CHAYTOR, Q.C.:

11 Q. Registrar, if we could have, please, P-0546?
12 Ms. Predham, this is the e-mail that Dr.
13 Carter sent to you on August 3rd, 2005. And
14 she writes, "Good afternoon, Heather. It was
15 nice to meet you. As you may or may not have
16 heard, I have withdrawn as an organizer in
17 solving this whole ER/PR situation. In brief,
18 I am uncomfortable with the knowledge, in my
19 opinion, of the"--I'm sorry, "uncomfortable"
20 yes, with the knowledge, in my opinion, of Mr.
21 Gulliver re same and with the administrative
22 structure that allows him to make decisions
23 knowing that a significant portion of the
24 fallout will be on people with MD after their
25 name. I'm staying involved in an advisory

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1 role." And she goes on to describe some of
 2 her credentials. She also indicates to you,
 3 "I'm pretty familiar with QA. I have some
 4 references which may make your life easier and
 5 would be happy to meet with you at any time to
 6 discuss same. I'm hoping this problem gets
 7 under control fairly soon." And I believe
 8 that e-mail was referenced yesterday in your
 9 evidence, that she contacted you after she had
 10 withdrawn?
 11 MS. PREDHAM:
 12 A.
 13 CHAYTOR, Q.C.:
 14 Q. Who did you understand, then, after Dr. Carter
 15 withdrew, would be taking up this work that
 16 she had been doing?
 17 MS. PREDHAM:
 18 A. Dr. Cook would take over from the pathology
 19 feedback side. And, well, I guess, you know,
 20 Dr. Cook and Mr. Gulliver would have to
 21 determine how that would be worked out with
 22 Dr. Williams. But I understood it would be
 23 Dr. Cook from a coordination side on the
 24 pathology side, Mr. Gulliver then from the
 25 identification of the patients, because that

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1 was part of Dr. Carter's role.
 2 CHAYTOR, Q.C.:
 3 Q. And would anybody be doing the actual
 4 reviewing to, as she says here, to solve the
 5 whole ER/PR situation, to figure out what had
 6 happened?
 7 MS. PREDHAM:
 8 A. I don't think at the time that I understood
 9 that she was reviewing the slides. I know now
 10 that that was part of what she was doing. And
 11 I think again this was, you know, I was on
 12 that, like we said, steep learning curve at
 13 this point. So we're only in like week three,
 14 I think, and I don't think I appreciated the
 15 difference at that, at that time, so I thought
 16 that all that was covered off.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And so I take it nobody actually took
 19 that over, took that particular task over, the
 20 review that she was carrying out of the
 21 slides?
 22 MS. PREDHAM:
 23 A. No. I understand that now, but I didn't
 24 understand that fine tuned part of that then.
 25 CHAYTOR, Q.C.:

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1 Q. And the solving, saying in solving the whole
 2 ER/PR situation, at the time that didn't catch
 3 your attention as to, well, what does she mean
 4 by that?
 5 MS. PREDHAM:
 6 A. Well, I just assumed it was the entire
 7 investigation that was going on, not that she
 8 was doing anything in particular that wasn't
 9 going to be done after that.
 10 CHAYTOR, Q.C.:
 11 Q. Okay. And she indicates here that she had
 12 concerns with respect to Mr.--or she was
 13 uncomfortable with the knowledge of Mr.
 14 Gulliver. As the risk manager, did that cause
 15 you any concern to hear her say that?
 16 MS. PREDHAM:
 17 A. Well, I had concern enough to bring this to
 18 Dr. Williams' attention, just as, you know, as
 19 this was information here. And I really
 20 didn't know the--you know, I didn't know any
 21 history or anything that was going on here
 22 that--but I did bring it forward.
 23 CHAYTOR, Q.C.:
 24 Q. So you actually sent this e-mail to Dr.
 25 Williams, did you?

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1 MS. PREDHAM:
 2 A. Yes, I either sent it or I gave it to him.
 3 This was--this e-mail is in our Meditech
 4 system, so I probably printed that out and
 5 gave it to him.
 6 CHAYTOR, Q.C.:
 7 Q. And gave him a hard copy?
 8 MS. PREDHAM:
 9 A.
 10 CHAYTOR, Q.C.:
 11 Q. Did you discuss the matter any further with
 12 Dr. Carter?
 13 MS. PREDHAM:
 14 A. Not at that time. I know we had some
 15 discussion about setting up a QA process,
 16 like, as it went on. She was on our panel and
 17 we did have some discussion on setting this
 18 up. But it was one of those things that we
 19 had to do, and I know she was involved in that
 20 at a later time.
 21 CHAYTOR, Q.C.:
 22 Q. And she indicates that she has some references
 23 which may be of use to you and she would be
 24 happy to meet with you. Did you take her up
 25 on that?

1 MS. PREDHAM:
 2 A. Not at that time. When I came back in, you
 3 know, in August and then September and that my
 4 focus was more on patient contact, patient--
 5 you know, that part, and I wasn't really
 6 involved in this part of it.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. And if we could have then, please, P-
 9 1977? And this is an e-mail that you
 10 forwarded regarding an annual symposium. And
 11 you sent it along to Doctors Williams, Cook,
 12 Mr. Gulliver, Mr. Dyer. And it's a workshop
 13 to be carried out by Mr. Bryan Hewlett. And
 14 you indicate here that, "I found this abstract
 15 for a speaker at a workshop this past March.
 16 He's from Toronto. Should we speak to him, as
 17 well? It sounds like a summary of our
 18 issues." So I take it you're still doing some
 19 research on the issue and came across this?
 20 MS. PREDHAM:
 21 A. Yes, in some search I came across that.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, and, of course, Mr. Bryan Hewlett being
 24 the gentleman who ultimately came to St.
 25 John's this year. Did you, at the time, or

1 MS. PREDHAM:
 2 A. Well, I wouldn't say that that's what I was
 3 doing. What Dr.--Mr. Gulliver and Dr. Cook
 4 were identifying the patients and pulling out
 5 the blocks to send out. I certainly wasn't
 6 doing that part. But I was trying to do up a
 7 list and double check it off the list that I
 8 would get from the Breast Cancer Registry.
 9 CHAYTOR, Q.C.:
 10 Q. Okay, so you weren't the person responsible
 11 for identifying the patients?
 12 MS. PREDHAM:
 13 A. Absolutely not.
 14 CHAYTOR, Q.C.:
 15 Q. Okay. That was Mr. Gulliver and -
 16 MS. PREDHAM:
 17 A. Dr. Cook.
 18 CHAYTOR, Q.C.:
 19 Q. - Dr. Cook. And then what was your
 20 involvement?
 21 MS. PREDHAM:
 22 A. My involvement for patients was that I would
 23 have the list from the Breast Cancer Registry
 24 and combine that with the Meditech list and
 25 then use Mr. Gulliver's spreadsheets to cross

1 anyone else, though, contact Mr. Hewlett? We
 2 know he was here in December, '07, as well.
 3 MS. PREDHAM:
 4 A. I didn't. I know feedback several of the lab
 5 staff had heard him speak or had been at
 6 workshops where he had spoken to. I didn't
 7 contact him at the time, though.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. And did Mr. Gulliver give you any
 10 feedback as to his knowledge of Mr. Hewlett?
 11 MS. PREDHAM:
 12 A. I know Mr. Dyer told me he had listened to,
 13 had listened to him and he had been at a
 14 workshop, and I think Mr. Gulliver did, as
 15 well, but I remember Mr. Dyer telling me that.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. If we could have, please, P-0551, page
 18 2? And these are Dr. Williams' notes again,
 19 this time of August 5th, 2005 meeting. And a
 20 number of people in attendance, including
 21 yourself. And you're referenced here as
 22 "Heather Predham will identify all patients
 23 and blocks will be pulled to send out." So I
 24 take it by August 5th that's the main task
 25 assigned to you?

1 reference that and see if there were any, that
 2 there was indication that there may be people
 3 that are missed, but also then we would have
 4 an Excel spreadsheet which would have the
 5 names and the addresses in them of the people
 6 that were being retested.
 7 CHAYTOR, Q.C.:
 8 Q. So you were after they did the initial
 9 identification, then you were cross
 10 referencing that against what--you were doing
 11 the next level of checking to make sure
 12 everybody was included?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. And you were using the cancer registry list -
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. - list to do that?
 21 MS. PREDHAM:
 22 A. And the information management, the Meditech
 23 down load, that was only who had an ER/PR
 24 done. It didn't include 1997 and was only
 25 part of '98. But it was people who had an

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1 ER/PR ordered but didn't have the results in
 2 it.
 3 CHAYTOR, Q.C.:
 4 Q. Right, okay. And that was the list that was
 5 provided to you by information management?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. Yes. And do you know how they came up with
 10 that list, did they do a work search or how
 11 was that list compiled for you?
 12 MS. PREDHAM:
 13 A. On a very superficial level.
 14 CHAYTOR, Q.C.:
 15 Q. Did you know that at the time?
 16 MS. PREDHAM:
 17 A. At a very--I knew at a superficial level at
 18 the time.
 19 CHAYTOR, Q.C.:
 20 Q. Oh, you knew at a superficial, I'm sorry.
 21 MS. PREDHAM:
 22 A. Because they told me what they would have to
 23 do.
 24 CHAYTOR, Q.C.:
 25 Q. Yes.

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1 MS. PREDHAM:
 2 A. They could go into the ordering part of the
 3 lab and they could run a search or they would
 4 write a query, I think is how they put it, and
 5 they could get all the names and MCP numbers
 6 of the patients who had an ER/PR ordered. So
 7 they were going in that lab module in the
 8 ordering part and just pulling out all those
 9 names and MCP numbers. So they weren't
 10 telling me anything about the test or about
 11 the results, they could only tell me these are
 12 the people who had them ordered in Meditech.
 13 CHAYTOR, Q.C.:
 14 Q. Yes. And how did that differ from how Mr.
 15 Gulliver's search was originally done and then
 16 from that he printed pathology reports?
 17 MS. PREDHAM:
 18 A. I think he went in in the same type of--it was
 19 the ordering of the ER/PR was the key
 20 function.
 21 CHAYTOR, Q.C.:
 22 Q. Yes.
 23 MS. PREDHAM:
 24 A. But what his list, what he did from his list
 25 is that he printed out all the pathology

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1 reports from that very similar list, I assume.
 2 But he went into the different modules in
 3 Meditech. The overall thing what I'm at
 4 couldn't go into the original St. Clare's or
 5 the Grace modules and pull this information
 6 out, and that's why I couldn't get '97 and
 7 part of '98.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. So you wouldn't have had those on your
 10 list?
 11 MS. PREDHAM:
 12 A. No.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And if we could look, please, then at
 15 2954, page 8? And I believe this might be
 16 your notes then for August 5th?
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. And it appears to be the same individuals in
 21 attendance. And the first thing is "Ventana
 22 technical expert in. Mount Sinai all
 23 Ventanas, 2004, '05 all negative." And then
 24 "March 31st, '03" is crossed off over here.
 25 Do you recall what that as in relation to?

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1 MS. PREDHAM:
 2 A. No, I don't, sorry.
 3 CHAYTOR, Q.C.:
 4 Q. Was there any indication that there was a
 5 particular problem on March 31st, 2003 with
 6 the ER/PR testing?
 7 MS. PREDHAM:
 8 A. No. I may have written down that date as when
 9 the Ventana started and realized it was the
 10 wrong, the wrong year.
 11 CHAYTOR, Q.C.:
 12 Q. Okay. "All patients being seen." Can you
 13 read this, please?
 14 MS. PREDHAM:
 15 A. "All patients being seen in the clinic that
 16 are negative." And then in brackets, "(All
 17 patients with metastatic disease and all those
 18 with lobular cancer)."
 19 CHAYTOR, Q.C.:
 20 Q. And what's that referring to?
 21 MS. PREDHAM:
 22 A. I guess I was just writing down some
 23 discussion. I don't have any memory of that.
 24 CHAYTOR, Q.C.:
 25 Q. Were they given any kind of priority in terms

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1 of retesting those with lobular cancer and
 2 metastatic disease, do you recall anything
 3 about that?
 4 MS. PREDHAM:
 5 A. I don't recall. It may be, but I don't
 6 recall.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. "May, 1997 until now." And again,
 9 you've got "March 31st, 2003" crossed off.
 10 And can you see what's crossed off there?
 11 MS. PREDHAM:
 12 A. No, I can't make that out.
 13 CHAYTOR, Q.C.:
 14 Q. And then before -
 15 MS. PREDHAM:
 16 A. And "before".
 17 CHAYTOR, Q.C.:
 18 Q. "Retest all negatives below ten percent.
 19 Retest all tubulars" -
 20 MS. PREDHAM:
 21 A. "Mucinous" I think is the word.
 22 CHAYTOR, Q.C.:
 23 Q. "Infiltrating lobular."
 24 MS. PREDHAM:
 25 A. "Infiltrating lobular."

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1 CHAYTOR, Q.C.:
 2 Q. And "To be done by Mount Sinai." Do you have
 3 any independent recollection as to what those
 4 notes are in reference to?
 5 MS. PREDHAM:
 6 A. I guess we were just trying to further define
 7 who was going to be retested and I guess, you
 8 know, this obviously came from either Dr.
 9 Laing or Dr. Cook, so--and I was just writing
 10 it down.
 11 CHAYTOR, Q.C.:
 12 Q. And "Dr. Banerjee, chief tech from Mount
 13 Sinai." So the two experts have been
 14 identified at this point for a mid September
 15 review. And "Eleven tests. Notified by their
 16 physician following their"--"following them
 17 for their cancer," I guess, is it?
 18 MS. PREDHAM:
 19 A. Yes. "Appointment made to discuss their
 20 results." And that would be, I do remember
 21 that, that would be when we called them or
 22 wrote the letter, this is what we wanted to
 23 have in that information. You would be
 24 followed by your physician and I guess to call
 25 use, we'd make an appointment. We had--it was

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1 just working out the logistics of what we'd
 2 actually tell people.
 3 CHAYTOR, Q.C.:
 4 Q. "Reports will have to come to a central area.
 5 Determine one, Cancer Centre patients. Two,
 6 if not, who is following them." And "orphan
 7 patients." I guess patients without a
 8 physician?
 9 MS. PREDHAM:
 10 A. Well, patients who probably were discharged
 11 from the Cancer Centre but--or not, or whose
 12 physician is no longer practising. And that
 13 again is working through the logistics of, you
 14 know, okay, we have the information back.
 15 When it comes back, what do we do with it
 16 then?
 17 CHAYTOR, Q.C.:
 18 Q. So the idea of the physician review panel
 19 hadn't been borne at this point?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. And then we've already done this note.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Comes--this was the earlier August first
 3 meeting?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. Okay. And if we could have, please, P-0558?
 8 And this is your e-mail of August 8th to
 9 Doctors Williams, Cook, Mr. Gulliver and Ms.
 10 Predham--Ms. Pilgrim, sorry. And you indicate
 11 that, "I've got the lab database and NCRTF
 12 database combined, but I still have issues to
 13 clarify." First of all, the lab database,
 14 what exactly is that that you're referring to?
 15 MS. PREDHAM:
 16 A. That was the one I got from information
 17 management.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And so not Mr. Gulliver's?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. That's the one that, okay, information
 24 management gave you. And then I guess it's
 25 the cancer registry?

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1 MS. PREDHAM:
 2 A. Cancer registry.
 3 CHAYTOR, Q.C.:
 4 Q. And you combined the information from the two
 5 of them?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. And they're -
 10 MS. PREDHAM:
 11 A. So I obtained those on Friday and then that's
 12 what I worked on the weekend to combine the
 13 two of them in Excel.
 14 CHAYTOR, Q.C.:
 15 Q. Okay. And so then you had that done by,
 16 certainly by 10 a.m. on Monday. And there are
 17 a couple of issues that come to light during
 18 the process. "We haven't discussed the
 19 process for informing or providing hotline
 20 service to individuals from St. Pierre." And
 21 you had mentioned that previously, as well, in
 22 terms of the language issue.
 23 MS. PREDHAM:
 24 A. And I thought of it as a possibility earlier
 25 but now I confirm that there were names of

Page 22

1 people, I didn't have the results at that
 2 point, but there was a potential that there
 3 were people there from St. Pierre, with
 4 addressed in St. Pierre.
 5 CHAYTOR, Q.C.:
 6 Q. Yes, and "Does ER/PR status have the same
 7 implication for men as it does for women?"
 8 And did you get an answer back on that or were
 9 any of these individuals able to answer that?
 10 MS. PREDHAM:
 11 A. I think I clarified that with Dr. Laing as it
 12 went on because there was, you know, no
 13 difference. They weren't, you know, they
 14 weren't--it was just that when I went through
 15 that and I found male names there, I hadn't
 16 thought about that and we hadn't discussed it.
 17 It was always before that it was, you know,
 18 just women.
 19 CHAYTOR, Q.C.:
 20 Q. So I guess you were wondering if you needed to
 21 keep the male names on the list, if they were
 22 candidates for hormonal therapy or not?
 23 MS. PREDHAM:
 24 A. Right. Because I didn't know.
 25 CHAYTOR, Q.C.:

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1 Q. And what did Dr. Laing tell you about that?
 2 MS. PREDHAM:
 3 A. Oh, yes, they'd be treated the same as -
 4 CHAYTOR, Q.C.:
 5 Q. Okay. And then "Rough numbers from the
 6 combined database show 4510 people overall."
 7 And what would that be, who would those 4510
 8 patients comprise, what--I take it they're
 9 breast cancer patients, are they?
 10 MS. PREDHAM:
 11 A. Well, it was all--so what I had was I had a
 12 lot at that point. What I had was everything
 13 from Meditech of anybody who had an ER/PR test
 14 done, irregardless of what their original
 15 diagnosis was, so if they had an ER/PR test
 16 done, they were in that lab database. Then I
 17 had the Cancer Clinic database which was
 18 everybody who was seen at the Cancer Clinic or
 19 in their registry who was diagnosed with
 20 breast cancer. So I combined the two, and of
 21 course, there was overlap of names, but
 22 between the two of them there was a lot of
 23 names.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, so the 4510 people included all forms of

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1 cancer if they had an ER/PR test?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. Just people with ER/PR tests beyond breast
 6 cancer, as well?
 7 MS. PREDHAM:
 8 A. Right.
 9 CHAYTOR, Q.C.:
 10 Q. And it may also include duplication of names?
 11 MS. PREDHAM:
 12 A. Oh, definitely.
 13 CHAYTOR, Q.C.:
 14 Q. Okay.
 15 MS. PREDHAM:
 16 A. I tried my best at that point to take out the
 17 duplicates, but like I said up here, I had
 18 issues, I had the same name and address,
 19 different MCP numbers and people with
 20 different names and addresses with the same
 21 MCP numbers. So, you know, at this point in
 22 time there was data quality issues to be
 23 worked through.
 24 CHAYTOR, Q.C.:
 25 Q. Yes. And ultimately it's only the primary

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1 breast cancer patients who are identified for
 2 retesting. And who made that decision?
 3 MS. PREDHAM:
 4 A. It would have to have been, I'm assuming, a
 5 combination. It would have to be Dr. Laing,
 6 Dr. Cook to have made that decision because
 7 other than that they're really the only two
 8 that would have had the knowledge to do that.
 9 CHAYTOR, Q.C.:
 10 Q. Okay.
 11 MS. PREDHAM:
 12 A. And I would say primarily it would be Dr.
 13 Laing because even Dr. Cook wouldn't have the
 14 direct knowledge from the treatment side.
 15 CHAYTOR, Q.C.:
 16 Q. Yes. And "The cancer registry does not
 17 identify almost 2100 of individuals who had
 18 ER/PR testing." And what's that about, is
 19 that -
 20 MS. PREDHAM:
 21 A. Well, again, that's the Meditech list was only
 22 people who had ER/PR testing done, where the
 23 Breast Cancer Registry was saying that these
 24 are patients who have breast cancer.
 25 CHAYTOR, Q.C.:

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1 Q. So the Cancer Registry list, you could get
 2 that list on the basis of disease site?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. You could go in and search and get all the
 7 breast cancer patients?
 8 MS. PREDHAM:
 9 A. Well, that's how they provided it for me.
 10 CHAYTOR, Q.C.:
 11 Q. Okay.
 12 MS. PREDHAM:
 13 A. So they had already done that part and done
 14 that search and had given me, "these are the
 15 breast cancer patients in our registry." Now
 16 at the time, I thought that was all patients
 17 who had breast cancer, but that wasn't. They
 18 had to be seen or registered at the Cancer
 19 Clinic. So it wasn't an all-inclusive list,
 20 but I didn't know that at the time.
 21 CHAYTOR, Q.C.:
 22 Q. Right, okay. So you were thinking the Cancer
 23 Registry list that you had identified every
 24 patient that went through there anyhow with
 25 breast cancer?

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1 MS. PREDHAM:
 2 A. Well, I thought it was an all over registry of
 3 breast cancer.
 4 CHAYTOR, Q.C.:
 5 Q. Oh, okay. You were thinking it was regardless
 6 if they're seen there or not?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Okay, and when did you learn that it wasn't?
 11 MS. PREDHAM:
 12 A. I think it was through this process, because
 13 of course, you know, you're looking at--
 14 especially when, as we'll go through, I get
 15 the spreadsheets from Mr. Gulliver and Mr.
 16 Dyer, so when I start going through that and
 17 there was names there that weren't in there
 18 and it was all this back and forth, then I
 19 started realizing that the Cancer Registry was
 20 not what I had thought it was.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. So it's during though--it's in 2005
 23 that -
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. - while you're trying to put it all together
 3 that you became aware of that?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. Okay.
 8 MS. PREDHAM:
 9 A. Before this, the Cancer Clinic, of course, was
 10 a separate board.
 11 CHAYTOR, Q.C.:
 12 Q. Yes.
 13 MS. PREDHAM:
 14 A. So my only dealings with--I had gone over to
 15 do some education on occurrence reporting and
 16 something on their request in 2004, I think,
 17 but before that, I've had very limited contact
 18 with the Cancer Clinic.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, and it says "current status, living or
 21 deceased, is only identified in 1245 of those
 22 people. It's going to be difficult to
 23 determine this for the rest of the
 24 individuals." And the living or deceased
 25 status in 1245 of those people, which people

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1 are you referring to? Is it the overall 4510?
 2 MS. PREDHAM:
 3 A. Well, at that time, I had them combined. So
 4 yes, it was 1245 of those people, but it was,
 5 of course, only those out of the breast cancer
 6 registry, and remember, that was the whole
 7 point of me to get that database.
 8 CHAYTOR, Q.C.:
 9 Q. To try and determine who -
 10 MS. PREDHAM:
 11 A. Who was living and deceased.
 12 CHAYTOR, Q.C.:
 13 Q. Yes.
 14 MS. PREDHAM:
 15 A. So when I got the list, it still wasn't
 16 complete on that level.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. So I take it, even at this stage,
 19 you're starting to have some concerns about
 20 "how am I going to put this all together and
 21 how are we going to identify these people?"
 22 MS. PREDHAM:
 23 A. Yeah, grave concerns.
 24 CHAYTOR, Q.C.:
 25 Q. "ER/PR status is indicated in 1230 people,

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1 with an overall ER positivity rate of 55
 2 percent."
 3 MS. PREDHAM:
 4 A. And that was really only curiosity because
 5 they had indicated ER/PR status for those
 6 people for breast cancer, but only as positive
 7 and negative and not a percentage. So I just--
 8 this was another source of data. So out of
 9 curiosity, that's what I did that.
 10 CHAYTOR, Q.C.:
 11 Q. So I'm sorry, I'm just--so out of 1230 people
 12 -
 13 MS. PREDHAM:
 14 A. That had ER/PR--when I got the information,
 15 there was a column saying ER/PR status and it
 16 had a P or an N in it.
 17 CHAYTOR, Q.C.:
 18 Q. Okay.
 19 MS. PREDHAM:
 20 A. So I didn't expect that information to be
 21 there, so out of curiosity, I did that.
 22 CHAYTOR, Q.C.:
 23 Q. And this was on the Cancer Registry list?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Yes, okay. So they were tracing positive or
 3 tracking, or they had at least the capability
 4 built into their database to track positivity
 5 rates, positive or negative?
 6 MS. PREDHAM:
 7 A. Right, but I think, and this, of course, is my
 8 memory. I haven't gone back to look at it in
 9 a long time. I think it was only one column
 10 for ER/PR and it would have been positive or
 11 negative. So really, it was hormonal status
 12 is they were looking at. So you know, they
 13 didn't differentiate if it was ER negative PR
 14 positive. It was the overall hormonal status.
 15 That's my memory of it right now.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, but it was set up so that could happen?
 18 MS. PREDHAM:
 19 A. That could happen, yes.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and you could do that, and you were able
 22 then to do a calculation and come up with 55
 23 percent?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Of the patients -
 3 MS. PREDHAM:
 4 A. That was indicated, but of course, it was not
 5 all patients, because as you can see -
 6 CHAYTOR, Q.C.:
 7 Q. Yes.
 8 MS. PREDHAM:
 9 A. - that was in 1230, where there was 1245
 10 actually had living and deceased status
 11 identified.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. So out of 1230 people in the Cancer
 14 Registry database, you went down through the
 15 positive or negative and the database itself
 16 could allow you then to do the calculation to
 17 see how many P's there are indicated?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and so you did that calculation for 1230
 22 people and came up with a positivity rate of
 23 55 percent?
 24 MS. PREDHAM:
 25 A. Right.

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1 CHAYTOR, Q.C.:

2 Q. Okay.

3 MS. PREDHAM:

4 A. Now, and the registry only had, of that list,

5 they only had 2400 people in it. So the ER/PR

6 status was only indicated for about half of

7 the people that were in the Registry.

8 CHAYTOR, Q.C.:

9 Q. Okay, yes, because the total registry had, you

10 say here, it's 2100?

11 MS. PREDHAM:

12 A. Well, the Cancer Registry did not identify all

13 those 2100.

14 CHAYTOR, Q.C.:

15 Q. Did not identify all those 2100. So it's

16 another 24, you're right, that's correct.

17 That's right, okay.

18 MS. PREDHAM:

19 A. So it wasn't as complete as I had hoped,

20 because you know, the point of me doing that

21 would be to identify who was alive and who was

22 deceased and I only had information on half,

23 really half the people there, not even half.

24 CHAYTOR, Q.C.:

25 Q. Yes. So I take it when you're looking down

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1 through that column that said P or N, there

2 were a lot of blanks as well?

3 MS. PREDHAM:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. Okay. "Overall ER positivity by year, and

7 remember this is rough," and then you give

8 some calculations, "2003, 61 percent; 2002, 48

9 percent; 2001, 46 percent. The Cancer

10 Registry only indicates P and N, not

11 percentage," again. So you were also able to

12 use their database then, I take it, to go in

13 and calculate how many of those P's am I

14 seeing for each of those years indicated?

15 MS. PREDHAM:

16 A. And I had no way to know how they defined P

17 and N, you know.

18 CHAYTOR, Q.C.:

19 Q. Positive, yes.

20 MS. PREDHAM:

21 A. I mean, it could have been whether the

22 clinician considered them positive or, you

23 know, I had no idea how they defined that.

24 CHAYTOR, Q.C.:

25 Q. Yes, and have you--did you, at the time, or at

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1 any time since, have you made any inquiry to

2 answer that question, "well, who at the time

3 is entering the data into the Cancer Registry

4 database? Is it the clinicians, and if so, is

5 this based on how the clinicians interpreted

6 the test or is it based on what the pathology

7 report said?"

8 MS. PREDHAM:

9 A. I've never asked on that part. The only

10 inquiries I made was about how they identified

11 if they were living or deceased.

12 CHAYTOR, Q.C.:

13 Q. Okay, and I guess though the point is that

14 they did have their database there and it was

15 set up, but what you found is that it was

16 incomplete?

17 MS. PREDHAM:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. And it was set up in a manner that it could

21 have tracked the positivity rates?

22 MS. PREDHAM:

23 A. Oh, there's great potential for it, but at the

24 time, there was--well, there was data quality

25 issues there, but it would need a bit of work

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1 at that time to be really beneficial.

2 CHAYTOR, Q.C.:

3 Q. Okay, and did you make any inquiries as to why

4 this registry was incomplete?

5 MS. PREDHAM:

6 A. Not at that time. I had a lot of work to do

7 and that was -

8 CHAYTOR, Q.C.:

9 Q. What about since? Has anyone ever said to

10 you, "well, here's why our Cancer Registry is

11 not where it perhaps should have been"?

12 MS. PREDHAM:

13 A. Just, I know that they're doing a lot of work

14 on that now and I know there's been a lot of

15 investment and a lot of work put into the

16 Cancer Registry since then, but I never ever

17 went back and asked.

18 CHAYTOR, Q.C.:

19 Q. Okay, and who do you think would best be able

20 to answer that question?

21 MS. PREDHAM:

22 A. Oh, it would be Ms. Smith.

23 CHAYTOR, Q.C.:

24 Q. Okay, and you indicate here "I'm going to pick

25 up the lab info from Terry today and the

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1 spreadsheets that he and Barry worked on on
 2 the weekend and incorporate this information
 3 as well."
 4 MS. PREDHAM:
 5 A. So this, these were--so Terry would have taken
 6 all the pathology reports--he and Mr. Dyer
 7 would have worked on that weekend, taken all
 8 the pathology reports and put them in
 9 spreadsheets by year. That would have been
 10 all the ones within the St. John's hospitals,
 11 the old Health Care Corp, and put them in
 12 spreadsheets by year and this is what Dr. Cook
 13 would take and himself would take to use to
 14 pull the slides and the blocks. So I took
 15 that and my intent was to use that to further
 16 identify these patients. So up to this point
 17 in time, we actually--this is first when we
 18 would actually have a list in one spot of all
 19 the patients who were going to be retested.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and I take it then you ultimately got
 22 Mr. Gulliver's spreadsheets too?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. Yes, and was there any concern at this point
 2 in time with respect to the manual method of
 3 having--fairly manual method of--well,
 4 certainly what Mr. Gulliver did in coming up
 5 then with the pathology reports in having to
 6 identify the patients and classify the
 7 patients?
 8 MS. PREDHAM:
 9 A. Oh, great concern, and that was also seen as a
 10 benefit of having this other list that we'd
 11 have, although it would have been nice if, you
 12 know, Meditech, if the IT department could
 13 have done a search and could have had the
 14 results with it, because then you'd have, you
 15 know, a double check, but all I had were names
 16 and then we'd have the spreadsheets, but there
 17 was--you know, the recognition that it was a
 18 very manual process. They were printing that
 19 all out and then they would have to read all
 20 those pathology reports, because there was no
 21 standardized reporting. So they'd have to go
 22 look for that and then put in a pile of
 23 positives and a pile of negatives by year, and
 24 then write up a manual list. So there was
 25 always that opportunity and it was always a

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1 grave concern. So that's why the two of them
 2 did it and they did a double check between the
 3 two.
 4 CHAYTOR, Q.C.:
 5 Q. And after then you received the information,
 6 your task was then to double check, in terms
 7 of your list and the list that they had come
 8 up with?
 9 MS. PREDHAM:
 10 A. Best I could from the list, and really the
 11 only thing that I would have been questioning
 12 would have been the P's and the N's from the
 13 Cancer Clinic.
 14 CHAYTOR, Q.C.:
 15 Q. And was there a--so then, yes, you would take
 16 that, what you were able to get from the
 17 Cancer Registry, and see if whether or not Mr.
 18 Gulliver or Mr. Dyer had classified the
 19 patient appropriately and positive or
 20 negative?
 21 MS. PREDHAM:
 22 A. Right. Well, I wouldn't have had the
 23 positives. I would only have the negatives.
 24 CHAYTOR, Q.C.:
 25 Q. Only the negatives, sorry, yes, and was there

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1 any discrepancy, once you started down that
 2 road?
 3 MS. PREDHAM:
 4 A. Well, there were questions. I was, you know,
 5 back and forth with Mr. Gulliver and doing
 6 this and sometimes it came back to how the P
 7 or the N was defined as well, you know, and
 8 whether it met that criteria that we had set
 9 up.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and was there any other, anything else
 12 done to try and alleviate the concern about
 13 the way in which the patients had been
 14 identified?
 15 MS. PREDHAM:
 16 A. Well, we had a lot of discussion--not we, I
 17 guess I was--you know, I was concerned that
 18 this--but so was everybody, and there was a
 19 lot of concern at the time about how can we do
 20 a search in any other way. Is there any other
 21 way that we can do this? And really, this was
 22 the most thorough way to do it, from what I
 23 understood.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, and was that advice from Information

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1 Management? Were they reengaged at that point
 2 to say "look, here's what we've done. Is there
 3 any better way? Are there word searches,
 4 anything else that you can do here?"
 5 MS. PREDHAM:
 6 A. Well, Information Management, when I went over
 7 to get this database, you know, it came up
 8 with we need a way to double check what is
 9 going on in the lab, and "what can you get me?
 10 What additional information can you do besides
 11 what Mr. Dyer and Mr. Gulliver are already
 12 doing?" and this was the only thing that they
 13 could provide us at that time.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, and have you since learned that perhaps
 16 there were better ways to have done it?
 17 MS. PREDHAM:
 18 A. There were other ways that we could have
 19 checked, I since learned, in 2007.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and could have checked using the
 22 Meditech system?
 23 MS. PREDHAM:
 24 A. Some way that we could have done a word search
 25 or something. There were some other methods

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1 that could have been utilized.
 2 CHAYTOR, Q.C.:
 3 Q. Okay, and the information management people
 4 didn't come up with that for you at the time?
 5 MS. PREDHAM:
 6 A. No.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and have you learned why, why it is that
 9 they didn't know that at the time to be able
 10 to help you out?
 11 MS. PREDHAM:
 12 A. Well, I mean, you know, in hindsight, when
 13 this all became very contentious issue in
 14 2007, that was a--that was one of the comments
 15 that was made, that they could have done some
 16 more.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. Ms. Predham, are you--would you like a
 19 moment?
 20 MS. PREDHAM:
 21 A. No, I'm good.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. So by the time you have compiled your
 24 list, what was your comfort level, in terms of
 25 feeling that you had everyone?

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1 MS. PREDHAM:
 2 A. I had no comfort level.
 3 CHAYTOR, Q.C.:
 4 Q. And did you articulate that to others?
 5 MS. PREDHAM:
 6 A. Definitely.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and who did you tell?
 9 MS. PREDHAM:
 10 A. Well, all, you know, Dr. Williams, Mr.
 11 Gulliver, Dr. Cook, Dr. Laing. It was--there
 12 was no way, with the information that we had
 13 here, that we could have any comfort level
 14 that we were getting everyone and that was why
 15 it was always very important to get the number
 16 out there.
 17 CHAYTOR, Q.C.:
 18 Q. I'm sorry, get the number out there meaning?
 19 MS. PREDHAM:
 20 A. Getting our phone number out there so people
 21 could call in.
 22 CHAYTOR, Q.C.:
 23 Q. Your hotline?
 24 MS. PREDHAM:
 25 A. Yeah.

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1 CHAYTOR, Q.C.:
 2 Q. So you wanted to have this hotline set up and
 3 have a public announcement so that people
 4 could identify themselves?
 5 MS. PREDHAM:
 6 A. Definitely.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and you told that to the people above
 9 you?
 10 MS. PREDHAM:
 11 A. Oh, and it was a--you know, it was a well-
 12 identified--there was no--you know, I wasn't
 13 giving them anything earth shattering, I
 14 suppose. It was I was just vocalizing what we
 15 all considered was a possibility, you know,
 16 from the fact that it was a manual process.
 17 CHAYTOR, Q.C.:
 18 Q. And included in the people that you told your
 19 discomfort to, included the physicians, Dr.
 20 Laing, Dr. Cook?
 21 MS. PREDHAM:
 22 A. Yes.
 23 THE COMMISSIONER:
 24 Q. I'm sorry, you did mention Dr. Laing and Dr.
 25 Cook and Dr. Williams earlier.

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1 MS. PREDHAM:
 2 A. Yes.
 3 THE COMMISSIONER:
 4 Q. Who would have been part of that core group
 5 that you described for me yesterday?
 6 MS. PREDHAM:
 7 A. Yes.
 8 THE COMMISSIONER:
 9 Q. What about people in that next layer out, that
 10 they had been--you know, the people who kept
 11 coming and going, would they have been aware
 12 of it as well, do you believe?
 13 MS. PREDHAM:
 14 A. I don't know, but you know, when you have a
 15 core group like that, you have to rely on the
 16 members of the core group to tell the people
 17 that they link with. So I'd have to rely on
 18 them to--you know, if they're people about
 19 this issue, that that would be a concern as
 20 well.
 21 THE COMMISSIONER:
 22 Q. Okay, for example, as I understand it, someone
 23 like Ms. Bonnell, would she have been
 24 considered by you part of the core group?
 25 MS. PREDHAM:

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1 A. Oh yes.
 2 THE COMMISSIONER:
 3 Q. So she would have known?
 4 MS. PREDHAM:
 5 A. Yes.
 6 THE COMMISSIONER:
 7 Q. So what about Mr. Tilley?
 8 MS. PREDHAM:
 9 A. He wasn't part of the core group, but I would
 10 assume that Dr. Williams would be telling Mr.
 11 Tilley.
 12 THE COMMISSIONER:
 13 Q. So that would have been the communication
 14 line?
 15 MS. PREDHAM:
 16 A. Right.
 17 THE COMMISSIONER:
 18 Q. And from your perspective, the information
 19 that was going through to Mr. Tilley would
 20 have gone through Dr. Williams?
 21 MS. PREDHAM:
 22 A. Yes.
 23 THE COMMISSIONER:
 24 Q. Okay, thank you.
 25 CHAYTOR, Q.C.:

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1 Q. Ms. Predham, the concerns that you identified
 2 or the shortcomings with the Cancer Registry,
 3 prior to this, had you heard anyone articulate
 4 any concern about the Cancer Registry?
 5 MS. PREDHAM:
 6 A. No, but like I said the cancer, the NCRTF was
 7 a separate board and I just knew that the
 8 Cancer Registry existed.
 9 CHAYTOR, Q.C.:
 10 Q. Yes, and once this issue came up and you did
 11 identify some issues about it, did anyone then
 12 say to you "oh yes, we were aware of this.
 13 This is something we've been struggling with
 14 for some time" or did anyone tell you?
 15 MS. PREDHAM:
 16 A. I really can't remember.
 17 CHAYTOR, Q.C.:
 18 Q. Okay.
 19 MS. PREDHAM:
 20 A. I can't remember that.
 21 CHAYTOR, Q.C.:
 22 Q. Okay, and this e-mail goes on to refer to the
 23 hotline that you and others were proposing.
 24 "I'm meeting with our staff re: the hotline
 25 and what needs to be put in place. The

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1 biggest thing, from our perspective, will be
 2 the answers to the items identified in our
 3 script. We'll work on those today. Also, we
 4 will be informing"--I'm sorry, "also will we
 5 be informing GPs of this issue?" So you're
 6 wondering if the physicians are going to be
 7 told?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And why would that be of importance to you?
 12 MS. PREDHAM:
 13 A. Well, I guess that--I think, Dr. Laing, when I
 14 went on to say that, she suggested that the
 15 letter use wording like "you will be notified
 16 by the physician following your cancer and an
 17 appointment made to discuss results," which I
 18 guess comes back to that note that you showed
 19 me earlier, and I was just wondering about
 20 where we had identified those orphan patients,
 21 those ones whose physicians were no longer
 22 there, or no longer their oncologists, if the
 23 GPs, if somebody called up their family
 24 physician, would they be aware of the issue,
 25 you know. Because they'd have to have some

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1 idea about the issue.
 2 CHAYTOR, Q.C.:
 3 Q. So at this point in time, August 8th, 2005,
 4 Dr. Laing was participating in developing
 5 communications to -
 6 MS. PREDHAM:
 7 A. Wording the letter.
 8 CHAYTOR, Q.C.:
 9 Q. - wording the letters that would go to the
 10 patients?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. Okay, to inform them in advance that they are
 15 in fact being retested?
 16 MS. PREDHAM:
 17 A. Right, correct.
 18 CHAYTOR, Q.C.:
 19 Q. And in your discussions with Dr. Laing
 20 regarding that, did she express any concerns
 21 in writing such a letter to the patients?
 22 MS. PREDHAM:
 23 A. Not at that time.
 24 CHAYTOR, Q.C.:
 25 Q. And when does that first come up as an issue?

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1 MS. PREDHAM:
 2 A. In my memory, it was August the 10th. It may
 3 not have been that meeting, but I remember we
 4 had a meeting where she voiced strong concerns
 5 about sending a letter. Not sending a letter,
 6 but sending a letter at that time. Now it may
 7 have been the week before, but it was
 8 somewhere in this time period.
 9 CHAYTOR, Q.C.:
 10 Q. And up to this point in time, she seemed to be
 11 on side for it?
 12 MS. PREDHAM:
 13 A. Well, I mean, it was--everybody was on side
 14 for it. It was just the timing was the issue,
 15 you know, when do we actually say this. When
 16 are we getting these results back? What's the
 17 time frame? So it wasn't anyone saying we
 18 shouldn't send a letter or we shouldn't do
 19 this. It was just when do we do it. That was
 20 always the key problem.
 21 CHAYTOR, Q.C.:
 22 Q. And what was her concern then by August 10th,
 23 in terms of you say she spoke strongly in that
 24 meeting? What was she articulating at that
 25 point in time?

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1 MS. PREDHAM:
 2 A. I guess because of the time frame in which
 3 we'd have to leave people hanging about this
 4 treatment option available.
 5 CHAYTOR, Q.C.:
 6 Q. If we could look at, please, P-2955?
 7 MS. PREDHAM:
 8 A. And if I can just say -
 9 CHAYTOR, Q.C.:
 10 Q. Sure, was there something else on that?
 11 MS. PREDHAM:
 12 A. So at this point in time, the blocks and the
 13 slides hadn't been pulled yet, so nothing had
 14 even gone to Mount Sinai. So we didn't even
 15 have--you know, things hadn't left. We were
 16 just identifying the patients who would be
 17 retested and this was part of her concern as
 18 well. So you've just identified this. None
 19 of this stuff has gone yet. You know, when is
 20 the time line? Can we narrow down that?
 21 You're going to notify them and then get their
 22 results within a reasonable length of time,
 23 you know, and that was where her concerns came
 24 from.
 25 CHAYTOR, Q.C.:

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1 Q. So I take it, once the--once the blocks were
 2 all gathered up and sent off, then perhaps the
 3 letters would go as well?
 4 MS. PREDHAM:
 5 A. Right, we'd have a better sense of when the
 6 time could go and that.
 7 CHAYTOR, Q.C.:
 8 Q. So she wanted it to be close to the time that
 9 the tests were being sent off, have the
 10 letters go around the same time that the
 11 blocks are actually being sent off?
 12 MS. PREDHAM:
 13 A. Well, her concern was the anxiety that
 14 patients would go through, you know, and
 15 that's--well, that was all our concern. It
 16 was a very difficult decision because, you
 17 know, like you've illustrated, people knew all
 18 the way along, so this could become public at
 19 any time which would be really bad if it did
 20 and we hadn't said anything, but then you had
 21 a large group of people who have already gone
 22 through a lot of stress and torment, and then
 23 you're going to go and tell them some vague
 24 thing, that we got some vague problem, and,
 25 you know, that kind of thing. That was her

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1 concern was that you were going to cause all
 2 these people who have already been through so
 3 much all this additional anxiety, and then not
 4 be able to tell them any answers for a period
 5 of time after that.
 6 CHAYTOR, Q.C.:
 7 Q. And why would getting--these patients were
 8 already identified as being ER negative, so
 9 they had not been candidates for hormonal
 10 therapy. Why would it be so bad to tell them
 11 that it's possible there's another option for
 12 you and we're going to retest and see what
 13 happens?
 14 MS. PREDHAM:
 15 A. Well, I guess if you could read it and say,
 16 oh, look, I have another option, that's
 17 wonderful, and I guess some people would react
 18 that way, but if I got that letter, I'd be
 19 concerned then about everything else, like,
 20 you know, how come it's wrong, what else is
 21 wrong, was my diagnosis wrong, was what has
 22 happened to me in the interim--it would be all
 23 the other questions that you would have
 24 besides the fact that, oh, great, I'd be a
 25 candidate for something I haven't had before.

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1 CHAYTOR, Q.C.:
 2 Q. Yes, and it may be, well, the treatment I've
 3 already received might have been the incorrect
 4 treatment?
 5 MS. PREDHAM:
 6 A. Well, what does--and I guess that was always
 7 the key, even from us on a hotline
 8 perspective; how could we answer the question,
 9 what does it mean to me, like, the individual
 10 on the other side of the phone.
 11 CHAYTOR, Q.C.:
 12 Q. Yes, and I take it that continued to be an
 13 issue when you were on the other side of the
 14 phone with patients and being able to answer
 15 those questions. If we could--this is 2955,
 16 thank you, Registrar. It looks like, I think,
 17 you're still combining databases on August
 18 9th, 2005. You write, "I have Dr. Carter's
 19 retesting results entered in the database and
 20 have summarized the results as attached. I
 21 think I may be able to get the Tamoxifen". So
 22 Dr. Carter's retesting results are entered in
 23 the database. I take it, you've combined now
 24 --you're talking about your combined database
 25 that you've come up with, and you've taken Dr.

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1 Carter's work that she did on the retesting.
 2 So that's the in-house results, Ventana.
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. Okay, and you write here, "Definition of
 7 positivity. Either ER or PR positive with a
 8 value of 10 percent or greater". So that's
 9 how Dr. Carter, is it, had--who came up with
 10 this definition?
 11 MS. PREDHAM:
 12 A. I guess that's what--that was the definition
 13 at the time. It must have been within the
 14 next day or two that we increased it to 30
 15 percent for up to 2000.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, so this was -
 18 MS. PREDHAM:
 19 A. And we also--at that time, we hadn't narrowed
 20 it down to just ER. It was ER or PR.
 21 CHAYTOR, Q.C.:
 22 Q. So what does this table tell us? Is there a
 23 total of 94 retests completed?
 24 MS. PREDHAM:
 25 A. That's what it looks like. I guess what I was

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1 trying to say is how many had changed, how
 2 many had remained the same. Either they were
 3 positive on DAKO and positive on Ventana, and
 4 negative on DAKO, positive on Ventana, and
 5 then negative on DAKO and negative on Ventana.
 6 CHAYTOR, Q.C.:
 7 Q. So Dr. Carter's work, she'd done retesting in
 8 '94 and 11 of those had been sent off to Mount
 9 Sinai for confirmation?
 10 MS. PREDHAM:
 11 A. Right.
 12 CHAYTOR, Q.C.:
 13 Q. And you took that and put it in the database
 14 that you were putting together?
 15 MS. PREDHAM:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. And Ms. Parsons writes to you and says, "For
 19 your records, I have printed document for
 20 Pam". Which Pam would that be?
 21 MS. PREDHAM:
 22 A. I was just looking at it. I think it must be
 23 Pam King-Jesso because Ms. Elliott hadn't
 24 started until October 31st. I was going on
 25 holidays on the 10th and maybe that's why she

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1 printed it for Pam so she'd be able to have
 2 it.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. If we could have, please, 925, page 16.
 5 I believe those to be the notes of Dr.
 6 Williams for the August 10th meeting, and, Ms.
 7 Predham, do you have any handwritten notes for
 8 this meeting?
 9 MS. PREDHAM:
 10 A. I don't believe I do.
 11 CHAYTOR, Q.C.:
 12 Q. I couldn't identify them.
 13 MS. PREDHAM:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. Your notes aren't all dated. So you don't
 17 think you did either?
 18 MS. PREDHAM:
 19 A. I think it was--it was a quickly called
 20 meeting and I think I got caught off guard. I
 21 think I was off at another meeting or
 22 something when we got called.
 23 CHAYTOR, Q.C.:
 24 Q. Just take you back to the actual--the one
 25 before that. There's an August 8th, and then

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1 there's one in between which has no date, and
 2 then we have his August 10th. I'll just take
 3 you to the no date for a moment. The only
 4 reference I see here to you is, "Spoke with
 5 Mr. Tilley and Ms. Predham". He doesn't
 6 indicate whether that's together or not.
 7 MS. PREDHAM:
 8 A. No, I don't think that was together.
 9 CHAYTOR, Q.C.:
 10 Q. It wasn't together, was it?
 11 MS. PREDHAM:
 12 A. No.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. So then on August 10th, we have Dr.
 15 Laing, Mr. Tilley, Ms. Pilgrim, Dr. Cook, and
 16 Dr. Williams, and this is a meeting -
 17 MS. PREDHAM:
 18 A. I was there, but -
 19 CHAYTOR, Q.C.:
 20 Q. You were there, but you're not -
 21 MS. PREDHAM:
 22 A. I didn't make the list. You got "Heather
 23 Predham's update". Unless there were two
 24 meetings, and this may be one of those dates
 25 where there was two meetings, I don't know.

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1 MS. PREDHAM:
 2 A. I don't think so. My memory is just one.
 3 CHAYTOR, Q.C.:
 4 Q. Just this one, okay. Then your update that
 5 you give to the group is about combining the
 6 cancer registry with the lab data, and 1200 in
 7 cancer registry only as a list of all people
 8 who need to be retested. So is that correct
 9 by this point in time?
 10 MS. PREDHAM:
 11 A. No, that's not correct, that's all people who
 12 need to be retested within the Health Care
 13 Corporation.
 14 CHAYTOR, Q.C.:
 15 Q. Yes, okay, and the first page shows people who
 16 are on Tamoxifen. Just first of all, though,
 17 all the people within--yes, just the Health
 18 Care Corporation, the St. John's Hospitals?
 19 MS. PREDHAM:
 20 A. Right.
 21 CHAYTOR, Q.C.:
 22 Q. You didn't even have Carbonear or Clarendville
 23 at that point?
 24 MS. PREDHAM:
 25 A. No.

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1 CHAYTOR, Q.C.:
 2 Q. And the first page shows people who were on
 3 Tamoxifen. So did you--had you done your list
 4 to identify the people who already had
 5 Tamoxifen?
 6 MS. PREDHAM:
 7 A. I'd gotten a list from pharmacy of everybody
 8 who was ordered Tamoxifen. You know, while--
 9 within our hospitals, which indicated--which
 10 took some people off, and we had done some
 11 preliminary chart reviews at this time to see
 12 what we could get that way.
 13 CHAYTOR, Q.C.:
 14 Q. And ultimately was that information that you
 15 had compiled, was that used to prioritize the
 16 patients for retesting? So the people who
 17 you'd identified were already on Tamoxifen,
 18 were they sent later for retesting?
 19 MS. PREDHAM:
 20 A. It was thought that that could be a
 21 possibility. When we were going through the--
 22 and that's the reason that we did that
 23 exercise. We thought we would do that, but at
 24 this meeting, it got--we decided not to, or
 25 Dr. Laing suggested not to do that.

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1 CHAYTOR, Q.C.:

2 Q. Dr. Laing suggested not to?

3 MS. PREDHAM:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. And why not, what was her rationale for that?

7 MS. PREDHAM:

8 A. She didn't want to rely on that for

9 prioritizing people.

10 CHAYTOR, Q.C.:

11 Q. She didn't know how complete it would be?

12 MS. PREDHAM:

13 A. Right.

14 CHAYTOR, Q.C.:

15 Q. And was there any then checking--I believe you

16 indicated before there was at some point

17 consideration given to, well, check people's

18 charts.

19 MS. PREDHAM:

20 A. It was very time consuming. It was, you know,

21 too--at this point in time, we were now in the

22 --we were not in the point where they had a

23 master list, they were compiling this, they

24 were doing the blocks. So for us to be able

25 to review all the charts, determine who was on

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1 Tamoxifen, we were only going to relay the

2 process then. I guess the benefit of doing it

3 was outweighing the time it was going to take.

4 CHAYTOR, Q.C.:

5 Q. And there's a note here of Dr. Laing's update,

6 and it says that, "Dr. Laing has a problem

7 with sending out letters until we know how

8 much of a problem we have", and do you recall

9 what that was about in terms of "how much of a

10 problem we have"?

11 MS. PREDHAM:

12 A. I guess the--the biggest thing I remember

13 about that is I had just spent, you know, the

14 past couple of days reviewing charts, and at

15 that point in time I guess I was on the fence.

16 I was more of let's notify people, you know,

17 let's make that decision and move on, but I

18 had been reviewing charts and reading all this

19 information about people and what they've gone

20 through, and I can remember one in particular

21 really resonated with me when she was talking,

22 and I could see--I could just imagine being

23 that person, and I could see that that would

24 be a problem. So I could see her point.

25 CHAYTOR, Q.C.:

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1 Q. And I guess the point being how much of a

2 problem we have as opposed to--what difference

3 did it make as to the magnitude of your

4 problem or how much of a problem you have in

5 terms of notifying the patients?

6 MS. PREDHAM:

7 A. That sentence there doesn't reflect my take on

8 what Dr. Laing was saying.

9 CHAYTOR, Q.C.:

10 Q. Okay.

11 MS. PREDHAM:

12 A. From what my perception was or my memory of

13 it, was the anxiety we were going to create in

14 people because I can distinctly remember

15 thinking about this one particular chart and

16 one particular lady, and, you know, just

17 imagining being her and getting this letter

18 and then having to wait for a period of time.

19 CHAYTOR, Q.C.:

20 Q. Was it ever articulated at this point in time

21 --was there any idea even how long it was

22 going to take?

23 MS. PREDHAM:

24 A. We did have a thought that it was going to be

25 four to six weeks, and I can't remember when

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1 we felt that's when it was going to be. It

2 may have been, you know, now, okay, we're

3 going to send up the blocks and it's going to

4 be four to six weeks to when we get the

5 results, and I think that may have been our

6 thought at that time. That would have been

7 the information that came from Mount Sinai at

8 that time.

9 THE COMMISSIONER:

10 Q. Four to six weeks from Mount Sinai's receipt

11 of the blocks?

12 MS. PREDHAM:

13 A. Yes.

14 CHAYTOR, Q.C.:

15 Q. And so the intention still being that patients

16 would be notified in advance, but not tell

17 them until we're down to a reasonable period

18 of time that the result are going to be back

19 and we can tell them, so they don't have to

20 wait too long?

21 MS. PREDHAM:

22 A. Right.

23 CHAYTOR, Q.C.:

24 Q. That's what you understood?

25 MS. PREDHAM:

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1 A. Yeah.

2 THE COMMISSIONER:

3 Q. So at this point in August, you were thinking

4 we send them the notice when we send the

5 blocks, two weeks after we send the blocks,

6 three weeks after we sent the blocks, four

7 weeks after we send the blocks, etc, etc, or

8 were you thinking that what was being

9 advocated and the move that you were making

10 was towards not telling anybody until the

11 results were back?

12 MS. PREDHAM:

13 A. I think it was more when we had an idea that

14 it was going to be that length of time, that

15 we were going to send out the letters then.

16 Like, okay, we were going to get the results--

17 the results are coming back next week; okay,

18 well, let's get moving with this, let's get

19 this going, that kind of thing, and then we

20 can process the Results.

21 THE COMMISSIONER:

22 Q. So would it be--prior to the results getting

23 back, but the time frame for the wait would be

24 less?

25 MS. PREDHAM:

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1 A. Yes.

2 THE COMMISSIONER:

3 Q. Was that the idea?

4 MS. PREDHAM:

5 A. Yes.

6 THE COMMISSIONER:

7 Q. And at that time were you thinking that all of

8 the blocks would go to Mount Sinai at the one

9 time?

10 MS. PREDHAM:

11 A. Well, they would be, you know, shipped up in

12 waves. That all the blocks would go to Mount

13 Sinai at the same Time?

14 THE COMMISSIONER:

15 Q. Yes, however many there were, would you -

16 MS. PREDHAM:

17 A. Yes.

18 THE COMMISSIONER:

19 Q. You thought they would all go at the one time?

20 MS. PREDHAM:

21 A. Yes.

22 THE COMMISSIONER:

23 Q. And they would all come back within four to

24 six weeks?

25 MS. PREDHAM:

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1 A. Within--yeah, within a time frame they would

2 come back. I never expected them to come back

3 the way they came back. I thought that once

4 they started coming back, they would all come

5 back within days of each other.

6 THE COMMISSIONER:

7 Q. And all being all of St. John's, or all from

8 all of the province?

9 MS. PREDHAM:

10 A. I probably didn't even really think about that

11 too much. I didn't really know how much work

12 had to go in--at that time, I didn't realize

13 how much work had to go in pulling the blocks

14 and slides. And again it's like saying

15 something has to be done and not really

16 working out the logistics of it. Like saying

17 a letter has to be going out, and not really

18 sitting down and saying, okay, the letter goes

19 out now today, it's still going to take us a

20 week before we get the letter out, so I hadn't

21 really thought about the logistics on the

22 blocks and slides, you know, like some magical

23 process, they'll all appear packed up and then

24 we can go off. I didn't anticipate the time

25 frame for that.

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1 CHAYTOR, Q.C.:

2 Q. And at this point in time, the process really

3 hasn't even begun for outside of St. John's?

4 MS. PREDHAM:

5 A. No.

6 CHAYTOR, Q.C.:

7 Q. So in terms of the decision, and I'll just

8 take you to some other notes that are written

9 here about--because Dr. Laing then, there's

10 further comments attributed to her. "She

11 doesn't feel we're trying to cover things up".

12 Do you recall any discussion around that?

13 MS. PREDHAM:

14 A. Well, I guess, you know, it was a concern that

15 if we weren't going out in public, you know,

16 would that be--would that be thought of. I

17 can't remember her saying that.

18 CHAYTOR, Q.C.:

19 Q. So was the discussion then by August 10th that

20 we won't be making a public announcement?

21 MS. PREDHAM:

22 A. Not at that time.

23 CHAYTOR, Q.C.:

24 Q. Not at that time, but you were still intending

25 to do so when you sent your letters of

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1 notification to your patients?
 2 MS. PREDHAM:
 3 A. Well, we would have to then.
 4 CHAYTOR, Q.C.:
 5 Q. And she--"Dr. Laing not worried about. Is
 6 doing the right thing given our current
 7 knowledge. She feels sending out information
 8 now until we can give them the answers".
 9 MS. PREDHAM:
 10 A. Actually, you know, I've got that wrong, I've
 11 got that wrong. We were not going to send out
 12 the letters until we got the results back.
 13 CHAYTOR, Q.C.:
 14 Q. So that's the decision that came out of this
 15 meeting?
 16 MS. PREDHAM:
 17 A. That's the decision at that meeting, yeah.
 18 Sorry about that, I got that -
 19 CHAYTOR, Q.C.:
 20 Q. "Dr. Laing feels we are creating unnecessary
 21 anxiety to a lot of patients. Need the
 22 information on hand before we go to these
 23 women. Need to strike a balance between
 24 waiting and giving good information. We are
 25 giving now and causing anxiety unduly".

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1 MS. PREDHAM:
 2 A. Not that I read that again, I remember that
 3 was the plan, we'd get the results back and
 4 then we would notify patients, and then we'd
 5 have something to tell them when we gave it to
 6 them. Sorry about that, I got that totally
 7 wrong.
 8 CHAYTOR, Q.C.:
 9 Q. That's okay. So the decision coming out of
 10 this meeting is to wait, get the results back.
 11 So you're not going to give any advance
 12 notification to the patients.
 13 MS. PREDHAM:
 14 A. Right.
 15 CHAYTOR, Q.C.:
 16 Q. And Ms. Predham, the way it was put to you,
 17 and what struck home to you, was the idea of
 18 patients being told in advance and then having
 19 to wait a long period of time, and I guess the
 20 longer the wait, the more anxiety that would
 21 build up. Was it ever suggested that, well,
 22 we made that decision because we thought it
 23 would be a short quick turnaround; if we'd
 24 known it was going to be a longer wait, we
 25 would have told the patients?

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1 MS. PREDHAM:
 2 A. Well--and I guess it's the--it's striking a
 3 balance between waiting and giving good
 4 information. I mean, it was hard to decide.
 5 You're like, okay, we're going--do we tell
 6 them now and we'll know in four to six weeks
 7 and we'll give them the information. The fact
 8 that we didn't know for a longer period of
 9 time would have created that anxiety for a
 10 longer period of time, but we had--you also
 11 had the fact that people were aware of this
 12 situation and it was going on. So it was a
 13 multitude of things that had to be balanced.
 14 To that point, and like I said, I distinctly
 15 remember when she was talking, I was--you
 16 know, we got to go out, we got to go out, and
 17 then after reviewing those charts before that,
 18 when she was speaking, it really resonated
 19 with me that, yes, we were going to cause a
 20 great deal of anxiety to these people.
 21 CHAYTOR, Q.C.:
 22 Q. And was it discussed, the anxiety that would
 23 be caused to those people hearing about it on
 24 the news instead of through their health care
 25 provider?

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1 MS. PREDHAM:
 2 A. Well, yes, but we really felt we could get
 3 this done quickly and get it out before it
 4 would go public.
 5 CHAYTOR, Q.C.:
 6 Q. So that's the chance that was taken?
 7 MS. PREDHAM:
 8 A. That was the chance that was taken.
 9 CHAYTOR, Q.C.:
 10 Q. And if we could have, please, P-0563. These,
 11 I believe to be Dr. Tilley's--Mr. Tilley,
 12 sorry, I've made that mistake a couple of
 13 times, his notes of the same meeting, August
 14 10th, and he does have you listed in
 15 attendance, and he refers to the cancer
 16 registry and lab data and whether--I'm not
 17 sure.
 18 MS. PREDHAM:
 19 A. "Presented internally".
 20 CHAYTOR, Q.C.:
 21 Q. Yes. I'm not going to try and read all of his
 22 notes. Just go down through this and see if
 23 there's anything else there that strikes a
 24 cord with you, or anything else that we
 25 haven't covered. Here's your name, Heather,

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1 and "The cancer registry combined with lab
 2 data, 1200 of 3200 in registry. Lab list has
 3 primary breast lesions". I don't know if
 4 you're any better at reading his notes.
 5 MS. PREDHAM:
 6 A. "Factored in who got Tamoxifen".
 7 CHAYTOR, Q.C.:
 8 Q. And I guess that's the same reference that Dr.
 9 Williams had in his notes -
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. So factored in who got Tamoxifen -
 14 MS. PREDHAM:
 15 A. But that was internal in-patients and that was
 16 what I got from Pharmacy.
 17 CHAYTOR, Q.C.:
 18 Q. And that ultimately wasn't relied on?
 19 MS. PREDHAM:
 20 A. No, it wasn't--because again, like I said, we
 21 had explored going through charts and seeing
 22 what we could get there and it was just, it
 23 was a lot of work for that couple of days to
 24 not get that many patients.
 25 CHAYTOR, Q.C.:

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1 Q. And the top of page two, "What is cause?
 2 Ventana" -
 3 MS. PREDHAM:
 4 A. "Is more standardized."
 5 CHAYTOR, Q.C.:
 6 Q. "More standardized." Who in that meeting as
 7 of August 10th would be saying that?
 8 MS. PREDHAM:
 9 A. I guess we all would have at that point
 10 because it was quite clear that what we had
 11 thought that it was more sensitive was not
 12 correct anymore and that it was more
 13 standardized or more consistent.
 14 CHAYTOR, Q.C.:
 15 Q. So what Mr. Gulliver had told you on August
 16 1st, made you lean more towards the Ventana as
 17 being the cause of the issue?
 18 MS. PREDHAM:
 19 A. No, no, no, it was just that, you know, the
 20 change in technology where--it could, you
 21 know, it could still be a factor because it
 22 was a more standardized thing. I guess and
 23 I'm only supposing here, is that Mr. Tilley
 24 was saying that it was more standardized.
 25 Might be a note to him that it wasn't more

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1 sensitive because that was the thought all
 2 along.
 3 CHAYTOR, Q.C.:
 4 Q. And I think he does list a number of other
 5 issues on the bottom of his page here,
 6 "Documentation lacking, communication"--and
 7 perhaps that's in reference to some issues
 8 that you had picked up upon in your
 9 investigation.
 10 MS. PREDHAM:
 11 A. Could have been.
 12 CHAYTOR, Q.C.:
 13 Q. "Profession"--I'm not sure, "lack of
 14 standardization. Too many pathologists
 15 reading, some treated by radiation
 16 oncologists", do you recall any discussion
 17 around that being an issue?
 18 MS. PREDHAM:
 19 A. Radiation oncologists, yes. I don't remember
 20 that part. I know the fact that picking up
 21 trends was the turnover of oncologists as well
 22 would have contributed to not picking up on
 23 trends that would be present.
 24 CHAYTOR, Q.C.:
 25 Q. And with respect to the letter, I guess it's

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1 the patient letter, "Don't--too soon. Concern
 2 with panic, concern with anxiety, striking a
 3 balance"--and then it says "Patient choice",
 4 do you recall what was discussed about patient
 5 choice?
 6 MS. PREDHAM:
 7 A. I don't recall.
 8 CHAYTOR, Q.C.:
 9 Q. And your background is in nursing and being a
 10 patient advocate, in essence. Was there a
 11 discussion about informing the patients so
 12 they could make an informed choice as to what
 13 they wanted to have happen?
 14 MS. PREDHAM:
 15 A. Whether to be retested or not?
 16 CHAYTOR, Q.C.:
 17 Q. Or where to be retested or what to do with the
 18 information that a retest is necessary?
 19 MS. PREDHAM:
 20 A. I don't recall that discussion at all.
 21 CHAYTOR, Q.C.:
 22 Q. That didn't come up at all?
 23 MS. PREDHAM:
 24 A. I don't recall it.
 25 CHAYTOR, Q.C.:

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1 Q. And "can't give answers at this point, need
 2 info in hand". Can you read that one too? So
 3 that seems to be the same gist as to what is
 4 recorded in Dr. Williams and in keeping with
 5 your memory on the issue.
 6 THE COMMISSIONER:
 7 Q. There is a reference in this note of the
 8 meeting from Mr. Tilley about primary breast.
 9 I'm a bit uncertain as to when the decision
 10 was made that what would be sent would be
 11 primary breast. Was that made by then or was
 12 it made earlier or -
 13 MS. PREDHAM:
 14 A. I think it must have been made by then because
 15 I can remember Mr. Gulliver talking about
 16 taking out the ER/PRS from lymph nodes and
 17 brain--I can remember his discussion about
 18 that and I can't really remember when that
 19 was. It's one of those things that it's hard
 20 to remember exactly when a decision was made
 21 because now it's, I know it, but I don't
 22 remember when I didn't know it. I don't
 23 remember when that decision was made that that
 24 was going to be--it wasn't my decision to
 25 make, so it was something I would have heard.

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1 THE COMMISSIONER:
 2 Q. Are you fairly confident that by this point,
 3 i.e. mid August, that decision had already
 4 been made?
 5 MS. PREDHAM:
 6 A. Yes.
 7 THE COMMISSIONER:
 8 Q. All right, thank you.
 9 CHAYTOR, Q.C.:
 10 Q. So ultimately, Ms. Predham, it's your
 11 recollection that the decision was made at
 12 this meeting, August 10th, to hold off and not
 13 notify patients until after the results were
 14 back.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And did you say you understood that a letter
 19 would then be sent to the patients?
 20 MS. PREDHAM:
 21 A. When the results came back?
 22 CHAYTOR, Q.C.:
 23 Q. Yes.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. And what would be in that letter?
 3 MS. PREDHAM:
 4 A. Well I don't think we got down to the details
 5 of that.
 6 CHAYTOR, Q.C.:
 7 Q. But if the concern was that you didn't have
 8 information to be going out and telling them
 9 anything, what information was it that you
 10 would--would have been contemplated by those
 11 making the decision would be in the letter?
 12 MS. PREDHAM:
 13 A. Well I guess the--at a very high level we
 14 would be considering that you would give them
 15 their results, but you know, again, it's all
 16 right to make a decision at a high level, but
 17 you had to work through the logistics, so we
 18 hadn't gone through, okay, if their results
 19 change, how do you notify them, who gives them
 20 the results of their change. If the results
 21 stayed the same, it probably would be just in
 22 a letter and you would go there, but at this
 23 meeting here, we didn't really get into the
 24 logistics of the actual notification.
 25 CHAYTOR, Q.C.:

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1 Q. But you understood that a letter was still to
 2 be sent after the results came back?
 3 MS. PREDHAM:
 4 A. It was always a letter, yes.
 5 CHAYTOR, Q.C.:
 6 Q. And then you would have the information to
 7 give to the patient.
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And what about the anxiety that would invoke
 12 in a patient opening up that kind of a letter
 13 if her results had changed?
 14 MS. PREDHAM:
 15 A. Well, you know, that was always--right from
 16 the beginning when a letter was contemplated,
 17 that was always a concern that you're sending
 18 out this letter. I can remember that first
 19 draft that we did up in our department and
 20 having that discussion amongst our department
 21 saying, send me a letter like this, I'm going
 22 to drop dead, you know, that was the comments
 23 that were made at that time. So it was
 24 always--that concern was always there with us.
 25 CHAYTOR, Q.C.:

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1 Q. So the decision to hold off on sending the
 2 letter was that the letter would go out and
 3 basically say you've been identified as one of
 4 the patients that we're going to be retesting,
 5 we'll be back to you, hopefully shortly, with
 6 further information. In the meantime, if you
 7 have any questions, please call. That's the
 8 type of letter that was contemplated.
 9 MS. PREDHAM:
 10 A. That was contemplated.
 11 CHAYTOR, Q.C.:
 12 Q. And after the decision is made not to send
 13 that type of letter or at that same time that
 14 decision is made, what's contemplated is a
 15 letter would go out saying, "You have been
 16 retested, your results have changed. You need
 17 to get in touch with your physician."
 18 MS. PREDHAM:
 19 A. Well we hadn't got to that point of how we
 20 would actually do that, but that was, like I
 21 said, at that high level and sometimes when,
 22 you know, and I guess my experience is that,
 23 you know, you're at this type of a meeting and
 24 you make a decision and then the people who
 25 have to go away and do the work, then you

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1 start thinking, okay, well there's problems
 2 with this and that's when you have to go back
 3 and work through that problem. So at this
 4 point in time we're saying, okay, we're going
 5 to send out a letter with the results, but we
 6 really haven't sat down, okay, what's that
 7 going to look like and how are we going to
 8 communicate that with them.
 9 CHAYTOR, Q.C.:
 10 Q. Yes, and I guess the disconnect in my mind is
 11 the same people who are concerned about a
 12 letter going out without enough information
 13 because of the anxiety that may be invoked, is
 14 the same people at the same point in time are
 15 talking about sending a letter to those same
 16 fragile patients to tell them, here's your
 17 results?
 18 MS. PREDHAM:
 19 A. Now I think as we worked through that, I think
 20 the plan was that the results were going to go
 21 to--any changed results were going to go to
 22 the physician and then the patients were
 23 contacted.
 24 CHAYTOR, Q.C.:
 25 Q. Yes, but at the time the decision is made not

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1 to notify them in advance that they were being
 2 retested because of the anxiety that might be
 3 invoked, at that point in time the plan was
 4 that those same patients would, though, get a
 5 letter telling them not only have you been
 6 retested, you have had changed results?
 7 MS. PREDHAM:
 8 A. Well I think that the plan was we would notify
 9 them when the results came back and we would
 10 have the information. I don't think we
 11 actually, at this meeting here said it's going
 12 to be by notification to the individual
 13 patients.
 14 CHAYTOR, Q.C.:
 15 Q. But there would be a letter go out telling
 16 them they had been retested?
 17 MS. PREDHAM:
 18 A. And again, that's at that point in time, that
 19 was the plan, but we had to work out the
 20 logistics as it went through.
 21 CHAYTOR, Q.C.:
 22 Q. And it's at that point in time the decision
 23 was made not to send a letter that they are
 24 being retested in advance.
 25 MS. PREDHAM:

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1 A. Right, we were going to wait until we had the
 2 information.
 3 CHAYTOR, Q.C.:
 4 Q. And that decision was based on the anxiety
 5 that could be caused to the patients in
 6 waiting to receive their results.
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. So who ultimately made the decision?
 11 MS. PREDHAM:
 12 A. Well Mr. Tilley--well, from this meeting here,
 13 I guess Mr. Tilley and the consensus around
 14 the table was to agree with Dr. Laing's
 15 concerns and then I believe the Department of
 16 Health still wanted us to send notification
 17 and then there was a meeting after this with
 18 the Department of Health and they agreed with
 19 us delaying.
 20 CHAYTOR, Q.C.:
 21 Q. So when this message or this meeting concluded
 22 on August 10th, was there any discussion at
 23 that meeting that we can't make this decision
 24 alone, we have to consult the department or
 25 was the decision made and the department would

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1 be informed?
 2 MS. PREDHAM:
 3 A. No, I think it was, well, okay, we've made the
 4 decision but now we've got to talk to the
 5 Department of Health.
 6 CHAYTOR, Q.C.:
 7 Q. So you felt there was no doubt coming out of
 8 the August 10th meeting that the decision had
 9 been made by the group in attendance?
 10 MS. PREDHAM:
 11 A. The decision had been made by us, but the
 12 Department of Health had to be informed and if
 13 they still insisted that we'd send a letter,
 14 well then I guess we were going to send a
 15 letter.
 16 CHAYTOR, Q.C.:
 17 Q. And at this point in time when the decision is
 18 made to hold off on sending the letters to
 19 notify of retesting, you decided at this point
 20 by this decision is made, that you're going to
 21 be using Mount Sinai?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. Was there ever any discussion that only the

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1 patients who would have changed results would
 2 be informed of the retesting?
 3 MS. PREDHAM:
 4 A. I think along the way, I mean, that was a
 5 possibility, a lot of things were floated as
 6 possibilities, but it was never--it was never
 7 acted on.
 8 CHAYTOR, Q.C.:
 9 Q. And do you remember who floated that as a
 10 possibility?
 11 MS. PREDHAM:
 12 A. No, I just remember it was discussed as a
 13 possibility, like I said.
 14 CHAYTOR, Q.C.:
 15 Q. Do you recall any discussion that, around that
 16 that this could all be considered as part of
 17 our quality review in going back and looking
 18 at our prior results and so if you didn't have
 19 a change, there really wouldn't be any need to
 20 tell the patient?
 21 MS. PREDHAM:
 22 A. And I think that was part of the discussion
 23 that it was, you know, when you look at
 24 different areas, there is that process in
 25 place where we review things, we retest things

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1 all the time and there is that possibility
 2 that, you know, you would have blood work
 3 retested, it would stay the same and you would
 4 never know that our blood work or PAP smear or
 5 a pathology report would be reviewed and be
 6 re-read. All the external proficiency testing
 7 that goes out and comes back, that's a re-read
 8 of somebody's results, but that's never
 9 communicated to the patient unless there is a
 10 change. So, you know, amongst all this, there
 11 was that discussion, but it was never acted
 12 on.
 13 CHAYTOR, Q.C.:
 14 Q. And if it had been done in the course of your
 15 normal QA -
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. - which we know wasn't happening at the time.
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. There was no external proficiency happening.
 24 MS. PREDHAM:
 25 A. No.

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1 CHAYTOR, Q.C.:
 2 Q. So who would propose that it might--that that
 3 is a possibility, that we might be able to say
 4 this is all part of the quality review?
 5 MS. PREDHAM:
 6 A. I just remember having that discussion, it
 7 wasn't, you know, when you get in these
 8 meetings and you're trying to come up with a
 9 plan on how you're going to do that, you want
 10 people to give all these, you know, it doesn't
 11 mean that, you know, it's set in stone or even
 12 if somebody really truly believes that, it's
 13 just a possibility that maybe we could look at
 14 it like that, but it wasn't--it wasn't acted
 15 on because this wasn't a quality review. This
 16 wasn't, you know, put in a review as a process
 17 or an established quality process.
 18 CHAYTOR, Q.C.:
 19 Q. And did you, as quality and risk manager,
 20 speak up and say that? Say, we can't do that
 21 because that's not what this is?
 22 MS. PREDHAM:
 23 A. I can't remember that. I just remember, you
 24 know, you asked me if that ever came up. I
 25 can remember it did come up but I don't have

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1 any details. I can't remember who said it, I
 2 can't remember--it just didn't -
 3 CHAYTOR, Q.C.:
 4 Q. So you don't know who proposed it or who took
 5 issue with it, if anyone?
 6 MS. PREDHAM:
 7 A. No.
 8 CHAYTOR, Q.C.:
 9 Q. So once the decision is made then to not
 10 notify the patients in advance or inform the
 11 patients in advance of the retesting, what
 12 steps did you or others then take to ensure
 13 that you could move quickly to notify the
 14 patients if need be?
 15 MS. PREDHAM:
 16 A. Well we had a list of all their addresses, we
 17 had--so at this point in time, there wasn't
 18 really any activity for the next few weeks
 19 anyway about that. The blocks and slides were
 20 being pulled, we made the decision we're not
 21 notifying them right now. The Department of
 22 Health agreed with that, so then it was--that
 23 decision was made, so there wasn't really any
 24 activity for the next couple of weeks.
 25 CHAYTOR, Q.C.:

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1 Q. Yes. But the risk is out there and it's
 2 recognized fairly early on that there are
 3 people who know and this could get out there
 4 at any point in time. So you've decided
 5 you're not going to, yourselves, send letters
 6 to notify them. You have the list of the
 7 patients, you have their addresses. Was there
 8 any further work then done in terms of
 9 getting, for example, phone numbers where
 10 these patients could be contacted very quickly
 11 should this leak out and the patients start
 12 hearing about it through other sources?
 13 MS. PREDHAM:
 14 A. Not at that time, no.
 15 CHAYTOR, Q.C.:
 16 Q. And was that even thought of?
 17 MS. PREDHAM:
 18 A. Not at that time.
 19 CHAYTOR, Q.C.:
 20 Q. And when was that first thought about?
 21 MS. PREDHAM:
 22 A. Until Dr. Williams wanted the patients to be
 23 called, that was the first time we went to get
 24 the phone numbers.
 25 CHAYTOR, Q.C.:

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1 Q. And that's, I believe, later on in October,
 2 after it's already become the matter of public
 3 discussion?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. If I could have, please, P-0941?
 8 THE COMMISSIONER:
 9 Q. Just a small point before we leave this, Ms.
 10 Predham, so coming out of this particular
 11 meeting, there's a decision to wait until the
 12 results come back. What if any impact did
 13 that have on the notification of the public?
 14 MS. PREDHAM:
 15 A. I guess that was part and parcel, if we
 16 weren't going to notify the patients
 17 individually, we weren't going to notify the
 18 public at that time.
 19 THE COMMISSIONER:
 20 Q. Yes, but would you be notifying the public--
 21 were you just moving the plan from point A to
 22 point C, which is, as I understood it, the
 23 plan, original was a letter to patients and at
 24 the same time a notification to the public.
 25 MS. PREDHAM:

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1 A. That would have been--it was just moving the
 2 plan, you're right.
 3 THE COMMISSIONER:
 4 Q. Okay, the letter content might be different
 5 but the plan was public notification and
 6 letters going out at the same time?
 7 MS. PREDHAM:
 8 A. Yes,
 9 THE COMMISSIONER:
 10 Q. Thank you.
 11 CHAYTOR, Q.C.:
 12 Q. Sorry, Registrar, it's P-1941. And this is
 13 your e-mail then of September 12th, 2005, so
 14 it's over a month later, so in that month in
 15 between then and you're working here on Terms
 16 of Reference, we understand for the external
 17 review, in the month in between, is there
 18 anything happening with respect to your work
 19 or work within the QI department on this
 20 issue?
 21 MS. PREDHAM:
 22 A. There was, I just happened to be able to take
 23 four weeks holidays that summer, on the 11th
 24 of August, actually. And there was work, the
 25 staff in our department were reviewing,

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1 determining if patients were alive or
 2 deceased. They were working on the database
 3 for me and continued to look at some of the
 4 Tamoxifen, see what else they could find out
 5 from the Tamoxifen side, just in case that
 6 need be at a later time, time and date, but in
 7 terms of me, I came back, I think it was the
 8 6th of September, so there wasn't anything
 9 that I had done.
 10 CHAYTOR, Q.C.:
 11 Q. And in this e-mail to Dr. Cook and you will
 12 see that you attach "Here's the Terms of
 13 Reference, I've had the case summary up to 2
 14 pages long, but I opted for shorter, the
 15 better", and then you'll see the draft here
 16 and it's a brief case summary included. And
 17 who was these Terms of Reference intended for?
 18 MS. PREDHAM:
 19 A. Ms. Wegrynowski and Dr. Banerjee.
 20 CHAYTOR, Q.C.:
 21 Q. And you write to Dr. Cook, "Take a look at it
 22 and see if you think it's too short. I
 23 figured that these are only the Terms of
 24 Reference, it didn't require a lot of detail.
 25 Also I had 41 and 39 cases come back as

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1 positive on Ventana, can you check your notes
 2 and correct that? Thanks. Heather." What
 3 are you referring to there?
 4 MS. PREDHAM:
 5 A. That was the original retesting and the
 6 results that converted originally back in
 7 July, June and July.
 8 CHAYTOR, Q.C.:
 9 Q. So how did you come up with the numbers 41 and
 10 39 cases?
 11 MS. PREDHAM:
 12 A. Whatever I referred to, I had those numbers
 13 and I knew they weren't right, so that's why I
 14 asked him to put in the correct numbers.
 15 CHAYTOR, Q.C.:
 16 Q. And the correct numbers where, what's his--
 17 you're saying "check your notes and correct
 18 that".
 19 MS. PREDHAM:
 20 A. That was the, you know, the first lot there
 21 was 25 out of 37 and I knew I didn't have the
 22 right numbers, but I couldn't find them at
 23 that point in time.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, so you would have given Dr. Cook the

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1 numbers of conversion and you figured out that
 2 there was an error in that and so you're
 3 asking him -
 4 MS. PREDHAM:
 5 A. No, no, no, just--if you go to the Terms of
 6 Reference -
 7 CHAYTOR, Q.C.:
 8 Q. Okay..
 9 MS. PREDHAM:
 10 A. Just scroll down.
 11 CHAYTOR, Q.C.:
 12 Q. Page 3, is it?
 13 MS. PREDHAM:
 14 A. So this would have been in the background, so
 15 I said of the 58 retested on the Ventana, 41
 16 now show positive results. When I went back
 17 and looked in, I had 41 and I had 39, so I
 18 wasn't sure which one at the time was the
 19 right one. Too much information, I guess,
 20 gets you in overload, so I just wanted him to
 21 make sure that the right number was there and
 22 not the incorrect number.
 23 CHAYTOR, Q.C.:
 24 Q. Okay, so you had written somewhere that it was
 25 39 and you included in the Terms of Reference-

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1 -and 41, and you included 41, so this is you
 2 asking Dr. Cook to check his note -
 3 MS. PREDHAM:
 4 A. And make sure he put the right number in.
 5 CHAYTOR, Q.C.:
 6 Q. And make sure it's the right number for the
 7 purpose of the Terms of Reference.
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Okay. And if I could have then, please--and
 12 why did you go with the shorter version for
 13 your external reviewers?
 14 MS. PREDHAM:
 15 A. Well as I said then, it was only the Terms of
 16 Reference and it didn't require a lot of
 17 detail. I guess the crux of it, we were using
 18 our peer review guidelines with the medical
 19 staff as a template and in those had, you
 20 know, we had a kind of draft template for our
 21 Terms of Reference, so it was only to give a
 22 little background of it when you sent it up.
 23 The key parts were what you wanted them to do
 24 and the fact that it was, you know, protected
 25 under the Evidence Act, that was the key part

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1 of the Terms of Reference.
 2 CHAYTOR, Q.C.:
 3 Q. And the case summary that you opted for, you
 4 referred to the change over in the equipment
 5 and you referred to the index patient and then
 6 four more patients being tested and retested
 7 having expanded and then the 58 retested and
 8 41 show positive results. Were the external
 9 reviewers told about the issue identified or
 10 the issues identified by Dr. Ejeckam in 2003?
 11 MS. PREDHAM:
 12 A. I do believe they were. I wouldn't know that
 13 for a fact because I don't think I had, at the
 14 preliminary, it wasn't myself that was having
 15 the contact with him.
 16 CHAYTOR, Q.C.:
 17 Q. And when you were drafting the case summary,
 18 did you ever at any point have in that the
 19 longer version that you referred to in your e-
 20 mail, did you ever refer to the issue of Dr.
 21 Ejeckam in your case summary?
 22 MS. PREDHAM:
 23 A. I may have, but I can't remember.
 24 CHAYTOR, Q.C.:
 25 Q. And would you see that as an important piece

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1 of information for the reviewers to have?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. And would you think that that would be
 6 important enough to put in the written Terms
 7 of Reference for them?
 8 MS. PREDHAM:
 9 A. It could have been, but like I said, you know,
 10 they needed a lot more information than just
 11 these Terms of Reference to do this review, so
 12 they had to talk to people and they had to
 13 find, you know, they had to discover stuff on
 14 their own. Like, they had to do their own
 15 investigation. I certainly wouldn't think
 16 that this would be the only source of
 17 information that they would have.
 18 CHAYTOR, Q.C.:
 19 Q. And did you--were you concerned though that
 20 they received consistent information as to the
 21 background facts?
 22 MS. PREDHAM:
 23 A. Oh, well I didn't want to put anything that
 24 was incorrect in there, but again, it was only
 25 to--this was only a draft Terms of Reference

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1 to go over to Dr. Cook so he could send up to
 2 them.
 3 CHAYTOR, Q.C.:
 4 Q. And do you know if Dr. Cook made any
 5 substantive changes to this?
 6 MS. PREDHAM:
 7 A. I have no idea.
 8 CHAYTOR, Q.C.:
 9 Q. You never saw the final version?
 10 MS. PREDHAM:
 11 A. No.
 12 CHAYTOR, Q.C.:
 13 Q. And where did the final version go, besides to
 14 the reviewers?
 15 MS. PREDHAM:
 16 A. Well it would have went to Dr. Williams as
 17 well because he would have been the one co-
 18 ordinating this.
 19 CHAYTOR, Q.C.:
 20 Q. Why were you asked to draft this?
 21 MS. PREDHAM:
 22 A. I don't know. I was involved with the
 23 development of the peer review guidelines, so
 24 I was familiar in the structure of the Terms
 25 of Reference and what--the format that we

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1 typically did. I formatted ones up before for
 2 leadership teams and I've done that since, but
 3 that's only formatted up and this is what you
 4 need and then it's up to them to actually, you
 5 know, have the final version of it.
 6 CHAYTOR, Q.C.:
 7 Q. So you had done this type of thing before?
 8 MS. PREDHAM:
 9 A. For different leadership teams.
 10 CHAYTOR, Q.C.:
 11 Q. And did anyone assist you in drafting the
 12 Terms of Reference?
 13 MS. PREDHAM:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. And you sent it on to Dr. Cook, the draft.
 17 Did you send it to anyone else?
 18 MS. PREDHAM:
 19 A. I don't believe.
 20 CHAYTOR, Q.C.:
 21 Q. On the end you say, "The report, the external
 22 quality review shall be in writing and include
 23 the team's recommendations. The
 24 recommendations will be shared with involved
 25 staff members. The peer review, its

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1 conclusions and the final report are protected
 2 under the Evidence Act and as such, the final
 3 report will not be available to any third
 4 party and as well, the final report is
 5 protected from any subsequent legal
 6 proceedings." So you understood that not only
 7 would the report, your understanding of the
 8 Evidence Act was that it would not only be
 9 protected from subsequent legal proceedings,
 10 it could also not be shared with any third
 11 party?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And why do you differentiate between the
 16 external quality review and the peer review?
 17 MS. PREDHAM:
 18 A. I must have missed--like I said, we had, you
 19 know, a draft or a template that we followed
 20 and I must have missed taking out peer review
 21 when I did that over.
 22 CHAYTOR, Q.C.:
 23 Q. I'm sorry?
 24 MS. PREDHAM:
 25 A. We had a--we went through a very long process

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1 in developing a peer review guidelines and
 2 with legal counsel, with our primary legal
 3 counsel, and Dr. Williams and I were involved
 4 in that from the start. The intent was is
 5 that because there was so many different
 6 groups and so many different types, that we
 7 would focus in on medical staff first and
 8 develop that process and then move on to
 9 Allied Health I think was the next group we
 10 were doing. And we did the medical staff one
 11 and there was a template for what the Terms of
 12 Reference for that would be, so that's what I
 13 would use as a template and then, you know,
 14 draft it. So I must have missed that
 15 reference to peer review there because that's
 16 the way it was termed in the Terms of
 17 Reference in the draft.
 18 CHAYTOR, Q.C.:
 19 Q. Oh, so--I see what you're saying, so you
 20 intended to say there again "External quality
 21 review"?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. So this was intended to be a quality review

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1 and not a peer review?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. And was that well understood by all involved,
 6 that this was a quality review, not a peer
 7 review?
 8 MS. PREDHAM:
 9 A. Oh yes.
 10 CHAYTOR, Q.C.:
 11 Q. Including Dr. Cook?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And if we could have, please, P-1283? You're
 16 sending this on then to Dr. Cook and Dr.
 17 Williams and it appears to be, just in the
 18 same draft.
 19 MS. PREDHAM:
 20 A. It says 38 there now.
 21 CHAYTOR, Q.C.:
 22 Q. I'm sorry, went too fast.
 23 MS. PREDHAM:
 24 A. The numbers are different when there is -
 25 CHAYTOR, Q.C.:

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1 Q. The numbers have changed. Thirty-eight. And
 2 this particular draft is sent at 12:31 and the
 3 other one was earlier in the morning. So I
 4 take it this is the updated draft. And you've
 5 gotten the number 38 from somebody?
 6 MS. PREDHAM:
 7 A. Dr. Cook must have called me and told me.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. And if we could have 1943, please? Are
 10 quality reviews normally organized from your
 11 department, are you -
 12 MS. PREDHAM:
 13 A. We assist, we don't organize them. The
 14 structure for quality within the Health Care
 15 Corporation and within Eastern Health is that
 16 the leadership are responsible for quality
 17 within their area. So everything that's a
 18 quality goes up, funnel through the leadership
 19 team and then on through, you know, regional
 20 quality council or corporate QI or on to the
 21 board at that time. So we only assist in
 22 doing those things.
 23 CHAYTOR, Q.C.:
 24 Q. Okay, and what type of assistance, other than
 25 drafting terms of reference, what type of

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1 assistance would your department render?
 2 MS. PREDHAM:
 3 A. Well, it could be in here, I guess, they
 4 wanted some data, so I got that for them. Or
 5 really, that's only--it depends on the
 6 circumstances of that.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. And you refer to it again as a peer
 9 review -
 10 MS. PREDHAM:
 11 A. I use them interchangeable, but, you know.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. But you do understand them to be
 14 different?
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And this was intended to be -
 19 MS. PREDHAM:
 20 A. A quality review.
 21 CHAYTOR, Q.C.:
 22 Q. - quality review, okay. And so what you write
 23 here is that "Here's the data for the peer
 24 review. I have printed it off, so if you run
 25 into any difficulty, Debbie can help out."

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1 And there's a number, obviously, of the
 2 patients, MCP numbers redacted, specimen
 3 numbers. DAKO in St. John's. Ventana, St.
 4 John's. Semi-automated in Montreal." And
 5 then "Other testing, 2002." So what is this
 6 data, what were you asked to come up with?
 7 MS. PREDHAM:
 8 A. Well, somebody must have asked me if I could
 9 give them a summary of these are ones that we
 10 had confirmed somewhere else, so if I could
 11 give them a summary of that information.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And all of these appear to be 2002
 14 cases except the last one is a 2000 case.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. So these are the cases which had been sent to
 19 Montreal for validation?
 20 MS. PREDHAM:
 21 A. Validation.
 22 CHAYTOR, Q.C.:
 23 Q. What do the letters on this document mean?
 24 There's "S" "M" "F", what -
 25 MS. PREDHAM:

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1 A. It's funny, when I--I couldn't remember, but I
 2 think it's staining, a reference to the
 3 staining, faint, moderate, strong.
 4 CHAYTOR, Q.C.:
 5 Q. Okay.
 6 MS. PREDHAM:
 7 A. I think. And that's only -
 8 CHAYTOR, Q.C.:
 9 Q. Strong, moderate and faint staining on the
 10 slides?
 11 MS. PREDHAM:
 12 A. Degree of staining on the slides.
 13 CHAYTOR, Q.C.:
 14 Q. Degree of staining on the slides. And who
 15 would have been making those observations?
 16 MS. PREDHAM:
 17 A. Oh, definitely not me. I would have only
 18 taken the information that came back from
 19 Montreal or what was written on the Ventana
 20 and typed it in.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. And there's, I believe, 18, 18 cases
 23 when I counted them up here. So there were 18
 24 sent off to Montreal, is that right?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. Is there 18?
 4 MS. PREDHAM:
 5 A. Eighteen.
 6 CHAYTOR, Q.C.:
 7 Q. Yes. So we're into then, this is middle of
 8 September, 2005. And we understand that the
 9 external reviewers arrived in St. John's.
 10 What do you recall about that?
 11 MS. PREDHAM:
 12 A. I knew they arrived. I think I was present
 13 for the exit interview with Ms. Wegrynowski,
 14 but I'm not sure, I think that's all the
 15 interaction that I had.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. And did you ultimately--were you
 18 ultimately provided copies of the reports of
 19 the external reviewers?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And is that the normal course, that you would
 24 receive those?
 25 MS. PREDHAM:

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1 A. It depends on the circumstances. More times
 2 than not I would. If I was involved in the
 3 issue, sometimes I would and sometimes I'd
 4 only get the recommendations, sometimes I'd
 5 only see it.
 6 CHAYTOR, Q.C.:
 7 Q. And in this particular circumstance because
 8 you were involved in the issue, you did
 9 receive the reports?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And in the meeting with Ms. Wegrynowski, her
 14 exit interview, I take it she went through a
 15 summary of her findings and any
 16 recommendations that she might have in that
 17 meeting. From a risk management point of view
 18 did you have any concerns based on what Ms.
 19 Wegrynowski was saying?
 20 MS. PREDHAM:
 21 A. Well, I had concerns all along. I guess she
 22 was only just reinforcing the concerns that I
 23 had.
 24 CHAYTOR, Q.C.:
 25 Q. So she reinforced your concerns. Were your

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1 concerns heightened in terms of the magnitude
 2 and the multitude of issues that she was
 3 identifying?
 4 MS. PREDHAM:
 5 A. I don't--my recollection was that, yeah, you
 6 know, we had a lot of work to do.
 7 CHAYTOR, Q.C.:
 8 Q. So I take it from a quality initiatives as
 9 well as a risk management perspective you saw
 10 a lot of measures that needed to be
 11 implemented?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And some of which you had already identified
 16 yourself prior to her arriving here?
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. And were you given any responsibility in terms
 21 of following up on her recommendations?
 22 MS. PREDHAM:
 23 A. No.
 24 CHAYTOR, Q.C.:
 25 Q. And who was assigned that responsibility?

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1 MS. PREDHAM:
 2 A. Dr. Cook and Mr. Gulliver.
 3 CHAYTOR, Q.C.:
 4 Q. And did you have any concerns with Mr.
 5 Gulliver's involvement in that process?
 6 MS. PREDHAM:
 7 A. No. Dr. Williams was actively involved in
 8 that process and was very hands on in the
 9 follow up there and I really didn't have any
 10 concerns.
 11 CHAYTOR, Q.C.:
 12 Q. Did you take any notes of your meeting with
 13 Ms. Wegrynowski?
 14 MS. PREDHAM:
 15 A. I did, very, very scant ones. I think you
 16 showed them to me yesterday. I actually went
 17 home trying to figure out what they were. And
 18 there's only two lines in it about the
 19 maintenance of the Ventana.
 20 CHAYTOR, Q.C.:
 21 Q. Oh, yes.
 22 MS. PREDHAM:
 23 A. Since Ventana. And there was another line
 24 after that.
 25 CHAYTOR, Q.C.:

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1 Q. Okay.
 2 MS. PREDHAM:
 3 A. "Who would do this?" And then it's "NCLS" on
 4 the bottom.
 5 CHAYTOR, Q.C.:
 6 Q. Yes, okay.
 7 MS. PREDHAM:
 8 A. That was -
 9 CHAYTOR, Q.C.:
 10 Q. We weren't sure what they were yesterday.
 11 MS. PREDHAM:
 12 A. Right. That was from her debriefing. And I
 13 guess it's in reference to, okay, we have to
 14 do up all these standard operating procedures
 15 and stuff, where are we going to get the
 16 information to do that, who's going to write
 17 it, how are we going to do it?
 18 CHAYTOR, Q.C.:
 19 Q. And why didn't you take more detailed notes in
 20 the meeting?
 21 MS. PREDHAM:
 22 A. Well, I knew her report was coming and I guess
 23 just the experience when you have a verbal
 24 exit interview from an external reviewer,
 25 sometimes their written ones are different, a

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1 little bit different and I tend to always like
 2 to wait and get the written part.
 3 CHAYTOR, Q.C.:
 4 Q. And I take it, though, if there were any
 5 measures identified in the verbal exit
 6 interview that seemed to be of an urgent
 7 nature, you wouldn't wait to get the report?
 8 MS. PREDHAM:
 9 A. No, no.
 10 CHAYTOR, Q.C.:
 11 Q. Prior to implementing those?
 12 MS. PREDHAM:
 13 A. Yeah.
 14 CHAYTOR, Q.C.:
 15 Q. And if we could look at, please, P-1737? And
 16 on September 21st--no, this is not, this is
 17 just an e-mail, ignore the e-mail.
 18 MS. PREDHAM:
 19 A. Yeah.
 20 CHAYTOR, Q.C.:
 21 Q. It's the notes that follow. And these are Dr.
 22 Cook's notes of the September 22nd, 2005
 23 meeting with -
 24 MS. PREDHAM:
 25 A. Trish -

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1 CHAYTOR, Q.C.:
 2 Q. - Trish Wegrynowski, yes. Dr. Williams, Kara
 3 Laing, Mr. Gulliver, Ms. Predham are in
 4 attendance. And the recommendation of
 5 external CAP. And that had already been
 6 identified internally. Have -
 7 MS. PREDHAM:
 8 A. "Have frustrated, overwhelmed" -
 9 CHAYTOR, Q.C.:
 10 Q. "Have frustrated" -
 11 MS. PREDHAM:
 12 A. - "individuals."
 13 CHAYTOR, Q.C.:
 14 Q. - "overwhelmed individuals." And I take it
 15 that was not coming as any surprise to you
 16 after having talked with the staff. I'm not
 17 going to try and read all this. "Need to have
 18 good lines of communication" -
 19 MS. PREDHAM:
 20 A. "Lines of communication."
 21 CHAYTOR, Q.C.:
 22 Q. Again, that's something that you had
 23 recognized. And "Needing a section head."
 24 "Need better fixation." "Outside labs."
 25 "Need outside labs to advise of their

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1 fixation." And "The Health Care Corporation
 2 needs to advise other hospitals of the
 3 fixation issue." And she's written, or Dr.
 4 Cook has written, "Consider disclaimer on
 5 reports for referral labs." What do you
 6 recall about that discussion?
 7 MS. PREDHAM:
 8 A. I do recall that discussion because I remember
 9 Ms. Wegrynowski was saying--I apologize if I
 10 can't pronounce her name right. But she was
 11 saying that they were either considering or
 12 had put a disclaimer that, you know, they
 13 didn't control the stages outside their thing
 14 as a referral lab. They couldn't control
 15 anything that happened prior to them receiving
 16 the block and that would have to be put into
 17 consideration, something on that, on that
 18 level. And -
 19 CHAYTOR, Q.C.:
 20 Q. Not--sorry, go ahead.
 21 MS. PREDHAM:
 22 A. And then that would--you know, it would just
 23 bring people's attention that this is as good
 24 as we can do. You know, we can't control
 25 things that happen outside our organization.

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1 CHAYTOR, Q.C.:
 2 Q. So I take it what she's saying is you need to
 3 tell the people who are referring specimens in
 4 to you, you need to tell them about the
 5 fixation issue and advise them and then if
 6 there's fixation issues on your report that
 7 goes back to them, you need to put some sort
 8 of disclaimer, if there's still a fixation
 9 issue?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. That's the type of thing?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And I take it from a quality and risk
 18 management perspective, that would stick in
 19 your mind about that discussion?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. Yes. And do you know when that actually
 24 happened in terms of then Eastern Health
 25 informing the other authorities about fixation

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1 issues?
 2 MS. PREDHAM:
 3 A. No. After this with the report, Dr. Williams
 4 was very clear that Dr. Cook and Mr. Gulliver
 5 were responsible for implementing those
 6 reports, and then, of course, my attention
 7 shifted over into another focus. And I'm not
 8 sure of the time lines with any of this. I
 9 never saw the spreadsheet until, I think it
 10 was November, 2006 that I first actually even
 11 saw the spreadsheet of everything that was
 12 done or what was going on.
 13 CHAYTOR, Q.C.:
 14 Q. November -
 15 MS. PREDHAM:
 16 A. 2006.
 17 CHAYTOR, Q.C.:
 18 Q. 2006. So over a year after her report is
 19 submitted?
 20 MS. PREDHAM:
 21 A. Yeah.
 22 CHAYTOR, Q.C.:
 23 Q. Or around a year after?
 24 MS. PREDHAM:
 25 A. Yeah.

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1 CHAYTOR, Q.C.:
 2 Q. And so you weren't kept apprised then of the
 3 issues and how they were progressing with
 4 them?
 5 MS. PREDHAM:
 6 A. Other than Dr. Williams telling me that
 7 they're progressing, they've got a
 8 spreadsheet, they're working on the issues
 9 and, you know, I had full confidence that he
 10 was keeping an eye on that.
 11 CHAYTOR, Q.C.:
 12 Q. That he was overseeing it?
 13 MS. PREDHAM:
 14 A. Yeah.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. And from your perspective did you have
 17 any concerns that the two people who were
 18 tasked with that were the program leaders at
 19 the time all the issues or for a significant
 20 portion of when the issues were--had occurred?
 21 MS. PREDHAM:
 22 A. Well, no, I didn't have any concerns about
 23 that.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. And why not?

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1 MS. PREDHAM:
 2 A. Because that was the structure that we had.
 3 They were in those positions of leadership and
 4 they were responsible for quality and risk
 5 management in that department. Dr. Williams
 6 was the VP and was very hands on into this and
 7 I had no concerns.
 8 CHAYTOR, Q.C.:
 9 Q. And they would have also been reporting to Dr.
 10 Williams for a period?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. Of time during, from 1997 through 2005?
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And the issue then about the other
 19 authorities, what you're saying about the
 20 other authorities being advised, you would
 21 have expected the people dealing with the
 22 issues is what you're saying to me, the people
 23 who were dealing with it, Dr. Cook, Mr.
 24 Gulliver, Dr. Williams, that they would have
 25 been responsible for notifying the other

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1 authorities of this issue?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. Ms. Wegrynowski, it appears, also talked about
 6 controls and the need for positive and
 7 negative controls.
 8 MS. PREDHAM:
 9 A. "Enter run on every patient block" as well.
 10 CHAYTOR, Q.C.:
 11 Q. Yes, and the importance of validation, and
 12 there's a number of points including SOPs, and
 13 she's going to leave SOPs, and the issue of
 14 the pipette calibration came up apparently,
 15 and competency testing for technologists,
 16 documentation for equipment maintenance, and
 17 need of a succession plan. So is there
 18 anything else you can recall that's not
 19 reflected in Dr. Cook's notes?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. And if we could look at, please, P-0596? And
 24 I believe these are Dr. Williams' notes and we
 25 do not have those transcribed. September

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1 22nd, 2005, same list of individuals,
 2 including yourself, and again, reference to
 3 the staffing, frustrated and overwhelmed,
 4 communication issues, issue of fixation,
 5 controls, and there must be running positive
 6 and negative controls, validation must be
 7 done, record keeping, temperatures, buffers,
 8 antibodies, and reference to her coming back
 9 in several months to see the progress,
 10 reference to different manuals, DAKO sheets,
 11 need to--equipment maintenance again, needs to
 12 be done. Competency testing and ensure
 13 validation is in place. So these seem to be
 14 the key issues also captured by Dr. Williams.
 15 If we could look, please, at P-0047? And
 16 this is Ms. Wegrynowski's first report,
 17 submitted November 9th, 2005, and this is
 18 indicated to be copy one of four and it's also
 19 mentioned to be copy seven of eight, May 23rd,
 20 '07. Do you recognize this signature?
 21 MS. PREDHAM:
 22 A. No, I don't.
 23 CHAYTOR, Q.C.:
 24 Q. And we understand there were originally four
 25 copies of the document.

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And then May 23rd, 2007, four more copies were
 5 made of the document.
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. Do you know where the additional four
 10 documents or copies of this document went in
 11 May of 2007 after having been copied?
 12 MS. PREDHAM:
 13 A. The only thing that I know further about this
 14 in May of '07 was that Mr. Tilley was going to
 15 provide it to the Department of Health.
 16 CHAYTOR, Q.C.:
 17 Q. And what do you know about that?
 18 MS. PREDHAM:
 19 A. He told me that he was going to provide them
 20 to the Department of Health and I expressed by
 21 concern, not because of these reports, but
 22 just because of the whole quality review
 23 process and he said "I know what you're going
 24 to say. I know your concerns, but I'm sending
 25 them anyway."

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1 CHAYTOR, Q.C.:
 2 Q. Okay. So by that point in time, did Mr.
 3 Tilley already have a copy of the report or
 4 how does he come to talk to you about it?
 5 MS. PREDHAM:
 6 A. It came up, I think Dr. Howell mentioned to me
 7 that we were in somewhere in close proximity
 8 and Dr. Howell said "by the way, Mr. Tilley is
 9 considering sending the reports to the
 10 Department of Health" and he happened to come
 11 up, like just as he had said that to me, and I
 12 said "are you really?" and he said "yes" and I
 13 said "you know that's going to cause great
 14 problems with the way we do quality?" and he
 15 said "I know your concerns, but there's"--you
 16 know, basically "there's no talking to me.
 17 I've made up my mind."
 18 CHAYTOR, Q.C.:
 19 Q. And did he tell you why, why he felt strongly
 20 that these reports had to go to the
 21 Department?
 22 MS. PREDHAM:
 23 A. That was our--that was it. That was all the
 24 discussion.
 25 CHAYTOR, Q.C.:

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1 Q. And did he tell you who from the Department
 2 were looking for the reports?
 3 MS. PREDHAM:
 4 A. That was the whole discussion.
 5 CHAYTOR, Q.C.:
 6 Q. And this was in May of '07?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Okay, and do you know whether or not the
 11 reports went to the Department?
 12 MS. PREDHAM:
 13 A. That's all I know.
 14 CHAYTOR, Q.C.:
 15 Q. Did you ever hear anything else about that?
 16 MS. PREDHAM:
 17 A. I know that there's been some question, you
 18 know, through this process of who had them and
 19 if they went and if they didn't, and I don't
 20 think that they went, but that's all I know.
 21 CHAYTOR, Q.C.:
 22 Q. And that's based on what you've heard here?
 23 MS. PREDHAM:
 24 A. Just, yes.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and so you never had occasion afterwards
 2 to ask Mr. Tilley or anyone else, "did you
 3 actually send them? And what did the
 4 Department think?" Okay, so the idea of four
 5 additional copies being made in May of '07, do
 6 you know who received any of those copies?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. And I won't take you through all of Ms.
 11 Wegrynowski's report, because it's fairly
 12 extensive, and she does, however, under the
 13 histology lab, she mentions fixation and
 14 grossing and has recommendations regarding
 15 standard operating procedures for those, and
 16 also the issue of pathology assistants, and
 17 then further recommendations for processing,
 18 and under the immunohistochemistry lab, she
 19 has a number of recommendations as well, and
 20 then issues in terms of "documentation in
 21 general was deficient. Key areas identified"
 22 and she talks about the pipette and
 23 thermometer calibration not having taken
 24 place, no reagent antibody or detection system
 25 in valuation and no validation documentation.

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1 No equipment documentation and no calibration
 2 records, and the lack of complete error log
 3 and corrective actions, and it goes on for
 4 some 21 pages, I believe. The routine
 5 maintenance of the machines, equipment.
 6 So upon receipt then of this report, and
 7 again, from a quality and risk management
 8 perspective that you can bring to bear on
 9 this, how concerned were you?
 10 MS. PREDHAM:
 11 A. I was concerned, you know, I had a level of
 12 concern when I walked in on August the 2nd,
 13 and I don't think I could get much more
 14 concerned, but I was very concerned.
 15 CHAYTOR, Q.C.:
 16 Q. And after hearing what Ms. Wegrynowski had to
 17 say and reviewing her report, did you ever
 18 take it up with anyone how so many issues or
 19 problems could exist? How could that be the
 20 state of affairs?
 21 MS. PREDHAM:
 22 A. I can remember expressing this back in August,
 23 you know, and I guess more of a rhetorical
 24 question. I mean, this has to be looked at.
 25 But not in November. I had different issues

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1 to be dealing with in November and it was--you
 2 know, people were taking that. I never did
 3 get a clear, this is how this happened, but it
 4 was just like this small area that got set up
 5 and it just carried on doing its work and
 6 there was no documentation that was put there.
 7 CHAYTOR, Q.C.:
 8 Q. I'm sorry, there was?
 9 MS. PREDHAM:
 10 A. It was just a small area of the lab that just
 11 got set up. You know, Dr. Khalifa had an
 12 interest in this and had set this all up and
 13 it just -
 14 CHAYTOR, Q.C.:
 15 Q. Well, it had been set up--the IHC had been set
 16 up since, we understand, back into the 80s.
 17 MS. PREDHAM:
 18 A. Well, with--yes.
 19 CHAYTOR, Q.C.:
 20 Q. And the ER--and she's reviewing the whole -
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. She actually reviews the histology lab as
 25 well, and the grossing, the fixation, and

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1 ultimately the ER/PR test is just one test.
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. Of many IHC tests, all of which also rely on
 6 the histology lab of course.
 7 MS. PREDHAM:
 8 A. I mean, you know, there's no other way to say
 9 it. It's very concerning. It's very
 10 concerning that, you know, you'd have these
 11 processes go along without any documentation.
 12 So you had--and I said numerous times before,
 13 you had no comfort level that we were--you
 14 know, we were doing the test correctly. This
 15 test was a very tangly test. It needed a high
 16 level of monitoring and we had no comfort
 17 level saying that we were doing the test the
 18 best we could.
 19 CHAYTOR, Q.C.:
 20 Q. And Ms. Predham, you didn't understand Ms.
 21 Wegrynowski to just be saying you lacked
 22 documentation?
 23 MS. PREDHAM:
 24 A. No, no, no.
 25 CHAYTOR, Q.C.:

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1 Q. She also had concerns that it wasn't--that
 2 certain things weren't happening at all?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. And yes, there were concerns, certain things
 7 weren't being documented, and then thirdly,
 8 there were things not being done nor being
 9 documented.
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. If we could have P-0046, please? Well, before
 14 we leave this, if we could just look at page
 15 five about the fixation and grossing. She
 16 says "presently, large surgical specimens'
 17 fixation, grossing and processing are site
 18 dependent." So I take it what she's saying is
 19 that there's not a standard process for each
 20 of the sites. "Problems with fixation have
 21 been identified with breast tissue samples in
 22 particular and those blocks were subsequently
 23 reprocessed. The majority of the breast cases
 24 originate with St. Clare's site. The lack of
 25 consistency with fixation and the issue of

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1 reprocessing both have had a direct effect on
 2 staining outcome of IHC" and she talks about
 3 the courier system, frozen sections.
 4 So your understanding of what can happen
 5 with this information, and I'm thinking back
 6 to our conversation yesterday or that part of
 7 your evidence about--and it may have been the
 8 day before, it's blurring together at this
 9 point, but the issue of what can or cannot be
 10 said out of her report. Anything that she
 11 says in the way of recommendations, can that
 12 be communicated to others?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and anything she says, for example, if
 17 we look at--well, if we go back to the whole
 18 issue of the fixation and the grossing,
 19 anything in here that are statements of fact
 20 would be able to be told to others, is your
 21 understanding?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. But anywhere where she expresses an opinion,

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1 that would not be discloseable?
 2 MS. PREDHAM:
 3 A. No.
 4 CHAYTOR, Q.C.:
 5 Q. So if you had to take her report when, for
 6 example, you're speaking to a patient and look
 7 through her report, what types of things would
 8 you have been able to tell the patients?
 9 MS. PREDHAM:
 10 A. Well, the first thing that would have to
 11 happen when an external review comes back,
 12 which was a part that I had not been involved
 13 in, would be the leadership team would have to
 14 review the whole document and then would have
 15 to look at the recommendations in context of
 16 the situation that we have. So they'd have to
 17 validate the recommendations. Now I'm not
 18 saying any of that was not done or anything,
 19 but that would be the first thing that they
 20 would do, and then they would go through and
 21 these are the recommendations that we're
 22 doing. Sometimes external reviewers made a
 23 recommendation which you cannot put in place
 24 because of whatever circumstances, and
 25 therefore you have to say even though they

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1 recommended this, because of this reason, and
 2 it has to be a very good reason, we can't do
 3 that.
 4 So I wasn't part of that entire process,
 5 and that would be the other part where the key
 6 facts that were found or contributing factors
 7 that she felt contributing to this would be
 8 identified. The other part that would have to
 9 be looked at is what parts of what she found
 10 did she feel contributed significantly to
 11 this. Sometimes when you're doing a review,
 12 you find things otherwise, you know, like you
 13 know, you should tighten up this, you should
 14 tighten up that, and whether or not it
 15 contributed directly to that is a matter of
 16 opinion as well. So that would be a process
 17 it was going through that I was never involved
 18 in.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. So if we just look at her last
 21 paragraph here, "Very informal protocols and
 22 documentation exists in either laboratory".
 23 So I guess her opinion is that they're very
 24 informal protocols. "Procedure manuals
 25 detailing the standard operating procedures do

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1 not exist at either side". That's a statement
 2 of fact, I take it?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. So that would be discloseable. So in terms of
 7 what you would then take from this in terms of
 8 the information that you could disclose to
 9 others, including the patients affected, what
 10 in this report would you not be able to tell?
 11 MS. PREDHAM:
 12 A. Very little.
 13 CHAYTOR, Q.C.:
 14 Q. So there's very little in here that you
 15 wouldn't be able to tell to the patients or to
 16 anyone else?
 17 MS. PREDHAM:
 18 A. And there's also an awful lot. You know,
 19 there's an awful lot of information here.
 20 CHAYTOR, Q.C.:
 21 Q. Yes.
 22 MS. PREDHAM:
 23 A. So you certainly wouldn't in any circumstance
 24 --if this was an individual patient and an
 25 individual review, you certainly wouldn't go

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1 through and in detail say, well, you know,
 2 they didn't look at the pipettes and they
 3 didn't do--you know, you would summarize that
 4 there were issues.
 5 CHAYTOR, Q.C.:
 6 Q. Issues with documentation, equipment
 7 maintenance, without listing out pipettes and
 8 everything else.
 9 MS. PREDHAM:
 10 A. Right.
 11 CHAYTOR, Q.C.:
 12 Q. But these were the issues identified?
 13 MS. PREDHAM:
 14 A. Right.
 15 CHAYTOR, Q.C.:
 16 Q. Okay. So it would be very little in there
 17 that you wouldn't be able to disclose?
 18 MS. PREDHAM:
 19 A. No, and the impact on the test, though, that's
 20 one part that you would have to put in
 21 context. Like, you'd have to say--if someone
 22 is coming down, and I think I used the example
 23 of a review that we had done with Infection
 24 Control, and when we did the review and we did
 25 an observation audit, so we watched the staff

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1 go through the entire process. There wasn't
 2 anything that we saw that was, oh, there's the
 3 cause of our problem. It was a lot of little
 4 things that they could tighten up. Now at the
 5 end of the day, we actually, and who knew we
 6 could do this, we genetically tested a virus
 7 and found out that what we thought was a
 8 contamination was not, and that there was no--
 9 it was two separate viruses, so there was no
 10 infection control risk, there wasn't an issue,
 11 but we had found a lot of things that needed
 12 to be tightened up. So if we weren't able to
 13 do that, we would have thought that one of
 14 those things contributed to it, wouldn't be
 15 directly responsible, but one of a multiple of
 16 things that contributed to it when, in fact,
 17 there was no cross contamination.
 18 CHAYTOR, Q.C.:
 19 Q. If we could have, please, P-0046. Now I
 20 understand you did not meet with Dr. Banerjee.
 21 MS. PREDHAM:
 22 A. No.
 23 CHAYTOR, Q.C.:
 24 Q. And this is a copy, though, of his report, and
 25 the cover letter of October 17th, 2005, and

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1 then his report of the same date. You did
 2 receive, however, a copy of his report?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. And his report is a little more succinct, and
 7 he refers to the incident problem, as he calls
 8 it, and the case of the patient with invasive
 9 lobular, the index patient, and he says, "It
 10 should be noted that invasive lobular
 11 carcinomas are frequently ER positive, 92
 12 percent, thus the initial negative result
 13 should have been questioned". I take it that
 14 his opinion?
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. So that's something that would, in your
 19 understanding, be protected?
 20 MS. PREDHAM:
 21 A. But he did cite that, and I think he had an
 22 actual reference there, so then that would
 23 have been.
 24 CHAYTOR, Q.C.:
 25 Q. That could be disclosed?

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1 MS. PREDHAM:
 2 A. Yeah.
 3 CHAYTOR, Q.C.:
 4 Q. And he refers to four other patients being
 5 tested. So it all looks fairly factual.
 6 MS. PREDHAM:
 7 A. Uh-hm.
 8 CHAYTOR, Q.C.:
 9 Q. And his review of cases, he reviewed a number
 10 of cases from the retrospect of testing, sat
 11 with Dr. Cook, all of the cases that had
 12 converted from negative to positive by
 13 switching platforms had one or more of the
 14 following characteristics; poor fixation,
 15 internal controls, absent internal controls.
 16 Would all of that be factual information?
 17 MS. PREDHAM:
 18 A. Uh-hm.
 19 CHAYTOR, Q.C.:
 20 Q. So that could be disclosed?
 21 MS. PREDHAM:
 22 A. As far as I know, yes.
 23 CHAYTOR, Q.C.:
 24 Q. And the he talks about the literature review,
 25 and the effects of formalin fixation on ER/PR.

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1 He discusses the choice of antibody. I take
 2 it in terms of his review of the literature,
 3 there's nothing in there that would be opinion
 4 based. "It should be noted that many
 5 laboratories, including ours, use the DAKO
 6 system, having optimized all the steps--
 7 successfully having optimized all the steps".
 8 So that appears to be--it might be debatable
 9 whether or not they do it successfully, I
 10 guess, "It remains possible that even with
 11 complete optimization of antigen retrieval
 12 immunostaining protocols, if fixation is
 13 optimized, there will be--is "not", sorry, I
 14 keep missing that important word, "there will
 15 be an irreducible number of false negative
 16 cases. Thus the importance of proper fixation
 17 cannot be overemphasized", and he talks about
 18 --then his conclusion, "Is the DAKO system
 19 fault". Would you consider this to be, "This
 20 is unlikely as there are many laboratories
 21 using the DAKO system successfully, and the
 22 reason for test failure was most likely due",
 23 would that be considered opinion what he's
 24 saying there?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. So that's opinion, and "Is the Ventana system
 4 too sensitive? There's no evidence that it
 5 creates false positive results. However, the
 6 system still requires optimization to avoid
 7 non-specific cytoplasmic staining", and would
 8 that be an opinion?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And, "Is there a problem with tissue fixation?
 13 There appears to be inadequate attention paid
 14 by the grossing pathologist to the thickness
 15 of tissue slices, quality and adequacy of
 16 fixation, there is no standardized fixation
 17 protocol that everyone adheres to". So the
 18 issue of there being no standardized fixation
 19 protocol that everyone adheres to, I take it
 20 that's a statement of a fact?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. And perhaps, however, though, it's his opinion
 25 that there's inadequate attention paid. Again

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1 the same, "Inadequate or no attention being
 2 paid by reporting pathologists to the status
 3 of internal controls", that would be more of
 4 an opinion on his part?
 5 MS. PREDHAM:
 6 A. Opinion.
 7 CHAYTOR, Q.C.:
 8 Q. If he's basing that on, well, I looked at "x"
 9 number of slides and reports and there were no
 10 note of any internal controls?
 11 MS. PREDHAM:
 12 A. Then that would have been a fact.
 13 CHAYTOR, Q.C.:
 14 Q. And this other system flaws observed, "Lacked
 15 of detailed -
 16 MS. PREDHAM:
 17 A. Dedicated.
 18 CHAYTOR, Q.C.:
 19 Q. "Lack of dedicated immunohistochemistry
 20 technologist", I take it that's a fact, a
 21 rotation system is used, that's factual. Lack
 22 of--I'm sorry, I know you're nodding, but -
 23 MS. PREDHAM:
 24 A. Oh, sorry.
 25 CHAYTOR, Q.C.:

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1 Q. That's a yes?
 2 MS. PREDHAM:
 3 A. That was a yes.
 4 CHAYTOR, Q.C.:
 5 Q. "Lack of an officially designated pathologist
 6 as director of IHC", I take it that's a fact?
 7 MS. PREDHAM:
 8 A. Just back to the first one, "the rotation
 9 system is used", I think that would need to be
 10 clarified if we're into facts and opinions
 11 because that was not my understanding even
 12 when I went there in August, that if there was
 13 --if there was people sick and stuff, they
 14 would go out, but they were dedicated to
 15 immunohistochemistry. So it was a staffing
 16 thing.
 17 CHAYTOR, Q.C.:
 18 Q. Okay.
 19 MS. PREDHAM:
 20 A. And that would be the type of thing that would
 21 have to be clarified by the leadership team to
 22 say is it a fact or not, you know.
 23 CHAYTOR, Q.C.:
 24 Q. Or perhaps by the technologists doing it?
 25 MS. PREDHAM:

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1 A. Exactly.
 2 CHAYTOR, Q.C.:
 3 Q. Because they--I think Ms. Wegrynowski was of
 4 the same impression based on her interviews of
 5 people. She also recommended that there be
 6 dedicated staff.
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. So for whatever reason, there may be some
 11 confusion as to what the experts took from it,
 12 or perhaps there was confusion amongst the
 13 people she interviewed?
 14 MS. PREDHAM:
 15 A. That could be.
 16 CHAYTOR, Q.C.:
 17 Q. Or "they interviewed", I should say.
 18 MS. PREDHAM:
 19 A. Yeah, but that would be the type of thing that
 20 had to be clarified that they--you know.
 21 CHAYTOR, Q.C.:
 22 Q. Sure, yes, whether it's factually accurate or
 23 not?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. But it is a statement of fact, whether or not
 3 it's accurate?
 4 MS. PREDHAM:
 5 A. It's a statement of fact, yes.
 6 CHAYTOR, Q.C.:
 7 Q. And then, "The lack of standard operating
 8 procedures for the grossing, fixation", and
 9 everything, that I take it is fact?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. "And the lack of subspecialization amongst the
 14 pathologists", that portion at least would be
 15 fact, and whether or not it leads to lack of
 16 in depth knowledge, that's probably more of an
 17 opinion?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And then this disconnect between the
 22 laboratory program director, division manager,
 23 clinical site chief, and laboratory director,
 24 in decision making, and his observations based
 25 on organizational charts, that I take it would

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1 be factual?
 2 MS. PREDHAM:
 3 A. Well, he's indicating the organizational
 4 charts and that there was, you know--I'd say
 5 the factual part that you could take out of
 6 that is that there was problems related to the
 7 structure of the department.
 8 CHAYTOR, Q.C.:
 9 Q. And no different than what perhaps you had
 10 observed yourself?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And I guess this is more of a recommendation,
 15 "Attendance by both medical and technical
 16 staff at conferences should be encouraged.
 17 The department needs dedicated pathology
 18 assistants", and again I guess that's his
 19 opinion for a recommendation, and then these
 20 are his recommendations. So there would be no
 21 problem, I take it, in disclosing any
 22 recommendations, is that correct?
 23 MS. PREDHAM:
 24 A. Yes, that's correct.
 25 THE COMMISSIONER:

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1 Q. Ms. Chaytor, we're pass the time of the
 2 morning break, so when you find a spot.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, and this idea that recommendations can
 5 be shared, where did you get that idea, where
 6 did you learn of that?
 7 MS. PREDHAM:
 8 A. I guess over the period of time. Maybe it
 9 came from when we were developing the--
 10 developing the process, but I guess our
 11 thinking was if you're making change, if
 12 you're acting on something and you're making
 13 changes, you're kind of telling them what the
 14 recommendations are by the fact that you've
 15 changed something. So I guess it was kind of
 16 pointless to protect the recommendations if
 17 that was the factual things that they were
 18 telling us to do.
 19 CHAYTOR, Q.C.:
 20 Q. And would you--I realize you came up with the
 21 terms of reference or did a draft of the terms
 22 of reference, and you refer to the Evidence
 23 Act in the terms of reference. Would you
 24 actually be familiar with the Evidence Act and
 25 have read the sections of the Evidence Act

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1 that pertained to quality and peer reviews?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. And so what's your knowledge in terms of
 6 whether or not recommendations and statements
 7 are mentioned in, I believe, Section 8.1.
 8 MS. PREDHAM:
 9 A. 8.1
 10 CHAYTOR, Q.C.:
 11 Q. Yes.
 12 MS. PREDHAM:
 13 A. No, they're not -
 14 CHAYTOR, Q.C.:
 15 Q. So you do know?
 16 MS. PREDHAM:
 17 A. Oh, I do know it. They're not there, and I
 18 guess it comes to what you need--you need to
 19 work within legislation, so you need to have
 20 some rules, you know, as you move along. So
 21 you've got your basic premise laid out in the
 22 legislation, and then it's how you work that
 23 out and how you deal with that, and over the
 24 years we've had--we've done lots of reviews in
 25 which, you know, there are people anxiously

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1 waiting to find out what we have done in that
 2 circumstance. This one has been a very
 3 different situation from start to finish.
 4 Everything that we've done previously has--
 5 you know, everything we had done in our normal
 6 practices have not been followed or applicable
 7 in here, and over the years when we've done an
 8 external review and you've got a patient or a
 9 family who knows that we're doing that, knows
 10 that they're there, have been interviewed
 11 sometimes by the external reviewer, well, they
 12 want to know what the external reviewer found,
 13 and striking that balance between protecting
 14 the process and making sure that we give
 15 patients information, we found the balance to
 16 say, okay, we can't tell you what they said,
 17 but we're giving you--these are the
 18 recommendations for what we're doing, and
 19 that's how we struck the balance.
 20 CHAYTOR, Q.C.:
 21 Q. I just want to be clear. Do you understand
 22 that Section 8.1 also protects recommendations
 23 and statements or you don't think
 24 recommendations and statements -
 25 MS. PREDHAM:

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1 A. Oh, I don't think that they're protected.
 2 CHAYTOR, Q.C.:
 3 Q. They're not mentioned.
 4 MS. PREDHAM:
 5 A. It's just -
 6 CHAYTOR, Q.C.:
 7 Q. You don't think they're mentioned under the
 8 legislation?
 9 MS. PREDHAM:
 10 A. I don't think they're mentioned as such.
 11 CHAYTOR, Q.C.:
 12 Q. To be protected?
 13 MS. PREDHAM:
 14 A. No, it's--yeah.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, thank you, Commissioner.
 17 THE COMMISSIONER:
 18 Q. Take fifteen minutes.
 19 (BREAK)
 20 THE COMMISSIONER:
 21 Q. Ms. Chaytor.
 22 CHAYTOR, Q.C.:
 23 Q. Thank you, Commissioner. Ms. Pilgrim we, just
 24 before the break, briefly went through the two
 25 first reports from the external reviewers.

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1 Are you aware of any factors that may have
 2 caused or contributed to the problems with the
 3 hormone receptor test other than those which
 4 were identified by Dr. Banerjee and Ms.
 5 Wegrynowski?
 6 MS. PREDHAM:
 7 A. Well, they didn't take into consideration--can
 8 you ask that question again?
 9 CHAYTOR, Q.C.:
 10 Q. I was just wondering whether or not you're
 11 aware of any factors that may have caused or
 12 contributed to the problems with the hormone
 13 receptor test other than those which they
 14 identified?
 15 MS. PREDHAM:
 16 A. They didn't consider the interpretation side
 17 of the slides and they didn't consider the
 18 treatment part. They weren't directly related
 19 to that, but there were other things that came
 20 forward as we went along.
 21 CHAYTOR, Q.C.:
 22 Q. And the interpretation of the slides, how do
 23 you understand that factors into the whole
 24 piece of what happened here?
 25 MS. PREDHAM:

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1 A. It was just that over--you know, as we went
 2 through the panelling and that, it did come
 3 up, problems with the interpretation of the
 4 slides. Again it was a very--I don't think
 5 that they addressed in that--I never really
 6 thought of that question until you just asked
 7 me that way, but they didn't really address
 8 the fact of the volume of tests that were done
 9 as well, and that was another thing that we
 10 brought up. So you had the multiple people
 11 who were interpreting that and whether or not
 12 they had a volume to keep up their skills, the
 13 training of who was interpreting, so all that
 14 part wasn't addressed.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, so those are other issues then, factors
 17 that you--that you acknowledged or that have
 18 come up for discussion along the way -
 19 MS. PREDHAM:
 20 A. And that was -
 21 CHAYTOR, Q.C.:
 22 Q. As possibly contributing.
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. And what about the treatment part, what are
 2 you referring to there?
 3 MS. PREDHAM:
 4 A. Well, it was just things that--the disconnect
 5 between the numbers, the individual treatment
 6 parameters of physicians, not that it was
 7 contributing to the problems there, it was
 8 just something else that we discovered along
 9 the way.
 10 CHAYTOR, Q.C.:
 11 Q. And perhaps the issue about the number of
 12 people reading the test and the turnover, that
 13 was a contributing factor, you're thinking, to
 14 how long it went without it being detected?
 15 MS. PREDHAM:
 16 A. Yes, and the turnover -
 17 CHAYTOR, Q.C.:
 18 Q. So the skill level -
 19 MS. PREDHAM:
 20 A. The turnover with the oncologists as well
 21 could be another way of--if you had, you know,
 22 one oncologist who was there for years and is
 23 seeing this and picking up trends, because we
 24 had so much turnover, that ability wasn't
 25 there as well.

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1 CHAYTOR, Q.C.:
 2 Q. Yes, and the volume wasn't such when you
 3 distributed it out amongst a large number of
 4 people, to keep up perhaps skill levels?
 5 MS. PREDHAM:
 6 A. Well, I wouldn't know what the critical volume
 7 would be, but it was, you know, something that
 8 --the skill level was a consideration because
 9 you see that in patient safety literature
 10 about having a volume level.
 11 CHAYTOR, Q.C.:
 12 Q. Yes, and if we could have, please, P-0613.
 13 Actually, just before I get to this, after the
 14 external reports were available, was there any
 15 further meeting of the group or others to
 16 review and discuss the contents?
 17 MS. PREDHAM:
 18 A. I wasn't part of that.
 19 CHAYTOR, Q.C.:
 20 Q. Who would have been part of that?
 21 MS. PREDHAM:
 22 A. If there was--Dr. Williams was, you know,
 23 taking full control over that part and was
 24 involving Dr. Cook and Dr. Gulliver -
 25 CHAYTOR, Q.C.:

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1 Q. Mr. Gulliver. Now you're doing it.
 2 MS. PREDHAM:
 3 A. Sorry, too many doctors. Mr. Gulliver and Dr.
 4 Cook would have been involved in that, and I
 5 wasn't part of that.
 6 CHAYTOR, Q.C.:
 7 Q. So in terms of you sitting down in your role
 8 and having a meeting about the reports and
 9 going through the reports, that didn't happen?
 10 MS. PREDHAM:
 11 A. No.
 12 CHAYTOR, Q.C.:
 13 Q. This is an e-mail then of--I believe it
 14 originates--this is the one. I think it
 15 originates September 29th, if I get to the
 16 bottom here. Yes, and from yourself to Susan
 17 Sullivan and Judy Budgell, is it?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And Judy is at Western?
 22 MS. PREDHAM:
 23 A. Central West.
 24 CHAYTOR, Q.C.:
 25 Q. Central West, yes, and how about Susan

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1 Sullivan?
 2 MS. PREDHAM:
 3 A. Western.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and it's a fairly lengthy e-mail. The
 6 part that I was going to--the part I wanted to
 7 bring you to is towards the bottom here. You
 8 referred to, "We have had external reviews
 9 done on our Ventana machine, on the pathology
 10 side of the service and the technical side.
 11 All those reports are pending, but we do have
 12 some recommendations that we can implement
 13 right now. Also we have stopped all testing
 14 and all requests for testing are being sent to
 15 Mount Sinai. Mount Sinai are also retesting
 16 all the blocks for these years. Results are
 17 starting to come in and it looks like we will
 18 have to contact up to 200 people to tell them
 19 that they were initially tested as negative
 20 and were in fact positive". So at this point
 21 in time, what's your role of informing or
 22 having contact with the other health boards?
 23 MS. PREDHAM:
 24 A. I don't think I had any contact with the other
 25 health boards before this.

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1 CHAYTOR, Q.C.:
 2 Q. So why are you at this point in time then,
 3 September 29th, why are you engaged in this?
 4 MS. PREDHAM:
 5 A. I guess the concern was--if you go back down
 6 to the bottom, I think I spelled it out that
 7 we hadn't gotten blocks in from those areas,
 8 and that we wanted to--we have to begin to
 9 inform people individually and the Department
 10 of Health wants us to make a public statement,
 11 and where we hadn't got all those blocks in,
 12 they may be asked about it.
 13 CHAYTOR, Q.C.:
 14 Q. So somebody has come to you to tell you that,
 15 look, we don't have what we need from these
 16 two regions, can you make contact with them?
 17 MS. PREDHAM:
 18 A. Well, the issue is, of course, we're sending
 19 out letters to--until they send in their
 20 blocks and the patient reports and that, we
 21 don't know who's out in their areas. So if
 22 we're making a public notification and we are
 23 writing letters to the patients, we don't have
 24 --we can't do it for their patients, it would
 25 be later, and as I said, somebody will be

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1 asking you about this, and I guess I was
 2 concerned. I've had a lot of contact with
 3 Sue, in particular, over the years because
 4 we're part of our risk management network. So
 5 I thought that they might want to--they might
 6 want to get involved in this.
 7 CHAYTOR, Q.C.:
 8 Q. So they are the risk managers for those
 9 regions?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And -
 14 MS. PREDHAM:
 15 A. And I have a vague memory that somebody
 16 suggested that I give them a heads up, but I
 17 can't recall that now and it's not there in
 18 that e-mail, but -
 19 CHAYTOR, Q.C.:
 20 Q. And you write, "We have had an issue with our
 21 ER/PR testing, and this has been the issue
 22 that we've been dealing with all summer", and
 23 you explain what the ER/PR test, a little bit
 24 about that, and treatment that it might lead
 25 to. You say, "It's felt that Tamoxifen may

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1 decrease the metastatic aspects of breast
 2 cancer and has less awful side effects. I say
 3 "she" but some of our affected patients are
 4 "he", and then you go on to say, "In 1997, the
 5 DAKO system was installed for the IHC
 6 service", and you explain about how it
 7 replaced the bioassay method and then it was
 8 replaced in 2004 by an automated Ventana
 9 system, and you mention the index patient, and
 10 you go on to say, "The patient initially
 11 tested in '02 with DAKO and reported as ER/PR
 12 negative; was retested with the Ventana
 13 system, now indicated a strong positivity for
 14 ER and PR receptors. Four other patients
 15 initially tested as negative in 2002 were also
 16 retested and all tested positive with the
 17 Ventana system". Then you expand your
 18 retesting to include all the samples initially
 19 negative in 2002. "Of the 57 retested on the
 20 Ventana system, 38 now show positive results.
 21 This high conversion rate was unexpected and
 22 then placed the sensitivity of the Ventana
 23 system in question". I'm just wondering--
 24 then you go on and say, "That you've had
 25 external reviews done", and I've taken you to

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1 that paragraph. Why are you telling this to
 2 the people in the other regions, the risk
 3 people, the risk managers in the other
 4 regions?
 5 MS. PREDHAM:
 6 A. Well, I mean, it's such a complicated issue, I
 7 just wanted to tell them what we were going
 8 through. We usually shared information if
 9 something was going on, you know, in our place
 10 and was going on there, and really that they
 11 should be made aware.
 12 CHAYTOR, Q.C.:
 13 Q. Yes, and the idea that it placed the
 14 sensitivity of the Ventana system in question,
 15 by September 29th, though, are you of the
 16 understanding that that's no longer an issue,
 17 the sensitivity of the Ventana system?
 18 MS. PREDHAM:
 19 A. Well, I wasn't--I guess I wasn't--not the
 20 sensitivity of it. I guess it was the fact
 21 that it could be over calling or called too
 22 many positives, and that's why we stopped the
 23 Ventana, that's why we didn't do it in-house.
 24 CHAYTOR, Q.C.:
 25 Q. And so as of September 29th, and this is now

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1 seven days, a week after you've met with Ms.
 2 Wegrynowski, and Dr. Banerjee has been in, I'm
 3 just wondering are you still thinking that
 4 there's an issue with the sensitivity of the
 5 Ventana system?
 6 MS. PREDHAM:
 7 A. No, I think I was just saying that where we
 8 had--I had mentioned up above that we had
 9 tested them with the Ventana system, and I
 10 guess I was using that as a way to say that we
 11 were--then we started questioning the Ventana,
 12 so then we stopped it all.
 13 CHAYTOR, Q.C.:
 14 Q. And then you do refer to the external reviews
 15 having been done, and you have some
 16 recommendations that you can implement right
 17 now. Why not tell them what those
 18 recommendations are?
 19 MS. PREDHAM:
 20 A. Well, I guess that wasn't really the point of
 21 my e-mail. The point of my e-mail was that we
 22 were going to have to start telling people and
 23 we hadn't got their information yet and we
 24 didn't know who their patients were, and that
 25 was the point, as opposed to just telling them

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1 the entire issue from start to finish.
 2 CHAYTOR, Q.C.:
 3 Q. But in terms of taking the time to type out an
 4 e-mail with the background of the DAKO
 5 machine, Ventana machine, the bioassay--even
 6 the switch over from the bioassay method,
 7 questions as to the sensitivity of Ventana,
 8 all that arising, I mean, why not just--if you
 9 want to give them an accurate picture of
 10 here's where we are, here's what's happening,
 11 why not just start with we've had external
 12 reviews done and here's what we found, here's
 13 the recommendations that are coming out?
 14 MS. PREDHAM:
 15 A. I could have, but I didn't.
 16 CHAYTOR, Q.C.:
 17 Q. So what was the purpose in giving all of this
 18 information in terms of the switch over of the
 19 machines, the sensitivity being questioned of
 20 the Ventana?
 21 MS. PREDHAM:
 22 A. I guess, I--I guess you get to a certain point
 23 that you're telling a story and you always
 24 tell the story the same way, you know, and
 25 that's the way I've always told--I always

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1 start off the story, and I guess I just
 2 continued on with that.
 3 CHAYTOR, Q.C.:
 4 Q. And -
 5 MS. PREDHAM:
 6 A. There wasn't any intent that this was the only
 7 communication I was going to have with them,
 8 or anything like that. Like I said, the point
 9 was the part on the end. As well on this--I
 10 do have a vague recollection that somebody
 11 asked me to follow up with them. It might
 12 have been Dr. Williams or whatever, but, you
 13 know, this was just another thing I had to do
 14 to, you know, to get through that day. At
 15 this point in time, we were on overdrive with
 16 our department.
 17 CHAYTOR, Q.C.:
 18 Q. Yes, and I'm just thinking about the time you
 19 took to spell out all this part, and wouldn't
 20 you agree, though, that perhaps the more
 21 crucial part is this is what we've really
 22 found, this is where we are, and it's not the
 23 sensitivity of the Ventana machine, but here's
 24 some things that we're looking into.,
 25 MS. PREDHAM:

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1 A. And in all truth, Ms. Chaytor, I probably cut
 2 and pasted that first part and stuck it in
 3 there, and then went on with where we're to
 4 right now.
 5 CHAYTOR, Q.C.:
 6 Q. And the results you're indicated are starting
 7 to come in and it looks like up to that point
 8 you're going to have to contact 200 people to
 9 tell them they've converted? That's yes?
 10 MS. PREDHAM:
 11 A. Yes, sorry.
 12 CHAYTOR, Q.C.:
 13 Q. And then you go on to say, "Why am I telling
 14 you all this", and then it's the issue of
 15 since June they've asked your two boards for
 16 the blocks to no avail, "I wanted to give you
 17 a heads up, as we have to begin to inform
 18 people individually about this issue, but the
 19 Department of Health wants us to make a public
 20 statement. Since your labs have not yet
 21 responded, you may be asked about the reasons
 22 why". So September 29th, and this is now
 23 10:43 in the morning, and I understand that to
 24 be a Friday. That's the Thursday, sorry.
 25 Were you aware at this point in time that

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1 there may be a story forthcoming or that the
 2 media may be looking to run a story on this
 3 issue?
 4 MS. PREDHAM:
 5 A. Not at this time. I think we got the call on
 6 a Friday if I remember rightly.
 7 CHAYTOR, Q.C.:
 8 Q. So what further discussions had taken place
 9 with the department? "The department is
 10 looking to have you inform the patients and
 11 also make a public statement". So what had
 12 you been told what happened in the meantime?
 13 MS. PREDHAM:
 14 A. I really can't remember. All I remember is
 15 that, you know, we're going forward, we're
 16 going to have to tell the patients and up to
 17 that point in time, my focus would have been
 18 the results would have been back, I had to get
 19 those results put in that database, and then
 20 we had to figure out, well, what is this, what
 21 does it all mean, who are deceased, who have
 22 stayed the same, who have changed. I had to
 23 meet with Dr. Laing and do all that. So that
 24 was--you know, that was my primary focus.
 25 CHAYTOR, Q.C.:

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1 Q. So you're saying we having to begin to inform
 2 people individually about this issue. So
 3 you're getting results back, so I take it you
 4 realized that yourself you have to
 5 individually start informing people?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. But the Department of Health wanting you to
 10 make a public statement as of September 29th,
 11 you're not sure where that's coming from or
 12 where you got that information?
 13 MS. PREDHAM:
 14 A. I guess, you know, I'm again assuming that I
 15 must have been somewhere where this was there,
 16 and then, like I said, I have this vague
 17 recollection that somebody had to tell me that
 18 it was these two boards because of all the
 19 boards, why would I only pick those two, and
 20 somebody had to tell me that we haven't got
 21 those blocks yet. It could have been Dr.
 22 Cook, it could have been someone saying maybe
 23 you should tell the risk managers out there.
 24 CHAYTOR, Q.C.:
 25 Q. And this--the reference here that you say it's

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1 200 people, or you'd have to contact up to 200
 2 people to tell them, where are you getting
 3 your figure at this point in time?
 4 MS. PREDHAM:
 5 A. Well, it looks like--I mean, again I'm
 6 assuming because I can't really remember the
 7 timeline then, but we would have gotten the
 8 results, I would have put that in. I may have
 9 or may not have met with Dr. Laing at that
 10 point in time, and then she's the one who
 11 decided if people were considered confirmed
 12 negative or not. I may have only been doing
 13 that by looking at number change.
 14 CHAYTOR, Q.C.:
 15 Q. And some results are back, you indicate here.
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Starting to come in, and so when the results,
 20 the first batch of results came back, were you
 21 involved? Did you meet with Dr. Laing and what
 22 happened?
 23 MS. PREDHAM:
 24 A. When they came back, I really can't remember
 25 the process that happened, but I know I ended

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1 up with--and Dr. Cook would have given them to
 2 me, and then it was to enter them in my
 3 spreadsheet so we'd have the previous test
 4 results and then the Mount Sinai results, and
 5 then of course, that didn't mean anything with
 6 me, so myself, Mrs. Parsons and Ms. Emberley
 7 from our department went over and met with Dr.
 8 Laing, I think Dr. McCarthy was there as well,
 9 and we went through--I printed out the list
 10 and we went through the patients individually
 11 to see which ones would be panelled and which
 12 ones would be considered negative, and then
 13 which ones were deceased and also which ones
 14 the physicians wanted to tell themselves. So
 15 if they went through and saw--because this was
 16 the early--this was the first batch. If they
 17 saw their own patients or someone they were
 18 going to see soon, that they would tell them
 19 themselves. So that was the--we kind of
 20 categorized them into four groups at that
 21 meeting.
 22 CHAYTOR, Q.C.:
 23 Q. If we could have, please, P-2957? And so then
 24 perhaps it was that meeting that the number
 25 200 came out of?

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1 MS. PREDHAM:
 2 A. It could have been. It could have been, you
 3 know, I might have been just entering in the
 4 data and seeing these are how many changed.
 5 You know, to me, I wouldn't be able to
 6 determine what a change would be.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and this is your e-mail to Susan
 9 Bonnell, and the subject is a briefing note,
 10 September 30th, 2005, and "how is this? The
 11 bold and underlined sections need to be
 12 confirmed" and we'll see it's dated September
 13 14th up here, but your e-mail is actually
 14 September 30th. Who did you understand--who
 15 are you drafting this briefing note for or are
 16 you drafting this?
 17 MS. PREDHAM:
 18 A. Well, I must have been asked to draft a
 19 briefing note on September 14th and I guess
 20 Susan asked me for a copy. This is the
 21 Friday, right? This is when the Independent
 22 called? Is that -
 23 CHAYTOR, Q.C.:
 24 Q. No. Well, September 30th is, that's correct,
 25 yeah.

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1 MS. PREDHAM:
 2 A. Right, so -
 3 CHAYTOR, Q.C.:
 4 Q. And this is at 1:47 in the afternoon, yes.
 5 MS. PREDHAM:
 6 A. Right, so I was with Susan in the morning and
 7 I guess she must have asked me for anything I
 8 had done up. Like did I have anything recent
 9 that was drafted up.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and who would you have been drafting a
 12 briefing note for?
 13 MS. PREDHAM:
 14 A. Any briefing notes that I was asked for at
 15 that period of time, Dr. Williams would have
 16 asked me to put something together and give it
 17 to him and he would do whatever with it.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and now we've seen an update that you
 20 drafted before for Mr. Tilley.
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. And it was called an update on the issue, and
 25 the fact that this is called a briefing note,

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1 had you ever drafted a briefing note before?
 2 MS. PREDHAM:
 3 A. No.
 4 CHAYTOR, Q.C.:
 5 Q. Did you understand that this might be for the
 6 Government?
 7 MS. PREDHAM:
 8 A. Well, the--well, yes, because the update that
 9 I had done for Mr. Tilley, I never heard the
 10 term "briefing note" before at that time, and
 11 after that, I guess Deborah Thomas had
 12 circulated around briefing notes and now I'm
 13 not sure, this could have been just for Dr.
 14 Williams to bring to Mr. Tilley again or not.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and so you think it may have been
 17 intended for Government?
 18 MS. PREDHAM:
 19 A. Well, most of the ones that went to Government
 20 went through Communications. So it could be
 21 that Susan wanted something that I had done up
 22 recently or had drafted for use recently so
 23 then she would do this up for Government.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, and it's noted the attachment, briefing

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1 note Sept 30th, 2005 document, but the
 2 attachment is actually dated September 14th,
 3 2005.
 4 MS. PREDHAM:
 5 A. I guess I saved it as a more current--I made
 6 changes to what I had done before and saved it
 7 as a more current document, but never changed
 8 the date.
 9 CHAYTOR, Q.C.:
 10 Q. So who, on September 14th, would the briefing
 11 note have been intended for?
 12 MS. PREDHAM:
 13 A. Dr. Williams would have been the only one to
 14 have asked me for it at that time.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and do you recall was it being done, at
 17 that point, from Dr. Williams to be able to
 18 give an update to the Board of Directors?
 19 Does that ring any bells?
 20 MS. PREDHAM:
 21 A. I have no memory.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. P-0593, please? And it's an e-mail to
 24 George Tilley from Bob Williams. "Maybe I
 25 should use this with my briefing of the Board

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1 next week and do a short version to send out
 2 to the Board," and this appears to be a
 3 similar document.
 4 MS. PREDHAM:
 5 A. So it must have been for Dr. Williams to -
 6 CHAYTOR, Q.C.:
 7 Q. At least a portion of what -
 8 MS. PREDHAM:
 9 A. Yes, he said he made it small.
 10 CHAYTOR, Q.C.:
 11 Q. Yes, okay. And also, please, P-0336? And
 12 this is Denise Dunn, who's Dr. Williams'
 13 assistant, is it?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. Yes, sending to Mr. Tilley. I don't know if
 18 we have an attachment to that, but it's
 19 September 14th, 2005 ER/PR briefing note.
 20 MS. PREDHAM:
 21 A. It would seem to be the same.
 22 CHAYTOR, Q.C.:
 23 Q. Seem to be the same, okay, thank you. And if
 24 we could go back then, please, to 2957?
 25 Actually, could we go back to the first one?

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1 THE COMMISSIONER:
 2 Q. The one that's not called a briefing note?
 3 CHAYTOR, Q.C.:
 4 Q. Yes, the one, the--I think it was 5 something,
 5 wasn't it? 0593, yes, sorry. Yes, this one
 6 is called a briefing note as well, okay.
 7 Okay, I just wanted to see where it ended. So
 8 it has--okay, yes, that's fine. Thank you.
 9 Sorry, 2957? You might want to just leave it,
 10 because I may come back to it, so you might
 11 want to just diminish it. Thank you. Okay,
 12 so now we're up to September 30th and you
 13 think this probably arose from Ms. Bonnell
 14 becoming aware that the media have become
 15 involved?
 16 MS. PREDHAM:
 17 A. Well, we both became aware that morning.
 18 CHAYTOR, Q.C.:
 19 Q. The morning of September 30th?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, and perhaps you can tell us about that?
 24 MS. PREDHAM:
 25 A. We had a meeting--well, I guess it was

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1 progressing that we had to notify patients and
 2 that we had to work on the letter and how we
 3 were going to do that and the logistics, and
 4 we had a meeting about our occurrence
 5 reporting proposal that we were going to
 6 submit to Infoway. So we decided to meet.
 7 That was a quick meeting, we decided to meet
 8 after that in her office, and while we were
 9 there, a call came in from the media regarding
 10 a breast screening machine, I think, was how
 11 it was termed, and we had problems or were
 12 giving out inaccurate results, or you know,
 13 something on that line. It wasn't--it didn't
 14 describe this issue, but it was very similar.
 15 CHAYTOR, Q.C.:
 16 Q. So you're in Susan Bonnell's office for a
 17 meeting for another purpose?
 18 MS. PREDHAM:
 19 A. No, for a meeting about the letter. We had a
 20 meeting earlier in the morning.
 21 CHAYTOR, Q.C.:
 22 Q. So you're going to--you're still--the plan is
 23 still that there's letters going out to
 24 patients?
 25 MS. PREDHAM:

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1 A. The letters, we were going over the letters
 2 and the logistics, that type of thing, mostly
 3 the letter with Susan though.
 4 CHAYTOR, Q.C.:
 5 Q. And was that -
 6 THE COMMISSIONER:
 7 Q. This is the content of the letter to advise
 8 patients that the result was back and they had
 9 been retested?
 10 MS. PREDHAM:
 11 A. Yes.
 12 THE COMMISSIONER:
 13 Q. And the result?
 14 MS. PREDHAM:
 15 A. Well, that's what we were talking about.
 16 THE COMMISSIONER:
 17 Q. Okay.
 18 MS. PREDHAM:
 19 A. We were kind of, you know, coming up with some
 20 scenarios, like these are the options.
 21 Sometimes when--and again, it comes back to
 22 people having that higher level discussion and
 23 then not getting through the logistics.
 24 Sometimes you have to present different
 25 options with them to get them to make a

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1 decision on how it's going to work because
 2 they could get in their mind that oh yes,
 3 we're going to send this out and give the
 4 results, but when you actually put it in black
 5 and white, it's pretty harsh or really not
 6 really what you want. So it was that kind of
 7 -
 8 CHAYTOR, Q.C.:
 9 Q. And when did that exercise start again that
 10 you and--you started working on another draft
 11 of the letter?
 12 MS. PREDHAM:
 13 A. Well, I guess it was in September, because we
 14 were expecting results back. So we were going
 15 to have to get that moving again.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. So you're sitting with Ms. Bonnell and
 18 the phone rings or somebody comes in to
 19 interrupt?
 20 MS. PREDHAM:
 21 A. Her secretary came in to interrupt and said "I
 22 think you'd like to take this call" or
 23 something on that line, and it was somebody
 24 from The Independent and -
 25 CHAYTOR, Q.C.:

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1 Q. Clare-Marie Gosse?
 2 MS. PREDHAM:
 3 A. Pardon?
 4 CHAYTOR, Q.C.:
 5 Q. Clare-Marie Gosse?
 6 MS. PREDHAM:
 7 A. I can't remember her name now.
 8 CHAYTOR, Q.C.:
 9 Q. Okay.
 10 MS. PREDHAM:
 11 A. And Susan took the call when I was there, and
 12 then when she hung up, she said--well, she
 13 told her that she'd have to check on it or
 14 something. I can't really remember, but when
 15 she called up and she said "well, that's about
 16 a breast screening piece of equipment that's
 17 giving us incorrect results in the lab or
 18 something" and you know, we looked at each
 19 other and we knew it was ER/PR. They got the
 20 context wrong, but we knew that that's what it
 21 was.
 22 CHAYTOR, Q.C.:
 23 Q. So was Ms. Bonnell using her speaker phone?
 24 Could you hear both sides of the conversation?
 25 MS. PREDHAM:

1 A. No, I only heard Susan's side.
 2 CHAYTOR, Q.C.:
 3 Q. Okay, and this was a fairly brief
 4 conversation, I take it?
 5 MS. PREDHAM:
 6 A. Susan was only getting the information and
 7 whatever--I guess whatever way they function
 8 over there, you'd have to get the information
 9 and then go check on it anyway. So it was, I
 10 guess, that was the context of it.
 11 CHAYTOR, Q.C.:
 12 Q. Okay, and so what did you hear Ms. Bonnell say
 13 on her side of the conversation?
 14 MS. PREDHAM:
 15 A. At that point, I recall that she had to check
 16 on it, and that she would get back, and when
 17 was her deadline or something on that, you
 18 know, whatever the types of things that they
 19 would ask.
 20 CHAYTOR, Q.C.:
 21 Q. Okay. So she was taking notes, I take it, as
 22 to what was being told to her and saying
 23 "well, I'll have to get back to you and
 24 check"?
 25 MS. PREDHAM:

1 CHAYTOR, Q.C.:
 2 Q. And what happened after that?
 3 MS. PREDHAM:
 4 A. My memory is that she called Mr. Tilley right
 5 away.
 6 CHAYTOR, Q.C.:
 7 Q. While you were there?
 8 MS. PREDHAM:
 9 A. While I was there, and I stayed there while
 10 she called back The Independent and told them
 11 that it wasn't that, but it was another issue.
 12 So I stayed there for quite a period of time.
 13 CHAYTOR, Q.C.:
 14 Q. So she phoned Mr. Tilley and -
 15 MS. PREDHAM:
 16 A. And probably Dr. Williams as well, but I can't
 17 remember that.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and relayed to them, I take it, the same
 20 information that she told to you, and what did
 21 you understand were her instructions back from
 22 Mr. Tilley?
 23 MS. PREDHAM:
 24 A. That we would clarify with them that it wasn't
 25 that machine, because the other dynamic to it

1 A. I can't remember that. I just have this memory
 2 of the fact that she called and said "I'll
 3 have to check on that" and -
 4 CHAYTOR, Q.C.:
 5 Q. And then she got off the phone and told you
 6 that the reporter's inquiry was about breast
 7 screening piece of equipment?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And how is it that--you say you both then knew
 12 it was ER/PR. Why did you assume it was
 13 ER/PR? Couldn't there also be a problem with
 14 a mammography?
 15 MS. PREDHAM:
 16 A. I guess it must have been the detail that she-
 17 -and I guess I can't remember exact words that
 18 she said, but it was something about--but it
 19 was breast screening, because I can remember
 20 thinking, you know, the mammography machine,
 21 and that there was previous results and now
 22 there were different results and whatever the
 23 context was at that time, it was fairly clear
 24 to myself and Ms. Bonnell that this is what
 25 they were talking about.

1 as well is that if we said "oh no, we don't
 2 have a problem with the mammography machine"
 3 and didn't say anything else, there was a
 4 possibility that they would go forward and say
 5 that we had an issue with a mammography
 6 machine and incorrect results, but it was -
 7 CHAYTOR, Q.C.:
 8 Q. Even after you had disavowed them of it, that
 9 -
 10 MS. PREDHAM:
 11 A. Well, I mean, they had information from
 12 somebody. So somebody is saying that they
 13 went to their doctor and their doctor told
 14 them something, so they could have gone
 15 forward with that information, but had the
 16 wrong information and then create another
 17 problem altogether. But also, I mean, if they
 18 came, they would know that we knew that there
 19 was--I mean, we had this big issue here. We
 20 would have known that they were asking for
 21 that. So it would have looked like we were
 22 lying about that and covering it up. So Susan
 23 called them back and gave them a brief
 24 overview of the issue. I mean, it was so
 25 complicated and that she would have to get

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1 somebody to speak to it, and I can remember
 2 Susan saying "I'm only communications, so I
 3 don't have the details here. We're going to
 4 have to get somebody to speak to you about
 5 this." There was a request that was put
 6 forward if they could wait two weeks time
 7 because we were in the process of notifying
 8 people, if they could wait for two weeks time,
 9 we would give them a--I can't remember the
 10 term, an exclusive, you know, give them all
 11 the information that they would need. But I'm
 12 not sure if I was there or shortly after the
 13 reporter had to check with her editor, but the
 14 editor said no, they were going to go with the
 15 story.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, and the request for additional time,
 18 because you were contacting the patients, did
 19 Ms. Bonnell make that request after she had
 20 already told the reporter about the ER/PR
 21 issue?
 22 MS. PREDHAM:
 23 A. That's my memory.
 24 CHAYTOR, Q.C.:
 25 Q. So she told her--basically gave her the story,

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1 but then asked can you not--can you wait -
 2 MS. PREDHAM:
 3 A. Wait for two weeks.
 4 CHAYTOR, Q.C.:
 5 Q. Yes, and this was a weekly newspaper, I take
 6 it?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And were you present for the phone call back
 11 from the reporter to say that -
 12 MS. PREDHAM:
 13 A. About the editor?
 14 CHAYTOR, Q.C.:
 15 Q. Yes.
 16 MS. PREDHAM:
 17 A. I can't remember. I just remember that
 18 information. I don't know if I'd left.
 19 Obviously I had to get--you know, by the time
 20 this went on, this was getting like lunch
 21 time, because we started--so I guess I wanted
 22 to get back to get this information back to
 23 Susan. So she may have--when I called her and
 24 said, you know, you got this or whatever, she
 25 may have told me that she had heard back by

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1 this time.
 2 CHAYTOR, Q.C.:
 3 Q. Okay. So you wanted to--when you say this,
 4 you're pointing at the briefing note?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. So you wanted to get this to Susan. So that
 9 became a priority, to get this briefing note
 10 done?
 11 MS. PREDHAM:
 12 A. Well, she--Susan would have to, you know, come
 13 up with a communications plan now because the
 14 media, this was going to be in The Independent
 15 on Sunday. So you know, she was going to have
 16 to do whatever she does, prepare a briefing
 17 for the Department of Health, notify them. It
 18 was all that information was going on. So
 19 this was--and again, I may be assuming, but
 20 you know, it's like I got a vague memory that
 21 she--"what's the latest thing that you've got,
 22 you know, do you have anything late that I can
 23 use to build on?"
 24 CHAYTOR, Q.C.:
 25 Q. And this is Friday, the middle of the day or

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1 thereabouts. It's going--the story is going
 2 to come out in Sunday. What happens in
 3 between? Is there any time devoted Friday, is
 4 there any time devoted on Saturday to trying
 5 to contact patients to give them a heads up
 6 that this is going to be in the newspaper?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. And why not?
 11 MS. PREDHAM:
 12 A. I'm not sure. Well, I'm not sure. I don't
 13 think it was discussed. It certainly wasn't
 14 discussed with me, and I didn't think about
 15 it.
 16 CHAYTOR, Q.C.:
 17 Q. And in terms of being mobilized and able to do
 18 that on a fairly quick basis, you had lists of
 19 names. You had their contact information, and
 20 were there--you had earlier worked on scripts
 21 that you could use to speak to your patients.
 22 There was no thought given to "we're ready to
 23 go on this. Let's just man the phones for the
 24 next ever how many hours it takes and get to
 25 as many people as we can"?

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1 MS. PREDHAM:
 2 A. No. Again, we only would have had the
 3 patients for St. John's at that time. I
 4 didn't have any additional lists at that time
 5 from the lab, from anywhere from outside.
 6 CHAYTOR, Q.C.:
 7 Q. And the patients from St. John's would be
 8 about 50 percent of the patients?
 9 MS. PREDHAM:
 10 A. May have been.
 11 CHAYTOR, Q.C.:
 12 Q. But there wasn't any consideration given to
 13 undertaking that task in any event?
 14 MS. PREDHAM:
 15 A. No.
 16 CHAYTOR, Q.C.:
 17 Q. Why was the request for the two weeks from the
 18 reporter then? What did you hope could be
 19 accomplished in those two weeks?
 20 MS. PREDHAM:
 21 A. I guess that we could notify them, you know,
 22 within that period of time. We had results on
 23 some. We hadn't--I guess at--you know, we
 24 would have been able to, especially the ones
 25 that converted, we would have been able to

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1 figure out how we were going to get that
 2 information to them. We would have had that
 3 bit of time. You know, looking on this now,
 4 we could have done that phone call on that
 5 Saturday or that Friday and we could have done
 6 that, but it never came up.
 7 THE COMMISSIONER:
 8 Q. Do you know how many results you would have
 9 had at the end of September?
 10 MS. PREDHAM:
 11 A. I really can't remember. I'd have to probably
 12 go back or ask Dr. Cook.
 13 THE COMMISSIONER:
 14 Q. Okay. But you did have results?
 15 MS. PREDHAM:
 16 A. We did have results.
 17 THE COMMISSIONER:
 18 Q. That had not yet been communicated to the
 19 patients involved?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. And 2957 then is your e-mail forwarding the
 24 September 14th briefing note to Ms. Bonnell,
 25 and it appears this was brought--was at the

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1 time being drafted for presentation to the
 2 Board of Directors, based on the other e-mails
 3 that we looked at. And it says "a
 4 representative from Ventana has visited the
 5 immunohistochemistry service to review use and
 6 practices of the Ventana, and in their written
 7 report, they stated they found the system to
 8 be operating as expected and the procedures
 9 used by our technicians were appropriate and
 10 as trained." Why, Ms. Predham, is there no
 11 reference to the fact that they found
 12 maintenance was not being carried out on the
 13 Ventana?
 14 MS. PREDHAM:
 15 A. I don't know.
 16 CHAYTOR, Q.C.:
 17 Q. And would you consider that, from a risk
 18 management and quality point of view, to be a
 19 vital piece of information?
 20 MS. PREDHAM:
 21 A. Well, the machines weren't in disrepair. It
 22 wasn't--there wasn't an impact on the fact
 23 that the maintenance, preventative maintenance
 24 wasn't conducted. It was the fact that it
 25 wasn't done and it wasn't documented. So if

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1 it went on for a greater period of time, it
 2 would have had an impact. But at that point
 3 in time, no.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and so it wasn't deemed to be
 6 significant enough to put in the briefing note
 7 intended for the Board?
 8 MS. PREDHAM:
 9 A. I guess not. I didn't include it.
 10 CHAYTOR, Q.C.:
 11 Q. You write "the bold and underlined sections
 12 need to be confirmed." So "the 57 retested on
 13 the Ventana system, 38 now showed positive
 14 results." By this point in time, you would
 15 know those numbers though, the 57 and the 38?
 16 MS. PREDHAM:
 17 A. I always like double checking on numbers.
 18 CHAYTOR, Q.C.:
 19 Q. Your numbers, okay. And "An external peer
 20 review was conducted September 15th through
 21 16th, 2005." And you would know the dates of
 22 when Ms. Wegrynowski and Dr. Banerjee were in?
 23 MS. PREDHAM:
 24 A. Again, I always like things to be confirmed
 25 like that.

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1 CHAYTOR, Q.C.:

2 Q. And then under--and again, they would have

3 been--this is dated September 14th, 2005?

4 MS. PREDHAM:

5 A. I may have changed that for Susan and said,

6 you know, an external peer review is to be

7 conducted or something in that term, at the--

8 or will be within the next few days because I

9 had done it September 14th. So I may have

10 changed that for Susan to just say that it was

11 conducted and these are the dates.

12 CHAYTOR, Q.C.:

13 Q. Okay. And so then if you're making that

14 change in September 30th, you would know, you

15 would know the dates?

16 MS. PREDHAM:

17 A. Yes. But I guess in the, you know, rush to

18 get that over, I just assumed she'd check it

19 before she -

20 CHAYTOR, Q.C.:

21 Q. Okay. And under "Current Activities," "ER/PR

22 obtained from Ventana from April 2004 to

23 August 9th, 2005 are going to be correlated at

24 Mount Sinai and Montreal General. All

25 negative samples from 1999 to 2003, with the

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1 exception of samples from other regional

2 hospital boards have been collected and sent

3 to Mount Sinai Hospital, Montreal, for

4 retesting." Now, Mr. Predham, you would know

5 that it's not 2003 -

6 MS. PREDHAM:

7 A. 2003.

8 CHAYTOR, Q.C.:

9 Q. - and Mount Sinai is in Toronto?

10 MS. PREDHAM:

11 A. Yes.

12 CHAYTOR, Q.C.:

13 Q. Okay. Can you explain why those errors would

14 be there?

15 MS. PREDHAM:

16 A. I just made a mistake and never picked it up.

17 CHAYTOR, Q.C.:

18 Q. "Mount Sinai uses a semi-automated system of

19 testing for ER/PR." And "323 samples reported

20 as weakly positive to negative have been sent

21 to Mount Sinai for retesting." And "75 of the

22 samples have now been retested and reported by

23 Mount Sinai using its DAKO system. Of the 75

24 samples retested thus far, Mount Sinai has

25 confirmed the results reported by the

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1 subscriber in 41 cases." Who is the

2 subscriber?

3 MS. PREDHAM:

4 A. I must have been giving HIROC an update and

5 cut and pasted out of that. This must be

6 another part that I had added in for Susan.

7 CHAYTOR, Q.C.:

8 Q. So HIROC would refer to Eastern Health as the

9 subscriber?

10 MS. PREDHAM:

11 A. Yes, they would have.

12 CHAYTOR, Q.C.:

13 Q. Okay. So for you to use that term, you must

14 have been doing this for HIROC?

15 MS. PREDHAM:

16 A. No, no, I wasn't doing it for HIROC. What

17 could have happened here, I might have gotten

18 copied--if I was rushing to do this for Susan,

19 because if she had to let the Department of

20 Health know quickly, I may have been looking

21 for, okay, where's somewhere quick that we got

22 the numbers here because I always hated--

23 unless I could count them in front of me, I

24 always hated quoting numbers in case I got

25 them wrong. And I may have cut and paste that

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1 out of some summary that I may have seen.

2 CHAYTOR, Q.C.:

3 Q. Okay. So a similar summary that you were

4 putting together for HIROC?

5 MS. PREDHAM:

6 A. Yeah.

7 CHAYTOR, Q.C.:

8 Q. And they would refer to Eastern Health as the

9 subscriber?

10 MS. PREDHAM:

11 A. Yeah.

12 CHAYTOR, Q.C.:

13 Q. And "Twelve of the 75 have been reported

14 previously as negative for ER, but positive

15 for PR or vice versa and found by Mount Sinai

16 to be positive for both. Twenty of the 75

17 samples had previously been reported as both

18 ER and PR negative and now are determined by

19 Mount Sinai as positive. The remaining 248

20 samples retested by Mount Sinai will be

21 reported shortly. Samples for 1997 to 1998 and

22 for two regional boards from outside Eastern

23 Health's area will soon be sent for

24 retesting."

25 MS. PREDHAM:

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1 A. Yeah.
 2 CHAYTOR, Q.C.:
 3 Q. And "All the lab directors have been contacted
 4 and reporting by the laboratory medicine
 5 program is on hold." And you do, though, you
 6 are the person drafting this, you're confident
 7 that this is your work?
 8 MS. PREDHAM:
 9 A. I may have cut and paste it from something
 10 else, again, in light of getting this over to
 11 Susan quickly.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And something else, though, that you
 14 drafted for another purpose?
 15 MS. PREDHAM:
 16 A. Yes, could have been.
 17 CHAYTOR, Q.C.:
 18 Q. Do you have any reason to believe that it may
 19 have been cut and pasted from a document
 20 drafted by someone else?
 21 MS. PREDHAM:
 22 A. No, I have no reason to believe that.
 23 CHAYTOR, Q.C.:
 24 Q. Okay. And if we could look then, please, at
 25 2956? And there's changes to the draft. And

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1 you'll see the 14th is crossed off and 30 is
 2 written in. Is this your handwriting?
 3 MS. PREDHAM:
 4 A. Yes, it is.
 5 CHAYTOR, Q.C.:
 6 Q. Okay. And, Ms. Predham, do you recall when
 7 and why you're making changes to a hard copy?
 8 MS. PREDHAM:
 9 A. I may have gone down in my office, updated
 10 that quickly, sent it to Susan and gone back
 11 to Susan's office again, which would make
 12 sense. But I don't have any recollection of
 13 that.
 14 CHAYTOR, Q.C.:
 15 Q. Now, Susan's office would be at?
 16 MS. PREDHAM:
 17 A. The Waterford.
 18 CHAYTOR, Q.C.:
 19 Q. Waterford. And you're at?
 20 MS. PREDHAM:
 21 A. Southcott Hall.
 22 CHAYTOR, Q.C.:
 23 Q. Southcott Hall, okay.
 24 THE COMMISSIONER:
 25 Q. And you can't access this?

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1 MS. PREDHAM:
 2 A. No.
 3 THE COMMISSIONER:
 4 Q. From the Waterford, you're -
 5 MS. PREDHAM:
 6 A. I can't access anything on my hard drive, any
 7 files like that, no.
 8 CHAYTOR, Q.C.:
 9 Q. So I just want to be clear then. You may have
 10 forwarded on on September 30th, around quarter
 11 to two, the copy to Susan?
 12 MS. PREDHAM:
 13 A. Well, I did, yes.
 14 CHAYTOR, Q.C.:
 15 Q. Yes, you did that. And then you go back to
 16 your office?
 17 MS. PREDHAM:
 18 A. Go back to her office then.
 19 CHAYTOR, Q.C.:
 20 Q. And take the draft with you?
 21 MS. PREDHAM:
 22 A. Oh, well, no, I sent it to Susan.
 23 CHAYTOR, Q.C.:
 24 Q. Yes.
 25 MS. PREDHAM:

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1 A. So I assume that when I got to Susan's office,
 2 she printed it out and we were working on it.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. And do you recall that, do you recall
 5 sitting down with Ms. Bonnell and working on
 6 this?
 7 MS. PREDHAM:
 8 A. If I didn't do that, there's some vague memory
 9 of sitting down later that--there was some
 10 activity that afternoon, but I can't really
 11 remember.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. And you take out the word "strong", "a
 14 strong positivity." And why did you do that,
 15 delete the word "strong" at this point?
 16 MS. PREDHAM:
 17 A. I don't know.
 18 CHAYTOR, Q.C.:
 19 Q. And you take out the numbers, the "57" and the
 20 "38" and say "these samples, a majority showed
 21 positive results." Why did you make that
 22 change?
 23 MS. PREDHAM:
 24 A. It could be something as simple that, you
 25 know, I couldn't get a hold of Dr. Cook to,

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1 just to triple check that these are the
 2 numbers. If these are going up somewhere, I'd
 3 want to be sure that--as sure as I could be.
 4 It may be that or it might be somebody saying,
 5 you know, maybe we shouldn't just say numbers,
 6 maybe we should just say what the results
 7 showed. And again, I'm only supposing.
 8 CHAYTOR, Q.C.:
 9 Q. And you would have, though, these are the
 10 internal tests that were done, the 57 on the
 11 Ventana?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And the numbers 38 and 57 had been, those had
 16 shown up many times -
 17 MS. PREDHAM:
 18 A. Oh, there's no -
 19 CHAYTOR, Q.C.:
 20 Q. - up to this point?
 21 MS. PREDHAM:
 22 A. - discrepancy with it. It was just, as you
 23 can see from when I did the terms of
 24 reference, I had, in my notes I had 41 at one
 25 point, so I just wanted to make sure. And I

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1 guess, you know, I just wanted to -
 2 CHAYTOR, Q.C.:
 3 Q. And you had just recently learned or had that
 4 double checked by Dr. Cook?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. And knew that the correct number was 38?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. Okay. But for some reason you don't want to
 13 put in the numbers, you're just going to say
 14 majority which could be, I guess, the majority
 15 could be 51 percent of them?
 16 MS. PREDHAM:
 17 A. Oh, could have been.
 18 CHAYTOR, Q.C.:
 19 Q. And then the changes down here says, "An
 20 external peer review by chief pathologist, BC
 21 Cancer Institute."
 22 MS. PREDHAM:
 23 A. And those dates were the 15th and 16th.
 24 CHAYTOR, Q.C.:
 25 Q. Right. "And the chief technologist from Mount

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1 Sinai on the 20th to 22nd."
 2 MS. PREDHAM:
 3 A. And then it also then says, "During September
 4 15th to 22nd." I guess that's -
 5 CHAYTOR, Q.C.:
 6 Q. Okay, so that's what's going to change here
 7 then. "To review current practices." And
 8 then "Debriefing was held after each review
 9 and a full report from each is expected within
 10 the next few weeks." And then 2003 is cut and
 11 changed?
 12 MS. PREDHAM:
 13 A. Yeah.
 14 CHAYTOR, Q.C.:
 15 Q. And then all of this is crossed off. And it
 16 says, "153 samples have been reported by Mount
 17 Sinai. 73 have been reviewed and it appears
 18 that of those there are only 16 to 20
 19 individuals where treatment would be" "where
 20 their treatment would be changed," I guess?
 21 MS. PREDHAM:
 22 A. I guess so.
 23 CHAYTOR, Q.C.:
 24 Q. Impacted or--there's some word off the page
 25 there.

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And this is you making this change. So you're
 5 comfortable going with those numbers?
 6 MS. PREDHAM:
 7 A. It may have been that whatever I cut and
 8 pasted from, what we would have done from here
 9 with the treatment would have been impacted.
 10 It must have been after I had met with Dr.
 11 Laing. So whatever I had up here must have
 12 been done before I met with Dr. Laing and
 13 therefore it was more concise information.
 14 CHAYTOR, Q.C.:
 15 Q. And you'll see that the original that you were
 16 working from referred to the number of results
 17 that had been confirmed? So, for example, it
 18 says "75 samples retested thus far. Mount
 19 Sinai has confirmed the results of 41." So
 20 presumably the others, the other 34 had not
 21 been confirmed. And in what you're proposing
 22 here, you'll be saying the total number of
 23 samples reported thus far, 73 have been
 24 reviewed and only 16 to 20 individuals will
 25 have their treatment changed?

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1 MS. PREDHAM:
 2 A. Well, because we identified in those that
 3 there were deceased, so that would have made a
 4 difference because if the deceased had
 5 converted, we weren't making any opinion on
 6 that, as well.
 7 CHAYTOR, Q.C.:
 8 Q. Why not still include the number that had
 9 changed results?
 10 MS. PREDHAM:
 11 A. If I could remember where I was or what we
 12 were doing at that time, I would be able to
 13 give you more information. But I can only go
 14 by what's here.
 15 CHAYTOR, Q.C.:
 16 Q. So are you saying that this might not
 17 necessarily be your decision to make these
 18 changes, that someone else may have been
 19 having that discussion?
 20 MS. PREDHAM:
 21 A. Well, for me to print this out and to be
 22 writing on it and making the changes here, I
 23 wouldn't have been in my office and I most
 24 likely wouldn't have been by myself.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. And then the whole next part is taken
 2 out. And then the last part that's changed is
 3 about the--it's added on here.
 4 MS. PREDHAM:
 5 A. For instance, I would not have known this, so
 6 somebody from the lab obviously must have been
 7 there to tell me this information.
 8 CHAYTOR, Q.C.:
 9 Q. Okay.
 10 THE COMMISSIONER:
 11 Q. Would not have known which?
 12 MS. PREDHAM:
 13 A. Where I wrote in "78 samples from '97 to 2004
 14 from Gander, Carbonear had been sent.
 15 Specimens from Grand Falls have just been
 16 received." So somebody from the lab must have
 17 been present telling me that. Now, I may not
 18 have been--I might have only been, you know,
 19 keeping this for my notes as we all went
 20 through the same thing and finalized it. So
 21 this--you know, I wasn't going to take this
 22 then and type it up or anything. I was just
 23 making notes as we all went through it.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, and so in terms of who they all might

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1 be, you're thinking it's someone from the lab.
 2 And who likely would that be, who would have
 3 this information from the lab?
 4 MS. PREDHAM:
 5 A. Could have been Dr. Cook, most likely Mr.
 6 Gulliver, though, because he was the one who
 7 was coordinating the things coming in.
 8 CHAYTOR, Q.C.:
 9 Q. And these numbers that you're referencing here
 10 on the number of patients with a likely change
 11 in treatment, that would have come, if Dr.
 12 Laing is not present, it would have come from
 13 your discussions or meetings with her?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And if we could have, please, P-2956?
 18 REGISTRAR:
 19 Q. This is 2956.
 20 CHAYTOR, Q.C.:
 21 Q. I'm sorry. 0141. Thank you. And this is
 22 later in the afternoon, a little bit after
 23 five p.m. And it's going from the executive
 24 assistant for Dr. Williams to Mr. Tilley, to
 25 yourself and to Moira Hennessey of the

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1 government and to Susan Bonnell. And you'll
 2 see the changes, a lot of which I've just
 3 taken you through. For example, you have the
 4 dates are in here now, September 15th to 22nd,
 5 2005. The reference to how many of the
 6 original 57 and the 38, that's been deleted.
 7 And the current activities, the numbers that
 8 are given you'll see that the 2003 and the '04
 9 is changed. And "To date 153 samples have
 10 been reported by Mount Sinai. 73 have been
 11 reviewed and appears that of those there are
 12 16 to 20 individuals whose treatment could be
 13 impacted." So there's no reference to the
 14 number -
 15 MS. PREDHAM:
 16 A. no.
 17 CHAYTOR, Q.C.:
 18 Q. - that was available as to the total changes
 19 in results?
 20 MS. PREDHAM:
 21 A. Right.
 22 CHAYTOR, Q.C.:
 23 Q. In what went forward to both Mr. Tilley and to
 24 the department?
 25 MS. PREDHAM:

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1 A. Right.
 2 THE COMMISSIONER:
 3 Q. Could you tell me again what is represented by
 4 the 16 to 20 individuals whose treatment could
 5 be impacted? You indicated you had had a
 6 meeting with Dr. Laing and perhaps Dr.
 7 McCarthy was present?
 8 MS. PREDHAM:
 9 A. Yes.
 10 THE COMMISSIONER:
 11 Q. For the purpose of reviewing the results that
 12 you had at that point, which I presume that
 13 would indicate that that's the 73?
 14 MS. PREDHAM:
 15 A. Seventy-three.
 16 THE COMMISSIONER:
 17 Q. And I understood from what you said earlier
 18 that that involved a weeding out kind of
 19 process where certain things would be set
 20 aside and certain things would go down other
 21 roads. Now, one of the things you said was
 22 that you would have identified some of them as
 23 being deceased?
 24 MS. PREDHAM:
 25 A. Yes.

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1 THE COMMISSIONER:
 2 Q. And therefore not to be dealt with at that
 3 time?
 4 MS. PREDHAM:
 5 A. Right.
 6 THE COMMISSIONER:
 7 Q. And do I assume that some of them would not
 8 have had changed results?
 9 MS. PREDHAM:
 10 A. Yes.
 11 THE COMMISSIONER:
 12 Q. As determined by Dr. Laing and Dr. McCarthy?
 13 MS. PREDHAM:
 14 A. Exactly.
 15 THE COMMISSIONER:
 16 Q. And it was they who said that's a change or
 17 that's not a change?
 18 MS. PREDHAM:
 19 A. Right.
 20 THE COMMISSIONER:
 21 Q. And what does the 16 to 20 represent?
 22 MS. PREDHAM:
 23 A. That that would have been a change.
 24 THE COMMISSIONER:
 25 Q. Okay. And what were you going to do with the

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1 16 to 20?
 2 MS. PREDHAM:
 3 A. At that point in time I guess they were the
 4 ones who were going to have--we were going to
 5 have to notify their physicians or whatever
 6 process that we had come up with. And at that
 7 point in time I guess Dr. Laing must have
 8 started thinking about the panelling process
 9 and how to work through that.
 10 THE COMMISSIONER:
 11 Q. So at that point in time the decision to have
 12 a panel had not been made?
 13 MS. PREDHAM:
 14 A. No.
 15 THE COMMISSIONER:
 16 Q. But you said earlier, if I understood you
 17 correctly, that in this process Dr. Laing and
 18 Dr. McCarthy had said, identified certain
 19 people like that's somebody I'm going to see
 20 shortly, I'll take that?
 21 MS. PREDHAM:
 22 A. Yes.
 23 THE COMMISSIONER:
 24 Q. So presumably the had, in effect, started the
 25 process by saying, I undertake to notify

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1 however many there were of those people?
 2 MS. PREDHAM:
 3 A. Majority of those were people who stayed the
 4 same. You know, they were all people who were
 5 confirmed negative and they were going to tell
 6 them anyway. So, you know, it was nothing
 7 that our department had to call, that part.
 8 They would call them, they would do that.
 9 THE COMMISSIONER:
 10 Q. Okay. So then you have a 16 to 20 people and
 11 you had not yet decided what you were going to
 12 do with them, is that it?
 13 MS. PREDHAM:
 14 A. For those, I guess any obvious one that Dr.
 15 Laing or Dr. McCarthy had, they were going to
 16 handle that immediately. But how best to
 17 communicate that information, no, we hadn't
 18 decided that. The plan was at that time it
 19 would go to their main oncologist or their
 20 surgeon, but we hadn't put that in action yet.
 21 THE COMMISSIONER:
 22 Q. You actually hadn't sent it or had you not
 23 even talked to the oncologists or surgeons
 24 about the fact that they were going to get
 25 this information?

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1 MS. PREDHAM:
 2 A. We just had this--we just had that meeting.
 3 THE COMMISSIONER:
 4 Q. Um-hm.
 5 MS. PREDHAM:
 6 A. And then it was, okay, how do we get it to the
 7 oncologists, I guess that was to the part of
 8 would the lab have to enter it in Meditech and
 9 write a--and send an addendum and send it that
 10 way, would we write a letter to the oncologist
 11 and say these are the results we got back to
 12 Meditech. We only had a spreadsheet of
 13 information. And there was also the question
 14 at one point that Dr. Cook wanted to review
 15 the results before, and verify the results
 16 before he sent them out.
 17 THE COMMISSIONER:
 18 Q. Um-hm.
 19 MS. PREDHAM:
 20 A. So we didn't get anything other than this
 21 spreadsheet from Mount Sinai, so that had to
 22 be considered, are we going to release these
 23 results now or are we--they had to be verified
 24 first.
 25 THE COMMISSIONER:

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1 Q. So when you got the material, which I
 2 understand you got, in fact, from Dr. Cook?
 3 MS. PREDHAM:
 4 A. Yes.
 5 THE COMMISSIONER:
 6 Q. You did not know whether that was reviewed or
 7 did you, no he had not reviewed it or did you
 8 know whether or not he'd gone through the
 9 process with this?
 10 MS. PREDHAM:
 11 A. No. All he had was the spreadsheet from Mount
 12 Sinai. He had nothing else to review with.
 13 THE COMMISSIONER:
 14 Q. Okay. Which is what I'm--okay. And this is
 15 September the 30th, okay. So we know 73
 16 people had been looked at, you have data for
 17 153, 73 have been looked at. Some of the 73,
 18 Dr. Laing or Dr. McCarthy have undertake to
 19 communicate with either that you did not
 20 change results or that your results changed
 21 because they happen to be their patients, I
 22 would assume?
 23 MS. PREDHAM:
 24 A. Yes.
 25 THE COMMISSIONER:

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1 Q. The general plan, conceptual plan, was that at
 2 that point, was that the balance would be
 3 communicated with by their oncologists or
 4 other physicians who were treating them,
 5 presumably?
 6 MS. PREDHAM:
 7 A. Well the ones that, the ones that didn't
 8 change, we would communicate by letter and
 9 that's what Susan and I were meeting about
 10 that morning of the 30th, was writing the
 11 letter about you've been retested and you
 12 hadn't changed.
 13 THE COMMISSIONER:
 14 Q. All right, and the ones that had changed?
 15 MS. PREDHAM:
 16 A. Then we'd have to get that information to
 17 their oncologist or their surgeon.
 18 THE COMMISSIONER:
 19 Q. And had there been prior communications with
 20 the oncologist or surgeon to say, by the way,
 21 you're going to get this information about
 22 your patients, we're expecting you to do this
 23 or had anybody talked to them about this is
 24 surprise?
 25 MS. PREDHAM:

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1 A. We did talk about that, I think we did--I
 2 brought that up, I think it might have been in
 3 August or earlier in September and I really
 4 can't remember what happened there. That was--
 5 the physicians were working on that and I
 6 don't know what happened. I can't remember
 7 right now. I'm sure I knew at the time.
 8 CHAYTOR, Q.C.:
 9 Q. So on September 30th when this sort of broke
 10 in the media, you were still in the process of
 11 trying to decide--well in fact, you didn't
 12 know whether or not you could release because
 13 you understood Dr. Cook wanted to review these
 14 before there was a release, so even though Dr.
 15 Laing and Dr. McCarthy were saying we'll tell
 16 these people, don't worry about that number,
 17 you had understood that Dr. Cook had not done
 18 his review at that stage?
 19 MS. PREDHAM:
 20 A. And I may have the timeline there mixed up a
 21 little bit in my mind, but I know that that
 22 was part--and I know that it didn't get done
 23 because they only send us spreadsheets and the
 24 blocks and slides came back much later, so we
 25 couldn't do that verification. So I might

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1 have had it mixed up in mine, in the timeline.
 2 THE COMMISSIONER:
 3 Q. All right and in respect of those who are not
 4 being covered off by Dr. Laing or Dr.
 5 McCarthy, you had a plan in respect of the
 6 ones that were negative and you and Ms.
 7 Bonnell were drafting the letter to go to
 8 them.
 9 MS. PREDHAM:
 10 A. Yes.
 11 THE COMMISSIONER:
 12 Q. Of a grand plan in respect of the others was
 13 that they would be communicated with by their
 14 oncologist or surgeon, but that--I'm getting
 15 the impression that that really wasn't firmly
 16 in place, is that fair?
 17 MS. PREDHAM:
 18 A. Well it was just the logistics of getting
 19 that. Do we just send them the addendum, will
 20 that be enough, you know, and I guess it was
 21 just additional--what additional things we had
 22 to do besides the Meditech report. Usually
 23 whenever there was a change in results, that's
 24 all a physician would get, would get the
 25 addendum, but of course, this was such a

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1 different issue, we felt that maybe there
 2 needed to be additional information or--and I
 3 guess that discussion that we had with Dr.
 4 Laing and Dr. McCarthy at that meeting, if Dr.
 5 McCarthy was there, prompted Dr. Laing to
 6 start thinking about the panel.
 7 THE COMMISSIONER:
 8 Q. Okay, but the panel doesn't come up until
 9 after this?
 10 MS. PREDHAM:
 11 A. No.
 12 THE COMMISSIONER:
 13 Q. Okay. Sorry, Ms. Chaytor, I'm interrupting
 14 again.
 15 CHAYTOR, Q.C.:
 16 Q. No, problem, but if I could just clarify, if
 17 we could go back to P-2957? Because I'm not
 18 clear, I'm not sure I'm clear now on what the
 19 16 to 20 meant. Are you saying the 16 to 20
 20 are people whose treatment might be changed?
 21 MS. PREDHAM:
 22 A. Whose results significantly changed and may
 23 affect their treatment.
 24 CHAYTOR, Q.C.:
 25 Q. Significantly changed.

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1 MS. PREDHAM:
 2 A. Well, it went from negative to positive. When
 3 we went through the confirmed negatives, one
 4 of the problems with, you know, someone like
 5 me reviewing it is that if you had a zero zero
 6 and a less than two and a less than two, I
 7 wasn't a hundred percent comfortable that
 8 that's what that meant, you know, that that
 9 was still a confirmed negative. You'd need a
 10 clinician to make that determination.
 11 CHAYTOR, Q.C.:
 12 Q. Yes, and on this draft that we looked at,
 13 September 14th, 2005 draft where you think you
 14 were doing this perhaps for HIROC, the
 15 information that was included at that time was
 16 at that point there was "75 samples were
 17 tested thus far. Mount Sinai has confirmed
 18 the results reported by the subscriber in 41
 19 cases. 12 of them had originally been ER
 20 negative and PR positive or vice versa and now
 21 found to be positive for both, and 20 of them,
 22 of the 75, had been reported as both ER and PR
 23 negative and now were determined to be
 24 positive."
 25 MS. PREDHAM:

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1 A. And see, this is the whole question of, of
 2 having someone like me look at this and what
 3 this means, but then having oncologists look
 4 at it, because they look at a combination of
 5 ER/PR where we were only looking at ER, you
 6 know, to select them away, so the differences
 7 between the ER/PR, if the ER changed and the
 8 PR didn't change, you know, and vice versa,
 9 that was the part that needed the review--well
 10 obviously needed review by the clinician.
 11 CHAYTOR, Q.C.:
 12 Q. So there's 32 that have had some change in
 13 their result, 20 of them have ER and PR have
 14 changed.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And 12 of them, either one or the other,
 19 either their ER or the PR, so as of this
 20 particular point in time when you wrote this
 21 information, out of 75 there's 32 that you've
 22 identified as a change in results.
 23 MS. PREDHAM:
 24 A. But that could have been, ER was zero before
 25 and zero after, PR was zero before and now

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1 two, so that it didn't impact on their
 2 treatment but there was a change in results.
 3 CHAYTOR, Q.C.:
 4 Q. Right, but a change in result.
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. If we could have, please, P-2834? And that
 9 information is not--that information is not or
 10 any updated version of that information isn't
 11 included in the final draft that goes to Mr.
 12 Tilley and to the government?
 13 MS. PREDHAM:
 14 A. No, because I guess the--that highlights and I
 15 guess that really highlights what we talked a
 16 little bit about yesterday, when you have that
 17 difference from a lab perspective in the value
 18 change of what was seen and a difference from
 19 a perspective from a treatment perspective,
 20 when you look at these numbers from how is
 21 that going to impact treatment, you get a
 22 different set of numbers and you get a
 23 different perception than when you look it
 24 from these numbers changed from a technical
 25 point of view.

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1 CHAYTOR, Q.C.:
 2 Q. Well why would that information be any less
 3 important to send on to the CEO or the
 4 Department of Health, than it would be for
 5 HIROC?
 6 MS. PREDHAM:
 7 A. Well because I guess I did that earlier before
 8 I met with Dr. Laing and didn't realize, you
 9 know, that that was the significance, but if
 10 you're going to tell the Department of Health
 11 that these numbers changed, but the person
 12 stayed negative and are being told that they
 13 stayed negative and there's no treatment
 14 decision, you wouldn't want to mislead them
 15 that it's worse than it actually is, like you
 16 wouldn't want to include them in a change if
 17 they weren't really changed from a treatment
 18 perspective.
 19 CHAYTOR, Q.C.:
 20 Q. If we then could look at this e-mail, October
 21 3rd, bright and early in the morning and
 22 you're saying "Happy Monday!!" And I take it,
 23 is that a sarcastic comment or are you
 24 actually happy that -
 25 MS. PREDHAM:

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1 A. I don't think I was too happy at any time
 2 during this period of time.
 3 CHAYTOR, Q.C.:
 4 Q. I'm just wondering, though, because some
 5 people have told us that there was a sense of
 6 relief when the story broke in The
 7 Independent, so -
 8 MS. PREDHAM:
 9 A. Oh, I mean, yes.
 10 CHAYTOR, Q.C.:
 11 Q. So how did you feel, were you pleased that the
 12 story--you then go on to say that The
 13 Independent ran the story, so how were you
 14 feeling about it?
 15 MS. PREDHAM:
 16 A. Well, I couldn't say I was happy because, you
 17 know, we wanted to tell the patients before it
 18 broke in the media, so I don't think there was
 19 any part of me, from that perspective, that
 20 was happy. The fact that, okay, we don't have
 21 it hanging over our head whether we should,
 22 whether we shouldn't, when are we going to,
 23 you know, when are we going to do this, and
 24 that decision was taken out of our hands. I
 25 mean, I guess there's that, but I wouldn't

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1 even rate that up to the fact that the
 2 patients are finding this out in the paper
 3 rather than us telling them.
 4 CHAYTOR, Q.C.:
 5 Q. Yes. And you and Nancy Parsons are in a
 6 meeting, and would that be a meeting regarding
 7 this? You indicate you're going to give an
 8 update when you return.
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. Okay, and what was that meeting about?
 13 MS. PREDHAM:
 14 A. I'm not really--I'm saying it's in that
 15 because that's--that's definitely what we
 16 would have been meeting, but I guess it was
 17 just the logistics on what we were going to do
 18 and how the information was getting out there.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, and if we could look at, please, P-0925,
 21 page 24? These are Dr. Williams' notes. Do
 22 you know if you had--and there's a group of
 23 people in attendance.
 24 MS. PREDHAM:
 25 A. Okay, I remember that meeting now.

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1 CHAYTOR, Q.C.:

2 Q. Do you remember this meeting? And do you have

3 your notes, do you have any notes do you

4 recall of this meeting?

5 MS. PREDHAM:

6 A. I don't recall. I remember the meeting

7 because Dr. Hunt was there and I think that

8 was the first time I met him.

9 CHAYTOR, Q.C.:

10 Q. Okay, and so this is a group of people getting

11 together, a fairly large group of individuals,

12 including Dr. Hunt from the department, I take

13 it.

14 MS. PREDHAM:

15 A. Yes.

16 CHAYTOR, Q.C.:

17 Q. What was the purpose for this meeting on

18 October 3rd?

19 MS. PREDHAM:

20 A. I guess it was, you know, we had met--we have

21 the results, okay, we have to get this out, we

22 have to get it out quickly and what are we

23 doing.

24 CHAYTOR, Q.C.:

25 Q. So was it in response to the fact that the

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1 story had now become, this whole issue had

2 become the discussion of, well it's public.

3 MS. PREDHAM:

4 A. Well we would have had that meeting on this

5 week anyway, but I guess Monday morning now

6 because it was out in the media on Sunday.

7 CHAYTOR, Q.C.:

8 Q. Yes, and was there any getting together of the

9 group on September 30th when you knew it was

10 going to become a public issue and discussion

11 as to how you were going to handle it?

12 MS. PREDHAM:

13 A. No, I don't remember.

14 CHAYTOR, Q.C.:

15 Q. Okay, and do you know--you say this is the

16 first time you met Dr. Hunt. What was the

17 purpose of Dr. Hunt being at this meeting?

18 MS. PREDHAM:

19 A. I assume as a representative from the

20 Department of Health.

21 CHAYTOR, Q.C.:

22 Q. And did he contribute to the discussion?

23 MS. PREDHAM:

24 A. Not that I can remember right now.

25 CHAYTOR, Q.C.:

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1 Q. It says here "Regional lab directors to get

2 the reports". Do you know what's being

3 referred to there?

4 MS. PREDHAM:

5 A. Well when the Mount Sinai--all the Mount Sinai

6 results were going to come into St. Clare's

7 and I guess it's just to clarify that once

8 they all come in, the results from the

9 regional labs would go back there and then

10 they would handle, you know, put in Meditech

11 or whatever they--whatever they would do.

12 CHAYTOR, Q.C.:

13 Q. And "The deceased are to be followed up on

14 after the living are done."

15 MS. PREDHAM:

16 A. Yes.

17 CHAYTOR, Q.C.:

18 Q. And the decisions made, there's three listed,

19 there's an issue of an addendum and how, I

20 guess, how the results will be reported;

21 Cancer Clinic draft letter to physicians and

22 Dr. Pilgrim and Dr. Laing's names are next to

23 that; set up clearing house for information

24 and patient contact, counselling available,

25 Heather Predham and Chris Parsons." And

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1 what's that referring to?

2 MS. PREDHAM:

3 A. Well that would be Nancy Parsons, not Chris

4 Parsons.

5 CHAYTOR, Q.C.:

6 Q. Okay.

7 MS. PREDHAM:

8 A. And I guess that, you know, we would get the

9 information and do the patient contact.

10 CHAYTOR, Q.C.:

11 Q. And what's the reference to counselling

12 available?

13 MS. PREDHAM:

14 A. There was some talk that if anybody needed

15 counselling, we would get that arranged with

16 the Cancer Clinic.

17 CHAYTOR, Q.C.:

18 Q. And were patients and families so advised that

19 counselling was available?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. And who was telling them that?

24 MS. PREDHAM:

25 A. We would tell them that.

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1 CHAYTOR, Q.C.:

2 Q. When they would call?

3 MS. PREDHAM:

4 A. Yes, and then, of course, the information was

5 available through the Cancer Clinic,

6 obviously.

7 CHAYTOR, Q.C.:

8 Q. And that was set up then for the patients and

9 their families.

10 MS. PREDHAM:

11 A. Yes.

12 CHAYTOR, Q.C.:

13 Q. And the setting up of a clearing house for

14 information and patient contact, what did you

15 go away from this meeting understanding that

16 you had to do?

17 MS. PREDHAM:

18 A. I guess that my focus now was on, you know,

19 getting the stuff in from the lab and getting

20 the confirmed, you know, the confirmed

21 negatives handled whatever way we decide; the

22 ones that had changed, you know, that kind of-

23 -keeping track of the patient contact.

24 CHAYTOR, Q.C.:

25 Q. And if we could just go to the next page then

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1 of this document, it's the following day and

2 it refers to a conference call with the other

3 regional boards and you can see the names of

4 the individuals involved, including you're at

5 the General site with Nancy Parsons, Pat

6 Pilgrim, Dr. Cook and Dr. Williams and Mr.

7 Tilley and Susan Bonnell are also on the call.

8 And what do you recall about this? This is a

9 conference call of many people.

10 MS. PREDHAM:

11 A. I can remember that we did have a conference

12 call of a lot of people and I don't remember

13 if it's this one and I do remember that Ms.

14 Pilgrim and I had met and talked about doing

15 up a flow chart on notification of--a

16 consistent way of notification or what we

17 suggested for the rest of the province. It

18 may be this one that we talked to that about.

19 THE COMMISSIONER:

20 Q. Ms. Chaytor, it is 1:00 so we should break

21 shortly.

22 CHAYTOR, Q.C.:

23 Q. Okay, just one other question then on this

24 particular one, it's very brief. I was kind

25 of hoping you would have a better recollection

Page 227

1 on this one because it's--and I take it this

2 is the first time you would have been involved

3 in a group conference call for Central Western

4 and Labrador -

5 MS. PREDHAM:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. Those areas included.

9 MS. PREDHAM:

10 A. And I don't think we had many and I do have a

11 memory of one, but I don't see any reference

12 to that communication thing, so I'm thinking I

13 may get them mixed up. I mean, I have

14 memories of a conference call with all these

15 people, but I may be mixing them up with

16 another one.

17 CHAYTOR, Q.C.:

18 Q. Okay, and we know there's one much later, May

19 24th, 2007, certainly.

20 MS. PREDHAM:

21 A. And that wouldn't be the one.

22 CHAYTOR, Q.C.:

23 Q. That's not the one you're mixing up, it was

24 early on.

25 MS. PREDHAM:

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1 A. It was at this time, yeah.

2 CHAYTOR, Q.C.:

3 Q. Questions of whether we should notify all

4 patients who are being retested. So it

5 appears out of the three bullets here, Dr.

6 Williams has noted "Questions of whether we

7 should notify all patients who are being

8 retested", so I take it there was no decision

9 at this point in time as to whether or not to

10 even start notifying the patients and it's now

11 out in the news and it appears that there's

12 questions as to whether or not we should

13 actually be contacting the patients and

14 letting them know they're being retested.

15 MS. PREDHAM:

16 A. That's what it looks like.

17 CHAYTOR, Q.C.:

18 Q. And do you have any recollection of that or

19 what's your recollection as to the status at

20 this point in time? It's broke in the news,

21 were patients to be contacted, was any

22 decision made as of October 4th to start

23 contacting the patients?

24 MS. PREDHAM:

25 A. Contacting the patients whose results had not

Page 229

1 yet been returned is what you're saying?
 2 CHAYTOR, Q.C.:
 3 Q. Yes, to notify them they're being retested,
 4 not have been retested and here's your
 5 results.
 6 MS. PREDHAM:
 7 A. No, and that would have been a bigger issue
 8 for the outside boards because we were just
 9 getting that information in, so we were just
 10 getting their names, you know, we didn't even
 11 have their names as yet. We did have ours and
 12 we did have people whose results weren't back
 13 yet, so it was an issue for us as well, and I
 14 don't recall, but I know it was the middle of
 15 the month that we decided to call them all.
 16 So I don't know what--I can't remember what
 17 progressed in between then.
 18 CHAYTOR, Q.C.:
 19 Q. Thank you, Commissioner.
 20 THE COMMISSIONER:
 21 Q. Okay. We'll adjourn for lunch and meet at
 22 2:20.
 23 (ADJOURNED FOR LUNCH)
 24 THE COMMISSIONER:
 25 Q. Please be seated. Ms. Chaytor.

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1 CHAYTOR, Q.C.:
 2 Q. Good afternoon, Commissioner, good afternoon,
 3 Ms. Predham. Commissioner, we have a new
 4 exhibit this afternoon, P-3464.
 5 THE COMMISSIONER:
 6 Q. Entered.
 7 EXHIBIT ENTERED AND MARKED P-3464
 8 CHAYTOR, Q.C.:
 9 Q. Thank you. And, Registrar, if we could have,
 10 please, P-2958? This is an e-mail, Ms.
 11 Predham from yourself to Ms. Pilgrim and the
 12 subject is "NCTRF letter", so I take it that's
 13 the Cancer Clinic letter?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And October 4, 2005, you write, "I'm having
 18 problems with the end, but maybe that's
 19 because I'm trying to figure out what you are
 20 telling them. I'll call you." And then you
 21 will see a draft here and it appears to be a
 22 letter that's being written to the physicians?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. At this point in time, how did this
 2 come about that there's a draft letter being
 3 done with the intention of sending it to the
 4 physicians?
 5 MS. PREDHAM:
 6 A. Well I guess it must have come from out, you
 7 know, how is the information going out, how
 8 are people knowing about this.
 9 CHAYTOR, Q.C.:
 10 Q. So this was in anticipation that the results
 11 are coming back and to inform physicians about
 12 the results and what the issue is all about,
 13 is that it?
 14 MS. PREDHAM:
 15 A. Yes, and, you know, I guess the key part here
 16 too is from a patient perspective, we were
 17 doing this retest because as I've indicated in
 18 there, Tamoxifen can benefit a patient up to
 19 ten years after diagnosis, so you know, that
 20 was an important part for physicians to
 21 understand.
 22 CHAYTOR, Q.C.:
 23 Q. Yes, and you indicate to Ms. Pilgrim that in
 24 essence you're struggling with how to conclude
 25 the letter, but maybe that's because you're

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1 trying to figure out what you're telling them.
 2 Who is directing the issue of disclosure on
 3 the ER/PR issue at this point in time?
 4 MS. PREDHAM:
 5 A. Well it would still be Dr. Williams, he was
 6 co-ordinating the whole process, but I guess
 7 we were tasked or Ms. Pilgrim was tasked with
 8 drafting up this letter.
 9 CHAYTOR, Q.C.:
 10 Q. And who were you reporting to then at this
 11 time?
 12 MS. PREDHAM:
 13 A. Right then I was still reporting to Ms.
 14 Pilgrim.
 15 CHAYTOR, Q.C.:
 16 Q. And with respect to the ER/PR issue, are you
 17 reporting to Dr. Williams as well?
 18 MS. PREDHAM:
 19 A. Well, I guess I was taking direction from him
 20 on that issue.
 21 CHAYTOR, Q.C.:
 22 Q. And you're also reporting to Ms. Pilgrim on
 23 the issue as well or -
 24 MS. PREDHAM:
 25 A. Well I always reported to Ms. Pilgrim.

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1 CHAYTOR, Q.C.:

2 Q. Always, okay. And in this situation, it

3 appears that it was Ms. Pilgrim who asked you

4 to draft this letter?

5 MS. PREDHAM:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. And in the letter that's drafted, you refer to

9 the utilization since 1997 of the DAKO semi-

10 automatic and then the change to in 2004 to

11 the Ventana and the index case in 2005.

12 "Initially tested with the DAKO system

13 reported as negative and retested with strong

14 positivity. The investigation into these

15 results has led to a full quality review of

16 immunohistochemistry service. Some research

17 indicates that the Tamoxifen can benefit ten

18 years after diagnosis. It was felt important

19 part of the quality review to retest all

20 samples. And all negative ER/PR have been

21 collected and sent for retesting at Mount

22 Sinai. And then if we look at, please, P-

23 2959? And you write back and say "Does this

24 work?" And it's October 4th now, just a

25 couple of minutes later, so I take it you had

Page 234

1 a telephone conversation in the meantime with

2 Ms. Pilgrim?

3 MS. PREDHAM:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. And then it appears that the ending has

7 changed where you say "Once the results

8 return, the Laboratory Program of Eastern

9 Health will send you the results for your

10 patients, if you require any assistance." So

11 it just appears to be the ending that you've

12 added something to. And, Ms. Predham, again

13 we see repeated the issue of the change over

14 in the systems and why would you be bringing

15 that to the attention of the physicians? How

16 is that relevant or an important piece of

17 information for them to have?

18 MS. PREDHAM:

19 A. Well I guess, I mean, from my perspective, I

20 suppose that was an important thing at the

21 beginning, it was how we discovered it was

22 criteria and like I said, I guess the story in

23 my mind, it always was the beginning of the

24 story.

25 CHAYTOR, Q.C.:

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1 Q. And so this again is telling the story and

2 each time telling it in the same way?

3 MS. PREDHAM:

4 A. Yes.

5 THE COMMISSIONER:

6 Q. I'm sorry, what was always at the beginning of

7 the story, was it -

8 MS. PREDHAM:

9 A. Since 1997 that was always the way I started

10 out everything that I did, I always started

11 the story -

12 THE COMMISSIONER:

13 Q. Oh, sorry, I thought you were referring to the

14 index patient, but you're referring to the

15 1997 part.

16 MS. PREDHAM:

17 A. Yes.

18 CHAYTOR, Q.C.:

19 Q. And the change over then in 2004 to the other

20 equipment.

21 MS. PREDHAM:

22 A. Yes.

23 CHAYTOR, Q.C.:

24 Q. And, Ms. Predham, whenever we see the story,

25 as you all it being told and--or the history

Page 236

1 of the story being given, there's never any

2 reference to 2003 and Dr. Ejeckam, why is

3 that?

4 MS. PREDHAM:

5 A. I'm not really sure, you know, it is an

6 important part that we stopped it in 2003 and

7 it was restarted again and I'm not really sure

8 looking back on it why I never included it.

9 CHAYTOR, Q.C.:

10 Q. And that your positivity rates improved fairly

11 significantly after Dr. Ejeckam's

12 interjections--or interventions, I should say.

13 MS. PREDHAM:

14 A. Yes.

15 CHAYTOR, Q.C.:

16 Q. If we could have then please, P-0614--I'm

17 sorry, P-0613? And this--I'll just take you

18 to the end of this e-mail exchange, but I'm

19 not going to take you through it all again,

20 but you'll recall this is the exchange that

21 began September 29th with the other two

22 authorities. And then on to this page, then

23 there's an exchange between yourself and Dr.

24 Alteen?

25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And on the bottom, on October 3rd, 2005, Dr.
 4 Alteen writes to you. "Hi Heather, I wanted
 5 to respond to your e-mail to Judy regarding
 6 our response to Dr. Cook's request." And he
 7 says, "For the record, we have responded to
 8 his verbal request in June within two weeks
 9 and to the September 6th written request
 10 within three weeks. This I feel is quite
 11 appropriate turnaround time, particularly in
 12 view of the fact that it will take months for
 13 these specimens to be processed in Mount Sinai
 14 and a report available to us." So when you
 15 wrote to Central Western on this issue on the
 16 29th, were you mistaken, had they responded?
 17 MS. PREDHAM:
 18 A. Yes, I thought it was Central West, but I must
 19 have been mistaken what somebody told me--or
 20 that person was mistaken, I can't remember.
 21 CHAYTOR, Q.C.:
 22 Q. And he indicates here that he's of the
 23 understanding it will take months for the
 24 specimens to be processed. Were you of a
 25 similar understanding?

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1 MS. PREDHAM:
 2 A. Four to six weeks was my understanding.
 3 CHAYTOR, Q.C.:
 4 Q. And then you respond to Dr. Alteen, 8:09 the
 5 next morning and you indicate "I did not
 6 intend my e-mail as anything but a heads up
 7 and I was of the understanding, obviously, and
 8 correctly, that your area had not responded.
 9 And as you can appreciate, this situation has
 10 immense potential from the insurer's point of
 11 view and they were concerned that any mis-
 12 communication could add to it." What are you
 13 referring to there?
 14 MS. PREDHAM:
 15 A. I guess, I did have a memory of somebody
 16 saying that maybe I should give them a heads
 17 up and I guess any mis-communication which
 18 would be a delay in getting people's names,
 19 anything like that could add to the situation.
 20 CHAYTOR, Q.C.:
 21 Q. Okay.
 22 MS. PREDHAM:
 23 A. So it must have been someone from the
 24 insurance company who suggested that I contact
 25 the risk managers and give them a heads up. I

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1 didn't remember who it was, but -
 2 CHAYTOR, Q.C.:
 3 Q. So you say "When I was briefing our insurer,
 4 they asked if I could mention this to the risk
 5 managers in the two authorities, yours and
 6 another." So when you were briefing your
 7 insurer, they asked you to give notification -
 8 MS. PREDHAM:
 9 A. I guess they were asking me how it was going
 10 and I said it was going fine and I must have
 11 mentioned to them about Dr. Cook--from here, I
 12 guess my understanding was that Dr. Cook told
 13 me that there was two that they hadn't heard
 14 back from, Western and Central West.
 15 Obviously I misunderstood that part and they
 16 said, well, you know, can you let the risk
 17 managers know that, just to let them know that
 18 there's a bit of a delay and could they see
 19 what they could do.
 20 CHAYTOR, Q.C.:
 21 Q. And what was the mis-communication that the
 22 insurer was concerned could add to--add to the
 23 situation?
 24 MS. PREDHAM:
 25 A. I guess the, and I suppose maybe it was a mis-

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1 communication, but it was the delay of getting
 2 the blocks and slides in here to get out, so
 3 really it wasn't a mis-communication, it was
 4 just a delay.
 5 CHAYTOR, Q.C.:
 6 Q. So the discussion with the insurer was concern
 7 to get these people retested as quickly as
 8 possible.
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And not any mis-communication between the
 13 various authorities, that wasn't the subject -
 14 MS. PREDHAM:
 15 A. No, no, it was really getting that, you know
 16 and maybe they didn't--I'm supposing now, but
 17 the whole gist of it was that they wanted me
 18 to contact the two risk managers to see if I
 19 could get them put some pressure on and get
 20 these blocks and slides in.
 21 CHAYTOR, Q.C.:
 22 Q. And the heads up if we recall that you were
 23 giving them, "give you a heads up as we begin
 24 to inform people individually about this
 25 issue, but the Department of Health wants us

Page 241

1 to make a public statement. Since your labs
 2 have not responded yet to our request, you may
 3 be asked about the reasons why." So was the
 4 concern about any mis-communication have
 5 anything to do with communication to the
 6 patients or communication to the public?
 7 MS. PREDHAM:
 8 A. Well, no, I mean, from my perspective and my
 9 memory of it, it was more get the blocks and
 10 slides in. If there was a problem out there,
 11 then they would have to--you know, there could
 12 be something they could be in the middle of
 13 processing and they got some problem getting
 14 records or whatever, and that was one thing.
 15 But if it was just any idea that this was not
 16 a urgent thing, then that would be to try to
 17 get that push on.
 18 CHAYTOR, Q.C.:
 19 Q. Ms. Predham, so Dr. Alteen had sent the blocks
 20 and slides in, but somehow in the
 21 communication to you there was obviously mis-
 22 communication, I guess, that you understood
 23 they were one of the authorities that had not
 24 done that. Who was supposed to be keeping
 25 track of the information as to what stage

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1 you're at, what specimens have we received,
 2 from whom, who's keeping track of it?
 3 MS. PREDHAM:
 4 A. Mr. Gulliver and Dr. Cook.
 5 CHAYTOR, Q.C.:
 6 Q. So your information with respect to Central,
 7 Western would have come from one or both of
 8 those individuals?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And if I could have, please, P-0614? And this
 13 is the same date, a little later in the
 14 morning, October 4th. And you're writing to
 15 Dr. Williams, Cook, Ms. Pilgrim, Mr. Gulliver
 16 and Ms. Bonnell about the ER/PR database and
 17 you're giving an update on the database. You
 18 have on your list now 406 patients. 74 are
 19 confirmed as deceased. "There are 37 on my
 20 list that were not on the list of patients
 21 that Terry gave me in August, but of that 37
 22 we have gotten results on five." And then you
 23 put in bold, "Terry, can you send me over a
 24 list of all the patient names that you have
 25 sent so I can make sure we haven't missed

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1 any?" So first of all, with that, Ms.
 2 Predham, hadn't you already received that,
 3 hadn't you already received Mr. Gulliver's
 4 list?
 5 MS. PREDHAM:
 6 A. Well, obviously there must have been an issue.
 7 I had received Mr. Gulliver's list and I had
 8 done that, but obviously there must have been
 9 an issue because when I got the results, five
 10 that I had taken off my list I got results on.
 11 CHAYTOR, Q.C.:
 12 Q. So at this point in time it's known to anyone
 13 that you're communicating with that there's
 14 issues here in terms of these lists and -
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. - keeping track of the patients, identifying
 19 the patients and being consistent in the
 20 patients that we're identifying?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. And was there any response in terms of after
 25 you sent out this e-mail, did any of the

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1 individuals other than, I guess you've asked
 2 Terry a direct question, you've asked Dr. Cook
 3 a direct question, did you receive any
 4 response from Dr. Williams, for example, or
 5 Ms. Pilgrim to say what's going on, do we have
 6 problems here trying to keep track of this
 7 information?
 8 MS. PREDHAM:
 9 A. I don't remember any direct discussion right
 10 then, as such. But, I mean, that was an
 11 ongoing issue that there were difficulties in
 12 reconciling. I guess again at a superficial
 13 level how hard can it be? You have a list of
 14 patients that you've identified, you're going
 15 to send them away, you're going to get them
 16 back, you reconcile them and then you deal
 17 with them. Very--it seems like a very
 18 simplistic problem. But once we got into it,
 19 it was very complicated and there was a lot of
 20 different tendrils, I suppose, that were
 21 taking place here and were only becoming
 22 obvious now, when it started. I mean, we
 23 thought we had a complete list for the Health
 24 Care Corporation. At this point we were still
 25 just getting names in from other. But this is

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1 when the start of, you know, wow, you know,
 2 this is very complicated process.
 3 CHAYTOR, Q.C.:
 4 Q. Yes. And again, you're concerned about are
 5 we--you know, you're trying to make sure you
 6 haven't missed anyone here and you're
 7 concerned about that. So you're saying that
 8 whole issue of your concerns, anyhow, was well
 9 known within the group of people handling the
 10 issue?
 11 MS. PREDHAM:
 12 A. Oh, yes, yes.
 13 CHAYTOR, Q.C.:
 14 Q. And do you know whether or not it was well
 15 known to Mr. Tilley?
 16 MS. PREDHAM:
 17 A. I'm not sure. I don't think I had any direct
 18 interaction with him. I'd have to rely on the
 19 people that were there to inform him. I can't
 20 remember having any direct interaction with
 21 him. I may have, but I don't remember.
 22 CHAYTOR, Q.C.:
 23 Q. And you continue to say, "On the results list
 24 from yesterday there were several patients who
 25 had more than one sample sent." And you ask

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1 Dr. Cook, "Can you let me know if you want the
 2 separate specimens tracked or I can just track
 3 the individual patients?" And what was Dr.
 4 Cook's response to you on that?
 5 MS. PREDHAM:
 6 A. Well, we had to--we had to--we had to track
 7 the separate specimens because they could have
 8 been different, different breasts, could have
 9 been different situations. And I guess that
 10 really highlights that I was the wrong person
 11 to be doing this, because I didn't have the
 12 knowledge level to get into those little
 13 nuances that were there.
 14 CHAYTOR, Q.C.:
 15 Q. And did you tell that to anyone, that you
 16 didn't feel you were the right person to be
 17 doing this?
 18 MS. PREDHAM:
 19 A. That was more of as we got into it, it was
 20 more evident. But in that part the fact that
 21 there were separate specimens of, you know,
 22 one was a biopsy and one was a mastectomy, you
 23 really needed--you had to have someone manage
 24 the database and that person wouldn't be
 25 clinical or wouldn't have that knowledge, but

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1 you needed to have very close contact with
 2 somebody who had knowledge about that. And I
 3 guess it's wrong for me to say I was the wrong
 4 person, but you needed to have that daily
 5 interaction, that focused attention to this
 6 because it was so complicated.
 7 CHAYTOR, Q.C.:
 8 Q. So somebody with information management
 9 skills, you mean?
 10 MS. PREDHAM:
 11 A. Yes, but in close, very close contact with
 12 people with a pathology or lab knowledge.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And so your concerns as to whether or
 15 not you had the appropriate skill set, I take
 16 it, is what you're trying to tell us, whether
 17 or not you have the appropriate skill set, did
 18 you tell that -
 19 MS. PREDHAM:
 20 A. And I don't think that's--I didn't realize
 21 that at the time.
 22 CHAYTOR, Q.C.:
 23 Q. Okay.
 24 MS. PREDHAM:
 25 A. This was much later that that realization

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1 came.
 2 CHAYTOR, Q.C.:
 3 Q. And how far are you into the process before
 4 you realize that?
 5 MS. PREDHAM:
 6 A. Oh, it was, it was well into--and I guess not
 7 even the skill set, I would be able to do it,
 8 but I guess it's the environment that you're
 9 in. You have to remember, we were just going
 10 through, we're going through a restructuring
 11 now. Our department has gone down to next to
 12 nothing and our responsibility has extended
 13 throughout the entire region, so it was really
 14 difficult to give this the attention that it
 15 deserved.
 16 CHAYTOR, Q.C.:
 17 Q. So are you saying your quality and risk
 18 management department was made smaller through
 19 the formation of Eastern Health and yet your
 20 responsibilities became larger?
 21 MS. PREDHAM:
 22 A. Well, it didn't get made smaller through the
 23 formation of Eastern Health. Ms. King-Jesso
 24 got a new job and left. The quality people
 25 who were in several of the other legacy boards

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1 had gotten new jobs and they had left and
 2 there had been nobody to replace them. So in
 3 the interim before we became a department and
 4 became established, we had less people in the
 5 old Health Care Corp. office to do more work,
 6 to do the regional work.
 7 CHAYTOR, Q.C.:
 8 Q. So it wasn't that there were any reduction in
 9 positions?
 10 MS. PREDHAM:
 11 A. No.
 12 CHAYTOR, Q.C.:
 13 Q. But there were vacancies in the existing
 14 positions?
 15 MS. PREDHAM:
 16 A. Our--the director for our department was the
 17 last one to get appointed, so we had a lot of
 18 other regional departments had started and
 19 were doing their work when we were still
 20 hadn't--nothing had happened to us; we were
 21 still carrying on.
 22 CHAYTOR, Q.C.:
 23 Q. And so and in terms of that and how then that
 24 might make you, in your words, be the wrong
 25 person to be doing it, is your thinking not

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1 only do I not have the information management
 2 skills perhaps that would be beneficial here -
 3 MS. PREDHAM:
 4 A. I don't think it was the--and I shouldn't--I
 5 probably spoke too quickly. I could do the
 6 database part, I could do the keep tracking of
 7 that part. It was the time and attention and
 8 it was the--it was also having the level of
 9 support that you needed from the lab area.
 10 And really, that only came--became apparent as
 11 we went through this process and probably only
 12 really became apparent until the year after.
 13 CHAYTOR, Q.C.:
 14 Q. In 2006, you mean?
 15 MS. PREDHAM:
 16 A. Yeah, probably the fall of 2006.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And so you're really spread too thin,
 19 basically?
 20 MS. PREDHAM:
 21 A. Definitely, definitely.
 22 CHAYTOR, Q.C.:
 23 Q. And then you're taking on this massive task,
 24 as well?
 25 MS. PREDHAM:

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1 A. Well, my role in this whole process changed
 2 dramatically in September, October, because I
 3 was less involved in the investigation and I
 4 was more--really, my whole role was in the
 5 coordination of this part. But besides that,
 6 we had several critical occurrences that were
 7 occurring, we were, you know, over in the
 8 long-term care sector and the Community Care
 9 Centre where we did not know the managers or
 10 the staff. So it was a very, a very unusual
 11 time.
 12 CHAYTOR, Q.C.:
 13 Q. And the people who you're reporting to, Ms.
 14 Pilgrim and Dr. Williams in this instance,
 15 they're aware of your circumstances?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. So in terms of then by this point in time, and
 20 I just want to be clear because your
 21 concentration now has gone more, as you say,
 22 by September, October, less so the
 23 investigation, because you've told Dr.
 24 Williams that we need external people in here?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And the external people have been in?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. And so then your focus is more on the patient
 8 contacts and keeping track of that aspect of
 9 the whole issue?
 10 MS. PREDHAM:
 11 A. Right.
 12 CHAYTOR, Q.C.:
 13 Q. And once the external reviewers came and went,
 14 was there any investigation ongoing?
 15 MS. PREDHAM:
 16 A. That was all being taken care of with Dr.
 17 Williams, Dr. Cook and Mr. Gulliver.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And to your knowledge was there any
 20 investigation ongoing in -
 21 MS. PREDHAM:
 22 A. I wasn't involved in any.
 23 CHAYTOR, Q.C.:
 24 Q. And do you know whether or not there was an
 25 investigation ongoing?

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1 MS. PREDHAM:
 2 A. I'd only be supposing.
 3 CHAYTOR, Q.C.:
 4 Q. Have you ever seen any documentation to
 5 suggest that there was?
 6 MS. PREDHAM:
 7 A. No.
 8 CHAYTOR, Q.C.:
 9 Q. And as the quality and risk manager do you
 10 think perhaps you would have been kept
 11 apprised of any investigation?
 12 MS. PREDHAM:
 13 A. I would have. One of the key things, though,
 14 that would be critical in doing that would be
 15 analysis of all the retest data. So there was
 16 quite a period of time before we had a
 17 complete list of all the retest data back.
 18 That would have focused any more investigation
 19 that we had--you know, that analysis of that
 20 data would have let us focus that more of that
 21 investigation there. So having that complete
 22 list was, you know, was quite awhile coming.
 23 CHAYTOR, Q.C.:
 24 Q. And if we could then please have -
 25 THE COMMISSIONER:

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1 Q. So are you saying that without a complete list
 2 no investigation could have proceeded or no
 3 further investigation could have been done?
 4 MS. PREDHAM:
 5 A. No, but the complete list of the retest
 6 results so you could see where there was
 7 discrepancies, it would kind of, could focus
 8 your attention. You could see if there were
 9 more at a certain time versus another time.
 10 So it was really critical that you have that
 11 to be able to focus it, especially where we
 12 didn't have the DAKO machinery in place, you
 13 know, so we couldn't really assess it that
 14 way. But you know, that was a critical part
 15 of doing it.
 16 THE COMMISSIONER:
 17 Q. So had you had the DAKO machinery, what could
 18 you have done differently?
 19 MS. PREDHAM:
 20 A. Well, in that case if--you know, you could
 21 look at how they were doing it, you could see
 22 more of their processes and if there was
 23 something that was totally out of whack, you'd
 24 be able to understand that right away. You
 25 know, if you went through and saw that--you

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1 know, if they went down through and there
 2 wasn't anything major off their process, and
 3 I'm only supposing, as well, but, you know, it
 4 would make it easier if you could actually see
 5 what they were actually doing rather than
 6 people recalling and telling you this is what--
 7 -oh, I would have done this every time or -
 8 THE COMMISSIONER:
 9 Q. And would it make a difference of--as we know,
 10 the DAKO had not been used for a period of
 11 time prior to this becoming an issue, so would
 12 you have found it of value to go back and have
 13 somebody say, with the DAKO machine there, is
 14 that what you're thinking of, have somebody
 15 actually run something through the DAKO so
 16 they could demonstrate how they did it or -
 17 MS. PREDHAM:
 18 A. Well, I guess it would be easier to illustrate
 19 to me the changes that Dr. Ejeckam had made,
 20 as well, and what the impact that had on,
 21 because--or and what their practice was. We
 22 had no documentation to go on, so we had
 23 nothing to say these are our titration times,
 24 these are--and everybody was just recalling
 25 it. And sometimes when you have people

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1 telling you about a process, they leave out
 2 parts because they're saying, well, we'll do
 3 this and then we'll do that. But if you're
 4 working through that, you usually see these
 5 little things that they don't really,
 6 sometimes they don't talk about.
 7 THE COMMISSIONER:
 8 Q. Okay. So the presence of the DAKO machine
 9 would have enabled you, in effect, to have
 10 observed whether or not their descriptions of
 11 the steps were consistent with what actually
 12 had to be done?
 13 MS. PREDHAM:
 14 A. Yes.
 15 THE COMMISSIONER:
 16 Q. Okay. Thank you.
 17 CHAYTOR, Q.C.:
 18 Q. Just go to P-2152 for a moment, and it's page
 19 eight. This is the document, Ms. Predham, I
 20 showed you yesterday, a record from the DAKO
 21 machine. So in terms of the machine keeping
 22 track of, for example, the protocols that were
 23 used here, is that the type of information
 24 you're saying that would have been of
 25 assistance for you?

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1 MS. PREDHAM:
 2 A. Well, all that would have helped because then
 3 you'd have some idea of what people are
 4 telling you and what actually happened, that
 5 kind of--and I'm not saying that it was
 6 critical, we had to have it to do that, but it
 7 would have helped.
 8 CHAYTOR, Q.C.:
 9 Q. Yes, and, for example, here it gives the date
 10 of the test, who the technician was, the
 11 dilutions, the times. In terms of having that
 12 for every single test was that done on ER/PR,
 13 I take it that could be a crucial piece of
 14 information to help you piece things together?
 15 MS. PREDHAM:
 16 A. It could have been, and sometimes when you
 17 start out, you don't know what's going to be
 18 important, but then every little piece of
 19 information is helpful.
 20 CHAYTOR, Q.C.:
 21 Q. And how about in terms of with your
 22 difficulties of making sure you have everyone
 23 and identifying everyone, if you had this
 24 which would show you the surgical number for
 25 every ER/PR test?

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1 MS. PREDHAM:
 2 A. Well, obviously, you know, if the machine is
 3 saying these are all the people that I did the
 4 test on, at least you'd have that list as
 5 well.
 6 CHAYTOR, Q.C.:
 7 Q. Would have made your jobs in terms of
 8 identifying the patients, which was first and
 9 foremost at that point in time -
 10 MS. PREDHAM:
 11 A. Yeah.
 12 CHAYTOR, Q.C.:
 13 Q. Probably easier.
 14 MS. PREDHAM:
 15 A. Anything that we could get that would help do
 16 that would have been of benefit.
 17 CHAYTOR, Q.C.:
 18 Q. If we could look at, please, 2904. This is an
 19 e-mail exchange again between--it's a
 20 continuation, I believe, of the earlier one
 21 between you and Dr. Alteen, and it's the next
 22 day, October 5th, and you're looking for his
 23 advice, "I was going through the database
 24 yesterday evening and after the conference
 25 call yesterday, I noticed that some of the

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1 people whose samples we have sent away have
 2 addresses in other regions such as Grand
 3 Falls, Labrador, Deer Lake. Would it be of
 4 any benefit to you and the other regions, if I
 5 sent you their names, other demographics, and
 6 sample dates? We did do the test, but do you
 7 think there may be a duplication of efforts?
 8 I would appreciate your thoughts". So what is
 9 it that you're offering to Dr. Alteen here,
 10 and what was his response?
 11 MS. PREDHAM:
 12 A. I guess it was assistance in identifying
 13 patients, but we felt at the time it was
 14 duplication of effort because they were going
 15 through their process, and then we had the
 16 names, so we would be double checking them
 17 once they sent them in, like that kind of
 18 thing, rather than me sending them out at this
 19 point and double checking them.
 20 CHAYTOR, Q.C.:
 21 Q. So you had the list of names of all the people
 22 complete, as you thought?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. Of the people who had the test done in St.
 2 John's, and you were saying, well, perhaps I
 3 can send that out to you and that might be of
 4 assistance to him to identify people?
 5 MS. PREDHAM:
 6 A. Well, this was the cancer registry. So in
 7 that there were--then as well there were
 8 samples that we had of patients whose
 9 addresses were in Grand Falls, Labrador, and
 10 Deer Lake, so sometimes--see this was another
 11 complication that came in that we never
 12 realized until we got into it, but sometimes
 13 people would have a biopsy done in Grand Falls
 14 and then would come and get their mastectomy
 15 done in St. John's. So then we'd have--you
 16 know, they'd be on two lists, and those kinds
 17 of things would be things we had to work out,
 18 but this was only in an effort to cross-
 19 reference names.
 20 CHAYTOR, Q.C.:
 21 Q. And that didn't happen. Instead when they
 22 sent them in, there was cross checking?
 23 MS. PREDHAM:
 24 A. Well, he sent me in a spreadsheet that he had
 25 kept of all the names and then I did the

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1 double checking then when I got that.
 2 CHAYTOR, Q.C.:
 3 Q. And everybody that he identified was on your
 4 list?
 5 MS. PREDHAM:
 6 A. I think we had a couple of ones that we had to
 7 work through, and there was a couple there
 8 that were outside the parameters, and there
 9 was a few logistics like that.
 10 CHAYTOR, Q.C.:
 11 Q. If we could have, please, P-2960. This is
 12 another communication with Judy Budgell, and
 13 you e-mail her on October 5th, and you're
 14 referring to your database, you created a
 15 database of all the patients' names, address,
 16 etc. "What myself and Chris Power at the
 17 cancer clinic are doing now is trying to
 18 identify who the physician will be. We're
 19 using this as a registry to track who has been
 20 told what by whom. Where they haven't been
 21 seen by the cancer clinic, we need to identify
 22 the surgeon. A couple of surgeons we used in
 23 consultation throughout this asked that we
 24 have a list of their potentially affected
 25 patients because they are afraid that they

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1 might miss the report and not realize what it
 2 is when they are going through a bunch of
 3 reports", and it goes on from there. It says,
 4 "We have also posted information on the
 5 website and physicians are able to refer
 6 patients to the patient complaint line". So
 7 you're trying to identify the appropriate
 8 physician, I take it?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And you're using the registry to track who has
 13 been told what by whom. What's that all
 14 about?
 15 MS. PREDHAM:
 16 A. We're using--we're using my database as a
 17 registry. So I guess we're just using that to
 18 keep track.
 19 CHAYTOR, Q.C.:
 20 Q. Right, so you're using what you've created to
 21 keep track of whose been told what by whom?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. So including what patients have been told what

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1 information by which physician?
 2 MS. PREDHAM:
 3 A. Right.
 4 CHAYTOR, Q.C.:
 5 Q. And surgeons have raised with you an issue, it
 6 appears, and what was their concern?
 7 MS. PREDHAM:
 8 A. Well, the surgeons were concerned and I--
 9 reading this now, and like I said a couple of
 10 times, it's hard when you know what we
 11 ultimately did to track back the decision that
 12 led to that and exactly when we did it, but I
 13 guess at this time we were sending out the
 14 reports to the most responsible physician, but
 15 the surgeons who were in part of our group or
 16 who we talked to, were afraid that they would
 17 not realize what the report was--if it came in
 18 with a bunch of other reports, it would not
 19 identify this as this issue.
 20 CHAYTOR, Q.C.:
 21 Q. So what was done to try and address that and
 22 prevent it from happening?
 23 MS. PREDHAM:
 24 A. Well, I guess--I don't know the timing, but I
 25 guess the--the couple of surgeons we used in

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1 consultation would have been Dr. Kwan and Dr.
 2 Felix. So Dr. Kwan, I think, was the one that
 3 came up with the idea of the panel and talked
 4 to Dr. Laing about it, and maybe this is what
 5 has been in his mind because he would be one
 6 of the people who would be getting these
 7 reports. Now I don't think Dr. Kwan has any
 8 problem about indications for Tamoxifen or
 9 anything, but maybe he wanted to have the
 10 feedback of a medical oncologist or how was
 11 that going to work or--because a lot of--some
 12 of his patients wouldn't have been seen by a
 13 medical oncologists. It could have been, and
 14 I'm just supposing, I can't really remember.
 15 CHAYTOR, Q.C.:
 16 Q. And the Commissioner has heard -
 17 THE COMMISSIONER:
 18 Q. Are you saying by October 5th, in fact,
 19 physicians other than Dr. Laing and Dr.
 20 McCarthy had communicated with anybody about
 21 results?
 22 MS. PREDHAM:
 23 A. Am I saying that they Had?
 24 THE COMMISSIONER:
 25 Q. Yes.

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1 MS. PREDHAM:
 2 A. No.
 3 THE COMMISSIONER:
 4 Q. Is this past tense or are you talking about
 5 what's happening in the future?
 6 MS. PREDHAM:
 7 A. I guess I'm just saying what their feedback
 8 was, that this is--the reports would go out to
 9 them and they were afraid that they would miss
 10 them.
 11 THE COMMISSIONER:
 12 Q. Okay, so this is all before anything is
 13 communicated to that group of physicians?
 14 MS. PREDHAM:
 15 A. Yes.
 16 THE COMMISSIONER:
 17 Q. Thank you.
 18 CHAYTOR, Q.C.:
 19 Q. So there would be--I would take it the
 20 addendums to the pathology reports would be
 21 going back to whichever physician's name was
 22 on the original pathology report?
 23 MS. PREDHAM:
 24 A. Yes, that was a plan.
 25 CHAYTOR, Q.C.:

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1 Q. Yes, and that, of course, would include
 2 surgeons?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. So were they getting those addendums--getting
 7 the pathology reports and addendums by this
 8 point in time?
 9 MS. PREDHAM:
 10 A. I'm not sure. I don't know how the timing of
 11 that would have happened. You'll have to ask
 12 Dr. Cook that.
 13 CHAYTOR, Q.C.:
 14 Q. Was there any thought given to perhaps some
 15 way of highlighting that these are the reports
 16 from the ER/PR issue so that it could be
 17 brought to their attention if they're going--
 18 you know, in terms of when they receive the
 19 report versus may not necessarily coincide
 20 with when you get a panel letter, or depending
 21 on the situation, there might never be a panel
 22 letter?
 23 MS. PREDHAM:
 24 A. I can't remember right now, but I'm sure the
 25 discussion was more that there would be, you

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1 know, these reports would be attached with a
 2 cover letter or something on that line.
 3 CHAYTOR, Q.C.:
 4 Q. Was there any mechanism put in place so that
 5 the physician would have to record back to you
 6 or to some central person that they, in fact,
 7 had communicated the results to the patient?
 8 MS. PREDHAM:
 9 A. No.
 10 CHAYTOR, Q.C.:
 11 Q. And I take it in hindsight, that would have
 12 been a good idea?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. And that ultimately ended up being, I take it,
 17 a lot more work for you and your department?
 18 MS. PREDHAM:
 19 A. Yes.
 20 THE COMMISSIONER:
 21 Q. To make sure I understand, by October 5th the
 22 plan was still to write to the patients who
 23 were confirmed negative?
 24 MS. PREDHAM:
 25 A. Yes.

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1 THE COMMISSIONER:
 2 Q. That letter was being drafted, but so far none
 3 of those letters have gone out?
 4 MS. PREDHAM:
 5 A. No.
 6 THE COMMISSIONER:
 7 Q. In respect of those patients who were
 8 identified by Dr. Laing or Dr. McCarthy as
 9 having clinically significant changes, the
 10 plan in those early days in October would have
 11 been for those who were not taken by Dr. Laing
 12 or Dr. McCarthy themselves because they were--
 13 had a relationship with the patient. The
 14 addendum to the report which would be produced
 15 by Dr. Cook would be sent to a physician who
 16 was on the record as being the physician
 17 responsible for that particular patient?
 18 MS. PREDHAM:
 19 A. Yes.
 20 THE COMMISSIONER:
 21 Q. And was the--what was the plan at that point--
 22 that was going to be sent with, you think, a
 23 covering letter. What was the plan at that
 24 point about the patients who were in that
 25 position? Were they going to get a letter

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1 which told them to contact their doctor, or
 2 were you just going to say to the doctor, you
 3 contact them?
 4 MS. PREDHAM:
 5 A. I can't really remember at this point in time
 6 what the plan was.
 7 THE COMMISSIONER:
 8 Q. Okay.
 9 MS. PREDHAM:
 10 A. There were so many different plans over that
 11 period of time, I can't tell you exactly what
 12 it was right then.
 13 THE COMMISSIONER:
 14 Q. Okay.
 15 CHAYTOR, Q.C.:
 16 Q. If we could look at, please, P-0610.
 17 REGISTRAR:
 18 Q. I'm sorry, what was that exhibit?
 19 CHAYTOR, Q.C.:
 20 Q. 610. These are more notes from Dr. Cook where
 21 he lists a number of people, October 3rd,
 22 2005, received direction to issue Mount Sinai
 23 report in hospital information centre at
 24 meeting of October 3rd, 2005. People at
 25 meeting included a number of people, including

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1 yourself. "Letter to be generated by cancer
 2 clinic to be sent to surgeons". So it appears
 3 the meeting of October 3rd, 2005, and you will
 4 recall Dr. Williams notes I brought you to
 5 before lunch also referred to the issue of an
 6 addendum
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. Being included in previous reports. So
 11 perhaps does this help to assist your memory
 12 as to what had been decided on October 3rd and
 13 what perhaps had then begun to happen, that
 14 perhaps the surgeons started to receive the
 15 addendums to the reports for the retests?
 16 MS. PREDHAM:
 17 A. I don't think by October 5th they would have
 18 received them, because that was an awful lot
 19 of work to go in and do those addendums.
 20 Again I'm not sure that they would have
 21 received them to that. There's a note here
 22 that Dr. Cook spoke with Alan Kwan and Al
 23 Felix on the 4th and the 5th, and I believe
 24 that last e-mail you showed me was the 5th.
 25 So it still may have been--he still may have

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1 been checking into that, and the letter
 2 generated by the cancer clinic to be sent out
 3 to surgeons, that was the one that myself and
 4 Ms. Pilgrim were working on.
 5 CHAYTOR, Q.C.:
 6 Q. Yes, okay. So whether or not anything was
 7 entered in that two-day period for some of the
 8 results, I guess you wouldn't know that?
 9 MS. PREDHAM:
 10 A. No.
 11 CHAYTOR, Q.C.:
 12 Q. And it just says "this specimen has been
 13 retested at Mount Sinai for
 14 immunohistochemical -
 15 MS. PREDHAM:
 16 A. Looks like wording, to highlight this wording.
 17 I guess this may have been feedback from there
 18 that to highlight this part.
 19 CHAYTOR, Q.C.:
 20 Q. Would that be though in relation, perhaps, to
 21 this particular test?
 22 MS. PREDHAM:
 23 A. Oh, that's--if you go into Meditech now and
 24 look at the addendum for anyone who was
 25 retested at Mount Sinai, this is the type of

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1 wording that you would see in the addendum.
 2 CHAYTOR, Q.C.:
 3 Q. Okay.
 4 THE COMMISSIONER:
 5 Q. So this is a sort of a template for the
 6 addendums to deal with the Mount Sinai report?
 7 MS. PREDHAM:
 8 A. Right, canned text I think they refer to it
 9 as.
 10 THE COMMISSIONER:
 11 Q. All right.
 12 CHAYTOR, Q.C.:
 13 Q. Okay. So at this meeting though where this
 14 plan was set forth, it appears that there
 15 were--Dr. Kwan and Dr. Felix were in
 16 attendance?
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. If we could have 2589, please? And this is an
 21 e-mail from yourself to Dianne Smith, and
 22 who's Dianne Smith again?
 23 MS. PREDHAM:
 24 A. Ms. Pilgrim's administrative assistant.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. Dr. Williams, Dr. Gardiner, Ms. Pilgrim
 2 herself and Dr. Laing, and the subject is
 3 ER/PR notification, and it's October 6th,
 4 2005, and you're saying "it looks fine except
 5 I think the word Tamoxifen is missing twice.
 6 You added it to the attached. It mightn't be
 7 Tamoxifen, but a word is missing. Also we
 8 referred to the lab three different ways. Dan
 9 wanted to see it before it went out, so I sent
 10 it to him as well," and I take it that's Mr.
 11 Boone?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And this is, if we look at the attachment, is
 16 the draft letter for the physicians, and it's
 17 a little longer than the last draft that we
 18 looked at.
 19 MS. PREDHAM:
 20 A. Slightly longer.
 21 CHAYTOR, Q.C.:
 22 Q. And so I take it that the draft had been--
 23 well, you started out doing it. It had been
 24 revised and -
 25 MS. PREDHAM:

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1 A. I think it's report--up on top, it's referred
 2 to as ER/PR notification three, so.
 3 CHAYTOR, Q.C.:
 4 Q. Right, okay, and then you're looking it over
 5 and saying that it looks fine. Do you know
 6 who did this ultimate draft then? Your
 7 changes, you've added the word Tamoxifen.
 8 MS. PREDHAM:
 9 A. I have no idea.
 10 CHAYTOR, Q.C.:
 11 Q. And we still see reference to the change in
 12 the methodology of the two machines, and it
 13 says "recently, a patient initially tested in
 14 2002" and by this point in time, it's October,
 15 so I guess it's some six months since the
 16 patient had been retested. I take it we're
 17 referring to Peggy Deane?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And it refers to "the investigation into these
 22 results has led to a full quality review of
 23 the immunohistochemistry service," and that's
 24 wording that we saw in your original draft as
 25 well?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And the plan at this point in time is that--I
 5 see that the time period "should be offered
 6 Tamoxifen for five years" and then "currently,
 7 all new samples are being forwarded directly
 8 to Mount Sinai laboratory. This will continue
 9 until our quality review is complete. If
 10 needed, patients may be consulted to a medical
 11 oncologist for a decision regarding therapy."
 12 So what was the intent in sending this letter
 13 out, and was it intended for all physicians
 14 across the province?
 15 MS. PREDHAM:
 16 A. I'm not sure who it was intended to--in this
 17 paragraph down here, it says "once the results
 18 return, the lab program of Eastern Health will
 19 forward these results to the surgeon and the
 20 oncologist involved in the patient's care."
 21 CHAYTOR, Q.C.:
 22 Q. Yes.
 23 MS. PREDHAM:
 24 A. So I'm not sure if it was only going to them
 25 or if it was going to all physicians.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, and you indicated that you would send it
 3 out to Dan Boone, and did you get a response
 4 from Mr. Boone regarding this letter?
 5 MS. PREDHAM:
 6 A. Not that I can remember.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. If we could look at P-0088, please?
 9 And you'll see here that on October 6th, 2005,
 10 9:52 in the morning, Mr. Boone writes to you
 11 "Forward once again ER/PR testing. As per my
 12 voice mail, I have concerns with referring to
 13 a quality review in correspondence and with
 14 characterizing the retesting of samples as
 15 part of the quality review. As I understand
 16 it, the retesting was done from a patient care
 17 perspective. I also would like to reconsider
 18 the necessity of referring to that one patient
 19 whose test results started it." So what do
 20 you recall about that? What were Mr. Boone's
 21 concerns?
 22 MS. PREDHAM:
 23 A. Can you just scroll down for one -
 24 CHAYTOR, Q.C.:
 25 Q. Sure, absolutely.

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1 MS. PREDHAM:
 2 A. Just down to the next page again.
 3 CHAYTOR, Q.C.:
 4 Q. Unfortunately, that's all we have.
 5 MS. PREDHAM:
 6 A. Oh.
 7 CHAYTOR, Q.C.:
 8 Q. Is there another page?
 9 MS. PREDHAM:
 10 A. Because -
 11 CHAYTOR, Q.C.:
 12 Q. There's a "hi"
 13 MS. PREDHAM:
 14 A. Yeah, hi. It was from Dianne Smith who sent
 15 it and I didn't know what she had put there,
 16 but I guess it was irregardless. Right here,
 17 I guess, well, it was the quality review, I
 18 suppose, referring to the fact that we did a
 19 quality review as an external quality review,
 20 that part, is my--and I'm only guessing now,
 21 because I can't remember receiving this, and I
 22 guess, he's also concerned of actually saying
 23 that a patient, you know, citing the index
 24 case as a patient who had--because I guess
 25 part of that might be identifiable, I suppose.

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1 CHAYTOR, Q.C.:
 2 Q. So in terms of the concern referring to
 3 quality review in correspondence, and there
 4 seem to be two concerns. One is referring to
 5 the quality review in correspondence and you
 6 took that to mean any reference to -
 7 MS. PREDHAM:
 8 A. The external quality review.
 9 CHAYTOR, Q.C.:
 10 Q. - external quality review, which was what in
 11 this context? What's the external quality
 12 review?
 13 MS. PREDHAM:
 14 A. Well, the external quality review was Dr.
 15 Banerjee's and Trish Wegrynowski's review. I
 16 guess in his perspective, by looking at it, we
 17 just referred to it generally. We did a
 18 quality review or that is what I remember
 19 reading just then, and I guess his concern,
 20 and I'm just guessing, would be referring to
 21 the whole thing as a quality review, when
 22 somebody would think it would be just part of
 23 it.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, and so do you have any recollection of

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1 your discussion with him around this or
 2 whether you had any further discussions with
 3 him?
 4 MS. PREDHAM:
 5 A. No, I don't think I did. Obviously he must
 6 have left me a voice mail, so I don't think we
 7 talked about it, at that point, and -
 8 CHAYTOR, Q.C.:
 9 Q. Then you respond to others, "here's Dan's
 10 feedback. I figure we may as well say quality
 11 review since Dr. Williams has been saying it
 12 all along."
 13 MS. PREDHAM:
 14 A. So it didn't seem to be any--my point of
 15 changing it, since that's what Dr. Williams
 16 has referred to it publicly at this point.
 17 CHAYTOR, Q.C.:
 18 Q. Okay, and so Dr. Williams has been calling it
 19 a quality review, and in your response in
 20 saying quality review, and if we just go back
 21 and look at the letter, 2589, page three, your
 22 reference here is--or this particular draft,
 23 "the investigation into these results has led
 24 to a full quality review of the
 25 immunohistochemistry service."

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1 MS. PREDHAM:
 2 A. In that term there, I guess, in that context,
 3 it was not referring solely to Dr. Banerjee's
 4 and Ms. Wegrynowski's review. This was
 5 referring to everything that we did.
 6 CHAYTOR, Q.C.:
 7 Q. Yes, and some research indicates--then you go
 8 on, it's used again. It can benefit the
 9 patients up to ten years. It was felt that an
 10 important part of the quality review would
 11 include retesting. So it's been used really
 12 in -
 13 MS. PREDHAM:
 14 A. A very broad context.
 15 CHAYTOR, Q.C.:
 16 Q. And two different--one is the quality review
 17 of the actual service and it is implying that
 18 an extension of that review of the service
 19 would include a retesting of the patients, and
 20 Mr. Boone seems to have an issue with
 21 characterizing the retesting of the patients
 22 as part of a quality review.
 23 MS. PREDHAM:
 24 A. I just thought he--can you just go back to
 25 that?

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1 CHAYTOR, Q.C.:

2 Q. Yes, sure, it's 0088 again.

3 MS. PREDHAM:

4 A. Because I can't remember the -

5 CHAYTOR, Q.C.:

6 Q. He says because it was done from a patient

7 care perspective.

8 MS. PREDHAM:

9 A. But he--"I have concerns with referring to a

10 quality review in correspondence."

11 CHAYTOR, Q.C.:

12 Q. Yes.

13 MS. PREDHAM:

14 A. And yes.

15 CHAYTOR, Q.C.:

16 Q. So it's two different concerns that he has.

17 MS. PREDHAM:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. One is referring in any correspondence or in

21 correspondence to the fact of a quality

22 review. Is that correct?

23 MS. PREDHAM:

24 A. Yes.

25 CHAYTOR, Q.C.:

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1 Q. And the second being describing or

2 characterizing the retesting of patients as a

3 quality review, because he's saying it was

4 done -

5 MS. PREDHAM:

6 A. For patient care.

7 CHAYTOR, Q.C.:

8 Q. - for patient care. And what would you

9 understand to be the concern with referring to

10 a quality review in correspondence?

11 MS. PREDHAM:

12 A. Well, I guess it would be the whole part of

13 the Evidence Act and keeping things protected

14 and on that line.

15 CHAYTOR, Q.C.:

16 Q. So that you couldn't even mention that there's

17 been a quality review?

18 MS. PREDHAM:

19 A. I've never had a problem saying that there's a

20 quality review or anything previous to that.

21 CHAYTOR, Q.C.:

22 Q. Yes, and as you point out, Dr. Williams has

23 been out in the media -

24 MS. PREDHAM:

25 A. Exactly.

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1 CHAYTOR, Q.C.:

2 Q. - saying a quality review.

3 MS. PREDHAM:

4 A. So it didn't seem to be any point in taking it

5 out at this point.

6 CHAYTOR, Q.C.:

7 Q. And when Dr. Williams was saying it, was he

8 saying that the retesting was part of a

9 quality review or was he referring to the fact

10 that you had external reviewers in or both?

11 MS. PREDHAM:

12 A. I think from my--I can't even remember what he

13 was saying now, but I think from what I've

14 written here is that he must have referred to

15 the entire thing as a quality review.

16 CHAYTOR, Q.C.:

17 Q. And ultimately, what happened with this

18 letter, do you recall?

19 MS. PREDHAM:

20 A. I do believe the letter went out.

21 CHAYTOR, Q.C.:

22 Q. And went out with the words "quality review"

23 in it?

24 MS. PREDHAM:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And if we could just go back for a moment,

3 please, to 2589? Okay. Yes, that's fine,

4 thank you, sorry, 2481, please? And this is

5 an issue that arises on October 2nd, 2005 and

6 it concerns a story on CBC News, Newfoundland

7 cancer lab produces false results, and Ms.

8 Deborah Thomas-Pennell raises an issue. She's

9 "concerned about this story that is posted on

10 CBC website. I've already asked them to take

11 it down. There's a major factual error in it,

12 and I thought I should bring it to your

13 attention, maybe legally there is something we

14 can do. I've bolded the letter" and you write

15 that "I'll see what I can do." And she says

16 she also called The Telegram to let them know,

17 because it originated or because it's

18 attributed to The Telegram, even though they

19 did not say what was being said and maybe the

20 lawyer can get the story taken down. What

21 happened with this? Did you get involved in

22 this issue?

23 MS. PREDHAM:

24 A. I think I called Dan. I do have a memory, I

25 think, of calling Dan Boone and asking him to

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1 see what he could do, but I think by the time
 2 I connected with him and everything, it was
 3 taken down already.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and do you know how ultimately it came
 6 to be taken down? Was it because of the
 7 efforts on behalf of Ms. Thomas-Pennell?
 8 MS. PREDHAM:
 9 A. If I knew, I don't remember now.
 10 CHAYTOR, Q.C.:
 11 Q. Okay. If we could have, please, 2907? And
 12 these, I believe, should be notes of Dr. Larry
 13 Alteen, October 7th, 2005, and the telephone
 14 discussion with Dr. Williams of that date and
 15 you'll see reference to some numbers, and
 16 reference to a letter from Dr. Williams to
 17 GPs. Was it Dr. Williams who signed the
 18 physicians' letter, to your knowledge?
 19 MS. PREDHAM:
 20 A. The physician letter was on my GPs wall for a
 21 very long time. I think it was Dr. Williams'
 22 name was on it.
 23 CHAYTOR, Q.C.:
 24 Q. And then a letter from Dr. Gardiner to
 25 surgeons. So was there a separate letter that

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1 went out from Dr. Gardiner?
 2 MS. PREDHAM:
 3 A. I remember Dr. Gardiner signed a letter.
 4 CHAYTOR, Q.C.:
 5 Q. And then he writes "HIROC didn't want to
 6 disclose to patients until we have test
 7 results back. This caused unnecessary worry
 8 in Labrador last year when patients contacted
 9 before results available. Will try to arrange
 10 teleconference with CEO/HIROC to discuss." So
 11 this information that Dr. Alteen is making
 12 notes here, apparently in his discussion with
 13 Dr. Williams.
 14 MS. PREDHAM:
 15 A. Um-hm.
 16 CHAYTOR, Q.C.:
 17 Q. And the idea that HIROC didn't want to
 18 disclose to patients until we have the test
 19 results back, how does that jive with your
 20 recollection of HIROC's concerns?
 21 MS. PREDHAM:
 22 A. It doesn't jive with it at all. As I said, I
 23 think it was yesterday, that my memory is that
 24 they were concerned that we would go out with
 25 a story that we weren't 100 percent sure of.

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1 CHAYTOR, Q.C.:
 2 Q. And in terms of if this is Dr. Williams
 3 providing this information to Dr. Alteen,
 4 where would Dr. Williams get any information
 5 in terms of--who is the liaison within Eastern
 6 Health with HIROC?
 7 MS. PREDHAM:
 8 A. Oh, myself.
 9 CHAYTOR, Q.C.:
 10 Q. So you would expect Dr. Williams' information
 11 in that regard to come from you?
 12 MS. PREDHAM:
 13 A. Well, not necessarily at this point. I mean,
 14 Mr. Boone was present at a lot of meetings in
 15 between that time, but I still--even seeing
 16 this, I still--my memory is my memory. I
 17 don't recall that part.
 18 CHAYTOR, Q.C.:
 19 Q. And were you--you were always present when Mr.
 20 Boone was present?
 21 MS. PREDHAM:
 22 A. I think so.
 23 CHAYTOR, Q.C.:
 24 Q. Do you ever recall Mr. Boone saying this was
 25 HIROC's concern? You arranged a meeting for

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1 him to come in and talk about HIROC's concern.
 2 MS. PREDHAM:
 3 A. Like I said yesterday, I don't recall that. I
 4 have my memory of it and I don't recall this.
 5 I can't argue with it, but I don't recall
 6 this.
 7 CHAYTOR, Q.C.:
 8 Q. And if we could have--sorry, Commissioner?
 9 THE COMMISSIONER:
 10 Q. Does this account of the Labrador case accord
 11 with your understanding of it?
 12 MS. PREDHAM:
 13 A. No, because my understanding with Labrador was
 14 because they didn't fully grasp the situation
 15 before they notified the patients. They
 16 didn't assess the risk of infection. That's
 17 what I understood in that case.
 18 THE COMMISSIONER:
 19 Q. Okay.
 20 CHAYTOR, Q.C.:
 21 Q. So Ms. Predham, do you have--where does your
 22 understanding of the Labrador case come from?
 23 MS. PREDHAM:
 24 A. I can't recall now.
 25 CHAYTOR, Q.C.:

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1 Q. So are you aware whether or not the letters
 2 that were sent to the patients in fact advised
 3 them that there was minimal risk? Would that
 4 be in keeping with anything you knew of the
 5 Labrador case?
 6 MS. PREDHAM:
 7 A. No.
 8 CHAYTOR, Q.C.:
 9 Q. And would that be contrary to what you
 10 understood of the Labrador case?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. Okay, and I'm just--the reasons for judgment
 15 of Judge Russell regarding the Labrador case,
 16 the certification application, refers to the
 17 fact that, and I'll just read paragraph six of
 18 that, Commissioner. "Also on November 10th,
 19 2003, the Defendant sent a registered letter
 20 to the patients, including the Plaintiff,
 21 advising that due to its failure to properly
 22 sterilize the instruments, the Plaintiff and
 23 the other patients were at minimal risk of
 24 contracting an infection." So that would be
 25 news to you?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. If we could have, please, P-0625? And this is
 5 an e-mail exchange between yourself and Ms.
 6 Bonnell, October 6th, 2005, and she says "FYI,
 7 have you got all the information on
 8 Clarenville you need?" and you're with Nancy
 9 Parsons apparently waiting for a conference
 10 call, and you don't--you're wondering what the
 11 cryptic message means, and she says that "Pat
 12 Coish-Snow contacted me from Clarenville.
 13 Rather than have mixed messages reaching the
 14 public, she mentioned in executive yesterday
 15 that she would like to forward patient
 16 inquiries on the ER/PR issue to Nancy so that
 17 one message reaches all, and it was agreed
 18 that everyone should do this, as most patients
 19 in the east would be seeing a patient, doctor,
 20 surgeon, whatever in St. John's anyway. When
 21 she called me this morning, she asked me if
 22 Nancy was aware of the situation with
 23 Clarenville. I informed her that she should,
 24 given that all the issues were discussed on
 25 the conference call two days ago, and in

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1 essence, Clarenville has sent all of its
 2 results to Mount Sinai since 1998. I think
 3 would need to verify although I thought you
 4 guys would know this better than I. However,
 5 patients prior to this change were tested in
 6 St. John's. If this is not something you were
 7 aware of, perhaps you can contact Dr. Williams
 8 or Dr. Cook for clarification." And is the
 9 first time then that Clarenville, you became
 10 aware of the Clarenville situation or were you
 11 aware of it before this?
 12 MS. PREDHAM:
 13 A. I think I was aware of that earlier. I think
 14 we saw one of the notes that I had yesterday,
 15 we went through, and there was a reference to
 16 that.
 17 CHAYTOR, Q.C.:
 18 Q. Yes. Do you know was Clarenville included in
 19 any portion of the review?
 20 MS. PREDHAM:
 21 A. The '97/'98 test.
 22 CHAYTOR, Q.C.:
 23 Q. And if we could have, please, P-2962, and this
 24 is an overview revisited, and you're writing
 25 again to Ms. Pilgrim about this on October 7th

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1 asking her how is this, and it's an overview
 2 of the ER/PR testing, consumer feedback, a
 3 bunch of--and what was the purpose of this
 4 document?
 5 MS. PREDHAM:
 6 A. I mean, it almost looks like a briefing note.
 7 It may be something that Ms. Pilgrim asked me
 8 to do where she wasn't entirely involved all
 9 the way through, but--I'm not sure.
 10 CHAYTOR, Q.C.:
 11 Q. And, "The consumer feedback, the following
 12 questions and answers are posted on our
 13 website and form the basis of our response to
 14 individuals when they inquire, and what is
 15 ER/PR, what is happening now, why are some
 16 test results different, I haven't been
 17 contacted, what should I do, synopsis of
 18 feedback received to date", and if we go back
 19 to the first page, "Re; testing was expanded
 20 to include all samples in 2002 on the DAKO
 21 system. Of the samples, the majority showed
 22 positive results. This high conversion
 23 results then placed the sensitivity of the
 24 Ventana system in question. All negative
 25 samples from 1999 to 2004 have been

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1 collected". So again we're seeing the same
 2 story being repeated here.
 3 MS. PREDHAM:
 4 A. You still couldn't get--you know, there still
 5 was the component that you had a very manual
 6 system used for a lot of years that the chance
 7 of human error being a contributing factor
 8 could not be eliminated, however, you know,
 9 there were other things as well, but that was
 10 still part of it.
 11 CHAYTOR, Q.C.:
 12 Q. And still no reference to any issue, though,
 13 of 2003 and Dr. Ejeckam, and do you know why
 14 that would be?
 15 MS. PREDHAM:
 16 A. I can't recall.
 17 CHAYTOR, Q.C.:
 18 Q. And, "Consumer feedback, what is happening
 19 now, we're using previously collected tissue
 20 samples so patients are not required to come
 21 to hospital and have any additional testing.
 22 Only a small percentage of breast cancer
 23 patients may be affected by this retesting".
 24 On what basis would that comment be made and
 25 posted on the website?

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1 MS. PREDHAM:
 2 A. Well, I wouldn't have written that, but I
 3 guess looking at all patients who had breast
 4 cancer, the ones that were affected, it may
 5 have only been a small percentage, but I
 6 didn't write that.
 7 CHAYTOR, Q.C.:
 8 Q. You didn't write that. Do you know who did?
 9 MS. PREDHAM:
 10 A. No.
 11 CHAYTOR, Q.C.:
 12 Q. So you're sending this along to Ms. Pilgrim
 13 and saying how's this?
 14 MS. PREDHAM:
 15 A. I didn't write--I said these were what was
 16 posted on the website, so I must have cut and
 17 paste that.
 18 CHAYTOR, Q.C.:
 19 Q. Okay.
 20 THE COMMISSIONER:
 21 Q. You're just saying you didn't write this -
 22 MS. PREDHAM:
 23 A. I didn't write that part.
 24 THE COMMISSIONER:
 25 Q. Selections from the website.

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1 MS. PREDHAM:
 2 A. Yes.
 3 THE COMMISSIONER:
 4 Q. Okay.
 5 CHAYTOR, Q.C.:
 6 Q. So you wrote the first page?
 7 MS. PREDHAM:
 8 A. I'm--I don't have any memory. I know I would
 9 have done the bottom part there.
 10 CHAYTOR, Q.C.:
 11 Q. And it's very similar to what you've written
 12 on prior occasions?
 13 MS. PREDHAM:
 14 A. Yeah.
 15 CHAYTOR, Q.C.:
 16 Q. So then, I take it, "I haven't been contacted,
 17 what should I do", again this is from the
 18 website and you're not the author of that?
 19 MS. PREDHAM:
 20 A. No.
 21 CHAYTOR, Q.C.:
 22 Q. Did you have any concerns with anything that
 23 was posted on the website?
 24 MS. PREDHAM:
 25 A. I don't think so, no.

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1 CHAYTOR, Q.C.:
 2 Q. And, "The lab is continuing to test results
 3 and patients are being contacted if there is a
 4 change to their results and their treatment
 5 may be affected. If you had breast cancer and
 6 are concerned about your previous test results
 7 and treatment, you may wish to contact your
 8 oncologist, surgeon, or family doctor, or you
 9 can contact the patient relations officer".
 10 The patients being contacted if there's a
 11 change in their results and their treatment
 12 may be affected, were all patients being
 13 contacted?
 14 MS. PREDHAM:
 15 A. We called the confirmed negatives, and it was
 16 in October--I thought it was in the beginning
 17 of October, but obviously it must have been
 18 after that.
 19 CHAYTOR, Q.C.:
 20 Q. And in terms of having on the website that
 21 patients are being contacted if there was a
 22 change to their result and their treatment may
 23 be affected, might that cause a patient who
 24 hasn't been contacted to just assume, well, I
 25 can't be one of the ones affected because I

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1 haven't heard?

2 MS. PREDHAM:

3 A. Well, it could, and--but it wouldn't have--

4 this information wouldn't have been on that

5 website for very long because we had a change

6 in plan shortly after.

7 CHAYTOR, Q.C.:

8 Q. And what was your change in plan then?

9 MS. PREDHAM:

10 A. We called the patients--all the results that

11 came back, we started calling people.

12 CHAYTOR, Q.C.:

13 Q. Okay, "Synopsis of feedback received to date.

14 As of October 7th, 2005, eleven calls have

15 been received regarding ER/PR". I take it,

16 this is in the aftermath of it becoming a

17 public story?

18 MS. PREDHAM:

19 A. Yes.

20 CHAYTOR, Q.C.:

21 Q. "All were a patient, family member, or friend

22 calling to inquire about the status of an

23 individual, if the individual was being

24 retested and when the results would be known",

25 and then you give three examples. "A lady

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1 whose mother was diagnosed with breast cancer

2 in 2003", and I'm saying you give--I'm

3 assuming you did draft this part again?

4 MS. PREDHAM:

5 A. Yes.

6 CHAYTOR, Q.C.:

7 Q. "With breast cancer in 2003 and has since

8 passed away. Called to inquire what her

9 mother's status had been and whether she will

10 be retested. She was told everyone who

11 requires retesting will be retested, but our

12 focus at the present is on patients who are

13 living. She will be contacted sometime in the

14 future if there was a discrepancy in her

15 mother's test results". So this person, it

16 appears, was told that, yes, eventually your

17 mother's sample will be retested and if

18 there's a change, we'll get back to you. Was

19 there a record kept of that so that the person

20 could be contacted down the road?

21 MS. PREDHAM:

22 A. There would have been a record kept of her

23 call, yes.

24 CHAYTOR, Q.C.:

25 Q. And ultimately I understand that at some point

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1 Eastern Health decided not to retest the

2 deceased, and then ultimately that decision

3 has changed again and the deceased are

4 retested, and at any point in time when the

5 decision was made that the deceased will not

6 be retested, were any of the family members

7 who had been told that their family member

8 would be tested, were they contacted to be

9 told of the change in direction?

10 MS. PREDHAM:

11 A. No, they weren't. They should have been, but,

12 no, they weren't.

13 CHAYTOR, Q.C.:

14 Q. "A lady called from the west coast and as her

15 sample was collected and interpreted there, we

16 have no information to share with her at this

17 time". Was she put in contact with the

18 appropriate people who could give her

19 information?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. "One lady was upset with how this was handled,

24 and that she had learned of the situation in

25 the media". Did you take any of those calls,

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1 do you remember?

2 MS. PREDHAM:

3 A. Not at that time.

4 CHAYTOR, Q.C.:

5 Q. And if we could have, please, P-2963. What do

6 all these numbers here mean, Ms. Predham?

7 MS. PREDHAM:

8 A. I think we just got the ability on our

9 photocopier to scan, and you would scan--when

10 you scan a document in, it scans--it does it

11 differently now, but at the time you would

12 pick an address, mine is in there as Heather,

13 and then it would scan, it would generate a

14 document and send it out.

15 CHAYTOR, Q.C.:

16 Q. Okay.

17 MS. PREDHAM:

18 A. I don't know what the numbers mean.

19 CHAYTOR, Q.C.:

20 Q. And this is--you're saying, "Check this out,

21 I'll call you", and I think a few minutes ago

22 you referenced at some point you came up with

23 a flow chart?

24 MS. PREDHAM:

25 A. Right.

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1 CHAYTOR, Q.C.:

2 Q. And I take it this is this document,

3 "Retesting process for samples outside the St.

4 John's area, and what was to happen"?

5 MS. PREDHAM:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. And I'm just wondering if you'd be so kind to

9 take us through that and tell us what the plan

10 was?

11 MS. PREDHAM:

12 A. So, I guess, Ms. Pilgrim must have asked me to

13 come up with a flow chart on how samples

14 outside St. John's were going to go through

15 retesting, and I guess this is based on

16 information I would have heard from Dr. Cook.

17 So the information, the regions outside St.

18 John's which--and it lists Clarendville there

19 as being only prior to '98, would send in all

20 negative ER/PR samples and reports collected

21 and sent to St. John's, would go into the path

22 lab at Eastern Health.

23 CHAYTOR, Q.C.:

24 Q. And did you understand, sorry, that it was

25 only prior to 1998 or 1998 and 1997?

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1 MS. PREDHAM:

2 A. Oh, actually, it was '97/'98. Some time in

3 '98, but I'm not sure of the date.

4 CHAYTOR, Q.C.:

5 Q. Okay, sorry, go ahead.

6 MS. PREDHAM:

7 A. And that would have been my, you know,

8 understanding probably at that time.

9 "Specimens packaged with reports and sent to

10 Mount Sinai in Toronto. The path lab",

11 obviously they got that. The results came

12 back from Mount Sinai, went back to our lab,

13 and then the results of retesting were sent to

14 the regions.

15 CHAYTOR, Q.C.:

16 Q. Then there's an arrow back up here?

17 MS. PREDHAM:

18 A. Right.

19 CHAYTOR, Q.C.:

20 Q. So the loop is closed off here. So is that

21 the results of retesting sent to the region,

22 but also kept in St. John's?

23 MS. PREDHAM:

24 A. Well, it would be in our Meditech System and

25 that reporting. So here at this point in

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1 time, the results--if the patient was an

2 active patient at the cancer clinic, the

3 results would be communicated to the cancer

4 clinic and notification would occur from

5 there. Then if it wasn't, then you had to

6 see if the referring surgeon was still

7 available. If it was, it went to that surgeon

8 for notification, and if it wasn't, then it's

9 queried here, it would have to go to the GP.

10 CHAYTOR, Q.C.:

11 Q. Okay. And you indicate six outstanding

12 issues. You're still wondering about how

13 you're going to communicate with the residents

14 of St. Pierre, residents of other provinces

15 have made your list, residents of nursing

16 homes, patients of MDs no longer practising,

17 incompetent patients and patients we cannot

18 contact. The residents of nursing homes and

19 what decision was made--I think you told us it

20 was the medical director of the nursing home

21 would be contacted?

22 MS. PREDHAM:

23 A. Yes.

24 CHAYTOR, Q.C.:

25 Q. Okay. And incompetent patients, what decision

Page 304

1 was made with respect to them?

2 MS. PREDHAM:

3 A. Well, I think it was something I just wanted

4 to keep there because we hadn't really talked

5 about it. If the patient was incompetent and

6 in their home, you know, the GP or the surgeon

7 or whoever would have had some method of

8 communicating with a relative of that. But I

9 guess it was just something I wanted to keep

10 in my mind.

11 CHAYTOR, Q.C.:

12 Q. Okay. And -

13 MS. PREDHAM:

14 A. It wasn't the same type of issue as the other

15 issues.

16 CHAYTOR, Q.C.:

17 Q. And wouldn't there be, though, wouldn't there

18 be standard protocol as to how you communicate

19 with an incompetent person?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. And do that through the -

24 MS. PREDHAM:

25 A. The next of kin.

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1 CHAYTOR, Q.C.:

2 Q. - next of kin or guardian?

3 MS. PREDHAM:

4 A. Yes. It's a different issue than the other

5 ones, but I guess I put it there as just to

6 keep in mind.

7 CHAYTOR, Q.C.:

8 Q. And ultimately was decided with respect to

9 those who no longer had a physician who was

10 practising, how were they to be communicated

11 with?

12 MS. PREDHAM:

13 A. We sent it to the most responsible--the

14 current physician, the panel letters,

15 ultimately that's what we did. So in their

16 records we were able to find a GP or whoever

17 was their most responsible physician right

18 now.

19 CHAYTOR, Q.C.:

20 Q. So if their most recent MD was no longer

21 practising, then you would find someone else

22 in their health record who had been involved

23 at some point in their care?

24 MS. PREDHAM:

25 A. Yeah. The--I don't think it was anyone recent

Page 306

1 that had left. This was if they were seen by

2 an oncologist five years ago, then we would

3 send it to their current GP.

4 CHAYTOR, Q.C.:

5 Q. Okay. And so I take it you didn't come across

6 any situation where you weren't able to

7 identify a responsible physician?

8 MS. PREDHAM:

9 A. No, for anybody in Newfoundland.

10 CHAYTOR, Q.C.:

11 Q. In St. John's?

12 MS. PREDHAM:

13 A. No, it -

14 CHAYTOR, Q.C.:

15 Q. Or at all who went through the panelling

16 process?

17 MS. PREDHAM:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. Okay. Thank you. If we could look at -

21 THE COMMISSIONER:

22 Q. The results we're talking about here again are

23 results which had been identified as having

24 been changed?

25 MS. PREDHAM:

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1 A. No, I think that's all results. I didn't

2 identify that it was changed or not. I

3 shouldn't say it's all, but we haven't

4 identified that they are changed. Maybe it is

5 -

6 THE COMMISSIONER:

7 Q. So was it intended at this stage for all

8 results for those outside to be communicated

9 in that way?

10 MS. PREDHAM:

11 A. I shouldn't make that assumption. I know we

12 did that after, but I shouldn't make that

13 assumption that we're doing it there. It may

14 have only been changed at that point.

15 CHAYTOR, Q.C.:

16 Q. If we could have, please, 2964? And I meant

17 to bring your attention, actually, to this one

18 right after 2962, but this is very similar.

19 You've gone back to Ms. Pilgrim with "How is

20 this? Heather." And the only real change I

21 could see in your document then concerned this

22 first bullet where you had summarized what

23 happened with the lady whose mother had passed

24 away. And if we read, just go back for a

25 second to 2962, please, Registrar, page 4?

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1 You recall that it said, "Called to inquire

2 about her mother's status and whether she's

3 being retested. She was told that everyone

4 who requires retesting will be retested. Our

5 focus at present is on patients who are

6 living." And we'll just go back to the other

7 page 4 of 2964. And it says, "She was told

8 that our focus at the present was on patients

9 who are living but that she will be contacted

10 sometime in the future if there was a

11 discrepancy in her mother's test results." So

12 the wording that she had been told that

13 "everyone who required retesting will be

14 retested" that's been taken out of your draft.

15 And do you recall the circumstances for that,

16 why would -

17 MS. PREDHAM:

18 A. Absolutely not.

19 CHAYTOR, Q.C.:

20 Q. - if the woman was told that everyone who

21 required retesting would be retesting and then

22 it went to Ms. Pilgrim and then shortly after

23 that's changed and that's the only change?

24 MS. PREDHAM:

25 A. I have absolutely no idea.

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1 CHAYTOR, Q.C.:

2 Q. Okay. If we could have, please, 2965? Do you

3 recognize this document?

4 MS. PREDHAM:

5 A. Oh, yes.

6 CHAYTOR, Q.C.:

7 Q. Yes. I guess you've seen many versions?

8 MS. PREDHAM:

9 A. Many versions of these.

10 CHAYTOR, Q.C.:

11 Q. Many versions. This is just one particular

12 page. And of course, the names and the MCP

13 numbers are redacted. And I take it this is

14 your spreadsheet, is it?

15 MS. PREDHAM:

16 A. It's my spreadsheet. This isn't my writing,

17 but this is my spreadsheet.

18 CHAYTOR, Q.C.:

19 Q. Okay. And whose writing, do you recognize

20 whose writing this would be?

21 MS. PREDHAM:

22 A. I believe it's Ms. Emberley's.

23 CHAYTOR, Q.C.:

24 Q. Okay.

25 MS. PREDHAM:

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1 A. This is my writing up in the corner.

2 CHAYTOR, Q.C.:

3 Q. Okay. So "Patient status known. Three

4 confirmed with Tamoxifen." Okay. So this is

5 people in your department, such as Ms.

6 Emberley, keeping track of things?

7 MS. PREDHAM:

8 A. No, right there we're trying to determine

9 who's deceased and not.

10 CHAYTOR, Q.C.:

11 Q. Okay.

12 MS. PREDHAM:

13 A. Because it was the patient status was unknown

14 from the cancer registry, so while she was in

15 there I guess she was also looking for

16 Tamoxifen while she was looking in PCI, which

17 is our Patient Care Inquiry in Meditech. And

18 she was also noting when the last visit was.

19 There were several there that she could

20 identify that had passed away. But right here

21 she was just noting that, you know, for

22 example, this lady here above this first

23 person--I shouldn't say lady because, of

24 course, there was--but the first person who's

25 identified as being deceased, there, you see

Page 311

1 that word there -

2 CHAYTOR, Q.C.:

3 Q. You can use your mouse and point to us,

4 please?

5 MS. PREDHAM:

6 A. Oh, right.

7 CHAYTOR, Q.C.:

8 Q. Sorry.

9 MS. PREDHAM:

10 A. You see this one here?

11 CHAYTOR, Q.C.:

12 Q. Yes.

13 MS. PREDHAM:

14 A. Well, the one right above it, the last visit

15 was 2000.

16 CHAYTOR, Q.C.:

17 Q. Right.

18 MS. PREDHAM:

19 A. So someone who's had a last visit and

20 especially if she lived in town, we'd have to

21 do some more digging to see if the person was

22 currently alive.

23 CHAYTOR, Q.C.:

24 Q. So this is the piece of work in trying to

25 identify who's deceased or not or who might be

Page 312

1 on Tamoxifen or not?

2 MS. PREDHAM:

3 A. Well, the primary focus would be the deceased

4 and I did ask her when, you know, when, I

5 guess when all of us, when we were doing this,

6 because we dived up the reports, if you could,

7 while you're in the patient record or while

8 reviewing the chart, if you can see whether or

9 not they're on Tamoxifen, that would be great.

10 CHAYTOR, Q.C.:

11 Q. And if we come over to the left-hand side,

12 there's a number of--is this your writing or

13 still Ms. Emberley's?

14 MS. PREDHAM:

15 A. That's Ms. Emberley's.

16 CHAYTOR, Q.C.:

17 Q. And "Not on Terry's list," and that appears

18 several times?

19 MS. PREDHAM:

20 A. Yes.

21 CHAYTOR, Q.C.:

22 Q. Okay. And so this is, I take it, similar to

23 what you were describing earlier of instances

24 where people on your list aren't on Mr.

25 Gulliver's list?

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1 MS. PREDHAM:
 2 A. Right.
 3 CHAYTOR, Q.C.:
 4 Q. Okay. And when I look at this first page here
 5 with the number of people, there appears to be
 6 six people she's able to identify?
 7 MS. PREDHAM:
 8 A. Right. And some of that may be there might be
 9 a typo in. I had to retype all the original
 10 results in here. You can, you can just see it
 11 under here. So I had to, when I was doing
 12 that database, I had to type all these things
 13 in here. Some of that could be because I made
 14 a typo and, you know, they should be off the
 15 list. So it was all things we had to go back
 16 and check.
 17 CHAYTOR, Q.C.:
 18 Q. And if we could look at 2966, please?
 19 THE COMMISSIONER:
 20 Q. Ms. Chaytor, we'll take the afternoon break
 21 when you're finding a spot.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, thank you. And this is a similar list.
 24 And written here is "Compare list", is that
 25 your writing?

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1 MS. PREDHAM:
 2 A. No, I'm not sure whose writing that is.
 3 CHAYTOR, Q.C.:
 4 Q. And how about over here, is this -
 5 MS. PREDHAM:
 6 A. That's my writing.
 7 CHAYTOR, Q.C.:
 8 Q. That's your writing, okay. And you've got
 9 "Patient status, alive, received Tamoxifen."
 10 So I take it it's the same purpose for which
 11 this document is going through?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And then we seen "Not on Terry's list" again.
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. And are these your comments or someone else?
 20 MS. PREDHAM:
 21 A. No, that's somebody else's.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. So someone else, I take it, within
 24 quality -
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. - who is doing the same type of work.
 4 MS. PREDHAM:
 5 A. We had to do a lot of double checking.
 6 CHAYTOR, Q.C.:
 7 Q. And we see references some places "Not on
 8 Terry's list" and on other places where it
 9 refers to being on Terry's 2002 list or 2003
 10 list.
 11 MS. PREDHAM:
 12 A. And that was another issue, too. If they had
 13 two specimens two different times, if they
 14 were counted as, you know, in the list at one
 15 time but they had, you know, a biopsy in 2001,
 16 say, and a mastectomy in 2002, there could be,
 17 you know, a discrepancy there.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And here we have "Found in 2002 list,"
 20 I take it that's Mr. Gulliver's 2002 list?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. Okay. And again, quite a number of "Not on
 25 Terry's list" appears again?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And what would happen when the staff who were
 5 doing this, would they then bring the
 6 information back to you and then you'd be
 7 responsible for -
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. - looking after it and getting it put into
 12 your database and checking on the
 13 discrepancies?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. Okay. And were you concerned by the number of
 18 times that it appeared your list and Mr.
 19 Gulliver's were not in sync?
 20 MS. PREDHAM:
 21 A. Oh, yes. Now, sometimes, you know, it was,
 22 like I said, my mistake or misinterpretation
 23 or there was very plausible reason why and
 24 sometimes it was people that we hadn't
 25 identified.

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1 CHAYTOR, Q.C.:

2 Q. Okay. Thank you, Commissioner, this is a good

3 place.

4 THE COMMISSIONER:

5 Q. We'll take a break.

6 (RECESS)

7 THE COMMISSIONER:

8 Q. Please be seated. Ms. Chaytor.

9 CHAYTOR, Q.C.:

10 Q. Thank you. Registrar, could you bring up

11 again, please, 2963? Just a couple of

12 questions, Ms. Predham, that in a couple of

13 the exhibits I brought you to. I just want to

14 clarify a couple of points. And this one

15 regarding the flow of communication for

16 patients outside of the St. John's area, I'm

17 wondering ultimately how the patients from the

18 regions outside St. John's who were found to

19 be no change in result, how were they

20 communicated with?

21 MS. PREDHAM:

22 A. The regions called them to tell them.

23 CHAYTOR, Q.C.:

24 Q. Okay. So the--whichever region they were

25 currently residing in?

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1 MS. PREDHAM:

2 A. Currently residing in.

3 CHAYTOR, Q.C.:

4 Q. They phoned them?

5 MS. PREDHAM:

6 A. There were some we inadvertently overlapped

7 with, but that was because one of the other

8 issues that we had with addresses and that, if

9 they did have, you know, say, a biopsy and

10 they were from, for example, Corner Brook and

11 they had a biopsy there and came and had a

12 mastectomy done or was, you know, the cancer

13 clinic address was St. John's, they may have

14 rented an apartment here or stayed with a

15 sister and that would have been the address,

16 so there was some overlap at times. But the--

17 what we decided ultimately was that the

18 regions would contact their own patients.

19 CHAYTOR, Q.C.:

20 Q. And was there, you say there was some overlap

21 in doing that, was there any delay in the

22 regions learning about that and that they were

23 responsible for doing that?

24 MS. PREDHAM:

25 A. Well the plan--when we went to call patients,

Page 319

1 the plan was that we would call them all with

2 the results, but the very first one I called,

3 I was the first one to call and the very first

4 one I called, his wife had just passed away

5 previously. We were being very vigilant in

6 keeping track of obituaries and that, but it,

7 I guess between the last time we checked and

8 then the couple of days it took us to call, we

9 missed those days. Because of that, we

10 decided the regions would be the best ones to

11 call.

12 CHAYTOR, Q.C.:

13 Q. Okay, so originally the plan was that your

14 department would call all of the negatives,

15 regardless of where they were residing.

16 MS. PREDHAM:

17 A. Yes.

18 CHAYTOR, Q.C.:

19 Q. But when you realized that perhaps you weren't

20 as up to date as what those regions would be,

21 in terms of, for example as you give the

22 deceased patients, then they may have better

23 information in that regard, so they should

24 make their own calls.

25 MS. PREDHAM:

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1 A. Yes, and they also would probably have more

2 current contact information as well. And we

3 realized that as we went along as well.

4 THE COMMISSIONER:

5 Q. So then the procedure used was exactly the

6 same if you were within Eastern Health's area

7 or if you were in Labrador--whatever that -

8 MS. PREDHAM:

9 A. We'd call Labrador as well, but if you were in

10 Corner Brook -

11 THE COMMISSIONER:

12 Q. You'd call Labrador as well?

13 MS. PREDHAM:

14 A. We called the Labrador patients as well.

15 THE COMMISSIONER:

16 Q. Oh, so you called your own region and

17 Labrador.

18 MS. PREDHAM:

19 A. Yes.

20 THE COMMISSIONER:

21 Q. And Western and Central did their own.

22 MS. PREDHAM:

23 A. Right.

24 THE COMMISSIONER:

25 Q. Okay.

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1 CHAYTOR, Q.C.:

2 Q. And why is it that you did Labrador?

3 MS. PREDHAM:

4 A. I can't remember the reason. There was

5 something different about Labrador and I

6 really can't remember the reason. I don't

7 know if there was a period of time that we did

8 the interpretation with that or there--there

9 was something a little bit different with that

10 Labrador region.

11 CHAYTOR, Q.C.:

12 Q. Okay, and the other exhibit if we could just

13 go back to it for a moment is P-2960. And

14 this was the exchange with Judy Budgell and

15 there is a part in your e-mail of October 5th,

16 at 4:15--is that 4:15 a.m.?

17 MS. PREDHAM:

18 A. It looks like that, doesn't it?

19 CHAYTOR, Q.C.:

20 Q. Yes, it does. You write, "CMPA and Peter

21 Browne have been fessing and he and Dan are

22 meeting with Dr. Williams this p.m. about

23 that. And that's right after we also have

24 information posted on the website and

25 physicians, et cetera, are able to refer

Page 322

1 patients to the patient complaint line." What

2 was that about?

3 MS. PREDHAM:

4 A. That was regards to a particular patient

5 issue.

6 CHAYTOR, Q.C.:

7 Q. Okay, so it was a particular patient issue,

8 not a particular concern of the physicians?

9 MS. PREDHAM:

10 A. No.

11 CHAYTOR, Q.C.:

12 Q. And did the particular patient issue have

13 anything to do with communication to the

14 patient?

15 MS. PREDHAM:

16 A. In a roundabout way, yes.

17 CHAYTOR, Q.C.:

18 Q. And what can you tell us then about that--

19 without obviously disclosing any patient

20 identification information, what was the

21 patient's issue?

22 MS. PREDHAM:

23 A. It wasn't a very straightforward disclosure

24 and there was some issues about that and who

25 exactly was the attending physician and some

Page 323

1 issues regarding that. It just needed to be

2 talked through, that's all. There wasn't any

3 overall concern.

4 CHAYTOR, Q.C.:

5 Q. And in that particular patient's case, the

6 patient was concerned about who had made the

7 disclosure to the patient?

8 MS. PREDHAM:

9 A. No, no, in that case the patient was deceased

10 and it was relatives and who was the

11 attending, and you know, who was the

12 appropriate person to contact the patient

13 family.

14 CHAYTOR, Q.C.:

15 Q. So it wasn't so much the family who were

16 bringing that forward, as much as the

17 physicians bringing it forward as an issue as

18 to who should take responsibility for this.

19 MS. PREDHAM:

20 A. For talking to the family.

21 CHAYTOR, Q.C.:

22 Q. Of talking to the family of the deceased

23 patient.

24 MS. PREDHAM:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And how was that ultimately resolved? Who

3 would--what was the decision made in terms of

4 in those circumstances who would speak to the

5 families of the deceased?

6 MS. PREDHAM:

7 A. It was the deceased--the deceased patient's

8 oncologist spoke to the family.

9 CHAYTOR, Q.C.:

10 Q. So was it any different than what was decided

11 for the living patients?

12 MS. PREDHAM:

13 A. No, but I think it was a first time we had

14 that, we had that, you know, direct issue and

15 I guess there was just some concerns about

16 what we were doing.

17 CHAYTOR, Q.C.:

18 Q. And again, the concerns were being brought

19 forward by the physicians?

20 MS. PREDHAM:

21 A. Yes, but it wasn't a grave concern, it was

22 just clarification on what route we were

23 going.

24 CHAYTOR, Q.C.:

25 Q. Okay, thank you. Actually, there were three

Page 325

1 new exhibits I was supposed to enter too,
 2 please, Commissioner, P-3465 through to P-3467
 3 inclusive.
 4 THE COMMISSIONER:
 5 Q. Entered.
 6 EXHIBITS ENTERED AND MARKED P-3465 THROUGH TO P-3467
 7 INCLUSIVE
 8 CHAYTOR, Q.C.:
 9 Q. P-0350 please? And Ms. Predham, I understand
 10 that you became a member of the Physician
 11 Review Panel?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And this is a letter of October 12th, 2005 by
 16 Dr. Williams and he indicates the number of
 17 people at the top, including yourself. "I'm
 18 writing with respect to a suggestion that was
 19 made to this organization with respect to
 20 making decisions on patients whose ER and PR
 21 results changed as the testing is received
 22 back. The suggestion that we get together a
 23 panel of physicians to review all the patients
 24 in this category, so that a plan can be
 25 recommended to the physician who is following

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1 up on each of these patients." And he thanks
 2 all of you for agreeing to serve on the panel,
 3 and especially Dr. Laing who has agreed to
 4 chair. Secretarial support will be provided
 5 by the Quality and Systems Improvement
 6 Department of Eastern Health. And who
 7 provided that from your department, the
 8 secretarial support?
 9 MS. PREDHAM:
 10 A. Ms. Debbie Parsons.
 11 CHAYTOR, Q.C.:
 12 Q. And "Dr. Don Cook will sit on the panel ex
 13 officio to ensure that all the information
 14 from the Laboratory Medicine Program is
 15 available to the panel." And the other
 16 members of the panel, of course, are the
 17 oncologists and the surgeons. Ms. Predham,
 18 what did you understand that--well, first of
 19 all, who asked you to sit on the panel?
 20 MS. PREDHAM:
 21 A. Dr. Williams.
 22 CHAYTOR, Q.C.:
 23 Q. And what did you understand your role would
 24 be, in what capacity were you to sit on the
 25 panel?

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1 MS. PREDHAM:
 2 A. Just as a person who was co-ordinating
 3 communication with the patients.
 4 CHAYTOR, Q.C.:
 5 Q. And were you asked to monitor anything in
 6 terms of what was happening at the panel for
 7 Dr Williams?
 8 MS. PREDHAM:
 9 A. Oh, he wanted updates, he wanted to know how
 10 many we did. He wanted updates on our
 11 progress I guess would be the best way of
 12 terming it, but that was part of keeping track
 13 of what was going on.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, and in terms of wanting to keep track of
 16 what was going on, what kind of information
 17 then would you monitor and keep track for Dr.
 18 Williams?
 19 MS. PREDHAM:
 20 A. Well that was something that, you know, we
 21 kind of had to figure out how it was going on.
 22 When we started making the calls, I had to
 23 give him an update on, you know, the number of
 24 calls that we did, the type of issues that
 25 were coming up. So it was the same kind of

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1 thing that he was expecting from me here, how
 2 many patients have we panelled and what were,
 3 you know, what were the results, how many
 4 patients were impacted--not impacted at that
 5 time, but how many patients had a treatment
 6 change or were recommended for a treatment
 7 change and so on.
 8 CHAYTOR, Q.C.:
 9 Q. And we see throughout some of the
 10 documentation rough calculations and that kind
 11 of thing being done by Dr. Williams.
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And you were aware he was doing that.
 16 MS. PREDHAM:
 17 A. Oh yes, yeah.
 18 CHAYTOR, Q.C.:
 19 Q. And what was his purpose in doing that, why
 20 was he carrying out those various calculations
 21 along the way?
 22 MS. PREDHAM:
 23 A. Well he was always concerned about the degree
 24 of impact of this whole process, so he was
 25 always trying to see, you know, what's the

Page 329

1 percent of all patients or what's the percent
 2 of this--how big has this been, you know, what
 3 a big of a problem this is, so he was always
 4 trying to calculate that number.
 5 CHAYTOR, Q.C.:
 6 Q. Calculate how many patients, for example, had
 7 changes in their results as you go along?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Was your role on the panel at all in relation
 12 to you being the liaison for HIROC?
 13 MS. PREDHAM:
 14 A. Oh absolutely not.
 15 CHAYTOR, Q.C.:
 16 Q. Did you ever relay any results from the panel
 17 back to HIROC?
 18 MS. PREDHAM:
 19 A. I may have told them about the numbers, you
 20 know, the numbers that we had or we got this
 21 many, you know, in updating them, but nothing
 22 else.
 23 CHAYTOR, Q.C.:
 24 Q. So for example, like we saw in a briefing note
 25 that you were doing before where you're

Page 330

1 providing numbers, did you continue to do that
 2 throughout the process and provide HIROC with
 3 the up-to-date numbers?
 4 MS. PREDHAM:
 5 A. I don't recall doing it on a, you know, I
 6 didn't do it like I did with Dr. Williams,
 7 like every Friday morning, I had to have all
 8 my numbers for Dr. Williams. I certainly
 9 didn't do that. I may get a call and they'd
 10 ask me how it was going and then I would give
 11 them the latest update that I gave for Dr.
 12 Williams.
 13 CHAYTOR, Q.C.:
 14 Q. So you did it periodically?
 15 MS. PREDHAM:
 16 A. Periodically, upon their request, I guess.
 17 CHAYTOR, Q.C.:
 18 Q. Okay, and if we could have, please, P-2055?
 19 And this is a Corporate Quality Initiatives
 20 Committee Meeting, February 23rd, 2006 and on
 21 page four of this document, it refers to under
 22 quality and risk management update, and I
 23 should point out in terms of who's in
 24 attendance, you are there.
 25 MS. PREDHAM:

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1 A. Um-hm.
 2 CHAYTOR, Q.C.:
 3 Q. So would you be giving the quality and risk
 4 management update? Yes, it says "Ms. Predham
 5 verbally--reviewed verbally and highlighted
 6 the following items: legal, a lot of work
 7 ongoing regarding the laboratory and ER/PR
 8 testing. Verbal review of number of patients
 9 tested and panel was provided. Insurance
 10 company HIROC is reviewing. First statement
 11 of claim received. The focus is on getting
 12 all results communicated to the expert panel
 13 for their recommendation to the patient and
 14 patient's physician." So the verbal review of
 15 the number of patients tested and panel was
 16 provided and insurance company, HIROC, is
 17 reviewing.
 18 MS. PREDHAM:
 19 A. Oh, they're not reviewing the verbal review of
 20 the number. That's a--they're reviewing the
 21 situation, the case. That's not a--that
 22 should be almost like bullets. That's not a
 23 flow of information.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. So what is it that HIROC is reviewing?

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1 MS. PREDHAM:
 2 A. Just reviewing the whole issue.
 3 CHAYTOR, Q.C.:
 4 Q. But not the number of patients involved or
 5 impacted?
 6 MS. PREDHAM:
 7 A. No. No, no.
 8 CHAYTOR, Q.C.:
 9 Q. Had you ever been asked to sit on a physician
 10 review panel before?
 11 MS. PREDHAM:
 12 A. Never.
 13 CHAYTOR, Q.C.:
 14 Q. Have you ever been asked to do that since?
 15 MS. PREDHAM:
 16 A. Never.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. So this was a bit of an unusual
 19 situation for you?
 20 MS. PREDHAM:
 21 A. Well, it was an unusual time. There was--you
 22 know, a pertinent person to be there would be
 23 somebody from the Cancer Care program, but at
 24 that time, when I got asked to sit there,
 25 there was no director of the Cancer Care

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1 program appointed or in place yet. So, and
 2 you have to remember, it was in--we're in such
 3 turmoil at that time that I was there and this
 4 was--I was asked to do this.
 5 CHAYTOR, Q.C.:
 6 Q. And did you have any concerns about doing it?
 7 MS. PREDHAM:
 8 A. No, it was just another thing that I had to
 9 do. I was trying to coordinate, you know, who
 10 was being communicated with from a--you know,
 11 and at this point or shortly after, we started
 12 making the calls. So I was trying to keep
 13 track with that. I was talking to the regions
 14 about who they were calling and who they were
 15 doing it, just seemed to be an extension of
 16 doing that, that I would sit on the panel as
 17 well.
 18 CHAYTOR, Q.C.:
 19 Q. And P-1368, please? This is October 13th,
 20 2005 and it's the first meeting, we
 21 understand, of the panel, and Dr. Williams is
 22 present to thank everybody for participating,
 23 and Dr. Laing stated the mandate of the panel
 24 was to review each patient individually and
 25 make a recommendation as a panel on the most

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1 appropriate treatment and follow up for the
 2 patient, and Dr. Laing asked the group if they
 3 agreed and Dr. Laing also stated "the
 4 discussion of the group will be officially
 5 minuted and will stay as a record. All in
 6 attendance agreed." And I take it that was
 7 the role for Ms. Parsons, to be the recording
 8 secretary -
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. - and keep the minutes, and Ms. Predham, as
 13 time went on, I believe into February 2006 and
 14 while a lot of panel meetings had taken place
 15 up to that point in time, at that point, there
 16 were no further minutes taken.
 17 MS. PREDHAM:
 18 A. No.
 19 CHAYTOR, Q.C.:
 20 Q. And why is that?
 21 MS. PREDHAM:
 22 A. The volume of work--the panel letters were the
 23 priority and the volume of work there, as well
 24 as our department expanding and of course, Ms.
 25 Parsons was reporting to Ms. Elliott at that

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1 time, it was just too much work to do the
 2 minutes and we all agreed that the minutes
 3 could be foregone with the focus on the
 4 letters.
 5 CHAYTOR, Q.C.:
 6 Q. Okay, and did she, in any event, still keep
 7 notes though at the meetings? She still
 8 attended the meetings, I take it?
 9 MS. PREDHAM:
 10 A. Oh yes, and each patient would have a sheet of
 11 paper with the content and which formed the
 12 basis of the letter.
 13 CHAYTOR, Q.C.:
 14 Q. And would she keep notes of who was in
 15 attendance during the panelling of those
 16 patients?
 17 MS. PREDHAM:
 18 A. I'm not sure. I know I've seen some notes
 19 with who was in attendance of later meetings,
 20 but I don't know if all of them were there.
 21 CHAYTOR, Q.C.:
 22 Q. Okay, and in terms of that being an important
 23 piece of information should the patients ask
 24 well, who made this decision, would there be a
 25 record that someone could refer back to and

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1 find out?
 2 MS. PREDHAM:
 3 A. I'd have to go back and look, but you're
 4 right, that would be a good thing. No one has
 5 asked who the panel was at that time.
 6 CHAYTOR, Q.C.:
 7 Q. And where Dr. Laing states "the mandate of the
 8 panel to review each patient individually and
 9 make a recommendation on the most appropriate
 10 treatment and follow up," were all of the
 11 patients brought before the panel, including
 12 those that were deemed to be no change? So
 13 the zero, zeros who stayed zero, zero for
 14 example, were they all brought?
 15 MS. PREDHAM:
 16 A. When Dr. Laing started this, we had a--we
 17 agreed that anyone who was zero, zero that
 18 came back zero, zero, I could take out as
 19 being confirmed negative. As it went on, when
 20 we had the bulk came back, I just brought all
 21 the lists and we went through them as we went
 22 through and just did that, but at one point in
 23 time here, I would just take out the ones that
 24 were zero, zero and they wouldn't be reviewed.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. So at the beginning, everything came in
 2 your list?
 3 MS. PREDHAM:
 4 A. Well, at the beginning, we had already
 5 reviewed them, so Dr. Laing and Dr. McCarthy,
 6 because remember, when we had the first
 7 results, we went through and picked them out.
 8 So they had all been reviewed there, and then
 9 -
 10 CHAYTOR, Q.C.:
 11 Q. So they never went? That first batch that
 12 came back from Mount Sinai never went through
 13 the panelling process?
 14 MS. PREDHAM:
 15 A. The ones that had changed, that we had the 16,
 16 I think, or 20, did go and get panelled, but
 17 the ones that--then for a period of time, the
 18 zero, zeros didn't go, but I remember bringing
 19 all--when I came--I can remember coming in at
 20 some time in February probably and said it's
 21 just as well that I bring in the entire list
 22 and we reviewed the entire list. So that's
 23 what we started doing again.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. So you started bringing everyone,

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1 regardless of what the numbers were?
 2 MS. PREDHAM:
 3 A. Yeah. Now the ones that were zero, zero and
 4 zero, zero, we didn't pull their chart and,
 5 you know, and look through their chart and
 6 that because they just stayed the same, but at
 7 least they could see then, the numbers were
 8 there.
 9 CHAYTOR, Q.C.:
 10 Q. Was there any pulling of their pathology
 11 reports to make sure that, in fact, what was
 12 recorded on the sheet was accurate?
 13 MS. PREDHAM:
 14 A. Everything that I had recorded on the sheets,
 15 I had double checked. As well, Dr. Cook had
 16 all his handwritten reports with the thing, so
 17 we had another check there as well.
 18 CHAYTOR, Q.C.:
 19 Q. So that happened before it ever arrived at the
 20 panel, that kind of double checking?
 21 MS. PREDHAM:
 22 A. There was a double check, but also Dr. Cook
 23 had them in the panel meeting anyway.
 24 CHAYTOR, Q.C.:
 25 Q. The pathology reports?

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1 MS. PREDHAM:
 2 A. No, his spreadsheets of his records of what
 3 came back from Mount Sinai.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. Was it the mandate of the committee to
 6 try to determine what caused the change in
 7 results in each patient?
 8 MS. PREDHAM:
 9 A. No.
 10 CHAYTOR, Q.C.:
 11 Q. And if we could have, please, P-2543? Ms.
 12 Predham, this is an affidavit that you swore
 13 in the class action, and I think I brought you
 14 to the answers to interrogatories last day.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And this is February 7th, February 9th
 19 perhaps, 2007, and perhaps you can tell us,
 20 under what circumstances were you--did you end
 21 up being the deponent for this? How did that
 22 come to be?
 23 MS. PREDHAM:
 24 A. I think the root of this was towards the end
 25 of January when an affidavit had to be signed,

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1 the person who would have signed it would have
 2 been Dr. Williams, who was retired at that
 3 point. After that, I guess Dr. Howell would
 4 have--his replacement hadn't been there and
 5 hadn't had that knowledge, and I guess I was
 6 approached as being a person who had that
 7 broad knowledge of everything right from the
 8 beginning.
 9 CHAYTOR, Q.C.:
 10 Q. And in paragraph 26, I'll just take you there
 11 at page six of the exhibit, it says "that
 12 based upon my involvement as a member of the
 13 Tumour Board," and I take it that's the
 14 Physician Review Panel that we're referring
 15 to, is that correct?
 16 MS. PREDHAM:
 17 A. Um-hm.
 18 CHAYTOR, Q.C.:
 19 Q. "There was no one reason to explain why the
 20 respective test results converted on retesting
 21 and in many instances, the cause of the
 22 conversions is unknown" and then you go on to
 23 say "any number of the following factors may
 24 have contributed." How would your involvement
 25 as a member of the Tumour Board Panel give you

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1 any explanation or reason as to why the
 2 respective test results converted on
 3 retesting?
 4 MS. PREDHAM:
 5 A. The way I read that, and of course this was,
 6 you know, written for me based on information,
 7 but the way I read that was that there was
 8 nothing, when we went through the tumour board
 9 that struck us as being the cause of the whole
 10 thing. So there was no additional information
 11 that came out of the tumour board. We did
 12 find cases where, you know, slides were
 13 misread or there were misdiagnosis or
 14 whatever. There were other things as well
 15 beyond that, but there was nothing that came
 16 out of that tumour board panel that indicated
 17 that there was one reason.
 18 CHAYTOR, Q.C.:
 19 Q. And there was nothing that the tumour board
 20 panel was doing to investigate the cause of
 21 the conversions?
 22 MS. PREDHAM:
 23 A. Oh no, no, it was just--I guess it was just
 24 saying that there was nothing further that
 25 came out of that that highlighted anything.

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1 CHAYTOR, Q.C.:
 2 Q. And you go on to write, "any number of the
 3 following factors may have contributed to the
 4 conversions: where the samples were collected"
 5 and what did you mean by that?
 6 MS. PREDHAM:
 7 A. I guess, you know, different regions, you
 8 know.
 9 CHAYTOR, Q.C.:
 10 Q. And what information did you have to suggest
 11 that that might be a factor?
 12 MS. PREDHAM:
 13 A. Well, if fixation and the handling beforehand
 14 was an issue, it could have been an issue--I
 15 have no idea what was anywhere else besides
 16 what we had.
 17 CHAYTOR, Q.C.:
 18 Q. And do you have any information as to whether
 19 or not there were differences across the
 20 region that may have -
 21 MS. PREDHAM:
 22 A. No.
 23 CHAYTOR, Q.C.:
 24 Q. Made that a factor that contributed to the
 25 conversions?

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1 MS. PREDHAM:
 2 A. I have no reason to say it wasn't a factor,
 3 but it could be a factor.
 4 CHAYTOR, Q.C.:
 5 Q. And how the samples were fixed, fixed/heated,
 6 I think it says here, and what would the
 7 source of your information be in that regard?
 8 MS. PREDHAM:
 9 A. Well, I guess that was clear from our quality
 10 review.
 11 CHAYTOR, Q.C.:
 12 Q. And when the sample was tested initially, how
 13 is that or what information do you have to
 14 think that that could be a factor that
 15 contributed to the conversions?
 16 MS. PREDHAM:
 17 A. Well, there was still that concern that there
 18 may have been--just the progression of things
 19 over a period of time. So that in '97, if you
 20 retest in 2005, because things have changed
 21 over that period of time, you may naturally
 22 see a conversion or you may naturally see a
 23 difference. So I guess that's just what that
 24 means.
 25 CHAYTOR, Q.C.:

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1 Q. Who interpreted the initial results, and what
 2 information did you have as of February, 2007,
 3 to think that could be a factor?
 4 MS. PREDHAM:
 5 A. We did have a case, I think, up at that point
 6 that that was an issue.
 7 CHAYTOR, Q.C.:
 8 Q. That it was an issue as to who interpreted the
 9 results?
 10 MS. PREDHAM:
 11 A. Yes, it was a contributing factor, which, you
 12 know, in the whole process.
 13 CHAYTOR, Q.C.:
 14 Q. Meaning particular pathologists?
 15 MS. PREDHAM:
 16 A. We had a--we had a--we did have at least one
 17 incident where the slide was interpreted
 18 incorrectly originally.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, but this is with respect to contributed
 21 to the conversions. Did you have any reason
 22 to believe that the pathologist interpreting
 23 the initial results, that that was a factor,
 24 that there was -
 25 MS. PREDHAM:

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1 A. Probably not, now that you read it like that,
 2 but, you know, up to the--like, if you're
 3 saying that, no, but that was--involved in the
 4 differences in results, that was a factor.
 5 CHAYTOR, Q.C.:
 6 Q. But not necessarily in the conversions?
 7 MS. PREDHAM:
 8 A. Not overall.
 9 CHAYTOR, Q.C.:
 10 Q. Did you have any--is this indicating--I guess
 11 what I'm asking you, is this indicating that
 12 you had any information that there were
 13 particular--a particular pathologist or
 14 pathologists identified that were linked to an
 15 issue with the conversions?
 16 MS. PREDHAM:
 17 A. Other than the fact that there was
 18 misinterpretation identified through--you
 19 know, as we went through, then that's all I
 20 meant by that.
 21 CHAYTOR, Q.C.:
 22 Q. And not necessarily with respect to ER/PR
 23 conversions, more to do with the
 24 interpretation or diagnosis of, I take it, of
 25 whether or not something is a cancer or is not

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1 cancer?
 2 MS. PREDHAM:
 3 A. No, we had one who was interpreted as--you
 4 know, there was a misinterpretation of whether
 5 or not there was staining. The person had
 6 read background staining rather than the
 7 actual stain.
 8 CHAYTOR, Q.C.:
 9 Q. And was that--was that considered to be
 10 peculiar to a particular pathologist
 11 identified in that regard as having more of an
 12 issue than others?
 13 MS. PREDHAM:
 14 A. I don't think so.
 15 CHAYTOR, Q.C.:
 16 Q. "What constituted a positive ER/PR test at the
 17 time of the original testing", and how was
 18 that a factor that contributed to the
 19 conversions, or how might that have been?
 20 MS. PREDHAM:
 21 A. I guess it was--probably--when you read these
 22 things over and you know what you're saying in
 23 your head, you know, you're taking an
 24 assumption of what it is, but now the way
 25 you're reading it, I can see that that's

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1 there, but it's one of the factors that we
 2 found when we went through that, is that what
 3 constituted a positive ER/PR test, or who
 4 interpreted that ER/PR test at the time of the
 5 original testing, like, what--their
 6 consideration of what was positive had an
 7 effect on what happened with the results when
 8 they came back.
 9 THE COMMISSIONER:
 10 Q. I'm sorry, I didn't follow that.
 11 MS. PREDHAM:
 12 A. Well, if they were--we had instances where
 13 somebody may have considered something--if it
 14 wasn't considered positive at the time, but
 15 when we looked at it in 2005, if it didn't
 16 substantially change, then it was considered
 17 positive now.
 18 THE COMMISSIONER:
 19 Q. Oh, our discussion of yesterday.
 20 MS. PREDHAM:
 21 A. Right, I think about the same time of day.
 22 THE COMMISSIONER:
 23 Q. We have to start this discussion at some point
 24 earlier in the day.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, and then the last thing identified here
 2 ism "The technology used to perform the ER/PR
 3 testing for each patient, in particular the
 4 antibodies used and antigen retrieval
 5 techniques utilized", and what information did
 6 you have there, what is this referring to, and
 7 what's the source of your information?
 8 MS. PREDHAM:
 9 A. I guess it's the same thing, like I mentioned
 10 earlier, how things changed over a period of
 11 time.
 12 CHAYTOR, Q.C.:
 13 Q. So the fact that you went from the DAKO
 14 machine to the Ventana machine?
 15 MS. PREDHAM:
 16 A. That, or just the time period from 2007 to
 17 2005 -from 1997 to 2005, the things have
 18 changed in that period of time.
 19 CHAYTOR, Q.C.:
 20 Q. Within--and other than going from DAKO to
 21 Ventana, how else had your technology changed
 22 in St. John's in that period of time?
 23 MS. PREDHAM:
 24 A. I think the antibodies changed twice during
 25 that period of time, and both changes--I'm

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1 probably using the wrong term now, but that's
 2 what I was told, that there was changes made,
 3 always with an intent to increase positivity.
 4 So if you have something in 1997 and over a
 5 period of time, things had changed to increase
 6 positivity, well, then there's going to be a
 7 natural change when you retest it in 2005.
 8 THE COMMISSIONER:
 9 Q. You understood that the reason for changes in
 10 antibodies was for the purpose of increasing
 11 positivity?
 12 MS. PREDHAM:
 13 A. Yes.
 14 THE COMMISSIONER:
 15 Q. Who would have told you that?
 16 MS. PREDHAM:
 17 A. Mr. Gulliver.
 18 CHAYTOR, Q.C.:
 19 Q. Thank you, that was going to be my next
 20 question too. In listing down--this is now
 21 February, 2007, that you're swearing to this
 22 affidavit, and in the list of what you've
 23 given here as the following factors may have
 24 contributed to the conversions, why don't we
 25 see anything in terms of the quality assurance

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1 issues identified by Ms. Wegrynowski?
 2 MS. PREDHAM:
 3 A. They should be there. Just to give you a bit
 4 of context, when I signed this, I was--I was
 5 in a -
 6 CHAYTOR, Q.C.:
 7 Q. Take your time.
 8 MS. PREDHAM:
 9 A. Can I have five minutes?
 10 CHAYTOR, Q.C.:
 11 Q. Sure.
 12 (BREAK)
 13 THE COMMISSIONER:
 14 Q. Please be seated. Ms. Chaytor.
 15 CHAYTOR, Q.C.:
 16 Q. Thank you, Commissioner. Ms. Predham, I
 17 understand that in February, 2007, this was a
 18 particularly difficult time for you with an
 19 ill family member?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And so what you're saying is while there's no
 24 reference to Ms. Wegrynowski's and the quality
 25 assurance issues determined by her, perhaps

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1 you weren't paying the same attention, you
 2 were a bit distracted with other issues in
 3 your personal life at the time?
 4 MS. PREDHAM:
 5 A. Yes, and I couldn't stay off at the time
 6 either because of the circumstances in our
 7 department, so I was kind of torn.
 8 CHAYTOR, Q.C.:
 9 Q. Yes. Who drafted this affidavit for you, Ms.
 10 Predham?
 11 MS. PREDHAM:
 12 A. Legal counsel with Stewart McKelvey.
 13 CHAYTOR, Q.C.:
 14 Q. And we also don't see reference to the issue
 15 of the internal controls that Dr. Banerjee had
 16 noted in his report?
 17 MS. PREDHAM:
 18 A. No.
 19 CHAYTOR, Q.C.:
 20 Q. And do you believe that that too should
 21 perhaps have been referenced here?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. And again, I take it, given the circumstances

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1 in your own life at the time, it was an
 2 oversight on your part?
 3 MS. PREDHAM:
 4 A. Yes, I was a bit perturbed that I had to sign
 5 this affidavit, but it didn't seem like there
 6 was anyone else who had that broad knowledge
 7 of this situation left, and I would only sign
 8 it at the beginning to the best of my
 9 knowledge.
 10 CHAYTOR, Q.C.:
 11 Q. Yes, okay. Perhaps we can just leave that
 12 then for now and we'll go back and talk about
 13 your review with the panel, or if you prefer,
 14 Ms. Predham, it's getting late in the day, and
 15 we could always just break and take it up
 16 again some other time.
 17 MS. PREDHAM:
 18 A. Probably that would be a good idea.
 19 CHAYTOR, Q.C.:
 20 Q. Yes.
 21 THE COMMISSIONER:
 22 Q. Sure. All right then, we'll break until
 23 Monday morning at 9:30. I do appreciate your
 24 all coming out and sacrificing your Saturday,
 25 which was a very nice day, and I know that

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1 makes it all the bigger sacrifice. So thank
2 you.
3 Upon conclusion at 4:35 p.m.

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1 CERTIFICATE
2 I, Judy Moss, hereby certify that the foregoing is
3 a true and correct transcript in the matter of the
4 Commission of Inquiry on Hormone Receptor Testing,
5 heard on the 18th day of October, A.D., 2008 before
6 the Honourable Justice Margaret A. Cameron,
7 Commissioner, at the Commission of Inquiry, St.
8 John's, Newfoundland and Labrador and was
9 transcribed by me to the best of my ability by
10 means of a sound apparatus.
11 Dated at St. John's, Newfoundland and Labrador
12 this 18th day of October, A.D., 2008
13 Judy Moss

Inquiry on Hormone Receptor Testing

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