

COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

October 17, 2008

Appearances:

Bernard Coffey, Q.C. Commission Co-counsel
Sandra Chaytor, Q.C. Commission Co-counsel

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

Peter Browne, Q.C./Jane Hennebury . . . Doctors Kara Laing et al

Daniel Simmons Eastern Regional Integrated
. Health Authority

Pam Taylor.. . . . Members of the Breast Cancer
. Testing Class Action

Mark Pike, Q.C. NL Medical Association
Jennifer Newbury Canadian Cancer Society (NL Division)
Blair Pritchett. . . . Central, Western and Labrador-Grenfell
Regional Integrated Health Authorities

LIST OF EXHIBITS

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MS. HEATHER PREDHAM - RESUMES THE STAND

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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 (CONT'D)
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. Ms. Predham, you testified yesterday that
12 after the July 14th meeting, you contacted Ray
13 Walsh, the insurance adjuster?
14 MS. PREDHAM:
15 A. Yes.
16 CHAYTOR, Q.C.:
17 Q. What was it in the July 14th meeting, as
18 opposed to your first meeting of July 12th,
19 that caused you to then make contact with Mr.
20 Walsh?
21 MS. PREDHAM:
22 A. I may have contacted him after the 12th, you
23 know. It is possible, but I can't remember
24 that, but I do remember contacting him after
25 the 14th, and I guess that was because I had

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1 seen Dr. Ejeckam's letter and that put an
 2 additional concern there.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, and if we could have, please, Registrar,
 5 P-1930? This is the memo that you drafted for
 6 Mr. Williams to send to Mr. Tilley.
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And I had some questions for you on this
 11 yesterday, and in writing your e-mail to Mr.
 12 Gulliver and Doctors Williams and Cook and
 13 sending along your first draft, when you write
 14 "I didn't include any information re: Dr.
 15 Ejeckam's memos...should we?" and you'll see,
 16 of course, that you did not reference the
 17 issue of 2003 at all in the memo. I
 18 understood you to say yesterday your question
 19 that you're really posing to them is that
 20 "should I forward the memos?" as opposed to
 21 including any information with respect to the
 22 2003 issue at all?
 23 MS. PREDHAM:
 24 A. Well, if I--there was information in the memo
 25 of May 24th. So there was talk about

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1 cessation and just a brief description of it,
 2 and if I mentioned that there were memos that
 3 were sent and Dr. Ejeckam sent a memo, I'd
 4 have to include the memos as well. I couldn't
 5 just reference them and not have them there.
 6 CHAYTOR, Q.C.:
 7 Q. So what you're saying is that you didn't
 8 include any information that there were memos
 9 written at all?
 10 MS. PREDHAM:
 11 A. I didn't--in my thing, I didn't reference them
 12 at all, because one thing, Dr. Williams wanted
 13 me to give an update for that period of time
 14 and really I didn't know should I include them
 15 or not, you know, and I was just--I didn't
 16 know.
 17 CHAYTOR, Q.C.:
 18 Q. And in your draft that was going at this point
 19 in time, you're not--you don't indicate that
 20 you're going to attach the letter of May 24th.
 21 Whose idea ultimately was that to attach the
 22 May 24th letter?
 23 MS. PREDHAM:
 24 A. I think it was mine. It would only make sense
 25 to attach it to make sure that he could

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1 reference it, because if--you know, if I get a
 2 memo that references a previous one, then you
 3 know, you got to go look for it and make sure
 4 that you're aware of what information was in
 5 there. So if I'm referencing that, you know,
 6 especially a CEO, you'd like to have the
 7 information at his hand.
 8 CHAYTOR, Q.C.:
 9 Q. And if we could look at P-0324, please? This
 10 is that letter of May 24th and the reference,
 11 I believe it's on page two of the exhibit,
 12 towards the bottom, the reference to Dr.
 13 Ejeckam, and what's referenced at that time is
 14 "in early 2003, Dr. Ejeckam discontinued
 15 testing of the ER and PR receptors with the
 16 manual method for a six-week period. A memo
 17 was circulated to all pathologists across the
 18 province stating this. The technique was
 19 temporarily halted because of erratic
 20 staining, which required readjustments of
 21 titration and staining times. Once Dr.
 22 Ejeckam felt confident in the reliability of
 23 staining, the test was reintroduced." So in
 24 reading this, Mr. Tilley would know that there
 25 was, in fact, a memo?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And would you expect then that he would be
 5 looking for a copy of that memo?
 6 MS. PREDHAM:
 7 A. Yes. Well, he may--you know, he may assume
 8 that if it's not attached then the description
 9 of what happened was in that paragraph, but
 10 you know, the -
 11 CHAYTOR, Q.C.:
 12 Q. And the description of what happened being
 13 basically that Dr. Ejeckam re0instituted the
 14 testing and without any reference to what
 15 happens then in June 19th, 2003, after he had
 16 re-instituted the testing? Because there's no
 17 reference at all -
 18 MS. PREDHAM:
 19 A. No.
 20 CHAYTOR, Q.C.:
 21 Q. - is there, in the May 24th letter to what
 22 happens in June of 2003.
 23 MS. PREDHAM:
 24 A. Exactly.
 25 CHAYTOR, Q.C.:

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1 Q. So without him being provided anything in your
 2 update or without him being provided the
 3 memos, Mr. Tilley would miss that piece?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. So if we could go back then, please, to P-
 8 1930? I just want to be clear then on your
 9 reason that you don't then, yourself, see fit
 10 to provide the memo, it's because it was of
 11 such a nature, the content of the memo was of
 12 such a nature that you didn't think it would
 13 be appropriate for it to be merely attached to
 14 an update such as you were preparing?
 15 MS. PREDHAM:
 16 A. It was not that I didn't think it would be
 17 appropriate. It's just that, you know, Dr.
 18 Williams hadn't seen it before the time I saw
 19 it, and I didn't know how he wanted to handle
 20 it. I didn't know if he wanted to show it to
 21 Mr. Tilley directly, whether he's already done
 22 that, and you know, I know I had--you know, I
 23 was a bit taken aback when I read it, and I
 24 would think that anyone who read it, in this
 25 situation, given the information we have right

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1 now, would be taken aback as well. So I
 2 didn't know, so that's why I was asking.
 3 CHAYTOR, Q.C.:
 4 Q. And was there any concern as to if Mr. Tilley
 5 were to be provided with that information what
 6 he might do with it?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. And was there any concern expressed by anyone
 11 to not inform Mr. Tilley of the full picture
 12 as to what happened in 2003 with Dr. Ejeckam,
 13 including the aftermath of him having re--the
 14 testing having resumed but then him expressing
 15 further concerns in June 2003?
 16 MS. PREDHAM:
 17 A. I think the only feedback that I got, you
 18 know, that Mr. Gulliver said not to mention it
 19 in this update, but I don't think anyone
 20 thought that Mr. Tilley would not see those
 21 memos. You know, this was an update of our
 22 activity to date and you know, that was only--
 23 I was just asking the question whether we put
 24 it in this way or will he be told another way.
 25 CHAYTOR, Q.C.:

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1 Q. And Ms. Predham, Mr. Gulliver's response,
 2 which you interpreted as being not to include
 3 the memo or the letter, did you understand
 4 that to be the letter that had been written
 5 directly to Mr. Gulliver?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. And other than his reply by e-mail, did you
 10 have any further discussion with Mr. Gulliver
 11 around that?
 12 MS. PREDHAM:
 13 A. No.
 14 CHAYTOR, Q.C.:
 15 Q. And Dr. Cook, did Dr. Cook weigh in on that
 16 issue as to whether to provide the memos or
 17 reference the memos?
 18 MS. PREDHAM:
 19 A. I know I talked to Dr. Cook by phone and my
 20 memory is that we would let Dr. Williams
 21 decide how he wanted to bring that forward.
 22 CHAYTOR, Q.C.:
 23 Q. And the update that you do provide, you
 24 reference the number of samples collected from
 25 25 women and 16 of them coming back positive.

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1 You reference Dr. Cook having written to the
 2 lab directors in the province on June 13th,
 3 2005. You reference the DAKO test being
 4 implemented to replace the old way of doing
 5 the test. Extra resources being identified to
 6 undertake identification and retesting, and
 7 then "time lines required to do the retesting
 8 internally will be determined as soon as
 9 possible. If it is determined to be too time
 10 consuming, options to utilize external
 11 laboratories will be explored."
 12 So I take it as of this point in time,
 13 July 18th, 2005, it was still the plan to do
 14 all the testing internally and how long that
 15 was going to take had yet to be determined?
 16 MS. PREDHAM:
 17 A. Well, at this point in time, we still didn't
 18 have a concrete number of how many patients
 19 that we were going to have to retest, so
 20 that's what that's trying to determine.
 21 CHAYTOR, Q.C.:
 22 Q. And then you go on to write, "it has been
 23 determined that positive controls were
 24 conducted every day as part of the quality
 25 assurance process within the lab. The results

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1 were read and documented daily by
 2 pathologists." And how had that been
 3 determined, as of July 18th?
 4 MS. PREDHAM:
 5 A. Well, I think it's fairly clear that I was
 6 told that verbally. I hadn't seen any
 7 documentation up to that point.
 8 CHAYTOR, Q.C.:
 9 Q. And you had left the July 14th meeting and
 10 that was one of the issues that you were going
 11 to investigate?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. So as of July 18th, in telling the CEO that it
 16 in fact had been determined that positive
 17 controls were conducted and the results were
 18 read and documented daily by pathologists, you
 19 had not, in that four-day span, conducted any
 20 other investigation to -
 21 MS. PREDHAM:
 22 A. In that issue, no.
 23 CHAYTOR, Q.C.:
 24 Q. - to determine the voracity of that statement?
 25 MS. PREDHAM:

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1 A. No.
 2 CHAYTOR, Q.C.:
 3 Q. You write "the current testing standards,
 4 Ventana system, are being assessed by cross-
 5 referencing our results with another
 6 laboratory," and which laboratory was that?
 7 MS. PREDHAM:
 8 A. I believe that was Mount Sinai.
 9 CHAYTOR, Q.C.:
 10 Q. And "the public will have to be informed.
 11 Corporate communications have been involved
 12 and as at least five patients are aware of
 13 this information already, disclosure has to be
 14 made quickly." So I take it, Ms. Predham, it
 15 was appreciated by yourself and others that
 16 because certain patients already knew that
 17 word of this issue could spread quite quickly?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And it would only be a matter of time when it
 22 became a matter of public discussion in any
 23 event?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. And then "after meeting with the surgeons and
 3 oncologists, it was decided to wait until we
 4 were able to get more information regarding
 5 retesting the anticipated time lines and a
 6 support line established" and your support
 7 line established meaning the hotline?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Once you got that up and were able to say how
 12 long it's going to take to do the retesting -
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. - before you go public with an announcement?
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. And "once the magnitude of the problem and the
 21 relevant time frames has been determined, an
 22 external technical consultation will need to
 23 be undertaken to assess standards and quality
 24 of service." What external technical
 25 consultation is this referring to?

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1 MS. PREDHAM:
 2 A. That's the Ventana, to reiterate the Ventana
 3 system.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and so this is once the magnitude of the
 6 problem and relevant time frames has been
 7 determined, then we're going to check out the
 8 Ventana? But if you're going to use the
 9 Ventana to do your retesting, that doesn't
 10 seem to make sense.
 11 MS. PREDHAM:
 12 A. No, it doesn't, does it?
 13 CHAYTOR, Q.C.:
 14 Q. No.
 15 MS. PREDHAM:
 16 A. We hadn't--I mean, maybe we started talking
 17 about doing an external consultation at that
 18 time, but yeah, it doesn't make sense there.
 19 CHAYTOR, Q.C.:
 20 Q. And the last bullet is "HIROC will be
 21 contacted to determine if they are aware of
 22 any other issues with the DAKO testing
 23 system," and again, I understood from your
 24 evidence yesterday and your notes that that
 25 was a task that was assigned to you to do?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, and I take it up to this point, July
 5 18th, you hadn't had that particular
 6 conversation with HIROC?
 7 MS. PREDHAM:
 8 A. On the Friday, I did call, on Friday, and that
 9 would have been the 15th. So I did call and
 10 have a discussion and they were looking for
 11 the information. I probably had that part
 12 drafted on Friday.
 13 CHAYTOR, Q.C.:
 14 Q. Okay, and on that, in terms of that would be--
 15 perhaps you could just tell us about the type
 16 of information you're soliciting from HIROC in
 17 that regard, that's different, I take it, than
 18 the role as the insurer for any potential
 19 claims?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And so perhaps you could just explain that to
 24 the Commissioner, how HIROC might be of
 25 assistance to you in that regard?

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1 MS. PREDHAM:
 2 A. Well, HIROC has a well-established risk
 3 management service as part of their company.
 4 It started off probably with one or two
 5 people, but now they have five or six people
 6 doing risk management information. One of the
 7 big tools that they have and the subscribers
 8 can use is a risk management self-assessment
 9 module where they take the information from
 10 their claims, the same way that we look at our
 11 occurrences and look for trends, they look at
 12 the claims Canadian wide or in all their
 13 subscribers, and then they develop a self-
 14 assessment based on that of risk management
 15 activities. So these are the types of claims
 16 that we're seeing and these are the things
 17 that you can put in place to prevent that type
 18 of incident from happening. So they use that
 19 as a self-assessment which they provide to us
 20 and we do and then they provide feedback on
 21 those results.
 22 And one of the other resources that they
 23 have there for their subscribers is that, you
 24 know, if you're having an issue or you're
 25 having a concern and we tend to go across the

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1 country and ask questions at different places,
 2 you know, has this happened, where HIROC can
 3 do that for us as well with their subscribers.
 4 So we can call up and say "we're having an
 5 issue with this piece of equipment" or "this
 6 has happened and we've never had this happen
 7 before. Have you had this happen before?" and
 8 vice versa. They give us information on this
 9 situation has happened here, or maybe you'd be
 10 interested in doing this, or this type of
 11 thing, from a risk management perspective.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, and the term "subscribers" that's a term
 14 that, I take it, HIROC uses to refer to the
 15 hospitals such as Eastern Health?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Or the health authorities that use them for
 20 their insurance?
 21 MS. PREDHAM:
 22 A. Yes, anyone who has a policy with them.
 23 CHAYTOR, Q.C.:
 24 Q. Okay, and was HIROC of any assistance when you
 25 had the discussion with them? Did they know

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1 of any other issues with the DAKO testing
 2 system?
 3 MS. PREDHAM:
 4 A. Not--well, I mean, it was just not when they
 5 answered the phone and I had the discussion.
 6 So they were going to go and check.
 7 CHAYTOR, Q.C.:
 8 Q. Yes, and did they ultimately get back to you,
 9 and if so, what was the answer?
 10 MS. PREDHAM:
 11 A. Well, on Monday is when I heard back from them
 12 on the 18th, I think, and that's in another e-
 13 mail.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, and I know that certainly discussed the
 16 issues and we'll get into in terms of
 17 contacting the patient or public notification.
 18 Did they have any assistance to you in terms
 19 of did they know anything about -
 20 MS. PREDHAM:
 21 A. They had not had any claims related to ER/PR
 22 or the DAKO machine or anything like that.
 23 CHAYTOR, Q.C.:
 24 Q. Okay, and if we could have, please, P-0300?
 25 And this, I believe, is the e-mail we left off

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1 with last day, and your first part is
 2 referring to the update for Mr. Tilley and the
 3 second part of the e-mail that you're writing
 4 to Dr. Williams and copying to Dr. Cook and
 5 Mr. Gulliver on July 18th, "I was speaking to
 6 Deborah Thomas today and the Department of
 7 Health has been notified and is now involved.
 8 They would like a letter sent to each woman
 9 outlining the problem and the steps we are
 10 taking to address it. That draft letter will
 11 have to be seen by our lawyer first, of
 12 course. I guess we'll have to decide tomorrow
 13 or the next day re: advising the public." Now
 14 at this point in time, in terms of drafting a
 15 letter for patients, was that something that
 16 was already contemplated by Eastern Health in
 17 any event?
 18 MS. PREDHAM:
 19 A. Well, we had discussed it, I guess, on a broad
 20 level that we would have to notify people and
 21 we'd also have to notify the public, and you
 22 know, I guess this was a point in time where
 23 we're actually getting to that. Like
 24 sometimes when you're in meetings, you talk
 25 about an issue on a broad thing and then you

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1 have to work through the logistics of how
 2 you're actually going to do that.
 3 CHAYTOR, Q.C.:
 4 Q. And you had spoken with Deborah Thomas from
 5 Communications?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. On July 18th, and this is written about 12:30,
 10 in the middle of the day, and "the Department
 11 of Health has been notified and is now
 12 involved." Did Ms. Thomas advise you of that,
 13 that the Department of Health had been
 14 notified or where did you receive that
 15 information?
 16 MS. PREDHAM:
 17 A. My only memory of it is--I have no memory of
 18 this. This is only what I'm reading here and
 19 that's what it would sound like from that.
 20 CHAYTOR, Q.C.:
 21 Q. So you have no memory of being advised by Ms.
 22 Thomas or learning otherwise that the
 23 Department of Health had now been notified and
 24 were giving certain directions in terms of
 25 wanting a letter to go to the patients?

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1 MS. PREDHAM:
 2 A. I remember them, you know, saying this is what
 3 they want done and at some point in time, but
 4 I can't remember specifically that Deborah
 5 told me this at this particular time.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and but you put it in your e-mail then
 8 on this date, so you must have known it then,
 9 I take it?
 10 MS. PREDHAM:
 11 A. I must have known it then and I assume that
 12 she told me.
 13 CHAYTOR, Q.C.:
 14 Q. And did you, yourself, have any communications
 15 with any representatives of the Department?
 16 MS. PREDHAM:
 17 A. No, not at that point, no.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and I take it it's quite some time later
 20 before you have any direct communication?
 21 MS. PREDHAM:
 22 A. Yes, I think it was the fall before I had any
 23 communication.
 24 CHAYTOR, Q.C.:
 25 Q. Yes, and so you have no knowledge or no

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1 recollection of asking Ms. Thomas, "well, how
 2 did the Department learn about it?"
 3 MS. PREDHAM:
 4 A. I probably never even asked her. I just, you
 5 know, assume somebody told them.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and the fact that it says "is now
 8 involved," would you have had any conversation
 9 with her around that, well, how are they
 10 involved and what are they going to be doing?
 11 Because you've got certain things that you
 12 have to do and there's a group working on the
 13 issue within Eastern Health, so was there any
 14 discussion about well, what will the
 15 Department's involvement be?
 16 MS. PREDHAM:
 17 A. There may have, but like I said, I don't
 18 remember that conversation, other than what
 19 I'm reading here and I really can't remember.
 20 There's nothing there. I don't think I had
 21 any questions about it.
 22 CHAYTOR, Q.C.:
 23 Q. And then after advising Dr. Williams and the
 24 others of this, through this e-mail, was there
 25 any further discussion internally about the

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1 Department's role?
 2 MS. PREDHAM:
 3 A. I don't recall.
 4 CHAYTOR, Q.C.:
 5 Q. Did you have any--did Dr. Williams get back to
 6 you and ask you anything about your e-mail?
 7 MS. PREDHAM:
 8 A. I don't think so.
 9 CHAYTOR, Q.C.:
 10 Q. Or the content of your e-mail?
 11 MS. PREDHAM:
 12 A. No. It certainly doesn't stand--like there's
 13 certain things that really stand out in my
 14 memory.
 15 CHAYTOR, Q.C.:
 16 Q. Yes.
 17 MS. PREDHAM:
 18 A. But that doesn't stand out at all.
 19 CHAYTOR, Q.C.:
 20 Q. That "the draft letter will have to be seen by
 21 our lawyer first, of course," and who would
 22 you be referring to as "our lawyer" in that
 23 context?
 24 MS. PREDHAM:
 25 A. That would be our lawyer with Stewart

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1 McKelvey, HIROC's lawyer.
 2 CHAYTOR, Q.C.:
 3 Q. Okay, and why would the draft letter have to
 4 be seen by HIROC's lawyer first, before it
 5 could go to the patients?
 6 MS. PREDHAM:
 7 A. Well, we'd run it by them just, you know, to
 8 make sure the wording was appropriate and that
 9 they were comfortable with the wording. I
 10 guess not comfortable with the wording, but
 11 that they didn't have any issues with the
 12 wording.
 13 CHAYTOR, Q.C.:
 14 Q. And would that be your standard practice
 15 before you communicate with patients?
 16 MS. PREDHAM:
 17 A. Not in every case, but - oh, certainly not in
 18 every case, but I guess this was a letter
 19 going out to a large group of people, and you
 20 have that potential of, you know, saying
 21 something like we discussed yesterday that
 22 would inadvertently, you know, compromise a
 23 case or something, so you run it by a lawyer
 24 just to get their opinion. Usually there's
 25 little or no feedback on it. It's just, you

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1 know, that this is what we're going to do.
 2 CHAYTOR, Q.C.:
 3 Q. So in a situation where you're going to send
 4 out a letter where you've already notified
 5 your insurer of potential liability, so in a
 6 situation where you're going to then send out
 7 a letter notifying the patients that this
 8 retesting process is ongoing, that type of a
 9 communication, you would vet through the
 10 lawyer for HIROC first?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And the reason - what you're telling us, the
 15 reason for doing that would be so that they
 16 could, and correct me if I'm not paraphrasing
 17 you correctly, but so they could in essence
 18 ensure that there's nothing that you're
 19 telling the patient that could cause any
 20 concern, whether in your words yesterday to
 21 undermine the defense on the issue of
 22 liability, or cause any other issue in terms
 23 of your insurance coverage?
 24 MS. PREDHAM:
 25 A. Fundamentally, yes. You know, there would

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1 have to be - usually there's - you know, if
 2 you have something to say and we say it,
 3 there's usually not any great deal of feedback
 4 back on it because, you know, what we have to
 5 say - any draft that we have there, it's
 6 pretty straightforward what we're saying, so
 7 it's just - you know, we just have to make
 8 sure, that's all.
 9 CHAYTOR, Q.C.:
 10 Q. Yes, and your thinking at this point in time
 11 is that any letter that's sent would be vetted
 12 through them, the issue is not so much will we
 13 send a letter, it's the content of the letter?
 14 MS. PREDHAM:
 15 A. Yeah, it's just - just the wording, just to
 16 make sure that we weren't saying anything that
 17 - like you paraphrased it.
 18 CHAYTOR, Q.C.:
 19 Q. "I guess we'll have to decide tomorrow or the
 20 next day" you write, "re; advising the public"
 21 and with a question mark. Did you receive any
 22 feedback on that as to going ahead with
 23 advising the public?
 24 MS. PREDHAM:
 25 A. Well, it was - you know, we constantly talked

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1 about it over a period of time, so I can't
 2 remember that I sent this e-mail and got
 3 immediate feedback on it, but that it was in
 4 the works and I think we had meetings
 5 scheduled that week with a broader group,
 6 anyway.
 7 CHAYTOR, Q.C.:
 8 Q. And you don't - you don't pose the same
 9 qualification in terms of the advice to the
 10 public that anything you're going to go out
 11 and tell the public should also be seen by
 12 HIROC's lawyer first, and what would the
 13 difference be, why could you talk to the
 14 public, get a message out there to the public,
 15 and - but the letters to the patients would
 16 have to be vetted?
 17 MS. PREDHAM:
 18 A. Well, I'd say the messages would as well, but
 19 we hadn't anything drafted yet. The first
 20 part, I'm talking about an actual letter and
 21 that it would have to be drafted and, you
 22 know, seen by our lawyer, but advising the
 23 public, I hadn't up to that point seen
 24 anything that was going out to the public.
 25 CHAYTOR, Q.C.:

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1 Q. And had you seen any draft letter at this
 2 point?
 3 MS. PREDHAM:
 4 A. No, I think - I think we drafted the letter,
 5 and I think it was probably after this that we
 6 started making attempts at it.
 7 CHAYTOR, Q.C.:
 8 Q. And if we could look then, please, at P-2832,
 9 and this is a couple of hours later the same
 10 day, July 18th, 2:31 p.m. and it's sent from
 11 actually the communications department,
 12 Deborah Thomas, to your department, Nancy
 13 Parsons, and you and Ms. Bonnell are cc'd,
 14 "And this is just to get us going, Nancy.
 15 Your thoughts", and this appears to be an
 16 attempt at a draft of the letter?
 17 MS. PREDHAM:
 18 A. Right.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, so it appears it may have first
 21 originated from the -
 22 MS. PREDHAM:
 23 A. Communications.
 24 CHAYTOR, Q.C.:
 25 Q. Communications people, and this indicates

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1 that, "Eastern Health would like to advise you
 2 of the situation which has led to the
 3 retesting of your breast tissue sample". So
 4 that appears to be going out to patients.
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. "This is just an advisory notice. You do not
 9 have to do anything". Then it says, "Due to
 10 improved technology and the finding of some
 11 earlier inconsistent results, Eastern Health
 12 has begun retesting a select group of breast
 13 cancer patient samples to check for estrogen
 14 and progesterone receptors". Ms. Predham, did
 15 you have any difficulty with that being told
 16 to the patients as the reason for the
 17 retesting?
 18 MS. PREDHAM:
 19 A. At that point in time, no.
 20 CHAYTOR, Q.C.:
 21 Q. And even though with all the knowledge you
 22 would have had with respect to any other
 23 issues that may be coming into play?
 24 MS. PREDHAM:
 25 A. One of the big - the biggest parts, even as we

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1 went through the discussion that I had with
 2 Deborah on Friday, we were hoping at that time
 3 that it was improved technology. We had more
 4 sensitive equipment, ten times more sensitive,
 5 I think was the message we had at the time.
 6 We had questions about whether or not changes
 7 over the period of time has increased the
 8 change results, and it was - it was - that's
 9 what we were thinking, or what we were hoping
 10 at that time. Of course, this was just a
 11 draft letter and we were - we had to do some
 12 more investigation.
 13 CHAYTOR, Q.C.:
 14 Q. "Women who do have to have their treatment
 15 altered because of this result will be
 16 contacted by your family doctor or oncologist.
 17 If you are not contacted, your result did not
 18 change". So this draft was contemplating only
 19 the women who would have a treatment change
 20 would be contacted?
 21 MS. PREDHAM:
 22 A. Well, this - I mean, this was the first - you
 23 know, Deborah just starting to - this is the
 24 straw man, I think people referred to it as.
 25 CHAYTOR, Q.C.:

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1 Q. So where would Deborah have gotten her
 2 information? Was that through her discussion
 3 with you on the 15th?
 4 MS. PREDHAM:
 5 A. Well, she attended the meeting on the 14th, so
 6 she would have had all the information that
 7 was present there, and - so I guess it's from
 8 that.
 9 CHAYTOR, Q.C.:
 10 Q. Did I understand, though, did you have a
 11 separate discussion with her on the 15th?
 12 MS. PREDHAM:
 13 A. We had a - yeah, we had a discussion. There
 14 was an e-mail that Deborah sent to Susan.
 15 CHAYTOR, Q.C.:
 16 Q. Yes, but did you have any discussion with
 17 Deborah yourself?
 18 MS. PREDHAM:
 19 A. Well, at that time, yes, I must have, because
 20 she sent that e-mail to Susan saying there was
 21 an update from me.
 22 CHAYTOR, Q.C.:
 23 Q. But you don't recall what it was that you
 24 discussed with Ms. Thomas?
 25 MS. PREDHAM:

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1 A. No.
 2 CHAYTOR, Q.C.:
 3 Q. "If you're not contacted, your result did not
 4 change". So this was - I realize early in
 5 terms of the drafting of the letter, and -
 6 MS. PREDHAM:
 7 A. I don't think that would ever have been the
 8 plan.
 9 CHAYTOR, Q.C.:
 10 Q. That would never have been?
 11 MS. PREDHAM:
 12 A. Well, you wouldn't send a letter to somebody
 13 and then say if you don't hear from us, you're
 14 okay, you know, like, you just wouldn't do
 15 that.
 16 CHAYTOR, Q.C.:
 17 Q. And the reason for that would be what, Ms.
 18 Predham, what could the potential downside of
 19 that be?
 20 MS. PREDHAM:
 21 A. You could miss somebody, you could - you know,
 22 anything could happen.
 23 CHAYTOR, Q.C.:
 24 Q. So once a patient is contacted and they're
 25 told that we're doing this, there has to be

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1 follow up with the patient at the end of the
 2 day whether they've changed or not?
 3 MS. PREDHAM:
 4 A. We have - you know, over the years you have
 5 problems with ensuring people get the results
 6 and ensuring results get back to people. We
 7 have in our diagnostic imaging areas now
 8 people get handed a little piece of paper in
 9 two weeks or so to check back and make sure
 10 they get the results, check with your family
 11 doctor and make sure the results are there,
 12 and it's just to reiterate to make sure that
 13 things don't get lost. So I don't think that
 14 would be anything that we would ever do that
 15 we'd write you a letter and then not contact
 16 you.
 17 CHAYTOR, Q.C.:
 18 Q. And not get back to you with your results one
 19 way or the other?
 20 MS. PREDHAM:
 21 A. Right, as a plan, like, that wouldn't be a
 22 part of a plan.
 23 CHAYTOR, Q.C.:
 24 Q. Or to contact patients, whether it's through
 25 letter or through telephone -

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. Once you make that initial contact, regardless
 5 of the outcome, the patient would be contacted
 6 again?
 7 MS. PREDHAM:
 8 A. The intent would be to follow up with that
 9 person, yes.
 10 CHAYTOR, Q.C.:
 11 Q. So then after receiving this, did you work on
 12 reworking the letter, did you have any
 13 involvement in drafting the letter which was
 14 intended to go out to patients?
 15 MS. PREDHAM:
 16 A. My memory is that our entire department got
 17 together and went through the letter and gave
 18 feedback on it.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, and if we could have, please, P-2949,
 21 and this is an e-mail, Ms. Predham, from
 22 yourself back to Ms. Deborah Thomas, same
 23 date, 3:37, so about an hour later in the
 24 afternoon, "Here's our feedback. What do you
 25 think? Should we link the Cancer Society

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1 and/or Breast Cancer Support Group about this
 2 and send out a joint message? What about St.
 3 Pierre? I hadn't thought about that". Then
 4 we'll see that you have revisions to the draft
 5 attached. Before I take you to that, what was
 6 your thinking in terms of posing linking the
 7 Cancer Society and/or another breast cancer
 8 support group about this? What were you
 9 thinking?
 10 MS. PREDHAM:
 11 A. Well, you know, our discussion that we had
 12 with our department was that this was a pretty
 13 heavy thing for someone to get in the mail.
 14 You know, you're going to open up a letter
 15 right out of the blue and get information
 16 about a test result that may be inaccurate. So
 17 our thinking was then in our department was
 18 that maybe if we linked with them and had a
 19 joint message go out or something, that would
 20 be another resource for people to turn to and
 21 they would have more information about exactly
 22 what was going on.
 23 CHAYTOR, Q.C.:
 24 Q. And did you get any feedback on that idea?
 25 MS. PREDHAM:

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1 A. Not that I can remember. Not that I - I don't
 2 know if I got feedback or not. I just can't
 3 remember if I did or not.
 4 CHAYTOR, Q.C.:
 5 Q. But you were seeing a group such as the Cancer
 6 Society as being able to provide perhaps
 7 support to the patients upon receipt of the
 8 letter?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. That's what you were thinking?
 13 MS. PREDHAM:
 14 A. Yes. We would have out hotline set up, but it
 15 wouldn't hurt to have as many people as we
 16 could who knew the story or knew what was
 17 going on to be that support.
 18 CHAYTOR, Q.C.:
 19 Q. And you posed this in your e-mail to Ms.
 20 Thomas and you don't recall anything coming
 21 back from her on that. Did you pose that to
 22 anyone else in the organization, for example,
 23 Dr. Williams or Dr. Cook, Mr. Gulliver, others
 24 who were involved and meeting with you fairly
 25 regularly?

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1 MS. PREDHAM:
 2 A. I think we may have discussed it at another
 3 time, but I don't have any distinct memory of
 4 it.
 5 CHAYTOR, Q.C.:
 6 Q. And was anybody opposed to that idea?
 7 MS. PREDHAM:
 8 A. I don't think anybody was - I don't have any
 9 memory of anybody being strongly opposed to
 10 it.
 11 CHAYTOR, Q.C.:
 12 Q. Was it pursued?
 13 MS. PREDHAM:
 14 A. Not that I'm aware of. I don't think so.
 15 CHAYTOR, Q.C.:
 16 Q. And do you know why not?
 17 MS. PREDHAM:
 18 A. No.
 19 CHAYTOR, Q.C.:
 20 Q. I guess the letters didn't go out -
 21 MS. PREDHAM:
 22 A. No.
 23 CHAYTOR, Q.C.:
 24 Q. But in terms of linking the Cancer Society
 25 and/or another support group, linking them in

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1 for any kind of support that the patients may
 2 require, that wasn't pursued further?
 3 MS. PREDHAM:
 4 A. I know it was later, though, that Dr. Williams
 5 met with Mr. Dawe and that was probably
 6 September or October, but I'm not aware of
 7 anything after that.
 8 CHAYTOR, Q.C.:
 9 Q. So perhaps after the message becomes public?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And patients were finding out through that
 14 means, okay. What was your question about St.
 15 Pierre? You say, "I hadn't thought about
 16 that".
 17 MS. PREDHAM:
 18 A. Well, the first one was that we had an English
 19 letter and would we mail it to the patients in
 20 St. Pierre, or we'd have to get it translated,
 21 what would be the route of communication with
 22 any patients in St. Pierre.
 23 CHAYTOR, Q.C.:
 24 Q. So were you aware by this point in time that
 25 there were patients from St. Pierre?

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1 MS. PREDHAM:
 2 A. No, but I think that - I'm not 100 percent
 3 sure if I was or not, but, you know, they do
 4 take a - we do have - a large population of
 5 our clients are from St. Pierre, so I guess
 6 that must have come up in our discussion that
 7 afternoon.
 8 CHAYTOR, Q.C.:
 9 Q. And did you receive any feedback on that
 10 particular issue?
 11 MS. PREDHAM:
 12 A. Not at that time, but we did have a discussion
 13 when we confirmed that we did have patients
 14 from St. Pierre there. We had a discussion of
 15 how to communicate with them.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, and what was decided in terms of the
 18 communication with St. Pierre patients?
 19 MS. PREDHAM:
 20 A. The communication would go through the medical
 21 director in St. Pierre. So we would - well, I
 22 attempted to talk to her because I understood
 23 she spoke English, but, you know, I think I
 24 talk too fast and - it was a very complicated
 25 issue and I didn't think I was getting my

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1 message across, so then we went and I wrote it
 2 and got it trans - well, I got it through our
 3 translation services, and that was the route
 4 we decided to go with all the communication
 5 through her to be communicated to the
 6 patients.
 7 CHAYTOR, Q.C.:
 8 Q. And I think that comes up later?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And that's in your discussions with Ms.
 13 Dominic.
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. In your department. Not in your department,
 18 in your organization, I should say.
 19 MS. PREDHAM:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. So these are the revisions that you came up
 23 with, or your department. You worked on it as
 24 a group, I understand, and you do continue
 25 with "Due to improved technology and the

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1 discovery of inconsistent results". So I take
 2 it at this point in time, you are comfortable
 3 in saying that, and you go on down the third
 4 paragraph, "You are not required to have any
 5 additional testing and are not required to
 6 come to the hospital. Retesting will be
 7 conducted with existing tissue samples. It
 8 will, however, take", and you've put in
 9 italics, "several weeks to complete all the
 10 retesting", and what's your estimate of time
 11 based on at that point?
 12 MS. PREDHAM:
 13 A. At that point, I don't think we had any
 14 estimate. We were still trying to figure it
 15 out.
 16 CHAYTOR, Q.C.:
 17 Q. And again this is - at this point in time, the
 18 contemplation was that your retesting is
 19 taking place in-house?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And if it were to take longer or be more time
 24 consuming, then it would have to be -
 25 MS. PREDHAM:

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1 A. It would go outside.
 2 CHAYTOR, Q.C.:
 3 Q. Go outside. "Once the results of the
 4 retesting are known", you write, "you will be
 5 notified by", and then you put in italics,
 6 "this has to be determined", and if follow up
 7 is required, it will be discussed at that
 8 time. So you'll note that you've changed that
 9 from what Ms. Thomas was proposing to say.
 10 "Your general family practitioner or your
 11 oncologist", and you're pointing out that it
 12 hasn't been determined how the results would
 13 be communicated.
 14 MS. PREDHAM:
 15 A. Right.
 16 CHAYTOR, Q.C.:
 17 Q. So I take it there hadn't been discussion down
 18 to that level at that point?
 19 MS. PREDHAM:
 20 A. Sometimes it - when you're having - you know,
 21 when something is evolving like this and this
 22 has just been a week since I found out the
 23 details of it.
 24 CHAYTOR, Q.C.:
 25 Q. Yes.

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1 MS. PREDHAM:
 2 A. Sometimes it isn't until you actually get to
 3 the concrete actions that you find out that
 4 you've missed a lot of logistics in doing
 5 that. So until you start writing the letter,
 6 you're saying, okay, now we got the results
 7 back, what are we going to do with it. So
 8 this is - when you get to this point, we have
 9 to figure that part out.
 10 CHAYTOR, Q.C.:
 11 Q. And the reference that had been put in by, "If
 12 you don't hear from us, your results are okay,
 13 or didn't change", you've changed that?
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And you're basically saying whatever your
 18 results are, we'll be back in touch?
 19 MS. PREDHAM:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Ms. Predham, telling the patient, "due to
 23 improved technology", when at this point in
 24 time did you know that to be the case?
 25 MS. PREDHAM:

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1 A. No.
 2 CHAYTOR, Q.C.:
 3 Q. You were hoping that to be the case?
 4 MS. PREDHAM:
 5 A. I was hoping it was going to be the case.
 6 CHAYTOR, Q.C.:
 7 Q. But you didn't know that to be the case?
 8 MS. PREDHAM:
 9 A. No, and this was only a draft letter, that we
 10 didn't know who to send the letter to as yet
 11 as well, so I was hoping over the next period
 12 of time - I think we were all hoping that this
 13 would be determined by the time we got the
 14 list of patients.
 15 CHAYTOR, Q.C.:
 16 Q. And if it weren't determined, what was your
 17 intention in terms of further revisions to
 18 this letter?
 19 MS. PREDHAM:
 20 A. Oh, well, we'd have to change it to reflect
 21 what we knew or what the story was.
 22 CHAYTOR, Q.C.:
 23 Q. And why at - why would you in terms of a draft
 24 be putting any reason in if you don't know,
 25 why not just say that inconsistent results

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1 have been found, so we're going to retest you
 2 too?
 3 MS. PREDHAM:
 4 A. I mean, we could have done that, but it was -
 5 you know, you had to take into account that
 6 what we understood at the time was that we had
 7 a piece of equipment that was ten times more
 8 sensitive than the previous equipment, so,
 9 therefore, there would be a change just based
 10 on that, or there would be an anticipated
 11 change just based on that.
 12 CHAYTOR, Q.C.:
 13 Q. But you didn't know that, you didn't know that
 14 to be the reason for the inconsistent results
 15 at this point in time?
 16 MS. PREDHAM:
 17 A. Oh, no, no.
 18 CHAYTOR, Q.C.:
 19 Q. If we can just go back, please, to P-0324, and
 20 this is the May 24th letter, and the other
 21 recommendations - this is very early on, May
 22 24th, and almost two months prior to drafting
 23 the letter to the patients, there's four
 24 things listed here which include; the
 25 establishment of external proficiency testing

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1 and monitoring program for immunoperoxidase
 2 testing, the establishment of a separate
 3 immunoperoxidase test with at least three
 4 technologists dedicated; the training of the
 5 technologists at a major immuno referral lab
 6 that has well established quality control and
 7 troubleshooting program; and, appropriate CME
 8 funding for the technologists. So all of
 9 those factors were also in the mindset of
 10 people at Eastern Health as being potentially
 11 causative factors or contributing to this
 12 whole issue?
 13 MS. PREDHAM:
 14 A. I mean, it could be looked as causative
 15 factors or it could be tightening up of
 16 processes that we have in place.
 17 CHAYTOR, Q.C.:
 18 Q. Concerns that may have contributed to the
 19 whole issue?
 20 MS. PREDHAM:
 21 A. Well, it - well, I mean, the lack of external
 22 proficiency testing wouldn't really be
 23 contributing to it, but it would be catching
 24 problems.
 25 CHAYTOR, Q.C.:

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1 Q. It's a hole in your cheese that -
 2 MS. PREDHAM:
 3 A. Yes, exactly.
 4 CHAYTOR, Q.C.:
 5 Q. So if we could go back then, please, to P-
 6 2949, and I guess my point being Ms. Predham,
 7 why say anything. If you know there are other
 8 potential issues being discussed, why say
 9 improved technology and nothing else?
 10 MS. PREDHAM:
 11 A. Well, you know, in sitting down and looking at
 12 it here, I can certainly see your point, but
 13 at the time, like I said, this was one week
 14 after I discovered this issue. The ten times
 15 sensitivity of new piece of equipment was a
 16 very important part of this and in my mind was
 17 - could be a contributing factor to that,
 18 hoping that was a contributing factor to this,
 19 and this was just a draft letter to get people
 20 to start talking about this.
 21 CHAYTOR, Q.C.:
 22 Q. And, Ms. Predham, if you were to tell people
 23 that there may have been something lacking in
 24 our system, that would be of concern to HIROC?
 25 MS. PREDHAM:

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1 A. Not if it was true, if we had determined it.
 2 I mean, if we knew for a fact that we didn't
 3 do something right, that wouldn't be a concern
 4 because it would be - it would be a fact.
 5 CHAYTOR, Q.C.:
 6 Q. But you don't -
 7 MS. PREDHAM:
 8 A. It's the supposition that they would be
 9 concerned with.
 10 CHAYTOR, Q.C.:
 11 Q. You don't know if it's true that it's due to
 12 improved technology?
 13 MS. PREDHAM:
 14 A. No, but again this is just a draft letter.
 15 CHAYTOR, Q.C.:
 16 Q. If we could have, please, P-0510.
 17 THE COMMISSIONER:
 18 Q. Excuse me, I just want to clarify a small
 19 point that's in my mind. This business of ten
 20 times improved sensitivity, I think you said
 21 yesterday that that source of that information
 22 was Mr. Gulliver?
 23 MS. PREDHAM:
 24 A. Gulliver, yes.
 25 THE COMMISSIONER:

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1 Q. Did you hear that from anybody else or the
 2 sole source was Mr. Gulliver?
 3 MS. PREDHAM:
 4 A. That was the sold source.
 5 THE COMMISSIONER:
 6 Q. Thank you.
 7 CHAYTOR, Q.C.:
 8 Q. And this is the next day then, Ms. Predham,
 9 and it's July 19th, 2005 and it's 10:05 in the
 10 morning, and I note that Pamela King-Jesso
 11 appears to be back. She's -
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. You're sending this to her and others in your
 16 department, including Nancy Parsons. So I
 17 take it while Ms. King-Jesso came back at this
 18 point in time, you remained in charge of the
 19 ER/PR file?
 20 MS. PREDHAM:
 21 A. She was back in a limited capacity, so it just
 22 made more since that I'd stay -
 23 CHAYTOR, Q.C.:
 24 Q. For you to continue on.
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And we've heard others refer to you basically
 4 as the project manager of the issue. Is that
 5 a fair term? Is that how you perceived
 6 yourself?
 7 MS. PREDHAM:
 8 A. No, definitely not. I was just, you know,
 9 helping out. I mean, the person in charge of
 10 this while thing was--Dr. Williams was
 11 coordinating the entire thing, so -
 12 CHAYTOR, Q.C.:
 13 Q. And I believe it may have been Ms. Pilgrim who
 14 called you the project manager and she would
 15 have been your, in essence, your boss?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. And so the fact that she perceived you that
 20 way, were you aware of that?
 21 MS. PREDHAM:
 22 A. I think as it went on in the fall, I became
 23 more that role, but certainly it wasn't that
 24 role at this point in time.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, so later on by the fall and thereafter.
 2 MS. PREDHAM:
 3 A. I could see that she'd have that, you know, it
 4 was more coordinating all the retesting, the
 5 panelling, the results that were coming out,
 6 the calls, it was doing a lot more of that
 7 coordination part of it, so I can certainly,
 8 you know agree that I'd be more in that
 9 coordinating role then, but not at this point
 10 in time.
 11 CHAYTOR, Q.C.:
 12 Q. And also in the role of the coordination of
 13 the communications to the patients.
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. And this is a frequently asked questions being
 18 drafted by yourself or I assume it's drafted
 19 by yourself, is that correct?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. "I've attached the questions and some answers
 24 I came up with yesterday. Before I send them
 25 elsewhere, look them over and let me know what

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1 needs to be added or deleted." So you're
 2 sending that within your department to get
 3 some feedback, and where else then would you
 4 be forwarding those?
 5 MS. PREDHAM:
 6 A. Well I'd have to send them to the content
 7 people, the point of having these frequently
 8 asked questions was, I guess when we were
 9 talking about the letter and then we were
 10 talking about having a hotline, well what are
 11 we going to say to these people when, you
 12 know, when they call, because we didn't have
 13 the knowledge. So it was some kind of
 14 questions that we came up with and then we
 15 were drafting our responses.
 16 THE COMMISSIONER:
 17 Q. I'm sorry, you said you'd have to send them to
 18 the who people?
 19 MS. PREDHAM:
 20 A. Oh the content--well it would be the
 21 oncologists and the pathologists, the whole--
 22 the broader group because they would have the
 23 knowledge of what these -
 24 THE COMMISSIONER:
 25 Q. Oh, the people who would have the knowledge of

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1 the content.
 2 MS. PREDHAM:
 3 A. Yes.
 4 THE COMMISSIONER:
 5 Q. Okay, thank you.
 6 CHAYTOR, Q.C.:
 7 Q. To be able to answer the questions.
 8 MS. PREDHAM:
 9 A. To be able to answer the questions, yes.
 10 CHAYTOR, Q.C.:
 11 Q. And the purpose of developing these questions,
 12 this was for purpose of your hotline, is that
 13 -
 14 MS. PREDHAM:
 15 A. Yes.
 16 CHAYTOR, Q.C.:
 17 Q. So anticipated questions that people might
 18 have if they're calling into the hotline?
 19 MS. PREDHAM:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. "And again I was tested for ER/PR receptor
 23 between 1997 and 2004, what does this mean to
 24 me?" And this would be the reiterated
 25 information in the letter which includes "due

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1 to improved technology and the discovery of
 2 inconsistent results, Easter Health has begun
 3 retesting". And basically what you've done
 4 here is just, as you said, reiterate what was
 5 put forward in the letter or the draft letter.
 6 And then you've listed a number of questions
 7 that the patients could pose. And most of
 8 which, this point in time while you're able to
 9 come up with the question, you don't have
 10 answers.
 11 MS. PREDHAM:
 12 A. Well I guess these were the questions that we
 13 had, so -
 14 CHAYTOR, Q.C.:
 15 Q. And if we could have then, please, P-2833?
 16 And Ms. King-Jesso comes up with a couple of
 17 questions herself and thought that you could
 18 add, "What if my results come back positive,
 19 what does this mean to me? What can I expect?
 20 Does this mean I received the incorrect
 21 treatment? My family member has died, could
 22 her outcome have been different if she was
 23 actually positive?" And Ms. Predham, did you
 24 add those questions to your anticipated
 25 questions?

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1 MS. PREDHAM:
 2 A. I believe I must have.
 3 CHAYTOR, Q.C.:
 4 Q. And did anyone ever provide you with any
 5 answers to those questions?
 6 MS. PREDHAM:
 7 A. I think in trying to come up with the answers
 8 of those, it created conversation of who would
 9 be talking to them or what we would do when we
 10 get those types of questions. Especially the
 11 second one was a lot of supposition and it was
 12 something that I certainly, if I was answering
 13 the phone, wouldn't feel comfortable having a
 14 discussion with because they would have to be
 15 referred back to their physician or their
 16 family member's physician and have that
 17 conversation.
 18 CHAYTOR, Q.C.:
 19 Q. And in terms of any of the questions, if we
 20 could just go back, please, a moment to P-
 21 0510? The other questions that are posed
 22 here, and at this point in time, who was to be
 23 answering--who was going to answer the
 24 hotline?
 25 MS. PREDHAM:

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1 A. It would be staff in our department and we had
 2 questioned whether or not we would get PPC's,
 3 Professional Practice Coordinators, the Social
 4 Work and Nursing to assist us.
 5 CHAYTOR, Q.C.:
 6 Q. And I take it the staff in your department
 7 also had very little knowledge of ER/PR
 8 testing, much the same level or probably less
 9 so than yourself at this point in time.
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. So in terms of even being able to answer, "I
 14 was tested for ER/PR receptor before 1997,
 15 what does this mean to me? I was tested for
 16 ER/PR receptor after 2004, what does this mean
 17 to me?" Do you have any concern about the
 18 ability of the staff to be able to answer
 19 those questions?
 20 MS. PREDHAM:
 21 A. Well we had to, as I said, this prompted
 22 discussion, so at a higher level, it's all
 23 right to say let's set up a hotline, but you
 24 have to have people to be able to answer those
 25 questions on that hotline. So this was part

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1 of the logistics regarding that high level
 2 decision that we're going to have this
 3 hotline.
 4 CHAYTOR, Q.C.:
 5 Q. And at this point in time, I guess the
 6 reference to 1997 being they would have been
 7 done on the old biochemistry method.
 8 MS. PREDHAM:
 9 A. Right.
 10 CHAYTOR, Q.C.:
 11 Q. And the 2004 cut off at this point in time,
 12 there wasn't contemplation that the Ventana
 13 results would be retested?
 14 MS. PREDHAM:
 15 A. Right.
 16 CHAYTOR, Q.C.:
 17 Q. Ms. Predham, so by July 19th and I believe
 18 this is in the afternoon of July--or, sorry,
 19 the morning of July 19th, so by 10:00 in the
 20 morning on July 19th, your department, you're
 21 working yourself on having come up with
 22 questions that could be answered or could be
 23 posed.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. To the people operating the hotline. You and
 3 the communications department had been working
 4 on the draft letter to the patients. So I
 5 take it by this point in time, you're going
 6 ahead with your plan to notify the public and
 7 to notify patients that this retesting process
 8 is taking place.
 9 MS. PREDHAM:
 10 A. Yes, we're at the early stages, there was a
 11 lot of concrete things that had to be worked
 12 on, but we were at the early stages then.
 13 And, of course, we didn't have any patient
 14 names, so we couldn't send a letter.
 15 CHAYTOR, Q.C.:
 16 Q. And did you have discussions with HIROC about
 17 the issue of patient or public notification?
 18 MS. PREDHAM:
 19 A. We did, I think this was Tuesday, I think it
 20 was Monday evening I got a call from HIROC.
 21 CHAYTOR, Q.C.:
 22 Q. And who from HIROC contacted you?
 23 MS. PREDHAM:
 24 A. Eleanor Morton, who was the VP for risk
 25 management, that's who I called on a Friday

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1 previously and Mike Boyce who is the VP for
 2 claims. I think that's his title.
 3 CHAYTOR, Q.C.:
 4 Q. Had you ever had any contact with Mr. Boyce
 5 before?
 6 MS. PREDHAM:
 7 A. I had met him, but I never had gotten a call
 8 from him before.
 9 CHAYTOR, Q.C.:
 10 Q. And your usual level of communication with
 11 HIROC would be at Ms. Morton's level?
 12 MS. PREDHAM:
 13 A. Well, she was at the same level of Mr. Boyce,
 14 but it was a different division. She was in
 15 the risk management part, so my usual contact
 16 with HIROC was with the risk management side
 17 of it.
 18 CHAYTOR, Q.C.:
 19 Q. So in terms of then having discussions at the
 20 VP level, was that unusual for you?
 21 MS. PREDHAM:
 22 A. Well I always contacted Eleanor first, that
 23 would be my first contact because that's who I
 24 spoke to over the years.
 25 CHAYTOR, Q.C.:

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1 Q. And was Mr. Boyce's position, he was
 2 equivalent to Ms. Morton?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. And so you had called on Friday and your query
 7 was going to be whether or not they have any,
 8 whether or not they had any experience with
 9 the DAKO system, that was -
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And so then on Monday, you receive--or Monday
 14 evening you received a phone call back from
 15 both Ms. Morton and Mr. Boyce?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. And what was discussed, what did they want to
 20 discuss?
 21 MS. PREDHAM:
 22 A. Well, they wanted to discuss the issue, but
 23 they also--it was in the context of us going
 24 out with public notification, and I guess in
 25 context of that my discussion with Ms. Morton

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1 would have been much the same as my--as the e-
 2 mail that Deborah had sent to Susan Bonnell on
 3 Friday that we were hoping that this was
 4 improved technology. Mr. Boyce's concerns was
 5 that we were going out with public
 6 notification without really knowing what
 7 exactly it was. He really didn't want us
 8 saying, you know, that it was improved
 9 technology when we really didn't know and the
 10 overall gist of the conversation was that,
 11 don't go out and tell the public or tell the
 12 patients what you suppose is happening, make
 13 sure you know what is happening or make sure
 14 you're comfortable with the story before you
 15 go out.
 16 CHAYTOR, Q.C.:
 17 Q. So his concern was don't go out and say
 18 something which could be misleading or could
 19 prove to be inaccurate altogether.
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. In terms of the cause.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Did he have any concern with you going out
 3 then and giving the message, saying that
 4 you're undergoing a retesting process and
 5 we'll be in touch with the people that we need
 6 to be in touch with? Did he have any concern?
 7 MS. PREDHAM:
 8 A. Absolutely not.
 9 CHAYTOR, Q.C.:
 10 Q. And this is your discussion that you had on
 11 the evening of July 18th?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And if we could have, please, P-0073? And at
 16 this point in time, were they aware of the
 17 contents or did you have any discussion about
 18 the issues that I pointed you to in terms of
 19 the May 24th letter, in terms of other issues
 20 that may be coming forward?
 21 MS. PREDHAM:
 22 A. Oh they would have by then, because the
 23 insurance adjustor would have had copies of
 24 letters by then and there would have been
 25 correspondence back and forth. He would have-

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1 -I presume the insurance adjustor does a
 2 summary and they open a file and they must
 3 have some logistics that go on. I don't
 4 really know, but they would have been there.
 5 Mr. Boyce was telling me about Health Labrador
 6 and the problem -
 7 CHAYTOR, Q.C.:
 8 Q. Yes, I was just going to bring you here in
 9 this P-0073 that you're looking at and this is
 10 July 19th, 2005 at 8:22 in the morning. And
 11 Dr. Williams, Dr. Cook, Mr. Gulliver, Ms.
 12 Bonnell, Ms. Thomas and you've copied Ms.
 13 Pilgrim, information from HIROC. So this is
 14 the morning after you've had your conversation
 15 and it says you had a long conversation with
 16 representatives from HIROC yesterday evening.
 17 So you can take it from there then, Ms.
 18 Predham?
 19 MS. PREDHAM:
 20 A. Well, they were discussing the Health Labrador
 21 situation in which they, I guess the problem
 22 was is that the organization felt that they
 23 had to quickly respond to that and tell
 24 people, but they hadn't full investigated the
 25 situation. And once they had gone through the

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1 whole investigation, what they found out is to
 2 be the situation, it didn't require that type
 3 of reaction. And, you know, they were--Health
 4 Labrador, there was a lawsuit against them for
 5 stress and anxiety, but, you know, the whole
 6 point was is that he just, I guess he was
 7 concerned if he was talking to Ms. Morton and
 8 I was saying that, you know, I was giving some
 9 kind of question about whether or not it was
 10 improved technology or not. I wasn't coming
 11 through and saying, this is what the cause was
 12 and we're going out publicly. He just wanted
 13 to reiterate that, to be sure what we knew
 14 what the issue was. And as I said here, my
 15 main focus of the e-mail is that it's not that
 16 they don't want us to disclose, they just
 17 don't want us to disclose until we're sure of
 18 the facts. So, you know, that type of
 19 causative type thing.
 20 CHAYTOR, Q.C.:
 21 Q. So what you write here and so you're informing
 22 then, early the next morning, about your
 23 conversation the evening before, "As a bit of
 24 background, they are currently defending a
 25 Class Action lawsuit against Health Labrador

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1 re: reprocessing of equipment. Apparently the
 2 aspect of this lawsuit on which they are most
 3 vulnerable was the method the people were
 4 informed. Ches Crosbie has alleged in the
 5 lawsuit that the people have suffered
 6 significant mental anguish from the way they
 7 were told and the risk of disease from their
 8 exposure did not warrant the stress and
 9 anxiety they suffered by being told. The
 10 organization felt the need to disclose
 11 publicly, ran it by their legal counsel and
 12 then wrote letters to every person affected
 13 and sent out a news release. Sound
 14 familiar??? Their vulnerability comes from
 15 the lack"--and I take it their vulnerability,
 16 meaning HIROC -
 17 MS. PREDHAM:
 18 A. Or Health Labrador, well, yes, right.
 19 CHAYTOR, Q.C.:
 20 Q. "Comes from the lack of weighing out the risk
 21 from the exposure verses the anxiety of being
 22 told about it. In this case, the risk from
 23 the exposure was very small." And in this
 24 case, they're referring to the Health Labrador
 25 situation, I take it.

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. "This leads us to our situation. It's not
 5 that they don't want us to disclose, they just
 6 don't want us to disclose until we are sure of
 7 our facts. I've had a quick voice mail from
 8 Dan after my chat with HIROC"--I take it
 9 that's Dan Boone?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. "They contacted him after they hung up from me
 14 reiterating this and that they will be in
 15 touch again in the morning. So I guess we
 16 will have to re-evaluate where we are before
 17 we plan to send those letters, et cetera.
 18 Should we chat about this face to face?" Now,
 19 Ms. Predham, why doesn't this mention anything
 20 about Mr. Boyce's concern about going out and
 21 telling them, telling the patients it's due to
 22 technology?
 23 MS. PREDHAM:
 24 A. Well, I guess that would be what I'd be
 25 talking about in a meeting when we discuss

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1 this face to face. But that's the -
 2 CHAYTOR, Q.C.:
 3 Q. But I had understood what you told me is that
 4 his concern wasn't--he had absolutely no
 5 concern with you going out and saying that
 6 there's a retesting taking place, that his
 7 concern was that you go out and tell them that
 8 it was due to technology, when that may prove
 9 not to be the case.
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. Where do I see that in this e-mail?
 14 MS. PREDHAM:
 15 A. Well I guess it's they don't want us to
 16 disclose until we are sure of our facts. As
 17 you can see, the letters that we were talking
 18 about, the information that we had on Friday,
 19 that was the type of thing we were hoping that
 20 it was improved technology.
 21 CHAYTOR, Q.C.:
 22 Q. Ms. Predham, when I read this and correct me
 23 if I'm wrong, but when I read it, it is saying
 24 that he is concerned that a disclosure, a
 25 premature disclosure could cause people to

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1 become anxious or stressed or create issues
 2 that might not otherwise exist for those
 3 people and that could lead to potential
 4 creation of a cause of action.
 5 MS. PREDHAM:
 6 A. What I intended when I wrote it, was that, you
 7 know, certainly it's not that they didn't want
 8 us to disclose, but they wanted us to be sure
 9 of our facts that we were telling people. So
 10 if we were sure of our facts that we didn't
 11 know and that we had no idea what this was
 12 about, well that's what we knew, but if we
 13 were going out and saying that--this is
 14 improved technology, he wanted to make sure
 15 that that's what we were talking about.
 16 CHAYTOR, Q.C.:
 17 Q. What did you discuss with Mr. Boyce and Ms.
 18 Morton in terms of the Labrador situation?
 19 MS. PREDHAM:
 20 A. They talked about how they went out quickly,
 21 they thought that they had an issue and they
 22 thought it was a significant infection control
 23 risk and that they went forward with that.
 24 CHAYTOR, Q.C.:
 25 Q. And what does it mean to be sure of your

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1 facts? What facts would you have to be sure
 2 of? I understood your letter that you're
 3 drafting is to notify people that they're
 4 going to be retested.
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. So you're sure of that fact and you're going
 9 to retest people. You're sure of the time
 10 period that you're going to be retesting.
 11 MS. PREDHAM:
 12 A. Uh-hm.
 13 CHAYTOR, Q.C.:
 14 Q. And you're sure the person that you're writing
 15 to fits within your category, so what facts is
 16 it that you had to be sure of before you could
 17 go out and tell people that?
 18 MS. PREDHAM:
 19 A. Well, I mean, those are the things that we
 20 could tell them, but by saying that we're
 21 hoping that it's improved technology, that's
 22 something we're not sure of.
 23 CHAYTOR, Q.C.:
 24 Q. So don't say it.
 25 MS. PREDHAM:

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1 A. Exactly.
 2 CHAYTOR, Q.C.:
 3 Q. So why can't your letter go out?
 4 MS. PREDHAM:
 5 A. Oh, there's no reason why the letter could not
 6 go out based on this information. This is--
 7 you have to remember, we still didn't have a
 8 list of patients to send the letter out to, so
 9 we still had, even if we wanted to send it
 10 that day, we couldn't have sent it. The other
 11 issue as well is that when we got together
 12 that day, the--Mr. Gulliver was telling us
 13 that our positivity rates were well within the
 14 range, so then it was giving another slant to
 15 it, that it really wasn't an issue, we kind of
 16 reinforced that it was a technology part.
 17 CHAYTOR, Q.C.:
 18 Q. Yes, and I'll get to that meeting and what was
 19 discussed by various people, but I'm just
 20 wondering what happens here about why, because
 21 you're saying you now have to re-evaluate
 22 where we go before we plan to send those
 23 letters. So based on your discussion that you
 24 had the evening of July 18th, there had to be
 25 a re-evaluation of the plan for sending

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1 letters to the patients. And my question is
 2 why, based on what Mr. Boyce or Ms. Morton
 3 told you, why did there have to be a re-
 4 evaluation to sending letters?
 5 MR. SIMMONS:
 6 Q. It says a re-evaluation of where we were
 7 before -
 8 CHAYTOR, Q.C.:
 9 Q. Before we plan to send those letters, yes.
 10 MS. PREDHAM:
 11 A. And that's exactly what it was, it was a re-
 12 evaluation of where we are. Can we say it's
 13 improved technology, you know, without a
 14 doubt. Can we say that it's not, can we say
 15 anything, can we just go out and say we've got
 16 inconsistent results and we don't know what it
 17 is.
 18 THE COMMISSIONER:
 19 Q. Sorry, I'm having trouble following this
 20 because earlier in the day you said, well the
 21 bit about improved technology is just a draft,
 22 we were hoping that's what it was. My
 23 impression was you were saying, well, you
 24 know, I was doing a draft letter, I stuck in
 25 what I hoped it was, that could easily come

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1 out when we discover that it was something
 2 else or it wasn't that, but when I look at
 3 this, it seems to me you are for the first
 4 time raising should we be sending a letter?
 5 Not should we be sending a letter with those
 6 words in it or not.
 7 MS. PREDHAM:
 8 A. No, I'm certainly not raising should we send
 9 the letter, that was certainly not my intent.
 10 You know, I was hoping and I was thinking from
 11 all the conversation that I heard and again
 12 from the fact that this equipment was ten
 13 times more sensitive, that it was sensitivity
 14 of this equipment, this new technology was
 15 playing a role -
 16 THE COMMISSIONER:
 17 Q. I understand that, but my take on the
 18 conversation that took place between you and
 19 counsel earlier this morning was, in effect
 20 you were saying, don't worry about the fact
 21 that I was saying this was improved
 22 technology. I knew at that stage that we
 23 couldn't say it, I was hoping that's what we
 24 would be able to say, but as other witnesses
 25 from Eastern Health have said before, it was

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1 only a draft, we could pull that out. If we,
 2 in fact got the information which clarified
 3 that particular point, don't make a big deal
 4 of it, more or less.
 5 MS. PREDHAM:
 6 A. Yes.
 7 THE COMMISSIONER:
 8 Q. But when I read that letter, I'm afraid what
 9 comes across to me is, hang on now, let's
 10 rethink letters.
 11 MS. PREDHAM:
 12 A. No, that's -
 13 THE COMMISSIONER:
 14 Q. At least at this point.
 15 MS. PREDHAM:
 16 A. We certainly didn't--we did not decide to send
 17 the letter at this point because of this. It
 18 was the fact of re-evaluating where we are,
 19 confirming what we actually knew. I guess it
 20 was putting more pressure on making sure that
 21 it was technology or not. It was that part of
 22 -
 23 THE COMMISSIONER:
 24 Q. That makes more of technology than you have up
 25 to this point. Do you see where my problem is

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1 here?
 2 MS. PREDHAM:
 3 A. Yes.
 4 THE COMMISSIONER:
 5 Q. Because as I read this letter in light of your
 6 explanation, you're now saying we really
 7 thought it was technology and they said, "umm,
 8 really be sure because look at what happened
 9 in Labrador, don't go off in that tangent
 10 unless you're absolutely sure." And if you
 11 were planning to send a letter, then why not
 12 just say, let's take the reason out and carry
 13 on.
 14 MS. PREDHAM:
 15 A. Yes, exactly. I mean, that's all we needed to
 16 do at this point. I think one of the other
 17 things too is, you know, like I wanted to get
 18 together face to face and discuss this in
 19 further detail. I mean, this was just an e-
 20 mail to people to try and set up that meeting
 21 to talk about it, so this wasn't, you know,
 22 like a set in stone type thing. This was just
 23 an e-mail to -
 24 THE COMMISSIONER:
 25 Q. Oh I don't think anything was set in stone in

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1 this.

2 MS. PREDHAM:

3 A. No.

4 THE COMMISSIONER:

5 Q. I think we can fairly come to that conclusion.

6 Ms. Chaytor?

7 CHAYTOR, Q.C.:

8 Q. Ms. Predham, you recall what you told me about

9 HIROC's concerns in your interview on November

10 22nd?

11 MS. PREDHAM:

12 A. I can't recall anything other than what I'm

13 telling you now.

14 CHAYTOR, Q.C.:

15 Q. And, Ms. Predham, if you had told me that they

16 were very wary of us going out with no results

17 at that time because of their experience in

18 Labrador and you did not mention any concern

19 about telling people that there was an issue

20 due to technology.

21 MS. PREDHAM:

22 A. I can't recall saying that to you. Obviously

23 I can't contradict you, but I can't recall

24 saying that to you and I can't recall -

25 CHAYTOR, Q.C.:

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1 Q. Would you like to see the transcript?

2 MS. PREDHAM:

3 A. I trust what you're saying to me, but I can't-

4 -I can't say that that's my memory of this,

5 this situation.

6 CHAYTOR, Q.C.:

7 Q. So your memory on November 22nd was that

8 HIROC's concern was that they didn't want you

9 to go out without any results because of the

10 situation in Labrador and your memory on

11 November 22nd did not reference any discussion

12 with Mr. Boyce about technology, and your

13 memory today is different?

14 MS. PREDHAM:

15 A. Unfortunately it is. You know -

16 CHAYTOR, Q.C.:

17 Q. And why is that? Why is your memory

18 different?

19 MS. PREDHAM:

20 A. Well, I've had a lot more time to think about

21 this, review the documents and go through the

22 whole process. In reviewing all the

23 documents, which I didn't have that

24 opportunity before I got interviewed with you,

25 I had a memory of a much longer period of time

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1 than when this took place. There were times

2 when meetings took place that I thought months

3 happened in between when it was only 12 days

4 and it wasn't until I went back and started

5 going through all my notes that things kind of

6 fell into place and the order of things that

7 happened. I don't have any recall of them

8 telling me, telling me that and I don't have

9 any recall of me telling you that at that

10 time.

11 CHAYTOR, Q.C.:

12 Q. So was HIROC wary of you going out with any

13 kind of a communication without having any

14 results because of what had happened in the

15 Labrador Health situation?

16 MS. PREDHAM:

17 A. No, I really don't think so. I think I must

18 have been mistaken at that time and I'm really

19 sorry about that, but I don't have any memory

20 of that.

21 CHAYTOR, Q.C.:

22 Q. But, Ms. Predham, isn't that in essence what

23 you're saying in your e-mail communication of

24 July 19th, 2005, which would have been typed

25 by you within hours of having had your

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1 conversation with HIROC representatives?

2 MS. PREDHAM:

3 A. No, I'm saying they don't want us to disclose

4 until we're sure of our facts, you know, we

5 were -

6 CHAYTOR, Q.C.:

7 Q. Because of what happened in Labrador?

8 MS. PREDHAM:

9 A. Yes. But, you know, we were going ahead and

10 informing before we got our results all back

11 in September when the media story broke in the

12 media, so I mean, we still hadn't gotten all

13 our results back then.

14 THE COMMISSIONER:

15 Q. I'm sorry, I didn't get that.

16 MS. PREDHAM:

17 A. In September, we were planning on sending the

18 letter then, we were going out and sending

19 that letter and then it got--The Independent

20 picked up the story, so we were in the process

21 of sending that letter at that time. We

22 didn't have our results back then, there was

23 no--they weren't telling us to stop and send

24 the letter at that time. If they didn't want

25 us to send the letter now because we didn't

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1 have any results back, then in September when
 2 we still didn't have our results back, they
 3 wouldn't have wanted us to send the letter
 4 then as well. We still wouldn't have known
 5 any more from the results point of view, but
 6 we had a very clear idea then about what
 7 issues that we had and about what we wanted to
 8 say.
 9 CHAYTOR, Q.C.:
 10 Q. Yes.
 11 THE COMMISSIONER:
 12 Q. So are you saying you--I guess I'm not
 13 following the sequence. And maybe--never
 14 mind, I'll ask my question later because I
 15 think as we go through what was done step by
 16 step, maybe your explanation will become
 17 clear. If it doesn't, I'll come back to it.
 18 MS. PREDHAM:
 19 A. Okay, sorry.
 20 THE COMMISSIONER:
 21 Q. Sorry to interrupt, Ms. Chaytor.
 22 CHAYTOR, Q.C.:
 23 Q. No, no, that's fine.
 24 THE COMMISSIONER:
 25 Q. I think it might become clear as we go through

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1 the sequence.
 2 CHAYTOR, Q.C.:
 3 Q. Well I can only hope. So are you suggesting
 4 that in September then, HIROC wasn't opposed
 5 or September, October, into the fall of '05
 6 that HIROC wasn't opposed to letters going out
 7 at that point?
 8 MS. PREDHAM:
 9 A. No, they didn't say, no, don't send a letter
 10 because we didn't have our results back. You
 11 know, we were--when The Independent broke the
 12 story, we were redrafting the letter and
 13 getting ready to send the letter out the same
 14 as we would have been doing later on in the
 15 summer.
 16 CHAYTOR, Q.C.:
 17 Q. But did they have concern about letters going
 18 out in September and October?
 19 MS. PREDHAM:
 20 A. I think we had feedback at the time, but
 21 that's when we decided to phone everybody
 22 instead of sending the letters out.
 23 CHAYTOR, Q.C.:
 24 Q. Yes, and you had feedback at the time from
 25 HIROC's lawyer.

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1 MS. PREDHAM:
 2 A. Yes, I think so. So I just want to be clear
 3 on this now, Ms. Predham. You're asking that--
 4 you're posing "perhaps we get together for a
 5 meeting today to discuss this." And you're
 6 asking this of the group and what you intend
 7 to discuss is HIROC's position?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And whether or not in light of that, you need
 12 to re-evaluate where you go before you plan to
 13 send out the letters?
 14 MS. PREDHAM:
 15 A. Where we are.
 16 CHAYTOR, Q.C.:
 17 Q. Where we are before you send out the letters.
 18 MS. PREDHAM:
 19 A. What we know; what we don't know.
 20 CHAYTOR, Q.C.:
 21 Q. And you understood from your discussion with
 22 HIROC that in Labrador--well what did you
 23 understand their concern was and how somehow
 24 there could be a parallel to what was
 25 happening in your situation?

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1 MS. PREDHAM:
 2 A. I guess they immediately responded with the
 3 notification and the public disclosure and
 4 they didn't take the time to fully understand
 5 the situation before they sent out the
 6 letters.
 7 CHAYTOR, Q.C.:
 8 Q. And that they told--a number of people were
 9 told that there might be an issue and there
 10 had been the weighing of the risk of those
 11 people's exposure to warrant the stress and
 12 anxiety of them having to wait for their
 13 results?
 14 MS. PREDHAM:
 15 A. Yes. See, the people in Labrador had to come
 16 in and get tested for, you know, for exposure
 17 to whatever it was they were exposed to. So
 18 they had to contact the people, but they
 19 didn't weigh out the risk of that exposure.
 20 So what was the risk that was--that they had
 21 to get a communicable disease.
 22 CHAYTOR, Q.C.:
 23 Q. Yes, and the vulnerability came from not
 24 weighing out the risk, you write here, from
 25 the exposure verses the anxiety of being told

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1 about it. And in that case, the risk of
 2 exposure was very small. So did HIROC discuss
 3 with you that in that situation, in going out
 4 and telling people without the results,
 5 without having the results as to whether or
 6 not the people--well I guess they had to get
 7 the people back in because they had to tell
 8 them.
 9 MS. PREDHAM:
 10 A. Yeah, they had to tell them, I mean, it was
 11 nothing to do with results because they had to
 12 get the people in to -
 13 CHAYTOR, Q.C.:
 14 Q. They had to get the people back in to be
 15 retested.
 16 MS. PREDHAM:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. But by going out and telling people in that
 20 time period and then there being the whole
 21 idea of it being a small community, how they
 22 were notified, registered letters, all of
 23 that, was that discussed in terms of how the
 24 manner in which they went around--went about
 25 telling the people?

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1 MS. PREDHAM:
 2 A. It might have been mentioned, but the key
 3 message that I took from it was the fact that
 4 the process or the degree of exposure from
 5 that didn't balance out with me sending you a
 6 letter saying that you could contract, I don't
 7 know, hepatitis C, I'm not sure what it was.
 8 CHAYTOR, Q.C.:
 9 Q. Yeah, it says that they had suffered mental
 10 anguish from the way they were told.
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And was there a discussion then, the way they
 15 were told as having been registered letters in
 16 a small community and that this was an issue
 17 which could have some stigma attached to it?
 18 MS. PREDHAM:
 19 A. We did have that discussion, I think, but like
 20 I said, the biggest message that I took away
 21 from it was the fact that they weren't--when
 22 they went out, they weren't--they didn't have
 23 a full picture of what went wrong.
 24 THE COMMISSIONER:
 25 Q. So are you saying that HIROC was saying--these

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1 people had to be retested, you couldn't delay
 2 retesting until you figured out what was
 3 actually wrong, is that the suggestion?
 4 MS. PREDHAM:
 5 A. No, no, no, certainly not, but it's just that
 6 the organization responded immediately, they
 7 didn't stop and say, well what's the risk of
 8 exposure here, you know, what are they are
 9 risk of and what's the chance that they're
 10 going to be exposed to something. And then it
 11 turned out that there was little or no risk of
 12 being exposed.
 13 THE COMMISSIONER:
 14 Q. But that does not change the fact that all of
 15 these people had to be retested, does it?
 16 MS. PREDHAM:
 17 A. If the risk of exposure is very low, they may
 18 not need to be retested. They may need to be
 19 informed and said you have the option of being
 20 retested if you like, but there is very little
 21 risk to this procedure.
 22 THE COMMISSIONER:
 23 Q. Okay, but you really had to get in touch with
 24 the patient and tell them about it.
 25 MS. PREDHAM:

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1 A. Oh yes, you did. So it wasn't the fact of
 2 notifying the patient, it was just that they
 3 were notified that they were at risk for these
 4 diseases and then they had to go and get -
 5 THE COMMISSIONER:
 6 Q. So what you're saying is the problem was the
 7 wording of the letter?
 8 MS. PREDHAM:
 9 A. The problem was that they didn't full assess
 10 the situation before they informed people.
 11 They didn't have a full grasp on what exactly
 12 the people were at risk for.
 13 THE COMMISSIONER:
 14 Q. Or what the risk was.
 15 MS. PREDHAM:
 16 A. Exactly.
 17 THE COMMISSIONER:
 18 Q. How high the risk was.
 19 MS. PREDHAM:
 20 A. How high the risk was.
 21 THE COMMISSIONER:
 22 Q. So presumably their problem was they might
 23 have said you are at risk as opposed to you
 24 might be at risk?
 25 MS. PREDHAM:

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1 A. Could have been, you know, it could have been,
 2 you know, we have a problem with the
 3 equipment, you are at risk for contracting
 4 hepatitis C or AIDS or whatever was in the--I
 5 don't know what was in the letter, I'm just
 6 supposing here now, and you need to come in
 7 immediately and be retested, as opposed to we
 8 have, you know, a wording which would be a
 9 very slight chance that you have this, if you
 10 would like to be retested for a comfort level,
 11 you know, I'm not sure, but that was the gist
 12 of the information that I got.
 13 THE COMMISSIONER:
 14 Q. Okay, thank you.
 15 CHAYTOR, Q.C.:
 16 Q. So, Ms. Predham, what else was discussed with
 17 you and representatives of HIROC on this
 18 issue?
 19 MS. PREDHAM:
 20 A. That's really all I remember.
 21 CHAYTOR, Q.C.:
 22 Q. And were you--was this approach by HIROC
 23 different than what you had experienced from
 24 them in other situations and in dealing with
 25 other claims?

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1 MS. PREDHAM:
 2 A. I never spoke to Mr. Boyce before and usually,
 3 you know, the typical thing if I called up to
 4 HIROC and said, you know, have you had any
 5 experience, has there been any issues with
 6 this piece of equipment, then they'd get back
 7 to me and say, yes or no, or yes, they had a
 8 problem up here at Toronto General, you might
 9 want to talk to so and so.
 10 CHAYTOR, Q.C.:
 11 Q. And was this the--did they appear to be more
 12 interventionist in terms of your approach and
 13 what you wanted to take and what you had
 14 experienced in the past?
 15 MS. PREDHAM:
 16 A. No, well I guess it was, they were, you know,
 17 in essence providing feedback about the
 18 disclosure and this is what--a problem that we
 19 had somewhere else, so in essence, they're
 20 giving me back information that had happened
 21 in another situation where there was a large
 22 disclosure and there was an issue.
 23 CHAYTOR, Q.C.:
 24 Q. And was this the first time that HIROC in your
 25 dealing with them had actually come out and

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1 said to you basically you might want to think
 2 about what you're doing here?
 3 MS. PREDHAM:
 4 A. No, they provided information like that, you
 5 know, in different context. I mean, if I
 6 called up and said, you know, we have a
 7 situation here like that, they might have to
 8 do that. But this was the first time that
 9 they had called me and said, you know, in this
 10 type of--I called up and asked a question
 11 about one thing and they're calling back and
 12 telling me about another aspect of it that I
 13 really hadn't thought about.
 14 CHAYTOR, Q.C.:
 15 Q. And were you surprised by that?
 16 MS. PREDHAM:
 17 A. Oh I was surprised, you know, that it was Mr.
 18 Boyce that called me, I was very surprised by
 19 that.
 20 CHAYTOR, Q.C.:
 21 Q. And why is it that or how is it that they came
 22 then to have this conversation with you about
 23 disclosure when that wasn't the question that
 24 you were posing to them?
 25 MS. PREDHAM:

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1 A. Well I guess there was a level of degree of
 2 similarity with the Health Labrador one and I
 3 guess they just saw that, you know, and I
 4 guess it may have been the message that I gave
 5 to Ms. Morton, that you know, we were hoping
 6 it was something.
 7 CHAYTOR, Q.C.:
 8 Q. So Mr. Predham, was it HIROC raising the
 9 Labrador situation with you or did you raise
 10 it with them?
 11 MS. PREDHAM:
 12 A. Oh I didn't raise it with them, they raised it
 13 with me.
 14 CHAYTOR, Q.C.:
 15 Q. Did you even know about the Labrador situation
 16 prior to this?
 17 MS. PREDHAM:
 18 A. Oh, yes, I did, well it was in the media, it
 19 was, you know -
 20 CHAYTOR, Q.C.:
 21 Q. And they raised it with you.
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. So, Ms. Predham, after sending this on to the

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1 powers that be that are handling the
 2 situation, you then send it on to a number of
 3 other people, you forward on that e-mail to a
 4 number of other people, all of these people
 5 being within your department, I take it,
 6 Pamela King-Jesso, Janet Laidley, Nancy
 7 Parsons and others.

8 MS. PREDHAM:
 9 A. Yes.

10 CHAYTOR, Q.C.:
 11 Q. And so you write, "The plot thickens ...".
 12 What did you mean by that?

13 MS. PREDHAM:
 14 A. Just it was another little twist in this road.
 15 I could have--I should have written "FYI" but
 16 that's -

17 CHAYTOR, Q.C.:
 18 Q. And "The plot thickens" is something a little
 19 different than "FYI".

20 MS. PREDHAM:
 21 A. Yeah, but it's not--it was just another twist.

22 CHAYTOR, Q.C.:
 23 Q. And so how did this information that you're
 24 forwarding on thicken the plot as to what you
 25 were going to do with communications on the

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1 ER/PR issue?

2 MS. PREDHAM:
 3 A. It was just another factor that we had to
 4 consider when we were going forward on this.

5 CHAYTOR, Q.C.:
 6 Q. HIROC's position?

7 MS. PREDHAM:
 8 A. HIROC's, I guess, words of caution, I guess is
 9 more than anything, that we'd have to make
 10 sure that we knew whatever we said out
 11 publicly, we'd have to make sure we were
 12 comfortable with that and we were comfortable
 13 that that's exactly what we sent--exactly what
 14 we sent was exactly what we knew.

15 CHAYTOR, Q.C.:
 16 Q. And Ms. Predham, I'm going to suggest to you
 17 that ultimately technology is told and
 18 mentioned in the public as being a cause or a
 19 potential cause of this whole issue and you're
 20 aware of that.

21 MS. PREDHAM:
 22 A. Yes.

23 CHAYTOR, Q.C.:
 24 Q. Okay. Did HIROC get back to you with concerns
 25 about that?

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1 MS. PREDHAM:
 2 A. No, I don't recall that.

3 CHAYTOR, Q.C.:
 4 Q. And Ms. Predham, before I leave this, what I'm
 5 taking from what you've written in your e-mail
 6 and I'm taking it was the method of having
 7 informed the patients in Labrador that was of
 8 concern to HIROC?

9 MS. PREDHAM:
 10 A. Well yes, it was the--Health Labrador had an
 11 issue, they thought they had an issue, they
 12 immediately responded to that by disclosing
 13 that publicly, only to find out shortly after
 14 that they risk wasn't as great as they had
 15 originally thought. And I guess in my
 16 discussion with Ms. Morton and that, you know,
 17 the fact that I was, you know, hoping that it
 18 was technology, that that kind of thing, I
 19 guess that rang a bell. I'm assuming that she
 20 must have went to Mr. Boyce and said have we
 21 had any claims regarding this issue that you
 22 are aware of, and I guess when she was re-
 23 iterating the story, it must have rung a bell
 24 with him.

25 THE COMMISSIONER:

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1 Q. So that's not the method of communication,
 2 that's what was communicated.

3 MS. PREDHAM:
 4 A. What was communicated more than the method.

5 CHAYTOR, Q.C.:
 6 Q. And this says, "The aspect of the lawsuit on
 7 which they are most vulnerable was the method
 8 people were informed."

9 MS. PREDHAM:
 10 A. The method in which they were informed based
 11 on the risk of what they--what was wrong.

12 CHAYTOR, Q.C.:
 13 Q. Well what did you understand the method was,
 14 were they informed by registered letters in a
 15 small community?

16 MS. PREDHAM:
 17 A. Yes, but I mean, the fact that they were
 18 informed by letter without identifying the
 19 amount of risk was the key issue there.

20 CHAYTOR, Q.C.:
 21 Q. And was that discussed then with HIROC and the
 22 representatives what they meant by method in
 23 which the people were informed?

24 MS. PREDHAM:
 25 A. The registered letters in a small community

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1 was not a key message that they were--that
 2 went across. They might have mentioned it. I
 3 know it was in the news at the same time, but-
 4 -or at the time when it was in the news, but
 5 that wasn't the key message.
 6 CHAYTOR, Q.C.:
 7 Q. Because if you go on with your e-mail, you say
 8 "the organization felt the need to disclose
 9 publicly, ran it by their legal counsel and
 10 then wrote letters to every person affected
 11 and sent out a news release sound familiar?
 12 Their vulnerability comes from the lack of
 13 weighing out the risk from the exposure,
 14 verses the anxiety of being told about it. In
 15 this case, the risk from the exposure was very
 16 small." So the method of communication was
 17 through a public release, as well as through
 18 letters to the patient and you're equating
 19 that to what you were planning to do here in
 20 St. John's, taking the same method, that as
 21 opposed to the timing, wasn't the timing of
 22 when the letters were sent out and what they
 23 knew at that point in time, it was the fact
 24 that they wrote the letters to every person
 25 affected and sent out a news release. So you

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1 understood the method was letters and a news
 2 release? Is that what was of concern to
 3 HIROC?
 4 MS. PREDHAM:
 5 A. My memory of this was that the concern of
 6 HIROC was the fact that the risk was not as
 7 great as what they originally thought. Now
 8 whether that related to the method of they
 9 sent the letter out and then, you know, it
 10 small communities and it was registered
 11 letters and there wasn't as great a risk, you
 12 know, that was, I guess, all part of it. But
 13 that was the intent. My intent was just to
 14 get the message across and then we would have
 15 a meeting about it.
 16 CHAYTOR, Q.C.:
 17 Q. So then prior to your discussion with HIROC,
 18 it was Eastern Health's intention to disclose
 19 the issue to the patients upfront, to let them
 20 know that they were going to be retested.
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. It was Eastern Health's intention that the
 25 public would also be informed that there was a

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1 retesting process underway.
 2 MS. PREDHAM:
 3 A. Uh-hm.
 4 CHAYTOR, Q.C.:
 5 Q. In fact, your department and the
 6 communications department were working on the
 7 draft letter to send to the patients.
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Communications department was working on draft
 12 press releases to send out.
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. And then what happens?
 17 MS. PREDHAM:
 18 A. Well we continued working on all that. We
 19 went to the meeting on Tuesday, that
 20 afternoon. It was a quick meeting and I had a
 21 meeting with a family immediately after with
 22 another program, but the message at that
 23 meeting was that Mr. Gulliver had almost
 24 finished the positivity rates and they were
 25 well within the range and that we would have

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1 to get together the next day.
 2 CHAYTOR, Q.C.:
 3 Q. And if we could look, please, at P-0509? And
 4 we'll start at the bottom which is just
 5 another copy of your e-mail of 8:22 in the
 6 morning and Susan Bonnell replies fairly
 7 promptly to you and says "it would be
 8 appropriate for us to discuss this as quickly
 9 as possible. Can we set up a face to face
 10 today? I'm going to see what I can pull from
 11 Health Labrador crisis, I'm not sure how much
 12 of this I would have kept, but I'll see what I
 13 can find." And then you respond a couple of
 14 minutes after that to the whole group, "Hi, do
 15 you want to see if I can get Dan there. He
 16 and I are meeting with the family at corporate
 17 office"--at a certain time--"any time before
 18 that"--"meeting with the family at 2 p.m. at
 19 corporate office any time before that?" And
 20 then Ms. Bonnell thinks "yes, you need Dan
 21 there", and I take it that's Dan Boone?
 22 MS. PREDHAM:
 23 A. Uh-hm.
 24 CHAYTOR, Q.C.:
 25 Q. And "I've just left a voice mail for Dan to

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1 check on his availability." And you're still
 2 looking at before 2:00 and as Ms. Bonnell
 3 comes back--and before I take you to that you
 4 say "I've had a quick voice mail from Dan
 5 after my chat with HIROC. They contacted him
 6 after they hung up with me reiterating this
 7 and they will be in touch again in the
 8 morning." What message did Mr. Boone leave
 9 for you on your voice mail?
 10 MS. PREDHAM:
 11 A. Other than the fact that he had spoken to them
 12 and that they were going to call him again in
 13 the morning, I can't recall anything else that
 14 he said.
 15 CHAYTOR, Q.C.:
 16 Q. It says that "he re-iterated this", what are
 17 you referring to, what did he reiterate?
 18 MS. PREDHAM:
 19 A. I guess he reiterated the information that,
 20 you know, he went over what they were saying
 21 about the Health Labrador situation.
 22 CHAYTOR, Q.C.:
 23 Q. And why do you suggest having Mr. Boone attend
 24 the meeting on July 19th?
 25 MS. PREDHAM:

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1 A. Well I guess he'd be able to describe the
 2 situation or something better than I would, I
 3 would be passing this on second hand, where
 4 actually he would have more direct feedback.
 5 CHAYTOR, Q.C.:
 6 Q. Which situation is that, what would he be able
 7 to provide information on?
 8 MS. PREDHAM:
 9 A. Well he had talked to HIROC as well, so I
 10 guess the nuances or whatever that, you know,
 11 he was also involved in the Health Labrador
 12 situation, so he would be able to talk to that
 13 as well.
 14 CHAYTOR, Q.C.:
 15 Q. On behalf of--he would have been representing?
 16 MS. PREDHAM:
 17 A. HIROC, for Health Labrador and HIROC.
 18 CHAYTOR, Q.C.:
 19 Q. Health Labrador, so he'd be in a position to
 20 discuss that with you at Eastern Health?
 21 MS. PREDHAM:
 22 A. I guess the issues that HIROC had had, with
 23 what they had talked to me.
 24 CHAYTOR, Q.C.:
 25 Q. And this is then Susan Bonnell's position,

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1 July 19th, 2005, she's writing back to all of
 2 you at just before 9:00. "This is fine for
 3 us"--in terms of the meeting time I guess she
 4 means--"I've got a couple of calls out re:
 5 getting the initial Labrador reaction and
 6 speaking with Carolyn Chaplin at the
 7 department, she seems to recall that one of
 8 the main issues in the lab was that the women
 9 were sent registered letters which destroyed
 10 their anonymity in small communities;
 11 secondary to that, key medical spokespeople
 12 were not out front and had to be coaxed into
 13 speaking. The organization simply sent out a
 14 press release and then sort of refused to talk
 15 about it. Obviously this is not the approach
 16 we would take here, it is essential that we
 17 put forward our key medical people and make an
 18 oncologist available who will instill
 19 confidence and reassure patients. We can talk
 20 more later. I'll bring in what I can." So I
 21 take it then when you get together and meet,
 22 Ms. Bonnell updated you on where she was with
 23 her calls on the Labrador situation.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. And did your meeting then take place later
 3 that day?
 4 MS. PREDHAM:
 5 A. I do believe it was just before the 2:00
 6 meeting.
 7 CHAYTOR, Q.C.:
 8 Q. If we could have, please, 1931. Actually, I
 9 think that's just a different format of your
 10 same e-mail exchange. Perhaps then you can
 11 tell us, Ms. Predham, what happens at the
 12 meeting, who attends and what's discussed?
 13 MS. PREDHAM:
 14 A. I think Dr. Williams and Susan, Dr. Cook, and
 15 Mr. Gulliver were there, myself, and Mr.
 16 Boone. I don't have a lot of memories of the
 17 details of that. The biggest memory I have is
 18 that Mr. Gulliver had the positivity rates
 19 done for several years or were just almost
 20 completed, and that he was very pleased that
 21 they were within a range, which kind of
 22 supported the change in technology aspect of
 23 it, and we all decided that we'd wait until he
 24 had those numbers done by the next day.
 25 That's when he thought he'd have them done.

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1 CHAYTOR, Q.C.:

2 Q. If we could look at P-0522, please. So you're

3 saying verbally Mr. Gulliver is saying that

4 the positivity rates were looking good?

5 MS. PREDHAM:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. But there was no documentation presented at

9 the meeting?

10 MS. PREDHAM:

11 A. No, not that I recall.

12 CHAYTOR, Q.C.:

13 Q. And what have here is an exhibit that shows

14 some positivity rates, and it's dated Sunday,

15 July 24th, from Terry Gulliver to Dr.

16 Williams, and this particular version has

17 numbers crossed off.

18 MS. PREDHAM:

19 A. I think that there's one dated earlier than

20 that. That's an updated stats.

21 CHAYTOR, Q.C.:

22 Q. Do you know the number for that, Mr. Simmons?

23 MR. SIMMONS:

24 Q. P-514.

25 CHAYTOR, Q.C.:

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1 Q. What is it?

2 MR. SIMMONS:

3 Q. P-514.

4 CHAYTOR, Q.C.:

5 Q. Okay, thank you, sorry. There we go. Yes,

6 this is the earlier one. So this one is

7 Wednesday, July 20th, so the next day around

8 noon, and there's positivity rates shown here.

9 In 2000 and 2002 on this particular version,

10 somebody has circled. So is this the kind of

11 information that Mr. Gulliver would have

12 given?

13 MS. PREDHAM:

14 A. Yes.

15 CHAYTOR, Q.C.:

16 Q. So the 2000 and - the way that his positivity

17 rates are calculated, he's come up here with

18 total percent positivity 62 percent, 77, 68,

19 83, and 90 percent. Did anyone ask how Mr.

20 Gulliver went about doing this?

21 MS. PREDHAM:

22 A. This was his process of manually going through

23 the pathology reports that he had printed out

24 and calculating it based on that.

25 CHAYTOR, Q.C.:

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1 Q. Yes, and I just want to understand then what

2 you're saying in terms of the positivity

3 rates. Mr. Gulliver, on the 19th, offered

4 some reassurance on the positivity rates, is

5 that correct?

6 MS. PREDHAM:

7 A. Yes.

8 CHAYTOR, Q.C.:

9 Q. And what did that - what if anything did that

10 lead you to do or not do?

11 MS. PREDHAM:

12 A. Well, at that time, I guess, at that meeting

13 we didn't do anything, we waited to see the

14 statistics, which would have been this day.

15 CHAYTOR, Q.C.:

16 Q. The next day?

17 MS. PREDHAM:

18 A. Yes.

19 CHAYTOR, Q.C.:

20 Q. And did you receive this then the next day?

21 MS. PREDHAM:

22 A. Either - I think we had a meeting and it was

23 handed out at that meeting.

24 CHAYTOR, Q.C.:

25 Q. And did you find this to be reassuring?

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1 MS. PREDHAM:

2 A. It was in the range - you know, the range that

3 we were told, the 50 to 80 percent, it was in

4 that range, but it wasn't reassuring, it

5 wasn't totally reassuring.

6 CHAYTOR, Q.C.:

7 Q. And was it going to make any difference what

8 your positivity rates were in terms of - the

9 decision had been made, I take it, to retest?

10 MS. PREDHAM:

11 A. Yes.

12 CHAYTOR, Q.C.:

13 Q. Was your decision being reconsidered on the

14 basis of any positivity rates that Mr.

15 Gulliver was producing?

16 MS. PREDHAM:

17 A. No.

18 CHAYTOR, Q.C.:

19 Q. So in terms of then the decision is made,

20 you're going to retest regardless of

21 positivity rates. How would that affect going

22 forward and informing the public and informing

23 the affected patients as to the plan on

24 retesting?

25 MS. PREDHAM:

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1 A. I guess the whole thing was is there was no
 2 question we were going to retest, but it was
 3 what was our issue here, were we seeing - and
 4 I think Dr. Kwan put it in - when we met about
 5 this, you know, were we seeing the benefits of
 6 what we paid for. So we got improved
 7 technology, were we seeing the benefits of
 8 that. You know, we heard that it was a very
 9 manual process, that there was risk of error,
 10 you know, it was all that part, and, you know,
 11 the increase - we had Dr. Ejeckam stopped it,
 12 and then there was a higher rate after, so it
 13 was - you know, it was a lot of things that we
 14 had to narrow down.
 15 CHAYTOR, Q.C.:
 16 Q. But in terms of the patients are all still
 17 going to be retested?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. Regardless?
 22 MS. PREDHAM:
 23 A. Regardless.
 24 CHAYTOR, Q.C.:
 25 Q. So -

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1 MS. PREDHAM:
 2 A. And they were going to have to be told because
 3 they were going to be retested. So, I mean,
 4 it was irregardless. There was no question
 5 that we wouldn't notify the patients, and
 6 there was no question that we wouldn't go out
 7 public.
 8 CHAYTOR, Q.C.:
 9 Q. Okay.
 10 MS. PREDHAM:
 11 A. It was just trying to figure out exactly what
 12 are we dealing with.
 13 CHAYTOR, Q.C.:
 14 Q. So nothing that Mr. Gulliver told you on July
 15 19th affected the decision to tell the
 16 patients and tell the public that retesting
 17 was taking place?
 18 MS. PREDHAM:
 19 A. No.
 20 CHAYTOR, Q.C.:
 21 Q. What else was discussed in the meeting on July
 22 19th?
 23 MS. PREDHAM:
 24 A. I guess we went through the -
 25 THE COMMISSIONER:

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1 Q. Are you talking the 19th or the 20th?
 2 CHAYTOR, Q.C.:
 3 Q. The 19th.
 4 MS. PREDHAM:
 5 A. I guess we went through the discussion with
 6 HIROC and the reiteration of that, but I don't
 7 have much of a memory of that.
 8 CHAYTOR, Q.C.:
 9 Q. My understanding was, sorry, Commissioner,
 10 that he verbally gave some statistics in the
 11 meeting and the paper came the next day. I'm
 12 sorry, go ahead, Ms. Predham.
 13 MS. PREDHAM:
 14 A. I'm assuming that we must have went through
 15 the Health Labrador thing and the HIROC
 16 feedback, but I don't have a very crisp memory
 17 of that. All I remember is that we - Terry
 18 saying that our positivity rates looked good,
 19 and that, you know, wait until tomorrow, he'll
 20 have it, you know, concrete statistics for us.
 21 CHAYTOR, Q.C.:
 22 Q. So Mr. Boone is in attendance and the purpose
 23 for him to be there is to talk about HIROC's
 24 concerns?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And HIROC - in particular, HIROC's situation
 4 in the Health Labrador case?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. Would it have been then apparent to those in
 9 attendance that Mr. Boone was there to
 10 represent or articulate HIROC's position?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And throughout the meeting, were you cognizant
 15 of that fact, that that's Mr. Boone's role?
 16 MS. PREDHAM:
 17 A. Well, yes.
 18 CHAYTOR, Q.C.:
 19 Q. Did anyone at any point in time voice any
 20 concern that HIROC's interest may not be one
 21 and the same as Eastern Health's interest in
 22 dealing with the issue?
 23 MS. PREDHAM:
 24 A. No.
 25 CHAYTOR, Q.C.:

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1 Q. Did that occur to you?
 2 MS. PREDHAM:
 3 A. No. Over the years, Eastern Health - well,
 4 the Health Care Corporation always had two
 5 legal firms. We had a primary legal firm and
 6 a secondary legal firm. Up to 2000, I think,
 7 Stewart McKelvey, which is where Mr. Boone
 8 works, was our primary legal firm and our
 9 second legal firm was another one. In around
 10 2000, I guess, the tender went out and that
 11 switched around the other direction. Whenever
 12 we had any legal questions that we wanted
 13 advice on, if I called the primary legal firm
 14 and there was any question of liability, they
 15 always referred me to Stewart McKelvey. So
 16 because of the fact that they were HIROC's
 17 lawyers, so we always got into that method of
 18 contacting them for legal advice whenever
 19 there was an issue of potential or actual
 20 liability.
 21 CHAYTOR, Q.C.:
 22 Q. And nobody at any point in time within Eastern
 23 Health voiced any concern to you or that came
 24 to your knowledge that HIROC's interests may
 25 not be one and the same as Eastern Health's,

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1 that issue was never raised with you?
 2 MS. PREDHAM:
 3 A. No, I don't recall.
 4 CHAYTOR, Q.C.:
 5 Q. So what did Mr. Boone contribute to the
 6 meeting on the 19th?
 7 MS. PREDHAM:
 8 A. Like I said, we must have went through that
 9 issue with Health Labrador. He must have
 10 described that. I don't have any memory of
 11 that. My biggest memory of that was Terry
 12 asking us to wait because he had positivity
 13 rates. Before we even talked about it, you
 14 know, this is hot off the press almost, the
 15 situation, and I was meeting with the family
 16 immediately after and that was really my focus
 17 for that afternoon.
 18 CHAYTOR, Q.C.:
 19 Q. So Terry asked you to wait in doing what?
 20 MS. PREDHAM:
 21 A. Oh, he didn't ask me to wait, he just said to
 22 the group -
 23 CHAYTOR, Q.C.:
 24 Q. The group, yes, yes.
 25 MS. PREDHAM:

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1 A. Just, you know, we got positivity rates and
 2 we're doing, you know, we're doing good, we're
 3 doing well.
 4 CHAYTOR, Q.C.:
 5 Q. That's what Mr. Gulliver said?
 6 MS. PREDHAM:
 7 A. You know, not - words to that effect.
 8 CHAYTOR, Q.C.:
 9 Q. So he asked you to wait on doing what?
 10 MS. PREDHAM:
 11 A. I guess, wait until we do any further
 12 discussion. The gist of the discussion would
 13 be what do we know right now, what do we know
 14 is the cause, what could we tell patients
 15 right now, I guess. You know, my biggest
 16 memory is Mr. Gulliver telling us to wait
 17 until the next day until he had more results.
 18 CHAYTOR, Q.C.:
 19 Q. Yes. I'm sorry, so he - I'm sorry, I was
 20 distracted for a second. Tell me what was it
 21 that Mr. Gulliver asked you - what was it that
 22 he asked you to wait in doing?
 23 MS. PREDHAM:
 24 A. I'm assuming, and I don't have a clear - I
 25 have a memory of Terry saying that we had to

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1 wait for the next day, but I don't have a
 2 clear memory of why he asked us to wait. I
 3 can only assume it's because we were trying to
 4 say what do we know, like, what would we tell
 5 people; if we were going to send out the
 6 letter today, what would we send out in the
 7 letter, what would we say, and Terry asked us
 8 to wait until they give us those results.
 9 It's the only way that would make sense.
 10 CHAYTOR, Q.C.:
 11 Q. And what were these results going to tell you
 12 that was necessary to put into the letter?
 13 MS. PREDHAM:
 14 A. I guess it was in his mind reiteration that it
 15 was a change in technology, that that's what
 16 we were seeing.
 17 CHAYTOR, Q.C.:
 18 Q. But those results are all DAKO, those aren't
 19 Ventana?
 20 MS. PREDHAM:
 21 A. But that they were in the appropriate range,
 22 we weren't seeing a - I'm only supposing what
 23 Mr. Gulliver would mean, but this is what he
 24 told us to wait.
 25 CHAYTOR, Q.C.:

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1 Q. I'm trying to think what you took out of it as
 2 being one of the key people in the room making
 3 this decision in terms of going forward, and
 4 I'm just wondering what it is, why you would
 5 have to wait because of positivity rates, that
 6 you've now been told verbally, you're going to
 7 get that in writing the next day, why would
 8 that cause you to pause at all in terms of
 9 informing your patients that there's going to
 10 be retesting of their samples?
 11 MS. PREDHAM:
 12 A. Well, it wasn't causing us to pause to inform
 13 the patients. Like I said, we didn't have
 14 people to inform yet, we didn't have patients
 15 to send letters to. We had no names. So
 16 there wasn't any - you know, it wasn't like we
 17 had the letter in the envelope ready to go, we
 18 had to wait for that, anyway. So this was
 19 just reiterating what was the cause. If our
 20 positivity rates were in an expected range and
 21 now we were seeing conversions, I guess the
 22 thinking could be is that that reinforces that
 23 it is technology because we had a good level
 24 of positivity all the way along, as opposed to
 25 a lower level of positivity, more negatives

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1 than we should have.
 2 CHAYTOR, Q.C.:
 3 Q. Right, but if you had that, if you have a - I
 4 guess I'm missing the point because I'm
 5 thinking, well, if you had - isn't it
 6 suggesting if you had a good positivity with
 7 the DAKO, then there is no issue.
 8 MS. PREDHAM:
 9 A. Well, there was an issue -
 10 CHAYTOR, Q.C.:
 11 Q. It wasn't the technology.
 12 MS. PREDHAM:
 13 A. Well, if we had a good positivity level, but
 14 now we're getting a better positivity level,
 15 we're seeing conversions, then there is an
 16 issue. We still have to retest because now we
 17 have, I guess, the analogy of a CT scan to an
 18 MRI, you're seeing something that didn't get
 19 picked up on the previous technology that's
 20 getting picked up now.
 21 CHAYTOR, Q.C.:
 22 Q. And if, as you pointed out earlier, that after
 23 Dr. Ejeckam had stopped the testing and made
 24 certainly adjustments and then the positivity
 25 rate was higher afterwards, doesn't that

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1 suggest that there may have been some issue in
 2 your testing procedure prior to Dr. Ejeckam's
 3 intervention?
 4 MS. PREDHAM:
 5 A. Well, I don't think that there was an issue
 6 that there wasn't, but it was - it was - you
 7 know, Dr. Ejeckam didn't feel the need to go
 8 back and retest, so I guess he didn't think it
 9 was significant enough to go back and retest
 10 or stop it altogether, you know, continually,
 11 but, I mean, obviously his interventions did
 12 have some effect.
 13 CHAYTOR, Q.C.:
 14 Q. So, Ms. Predham, nothing that Mr. Gulliver
 15 said changed the course and everybody
 16 continued on, we're going to retest, and we're
 17 going to tell the patients, and we're going to
 18 tell the public?
 19 MS. PREDHAM:
 20 A. Right.
 21 CHAYTOR, Q.C.:
 22 Q. And what about what Mr. Boone and HIROC's
 23 position articulated by Mr. Boone in the
 24 meeting?
 25 MS. PREDHAM:

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1 A. I guess it reinforced the fact that we had to
 2 be very sure of what we put in that letter,
 3 and we had to make sure if we did - say, we
 4 went with the draft that we had, we'd have to
 5 make sure that this is what it was.
 6 CHAYTOR, Q.C.:
 7 Q. So you had to delete the reference that it was
 8 due to technology?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. Did that happen?
 13 MS. PREDHAM:
 14 A. Well, time went by before we even had a list.
 15 I don't think it was - we weren't ready to
 16 send out a letter until probably the middle of
 17 August before we had a list of names to send
 18 them out to, and by that time, the feedback
 19 from the oncologists were that they didn't
 20 want us to send the letter at that time. So
 21 it was another - it was another issue that
 22 caused our delay in sending the letter.
 23 CHAYTOR, Q.C.:
 24 Q. So going into the July 19th meeting, the plan
 25 in terms of communication was we're going to

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1 tell the patients we're retesting, we're going
 2 to send them a letter, we're going to tell the
 3 public and there were draft press releases
 4 prepared?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. Coming out of that meeting, was the plan in
 9 terms of communication changed or altered in
 10 any way?
 11 MS. PREDHAM:
 12 A. No.
 13 CHAYTOR, Q.C.:
 14 Q. And so why didn't the letters ever go out and
 15 why didn't the press conference ever take
 16 place?
 17 MS. PREDHAM:
 18 A. Well, the letters didn't go out then because
 19 we didn't - like I said, we didn't have anyone
 20 to send the letters to, we didn't know who -
 21 they had not been identified on who was going
 22 to be retested. We had no names at that time.
 23 CHAYTOR, Q.C.:
 24 Q. So up until July 19th, there were no patients
 25 identified for retesting?

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1 MS. PREDHAM:
 2 A. There were a few that had already been
 3 retested in that process, but there wasn't -
 4 Mr. Gulliver - Dr. Carter was still in the
 5 process of identifying at that time, which she
 6 didn't complete, and then Mr. Gulliver had to
 7 identify all the patients for retesting. The
 8 blocks still had - then at that point, the
 9 blocks had to be pulled, the slides pulled,
 10 that whole process had not been done.
 11 CHAYTOR, Q.C.:
 12 Q. Okay.
 13 MS. PREDHAM:
 14 A. So it was not an issue here that the letter
 15 was going to go out the 21st or anything.
 16 This was - this was well before the letter
 17 could be sent. This was still in part of the
 18 discussion and it was a feedback, it was
 19 another bit of feedback, the same as we got
 20 from Mr. Gulliver or anybody else.
 21 CHAYTOR, Q.C.:
 22 Q. And what did - how far along - in order for
 23 Mr. Gulliver to be coming up with the
 24 positivity rates - and Mr. Gulliver, I take
 25 it, at this point he's pulled all the

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1 pathology reports, he's identified all the
 2 patients for the time period, pulled all the
 3 pathology reports, separated them into
 4 negatives and positives. So all that's
 5 happened -
 6 MS. PREDHAM:
 7 A. Uh-hm.
 8 CHAYTOR, Q.C.:
 9 Q. By July 19th. So in terms of coming up with
 10 the list of patients who are negative, the
 11 work is basically done, they were there,
 12 they're identified, it's a matter of getting
 13 Mr. Gulliver's list and getting the letters
 14 out?
 15 MS. PREDHAM:
 16 A. As far as I know, he didn't have a list at
 17 that time. Dr. Carter was charged with
 18 identifying the patients that would be
 19 retested.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, but certainly the information existed
 22 and the patients had been divided into the
 23 negatives and the positives?
 24 MS. PREDHAM:
 25 A. Oh, certainly.

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1 CHAYTOR, Q.C.:
 2 Q. Yes. So you weren't anticipating that that
 3 was going to be a very lengthy process in
 4 being able to then, well, here they are,
 5 here's the people, let's get the letters out?
 6 MS. PREDHAM:
 7 A. Another week or so, yeah.
 8 CHAYTOR, Q.C.:
 9 Q. Yes, and the draft letter then that we looked
 10 at earlier, was that then modified after the
 11 July 19th meeting to delete any reference that
 12 the problem was due to technology?
 13 MS. PREDHAM:
 14 A. Not directly. I mean, that would have to be
 15 the broader - we'd have to have a broader
 16 consensus about that issue and about the
 17 letter. I mean, that was only a draft that
 18 went out, and, I mean, I certainly didn't go
 19 back and delete it right then and there, but -
 20 CHAYTOR, Q.C.:
 21 Q. Was it ever deleted?
 22 MS. PREDHAM:
 23 A. I can't remember.
 24 CHAYTOR, Q.C.:
 25 Q. Have you ever seen a draft that has that

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1 phrase taken out of it, that it was due to
 2 technology?
 3 MS. PREDHAM:
 4 A. I can't remember. I know Ms. Bonnell and I
 5 were sitting down looking at that letter in
 6 the end of September, and I can't remember
 7 what was in the content at that time.
 8 CHAYTOR, Q.C.:
 9 Q. Okay, so certainly not in the July/August time
 10 period. When it's still being contemplated to
 11 send out a letter to patients, there wasn't a
 12 new draft produced in that time period?
 13 MS. PREDHAM:
 14 A. No, I don't think we looked back and revisited
 15 that first draft.
 16 CHAYTOR, Q.C.:
 17 Q. What else was discussed in the July 19th
 18 meeting?
 19 MS. PREDHAM:
 20 A. That's really all I remember.
 21 CHAYTOR, Q.C.:
 22 Q. Do you recall any discussion of any suspected
 23 problem in May of 2001? Was there any
 24 discussion at all around May of 2001?
 25 MS. PREDHAM:

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1 A. May of 2001?
 2 CHAYTOR, Q.C.:
 3 Q. Yes.
 4 MS. PREDHAM:
 5 A. No.
 6 CHAYTOR, Q.C.:
 7 Q. Was there any discussion at all of any concern
 8 regarding the year 2003?
 9 MS. PREDHAM:
 10 A. Dr. Ejeckam - that whole situation with Dr.
 11 Ejeckam.
 12 CHAYTOR, Q.C.:
 13 Q. Was there anything else about 2003 discussed?
 14 MS. PREDHAM:
 15 A. No.
 16 THE COMMISSIONER:
 17 Q. Are you saying that the work of Dr. Ejeckam
 18 and the memos, etc, was a part of the
 19 discussion at that meeting?
 20 MS. PREDHAM:
 21 A. No, I'm not saying it was a part of that. I'm
 22 just saying I don't recall anything other
 23 than, you know, if that had come up, I don't -
 24 like I said, again my main memory of that
 25 meeting was Mr. Gulliver saying, hold on now,

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1 I've been going over the positivity rates and
 2 they look pretty good.
 3 CHAYTOR, Q.C.:
 4 Q. If we could look at P-925, please, and these
 5 are Dr. Williams notes again, and the meeting
 6 takes place, July 19th. Yourself, Mr.
 7 Gulliver, Mr. Boone, Drs. Cook, Williams, Ms.
 8 Bonnell and Ms. Thomas are present. It
 9 indicates that the background, Dr. Cook, Mr.
 10 Gulliver, there's reference to 650 patients
 11 from 1997 to 2004, ER/PR negative. So there
 12 appears to have been some identification of
 13 the number of patients then in the time
 14 period. Total tests, about 380 per year. 32
 15 of 2003 reviewed, 24 are positive. Do you
 16 remember any discussion around that?
 17 MS. PREDHAM:
 18 A. Like I said, I don't have a lot of detailed
 19 memory, just that hold on part.
 20 CHAYTOR, Q.C.:
 21 Q. And then 2002 results being discussed?
 22 MS. PREDHAM:
 23 A. I guess that's what was already looked at,
 24 that they had already, you know, done some
 25 testing.

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1 CHAYTOR, Q.C.:
 2 Q. Do you recall that being discussed?
 3 MS. PREDHAM:
 4 A. No, I don't.
 5 CHAYTOR, Q.C.:
 6 Q. 2003, a bunch of question marks. Do you
 7 recall any discussion about 2003?
 8 MS. PREDHAM:
 9 A. No.
 10 CHAYTOR, Q.C.:
 11 Q. 2001, May, you recall no discussion about 2001
 12 in May?
 13 MS. PREDHAM:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. If we could have--and I take it then, what
 17 you've told us is your only memory of July
 18 19th meeting. Ms. Predham, do you have your
 19 own notes of the July 19th meeting?
 20 MS. PREDHAM:
 21 A. I don't think so.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. Did you take notes at the meeting?
 24 MS. PREDHAM:
 25 A. I don't recall. That's my only memory of it,

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1 and like I said, I was on my way to a meeting
 2 with a family and that was--I guess that was
 3 my focus for the afternoon was, you know, what
 4 was going on in that meeting.
 5 CHAYTOR, Q.C.:
 6 Q. So you would have had a notebook with you?
 7 MS. PREDHAM:
 8 A. Possibly.
 9 CHAYTOR, Q.C.:
 10 Q. But you didn't take notes?
 11 MS. PREDHAM:
 12 A. No, I don't have any notes.
 13 CHAYTOR, Q.C.:
 14 Q. If we could have, please, P-2940? And page
 15 12, please, Registrar? And this is the next
 16 day. These are your handwritten notes, July
 17 20th. "Dr. Williams, Sunday afternoon," and
 18 then asterisk, "Dan, media release." Is that
 19 what that says?
 20 MS. PREDHAM:
 21 A. Yes, I guess that's a note for me to give Dan
 22 the media release.
 23 CHAYTOR, Q.C.:
 24 Q. Dan Boone?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. And why would you be giving Mr. Boone the
 4 media release?
 5 MS. PREDHAM:
 6 A. I guess to review it before it went out.
 7 CHAYTOR, Q.C.:
 8 Q. And for what purpose?
 9 MS. PREDHAM:
 10 A. For the same purpose that we would ask him to
 11 review a letter or anything we're out publicly
 12 with something.
 13 CHAYTOR, Q.C.:
 14 Q. "QI notifying patients," what's that referring
 15 to?
 16 MS. PREDHAM:
 17 A. I guess that we would be notifying--we would
 18 be coordinating the letter going out, I guess.
 19 CHAYTOR, Q.C.:
 20 Q. And do you recall, did you forward the media
 21 release or the draft releases to Mr. Boone to
 22 review?
 23 MS. PREDHAM:
 24 A. I most likely did. I don't recall actually
 25 doing it, but I know he did get them at some

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1 point in time.
 2 CHAYTOR, Q.C.:
 3 Q. And you most likely forwarded them on. Do you
 4 recall getting any feedback?
 5 MS. PREDHAM:
 6 A. I don't--no, I don't recall. If it was, it
 7 was nothing much of anything.
 8 CHAYTOR, Q.C.:
 9 Q. And did he have any concern with the media
 10 release going out?
 11 MS. PREDHAM:
 12 A. I don't recall.
 13 CHAYTOR, Q.C.:
 14 Q. "If there is a problem with what we did, by
 15 making an exposure, will we create a -- can't
 16 expect HIROC to pay for it. Someone else is
 17 going"--is that act?
 18 MS. PREDHAM:
 19 A. Act, it looks like.
 20 CHAYTOR, Q.C.:
 21 Q. Okay. Ms. Predham, what's this saying?
 22 MS. PREDHAM:
 23 A. I guess it's if we make an exposure, we can't-
 24 -if we do something that would cause an
 25 exposure, we can't expect HIROC to pay for it.

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1 CHAYTOR, Q.C.:
 2 Q. So if you go out and tell the patients, tell
 3 the public that there is an issue, that you
 4 could, for all of those patients, you could be
 5 creating a cause of action where none might
 6 not otherwise lie, and if you do that, you
 7 undermine your insurance coverage?
 8 MS. PREDHAM:
 9 A. I guess if we went out and said it was to
 10 improved technology when it wasn't, then we
 11 would create an exposure that didn't already
 12 exist. The exposure already existed because
 13 we were going to retest all these patients and
 14 we were going to find people that converted,
 15 and we already had an issue because we didn't
 16 respond in 2003 like we were in 2005.
 17 CHAYTOR, Q.C.:
 18 Q. If you go out and tell people who don't
 19 ultimately convert and they have had the
 20 anxiety of thinking they might and waiting for
 21 their results, was there a concern that you
 22 have created a cause of action for those
 23 people where there would not otherwise be a
 24 cause of action?
 25 MS. PREDHAM:

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1 A. No. At that time, no. We did not have that
 2 discussion at that time.
 3 CHAYTOR, Q.C.:
 4 Q. When did you have that discussion?
 5 MS. PREDHAM:
 6 A. The discussion that we had about notifying
 7 people who ultimately didn't convert was held
 8 with the oncologists in about a week's time.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. The discussion in terms of undermining
 11 your insurance coverage, what is it that you
 12 couldn't expect HIROC to pay for?
 13 MS. PREDHAM:
 14 A. If we went out and said something that wasn't
 15 true.
 16 CHAYTOR, Q.C.:
 17 Q. And who were you having that discussion with?
 18 MS. PREDHAM:
 19 A. I was having that with Dr. Williams.
 20 CHAYTOR, Q.C.:
 21 Q. And who was telling you that, that--who from
 22 HIROC is telling you "you can't expect us to
 23 pay for it"?
 24 MS. PREDHAM:
 25 A. I guess that was--that's an understanding that

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1 we always had. If we--and that's why we
 2 always reiterated with--that's why we always
 3 sent information to our lawyers, to make sure
 4 that we weren't inadvertently undermining our
 5 insurance policy.
 6 CHAYTOR, Q.C.:
 7 Q. Ms. Predham, you went out and told the public
 8 that it was due to technology after you knew
 9 it wasn't.
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And you're telling me that this note is
 14 concern that "if we do that, we might not have
 15 insurance coverage."
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Perhaps that's not what this note's about.
 20 MS. PREDHAM:
 21 A. I can only--this was a discussion with Dr.
 22 Williams. He was telling me about a meeting
 23 that we're going to have on a Sunday
 24 afternoon. He asked me to run the media
 25 release by Dan, and obviously I was jotting

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1 down notes while we were talking.
 2 CHAYTOR, Q.C.:
 3 Q. Commissioner, this would be a good place,
 4 please, to take the break.
 5 THE COMMISSIONER:
 6 Q. Yes, okay then, we'll take 15 minutes.
 7 (BREAK)
 8 THE COMMISSIONER:
 9 Q. Please be seated. Ms. Chaytor.
 10 CHAYTOR, Q.C.:
 11 Q. Thank you, Commissioner. Ms. Predham, so when
 12 you left the July 19th meeting, did your QI
 13 department then continue on to get ready for
 14 the patient notification and patient contacts?
 15 MS. PREDHAM:
 16 A. I guess we were, at that time, waiting for
 17 feedback on our frequently asked questions.
 18 We needed to get the information there. We
 19 also needed to figure out a process of when we
 20 got the results back what we were going to do
 21 with them. So there was some critical things
 22 that we needed before we went any farther.
 23 CHAYTOR, Q.C.:
 24 Q. And over the course of the next week, in terms
 25 of getting the patients' names together and

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1 patients' address and contact information, did
 2 that work take place?
 3 MS. PREDHAM:
 4 A. Well, getting the patients' names together was
 5 taking place elsewhere. So we were waiting to
 6 get that information as well.
 7 CHAYTOR, Q.C.:
 8 Q. Yes, and so at what point then does that land
 9 in your office and you end up with your own
 10 list. You have your own list?
 11 MS. PREDHAM:
 12 A. I started off just trying to determine who was
 13 passed away, and so I did get a list from the
 14 Cancer Registry, and that was what the point
 15 of me doing that was.
 16 CHAYTOR, Q.C.:
 17 Q. Yes, and didn't you at some point though have
 18 a complete list of everyone?
 19 MS. PREDHAM:
 20 A. That was later on. That was much later on,
 21 but what I had done, and I'm not sure of the
 22 time line, I think it was later that week that
 23 I had gotten the information from the Cancer
 24 Registry and had gone over to information
 25 management to get the information out of

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1 Meditech. It may have been this week or it
 2 might have been the next week.
 3 THE COMMISSIONER:
 4 Q. Sorry, just not--did you--are you saying you
 5 started getting information on those who had
 6 passed away before you knew who it was you had
 7 to consider?
 8 MS. PREDHAM:
 9 A. What--back when we had an earlier meeting, I
 10 think it was probably the meeting of the 14th,
 11 Dr. McCarthy suggested that I get the Cancer
 12 Registry of all the breast cancer patients and
 13 in that list of all the breast cancer
 14 patients, it would identify who was alive and
 15 who was deceased. So from that list, it
 16 wouldn't have their ER/PR in it, but it would
 17 have whether they were alive or deceased. So
 18 I'd have the list of that and then when the
 19 list was done of who had to be retested, then
 20 I could verify who was cross-referenced or
 21 not.
 22 THE COMMISSIONER:
 23 Q. So this was in anticipation of getting this
 24 larger list?
 25 MS. PREDHAM:

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1 A. Yes.
 2 THE COMMISSIONER:
 3 Q. Okay, thank you.
 4 CHAYTOR, Q.C.:
 5 Q. So I'm wondering then at what point the QI
 6 department start to get together then the list
 7 and the contact information so that the
 8 letters can go out?
 9 MS. PREDHAM:
 10 A. Well, we didn't--I mean, it's kind of hard to
 11 go through this process this way, but at a
 12 later date, it was decided, based on the
 13 feedback from the oncologists, that we weren't
 14 going to send a letter at that time. So then
 15 we were getting the list and we were getting
 16 the addresses and all that as it progressed
 17 for that period of time.
 18 CHAYTOR, Q.C.:
 19 Q. Yes, and I believe that comes up August 15th.
 20 So from July 19th to August 15th, had the QI
 21 department made any progress in getting the
 22 lists of names and contact information to be
 23 able to send the letters out?
 24 MS. PREDHAM:
 25 A. We did. Once we had a list of names, we had

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1 to get it over to the Cancer Clinic to get the
 2 addresses out that, you know, out of whatever
 3 information that they had. So it was in the
 4 works. We were doing our investigation of
 5 that.
 6 CHAYTOR, Q.C.:
 7 Q. And so you had done that? You'd sent--got the
 8 list of names and sent it off to the Clinic,
 9 Cancer Clinic, to get the contact information?
 10 That had taken place?
 11 MS. PREDHAM:
 12 A. Much later than this. Much later than July
 13 20th.
 14 CHAYTOR, Q.C.:
 15 Q. And was it after--when was it happening? In
 16 that time period, July 19th to August 15th it
 17 happened though?
 18 MS. PREDHAM:
 19 A. I'd have to--we did have a lot of names there
 20 at the beginning of August because we were
 21 trying to determine who was on Tamoxifen
 22 because that was another question on, you
 23 know, maybe we could prioritize testing to those
 24 who weren't on Tamoxifen. So if somebody was
 25 ER/PR negative or had, you know, PR positivity

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1 and was already on Tamoxifen, maybe we could,
 2 you know, prioritize them and put them in a
 3 different category. So we were exploring
 4 different ways with the list of patients that
 5 we had to try to determine whether or not they
 6 were on Tamoxifen or not. So it was all in
 7 that period of time.
 8 CHAYTOR, Q.C.:
 9 Q. Yes. I'm just wondering though in terms of
 10 there had been progress made and made fairly
 11 quickly, I would suggest to you, in terms of a
 12 draft letter to patients, in terms of coming
 13 up with media releases, and I'm wondering,
 14 coming out of the July 19th meeting, you
 15 thought it would probably take, you know, a
 16 week to get the patients' list and the
 17 addresses together, so you'd be ready to go.
 18 So coming out of the July 19th meeting, going
 19 into it, you had a draft letter. You had your
 20 draft releases. After the July 19th meeting,
 21 what progress is made by you and your
 22 Department in terms of getting ready to send
 23 out those letters?
 24 MS. PREDHAM:
 25 A. Well, I can't remember exactly when we did

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1 this, and I would actually have to go back and
 2 look at the order that things had occurred,
 3 but we had to link with the Cancer Clinic. We
 4 had the information from the Cancer Registry.
 5 We had--I had overall numbers and we had
 6 information of addresses and all that was
 7 progressing as it went along, but I can't
 8 really tell you exactly when all that
 9 happened.

10 CHAYTOR, Q.C.:

11 Q. And is there any documentation to show any of
 12 that progress within a week, two weeks, three
 13 weeks, after the July 19th meeting?

14 MS. PREDHAM:

15 A. I think that the context of the e-mails when
 16 you go through, that there is information
 17 there, but there is one where I had the
 18 information from the Cancer Registry and the
 19 information from Meditech. So I would have
 20 had addresses at that point in time, but that
 21 was for the entire list. Then I had to wait
 22 to get the information from the lab to say
 23 "okay, these are the people who are being
 24 retested" and then, you know, pick them out of
 25 that list.

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1 CHAYTOR, Q.C.:

2 Q. And your concern that you wrote in your update
 3 to Mr. Tilley that, I think you thought it was
 4 four patients at that point in time knew and--
 5 or a number anyhow of patients knew at that
 6 point in time, and that we needed to get the
 7 word out on this fairly quickly because it's
 8 only a matter of time, does that come up for
 9 discussion again?

10 MS. PREDHAM:

11 A. Oh, that was always in the background that
 12 people knew, that this could go public. All
 13 it took is for one person to call somebody and
 14 it could go public. So that was always there
 15 as a concern.

16 CHAYTOR, Q.C.:

17 Q. And did you tell that to HIROC in your
 18 discussions with them, "well, there are people
 19 who already know"?

20 MS. PREDHAM:

21 A. Oh, they were aware of that.

22 CHAYTOR, Q.C.:

23 Q. And they weren't concerned with that?

24 MS. PREDHAM:

25 A. Well, they were concerned, but we couldn't--we

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1 couldn't work any faster than the people who
 2 were working on it were working, I guess, is
 3 what I'm trying to tell you. We couldn't get
 4 the letters out any quicker. We couldn't, you
 5 know.

6 CHAYTOR, Q.C.:

7 Q. So what was the delay then in getting the
 8 information to your department, the names and
 9 the patient address? What was causing the
 10 delay in that happening?

11 MS. PREDHAM:

12 A. It had to be--you know, the process had to go.
 13 People had to get this information and they
 14 had to go through that. There wasn't any
 15 button that you could push and say "look,
 16 these people all had this test done. Here's
 17 the results -

18 CHAYTOR, Q.C.:

19 Q. But we already know that.

20 MS. PREDHAM:

21 A. - and here's the name."

22 CHAYTOR, Q.C.:

23 Q. You know which patients had the test. Mr.
 24 Gulliver has already accumulated that
 25 information.

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1 MS. PREDHAM:

2 A. But he accumulated to get the positivity
 3 rates, because Dr. Carter was getting the
 4 names.

5 CHAYTOR, Q.C.:

6 Q. Yes, but he has--all those pathology reports
 7 have already been printed, sorted. So I'm
 8 just wondering then, so what you're saying, I
 9 guess, is that after the July 19th meeting, up
 10 until the oncologists weigh in August 15th -

11 MS. PREDHAM:

12 A. I think it was before August 15th that the
 13 oncologists weigh in.

14 CHAYTOR, Q.C.:

15 Q. We can look through that, but from what we've
 16 heard here, it's mid August. So what happens
 17 in between there, your department doesn't come
 18 up with a list of names and addresses to be
 19 able to send out the letters?

20 MS. PREDHAM:

21 A. Well, we couldn't come up with a list of
 22 names. We had to wait -

23 CHAYTOR, Q.C.:

24 Q. But it's not provided to you either?

25 MS. PREDHAM:

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1 A. No.

2 CHAYTOR, Q.C.:

3 Q. Eastern Health doesn't come up with this

4 information and get it together. At the time

5 that this breaks in the media, on October 2nd,

6 by that point in time, had Eastern Health

7 accumulated a list of people's names with

8 their contact information at that point in

9 time, by October 2nd?

10 MS. PREDHAM:

11 A. I'm pretty sure we had contact information, we

12 had addresses before that time.

13 CHAYTOR, Q.C.:

14 Q. And did you have phone numbers?

15 MS. PREDHAM:

16 A. No, we didn't have phone numbers, until we

17 made the decision to call them, then we had to

18 get the phone numbers.

19 CHAYTOR, Q.C.:

20 Q. So somebody put together a list of names and

21 addresses and without the phone numbers, just

22 names and addresses, without the phone

23 numbers, and you had that in your possession

24 before October 2nd?

25 MS. PREDHAM:

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1 A. I'm pretty sure.

2 CHAYTOR, Q.C.:

3 Q. Okay, and does that list exist?

4 MS. PREDHAM:

5 A. Yes, the list that I would have gotten from

6 the Cancer Registry would have had the

7 addresses in it, and I think the week after

8 that, I would have had--I know I worked on it

9 all weekend trying to compile those two lists

10 together, and the addresses would have been in

11 that from the Cancer Registry.

12 CHAYTOR, Q.C.:

13 Q. And that's the list you have all along, the

14 list from the Cancer Registry?

15 MS. PREDHAM:

16 A. No, I got it on a Friday, and then I worked on

17 it all weekend and compiled it and put it

18 together.

19 CHAYTOR, Q.C.:

20 Q. Friday of September 30th? What Friday?

21 MS. PREDHAM:

22 A. Oh no, Friday, around this time.

23 CHAYTOR, Q.C.:

24 Q. So middle of July?

25 MS. PREDHAM:

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1 A. Yes.

2 CHAYTOR, Q.C.:

3 Q. Okay. So you did have, in the middle of July,

4 the Friday before, July 15th you mean or

5 thereabouts?

6 MS. PREDHAM:

7 A. I'm not sure, Ms. Chaytor. I'd have to see.

8 There is an e-mail that I sent to everyone

9 about the work I had done on the weekend and

10 summarizing what I had found in that. At that

11 point in time, I would have had a list of

12 everyone who was diagnosed with breast cancer

13 who was in the Cancer Registry for that time

14 period and their names, whether they were

15 alive or deceased, and their addresses, I

16 believe.

17 CHAYTOR, Q.C.:

18 Q. Yes. Now obviously my question is not

19 everyone who ever -

20 MS. PREDHAM:

21 A. No, and up to that -

22 CHAYTOR, Q.C.:

23 Q. The list is--up to October 2nd, the list of

24 patients who were being sent for retesting,

25 that list of patients who are being sent for

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1 retesting and had been sent for retesting, and

2 their address and contact information, had

3 there been a list created of everyone that had

4 their sample sent off and their contact

5 information so that they could be notified in

6 short order?

7 MS. PREDHAM:

8 A. When Mr. Gulliver sent me over his

9 spreadsheets, which I do believe was shortly

10 after I had compiled that breast cancer

11 registry list, that's when I would have had an

12 electronic list of their names and addresses.

13 CHAYTOR, Q.C.:

14 Q. And so you had their names and addresses in

15 your possession by July 19th?

16 MS. PREDHAM:

17 A. Oh, I'm not saying--I'd have to see that e-

18 mail to say.

19 CHAYTOR, Q.C.:

20 Q. Well around then, around the middle -

21 MS. PREDHAM:

22 A. I don't think it was July. I think it was

23 after July 20th. I mean, I don't think it was

24 before then.

25 CHAYTOR, Q.C.:

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1 Q. Okay. Well, we'll go through then and perhaps
 2 you can show me the e-mail when we get to it
 3 that you're referring to. So sometime though
 4 around that time period, you would have had a
 5 list with the addresses?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. Okay.
 10 THE COMMISSIONER:
 11 Q. Can we approach it from this perspective, had
 12 what--do you know at what point you were in a
 13 position, had the decision been made to do so,
 14 to contact all of the patients who were being
 15 retested?
 16 MS. PREDHAM:
 17 A. To contact the patients in St. John's, for
 18 that area, that Mr. Gulliver would have had
 19 the information at hand for, it would have
 20 been, I'd say by the 10th of August that we
 21 could have done that. But that didn't include
 22 everybody outside of town, because we were
 23 only getting those names in October or
 24 September probably.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. I just want to go back then to P-2940,
 2 page 12, and what you wrote here, and you're
 3 saying--is this an actual meeting with Dr.
 4 Williams or telephone call? Is this all
 5 coming into a communication with Dr. Williams?
 6 MS. PREDHAM:
 7 A. It is a conversation with Dr. Williams, but I
 8 can't recall what it was.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. So these would have been though things
 11 that you discussed with Dr. Williams, what
 12 you've written here?
 13 MS. PREDHAM:
 14 A. Things that he was saying that was--you know,
 15 I was just making notes as we went along.
 16 CHAYTOR, Q.C.:
 17 Q. And "if there is a problem with what we did,"
 18 is this meaning a problem with the testing?
 19 MS. PREDHAM:
 20 A. I assume. You know, I don't have any direct
 21 memory of me writing this and I don't have any
 22 direct memory of Dr. Williams and us having
 23 this conversation. I do know we had a Sunday
 24 afternoon meeting, and I'm pretty sure it was
 25 like July 24th or 26th or whatever the date

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1 that Sunday would have been, and I guess this
 2 is him telling me that he was going to
 3 schedule this meeting for a Sunday afternoon.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and this is on July 20th?
 6 MS. PREDHAM:
 7 A. Or actually, I think it was Sunday morning
 8 actually.
 9 CHAYTOR, Q.C.:
 10 Q. So on July 20th, he's telling you that?
 11 MS. PREDHAM:
 12 A. Yeah.
 13 CHAYTOR, Q.C.:
 14 Q. Okay, and "by making an exposure, we will
 15 create a" --and it's blank.
 16 MR. SIMMONS:
 17 Q. "Will we"
 18 CHAYTOR, Q.C.:
 19 Q. Sorry? "will we"?
 20 MR. SIMMONS:
 21 Q. "Will we"
 22 CHAYTOR, Q.C.:
 23 Q. Sorry, "will we." Sorry, thank you. "By
 24 making an exposure, will we create a--can't
 25 expect HIROC to pay for it" and we had some

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1 discussion about that before the break. Ms.
 2 Predham, in terms of the piece of information
 3 that was missing that HIROC was concerned
 4 about, was it the cause of the problem that
 5 was of concern to them? Was that the key
 6 piece of information that was missing from
 7 HIROC's position, in terms of going out
 8 prematurely and saying anything?
 9 MS. PREDHAM:
 10 A. You know, I don't--that's not my memory. My
 11 memory was that what we were going out, making
 12 sure that whatever we went out with, that
 13 that's what we knew, not that we assumed or,
 14 you know, we were going out making a statement
 15 that we couldn't verify after the fact.
 16 CHAYTOR, Q.C.:
 17 Q. Yes, and that was concerning the cause of the
 18 problem?
 19 MS. PREDHAM:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Yes, and was there also a concern that if you
 23 go out to everyone who had the test, without
 24 first having the results of the test, you
 25 could be causing anxiety or undue anxiety in

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1 people who would ultimately have no change in
 2 treatment and by doing that, those who had no
 3 change, you may create a cause of action based
 4 on the anxiety of having been informed perhaps
 5 unnecessarily?
 6 MS. PREDHAM:
 7 A. That wasn't their concern.
 8 CHAYTOR, Q.C.:
 9 Q. Whose concern was that?
 10 MS. PREDHAM:
 11 A. The oncologists, from an anxiety perspective,
 12 were concerned that we were going out and
 13 telling them something when we had nothing to
 14 tell them.
 15 CHAYTOR, Q.C.:
 16 Q. So was there any warning expressed that if
 17 Eastern Health went out, having heard about
 18 their experience in Labrador, and if they
 19 nonetheless went ahead and contacted patients
 20 in advance and told them that testing would be
 21 taking place, that this could interfere, you
 22 could be creating a cause of action and if you
 23 do that, you may not have insurance coverage
 24 for those claims?
 25 MS. PREDHAM:

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1 A. That was never told to me by anyone from that
 2 insurance company.
 3 CHAYTOR, Q.C.:
 4 Q. Was that ever discussed by anyone?
 5 MS. PREDHAM:
 6 A. I mean, obviously we must have been, you know,
 7 discussing what was said earlier, and I'm only
 8 making an assumption of what we were talking
 9 about there, that you know, if we--if there
 10 was a problem with that we did in the test,
 11 and I'm assuming this is what I'm saying, and
 12 if we go out and say that it's technology and
 13 we're not admitting that it was our problem,
 14 then you know, we could create an exposure
 15 because we've misled or you know, something on
 16 that line.
 17 CHAYTOR, Q.C.:
 18 Q. So for whatever reason, by July 20th, there's
 19 concern within Eastern Health being discussed
 20 at the level of VP Medical, Dr. Williams,
 21 who's in charge of this project, there's
 22 concern that there may be an issue of
 23 insurance coverage?
 24 MS. PREDHAM:
 25 A. No, no, no, no, no, that wasn't the concern,

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1 that there was an issue with insurance
 2 coverage.
 3 CHAYTOR, Q.C.:
 4 Q. Well, HIROC, "can't expect HIROC to pay for
 5 it," pay for what? It would be insurance
 6 claims that may arise.
 7 MS. PREDHAM:
 8 A. No, the concern was what we were going to say
 9 when we went out. If we were going to say
 10 what we knew, what did we know.
 11 CHAYTOR, Q.C.:
 12 Q. But what would HIROC be paying for? What does
 13 HIROC pay for in this situation?
 14 MS. PREDHAM:
 15 A. Well, I guess--I guess, and this was not--you
 16 know, this wasn't HIROC saying that "we're not
 17 going to pay for it."
 18 CHAYTOR, Q.C.:
 19 Q. No, no, that's not my question. My question
 20 is, by July 20th, is there concern within
 21 Eastern Health that "if we take certain
 22 actions, we may be putting our insurance
 23 coverage at risk"?
 24 MS. PREDHAM:
 25 A. Well, Ms. Chaytor, I gave you an example

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1 yesterday where Dr. Williams and I went ahead
 2 and paid for expenses and you know -
 3 CHAYTOR, Q.C.:
 4 Q. And it wasn't a large claim, we clarified.
 5 MS. PREDHAM:
 6 A. It wasn't a large claim, but we went ahead and
 7 did that, but it is a concern that, you know,
 8 well, now if we--if they don't like that, they
 9 may not cover that. I mean, that's--you know,
 10 we've had, from time to time, had that
 11 discussion about certain things. That's why
 12 we run things by HIROC's lawyers and by HIROC
 13 itself, but it wasn't a concern that we're not
 14 going to have coverage for the ER/PR issue.
 15 CHAYTOR, Q.C.:
 16 Q. It was discussed though, in terms of the ER/PR
 17 issue, that there is a potential that HIROC
 18 may not pay and that there was some discussion
 19 about would HIROC pay or not pay with respect
 20 to specifically the ER/PR issue, and that was
 21 discussed as of July 20th?
 22 MS. PREDHAM:
 23 A. Well, I wouldn't put it in those terms in
 24 which you're putting it.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. Well, you tell me then how would you
 2 say it?
 3 MS. PREDHAM:
 4 A. I think it was just a discussion that we were
 5 having that if there was a problem, and I
 6 think this is what we were discussing, but it
 7 certainly wasn't--I would remember that type
 8 of discussion. If we were having a problem
 9 and we went out and made it look like we
 10 weren't having a problem and that we were just
 11 saying "oh, this is new technology," we could
 12 create a problem then.
 13 CHAYTOR, Q.C.:
 14 Q. Yes, not only with your insurance -
 15 MS. PREDHAM:
 16 A. Another problem, but another problem, besides
 17 the original problem.
 18 CHAYTOR, Q.C.:
 19 Q. Yes. So if you went out and did something
 20 that HIROC had cautioned you against doing,
 21 you could potentially interfere with your
 22 insurance coverage?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. If we could have, please, 0925? Actually,
 2 before I go there, Ms. Predham, did any other
 3 insurers weigh in on the issue as to
 4 notification of the patients or public or
 5 otherwise play any role in the handling of the
 6 communications piece of this issue?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. So whether or not the oncologists and surgeons
 11 and their insurer, whether they received any
 12 advice from their insurer, you're not aware of
 13 that?
 14 MS. PREDHAM:
 15 A. No.
 16 CHAYTOR, Q.C.:
 17 Q. And it appears July 20th, there is another
 18 meeting, and this one involves--actually, yes,
 19 this one involves--Mr. Tilley is involved and
 20 Dr. Williams, Mr. Gulliver, Dr. Cook, yourself
 21 and Ms. Thomas, and do you recall or have any
 22 independent recollection of this meeting, July
 23 20th?
 24 MS. PREDHAM:
 25 A. This would have been the one where we actually

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1 got the sheet of paper from Mr. Gulliver.
 2 CHAYTOR, Q.C.:
 3 Q. Yes, and do you have any other independent
 4 recollection of this meeting?
 5 MS. PREDHAM:
 6 A. No. My memory was is that, you know, it was a
 7 discussion around the range and that we were
 8 in the range. It was low, what did that mean,
 9 that type of issue.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and the issue here of "the cut off rate
 12 decreased from 30 percent to ten percent from
 13 1997 to 2002/2003." Do you recall the
 14 discussion around that?
 15 MS. PREDHAM:
 16 A. That was probably an early discussion that the
 17 treatment--the treatment range, I can
 18 remember--and I'm not sure if it was this
 19 meeting or another one, that Dr. Cook was
 20 explaining that pathologists had gone from the
 21 practice of saying negative or positive for ER
 22 and PR to a percentage because the oncologists
 23 would interpret based on the number and would
 24 come up with their own definition of negative
 25 and positive, and that, you know, sometimes 30

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1 percent was originally equal and I think there
 2 was a reference in the pathology text with Dr.
 3 Khalifa and linking that with the biochemical
 4 assay. So that some pathologists would say
 5 negative for anything below 30 percent, but
 6 that the practice had gone to a number because
 7 some of the oncologists would do it
 8 differently then just--he didn't feel that it
 9 was appropriate for the pathologists to be
 10 making that decision when really that was a
 11 clinical decision on what the number would
 12 mean from a treatment perspective. And he was
 13 aware that the oncologists, at some point,
 14 changed their treatment threshold, I guess,
 15 for want of a better term, from 30 percent to
 16 ten percent, but he wasn't sure when that date
 17 was.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and so in terms of the discussion then
 20 around how definite the oncologists were as to
 21 the cut offs and the dates for those cut offs,
 22 were you ever present--what did you hear about
 23 that?
 24 MS. PREDHAM:
 25 A. I was present, oh, at least three

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1 conversations between Dr. Cook and Dr. Laing
 2 about the cut offs and the date and, you know,
 3 trying--Dr. Cook was trying to get it as exact
 4 as possible, and if there was an exact date,
 5 because, you know, you didn't want to miss any
 6 patients because of that, and you know, he
 7 just wanted to be clear, if that's what he was
 8 going to be screening out patients with. He
 9 just wanted to be sure what it was.
 10 CHAYTOR, Q.C.:
 11 Q. Yes, and so from a risk management point of
 12 view, you would want to make sure that if
 13 you're telling us these are the cut offs,
 14 those are etched in stone, definite cut offs
 15 that everybody was using at these points in
 16 time?
 17 MS. PREDHAM:
 18 A. Or it was--if it wasn't etched in stone, it
 19 was, you know, extra cautious, like it was
 20 more inclusive. So you wanted to make sure,
 21 and that -
 22 CHAYTOR, Q.C.:
 23 Q. If it was equivocal, then you'd use the 30
 24 percent throughout?
 25 MS. PREDHAM:

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1 A. Right, and I guess that's why we didn't look
 2 at PR when we were screening in patients,
 3 because there wasn't any--if somebody was ER
 4 negative, PR positive, the oncologists
 5 couldn't guarantee that every oncologist would
 6 treat based on a PR alone, without the ER,
 7 because there was evidence that some people
 8 didn't look at the PR. So in our screening of
 9 patients, we only focused in on ER and in
 10 going through that, that's what we--that's the
 11 information that we used.
 12 CHAYTOR, Q.C.:
 13 Q. And so in what you overheard, did you feel it
 14 safe to use the two different cut offs for the
 15 dates that were provided by the oncologists?
 16 MS. PREDHAM:
 17 A. Yes, it was very clear and it was being
 18 cautious, I guess, is a term I'm looking for.
 19 You know, that we use 30 percent to the end of
 20 2000 and after that point, you would get ten
 21 percent, because a lot of people used ten
 22 percent before then, but just on the off
 23 chance that you had some.
 24 CHAYTOR, Q.C.:
 25 Q. Okay. So you never heard Dr. Laing express

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1 any reservation around that?
 2 MS. PREDHAM:
 3 A. Absolutely not.
 4 CHAYTOR, Q.C.:
 5 Q. Okay.
 6 THE COMMISSIONER:
 7 Q. So do I take it from that, you understood that
 8 at the outside, by the commencement of 2001,
 9 all oncologists would have moved to using ten
 10 percent positivity?
 11 MS. PREDHAM:
 12 A. That's what I understood.
 13 THE COMMISSIONER:
 14 Q. While some may have done it before that, by
 15 beginning of 2001, they would have all made
 16 the move?
 17 MS. PREDHAM:
 18 A. Yes.
 19 THE COMMISSIONER:
 20 Q. All right, thank you.
 21 CHAYTOR, Q.C.:
 22 Q. And -
 23 MS. PREDHAM:
 24 A. Because at that point, it was neither here nor
 25 there. I mean, we could--you know, it didn't

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1 matter to us, but that was very clear that it
 2 was 30 percent.
 3 CHAYTOR, Q.C.:
 4 Q. If we could have, please, P-0785? No, I don't
 5 think that's the right one.
 6 MS. PREDHAM:
 7 A. Oh, that's when I got the database.
 8 CHAYTOR, Q.C.:
 9 Q. Yes, that is. That's August 8th. We've jumped
 10 ahead, so we'll come back to that. So this is
 11 the one then that you're referring to, it's
 12 August 8th, that you get the database?
 13 MS. PREDHAM:
 14 A. Right. So at that time, on the Friday before,
 15 I got the Cancer Clinic were able to give me
 16 the information there and they also--the
 17 information from Information Management, they
 18 were able to give me the download out of
 19 Meditech, with the provisos on that, and then
 20 by that time, Terry had done his spreadsheets.
 21 He had finished them on the weekend. So
 22 actually, that was the earliest time that we
 23 had a point in time that we had an actual list
 24 of patient names.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, as of August 8th?

2 MS. PREDHAM:

3 A. Right.

4 CHAYTOR, Q.C.:

5 Q. And so at that point in time, you would have

6 had all the names and the contact information?

7 MS. PREDHAM:

8 A. Yes.

9 CHAYTOR, Q.C.:

10 Q. Okay. Now we understand that the meeting

11 takes place -

12 THE COMMISSIONER:

13 Q. All the names and contact information for St.

14 John's?

15 MS. PREDHAM:

16 A. Well, what I had at this point in time was--

17 the Cancer Registry had everyone who was

18 diagnosed with breast cancer. That's what I

19 assumed at the time, that it was everyone

20 diagnosed with breast cancer, but actually it

21 wasn't. It was those seen at the Cancer

22 Clinic. What I had from Meditech was everyone

23 who had an ER/PR test ordered in Meditech.

24 Again, I assumed that everybody was included

25 in that. So I had a broad database of

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1 basically everyone who had breast cancer and

2 had an ER/PR test done. So Mr. Gulliver then

3 had the spreadsheets that he had from St.

4 John's, but I didn't have the information from

5 out of town to cross reference it with.

6 CHAYTOR, Q.C.:

7 Q. And if we could just go back, please, to -

8 THE COMMISSIONER:

9 Q. So the only place you had complete information

10 was in St. John's?

11 MS. PREDHAM:

12 A. Yes.

13 CHAYTOR, Q.C.:

14 Q. Sorry, Commissioner. If we could go back,

15 thank you, Registrar, 0925, page five? The

16 July 20th meeting refers to the technical

17 consultant from Mount Sinai coming in on

18 September 12th, 2005. So I assume by this

19 point in time, it's been decided to bring

20 Trish Wegrynowski in?

21 MS. PREDHAM:

22 A. Yes.

23 CHAYTOR, Q.C.:

24 Q. By July 20th. And the next day, we

25 understand, July 21st, a meeting took place

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1 with Minister Ottenheimer.

2 MS. PREDHAM:

3 A. Yes.

4 CHAYTOR, Q.C.:

5 Q. And did you attend that meeting?

6 MS. PREDHAM:

7 A. No.

8 CHAYTOR, Q.C.:

9 Q. Okay, and were you involved in--there's a

10 briefing note prepared for the Minister, July

11 20th. Were you involved in drafting that

12 briefing note?

13 MS. PREDHAM:

14 A. I may have been. I don't think I'd remember

15 unless I actually saw it. Do you have a copy

16 of it there?

17 CHAYTOR, Q.C.:

18 Q. I think it might be P-0075, if my memory is

19 right. Yes, this is it.

20 MS. PREDHAM:

21 A. I may have gotten a copy of it or asked--but I

22 didn't draft this.

23 CHAYTOR, Q.C.:

24 Q. Okay. So you weren't involved in putting it

25 together?

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1 MS. PREDHAM:

2 A. No.

3 CHAYTOR, Q.C.:

4 Q. Were you asked to read it and check it over

5 for any feedback?

6 MS. PREDHAM:

7 A. I don't recall that. I know I did get a copy

8 of it, but it may have been after.

9 CHAYTOR, Q.C.:

10 Q. May have been after the fact?

11 MS. PREDHAM:

12 A. Yeah.

13 CHAYTOR, Q.C.:

14 Q. Okay, and when you received it, did you have

15 any concern with the information in it?

16 MS. PREDHAM:

17 A. I can't recall that now. I'd have to read

18 through it again, but I can't recall.

19 CHAYTOR, Q.C.:

20 Q. So nothing that sticks out that you said -

21 MS. PREDHAM:

22 A. Nothing.

23 CHAYTOR, Q.C.:

24 Q. - went to someone to say, "you couldn't tell

25 the Minister that" or nothing like that?

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1 MS. PREDHAM:
 2 A. No.
 3 CHAYTOR, Q.C.:
 4 Q. Nothing--if it was, it wasn't anything of such
 5 import to stick out in your mind?
 6 MS. PREDHAM:
 7 A. No, I can't remember it now.
 8 CHAYTOR, Q.C.:
 9 Q. Okay. Excuse me.
 10 THE COMMISSIONER:
 11 Q. Ms. Predham, the business of the positivity
 12 rates.
 13 MS. PREDHAM:
 14 A. Yes.
 15 THE COMMISSIONER:
 16 Q. I think you indicated that that information
 17 came from Mr. Gulliver?
 18 MS. PREDHAM:
 19 A. Yes.
 20 THE COMMISSIONER:
 21 Q. Was there any further information regarding
 22 positivity rates from anyone else around the
 23 table, that you recall, or that anybody--or
 24 did all of that information come from Mr.
 25 Gulliver?

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1 MS. PREDHAM:
 2 A. My memory is that all of it came from Mr.
 3 Gulliver.
 4 THE COMMISSIONER:
 5 Q. Dr. Cook didn't chime in, for example?
 6 MS. PREDHAM:
 7 A. No, I can't remember.
 8 CHAYTOR, Q.C.:
 9 Q. Were you provided any information then after
 10 the meeting with the Minister? Were you told
 11 what had been discussed and any decisions that
 12 may have come out of that meeting?
 13 MS. PREDHAM:
 14 A. See, it's hard to go back and remember what
 15 you remember about one specific one when you
 16 know other things happened after that and
 17 there's more information. It's hard to
 18 recall.
 19 CHAYTOR, Q.C.:
 20 Q. This would have been the first meeting, we
 21 understand, with the Department on the issue,
 22 with Minister Ottenheimer on the issue, and
 23 I'm just wondering, did anyone come back to
 24 you with any decision made in that meeting?
 25 MS. PREDHAM:

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1 A. They were just anxious for us to go out and
 2 tell the public and send the letter. That was
 3 my memory.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. So you understood that Minister
 6 Ottenheimer was anxious that this continue and
 7 that the letters go out?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and was there anyone else in Eastern
 12 Health who was also anxious that that happen,
 13 that--and in particular, that the public be
 14 told? Was anyone feeling strongly that we
 15 need to get out there and do this?
 16 MS. PREDHAM:
 17 A. I think the overall feeling with all of us was
 18 that, you know, this had to be done. It was
 19 just trying to figure out when and trying--
 20 there were so many little things that had to
 21 be done or we had to confirm. I don't recall
 22 anyone over anybody else who knew this. You
 23 know, we felt pressure because people knew
 24 that we had to go out.
 25 CHAYTOR, Q.C.:

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1 Q. Do you know whether or not HIROC's concerns
 2 were discussed with the Minister in the
 3 meeting on July 21st?
 4 MS. PREDHAM:
 5 A. Oh, I have no idea.
 6 CHAYTOR, Q.C.:
 7 Q. Did anyone report anything back to you along
 8 those lines?
 9 MS. PREDHAM:
 10 A. No.
 11 CHAYTOR, Q.C.:
 12 Q. Do you know whether or not the issue of the
 13 Labrador Health case came up in that meeting?
 14 Was there any discussion with you about that?
 15 MS. PREDHAM:
 16 A. No.
 17 CHAYTOR, Q.C.:
 18 Q. And if we could have then, please, P-0925,
 19 page eight? And this appears to be another
 20 meeting, and these are Mr.--or Dr. Williams,
 21 sorry, notes of July 24th, 2005, and there's a
 22 large group of people present, including Mr.
 23 Tilley and a number of physicians, including
 24 Doctors Laing, Cook, Kwan, and Dr. Williams of
 25 course, and yourself, Mr. Gulliver, Susan

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1 Bonnell, Deborah Thomas are also present. Do
 2 you recall what was the purpose then of this
 3 meeting then four day or five days after you
 4 had met with Mr. Boone and Mr. Boone is
 5 invited back for this meeting?
 6 MS. PREDHAM:
 7 A. I guess we're just, you know, carrying on with
 8 the process of what we're doing.
 9 CHAYTOR, Q.C.:
 10 Q. And why though would--I understood you to say
 11 earlier that he was invited to the July 19th
 12 meeting because you thought he should tell the
 13 group directly HIROC's concerns. Why would he
 14 be invited to this meeting? What was the
 15 decision around him coming to this meeting?
 16 MS. PREDHAM:
 17 A. Well, I guess, he was invited because he may
 18 have feedback on, you know, what we were
 19 saying and what we were doing.
 20 CHAYTOR, Q.C.:
 21 Q. And so for him to have input into any decision
 22 that you're making regarding the ER/PR issue?
 23 MS. PREDHAM:
 24 A. Well, I guess, you know, we would get his
 25 opinion on what we were doing. He could hear

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1 the information firsthand.
 2 CHAYTOR, Q.C.:
 3 Q. So was there any--so it was just generally to
 4 keep him in the loop as to what's going on and
 5 for him to provide advice and feedback as to
 6 what you were doing?
 7 MS. PREDHAM:
 8 A. If he felt any was necessary, yeah.
 9 CHAYTOR, Q.C.:
 10 Q. And he doesn't though attend all meetings, so
 11 I'm just wondering if it was anything in
 12 particular at this point in time?
 13 MS. PREDHAM:
 14 A. I don't recall. Dr. Williams set up this
 15 meeting. It was a Sunday morning, if I
 16 remember, and it was just--you know, we had
 17 this positivity rates and I guess it's to get
 18 everybody's feedback on where we were right
 19 now.
 20 CHAYTOR, Q.C.:
 21 Q. So had it been decided at the July 19th
 22 meeting that you would get together again on
 23 July 24th, on that Sunday morning?
 24 MS. PREDHAM:
 25 A. No, there was that note from Dr. Williams that

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1 I wrote on July 20th.
 2 CHAYTOR, Q.C.:
 3 Q. Yes.
 4 MS. PREDHAM:
 5 A. That he says about Sunday afternoon, I guess,
 6 and it ended up being Sunday morning.
 7 CHAYTOR, Q.C.:
 8 Q. And do you have your own notes of this
 9 meeting?
 10 MS. PREDHAM:
 11 A. I think I do.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, perhaps we'll find them then. So it
 14 looks like there was an update on the current
 15 status and what we know from other centres,
 16 and I take it that was the other centres
 17 outside the province?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And "testing for patients for 2002," and I
 22 take it you were then being updated on the in-
 23 house testing that was taking place?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. And were you concerned, Ms. Predham, about the
 3 number of conversions that you were seeing in
 4 those three original batches of in-house
 5 testing?
 6 MS. PREDHAM:
 7 A. Oh yes, definitely.
 8 CHAYTOR, Q.C.:
 9 Q. Do you know whether or not all of the patients
 10 who converted in the in-house testing which
 11 took place in June and July of 2005, were they
 12 all told their results at that time or was
 13 there a decision made to wait and have them
 14 retested at Mount Sinai before they would be
 15 told?
 16 MS. PREDHAM:
 17 A. I understood that they were being told. The
 18 information went back to the Cancer Clinic, to
 19 Dr. McCarthy, and that they were working
 20 through that process of informing the patients
 21 then. That was what I understood.
 22 CHAYTOR, Q.C.:
 23 Q. Okay.
 24 THE COMMISSIONER:
 25 Q. So did you, at that point, believe that in

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1 addition to the four or five that had been
 2 involved in the original testing, that there
 3 were 16 plus 25 patients who were either told
 4 at that point or would be told shortly
 5 thereafter?
 6 MS. PREDHAM:
 7 A. Yes.
 8 THE COMMISSIONER:
 9 Q. That's really increasing your odds of -
 10 MS. PREDHAM:
 11 A. Yes.
 12 THE COMMISSIONER:
 13 Q. - it going public.
 14 MS. PREDHAM:
 15 A. It is.
 16 CHAYTOR, Q.C.:
 17 Q. And third bullet, it's now being said there
 18 may be a problem with methodology or with the
 19 lab. Is there anything that--anything you
 20 knew coming forward by July 24th to be causing
 21 the group to think well, there might be a
 22 problem here?
 23 MS. PREDHAM:
 24 A. Well, I guess, in reviewing the percentage and
 25 again this is me trying to remember now, but

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1 you know, there was a lower positivity rate
 2 before Dr. Ejeckam's interventions than there
 3 was after. So obviously there was something.
 4 CHAYTOR, Q.C.:
 5 Q. Yes. So the July 20th document that Mr.
 6 Gulliver produced was causing - his work on
 7 positivity rates was causing people to think,
 8 well, this is not just technology?
 9 MS. PREDHAM:
 10 A. Yes - well, we were in the range of - there
 11 was a very big range for positivity rate. you
 12 know, that was a - that was a big range there,
 13 and we were within that range, but it was -
 14 you know, there was a difference after Dr.
 15 Ejeckam's interventions.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, and there's a question here, working
 18 with Mount Sinai on quality control and I
 19 understand that was that there were tests
 20 being sent to Mount Sinai to double check?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. "Should we not test the repeats against the
 25 Ventana system". So I take it there was some

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1 discussion that - well, what was that about?
 2 MS. PREDHAM:
 3 A. I think the repeats that Mount Sinai were
 4 doing, shouldn't we test them again on Ventana
 5 and makes sure there was a correlation.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and at this point in time, had there
 8 been any decision to use Mount Sinai for other
 9 than just quality control case?
 10 MS. PREDHAM:
 11 A. Not at that meeting. I think it was probably
 12 the next one that we decided that we were
 13 having a concern. I'm not sure which one it
 14 was. There is a note here that Dr. Laing
 15 wants to be sure the new system is accurate
 16 and not overly sensitive, and I do know that
 17 that caused us to look at the Ventana system
 18 because the positivity rates were high for the
 19 Ventana, but I'm not sure if it was this
 20 meeting or if it was the next one. Some of
 21 them are very similar meetings.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, and pathologists reporting is an issue.
 24 What do you recall being discussed about that?
 25 MS. PREDHAM:

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1 A. I think that had to do with reporting the
 2 percentage versus the negative or positive,
 3 and I think there was also some kind of issue
 4 about canned text or reporting in a consistent
 5 manner. That was limiting the searchabilities
 6 in which we were able to search pathology
 7 reports, so they had to print them all out as
 8 well. I think that's - I know that that was
 9 an issue at some point, and I may be just
 10 assuming there now.
 11 CHAYTOR, Q.C.:
 12 Q. "And need to wait until we know that our
 13 results are valid", what results are being
 14 referred to?
 15 MS. PREDHAM:
 16 A. I guess that's on the Ventana, that we had to
 17 make sure that what we were retesting -
 18 because we didn't want to create another
 19 problem then and find out that our Ventana was
 20 over calling. This must have been the meeting
 21 that we had that discussion because I remember
 22 that discussion then because that was another
 23 issue, okay, if the Ventana is over calling
 24 and we're causing people that are too
 25 positive, what kind of problem are we creating

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1 then.

2 CHAYTOR, Q.C.:

3 Q. And again it says here, "Controls are run

4 every day on ER/PR". Who would have been the

5 source of that information?

6 MS. PREDHAM:

7 A. Mr. Gulliver.

8 CHAYTOR, Q.C.:

9 Q. And Dr. Kwan will need more information. "He

10 feels happier at this meeting that a large

11 percentage due to technological change". Do

12 you remember that being discussed?

13 MS. PREDHAM:

14 A. I can remember him distinctly saying that, you

15 know, well, we're seeing what we're paying

16 for, this is - we bought new technology and

17 we're seeing the results of that investment.

18 CHAYTOR, Q.C.:

19 Q. And what was - who was telling him that, that

20 a large - who was saying that, that a large

21 percentage was due to technological change?

22 MS. PREDHAM:

23 A. Well, I guess it was the discussion around the

24 table that if we have a positivity rate that

25 is acceptable or within that range, but now

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1 we're getting conversions, is it because of

2 the technological change that we're getting

3 the conversions. You know, it was that

4 discussion around that whole issue.

5 CHAYTOR, Q.C.:

6 Q. Okay. Is there anything else you recall then

7 coming out of this meeting?

8 MS. PREDHAM:

9 A. Well, we had to verify Ventana and we wanted

10 to - we also decided to send it to another

11 hospital besides Mount Sinai, and we wanted to

12 repeat the Ventana against Mount Sinai and see

13 what we were getting.

14 CHAYTOR, Q.C.:

15 Q. Okay, and we'll try and find - you think you

16 have notes of that meeting as well.

17 MS. PREDHAM:

18 A. I think so.

19 CHAYTOR, Q.C.:

20 Q. Let me see if I can find them here. Try 2940,

21 please, and the next page then - this was the

22 July 20th in your notes. So I take it would

23 be some time after that in your book then?

24 MS. PREDHAM:

25 A. It may have been - it may have been on a

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1 separate sheet of paper. I seem to remember

2 that it was on a -

3 CHAYTOR, Q.C.:

4 Q. Okay, so it may not have been in your book?

5 MS. PREDHAM:

6 A. It may not have been.

7 CHAYTOR, Q.C.:

8 Q. Page 13, where you write, "2:30, Dr. Williams

9 and Dan", do you recall what that was in

10 reference to?

11 MS. PREDHAM:

12 A. It could have been that he was thinking that

13 it was going to be - the meeting was going to

14 be - you know, he could have called me and

15 said I think the meeting is going to be Sunday

16 at 2:30, and then for some reason, Kara could

17 only meet at nine. I do remember that the

18 meeting was at nine on Sunday.

19 CHAYTOR, Q.C.:

20 Q. It was at nine, okay, and "Ventana will give

21 us statistics from sites" and McGill and Royal

22 Vic referred to on this page, do you recall

23 what that's about?

24 MS. PREDHAM:

25 A. No. I think I did figure out a date for that

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1 or a probable date for when I made that note,

2 but I can't remember now.

3 CHAYTOR, Q.C.:

4 Q. Would this be the July 24th?

5 MS. PREDHAM:

6 A. Paul Gardiner is there. Was he in Dr.

7 Williams -

8 CHAYTOR, Q.C.:

9 Q. Yes, he was.

10 MS. PREDHAM:

11 A. Okay, it must be the same one.

12 CHAYTOR, Q.C.:

13 Q. If we could just go back then, please, to page

14 15. It appears to be the same group of

15 people.

16 MS. PREDHAM:

17 A. Okay.

18 CHAYTOR, Q.C.:

19 Q. Susan B, Kara Laing, Dr. Williams, George

20 Tilley. Yes, Mr. Tilley was there as well.

21 MS. PREDHAM:

22 A. Right.

23 CHAYTOR, Q.C.:

24 Q. So these are then probably your own notes of

25 that same meeting of July 24th?

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1 MS. PREDHAM:
 2 A. Right.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, and you write, "Different labs are
 5 defining positivity differently", and there's
 6 reference to Alridge. I take it, is this
 7 somebody speaking to this?
 8 MS. PREDHAM:
 9 A. Speaking, yes.
 10 CHAYTOR, Q.C.:
 11 Q. And who would that be?
 12 MS. PREDHAM:
 13 A. I would have to assume it would be Dr. Cook.
 14 It could have been Mr. Gulliver.
 15 CHAYTOR, Q.C.:
 16 Q. And then Mount Sinai and 68 to 80, Bev Carter
 17 in brackets, 75 average, do you recall what
 18 that's referring to?
 19 MS. PREDHAM:
 20 A. I guess that Dr. Carter had said that this is
 21 what the average was at Mount Sinai.
 22 CHAYTOR, Q.C.:
 23 Q. The average positivity rate?
 24 MS. PREDHAM:
 25 A. Positivity rate.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, and Bev Carter said - what does the 68
 3 to 80 refer to?
 4 MS. PREDHAM:
 5 A. I'm assuming 68 to 80 percent.
 6 CHAYTOR, Q.C.:
 7 Q. For Mount Sinai?
 8 MS. PREDHAM:
 9 A. They're Mount Sinai's positivity rate.
 10 CHAYTOR, Q.C.:
 11 Q. Over this time period?
 12 MS. PREDHAM:
 13 A. I assume.
 14 CHAYTOR, Q.C.:
 15 Q. "Bev Carter reviewing all negatives. 41 out
 16 of", is that 57?
 17 MS. PREDHAM:
 18 A. 57, yes.
 19 CHAYTOR, Q.C.:
 20 Q. "Remaining 21 or 23 done next week", and what
 21 do you recall - the 41 out of 57, what's that
 22 referring to?
 23 MS. PREDHAM:
 24 A. Well, that would be the retesting of those two
 25 batches that we had with the conversions.

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1 CHAYTOR, Q.C.:
 2 Q. So 41 out of the 57 had converted?
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. "High conversion rate is the issue", and
 7 you've got an asterisk by that, and then,
 8 "There seems to be acceptability with the
 9 level of positivity with the old system.
 10 Oncologists have been treating above 10
 11 percent is positive. All those that they have
 12 pulled already have been on Tamoxifen", and
 13 what's that referring to?
 14 MS. PREDHAM:
 15 A. I guess that was a discussion around the table
 16 that - you know, again I can't distinctly
 17 remember that comment being made, but, you
 18 know, the ones that they had pulled and
 19 reviewed have already been on Tamoxifen.
 20 CHAYTOR, Q.C.:
 21 Q. The ones that they had pulled for retesting?
 22 MS. PREDHAM:
 23 A. Well, it couldn't have been because I know
 24 there were ones that treatment changed, but
 25 maybe ones that they had pulled above 10

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1 percent have already been on Tamoxifen.
 2 CHAYTOR, Q.C.:
 3 Q. And this is saying, "They've been treating
 4 above 10 percent". So I take it at this point
 5 there was nothing discussed then about the 30
 6 percent, just the 10 percent that was
 7 discussed. "2002 cases have been sent to
 8 Mount Sinai to confirm results". Now is that
 9 your understanding, all of the 2002 cases that
 10 were retested on the Ventana system were then
 11 sent off very early in the process - this is
 12 July 24th.
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. They had already been sent to Mount Sinai to
 17 confirm?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And do you know whether or not those results,
 22 both the Ventana results and the Mount Sinai
 23 results for those patients, were both sets of
 24 results entered on the patient's chart?
 25 MS. PREDHAM:

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1 A. I would assume. I'm not - I would have to
 2 check.
 3 CHAYTOR, Q.C.:
 4 Q. And in terms of your involvement later with
 5 the panel, the physician review panel, in
 6 sending out the letters to patients who had
 7 retests done, both in-house on the Ventana,
 8 and those at Mount Sinai, what was referred to
 9 in the letter for the patients? Was there
 10 reference to both test results?
 11 MS. PREDHAM:
 12 A. I don't recall. I recall Mount Sinai results
 13 were referred to, but I don't recall the
 14 Ventana results referred to.
 15 CHAYTOR, Q.C.:
 16 Q. And do you know why that would be? Were the
 17 patients ever told that they had been retested
 18 in-house on the Ventana machine in the summer
 19 of 2005?
 20 MS. PREDHAM:
 21 A. Well, as far as I understood, they were being
 22 told during this process, anyway.
 23 CHAYTOR, Q.C.:
 24 Q. So they were - your understanding is all the
 25 patients were told by their oncologist?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. What about the patients who didn't convert
 5 that were retested in-house, who was telling
 6 them?
 7 MS. PREDHAM:
 8 A. I don't know if they were told at that time by
 9 their oncologist. I don't think so.
 10 CHAYTOR, Q.C.:
 11 Q. And your own department wasn't involved in the
 12 summer of 2005 in informing patients?
 13 MS. PREDHAM:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. "How much of the true negative are converting
 17 to positive", is that what's written there?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. What did you understand that to mean, the true
 22 negative?
 23 MS. PREDHAM:
 24 A. I guess the 0/0 that were converting to some
 25 positivity.

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1 CHAYTOR, Q.C.:
 2 Q. And who was raising that as an issue?
 3 MS. PREDHAM:
 4 A. I guess it would have been Mr. Gulliver
 5 because that was - I have heard him, and I'm
 6 assuming here that this is what he said there.
 7 I've heard him mention that before because
 8 from his perspective, that was the true
 9 conversion, is when you had no positivity to
 10 some positivity.
 11 CHAYTOR, Q.C.:
 12 Q. And on page 17, we have Sloan-Kettering lab,
 13 and then is that 25, it looks like, crossed
 14 off, consider lobular -
 15 MS. PREDHAM:
 16 A. Is 100 percent positive.
 17 CHAYTOR, Q.C.:
 18 Q. Is 100 percent positive, and then there's
 19 reference again to paper, and we had some
 20 discussion about that last day.
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. So, I take it, at the July 24th meeting, this
 25 issue came up again?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And do you recall what you were writing here
 5 about 25? Is that 25 percent or -
 6 MS. PREDHAM:
 7 A. I don't know, unless they had - I think in the
 8 earlier notes, we've noticed that it went from
 9 75 percent to 100 percent. So if they were
 10 saying 25 percent negative and now they're 100
 11 percent positive, I guess -
 12 CHAYTOR, Q.C.:
 13 Q. And do you recall why you would have crossed
 14 that off?
 15 MS. PREDHAM:
 16 A. Probably because after I got that down, the
 17 end of the sentence wouldn't make sense if I
 18 started off saying the 25 percent were
 19 considered negative and -
 20 CHAYTOR, Q.C.:
 21 Q. Okay. "Feedback from Mount Sinai before we
 22 tell anyone else", and then "ductal lobular,
 23 previous ER/PR, current ER/PR. It looks like
 24 you're making some sort of a chart here.
 25 MS. PREDHAM:

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1 A. Well, this is what the oncologists wanted was
 2 to have some ability that we needed this
 3 comprehensive database to do this, and I guess
 4 because I was going to be looking at the data
 5 from the Cancer Registry to determine the
 6 deceased and alive, that this was what I was
 7 being charged to do.
 8 CHAYTOR, Q.C.:
 9 Q. So you're being asked to set up a spreadsheet?
 10 MS. PREDHAM:
 11 A. A spreadsheet.
 12 CHAYTOR, Q.C.:
 13 Q. With type of cancer, and, well, I assume the
 14 names, and identifying information for the
 15 patients?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Type of cancer, and the original results, and
 20 then current ER/PR meaning the retest, I
 21 guess?
 22 MS. PREDHAM:
 23 A. Right.
 24 CHAYTOR, Q.C.:
 25 Q. And the feedback from Mount Sinai before we

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1 tell anyone else, what's that referring to?
 2 MS. PREDHAM:
 3 A. I guess that's we just wanted to be sure that
 4 the Ventana wasn't over calling before we told
 5 anyone else because then we'd only have to go
 6 back and tell them that there was a mistake
 7 again.
 8 CHAYTOR, Q.C.:
 9 Q. Oh, yes. So you had sent your 2002s off to
 10 Mount Sinai to be retested?
 11 MS. PREDHAM:
 12 A. Yeah.
 13 CHAYTOR, Q.C.:
 14 Q. So wait to get those back and see if it's
 15 comparable to your Ventana before proceeding?
 16 MS. PREDHAM:
 17 A. Because if it wasn't, then we had another
 18 issue.
 19 CHAYTOR, Q.C.:
 20 Q. Yes.
 21 MS. PREDHAM:
 22 A. That we had to deal with, and, of course,
 23 timelines and everything would have been off.
 24 CHAYTOR, Q.C.:
 25 Q. And that came back from Mount Sinai, the

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1 retests, the retests of the retests?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. Came back from Mount Sinai, and I take it it
 6 was good correlation on that. Was there any
 7 issue or concern about the Ventana after that?
 8 MS. PREDHAM:
 9 A. We had an issue with the Ventana because we
 10 didn't do it in-house after, but the results
 11 didn't come back until September, I don't
 12 think.
 13 CHAYTOR, Q.C.:
 14 Q. On those patients.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. So the feedback, the results back from Mount
 19 Sinai on those patients that were sent off in
 20 the 2002 patients, you didn't get those back
 21 until September?
 22 MS. PREDHAM:
 23 A. I don't think so. Now I may be wrong on that,
 24 but I don't think so.
 25 CHAYTOR, Q.C.:

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1 Q. And who was - everybody in agreement on
 2 holding off until you get your feedback from
 3 Mount Sinai or was there somebody in
 4 particular proposing that?
 5 MS. PREDHAM:
 6 A. Well, the main ones proposing that were - was
 7 Dr. Laing, because, you know, and she had a
 8 very valid point, you don't want to have
 9 results, tell a patient, and then find out
 10 that they were wrong.
 11 CHAYTOR, Q.C.:
 12 Q. And I guess very quickly, though, or soon
 13 after this, the decision gets made, if you've
 14 got a concern about your Ventana and over
 15 calling, then let's not use the Ventana?
 16 MS. PREDHAM:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. And the decision is made then to send out to
 20 Mount Sinai?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. So I take it then, this concern in terms of
 25 not being able to tell people because you're a

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1 little bit concerned about your results in-

2 house, that concern is alleviated once you

3 decide to use Mount Sinai?

4 MS. PREDHAM:

5 A. Right.

6 CHAYTOR, Q.C.:

7 Q. And, "They are now saying ER negative, PR

8 positive", what does that refer to?

9 MS. PREDHAM:

10 A. I have no idea.

11 CHAYTOR, Q.C.:

12 Q. Was anyone ever saying anything other than ER

13 negatives, PR - well, it's not in reference, I

14 take it, to who's going to be part of the

15 retest?

16 MS. PREDHAM:

17 A. No, no, no. It was, you know - this was still

18 only, you know, ten days of me into this, so I

19 was hearing a lot of information I hadn't

20 heard before. So, you know, I'd be listening

21 in on conversations and just trying to keep up

22 with what they were discussing.

23 CHAYTOR, Q.C.:

24 Q. Okay, maybe it has something to do with the

25 comment above, "Poorly differentiated HER2.

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1 Now it's telling us they are ER/PR positive".

2 MS. PREDHAM:

3 A. It could be, yeah.

4 CHAYTOR, Q.C.:

5 Q. Okay. Then the next page has three numbers.

6 So would that be what comes out of this

7 meeting then?

8 MS. PREDHAM:

9 A. Yes.

10 CHAYTOR, Q.C.:

11 Q. Is that related to this? So page 18, number

12 one, "A lot more centres, rate, conversion

13 rate". So what's that telling you?

14 MS. PREDHAM:

15 A. Well, this is when we decided to call across

16 the country to find out what their positivity

17 rates were, and if they had any opportunity to

18 retest and did they have a conversion rate.

19 CHAYTOR, Q.C.:

20 Q. "Is this an elusive problem, have other dealt

21 with it, or have they ignored it", what's that

22 about and who's suggesting those questions?

23 MS. PREDHAM:

24 A. I think that was just a general discussion

25 around the table because, I guess, we were

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1 kind of thinking we couldn't be the first

2 place to come across this issue, you know,

3 there had to be other people who would have an

4 opportunity to retest somebody and have

5 different results and what did they do.

6 CHAYTOR, Q.C.:

7 Q. And then, thirdly, accuracy of the new test,

8 is that again in reference to the Ventana?

9 MS. PREDHAM:

10 A. The Ventana.

11 CHAYTOR, Q.C.:

12 Q. Then on your next page, you have three more

13 things listed. Is that in relation to the

14 same July 24th meeting?

15 MS. PREDHAM:

16 A. I think so.

17 CHAYTOR, Q.C.:

18 Q. And "send samples out of 2002, negatives that

19 have converted using Ventana".

20 MS. PREDHAM:

21 A. And I guess - well, that would be the key

22 concern, any negatives that have converted.

23 If it was over calling, that would be the

24 focus.

25 CHAYTOR, Q.C.:

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1 Q. "Info from Ventana, number converted" is it

2 "converted" or -

3 MS. PREDHAM:

4 A. "Converted from 2002. Number from current

5 year".

6 CHAYTOR, Q.C.:

7 Q. And this says "with Ventana", I think?

8 MS. PREDHAM:

9 A. Yeah.

10 CHAYTOR, Q.C.:

11 Q. "Negative", question mark, "positive".

12 MS. PREDHAM:

13 A. No, that's "and".

14 CHAYTOR, Q.C.:

15 Q. Oh, "and", okay, and what's this -

16 MS. PREDHAM:

17 A. Blinded, it looks like. It looks like retest,

18 some negative and some positive, but have it

19 blinded and see what results come out.

20 CHAYTOR, Q.C.:

21 Q. And who's suggesting that?

22 MS. PREDHAM:

23 A. I have no idea. I can't even remember writing

24 that.

25 CHAYTOR, Q.C.:

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1 Q. And do you know, have any idea what it even
 2 means to have the test done in that manner?
 3 MS. PREDHAM:
 4 A. Well, I guess it would mean that whoever was
 5 reading it wouldn't know what the previous
 6 results were.
 7 CHAYTOR, Q.C.:
 8 Q. So was there some concern that there may be an
 9 element of subjectivity in terms of the
 10 interpretation entering into the results that
 11 were being produced in-house?
 12 MS. PREDHAM:
 13 A. It sounds like it from what I'm reading there,
 14 but I can't remember that.
 15 CHAYTOR, Q.C.:
 16 Q. And if we could look - I think the next page
 17 then, that might be the end, but I'll take you
 18 to page 20 as well. Is this something then
 19 you've moved on to -
 20 MS. PREDHAM:
 21 A. That's calling across to the different places.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, so that's after the meeting?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Okay and if we could have then, please, P-
 3 2952. Actually, before we go there, I think
 4 there might be - no, this is the next one,
 5 yes, thank you. Sorry, Registrar. This is
 6 now July 26th, 2005, and you're forwarding on
 7 an e-mail to Terry Gulliver and Don Cook, and
 8 the original message had come from Lucy
 9 McDonald at NLCHI, and it's July 11th, 2005,
 10 and she sent it out to a number of people.
 11 MS. PREDHAM:
 12 A. These are all ATIPP coordinators for the
 13 health boards.
 14 CHAYTOR, Q.C.:
 15 Q. Including yourself, okay, and, "Two thousand
 16 patients hit by lab tests mix up. Doctors
 17 worried", and it's a story out of the Calgary
 18 Herald, and then you send that on to Mr.
 19 Gulliver and Dr. Cook, "I'm cleaning out my
 20 mailbox and this is the article I mentioned to
 21 you a couple of weeks ago. I'm sure you've
 22 heard of it by now". Ms. Predham, what do you
 23 mean by cleaning out your mailbox, and, I
 24 guess, my question is, did you in doing that
 25 delete any e-mails related to the ER/PR issue?

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1 MS. PREDHAM:
 2 A. No, the mailbox - I get a lot of e-mails, and
 3 what you have to do with ours is that in your
 4 inbox, you have to make sure that they all get
 5 put in your personal folders. So when you get
 6 to a certain volume, you have to get all the
 7 things that are in your inbox over to your
 8 personal folders, and all your sent over into
 9 the sent in your personal folders.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, so you have every - you have no reason
 12 to believe you're missing anything related to
 13 the ER/PR issue?
 14 MS. PREDHAM:
 15 A. No.
 16 CHAYTOR, Q.C.:
 17 Q. And so there is no issue in terms of trying to
 18 retrieve any of your e-mail to provide to the
 19 Commission?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. We did receive close to, I think, 800 records
 24 from you from June onwards right up until, I
 25 think it's September. Why was there late

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1 production of your records?
 2 MS. PREDHAM:
 3 A. Of my e-mails or all records?
 4 CHAYTOR, Q.C.:
 5 Q. Yes - well, if there's any difference between
 6 the two, but I'm just wondering -
 7 MS. PREDHAM:
 8 A. I had a large -
 9 CHAYTOR, Q.C.:
 10 Q. I think most of it was e-mail.
 11 MS. PREDHAM:
 12 A. Yeah I had a large volume of information. I
 13 had the - you know, all the retesting, the
 14 patient records, all that communication, so I
 15 had boxes of information. Then I had
 16 electronic documents, then I had e-mails, and
 17 then I had my books. When we were asked to
 18 provide copies of that, the first task that I
 19 had was to - we wanted to make a photograph of
 20 all the computers, that's not the technical
 21 term of it, but I was - my computer was the
 22 guinea pig for IMAT, so I was involved in
 23 working through that process and how that was
 24 going to work out. Then Mr. Simmons came to
 25 my office and we went through all the

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1 information that I had. So the priority was
 2 all the patient information, all those
 3 records, which were sent down to his office to
 4 be copied. The electronic information, I
 5 burned on a disk and sent down there. The e-
 6 mails, I was in the process of printing them
 7 out, but it was a large volume, and we have a
 8 community printer, so it was a tedious
 9 process. I had to get help from IMAT to copy
 10 them onto my desktop. Then they had to be put
 11 on a flash drive, go down to our secretary's
 12 computer, and burned on a disk. For some
 13 reason, that disk didn't get to Mr. Simmons.
 14 I'm not sure how I did that. So it wasn't
 15 until June that we realized that he hadn't
 16 gotten a copy, and then he got a copy.
 17 CHAYTOR, Q.C.:
 18 Q. Your notebooks that we've been looking at your
 19 notes here, we received those on June 9th.
 20 Why did we receive those - why hadn't we
 21 received those before three months into our
 22 hearings?
 23 MS. PREDHAM:
 24 A. Because when we met with Mr. Simmons, he told
 25 me to hold off on copying those at that time,

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1 and that we would get to it, and we just
 2 didn't get to it.
 3 CHAYTOR, Q.C.:
 4 Q. And June 6th, 331 e-mails, and that's because
 5 there was some issue with -
 6 MS. PREDHAM:
 7 A. I thought that they had been gone and
 8 obviously I - the disk may still be in our
 9 secretary's computer.
 10 CHAYTOR, Q.C.:
 11 Q. And then that continued on June 20th, we
 12 received another 166, July 25th, another 154.
 13 So it's all the same reason?
 14 MS. PREDHAM:
 15 A. Well, all the e-mails went to Mr. Simmons
 16 office, and I guess then he was going through
 17 them and sending them on to you.
 18 CHAYTOR, Q.C.:
 19 Q. Okay.
 20 THE COMMISSIONER:
 21 Q. Ms. Chaytor, wherever you want to break for
 22 lunch, we can do that.
 23 CHAYTOR, Q.C.:
 24 Q. Was there any particular - I just want to be
 25 clear. So you thought you had produced the e-

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1 mails prior to then?
 2 MS. PREDHAM:
 3 A. I had to get the Helpdesk to make an
 4 electronic copy on my - because there were so
 5 many, on my desktop, and then I had to go down
 6 and - and I thought I had sent him the disk.
 7 CHAYTOR, Q.C.:
 8 Q. And when did you first ask for that assistance
 9 to enable you to be able to retrieve your e-
 10 mail?
 11 MS. PREDHAM:
 12 A. I'm not sure. I'm sure I can find out, but
 13 I'm not sure - it was after Mr. Simmons came
 14 down and I made the electronic copies.
 15 CHAYTOR, Q.C.:
 16 Q. At the same time, I guess, that everyone in
 17 Eastern Health was asked to produce documents?
 18 MS. PREDHAM:
 19 A. In that same period of time, yes.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, so you made that request?
 22 MS. PREDHAM:
 23 A. Yes, well, I tried to do it my - well, I was
 24 printing them out and it was so cumbersome,
 25 and then - I tried to copy them myself and I

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1 couldn't do it, so then I had to make a
 2 request at the Helpdesk.
 3 CHAYTOR, Q.C.:
 4 Q. So is it that it took that long then, took a
 5 period of months for anybody to come and
 6 assist you?
 7 MS. PREDHAM:
 8 A. Oh, no, no, it was - it might have been a
 9 week, but it wasn't until we realized that he
 10 hadn't got them. I just assumed that I had
 11 sent them, and I guess no one realized that
 12 they hadn't gotten them.
 13 CHAYTOR, Q.C.:
 14 Q. Thank you, Commissioner. This is a good
 15 place.
 16 THE COMMISSIONER:
 17 Q. Okay, we'll break until 2 o'clock.
 18 (BREAK)
 19 THE COMMISSIONER:
 20 Q. Ms. Chaytor.
 21 CHAYTOR, Q.C.:
 22 Q. Thank you. Good afternoon, Commissioner; good
 23 afternoon, Ms. Predham.
 24 MS. PREDHAM:
 25 A. Good afternoon.

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1 CHAYTOR, Q.C.:

2 Q. If we could have, please, P-2925, page nine.

3 This is notes of Dr. Williams of a conference

4 call on July 27th, 2005, with a number of

5 people in attendance, including Mr. Tilley,

6 but his name is crossed off, Dr. Williams, and

7 yourself, Terry Gulliver, Mr. Boone, Susan

8 Bonnell, Debbie Thomas, and Drs. Laing,

9 McCarthy, Kwan, and Gardiner. Do you recall

10 taking part in this conference call on July

11 27th?

12 MS. PREDHAM:

13 A. I have a vague memory of it, not a clear

14 memory.

15 CHAYTOR, Q.C.:

16 Q. And so do you have any notes yourself of this

17 conference call?

18 MS. PREDHAM:

19 A. Yes, I do.

20 CHAYTOR, Q.C.:

21 Q. And "the overview of our data averaged 73

22 percent", I take it again that's the

23 positivity rates?

24 MS. PREDHAM:

25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. "Dr. Cook gave results of discussion with Dr.

3 Walters in Montreal", and then the decision

4 coming out of that, "Share new information as

5 soon as possible when it becomes available,

6 meet on a regular basis", and who was the

7 sharing of new information - who was that to

8 take place amongst?

9 MS. PREDHAM:

10 A. Well, I guess Dr. Cook was checking out with

11 various areas. We were also going across the

12 country and trying to get information on this.

13 So I guess as soon as we get it, we would

14 share it amongst the group here.

15 CHAYTOR, Q.C.:

16 Q. And what was the purpose in having Mr. Boone a

17 this meeting?

18 MS. PREDHAM:

19 A. I guess the same reason that he would hear

20 what we were saying and give his opinion as

21 need be.

22 CHAYTOR, Q.C.:

23 Q. If we could go back - sorry, go to P-2940,

24 page 24, and these are your handwritten note

25 with a number of people indicated, "Review of

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1 data from 1999 to 2004. 73 percent average".

2 MS. PREDHAM:

3 A. Yes.

4 CHAYTOR, Q.C.:

5 Q. Are these your handwritten notes from the

6 conference call?

7 MS. PREDHAM:

8 A. Yes, that would seem to fit, the same type of

9 information.

10 CHAYTOR, Q.C.:

11 Q. "And since Sunday, Montreal General", and can

12 you read this?

13 MS. PREDHAM:

14 A. "Will stain cases. Turnaround should be quick

15 if they only stain the slides", which we

16 deemed in two and a half weeks.

17 CHAYTOR, Q.C.:

18 Q. And what's that referring to?

19 MS. PREDHAM:

20 A. I guess Dr. Cook at that time was

21 investigation who could do this for us, and

22 what the turnaround time would be, and they

23 were willing to stain them, but not read them.

24 CHAYTOR, Q.C.:

25 Q. Okay, and that was Montreal General, I take

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1 it?

2 MS. PREDHAM:

3 A. Yes.

4 CHAYTOR, Q.C.:

5 Q. And Montreal -

6 THE COMMISSIONER:

7 Q. What was it they were going to do at the time?

8 MS. PREDHAM:

9 A. I guess they were going to stain our negative

10 cases.

11 CHAYTOR, Q.C.:

12 Q. So they were going to take the blocks, do the

13 same thing Mount Sinai did ultimately, except

14 not interpret the results?

15 MS. PREDHAM:

16 A. Right.

17 CHAYTOR, Q.C.:

18 Q. That would then have to be interpreted

19 elsewhere?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. And if they were to just produce the slides as

24 such, that would take two to two and a half

25 weeks?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And what does the next part say, "Montreal -
 5 MS. PREDHAM:
 6 A. "Doesn't monitor their rates or conversions".
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and "Halifax, no info".
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. And "Sloan-Kettering, no info on the
 13 positivity rates".
 14 MS. PREDHAM:
 15 A. Right.
 16 CHAYTOR, Q.C.:
 17 Q. And this is reference to the Mayo Clinic?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. "Director of Immunohistochemistry, Mayo, in
 22 the process of reviewing, and they have no
 23 info", and can you read that?
 24 MS. PREDHAM:
 25 A. "On positivity or conversion rates. They use

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1 DAKO boiling. They're considering the DAKO
 2 automated system. Worried, as they don't have
 3 a good handle on this".
 4 CHAYTOR, Q.C.:
 5 Q. What do you recall about the discussion around
 6 that?
 7 MS. PREDHAM:
 8 A. I guess they could see our concern, and my
 9 memory of it is that they had similar issues
 10 with the test. As opposed to the way we were
 11 doing it, they had a similar issue with the
 12 test itself, that they were - they didn't have
 13 a good handle on the positivity rate and
 14 conversion rates.
 15 CHAYTOR, Q.C.:
 16 Q. And who was providing this information on the
 17 conference call?
 18 MS. PREDHAM:
 19 A. The only two people that were on the
 20 conference call were Dr. Laing and Dr.
 21 McCarthy, the rest of us were there.
 22 CHAYTOR, Q.C.:
 23 Q. Yes, you're in the meeting.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, I'm sorry, who - Dr. Laing and Dr.
 3 McCarthy joined by conference call?
 4 MS. PREDHAM:
 5 A. They were on the phone, yes.
 6 CHAYTOR, Q.C.:
 7 Q. And the rest of you were all together at -
 8 where were you call located?
 9 MS. PREDHAM:
 10 A. We were over - that's why I'm saying I don't
 11 have a good memory of it. I can't picture
 12 where we were, but it was over in the Health
 13 Sciences around Dr. Williams office.
 14 CHAYTOR, Q.C.:
 15 Q. Okay.
 16 MS. PREDHAM:
 17 A. My memory is his office, but all of us
 18 couldn't have fit in his office, so I'm
 19 thinking we were in the big boardroom.
 20 CHAYTOR, Q.C.:
 21 Q. So who did amongst you was providing this
 22 information from the Mayo Clinic?
 23 MS. PREDHAM:
 24 A. Dr. Cook.
 25 CHAYTOR, Q.C.:

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1 Q. And then if you could just read this part for
 2 us and tell us what this means?
 3 MS. PREDHAM:
 4 A. I guess this was another comment that he made
 5 from his discussion that various labs use
 6 different methodologies, they use different
 7 titrations, etc, and it's a sleeping giant.
 8 CHAYTOR, Q.C.:
 9 Q. And what did you understand him to mean by
 10 that?
 11 MS. PREDHAM:
 12 A. Well, that, you know, there's no consistency
 13 amongst people doing ER/PR through - in
 14 different labs, that they're using different
 15 titrations, they're using different
 16 methodology, so then they're going to be
 17 getting different numbers and different
 18 results.
 19 CHAYTOR, Q.C.:
 20 Q. And again who is - this is still Dr. Cook
 21 speaking?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. And providing this information?

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. And then you have written, "What's next?
 5 Number one", is that -
 6 MS. PREDHAM:
 7 A. "Re; slides testing".
 8 CHAYTOR, Q.C.:
 9 Q. Or is that "negative" perhaps, negative -
 10 anyhow, slides testing, and two, Mount Sinai.
 11 So what's the reference here now to Mount
 12 Sinai?
 13 MS. PREDHAM:
 14 A. Well, we had - we were retesting our ones on
 15 Ventana over at Mount Sinai. So I guess
 16 that's the next step is getting that back.
 17 We'd agreed at the last meeting before this
 18 that we would hold off until we verified those
 19 results.
 20 CHAYTOR, Q.C.:
 21 Q. And can you read the next part, please?
 22 MS. PREDHAM:
 23 A. It looks like "Jerome".
 24 CHAYTOR, Q.C.:
 25 Q. Is it "St. Jerome".

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1 MS. PREDHAM:
 2 A. Oh, yes, I never noticed that over there, "St.
 3 Jerome, Halifax, Moncton, no idea regarding
 4 positivity versus conversion. Are getting
 5 better positivity rates".
 6 CHAYTOR, Q.C.:
 7 Q. And what's that referring to, is that the
 8 telephone calls that the QI Department had
 9 made?
 10 MS. PREDHAM:
 11 A. I do believe.
 12 CHAYTOR, Q.C.:
 13 Q. And "January to end of July, 84 percent
 14 positivity, 16 percent negativity, no weak
 15 positives", who was providing this
 16 information, and January to end of July in
 17 which year?
 18 MS. PREDHAM:
 19 A. I really can't remember, but I think that must
 20 be referring to 2005. That would make sense
 21 to, you know, up to that date, and I guess
 22 that's the results that we currently have.
 23 Mr. Gulliver would have provided that
 24 information if that's what it is.
 25 CHAYTOR, Q.C.:

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1 Q. And then you have a similar note here as what
 2 Dr. Williams had at the end of his notes, "As
 3 soon as we get new info, we'll meet again".
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. And what new information would you then we
 8 waiting on?
 9 MS. PREDHAM:
 10 A. Well, we were waiting on the Mount Sinai
 11 results and we were also just continuing on
 12 asking what was going on in various areas.
 13 CHAYTOR, Q.C.:
 14 Q. And 2002 then, you have the number "8" written
 15 here. I'm just wondering -
 16 MS. PREDHAM:
 17 A. I don't have any other numbers throughout.
 18 CHAYTOR, Q.C.:
 19 Q. Where's 1 to 7?
 20 MS. PREDHAM:
 21 A. I'm not sure.
 22 CHAYTOR, Q.C.:
 23 Q. So 2002, and what do we have written here?
 24 MS. PREDHAM:
 25 A. It looks like the Avalon area, so that would

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1 have been Carbonear, and Grand Falls, are
 2 sending in samples.
 3 CHAYTOR, Q.C.:
 4 Q. And could it be that there are any pages
 5 missing from your notes of this meeting?
 6 MS. PREDHAM:
 7 A. No. There was - I think on the back of that
 8 first page that you flipped over there.
 9 CHAYTOR, Q.C.:
 10 Q. I'm sorry?
 11 MS. PREDHAM:
 12 A. This is on the back of that page there.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. So these are back to back you're
 15 saying?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. So no idea what number "8" means?
 20 MS. PREDHAM:
 21 A. No.
 22 CHAYTOR, Q.C.:
 23 Q. Then the next is August 2nd. So I take it
 24 this is a new meeting?
 25 MS. PREDHAM:

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1 A. Yes.
 2 CHAYTOR, Q.C.:
 3 Q. If we could have, please, P-934, and this is
 4 an e-mail communication. It starts here, July
 5 28th, 2005, from yourself to Dan Boone, Dr.
 6 Williams, Dr. Cook, and Ms. Bonnell, Ms.
 7 Thomas, and the subject is
 8 immunocytochemistry, "I discovered this
 9 website which was cited in an article. I will
 10 be circulating articles today as well". So at
 11 this point, Ms. Predham, are you doing some
 12 research on the issue?
 13 MS. PREDHAM:
 14 A. Well, yes, I was - usually whenever we do an
 15 investigation, you want to know what's out
 16 there in the literature, and I guess, you
 17 know, from past experience, you - there's a
 18 lot of information that's out there that can
 19 help you, give you direction, and you want to
 20 do whatever the literature is saying, whatever
 21 the evidence is telling you, anyway. So one
 22 of the things that we would do then is do a
 23 literature review and see what we can find
 24 out. So at this time, obviously, I had been
 25 doing that for a period of time, and looking

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1 for not so much just literature on
 2 immunohistochemistry or ER/PR, I was looking
 3 for quality issues or anything that could give
 4 some evidence that people had discovered this
 5 before or dealt with it, or this had been a
 6 known phenomenon. I guess this is what I was
 7 looking for.
 8 CHAYTOR, Q.C.:
 9 Q. And how did your efforts end up in that
 10 regard, were you able to find that this had
 11 been known before that there were issues with
 12 this particular test?
 13 MS. PREDHAM:
 14 A. Well, I found that there were issues. There
 15 was evidence that there were issues, but I
 16 didn't find anyone that had once they
 17 identified the issue, they had gone back and
 18 retested people. That was never a question
 19 for us. We were going to retest because
 20 treatment depended on it, but I couldn't find
 21 anyone who had done that before us. I did
 22 find one article where - it was from
 23 Australia, and it was a breast cancer
 24 symposium, and that's in - I'm sure that must
 25 be in some of the documents that you have from

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1 me, where the person introducing this document
 2 was talking about a lady who had - was ER/PR
 3 negative, for some reason had been retested,
 4 came back positive, and was started on
 5 Tamoxifen and had asked the lady if she should
 6 have been on Tamoxifen from the beginning, and
 7 the person said that was a very good question
 8 and went on and - I guess the context was how
 9 important quality assurance was in doing this
 10 test and how you needed to have the
 11 standardization and there needed to be this
 12 standardization. This was in Australia, but
 13 there was no mention that they went back and
 14 retested everybody or they had done any
 15 investigation there. It was just this
 16 standalone issue.
 17 CHAYTOR, Q.C.:
 18 Q. Or whether they took measures - or perhaps
 19 they took measures to determine that this was
 20 a one off with this particular case?
 21 MS. PREDHAM:
 22 A. One off, yes, and that wasn't there. Another
 23 one that stuck in my mind was an Austrian
 24 article where they had introduced - in the
 25 entire nation they had done a lot of

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1 proficiency testing between the labs, and, you
 2 know, there was a lot of incongruous results
 3 between the labs and, you know, they had -
 4 they had done a lot with external proficiency
 5 in Austria.
 6 CHAYTOR, Q.C.:
 7 Q. And those articles, do you recall when they
 8 were published, were they from years prior to
 9 this?
 10 MS. PREDHAM:
 11 A. The one in Australia was 2004. I remember
 12 that distinctly. I don't know why, but - I
 13 can't remember the other ones, but this one
 14 here, one of the articles that I had read, it
 15 had cited this external quality assurance
 16 program, so I had looked up the website.
 17 CHAYTOR, Q.C.:
 18 Q. And you indicate here, "This is an external
 19 quality assurance program coordinated out of
 20 the UK, and they have an external program.
 21 One of the countries participating is Canada".
 22 So at this point in time, are you looking to
 23 see where you might be able to get external
 24 proficiency testing done, is that -
 25 MS. PREDHAM:

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1 A. I wasn't looking for that. I know we had
 2 talked about it, and I guess in my going
 3 through the literature, I had noticed this. I
 4 went in on the website and then when I went in
 5 and just was looking around, I did notice that
 6 we were participating, so I wondered what lab
 7 was participating, how did they get involved,
 8 what the results were like. Like, that was my
 9 thinking, so could we get in touch with that
 10 lab because we hadn't - so far in our
 11 conversations, it hadn't come up in any of our
 12 search across the country that anybody had
 13 mentioned this group.

14 CHAYTOR, Q.C.:

15 Q. Yes, and why were you - why were you spending
 16 time doing this? What was it that you were
 17 hoping to find or what were you trying to
 18 determine that could be of assistance to the
 19 review that was going to take place?

20 MS. PREDHAM:

21 A. Well, I guess I was looking at the literature
 22 to see if there was any problems that anybody
 23 else - how they dealt with it, how they
 24 addressed the problem, but - and I just came
 25 across this and thought I'd share this with

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1 the people.

2 CHAYTOR, Q.C.:

3 Q. And were you trying to determine what
 4 potential problems in fact could be in St.
 5 John's? Were you looking for some insight
 6 into, well, have there been problems
 7 identified elsewhere, and perhaps are those
 8 the problems we have here?

9 MS. PREDHAM:

10 A. Oh, definitely, you know, or maybe we've got
 11 something totally different or - you know.

12 CHAYTOR, Q.C.:

13 Q. Okay, and then you - there's another e-mail in
 14 between here, though, from - three minutes or
 15 four minutes later there's another separate e-
 16 mail to Mr. Boone.

17 MS. PREDHAM:

18 A. Yes, I think I probably had a wrong e-mail
 19 address or something. It's slightly
 20 different.

21 CHAYTOR, Q.C.:

22 Q. And sent it again, okay.

23 MS. PREDHAM:

24 A. And it must have come back, and then I sent it
 25 again.

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1 CHAYTOR, Q.C.:

2 Q. Okay, and then you indicate, "I tried the
 3 phone number and got a recording saying it was
 4 out of service, but I had problems getting an
 5 outside line in the first place. I've e-
 6 mailed since then and asked them to contact
 7 me". So did you ever hear back? This is the
 8 UK, I take it. Did you ever hear back from
 9 anyone?

10 MS. PREDHAM:

11 A. I didn't hear back from them, but I know Dr.
 12 Cook followed up with them at a later date.

13 CHAYTOR, Q.C.:

14 Q. And Dr. Cook followed up with respect to what
 15 part, what did you understand came out of his
 16 discussions with them?

17 MS. PREDHAM:

18 A. Well, he determined that - and I don't know if
 19 he determined through them or if he determined
 20 with Mount Sinai, that Mount Sinai was, in
 21 fact, the Canadian lab that was participating
 22 in this, and then, of course, we were
 23 interested in doing external proficiency
 24 testing as well, so he contacted them about
 25 that.

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1 CHAYTOR, Q.C.:

2 Q. Okay. If we could have, please, P-936. This
 3 is an e-mail from yourself the same day at
 4 9:46 in the morning, July 28th, Terry Gulliver
 5 and to Dr. Cook, copied to Dr. Williams, "The
 6 more I thought about it last night, the more I
 7 realized that it is critical that we get the
 8 results for the time we ran both the DAKO and
 9 Ventana system in April, 2004. This will give
 10 us exactly what we need, our positivity rate
 11 with both systems, and our conversion rate as
 12 well. We would have been in close contact
 13 with the company at the time, and our rates
 14 during that period obviously were satisfactory
 15 to all involved because we went live on the
 16 Ventana system. Can we get the results for
 17 that period of time quickly. Also, I hate to
 18 nag, could you give me the numbers of samples
 19 we sent to Mount Sinai during the six week
 20 period in 2003. If we have more than about 15
 21 or so, we can probably look at the positivity
 22 rate as they were done elsewhere". So the
 23 first part of your e-mail, you're saying,
 24 "This will give us exactly what we need", and
 25 I guess my question is need for what, what

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1 information would that give you?
 2 MS. PREDHAM:
 3 A. Well, what I was thinking at the time is that
 4 - and I know now that it was not the way that
 5 it was done, but what I was thinking at the
 6 time was when we brought in the Ventana
 7 system, we would have had a time of
 8 overlapping where we would have had DAKO
 9 results and Ventana results. We could have
 10 been in close contact with the Ventana
 11 representatives, so they would have been here
 12 seeing how we were doing that, and everybody
 13 would have been satisfied with the way the new
 14 process was running. So the idea that I got
 15 in my head was that we should have seen
 16 conversions happen there if you had - you
 17 know, depending on the positivity rate, we
 18 should have seen conversions that happened
 19 there, and if we did, what did we do about it,
 20 and how many did we have, because it must have
 21 been seen as acceptable at that time. So
 22 that's what I was - that's what I was looking
 23 for.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, so you are of the understanding that

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1 when the Ventana system was brought in, that
 2 tests were done on the same tissue samples, on
 3 the same tissue samples on both systems, the
 4 DAKO and the Ventana, and you were looking for
 5 that data so then you would be able to
 6 compare, well, you know, what was happening at
 7 that time?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. What were our positivity rates? Were there
 12 conversions at that time? If so, how many?
 13 And if so, why didn't it come up at the time?
 14 And if not, can we assume everything was okay?
 15 MS. PREDHAM:
 16 A. Right.
 17 CHAYTOR, Q.C.:
 18 Q. That's the kind of information you were
 19 looking for. So had someone told you that
 20 there had been tests run on DAKO and Ventana
 21 simultaneously in April of 2004?
 22 MS. PREDHAM:
 23 A. Well, I understood that we went through a
 24 period of validation from--validation and
 25 training from January to April, I think. I

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1 can't remember right now, and I guess in my
 2 understanding that that's what it would have
 3 been. Parallel runs of the same things and
 4 then somebody would validate that this is the
 5 result on this one, this is the result on that
 6 one.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and so what happened to your quest for
 9 this information?
 10 MS. PREDHAM:
 11 A. For that one right then, I don't think I got a
 12 clear understanding of it then. I know I got
 13 a clearer understanding at the end that it was
 14 all the immunohistochemical stains that were
 15 done, but I didn't get any data. I didn't get
 16 anything that would answer that question, and
 17 I had the wrong perception of it as well.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and how so? What -
 20 MS. PREDHAM:
 21 A. Well, it wasn't -
 22 CHAYTOR, Q.C.:
 23 Q. How did you have the wrong perception?
 24 MS. PREDHAM:
 25 A. It wasn't a side by side. I really can't--I

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1 couldn't explain it in detail, how it was
 2 done, you know. Mr. Gulliver would have to
 3 explain that to you, but it wasn't the way
 4 that I thought it was.
 5 CHAYTOR, Q.C.:
 6 Q. So did you come to learn--you were thinking a
 7 validation to take place to go from one system
 8 to the other, that they would have compared
 9 the two different systems?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. With what they had been using and their known
 14 results from that to the new system?
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And did you come to learn that that didn't
 19 happen, that there hadn't been these parallel
 20 runs on DAKO and Ventana?
 21 MS. PREDHAM:
 22 A. They did, but they weren't--and I can't think
 23 now of how to tell you that they weren't like
 24 that, right now, totally cannot think of the
 25 words to describe it to you, but it wasn't how

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1 I had anticipated it to be like that.
 2 CHAYTOR, Q.C.:
 3 Q. Well, I guess one thing is, as you say, it
 4 would have involved all the--or all of the IHC
 5 stains, not just ER/PR?
 6 MS. PREDHAM:
 7 A. Yes.
 8 CHAYTOR, Q.C.:
 9 Q. And so the information then, if that were--if
 10 that had occurred, then there'd be information
 11 regarding many, many antibodies?
 12 MS. PREDHAM:
 13 A. Yes.
 14 CHAYTOR, Q.C.:
 15 Q. And perhaps that might be useful information
 16 as well.
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. To compare, well, were there any problems with
 21 the other stains. Was it just the ER/PR
 22 stains, and if so, then what's different about
 23 ER/PR.
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. That might have been a valid piece of
 3 information too. And you can't remember what
 4 response you got on that?
 5 MS. PREDHAM:
 6 A. I know the documentation doesn't exist to
 7 answer this question of mine.
 8 CHAYTOR, Q.C.:
 9 Q. And did you ask them "where is the
 10 documentation?"
 11 MS. PREDHAM:
 12 A. I don't think that there was any documentation
 13 of that. I think it was done, they had
 14 validated it in some process which I really--I
 15 honestly cannot--I can't remember enough to
 16 explain to you right now, but I know it wasn't
 17 the way I thought it would have been.
 18 CHAYTOR, Q.C.:
 19 Q. And whatever answer you were given, it was
 20 such that you felt it was futile to keep going
 21 down that road?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. You weren't going to be able to come up with

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1 the answers you were looking for?
 2 MS. PREDHAM:
 3 A. I remember I came across the same thing a few
 4 months later, and I wanted the answer again,
 5 and then I had to be reminded that that wasn't
 6 the way that it was done.
 7 CHAYTOR, Q.C.:
 8 Q. And -
 9 THE COMMISSIONER:
 10 Q. There were no double runs? Is that what you're
 11 saying?
 12 MS. PREDHAM:
 13 A. I can't say to you that there wasn't any
 14 double runs, but--and I can't remember the
 15 details. I remember--all I can tell you--I
 16 don't want to try to, you know, suppose -
 17 THE COMMISSIONER:
 18 Q. So can we look at it this way, whatever it
 19 was, somebody satisfied you that that
 20 comparison would not give you any valid
 21 information?
 22 MS. PREDHAM:
 23 A. Right.
 24 THE COMMISSIONER:
 25 Q. Okay. Do you remember who that was?

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1 CHAYTOR, Q.C.:
 2 Q. Yes, who?
 3 MS. PREDHAM:
 4 A. Mr. Gulliver.
 5 CHAYTOR, Q.C.:
 6 Q. And again, at that point in time, was there
 7 any discussion about any computer records that
 8 might be related?
 9 MS. PREDHAM:
 10 A. No.
 11 CHAYTOR, Q.C.:
 12 Q. Did Mr. Gulliver tell you that there hadn't
 13 been any parallel runs, such as you were
 14 thinking?
 15 MS. PREDHAM:
 16 A. There was a way that they validated and it
 17 wasn't the way that I thought that they were
 18 going to validate it, and I can't remember--I
 19 really can't. I wouldn't do it justice to try
 20 to imagine what it was now.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. Can you say that, as the risk manager,
 23 you were satisfied with the answer that you
 24 got or did it leave you with any concerns?
 25 MS. PREDHAM:

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1 A. I would have been happier if it was the way I
 2 had imagined, but you know, the director and
 3 the manager of the lab were satisfied. The
 4 Ventana person who was down, I guess, you
 5 know, gave them direction on how to do that.
 6 CHAYTOR, Q.C.:
 7 Q. And did you understand, did Mr. Gulliver tell
 8 you that there were no records of the
 9 validation process at all or just that it
 10 wasn't the records you were anticipating
 11 having?
 12 MS. PREDHAM:
 13 A. It was nothing that was going to help me do
 14 this. It was nothing that was going to give
 15 me the answer at this period of time.
 16 CHAYTOR, Q.C.:
 17 Q. And did he produce any validation records for
 18 you?
 19 MS. PREDHAM:
 20 A. No.
 21 CHAYTOR, Q.C.:
 22 Q. And in this same e-mail then, you mention the
 23 six-week period, I take it, that the testing
 24 was stopped here in Newfoundland in 2003 and
 25 you're thinking, well, perhaps that would be

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1 useful too, to know what the results were of
 2 the tests from outside in that time period.
 3 MS. PREDHAM:
 4 A. Yes.
 5 CHAYTOR, Q.C.:
 6 Q. And did you receive any answers to that query?
 7 MS. PREDHAM:
 8 A. We didn't--and I don't know how soon after
 9 this I found out that we didn't actually send
 10 any away. We held the tests until the fine
 11 tuning was done or whatever the changes were
 12 made.
 13 CHAYTOR, Q.C.:
 14 Q. So you learned that there were no samples sent
 15 out during that time period?
 16 MS. PREDHAM:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. Okay.
 20 MS. PREDHAM:
 21 A. I was under the understanding that there were,
 22 but I wouldn't be able to tell you now how I
 23 came up to that or I just made that
 24 assumption. I can't remember.
 25 CHAYTOR, Q.C.:

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1 Q. So you can't recall who would have told you
 2 that, to lead you to that assumption?
 3 MS. PREDHAM:
 4 A. No.
 5 CHAYTOR, Q.C.:
 6 Q. And can you tell who corrected you of your
 7 wrong presumption?
 8 MS. PREDHAM:
 9 A. Pardon?
 10 CHAYTOR, Q.C.:
 11 Q. Who corrected your understanding in that
 12 regard? Who told you the difference?
 13 MS. PREDHAM:
 14 A. Oh, Mr. Gulliver.
 15 CHAYTOR, Q.C.:
 16 Q. And in terms of figuring out whether or not
 17 anything had been sent out to Mount Sinai in
 18 that time period, did you conduct any further
 19 investigation into that or you just asked Mr.
 20 Gulliver and he told you it didn't happen?
 21 MS. PREDHAM:
 22 A. I just asked.
 23 CHAYTOR, Q.C.:
 24 Q. Okay. Then you go on and forward this e-mail
 25 to the communications people, along with Mr.

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1 Boone, and this is "for your information. In
 2 the three hours I was awake last night, I got
 3 more incensed than ever about those
 4 overlapping results. I'll need to know--I'll
 5 let you know what I hear back." And why are
 6 you incensed about this?
 7 MS. PREDHAM:
 8 A. I can get myself worked up, I guess.
 9 CHAYTOR, Q.C.:
 10 Q. Besides the sleep deprivation.
 11 MS. PREDHAM:
 12 A. In the middle of the night, I can get myself
 13 pretty worked up, but I guess, it was, you
 14 know, this was July 28th. We'd been at this,
 15 you know, not very long, but we'd been at this
 16 for a period of time and it was--we were
 17 talking about the results and we were sending
 18 things off to Mount Sinai, but here, in my
 19 mind, we had an obvious chance where we had
 20 the double testing, where we could do the
 21 comparison. So you know, I thought that, you
 22 know, that this would be a good way to
 23 validate the Ventana or get some answers
 24 there.
 25 CHAYTOR, Q.C.:

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1 Q. Or determine if there was a problem with your
 2 DAKO results perhaps.
 3 MS. PREDHAM:
 4 A. Or if there was a problem, or what did we do
 5 if we had conversions, if we had a significant
 6 overlap and we had conversions, what did we do
 7 then?
 8 CHAYTOR, Q.C.:
 9 Q. Yes.
 10 MS. PREDHAM:
 11 A. You know, did we--you know, what happened in
 12 2004.
 13 CHAYTOR, Q.C.:
 14 Q. And if there were significant conversions, why
 15 it wasn't pursued, I guess, at that point in
 16 time?
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. And were you incensed because you were getting
 21 concerned about dead ends due to lack of
 22 documentation and records?
 23 MS. PREDHAM:
 24 A. I was getting concerned--as this progressed,
 25 we were having--we had a lot of information.

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1 We had a lot of different things. It was
 2 almost like we couldn't pick through the red
 3 herrings, and what the key of the issue was.
 4 We had--you know, we had to disclose. We had
 5 all this. It was very confusing, and I guess,
 6 what I was incensed with was like here was
 7 something concrete that we could actually look
 8 at. If we went from a--I can't recall the
 9 numbers, but 70 percent positivity rate to 89
 10 percent positivity rate and we did a
 11 significant number of overlapping in that
 12 validation, we should have seen a conversion
 13 or two. We should have seen something which
 14 would have--should have caused us to respond
 15 in 2004. So that's what I was working myself
 16 up with in the middle of the night.
 17 CHAYTOR, Q.C.:
 18 Q. And when you got the response, and I
 19 understand what you're saying here now, you
 20 don't recall exactly what the response was,
 21 but whatever it was, it wasn't going to lead
 22 you any further down this particular road.
 23 MS. PREDHAM:
 24 A. And I was a bit irritated about the lack of
 25 documentation.

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1 CHAYTOR, Q.C.:
 2 Q. You were, yes, okay, and Ms. Predham, if you
 3 had been told, at that point, that the DAKO
 4 computer had gone out the door just a few
 5 months before, which may or may not have any
 6 information on it to be of assistance, would
 7 that have further irritated you?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. If we could have, please, P-0938? And this
 12 letter is written July 29th, 2005, we believe,
 13 a few extra zeros or an extra zero. Dr.
 14 Ejeckam, it's being written by Dr. Williams,
 15 and he refers to having met with him and Dr.
 16 Cook, July 15th, 2004 "to discuss the
 17 activities of the Surgical Pathology Review
 18 Committee. We concur that as a Quality
 19 Assurance Committee, there should be a linkage
 20 between the work of the committee and the
 21 overall quality initiative efforts within this
 22 organization. By copy of this letter to Ms.
 23 Heather Predham, I will ask her to follow up
 24 with you on the matter to see what supports
 25 the Quality and Systems Improvement department

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1 might give to your activities." And you'll
 2 see there that you and Dr. Cook are copied on
 3 the letter. So I take it you received a copy
 4 of this letter?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. And then did you have further follow up to see
 9 how your department could work with the
 10 Surgical Pathology Review Committee?
 11 MS. PREDHAM:
 12 A. Can you just scroll up to the date on that one
 13 again?
 14 CHAYTOR, Q.C.:
 15 Q. Oh, sure, yes.
 16 MS. PREDHAM:
 17 A. Okay, so this is right at that time as well.
 18 CHAYTOR, Q.C.:
 19 Q. I think that's the right date, '05.
 20 MS. PREDHAM:
 21 A. Yeah.
 22 CHAYTOR, Q.C.:
 23 Q. That's the evidence we have is that it was
 24 '05.
 25 MS. PREDHAM:

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1 A. Well, what I would have done then, at that
 2 time, we had one of our quality facilitators
 3 was linked to the lab, so that's who I would
 4 have put in touch with the lab, but right
 5 then, I guess that was in a--you know, that
 6 was when we were talking about I was going to
 7 do a quality review. We were going to go down
 8 and look at the--so that was all in that
 9 period of time. So there wasn't anything
 10 concrete that I did in response to that, but
 11 you know, this information would have been
 12 shared with our quality facilitator linked
 13 with the lab.
 14 CHAYTOR, Q.C.:
 15 Q. And I take it, up until this point, there
 16 hadn't been such a linkage?
 17 MS. PREDHAM:
 18 A. Oh, there was a linkage but not with the
 19 Surgical Pathology Review Committee.
 20 CHAYTOR, Q.C.:
 21 Q. Right, okay. So in terms of what he's
 22 proposing here, the linkage between the work
 23 of the--well, it says the work. "We concur
 24 that as a Quality Assurance Committee," so
 25 assuming that is the Surgical Pathology Review

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1 Committee, so linking that committee to the
 2 overall quality initiatives efforts for
 3 Eastern Health. So there hadn't been that
 4 linkage before, between -
 5 MS. PREDHAM:
 6 A. No.
 7 CHAYTOR, Q.C.:
 8 Q. - this what he's referring to as a Quality
 9 Assurance Committee and your department?
 10 MS. PREDHAM:
 11 A. Yes. Well, there wasn't a quality assurance
 12 committee as such in the pathology area of the
 13 lab. Now that, it was a period of time before
 14 that got established and Dr. Carter was
 15 actually taking the lead in that.
 16 CHAYTOR, Q.C.:
 17 Q. Yes. I'm just--what did you understand why
 18 this was coming on at this point? Did you
 19 understand the Surgical Pathology Review
 20 Committee was still an active committee at
 21 this point in time?
 22 MS. PREDHAM:
 23 A. Well, I didn't know. I never heard of the
 24 committee before, other than reference to it
 25 when the memos were brought ahead, so you

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1 know, I just assumed if they were talking
 2 about then that they were still meeting.
 3 CHAYTOR, Q.C.:
 4 Q. And did you ever then--did you or anyone from
 5 your department then start to sit on this
 6 committee or have any interaction with this
 7 committee?
 8 MS. PREDHAM:
 9 A. I think after we found that they hadn't--they
 10 weren't meeting on a regular basis, but when I
 11 got the letter, I didn't know that.
 12 CHAYTOR, Q.C.:
 13 Q. Okay, and what did you understand then, what
 14 was the purpose of this letter?
 15 MS. PREDHAM:
 16 A. It was that the pathology department were
 17 going to set up a quality assurance committee
 18 and we were going to assist them.
 19 CHAYTOR, Q.C.:
 20 Q. And the Surgical Pathology Review Committee,
 21 did that become an active committee again
 22 after July 29th, 2005?
 23 MS. PREDHAM:
 24 A. I'm not sure. I'm not sure.
 25 CHAYTOR, Q.C.:

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1 Q. And so in follow up on this, what, if anything
 2 else did you do?
 3 MS. PREDHAM:
 4 A. Well, I mean, shortly after, I went over to do
 5 a quality review and I guess my intent was,
 6 well, I'm going over there anyway, and--or
 7 that may have been what spawned me to go over
 8 there to--got me over there, and to see what
 9 they had in place already.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, and so if this Surgical Pathology Review
 12 Committee was a quality assurance committee,
 13 you weren't aware of that prior to receipt of
 14 this correspondence?
 15 MS. PREDHAM:
 16 A. No.
 17 CHAYTOR, Q.C.:
 18 Q. In July of 2005, okay, and if there had been
 19 such linkage between you or somebody in your
 20 department in 2003, for example, when this
 21 committee was more active, and I take it
 22 you've since seen the minutes of that
 23 committee?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:

2 Q. And do you think that may have been--it may

3 have been useful to have had somebody from

4 Quality involved back then with the work of

5 the Surgical Pathology Review Committee?

6 MS. PREDHAM:

7 A. It may have been. It depends on what level of

8 information got discussed there.

9 CHAYTOR, Q.C.:

10 Q. And the issue of Dr. Ejeckam and Dr. Ejeckam

11 having shut down the stains, that came up for

12 discussion in the minutes of this, in the

13 meetings?

14 MS. PREDHAM:

15 A. Yes.

16 CHAYTOR, Q.C.:

17 Q. So that may have then come to the attention of

18 the Quality Initiatives department, had there

19 been such linkage?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. And then you may have taken whatever steps at

24 that point in time?

25 MS. PREDHAM:

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1 A. Yes.

2 CHAYTOR, Q.C.:

3 Q. Was there any concern discussed about those

4 minutes of the Surgical Pathology Review

5 Committee and whether those might be protected

6 under the Evidence Act?

7 MS. PREDHAM:

8 A. No, we didn't talk about those at the time.

9 CHAYTOR, Q.C.:

10 Q. And has that ever come up for discussion?

11 MS. PREDHAM:

12 A. No.

13 CHAYTOR, Q.C.:

14 Q. And has that ever come up for discussion in

15 terms of Dr. Ejeckam's memos?

16 MS. PREDHAM:

17 A. No.

18 CHAYTOR, Q.C.:

19 Q. Ms. Predham, we understand that there was

20 another meeting of a large group of people on

21 August 1st, 2005.

22 MS. PREDHAM:

23 A. Yes.

24 CHAYTOR, Q.C.:

25 Q. And did you attend that meeting?

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1 MS. PREDHAM:

2 A. Yes, that was--was that a Monday?

3 CHAYTOR, Q.C.:

4 Q. Perhaps.

5 MS. PREDHAM:

6 A. Perhaps. Yes.

7 CHAYTOR, Q.C.:

8 Q. Thank you, yes, it was.

9 MS. PREDHAM:

10 A. Okay. Yes, I did.

11 CHAYTOR, Q.C.:

12 Q. Okay, and what do you recall about that

13 meeting?

14 MS. PREDHAM:

15 A. I think I have notes there, but -

16 CHAYTOR, Q.C.:

17 Q. Okay. Well, let's, if you wish--well, perhaps

18 you can tell us while I'm looking for them.

19 Go ahead and tell us.

20 MS. PREDHAM:

21 A. Was that the issue that -

22 CHAYTOR, Q.C.:

23 Q. This we understand -

24 MS. PREDHAM:

25 A. Was that the meeting that Dr. Carter and Mr.

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1 Tilley attended?

2 CHAYTOR, Q.C.:

3 Q. Yes. Yes, we understand this meeting probably

4 became a little heated.

5 MS. PREDHAM:

6 A. Yes.

7 CHAYTOR, Q.C.:

8 Q. What do you -

9 MS. PREDHAM:

10 A. Heated might be a little too strong a word

11 even, but it got--there was a disagreement at

12 that.

13 CHAYTOR, Q.C.:

14 Q. Okay, and what do you recall then about that,

15 what overall about the meeting itself, the

16 purpose of the meeting and what got discussed,

17 what happened, what decisions may have come

18 out of the meeting?

19 MS. PREDHAM:

20 A. Well, we were, you know, seeing where we were.

21 We're updating Mr. Tilley about the

22 information. I do remember at that meeting,

23 as we progressed in this, and I guess we were

24 talking about positivity rates and again, the

25 question of the Ventana numbers came up, and I

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1 remember asking the question, well, you know,
 2 "if Ventana is more sensitive, we are going to
 3 see an increase in positivity rates." But
 4 then we were informed that the Ventana system
 5 wasn't more sensitive.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and who informed you of that?
 8 MS. PREDHAM:
 9 A. Mr. Gulliver.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, wasn't more sensitive?
 12 MS. PREDHAM:
 13 A. No, it was more consistent.
 14 CHAYTOR, Q.C.:
 15 Q. It was more consistent, not more sensitive?
 16 MS. PREDHAM:
 17 A. Right.
 18 CHAYTOR, Q.C.:
 19 Q. And had you earlier understood Mr. Gulliver to
 20 tell you that the Ventana was ten times more
 21 sensitive?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. Okay, and did that cause you pause for

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1 thought?
 2 MS. PREDHAM:
 3 A. Great pause for thought. I was kind of
 4 distracted through the meeting, so I don't
 5 have a really good memory of the rest of it,
 6 because I was then starting to think back,
 7 okay, well if--so if it's not more sensitive,
 8 what does that mean to everything that we've
 9 been thinking as we've gone along here. So I
 10 was distracted by that.
 11 CHAYTOR, Q.C.:
 12 Q. Yes, and the idea, okay, so it's not more
 13 sensitive, it's more consistent, did that
 14 cause you concern, that he's saying more
 15 consistent?
 16 MS. PREDHAM:
 17 A. Well, it was--if you're going from this semi-
 18 automated--and it was, like I explained
 19 yesterday, if--you know, from my perspective,
 20 if you have a procedure where the techs have
 21 to boil tissue for greater than 15 minutes and
 22 less than 20, and if it's less than 15,
 23 there's going to be problems, and if it's
 24 greater than 20, it's going to be problems,
 25 and if there's someone going to pipette a

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1 microlitre of something in a dilution that's
 2 going to be used for a period of time, there's
 3 great room for human error, and so the
 4 consistency part, I could see that, because
 5 that parts of it would be eliminated and you
 6 wouldn't have that room. You'd have more
 7 consistency. So that made sense.
 8 CHAYTOR, Q.C.:
 9 Q. Okay, and so what else then do you recall
 10 happening at the meeting?
 11 THE COMMISSIONER:
 12 Q. Excuse me, just before we leave this, as I
 13 understood your evidence earlier, up to this
 14 point, you had been proceeding and doing
 15 research and all this activity based on your
 16 understanding that the Ventana was in fact
 17 more sensitive.
 18 MS. PREDHAM:
 19 A. Yes.
 20 THE COMMISSIONER:
 21 Q. And when--did you say something about it being
 22 more sensitive, and Mr. Gulliver say "hang on,
 23 that's not what it is"?
 24 MS. PREDHAM:
 25 A. Exactly.

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1 THE COMMISSIONER:
 2 Q. Was that the end of that conversation?
 3 MS. PREDHAM:
 4 A. No.
 5 THE COMMISSIONER:
 6 Q. Did you not say "you told me it was"?
 7 MS. PREDHAM:
 8 A. Yes.
 9 THE COMMISSIONER:
 10 Q. And?
 11 MS. PREDHAM:
 12 A. And it just went back, you know, he said he
 13 didn't and I said he did and Ms. Bonnell said
 14 "yes, you did, because I've got it written
 15 down," and you know, it went on from there.
 16 THE COMMISSIONER:
 17 Q. So Mr. Gulliver, at that point, took the
 18 position that you had misunderstood what he
 19 said earlier?
 20 MS. PREDHAM:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. Thank you.
 24 CHAYTOR, Q.C.:
 25 Q. So you were having a he said/she heard -

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1 MS. PREDHAM:
 2 A. Yes.
 3 CHAYTOR, Q.C.:
 4 Q. He said/she heard conversation back and forth?
 5 MS. PREDHAM:
 6 A. Yes, yes.
 7 CHAYTOR, Q.C.:
 8 Q. Little bit of an argument, I take it?
 9 MS. PREDHAM:
 10 A. Yes. Well, not heated, but we were, you know,
 11 disagreeing.
 12 CHAYTOR, Q.C.:
 13 Q. Yes, and that word "heated" do you recall in
 14 your interview using that word, that there
 15 were times this meeting did get heated?
 16 MS. PREDHAM:
 17 A. There was disagreement at the other end of the
 18 table with Dr. Carter and Mr. Gulliver and Mr.
 19 Dyer and probably "heated" is a little bit too
 20 strong. It was a disagreement over whether it
 21 was the technology side of this or whether it
 22 was a pathology side of an issue that was
 23 going on--not even a pathology side, it was
 24 whether it was technology or not technology
 25 that was the source of this issue.

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1 CHAYTOR, Q.C.:
 2 Q. And who was having that disagreement?
 3 MS. PREDHAM:
 4 A. Well Dr. Carter was concerned about the
 5 technology side or the reliance on the
 6 technology side and Mr. Gulliver and Mr. Dyer
 7 were, you know, saying that they didn't have
 8 that many--that great concern on that side.
 9 CHAYTOR, Q.C.:
 10 Q. And what do you recall being said in that
 11 exchange?
 12 MS. PREDHAM:
 13 A. Really that's--just that I was still, you
 14 know, getting over the sensitivity issue.
 15 CHAYTOR, Q.C.:
 16 Q. Was there anything else said that caused you
 17 concern or again pause for thought in terms of
 18 I'm hearing something different than I
 19 originally understood?
 20 MS. PREDHAM:
 21 A. I had--well the concern about the sensitivity,
 22 the disagreement that they were having back
 23 and forth, you know, I wasn't that concerned
 24 about, you know, we'd work that out. Dr.
 25 Carter also said that she--there was a period

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1 of time in which there were no, I can't
 2 remember now if she said no positives or no
 3 negatives. I think it was no negatives on the
 4 Ventana system.
 5 CHAYTOR, Q.C.:
 6 Q. I think it was probably no positives, but it
 7 doesn't matter. So a period of time in which
 8 there was no results of one kind or the other?
 9 MS. PREDHAM:
 10 A. Right, and that caused me great concern
 11 because, okay, well what does that mean and
 12 how come there wasn't and how come that wasn't
 13 picked up and we got to look into that.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, so from a risk management point of view,
 16 I take it at that--hearing that -
 17 MS. PREDHAM:
 18 A. My attention went back down to the other end
 19 of the table.
 20 CHAYTOR, Q.C.:
 21 Q. So you're over the comment on the sensitivity
 22 and thinking, well what am I hearing here now.
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. How could that be.
 2 MS. PREDHAM:
 3 A. Yeah.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and you made, I take it, a note that
 6 that's something that I need to look into or
 7 ask some more questions about?
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. And did you do that afterwards?
 12 MS. PREDHAM:
 13 A. I did, well Mr. Dyer gathered the information
 14 and reviewed the results for that period of
 15 time.
 16 CHAYTOR, Q.C.:
 17 Q. And you had asked him to do that?
 18 MS. PREDHAM:
 19 A. Well I think that was the general consensus
 20 around the table that that had to be done.
 21 CHAYTOR, Q.C.:
 22 Q. And so what you're hearing between Mr. Dyer
 23 and Mr. Gulliver on one side and Dr. Carter on
 24 the other side was an issue where Dr. Carter
 25 appears to be placing some blame onto the

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1 technical side of the lab?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. And did anyone else join in that discussion,
 6 was it just Dr. Carter, Dr.--and Messrs.
 7 Gulliver and Dyer?
 8 MS. PREDHAM:
 9 A. Well I think, you know, Dr. Williams probably
 10 ended the conversation or said something, I
 11 really can't remember. I just remember the
 12 discussion at that point. I can't remember
 13 after that.
 14 CHAYTOR, Q.C.:
 15 Q. Did anyone take any--was there any discussion
 16 about the review that Dr. Carter was
 17 undertaking and in particular, her review of
 18 the original slides?
 19 MS. PREDHAM:
 20 A. There may have been some discussion there, but
 21 I really can't remember it at--nothing sticks
 22 out of my head.
 23 CHAYTOR, Q.C.:
 24 Q. Did anyone take any issue with her
 25 impartiality to review the original slides?

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1 MS. PREDHAM:
 2 A. I don't think so. I can't remember that.
 3 CHAYTOR, Q.C.:
 4 Q. And if that's something that you remembered in
 5 November, would that surprise you?
 6 MS. PREDHAM:
 7 A. About her impartiality -
 8 CHAYTOR, Q.C.:
 9 Q. That anyone raised that as an issue at the
 10 time in that meeting? Did that ever come up?
 11 Maybe it's a different meeting.
 12 MS. PREDHAM:
 13 A. I can't remember -
 14 CHAYTOR, Q.C.:
 15 Q. You don't recall that ever coming up.
 16 MS. PREDHAM:
 17 A. - right now.
 18 CHAYTOR, Q.C.:
 19 Q. Was there, I guess in terms of what's going on
 20 with what she was saying about the technical
 21 side of the lab being at fault somehow, what
 22 did you understand that to be? What is it
 23 that she thought was lacking on the technical
 24 side of the lab?
 25 MS. PREDHAM:

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1 A. I really can't remember a lot of distinct
 2 details about that conversation. I can just,
 3 you know, remember that they were relying too
 4 much on technology, I think, or--and I'm
 5 probably guessing now.
 6 CHAYTOR, Q.C.:
 7 Q. Was there any--did you have concern about the
 8 idea from a quality perspective in trying to
 9 investigate what had happened, did you have
 10 concern with any suggestion of fingerpointing
 11 or anyone trying to lay blame at this stage of
 12 what you're trying to do?
 13 MS. PREDHAM:
 14 A. Well, you know, when you look at that and my
 15 experience is that very rarely, you know, can
 16 you find blame like that and it's an
 17 unfortunate process to go through, but it does
 18 happen. When you're in a--when you have a
 19 very serious incident and you have a group, a
 20 diverse group, it is part of the team coming
 21 together, is that there is going to be that
 22 period of time where you're going to have a
 23 little bit of, I think in teamwork it's called
 24 storming, that you got a bit of, well it's not
 25 my fault or it's, you know, your problem over

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1 here.
 2 THE COMMISSIONER:
 3 Q. So stages in developing -
 4 MS. PREDHAM:
 5 A. A team, yes.
 6 THE COMMISSIONER:
 7 Q. Groups in the same way that there would be
 8 stages of mourning, stages of whatever.
 9 MS. PREDHAM:
 10 A. Yes, yeah.
 11 THE COMMISSIONER:
 12 Q. And one of them is storming.
 13 MS. PREDHAM:
 14 A. Storming.
 15 THE COMMISSIONER:
 16 Q. Okay.
 17 MS. PREDHAM:
 18 A. Forming, storming, norming and performing.
 19 THE COMMISSIONER:
 20 Q. Oh.
 21 MS. PREDHAM:
 22 A. Little titbits of information.
 23 THE COMMISSIONER:
 24 Q. Whoever did it should keep their day job.
 25 MS. PREDHAM:

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1 A. It wasn't me.
 2 CHAYTOR, Q.C.:
 3 Q. Yes, and in terms of any concern you had with
 4 this blaming stage, did you discuss that with
 5 Dr. Williams at any point? Did you bring your
 6 concerns to him about this is not where we
 7 need to be, this is not what should be
 8 happening as we're trying to figure out what
 9 happened here?
 10 MS. PREDHAM:
 11 A. I don't think at that meeting, I think the
 12 next day, I do believe Dr. Carter resigned
 13 from the process the next day, so I would have
 14 had that discussion, she e-mailed me and I
 15 would have sent that on to Dr. Williams and
 16 talked to him about that then.
 17 CHAYTOR, Q.C.:
 18 Q. Okay. And what was it that you discussed with
 19 Dr. Williams the next day?
 20 MS. PREDHAM:
 21 A. Well, I guess it was just, here I am supposing
 22 again, I really can't remember. All I
 23 remember is that Dr. Carter sent me an e-mail
 24 and I forwarded it on to Dr. Williams.
 25 CHAYTOR, Q.C.:

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1 Q. And at the August 1st meeting, is that the
 2 first time in your dealing with this issue
 3 that you became aware of this type of blaming?
 4 Had you heard any accusations made before
 5 that?
 6 MS. PREDHAM:
 7 A. No, I don't recall.
 8 CHAYTOR, Q.C.:
 9 Q. And at the August 1st meeting, so other than
 10 you hear Mr. Gulliver say that it's not more
 11 sensitive, it's more consistent and this
 12 disagreement back and forth between Dr. Carter
 13 and Mr. Gulliver and Mr. Dyer, anything else
 14 happen that you recall?
 15 MS. PREDHAM:
 16 A. Well the other incident with--the no positives
 17 or no negatives.
 18 CHAYTOR, Q.C.:
 19 Q. That whole piece, yeah. And was there any
 20 exchange at all between Dr. Carter and Mr.
 21 Tilley?
 22 MS. PREDHAM:
 23 A. I don't recall that, no. You know, the
 24 biggest things I remember out of that was the
 25 consistency part, you know, and the other

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1 things were going on and -
 2 CHAYTOR, Q.C.:
 3 Q. And after that happened, did that cause you,
 4 from that point onward, there had been
 5 numerous things told to you by Mr. Gulliver,
 6 did that cause you then to do anything to
 7 check and verify information that had been
 8 previously given to you by Mr. Gulliver?
 9 MS. PREDHAM:
 10 A. Well we went--we decided at that meeting that
 11 the next morning I would go and start doing a
 12 quality review in the lab and talk to the
 13 techs directly and walk through the lab. So
 14 that was the decision that we made there.
 15 CHAYTOR, Q.C.:
 16 Q. Do you recall at the August 1st meeting, Dr.
 17 Carter objecting to content in the draft press
 18 releases?
 19 MS. PREDHAM:
 20 A. No, I don't remember that.
 21 CHAYTOR, Q.C.:
 22 Q. In particular, there was a draft press release
 23 which basically would attribute the
 24 conversions to a change in technology. Do you
 25 recall that being discussed?

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1 MS. PREDHAM:
 2 A. I can't remember that at all, I can't remember
 3 discussing a draft press release at that
 4 meeting.
 5 CHAYTOR, Q.C.:
 6 Q. Do you recall that coming up at any meeting
 7 and anyone taking objection to a draft press
 8 release that would go out blaming the issue on
 9 new technology or due to technology?
 10 MS. PREDHAM:
 11 A. Not talking about a media release, I mean, you
 12 know, that was a concern that we were going
 13 along with this positivity rate and a
 14 conversion rate and all that's been in issue
 15 all along. I can't remember any discussion
 16 regarding a press release in particular.
 17 CHAYTOR, Q.C.:
 18 Q. Now, I was looking through to see if I could
 19 find your notes of the meeting, so perhaps you
 20 can help me out here. P-2940 we have up and
 21 the last page that we left off on, I
 22 understood was the conference call that had
 23 happened.
 24 MS. PREDHAM:
 25 A. I think that meeting--I know there was one

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1 meeting I didn't have my book and it was on a
 2 separate sheet of paper, a long piece of
 3 paper.
 4 MR. SIMMONS:
 5 Q. If you try Volume 81, page 49, I think page 49
 6 is the right -
 7 CHAYTOR, Q.C.:
 8 Q. You don't have the exhibit number, do you? I
 9 might have it, yes, okay.
 10 THE COMMISSIONER:
 11 Q. Is this it?
 12 MS. PREDHAM:
 13 A. This is it.
 14 CHAYTOR, Q.C.:
 15 Q. Thank you, Registrar.
 16 THE COMMISSIONER:
 17 Q. So we're in the same exhibit, P-2940, page 49.
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And how is it that you're able to tell us that
 22 these are the notes from that meeting?
 23 MS. PREDHAM:
 24 A. Because of the--well first of all, I got Mary
 25 Butler's name up in the corner and I can

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1 remember writing that when I was doing the
 2 quality review and Mr. Gulliver told me to
 3 contact her in the morning, just go down and
 4 meet with her. And I can remember writing her
 5 name in the corner of that.
 6 CHAYTOR, Q.C.:
 7 Q. Okay. And this appears to say at the top
 8 "Original 16", two are Dr. Kwan's and another
 9 physician, is it?
 10 MS. PREDHAM:
 11 A. Dr. Boone.
 12 CHAYTOR, Q.C.:
 13 Q. Dr. Boone, and "10 are informed".
 14 MS. PREDHAM:
 15 A. Informed.
 16 CHAYTOR, Q.C.:
 17 Q. So was this being discussed at the August 1st
 18 meeting?
 19 MS. PREDHAM:
 20 A. I've got it up there on the top, it looks like
 21 it was a little side discussion.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, and Dr. Cook sent off -
 24 MS. PREDHAM:
 25 A. Sent off 11 cases.

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1 CHAYTOR, Q.C.:
 2 Q. "Mount Sinai's results show areas of" -
 3 MS. PREDHAM:
 4 A. "Minor and major disagreement".
 5 CHAYTOR, Q.C.:
 6 Q. And what are you referring to there? What was
 7 being said?
 8 MS. PREDHAM:
 9 A. I guess this was the result of the ones that
 10 went off to Mount Sinai.
 11 CHAYTOR, Q.C.:
 12 Q. And what does this then say?
 13 MS. PREDHAM:
 14 A. It says "ER one case weak positive, back is
 15 negative. PR, five major disagreements, two
 16 cases 55 percent positive came back as
 17 negative, 60 percent positive came back as 5,
 18 most were ER positive."
 19 CHAYTOR, Q.C.:
 20 Q. Okay, so the major disagreements seem to be
 21 around the PRs?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. And these are the results--are you

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1 understanding these are the results of the -
 2 MS. PREDHAM:
 3 A. Validation from Mount Sinai.
 4 CHAYTOR, Q.C.:
 5 Q. And then what does this say?
 6 MS. PREDHAM:
 7 A. "Hold on ER/PR reporting."
 8 CHAYTOR, Q.C.:
 9 Q. "We now can" --
 10 MS. PREDHAM:
 11 A. "Use theirs as verified controls." Their
 12 results.
 13 CHAYTOR, Q.C.:
 14 Q. And what was being discussed there?
 15 MS. PREDHAM:
 16 A. I guess the fact that the results that we sent
 17 away could be used as a control.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and continue on then, "Mount Sinai" -
 20 MS. PREDHAM:
 21 A. Council of American Pathologists involved in
 22 the UK program.
 23 CHAYTOR, Q.C.:
 24 Q. And "calibrate the system, blocks back by
 25 Thursday, results should be done by Sunday."

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1 MS. PREDHAM:
 2 A. "Should be done by Sunday."
 3 CHAYTOR, Q.C.:
 4 Q. "Results from Mount Sinai, one was negative in
 5 2002 retested determined to be positive was
 6 not notified, Mount Sinai confirmed they are
 7 negative. We won't be repeating anything from
 8 our lab."
 9 MS. PREDHAM:
 10 A. Reporting anything from our lab.
 11 CHAYTOR, Q.C.:
 12 Q. Reporting, sorry, "correlating with Mount
 13 Sinai. Mount Sinai reports will be released
 14 only. We can correlate our results when this
 15 is" --
 16 MS. PREDHAM:
 17 A. Looks like "summarized".
 18 MS. PREDHAM:
 19 A. "Summarized" and then you've got "public
 20 release, 70 to 80 percent, only one
 21 parameter." What's this referring to?
 22 MS. PREDHAM:
 23 A. I'm not really sure.
 24 CHAYTOR, Q.C.:
 25 Q. Do you recall public releases coming up at the

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1 August 1st meeting?
 2 MS. PREDHAM:
 3 A. No, I have no memory of that.
 4 CHAYTOR, Q.C.:
 5 Q. No memory of that. And if it's written here,
 6 is it likely that in fact it was discussed?
 7 MS. PREDHAM:
 8 A. Oh it must have been discussed but I don't
 9 have any memory of it.
 10 CHAYTOR, Q.C.:
 11 Q. And then you have "2003 retesting, 11 women
 12 tested" -
 13 MS. PREDHAM:
 14 A. "Four converted".
 15 CHAYTOR, Q.C.:
 16 Q. "Four converted." And are these your in-house
 17 results that you're referring to here?
 18 MS. PREDHAM:
 19 A. I'm not really sure.
 20 CHAYTOR, Q.C.:
 21 Q. And is this then, page 51, is that still the
 22 same meeting? "Machine" -
 23 MS. PREDHAM:
 24 A. Yes, it is because that's where Dr. Carter
 25 said June 29th, 2002 to November not a

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1 positive report.
 2 CHAYTOR, Q.C.:
 3 Q. Okay. So and this says "Machine set this up,
 4 parallel testing", what's being referred to,
 5 to here?
 6 MS. PREDHAM:
 7 A. I have no memory of it. I guess it was, you
 8 know, maybe I was back on that Ventana set up
 9 and parallel testing again.
 10 CHAYTOR, Q.C.:
 11 Q. June 29th, 2002, then to November, not a
 12 positive report and this is what Dr. Carter,
 13 you're saying, had said and--which caused you
 14 to want to have that checked out.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And 30 pathologists, 10 oncologists, what's
 19 that about?
 20 MS. PREDHAM:
 21 A. She might have made some comment that that
 22 involved 30 pathologists, that those reports
 23 involved 30 pathologists and there were 10
 24 oncologists involved. So nobody--I guess the
 25 point being is that nobody would have seen a

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1 trend because there was too many physicians
 2 involved.
 3 CHAYTOR, Q.C.:
 4 Q. And "Tumour Board" and you've got an arrow,
 5 "minutes??" What was discussed about the
 6 tumour board?
 7 MS. PREDHAM:
 8 A. Well, issues hadn't come up on the tumour
 9 board, you know, in this--I'm not sure if it's
 10 this particular period of time, but I can
 11 remember people were saying that this issue
 12 had not come up in the tumour board and then I
 13 was wondering if there were minutes of that.
 14 CHAYTOR, Q.C.:
 15 Q. And what did you ultimately find out? Were
 16 there minutes for the tumour board?
 17 MS. PREDHAM:
 18 A. I don't think so, I've never seen them.
 19 CHAYTOR, Q.C.:
 20 Q. And then turnaround time, what was being
 21 discussed there?
 22 MS. PREDHAM:
 23 A. I guess it was concerns about the turnaround
 24 time.
 25 CHAYTOR, Q.C.:

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1 Q. Turnaround time for what, for -
 2 MS. PREDHAM:
 3 A. Retesting.
 4 CHAYTOR, Q.C.:
 5 Q. For the retesting. And first, there's your
 6 list again, so is this the outcome of the
 7 meeting as the plan go-forward basis and the
 8 first thing being retest 10 from original.
 9 MS. PREDHAM:
 10 A. Yes, I guess that's 10 from what we had
 11 retested over the summer.
 12 CHAYTOR, Q.C.:
 13 Q. To retest another 10.
 14 MS. PREDHAM:
 15 A. And I'm just guessing.
 16 CHAYTOR, Q.C.:
 17 Q. Okay, "Develop plan to retest." Wasn't the
 18 plan already well into the works by now?
 19 MS. PREDHAM:
 20 A. Well we weren't using Ventana now, so we had
 21 to have a plan -
 22 CHAYTOR, Q.C.:
 23 Q. A new plan.
 24 MS. PREDHAM:
 25 A. A new plan.

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1 CHAYTOR, Q.C.:
 2 Q. "Identify urgent", is that meaning identify
 3 patients who may need urgent retesting, was
 4 that the plan?
 5 MS. PREDHAM:
 6 A. I think that was, somewhere along the way here
 7 and I really cannot remember where, but there
 8 was some discussion of if we could identify if
 9 the patient was on Tamoxifen or not, could
 10 they be, you know, put over here in the ones
 11 that were not--that we knew definitely were
 12 not on Tamoxifen, could we prioritize them? So
 13 I know myself and the staff in our department
 14 and the staff in the Cancer Clinic did a lot
 15 of work on reviewing charts to try to see if
 16 we can determine if people were on Tamoxifen,
 17 because there was no easy way to determine
 18 that.
 19 CHAYTOR, Q.C.:
 20 Q. And this was after this, was it?
 21 MS. PREDHAM:
 22 A. It was after that.
 23 CHAYTOR, Q.C.:
 24 Q. They tried to go through charts and determine
 25 who was on Tamoxifen.

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1 MS. PREDHAM:
 2 A. To see if we could do that, it was just put
 3 out there as, you know, floated as an idea
 4 that maybe we could do that and quicken the
 5 turnaround time because that was the concern
 6 there.
 7 CHAYTOR, Q.C.:
 8 Q. Okay. And when you sat down to try and do
 9 that, subsequently, what was the difficulty,
 10 why couldn't you quickly identify who was on
 11 Tamoxifen?
 12 MS. PREDHAM:
 13 A. Well it was a volume of--the volume of their
 14 and I don't think at this point we actually
 15 had the names as yet. We were still working
 16 on that, so at this point we were only going
 17 by some names that we had already identified,
 18 so we were just trying to figure out how we
 19 can do this the easiest way. I know I
 20 approached the pharmacy to see if they could
 21 generate a list of patients who were ordered
 22 Tamoxifen within, you know, our system, and
 23 then it was just the pulling of charts. We
 24 were exploring that when we went to a
 25 subsequent meeting where that was, you know,

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1 dismissed that that wasn't going to be an
 2 option.
 3 CHAYTOR, Q.C.:
 4 Q. "Reports will not be released until
 5 verification." And which reports were being
 6 referred to there?
 7 MS. PREDHAM:
 8 A. That would be the Meditech reports that would
 9 be in our system.
 10 CHAYTOR, Q.C.:
 11 Q. So the reports from the, the pathology reports
 12 from the repeats done in house would not be
 13 released until verified by Mount Sinai, is
 14 that what this -
 15 MS. PREDHAM:
 16 A. Now, of course, when I read that first, I was
 17 thinking that the plan was when we retest and
 18 the results, you know, from the bulk as things
 19 came back from Mount Sinai, they wouldn't be
 20 released out of our Meditech system until the
 21 pathologists had verified them.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. And that could be what it is. "Ventana
 24 document."
 25 MS. PREDHAM:

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1 A. Now this is the start of my notes for the next
 2 day.
 3 CHAYTOR, Q.C.:
 4 Q. This is the next day, okay. So is there
 5 anything else then about the August 1st
 6 meeting?
 7 MS. PREDHAM:
 8 A. No, I think that was enough.
 9 CHAYTOR, Q.C.:
 10 Q. That's it.
 11 THE COMMISSIONER:
 12 Q. Can you, I just want to make sure I'm being
 13 clear myself about these things. You indicate
 14 that you now had to develop a new plan because
 15 you were not going to use the Ventana.
 16 MS. PREDHAM:
 17 A. Yes.
 18 THE COMMISSIONER:
 19 Q. You would be doing the retest outside.
 20 MS. PREDHAM:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. Can you tell me--can you be precise about when
 24 the decision was made to go outside?
 25 MS. PREDHAM:

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1 A. In my mind, it was then.
 2 THE COMMISSIONER:
 3 Q. That day.
 4 MS. PREDHAM:
 5 A. That definitely this is the plan because
 6 before that, we were trying to figure out what
 7 the turnaround time would be and if we
 8 couldn't do it quickly, then we will go
 9 outside.
 10 THE COMMISSIONER:
 11 Q. Uh-hm.
 12 MS. PREDHAM:
 13 A. But this one was the day that we said, we got
 14 to stop all testing ourselves--all our current
 15 testing and that we're going outside until we
 16 get this straightened out.
 17 THE COMMISSIONER:
 18 Q. And it was done for a reason other than
 19 turnaround time?
 20 MS. PREDHAM:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. Okay, and that reason would be?
 24 MS. PREDHAM:
 25 A. That we didn't have any confidence in the

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1 Ventana system at that time.
 2 THE COMMISSIONER:
 3 Q. Okay. And one other thing arising out of
 4 those notes, when we go back to the business
 5 of you're talking about it not being unusual
 6 in the process of forming your group and
 7 dealing with issues to find that, there would
 8 be a period of time when perhaps the parties
 9 would not see eye to eye, let us say.
 10 MS. PREDHAM:
 11 A. Yes.
 12 THE COMMISSIONER:
 13 Q. Earlier witnesses in particular and I do
 14 remember Mr. Tilley being a strong advocate of
 15 the "blameless culture".
 16 MS. PREDHAM:
 17 A. Yes.
 18 THE COMMISSIONER:
 19 Q. I'm just wondering whether or not there is any
 20 disconnect or whether your forming, storming
 21 and whatever it is, to norming, is a natural
 22 part of the development of the "blameless
 23 culture" or whether in the "blameless culture"
 24 you should not expect the storming part.
 25 MS. PREDHAM:

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1 A. I think working with teams is a very important
 2 part of working in quality because you had to
 3 do, you know, it's all based on, you know,
 4 back when I started in '96, you're working on
 5 the system approach, so you're working on
 6 that. But I think it's a lot of human nature
 7 if you're working in an area that you do have
 8 that, you know, well I'm doing a fine job,
 9 what do you mean, there's no problem over
 10 here. Like, that's a human response and I
 11 think the process of when you go through that
 12 teams go through, they go that whether or not
 13 the culture of the organization is blameless
 14 or just is the term that we use now, but I
 15 think that's a normal human nature to go
 16 through that. And as a quality facilitator or
 17 anyone who goes through that, work with
 18 teamwork, you have to expect that behaviour
 19 that if you bring--if you have an issue and
 20 you're bringing a group from different sides
 21 of that issue together, you will have a bit of
 22 that as you go through that.
 23 THE COMMISSIONER:
 24 Q. So that, if I'm reading you correctly, you
 25 would view disagreements between participants

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1 in a process such as you had in Eastern
 2 Health, as being a normal part of the process
 3 of getting through this?
 4 MS. PREDHAM:
 5 A. It could be if people moved past it, you know.
 6 THE COMMISSIONER:
 7 Q. As long as they don't get hung up in that
 8 storming phase.
 9 MS. PREDHAM:
 10 A. Right, exactly, and as a facilitator in that,
 11 you had to be aware that that can happen and
 12 then you have to move the group through that,
 13 you have to get them to show how--and that's
 14 the perfect time to teach them about system
 15 error and the swish cheese model and how
 16 things can happen and how a process can
 17 happen; where it's not one group's fault, it's
 18 not because, you know, the pharmacy did this
 19 this way, that this was the whole source of
 20 it. It was just a contributory situation.
 21 THE COMMISSIONER:
 22 Q. And in this group, whose job was it to do that
 23 for people?
 24 MS. PREDHAM:
 25 A. Dr. Williams would have had that role, both

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1 as--there wasn't--I guess this was not a--I
 2 didn't expect it at this level, to tell you
 3 the truth. I didn't expect that that would be
 4 there at this point in time because we had
 5 gone through so much discussion of this at
 6 this point. But Dr. Williams was chairing the
 7 meeting, I guess, for want of a better term,
 8 so he would have to kind of put this to, work
 9 through this.
 10 THE COMMISSIONER:
 11 Q. So it's the job of the chair and as I
 12 understood your comment yesterday, you said
 13 Dr. Williams is the chair of this group.
 14 MS. PREDHAM:
 15 A. Yes.
 16 THE COMMISSIONER:
 17 Q. And while we're on the subject, who was in the
 18 group, in your view?
 19 MS. PREDHAM:
 20 A. See, that was one of the problems because the
 21 group kept changing and that's one of the
 22 things that, you know, when you learn after
 23 the fact, you know, when you see these
 24 minutes, there were a core group, you know,
 25 there were similar names throughout that, but

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1 every time you had a meeting, not all the
 2 people were there and that was one of the
 3 problems that happened.
 4 THE COMMISSIONER:
 5 Q. So who would be the core group in your view?
 6 MS. PREDHAM:
 7 A. The core group in my view would be myself, Dr.
 8 Cook, Mr. Gulliver, Dr. Williams, Kara Laing,
 9 I think that would be the core group.
 10 THE COMMISSIONER:
 11 Q. Okay, and from time to time others moved in
 12 and out?
 13 MS. PREDHAM:
 14 A. Right. I think that's what it ended up being
 15 as the core group, but even Dr. Laing too came
 16 in and came out. It should have been the
 17 broader group right from the start to get
 18 everybody's feedback and everybody hear
 19 everything because that was the other part.
 20 You needed everyone to be there and all the
 21 time, that was a concern looking back on it, I
 22 didn't pick that up at the time.
 23 THE COMMISSIONER:
 24 Q. Okay, thank you.
 25 CHAYTOR, Q.C.:

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1 Q. And while we're on that subject then, looking
 2 back on it, is there anyone else that you
 3 think now should have been added to the group,
 4 not necessarily by person, but by type of
 5 expertise that would have been advantageous to
 6 you as you moved through the process?
 7 MS. PREDHAM:
 8 A. Oh, we should have had someone in data
 9 management--information management person,
 10 obviously, needed to be there right from the
 11 start to give assistance in that method,
 12 that's the most obvious one that I can think
 13 of.
 14 CHAYTOR, Q.C.:
 15 Q. And are there any others or that's the most
 16 obvious one?
 17 MS. PREDHAM:
 18 A. Oh, I'm sure if I sat down and thought about
 19 it now, I could think of a few more.
 20 CHAYTOR, Q.C.:
 21 Q. I'll get back to you then on that. Let's go
 22 back to August 1st then and 2005, and how did
 23 the meeting end that day? Had things come
 24 back around and had the meeting ended on a
 25 relatively cordial basis?

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1 MS. PREDHAM:
 2 A. No, I think it was still kind of disgruntled,
 3 I guess, was, you know, was the best term. I
 4 guess it ended on that note and then I think
 5 it was the next day we found out that Dr.
 6 Carter was resigning from the entire process.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and what did you understand about that?
 9 How did you learn about it and why did you
 10 understand she had resigned?
 11 MS. PREDHAM:
 12 A. She e-mailed me and said that she--I can't
 13 remember the exact wording, I mean you have
 14 the e-mail, but there was some reasons, you
 15 know, that she was disagreeing with the
 16 technical side of the lab.
 17 CHAYTOR, Q.C.:
 18 Q. And the next day for yourself then, what did
 19 you set out to do?
 20 MS. PREDHAM:
 21 A. Well the next morning, I went down to the lab
 22 to go through that.
 23 CHAYTOR, Q.C.:
 24 Q. And Ms. Predham, would you have done that in
 25 the normal course of your investigation in any

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1 event, go to the lab and interview people,
 2 speak to the lab technologists, the people
 3 actually doing the tests? Was that something
 4 that you had planned to do in any event?
 5 MS. PREDHAM:
 6 A. Oh, yes. There didn't seem to be any - there
 7 seemed so much to do, but there didn't seem to
 8 be any pressure at that time because our focus
 9 was on the DAKO system which was no longer
 10 there, so it wasn't, you know, the pressure.
 11 In certain circumstances, I would have done
 12 that the first thing, given the situation.
 13 CHAYTOR, Q.C.:
 14 Q. And but at this point now, you've been asked
 15 to start a quality review?
 16 MS. PREDHAM:
 17 A. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. And if we could look, please, at P-0080, and
 20 this is again notes of Dr. Williams, and it's
 21 August 2nd, 2005, and it appears it might just
 22 be notes. It's not indicated to be a meeting
 23 of any sort, but he indicates in number three,
 24 "Heather Predham to start QI review process in
 25 the a.m". I take it, Dr. Williams was who

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1 asked you to do that?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. But it would be, in any event, in the course
 6 of your normal duties as the risk manager in
 7 looking into the situation and trying to
 8 investigate what had happened?
 9 MS. PREDHAM:
 10 A. Yes.
 11 CHAYTOR, Q.C.:
 12 Q. Okay, and perhaps then you can tell us - you
 13 go to the lab, and is this the first time you
 14 would have gone into the lab since you got
 15 brought into the matter on July 12th?
 16 MS. PREDHAM:
 17 A. Oh, for the - yes, I was down in the lab
 18 before, you know, for other reasons.
 19 CHAYTOR, Q.C.:
 20 Q. But this is the first time on this -
 21 MS. PREDHAM:
 22 A. First time related to this.
 23 CHAYTOR, Q.C.:
 24 Q. Particular piece of business.
 25 MS. PREDHAM:

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1 A. Yeah.
 2 CHAYTOR, Q.C.:
 3 Q. What did you do, who did you speak with, and
 4 what were you able to find out?
 5 MS. PREDHAM:
 6 A. I went down to the pathology lab and I asked
 7 for Mary Butler, and I think - I think I may
 8 have met her before, but that was - that's who
 9 I spoke to, and I just went through - I just
 10 told the three techs who were there what I was
 11 doing or what we had to do, and then they
 12 started - so start right from the beginning
 13 and take me through the process.
 14 CHAYTOR, Q.C.:
 15 Q. So you asked them how they carry out the test
 16 on the current system?
 17 MS. PREDHAM:
 18 A. Right, so we started in the grossing room.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, and you went right through then to the
 21 Ventana system?
 22 MS. PREDHAM:
 23 A. Yes.
 24 CHAYTOR, Q.C.:
 25 Q. By the way, with respect to the concern

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1 regarding the Ventana system, I take it on
 2 August 2nd it's still in operation, 2005, so
 3 they're still using the Ventana system for
 4 everything else except ER/PR. Did that cause
 5 you any concern from a risk perspective if
 6 there's no confidence in the Ventana?
 7 MS. PREDHAM:
 8 A. I don't think I understood that at the time.
 9 CHAYTOR, Q.C.:
 10 Q. Even though you're down in the lab and the
 11 Ventana machine is being operated, it doesn't
 12 occur to you, well, wait now, why are we using
 13 this machine?
 14 MS. PREDHAM:
 15 A. I don't think it was being run that morning
 16 when I was there. I don't recall it. It
 17 certainly never crossed my mind that we were
 18 doing it at that time.
 19 CHAYTOR, Q.C.:
 20 Q. And the people who were expressing lack of
 21 confidence in the Ventana system, did you
 22 understand that it was just for ER/PR and not
 23 with respect to any other stains?
 24 MS. PREDHAM:
 25 A. At that - you know, that was my fault, but I

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1 kept forgetting that there were all these
 2 other stains on that because our focus was so
 3 much on ER/PR, that I kept forgetting that
 4 there were other stains on that. So whether I
 5 knew at that time that it was still going, I
 6 don't think I did. I think I thought, well,
 7 we're shutting this down and we're moving on.
 8 I don't think it was for a period of time
 9 after that I realized that we hadn't.
 10 CHAYTOR, Q.C.:
 11 Q. And when the technologists showed you how they
 12 carry out the test that day, you would have
 13 seen the number of slides that go into the
 14 process, and would they have explained to you
 15 it's not just ER/PR slides, that there are
 16 different antibodies?
 17 MS. PREDHAM:
 18 A. That never came up that day.
 19 CHAYTOR, Q.C.:
 20 Q. And when did you first learn about that?
 21 MS. PREDHAM:
 22 A. I can't remember. It would have been later.
 23 CHAYTOR, Q.C.:
 24 Q. And at any point then throughout the whole
 25 process did it occur to you why are we using

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1 this system at all if we have concerns?
 2 MS. PREDHAM:
 3 A. It did, but we had - you know, the explanation
 4 of the uses of the tests for the other
 5 antibodies was different than ER/PR.
 6 CHAYTOR, Q.C.:
 7 Q. And who gave you that explanation?
 8 MS. PREDHAM:
 9 A. I think it was Dr. Cook or Dr. Denic.
 10 CHAYTOR, Q.C.:
 11 Q. Okay, so you go down and you meet with Mary
 12 Butler, and were - and the others?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. Was Mr. Dyer there?
 17 MS. PREDHAM:
 18 A. I don't recall.
 19 CHAYTOR, Q.C.:
 20 Q. During the course, though, of your quality
 21 review, did you meet with Mr. Dyer?
 22 MS. PREDHAM:
 23 A. I would have. It was a very short quality
 24 review. It was beyond my scope to provide
 25 anything other than the fact that there wasn't

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1 a lot - there wasn't documentation, and what I
 2 expected as a quality assurance process, in my
 3 mind, wasn't comprehensive enough or wasn't
 4 effective, I guess, as a quality assurance
 5 process. The information that I got from the
 6 techs is that their key quality assurance
 7 process was feedback from pathologists, but
 8 how that would work when you had numerous
 9 pathologists providing - reading the slides,
 10 and if you had twelve pathologists reading a
 11 slide, if you've got feedback or discrepancy
 12 from one or two, how do you determine - and
 13 the rest are satisfied, how do you determine
 14 what to do with the slides.
 15 CHAYTOR, Q.C.:
 16 Q. So you walked away from that discussion with
 17 the technologists with concerns as to the
 18 adequacy of the quality assurance processes in
 19 place?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. Did you also speak to any of the pathologists?
 24 MS. PREDHAM:
 25 A. I did. I spoke to Dr. Cook and Dr. Fontaine,

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1 as the site chiefs.

2 CHAYTOR, Q.C.:

3 Q. And what did they tell you?

4 MS. PREDHAM:

5 A. Well, we talked about the processes. One of

6 the key issues that I had was that they were

7 unaware that they were the main quality

8 assurance process.

9 CHAYTOR, Q.C.:

10 Q. They weren't aware of that?

11 MS. PREDHAM:

12 A. No, they weren't - they weren't aware that the

13 feedback that went back was a key quality

14 assurance process. I mean, they would provide

15 feedback, but I guess they weren't aware that

16 that was how it was viewed by the

17 technologists. When I went through the

18 process, and the process was described for me

19 - I had a comfort level that the technologists

20 knew what they were doing, you know, they were

21 easily describing it to me and they went

22 through the process, and they were taking

23 great care and that, but there was no

24 documentation of, you know, even as

25 fundamental as lot numbers of the reagents or

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1 anything that they were doing. So if there

2 was a problem or a recall - you know, if the

3 manufacturer came out and said lot 42 is

4 ineffective, there wasn't any way that we

5 could trace back which slides were processed

6 on lot 42.

7 CHAYTOR, Q.C.:

8 Q. And were they able to point you to a standard

9 procedure that they were each following to

10 carry out the test?

11 MS. PREDHAM:

12 A. They had the manual from the Ventana company,

13 and that's what they were following.

14 CHAYTOR, Q.C.:

15 Q. And did you see anything in terms of what they

16 had been following prior to Ventana?

17 MS. PREDHAM:

18 A. No.

19 CHAYTOR, Q.C.:

20 Q. Did you detect any communication issues

21 between the technologists and the

22 pathologists, other than, I guess, the

23 disconnect that technologists think they're

24 relying on the pathologists for QA, and

25 pathologists weren't aware of that? Were

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1 there any other communications issues between

2 the technologists and pathologists?

3 MS. PREDHAM:

4 A. The technologists didn't feel that there was

5 good communication between them and the

6 pathologist. There was, I guess, no central

7 person that they felt was responsible for

8 this, and that they could turn to if they had

9 issues and needed to discuss that, and even if

10 the pathologists had an issue, there was no

11 central person that they could go and say,

12 look, is this stain okay, or whatever. There

13 was no one person that they could go to on a

14 pathology level.

15 CHAYTOR, Q.C.:

16 Q. And did they - did anyone mention Dr.

17 Ejeckam's name in that discussion and what

18 role he may be playing?

19 MS. PREDHAM:

20 A. They mentioned that he was very good and would

21 show them how to do various things, or they

22 could go to him, but they didn't - he wasn't

23 identified as the go to person, I guess, or

24 the point person.

25 CHAYTOR, Q.C.:

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1 Q. Did you - did you get any sense that there was

2 a division between the medical or the clinical

3 and the non-clinical side of the laboratory

4 medicine program?

5 MS. PREDHAM:

6 A. I got the sense that they weren't coming

7 together as a group to look at this. It was,

8 you know, we did the test and it goes over

9 there and gets read, but it wasn't a group

10 effort.

11 CHAYTOR, Q.C.:

12 Q. And had you observed that before in any

13 program where they're not thinking of their

14 program as a whole?

15 MS. PREDHAM:

16 A. No, my experience - program based delivery was

17 new in '96, and, you know, it had some growing

18 pains in different areas, but you had a

19 program director and a clinical chief, and my

20 experience over time once that got established

21 and people kind of knew how it was going to

22 work, that it worked very well, and, you know,

23 you would go to the program director. Even if

24 it involved medical staff, the program

25 director will be quite involved in that as

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1 well, and actually my first call would always
 2 be to the program director rather than the
 3 clinical chief, and then we would work through
 4 there because the program director was full
 5 time. Most of the clinical chiefs were part
 6 time, and had their clinical practice as well.
 7 So my practice ended up going to the program
 8 director, and the that person would arrange to
 9 get together with the clinical chief, and then
 10 it would be a joint thing from there. This
 11 was the only area where I really saw a
 12 division of the lab between the technical side
 13 and the clinical side.
 14 CHAYTOR, Q.C.:
 15 Q. And from a quality and risk management
 16 perspective, was that something that you felt
 17 needed to be addressed?
 18 MS. PREDHAM:
 19 A. Yes.
 20 CHAYTOR, Q.C.:
 21 Q. And did you relay that concern to anybody
 22 else?
 23 MS. PREDHAM:
 24 A. Oh, Dr. Williams.
 25 CHAYTOR, Q.C.:

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1 Q. Okay. I just want to explore a little more
 2 about the concerns that the technologists had.
 3 If they had - they had different pathologists,
 4 I take it, or multiple pathologists coming to
 5 them with different instructions -
 6 MS. PREDHAM:
 7 A. Or not coming to them.
 8 CHAYTOR, Q.C.:
 9 Q. Or not coming at all.
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. Worse probably again, but they were having to
 14 interact with a multitude of people?
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And there seemed to be no central
 19 communication for them or no person?
 20 MS. PREDHAM:
 21 A. Well, my question was if you did a batch of
 22 stains or however the flow went, and you had
 23 two pathologists out of twelve come back and
 24 say they had a problem and there was such and
 25 such a thing, and ten were happy, what did you

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1 do.
 2 CHAYTOR, Q.C.:
 3 Q. And what was the answer?
 4 MS. PREDHAM:
 5 A. Well, it depended on who brought it forward
 6 and what the issue was, but there was no
 7 consistency, and I guess, you know, from my
 8 perspective, that's what I'd like to see. If
 9 this is an effective quality assurance
 10 process, you'd need to have, well, okay, who
 11 came back, when did they come back, what was
 12 their issue, where is all that documented.
 13 CHAYTOR, Q.C.:
 14 Q. Yes.
 15 MS. PREDHAM:
 16 A. And, you know, what did you do to respond to
 17 it.
 18 CHAYTOR, Q.C.:
 19 Q. What corrective actions may have been taken?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And when you were learning, I take it for the
 24 first time, how this test actually takes place
 25 and you can see that there could be multiple -

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1 many slides done at the same time, and in the
 2 example that you give, if two pathologists
 3 come back, well, what about the other ten,
 4 were you thinking, well, do you notify the
 5 other ten that we had a problem with our batch
 6 run, is that the kind of thing you're
 7 thinking?
 8 MS. PREDHAM:
 9 A. Well, that, or, you know, who validates that
 10 the two's concerns are real. Like, you know,
 11 if - if somebody came back and said I think
 12 there's a lot of background staining here, but
 13 that's his opinion, and, you know, if you have
 14 someone who's skilled in this who says, no,
 15 actually, that's not - that's an acceptable
 16 level of - I mean, this is all supposition
 17 now.
 18 CHAYTOR, Q.C.:
 19 Q. Yes.
 20 MS. PREDHAM:
 21 A. But, you know, you'd need to have that person
 22 to validate the concerns because if it's
 23 something if I'm not used to it, and because
 24 of certain circumstances, who tells that
 25 pathologist that. So even just from a

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1 learning perspective.
 2 CHAYTOR, Q.C.:
 3 Q. And either to validate the concern, and then
 4 if the concern, in fact, is validated, to
 5 determine if it's limited to those two
 6 particular issues and not all of the tests
 7 that were run with that batch?
 8 MS. PREDHAM:
 9 A. Exactly.
 10 CHAYTOR, Q.C.:
 11 Q. And I take it the answers that you were
 12 getting in terms of the technologists' ability
 13 to troubleshoot, identify these issues, were
 14 causing your risk management antenna to go
 15 further up.
 16 CHAYTOR, Q.C.:
 17 Q. Yes.
 18 CHAYTOR, Q.C.:
 19 Q. Did you communicate that to anybody?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And who did you tell?
 24 MS. PREDHAM:
 25 A. Dr. Williams, and I brought it up as well when

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1 I met with Dr. Cook and Dr. Fontaine.
 2 THE COMMISSIONER:
 3 Q. Wherever you can find a spot, we'll take the
 4 afternoon break, Ms. Chaytor.
 5 CHAYTOR, Q.C.:
 6 Q. And what was the reaction of Dr. Williams when
 7 you told him that?
 8 MS. PREDHAM:
 9 A. Oh, he was concerned. Dr. Cook and Dr.
 10 Fontaine recognized the issue and had some
 11 suggestions actually on how to fix that. I
 12 can't remember them off the top of my head. I
 13 do know that they did tell me a few things
 14 that they felt needed to be put in place, but
 15 they recognized that it was a valid concern.
 16 CHAYTOR, Q.C.:
 17 Q. And did you have concern, if these are the
 18 answers you're getting with respect to ER and
 19 PR, it's no different for anything else in the
 20 IHC lab?
 21 MS. PREDHAM:
 22 A. I didn't at that time. Like I said, I totally
 23 - whether it slipped my mind or not, I hadn't
 24 really thought about the other stains.
 25 CHAYTOR, Q.C.:

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1 Q. In your discussions with the - your
 2 discussions in doing this quality review, did
 3 you also become aware of any issues or
 4 communication issues between the lab
 5 management and the clinical side?
 6 MS. PREDHAM:
 7 A. Well, I guess that was--that was part of that
 8 separation between that, that I just sensed in
 9 between this program. I guess I could--I felt
 10 it as it was going along, but this kind of
 11 confirmed it, that there was this separation
 12 of "this is my side of the program. This is
 13 your side of the program."
 14 CHAYTOR, Q.C.:
 15 Q. And never the twain shall meet?
 16 MS. PREDHAM:
 17 A. Well, you know, I think the twain could meet,
 18 but you know.
 19 CHAYTOR, Q.C.:
 20 Q. It hadn't up to that point?
 21 MS. PREDHAM:
 22 A. I didn't get a sense of it when I was in that
 23 lab.
 24 CHAYTOR, Q.C.:
 25 Q. This is a good place, please, Commissioner.

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1 THE COMMISSIONER:
 2 Q. All right then, we'll take the afternoon
 3 break.
 4 (BREAK)
 5 THE COMMISSIONER:
 6 Q. Please be seated. Ms. Chaytor.
 7 CHAYTOR, Q.C.:
 8 Q. Thank you, Commissioner. When we broke, Ms.
 9 Predham, you were telling us about your
 10 quality review that you began on August 2nd.
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. And is there anyone else then that you spoke
 15 to or interviewed in that process?
 16 MS. PREDHAM:
 17 A. Not that I recall.
 18 CHAYTOR, Q.C.:
 19 Q. And I believe you mentioned yesterday that you
 20 didn't speak with Dr. Ejeckam?
 21 MS. PREDHAM:
 22 A. Not then. I think he was on holidays at that
 23 time.
 24 CHAYTOR, Q.C.:
 25 Q. Yes, okay, and Dr. Ford Elms, did you speak

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1 with Dr. Elms?
 2 MS. PREDHAM:
 3 A. No, I only talked to the two site chiefs at
 4 that time. The process when I went over that
 5 day was just trying to get a lay of the land,
 6 to figure out how I would do a quality review.
 7 Every time we do one, they're all a little bit
 8 different. We had done a quality review on a
 9 process a few years before which had kind of
 10 similarities. We didn't know--we had an issue
 11 and we didn't know if it was the way that we
 12 were doing it or if it was, you know, a risk
 13 of the procedure, but in that time, we were
 14 able to do an observation type audit. It was
 15 an infection control issue, so I was able to
 16 have the medical director and the manager for
 17 infection control and myself watch the staff
 18 go through the process, and that, you know, we
 19 were unable to do that for the majority of the
 20 issue that we had here.
 21 CHAYTOR, Q.C.:
 22 Q. And why was that? Why -
 23 MS. PREDHAM:
 24 A. Well, the DAKO machine was no longer there.
 25 That process was not there. So we wouldn't

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1 have that. We did have the Ventana, but the
 2 other part of my previous ones is that you
 3 would have documentation so you could tend to
 4 look at--try to focus your energy on what you
 5 had to do, and we didn't have that as well.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and what did you--what observations did
 8 you make then in going to the lab on August
 9 2nd, in terms of documentation?
 10 MS. PREDHAM:
 11 A. That there wasn't very much or whatever that I
 12 came across didn't impact me on being
 13 effective in monitoring the quality. I guess
 14 my main message back to Dr. Williams was that,
 15 you know, you needed somebody who was familiar
 16 with the processes to come in here and say
 17 what needs to be done and what should be done,
 18 and I guess at that point, Ms. Wegrynowski was
 19 coming, so I felt that that would be
 20 sufficiently addressed that way.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. So you didn't feel comfortable yourself
 23 in continuing?
 24 MS. PREDHAM:
 25 A. No.

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1 CHAYTOR, Q.C.:
 2 Q. So I take it you couldn't do a root cause
 3 analysis?
 4 MS. PREDHAM:
 5 A. No. It would be--a root cause analysis is a
 6 very single source type issue, and this was
 7 too big to use that type of a process on it.
 8 CHAYTOR, Q.C.:
 9 Q. And why is it that you thought you should
 10 defer to having Ms. Wegrynowski continue with
 11 what you had set out to do?
 12 MS. PREDHAM:
 13 A. Well, I guess it's what should be--what I felt
 14 should be there versus what obviously the lab
 15 thought that should be there. There was--and
 16 I shouldn't say obviously what the lab thought
 17 should be there, but you know, even the fact
 18 of what, in my mind, would be an effective
 19 validation of the two pieces of equipment
 20 didn't match what was acceptable in lab
 21 circles. So I figured, you know, there's no
 22 point in me coming in when we have somebody
 23 coming right behind me who is an accreditor,
 24 who can come in and say "look, this is what
 25 you need to have. This is the processes you

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1 need in place."
 2 CHAYTOR, Q.C.:
 3 Q. And the assurances you had previously been
 4 given, in terms of the external controls and
 5 the running of controls and that having been
 6 documented, in your visit to the lab, were you
 7 able to confirm that to be the case?
 8 MS. PREDHAM:
 9 A. There was documentation, but it wasn't to the
 10 level of degree that I had assumed that was
 11 there.
 12 CHAYTOR, Q.C.:
 13 Q. And what documentation did you see to show
 14 that controls were being run?
 15 MS. PREDHAM:
 16 A. I think they were run once a day and I really
 17 can't remember. I either have to look at my
 18 notes or I'd have to have some prompt to
 19 remember what I found, but it wasn't what I
 20 anticipated.
 21 CHAYTOR, Q.C.:
 22 Q. And I'll take you to your notes then in a
 23 minute. So what you were hoping to see, in
 24 terms of documentation to verify in fact the
 25 controls were run, it wasn't at least to the

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1 standard that you were hoping to find?
 2 MS. PREDHAM:
 3 A. Right.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and you came away from the very first
 6 meeting you attended, July 12th, 2005 and it
 7 was either that meeting or certainly by the
 8 next meeting when you were handed Dr.
 9 Ejeckam's June 19th, 2003 memo that you were
 10 sufficiently concerned that you phoned Mr. Ray
 11 Walsh at that point and, in essence, put the
 12 insurer on notice. After that first meeting,
 13 was there ever any point in time that your
 14 concerns were alleviated or did you remain on
 15 high alert from a risk management point of
 16 view?
 17 MS. PREDHAM:
 18 A. From the first time that Dr. Williams told me
 19 about it and told me I didn't really have to
 20 do anything, I was concerned, because it was--
 21 it could be a very big thing. So my concern
 22 went up then, and it never decreased. For a
 23 period of time between, it was the way we were
 24 doing it with the new technology, it felt like
 25 an emotional roller coaster, but I still

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1 remained concerned.
 2 CHAYTOR, Q.C.:
 3 Q. And coming out of your visit to the lab on
 4 August 2nd, were your concerns increased?
 5 MS. PREDHAM:
 6 A. Yes.
 7 CHAYTOR, Q.C.:
 8 Q. And is there anything else as to why that was
 9 the case? What else besides the issues that
 10 we've already discussed in terms of
 11 communications issues, in terms of lack of
 12 documentation, concern about the validity of
 13 the statement that controls were run and the
 14 documentation to support that, were there
 15 other things besides?
 16 MS. PREDHAM:
 17 A. No, I think that was -
 18 CHAYTOR, Q.C.:
 19 Q. Those were the main concerns?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. If we could have, please, P-2954? And I think
 24 it's page two. It's August 2nd, 2005,
 25 although I -

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1 MS. PREDHAM:
 2 A. The first page there, that was--I think when
 3 we were going through the grossing, I was
 4 having--I was just making some notes as we
 5 went through. It wasn't the key focus, but
 6 they were bringing me right from the start
 7 through. So I was making some notes as we
 8 went through.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. So this is actually your visit to the
 11 lab at page one. This is part of it.
 12 MS. PREDHAM:
 13 A. Yeah.
 14 CHAYTOR, Q.C.:
 15 Q. Okay, and perhaps then if you could take us
 16 to--does this say processing or grossing?
 17 MS. PREDHAM:
 18 A. Grossing.
 19 CHAYTOR, Q.C.:
 20 Q. Grossing.
 21 MS. PREDHAM:
 22 A. "Specimens come in," I think, "signed off,
 23 brought to grossing, described, put in" and I
 24 think I have brackets there because I didn't
 25 catch what it was put in, "300 a night, takes

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1 11 hours. They're getting over 300 with the
 2 Janeway and St. Clare's and they have a new
 3 machine which is the Tissue Tech Express and
 4 can do that in 20 minutes." Now I have a star
 5 over there because that machine had not been
 6 installed yet.
 7 CHAYTOR, Q.C.:
 8 Q. So they weren't using that machine?
 9 MS. PREDHAM:
 10 A. No.
 11 CHAYTOR, Q.C.:
 12 Q. Okay, and that's it, the rest of your page is
 13 blank. So but this continues on then with
 14 your meeting.
 15 MS. PREDHAM:
 16 A. Yes.
 17 CHAYTOR, Q.C.:
 18 Q. And this is August 2nd, 2005 and Ken, I take
 19 it, is Ken Green, Les Simms, Mary Butler?
 20 MS. PREDHAM:
 21 A. Yes.
 22 CHAYTOR, Q.C.:
 23 Q. And you met--did you meet with them
 24 individually or did you meet with them
 25 together?

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1 MS. PREDHAM:
 2 A. Together, because I was only doing an overview
 3 of the area.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and you didn't take any statements from
 6 them, I take it?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. Okay. Do you know whether or not Ray Walsh
 11 took statements from them?
 12 MS. PREDHAM:
 13 A. I don't believe so.
 14 CHAYTOR, Q.C.:
 15 Q. What does TNM part--what does this say?
 16 MS. PREDHAM:
 17 A. TNM, Pat '97. I have no idea.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and DAKO, one to 25 and one to 50.
 20 MS. PREDHAM:
 21 A. One to 25, one to 50, I guess it's dilutions.
 22 CHAYTOR, Q.C.:
 23 Q. Yes, and who was giving you those dilutions,
 24 one to 25 and one to 50?
 25 MS. PREDHAM:

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1 A. I guess one of the three technologists.
 2 CHAYTOR, Q.C.:
 3 Q. Okay, and were you understanding that this was
 4 you're getting two different answers or two
 5 different time periods? What were you being
 6 told?
 7 MS. PREDHAM:
 8 A. I can't remember now what that meant.
 9 CHAYTOR, Q.C.:
 10 Q. HER2 package, is it?
 11 MS. PREDHAM:
 12 A. HER2 package and needle aspiration.
 13 CHAYTOR, Q.C.:
 14 Q. That have any relevance?
 15 MS. PREDHAM:
 16 A. No, it was probably something that I wanted to
 17 keep in mind, that's why I put it up there.
 18 CHAYTOR, Q.C.:
 19 Q. Okay, and you say "met in the pathology lab.
 20 Process was reviewed from receipt of samples
 21 in the lab. Samples are in formalin," then
 22 you have an asterisk, "kept for -
 23 MS. PREDHAM:
 24 A. 24 hours, and not standard.
 25 CHAYTOR, Q.C.:

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1 Q. And what did you mean by that?
 2 MS. PREDHAM:
 3 A. They didn't have a standard time to say that,
 4 you know, everything got kept for 24 hours or
 5 everything kept for a period of time.
 6 CHAYTOR, Q.C.:
 7 Q. "Samples are grossed and put in processor" and
 8 then you have an asterisk, "300 a night.
 9 Volume is -
 10 MS. PREDHAM:
 11 A. "Currently more. These slides have increased
 12 to over 400 a day and are left."
 13 CHAYTOR, Q.C.:
 14 Q. Okay. Now you didn't understand that those
 15 volumes were just ER/PR?
 16 MS. PREDHAM:
 17 A. No, that was everything.
 18 CHAYTOR, Q.C.:
 19 Q. Yes, everything. "New processor is in place
 20 that will -
 21 MS. PREDHAM:
 22 A. "Run slides quickly. This will change the
 23 work practices of the entire lab. Is there any
 24 quality assurance regarding machine set up?"
 25 CHAYTOR, Q.C.:

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1 Q. And what were you questioning there?
 2 MS. PREDHAM:
 3 A. Well, I guess, you know, what's the process
 4 when you set up that new machine, what process
 5 are you going to go through to make sure it's
 6 working.
 7 CHAYTOR, Q.C.:
 8 Q. And did you ask them then whether or not there
 9 had been any QA and if so, what the QA had
 10 been for the set up of the DAKO machine?
 11 MS. PREDHAM:
 12 A. Well, this one is talking about that Tech
 13 Express processor.
 14 CHAYTOR, Q.C.:
 15 Q. This is the new one, yes.
 16 MS. PREDHAM:
 17 A. That wasn't set up. But the DAKO, I don't
 18 know if I asked them that. I don't think the
 19 three of them were there when that was set up
 20 in '97.
 21 CHAYTOR, Q.C.:
 22 Q. Mary would probably have been the only one of
 23 the three.
 24 MS. PREDHAM:
 25 A. Yeah.

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1 CHAYTOR, Q.C.:

2 Q. And how about then the Ventana, did you ask

3 them if they had--what QA was for the set up

4 when Ventana came in?

5 MS. PREDHAM:

6 A. I think we talked about it, and like I said,

7 this was just a preliminary thing, trying to

8 get me to understand how we were going to go

9 about doing this quality review.

10 CHAYTOR, Q.C.:

11 Q. Yes, and in terms of your question, any QA re:

12 machine set up, the tissue processor, you say

13 you're referring to here, did they provide you

14 an answer? Did they know?

15 MS. PREDHAM:

16 A. No, that was a question for me later.

17 CHAYTOR, Q.C.:

18 Q. Okay, and did you end up getting the answer?

19 MS. PREDHAM:

20 A. I think my recommendation was that they not

21 set that up, whether or not there is a QA or

22 not, that they not set that up until they had

23 some kind of--even a management engineering

24 review on their work processes, because it

25 would dramatically change the work processes

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1 in the lab, and it wasn't something that they

2 could just set up and move on. Everything in

3 the lab flowed from the fact that these things

4 were kept overnight and it went from there.

5 So it would be a dramatic change in that lab.

6 CHAYTOR, Q.C.:

7 Q. Yes, and in terms of that processor using a

8 different--being alcohol based, that kind,

9 instead of formalin, was that discussed or did

10 you become aware of that?

11 MS. PREDHAM:

12 A. No, I don't remember that.

13 CHAYTOR, Q.C.:

14 Q. Whether or not it was suitable to use that

15 type of a machine, that didn't come up?

16 MS. PREDHAM:

17 A. No.

18 CHAYTOR, Q.C.:

19 Q. "Samples are -

20 MS. PREDHAM:

21 A. Blocked and cut. H & E staining are done.

22 Staining is automated. Pathologists are the

23 QA process."

24 CHAYTOR, Q.C.:

25 Q. So what you mean by that is that they are the

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1 ones who have to come back and say if there is

2 an issue?

3 MS. PREDHAM:

4 A. Right.

5 CHAYTOR, Q.C.:

6 Q. And that was basically what the technologists

7 were relying on, in terms of the quality of

8 their product?

9 MS. PREDHAM:

10 A. Yes.

11 CHAYTOR, Q.C.:

12 Q. "Inconsistencies."

13 MS. PREDHAM:

14 A. I don't know what that word is after

15 inconsistencies. "If they have issues, what

16 happens if one has an issue. Concerns come

17 forward if there is difficulty reading. When

18 feedback is sought, they discover issue with

19 other pathologists." So when they went to

20 look for feedback from someone, I guess they

21 gave me an example, that they discovered that

22 another pathologist had issues that they

23 hadn't brought forward.

24 CHAYTOR, Q.C.:

25 Q. Okay, and then "immunohistochemistry staffing,

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1 three senior techs. When manager is off,

2 senior tech is responsible for the lab

3 payroll, etcetera. Have to -

4 MS. PREDHAM:

5 A. Fill in in other areas. The pathologists,

6 there's no proactive contact." So there was

7 nothing set up that they would have, you know,

8 meetings once a week or once a month or

9 anything.

10 CHAYTOR, Q.C.:

11 Q. Okay. So did you understand that they were

12 fully dedicated to the IHC at this point in

13 time or were they -

14 MS. PREDHAM:

15 A. Up to that time, I thought they were.

16 CHAYTOR, Q.C.:

17 Q. You thought they were. So what did it mean

18 that they have to fill in in other areas?

19 MS. PREDHAM:

20 A. I think if someone called in sick or something

21 like that, they would have to fill in to

22 another area.

23 CHAYTOR, Q.C.:

24 Q. And "QA, pathologists responsible for

25 controls. However, techs have to select and

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1 ask re: controls." What was being told--I
 2 take it this is the technologists telling you
 3 this?
 4 MS. PREDHAM:
 5 A. Yes.
 6 CHAYTOR, Q.C.:
 7 Q. And what did you understand from that?
 8 MS. PREDHAM:
 9 A. Well, that they had to select--the techs
 10 selected the tissue and stained it, and then
 11 confirmed that the--the pathologist then would
 12 confirm that they were good. However, they
 13 were only using positive control, you know,
 14 positive response and they were using a book
 15 as a guide. They had a book, I can't remember
 16 what the book was, and there was no consistent
 17 feedback on the controls.
 18 CHAYTOR, Q.C.:
 19 Q. And only positive, meaning they were only
 20 using positive controls?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. And did you understand that they should be
 25 using something other than positive controls

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1 at this point?
 2 MS. PREDHAM:
 3 A. Well, a negative control would be beneficial,
 4 because then you'd have two sides of the -
 5 CHAYTOR, Q.C.:
 6 Q. And so in terms--your knowledge level, by this
 7 point in time, was such that you're making
 8 note that they're only using positive
 9 controls?
 10 MS. PREDHAM:
 11 A. Yes.
 12 CHAYTOR, Q.C.:
 13 Q. And using a book as a guide, was that a
 14 textbook they were using?
 15 MS. PREDHAM:
 16 A. I can't remember. I remember they showed it
 17 to me and it had pictures of tissue in it, but
 18 I can't remember. I'm assuming it was a
 19 textbook, but I recall the book, but I can't
 20 remember what it was.
 21 CHAYTOR, Q.C.:
 22 Q. Okay, and then you have "what happens when one
 23 complains and the rest don't"
 24 MS. PREDHAM:
 25 A. One complains and the rest don't.

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1 CHAYTOR, Q.C.:
 2 Q. Okay, and -
 3 MS. PREDHAM:
 4 A. And that's like we discussed before the break.
 5 CHAYTOR, Q.C.:
 6 Q. Beforehand, yes. "Need a voice," what was
 7 that referring to?
 8 MS. PREDHAM:
 9 A. Well, that was a comment that they made, that
 10 they needed a voice.
 11 CHAYTOR, Q.C.:
 12 Q. So I take it they weren't either feeling heard
 13 or they didn't feel they had an effective
 14 voice for what needed to be said?
 15 MS. PREDHAM:
 16 A. I guess if--they were there doing it. If they
 17 had concerns, who did they go to with the
 18 concerns, the feedback they were coming back,
 19 who did they go with questions, that type of
 20 issue.
 21 CHAYTOR, Q.C.:
 22 Q. Did you speak to Mr. Dyer about the
 23 technologists' issues?
 24 MS. PREDHAM:
 25 A. I don't think I spoke to him that morning. I

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1 may have. He may have come down while I was
 2 there. I know we did have a discussion about
 3 this at some point in time.
 4 CHAYTOR, Q.C.:
 5 Q. And how about Mr. Gulliver?
 6 MS. PREDHAM:
 7 A. I would have spoken to him too, not probably
 8 that day either.
 9 CHAYTOR, Q.C.:
 10 Q. And then there's--this page is left blank.
 11 MS. PREDHAM:
 12 A. Yes, I think that was the end of what I had
 13 written up there.
 14 CHAYTOR, Q.C.:
 15 Q. So this page then is a new day or is this -
 16 MS. PREDHAM:
 17 A. No, this is when I was talking to Dr. Cook and
 18 Dr. Fontaine.
 19 CHAYTOR, Q.C.:
 20 Q. Okay, so these are your notes from your
 21 discussions with them, and -
 22 MS. PREDHAM:
 23 A. "Ventana documentation verified by
 24 pathologists." That was in regards to the
 25 validation, when they set it up.

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1 CHAYTOR, Q.C.:

2 Q. And then "knowledge of pathologists, were they

3 aware they were verifying?"

4 MS. PREDHAM:

5 A. Were they aware they were verifying the

6 Ventana at the time or whether they were doing

7 the QA.

8 CHAYTOR, Q.C.:

9 Q. Okay. So they were being brought, I take it,

10 slides by the technologists at the time and

11 were they aware that they were, in fact, in

12 doing that were validating the process?

13 MS. PREDHAM:

14 A. Yes.

15 CHAYTOR, Q.C.:

16 Q. Okay, and what did they say? Were they aware

17 of that?

18 MS. PREDHAM:

19 A. I don't think the--the question was there. I

20 don't think--I think they didn't think all the

21 pathologists were aware they were doing that.

22 I think some may have been aware, but I don't

23 think all of them were. I think that's--and

24 again, that's I'm thinking now.

25 CHAYTOR, Q.C.:

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1 Q. Okay.

2 MS. PREDHAM:

3 A. And guessing, I am thinking.

4 CHAYTOR, Q.C.:

5 Q. "Are there other sites doing QC" quality

6 control, I take it, "in lab"?"

7 MS. PREDHAM:

8 A. "other sites doing QC in lab, techs verify

9 controls work." That was information they

10 were telling me about other labs, you know,

11 somewhere across the country.

12 CHAYTOR, Q.C.:

13 Q. And in saying that, I take it they were saying

14 that's not what's happening here?

15 MS. PREDHAM:

16 A. Right.

17 CHAYTOR, Q.C.:

18 Q. "Paperwork, pathology -

19 MS. PREDHAM:

20 A. Techs.

21 CHAYTOR, Q.C.:

22 Q. Techs, and -

23 MS. PREDHAM:

24 A. They were talking about the lack of paperwork

25 and that they needed pathology techs to do

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1 some of the work that the pathologist is

2 doing, to get the pathologists more involved

3 in QA.

4 CHAYTOR, Q.C.:

5 Q. So pathology assistants, I guess?

6 MS. PREDHAM:

7 A. Yes.

8 CHAYTOR, Q.C.:

9 Q. And the paperwork, they were complaining about

10 -

11 MS. PREDHAM:

12 A. Well, there was no paperwork validating that--

13 you know, if the pathologist--like we said

14 earlier, if the pathologists were the quality

15 assurance mechanism, where was that

16 documented? So where did their concerns go

17 forward.

18 CHAYTOR, Q.C.:

19 Q. Okay, and is this "inconsistency in grossing"?

20 MS. PREDHAM:

21 A. Inconsistency in QC activities.

22 CHAYTOR, Q.C.:

23 Q. Inconsistency in grossing and inconsistency in

24 QC activities, okay, and is that being told to

25 you by the pathologists?

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1 MS. PREDHAM:

2 A. Yes.

3 CHAYTOR, Q.C.:

4 Q. Okay, and did you ask them "how long have you

5 known this?"

6 MS. PREDHAM:

7 A. I think it was, you know, a general

8 discussion. I don't think the "how long" was

9 an issue, not an issue, but how long came up,

10 but it was just a general discussion that, you

11 know, there was turnover. There was a lot of

12 work that had to be done. One of the benefits

13 of having the pathology assistants was to do

14 that work there and it was hard to get that

15 consistency with the way the set up was.

16 CHAYTOR, Q.C.:

17 Q. But the lack of documentation, or inadequacy

18 or inconsistency, sorry, in QC activities, was

19 that a discussion about well, how long has

20 that been going on or when did it come to your

21 attention? This is Dr. Cook, you're saying,

22 and Dr. Fontaine?

23 MS. PREDHAM:

24 A. Yes.

25 CHAYTOR, Q.C.:

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1 Q. So Dr. Cook would be the clinical chief.
 2 MS. PREDHAM:
 3 A. Yes. Well, I guess the key thing that came
 4 out of that meeting or my biggest concern was
 5 that the pathologists really didn't have a
 6 feel that they were the QA check in the lab.
 7 So how long that they were--they knew that
 8 that was an issue, I mean, I guess they just
 9 found that out when I was talking to them.
 10 CHAYTOR, Q.C.:
 11 Q. And what about other inconsistency in QC
 12 activities?
 13 MS. PREDHAM:
 14 A. I can't remember any other details about that.
 15 CHAYTOR, Q.C.:
 16 Q. And the -
 17 MS. PREDHAM:
 18 A. I do know that we did have a discussion about
 19 other quality controls in other parts of
 20 pathology lab, because I had seen them over
 21 the years, you know, when we had gone through
 22 that, and other quality activities in other
 23 parts of the lab. So we had a generalized
 24 discussion about that and it seemed like this
 25 was like a little pocket where it hadn't been

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1 set up well.
 2 CHAYTOR, Q.C.:
 3 Q. Okay, and is there--did they explain to you
 4 the importance of consistency in grossing, in
 5 terms of the thickness of the specimen?
 6 MS. PREDHAM:
 7 A. I don't think we got into it in detail.
 8 CHAYTOR, Q.C.:
 9 Q. And on page six, is this still from the same--
 10 your investigation, or is this something
 11 different?
 12 MS. PREDHAM:
 13 A. I think this might be something different. I
 14 think I'm just working through--can I just
 15 roll down?
 16 CHAYTOR, Q.C.:
 17 Q. Absolutely. Go ahead.
 18 MS. PREDHAM:
 19 A. I think I'm--I think I had to wait and talk
 20 to--wait and talk to Dr. Williams and it looks
 21 like I was talking to somebody else here about
 22 issues.
 23 CHAYTOR, Q.C.:
 24 Q. And do you recall who that might have been?
 25 MS. PREDHAM:

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1 A. No, but I remember here -
 2 CHAYTOR, Q.C.:
 3 Q. Start at 2004 and go back.
 4 MS. PREDHAM:
 5 A. Yeah, it sounds like I was talking to either
 6 Mr. Dyer or Mr. Gulliver.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, well, I'll just take you through those
 9 two pages anyhow, while we're at it, and
 10 you're doing some numbers here, and then "is
 11 there any way we can get data by cancer type?"
 12 Is that what you're asking?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and -
 17 MS. PREDHAM:
 18 A. And I guess I'm asking myself that at this
 19 point.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and do you recall did you ever get an
 22 answer to that question?
 23 MS. PREDHAM:
 24 A. I can't recall. I know we did have that, but
 25 I don't--I never looked at it by cancer type.

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1 CHAYTOR, Q.C.:
 2 Q. And what were you thinking? Why would that
 3 have been valuable?
 4 MS. PREDHAM:
 5 A. Well, I guess back to the lobulars and 100
 6 percent of them being positive.
 7 CHAYTOR, Q.C.:
 8 Q. Okay, and then you have 25 mixture of requests
 9 by oncologists, and I guess this is a
 10 breakdown, invasive lobular and invasive
 11 ductal cancer, breakdown of some tests that's
 12 already been done, is it?
 13 MS. PREDHAM:
 14 A. Yes, it must be the first 25, I guess.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and then on the next page, page seven,
 17 "start at 2004 and go back." You think this
 18 is a discussion you're probably having with
 19 Mr. Gulliver and/or Mr. Dyer?
 20 MS. PREDHAM:
 21 A. Right.
 22 CHAYTOR, Q.C.:
 23 Q. "Determine search procedures. Histotech,
 24 pathologist" with a question mark.
 25 MS. PREDHAM:

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1 A. ER/PR
 2 CHAYTOR, Q.C.:
 3 Q. ER/PR, and what's that referring to?
 4 MS. PREDHAM:
 5 A. I have no idea.
 6 CHAYTOR, Q.C.:
 7 Q. Were you hoping to be able to search the
 8 procedure by which technologist had performed
 9 the procedure?
 10 MS. PREDHAM:
 11 A. It may be. It may be--I have no idea.
 12 CHAYTOR, Q.C.:
 13 Q. Would that have been of any value to you in
 14 trying to determine what may have happened?
 15 MS. PREDHAM:
 16 A. It may have.
 17 CHAYTOR, Q.C.:
 18 Q. And you have pathologists with a question
 19 mark, and what would you be thinking about
 20 there?
 21 MS. PREDHAM:
 22 A. I have no idea. The reason I'm thinking that
 23 is I can remember Mr. Dyer and Mr. Gulliver
 24 telling me that when they went through the
 25 search, they had to take out all the pathology

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1 reports that had anything else other than
 2 breast tissue. So I'm assuming that's the
 3 reference to the ovaries there, and that's why
 4 I'm thinking it was when I was talking to
 5 them.
 6 CHAYTOR, Q.C.:
 7 Q. I'm sorry, get--what does it say "get"
 8 MS. PREDHAM:
 9 A. Get rid of ovaries.
 10 CHAYTOR, Q.C.:
 11 Q. Get rid of ovaries, so the cases of ovarian
 12 cancer that had ER/PR tests?
 13 MS. PREDHAM:
 14 A. Right.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and who gave you that advice?
 17 MS. PREDHAM:
 18 A. Well, that was determined somewhere along the
 19 way, you know, not by me. I wasn't involved
 20 in it, but it--you know, the ER/PR, the focus
 21 was on the breast tissue and not on the other
 22 places where it could be tested.
 23 CHAYTOR, Q.C.:
 24 Q. And pathologists, are you wondering if you
 25 could search by pathologist who may have

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1 interpreted the test?
 2 MS. PREDHAM:
 3 A. Could be.
 4 CHAYTOR, Q.C.:
 5 Q. Okay, and I take it that could be determined
 6 from the pathology reports?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And did you come across any mechanism by which
 11 you could determine which technologist had
 12 performed the test?
 13 MS. PREDHAM:
 14 A. I've never--I never looked. I do know that
 15 the techs, especially the ones outside are
 16 signed off by a technologist, and I'm sure
 17 there's a way to figure it out.
 18 CHAYTOR, Q.C.:
 19 Q. I'm sorry, which?
 20 MS. PREDHAM:
 21 A. The ER/PR tests that were done for out of town
 22 are signed off in Meditech, in St. John's
 23 Meditech, by different technologists,
 24 technicians or technologists, so whether
 25 they're the ones that actually did the test or

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1 not, but I'm sure there must be some mechanism
 2 to discover that.
 3 CHAYTOR, Q.C.:
 4 Q. And whether they get signed off the day of the
 5 test or the next day when there's a new
 6 technologist rotating in.
 7 MS. PREDHAM:
 8 A. Or if they do a batch, that would all have to
 9 be looked into.
 10 CHAYTOR, Q.C.:
 11 Q. Yes, and what about for the in St. John's
 12 tests?
 13 MS. PREDHAM:
 14 A. I'm not sure.
 15 CHAYTOR, Q.C.:
 16 Q. And then number two, you say "is control
 17 determination within the scope of practice of
 18 lab technologists?" So I take it you were
 19 going to try and find out the answer to that
 20 question?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. And what were you able to find out about that?
 25 MS. PREDHAM:

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1 A. There is a way--they could be taught to do
 2 that. I think that's a process that they
 3 started to go under with Dr. Carter and Dr.
 4 Ejeckam.
 5 CHAYTOR, Q.C.:
 6 Q. And "Clarenville no longer using us, question
 7 mark, question mark, why" and who are you
 8 asking this of and did you receive an answer?
 9 MS. PREDHAM:
 10 A. I'm probably asking myself there, and just
 11 trying to keep it in mind to ask somebody.
 12 CHAYTOR, Q.C.:
 13 Q. How did it come to your attention that
 14 Clarenville wasn't using St. John's any
 15 longer?
 16 MS. PREDHAM:
 17 A. I really can't remember. I remember it was a
 18 surprise because we didn't realize that, and
 19 I'm not sure when that came out. But it was
 20 after '98 and the answer I was told was that
 21 the pathologist who was out there didn't want
 22 to do the interpretation.
 23 CHAYTOR, Q.C.:
 24 Q. And who gave you that answer?
 25 MS. PREDHAM:

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1 A. I believe it was Mr. Gulliver.
 2 CHAYTOR, Q.C.:
 3 Q. And do you know when he told you that?
 4 MS. PREDHAM:
 5 A. Oh, no, somewhere along, you know, the next
 6 month or so.
 7 CHAYTOR, Q.C.:
 8 Q. Okay.
 9 MS. PREDHAM:
 10 A. I knew by September.
 11 CHAYTOR, Q.C.:
 12 Q. And did you go beyond that? Did you take Mr.
 13 Gulliver's word for that or did you make any
 14 further inquiries?
 15 MS. PREDHAM:
 16 A. Oh no, I inquired with Dr. Cook and we
 17 couldn't find any--you know, there was no
 18 documentation, nothing concrete, and I know
 19 Dr. Cook was going to follow up with the
 20 pathologists that were out there.
 21 CHAYTOR, Q.C.:
 22 Q. And did you ever learn any additional
 23 information as to why Clarenville was no
 24 longer using St. John's for the testing?
 25 MS. PREDHAM:

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1 A. I don't think it was anything other than that.
 2 I know I was concerned that they had issues
 3 with us and that's why they went to Mount
 4 Sinai, but my memory is that it actually was
 5 the pathologist didn't want to do the
 6 interpretation.
 7 CHAYTOR, Q.C.:
 8 Q. But you did learn that they had some concerns
 9 along the way?
 10 MS. PREDHAM:
 11 A. It's stretching my memory now. Like I--it's
 12 like I know this. This is what I know, but I
 13 can't remember, but it does sound familiar.
 14 CHAYTOR, Q.C.:
 15 Q. Yes, and did you, yourself, then ask any
 16 inquiries of Clarenville and the people in
 17 Clarenville?
 18 MS. PREDHAM:
 19 A. No, I didn't.
 20 CHAYTOR, Q.C.:
 21 Q. Okay, and by this point in time, of course,
 22 Clarenville would be part of Eastern Health?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. So you think Dr. Cook explored it further and
 2 you have some vague recollection that there
 3 were other concerns besides the pathologist
 4 not wanting to do the interpretation?
 5 MS. PREDHAM:
 6 A. And vague recollection is all I can say.
 7 CHAYTOR, Q.C.:
 8 Q. And was that just ER/PR? Were otherwise
 9 Clarenville sending their IHC stains or
 10 antibodies into St. John's?
 11 MS. PREDHAM:
 12 A. I have no idea.
 13 CHAYTOR, Q.C.:
 14 Q. And do you know what this says here?
 15 MS. PREDHAM:
 16 A. Have no idea.
 17 CHAYTOR, Q.C.:
 18 Q. Inter one hour auto optimal fixation or
 19 something about fixation? Looks like optimal
 20 fixation.
 21 MS. PREDHAM:
 22 A. Yeah, well, that's--yeah, that's what it says,
 23 but I have no idea.
 24 CHAYTOR, Q.C.:
 25 Q. Did you--and this again, would this still be

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1 in the notes of discussions with Terry
 2 Gulliver and Barry Dyer?
 3 MS. PREDHAM:
 4 A. Well, again, it's possible that's what I was
 5 doing. It seemed like that at the beginning,
 6 but I do remember I had to wait to talk to Dr.
 7 Williams after I had been over to the lab. So
 8 it might have been, you know, notes to myself
 9 as I was going along.
 10 CHAYTOR, Q.C.:
 11 Q. And then page eight looks like we're into
 12 August 5th, so we'll get there. I think a few
 13 pages along though, there's more--maybe I
 14 should go through because I think there is
 15 another reference to August 2nd, and this one
 16 was August 1st.
 17 MS. PREDHAM:
 18 A. Yes.
 19 THE COMMISSIONER:
 20 Q. Was that 1st?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. On page 16 was August 1st.
 25 MS. PREDHAM:

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1 A. Because I wrote Mary's name up in the corner
 2 at that meeting.
 3 CHAYTOR, Q.C.:
 4 Q. So this, yes -
 5 THE COMMISSIONER:
 6 Q. Original 16 (inaudible) That's the one we've
 7 already looked at.
 8 MS. PREDHAM:
 9 A. Yes.
 10 CHAYTOR, Q.C.:
 11 Q. Yes. Yes, here it is, page 13 then, there's
 12 also August 2nd, 2005.
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. Okay, and "Dr. W. spoke with Dr. Kwan," so is
 17 this notes of your meeting then with Dr.
 18 Williams?
 19 MS. PREDHAM:
 20 A. Yes, I do believe.
 21 CHAYTOR, Q.C.:
 22 Q. Okay, and so I take it after having been to
 23 the lab, you then met with Dr. Williams to
 24 report your findings?
 25 MS. PREDHAM:

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1 A. I think I met with him a couple of times that
 2 day.
 3 CHAYTOR, Q.C.:
 4 Q. And "Dr. Williams spoke with Dr. Kwan, do
 5 critical patients first." So I take it Dr.
 6 Kwan was looking to have the patients who
 7 weren't already on Tamoxifen done first?
 8 MS. PREDHAM:
 9 A. Right.
 10 CHAYTOR, Q.C.:
 11 Q. Or those who perhaps were of an urgent nature,
 12 such as the patients with metastatic disease?
 13 MS. PREDHAM:
 14 A. Yes.
 15 CHAYTOR, Q.C.:
 16 Q. "Get Ventana up and running ASAP." Do you
 17 recall what that's about?
 18 MS. PREDHAM:
 19 A. Well, you know, we had suspended use of that
 20 and I guess, he was--this was Dr. Kwan's view
 21 that we needed to get the Ventana up and
 22 running as soon as possible.
 23 CHAYTOR, Q.C.:
 24 Q. "Technical expert will be -
 25 MS. PREDHAM:

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1 A. - bringing company controls, reviewing all
 2 policies and procedures, and retesting blocks
 3 back from Mount Sinai."
 4 CHAYTOR, Q.C.:
 5 Q. Okay, so this technical expert is coming from
 6 Ventana, I take it?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. That's who's being referred to here?
 11 MS. PREDHAM:
 12 A. Yeah.
 13 CHAYTOR, Q.C.:
 14 Q. "Use the large numbers when -
 15 MS. PREDHAM:
 16 A. Citing.
 17 CHAYTOR, Q.C.:
 18 Q. Okay, what's that referring to?
 19 MS. PREDHAM:
 20 A. No idea.
 21 CHAYTOR, Q.C.:
 22 Q. And when citing what to whom, any idea?
 23 MS. PREDHAM:
 24 A. No.
 25 CHAYTOR, Q.C.:

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1 Q. "Monitor results continually
 2 MS. PREDHAM:
 3 A. - continually with outside lab."
 4 CHAYTOR, Q.C.:
 5 Q. "Check with other sites re: new -
 6 MS. PREDHAM:
 7 A. - re: how labs report, mentoring."
 8 CHAYTOR, Q.C.:
 9 Q. Is it mentoring?
 10 MS. PREDHAM:
 11 A. Mentioning.
 12 CHAYTOR, Q.C.:
 13 Q. "Need to consult with all pathologists, re;
 14 feedback on -
 15 MS. PREDHAM:
 16 A. Reporting.
 17 CHAYTOR, Q.C.:
 18 Q. Reporting. "Dan has already - is it Dan or
 19 Don?
 20 MS. PREDHAM:
 21 A. Don.
 22 CHAYTOR, Q.C.:
 23 Q. "Don has ready done this, asking them about
 24 how they felt about - can you read that, about
 25 it, and -

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1 MS. PREDHAM:
 2 A. "Don has already done this, asking them about
 3 how they felt about it, and to refer out
 4 anything they feel uncomfortable with".
 5 CHAYTOR, Q.C.:
 6 Q. Uncomfortable with, okay, and -
 7 MS. PREDHAM:
 8 A. "Umcomf" is written there, but -
 9 CHAYTOR, Q.C.:
 10 Q. That's what you think you were going to write?
 11 MS. PREDHAM:
 12 A. Yes.
 13 CHAYTOR, Q.C.:
 14 Q. "Need to consult with all pathologists, re;
 15 feedback on reporting", what's that about?
 16 MS. PREDHAM:
 17 A. I guess that's the pathologists across the
 18 province.
 19 CHAYTOR, Q.C.:
 20 Q. And is that feedback, is it "reporting" or
 21 "repeating"? Is it asking the pathologists
 22 how they feel about going forward, for
 23 example, with the review? Do you recall what
 24 was discussed with you and Dr. Williams? It
 25 looks like "reporting" to me too. I was just

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1 -
 2 MS. PREDHAM:
 3 A. I don't recall that exactly, but I know that -
 4 that they had the process that we would be
 5 reporting what Mount Sinai results were, and I
 6 guess it was how they felt about that, and
 7 anything they felt uncomfortable with, to
 8 refer that out. I'm just - that makes sense.
 9 CHAYTOR, Q.C.:
 10 Q. So "Send out info to patients whose test
 11 results change". At this point in time on
 12 August 2nd, was there a decision only to send
 13 out info to the patients whose results changed
 14 or was everybody to be told?
 15 MS. PREDHAM:
 16 A. If I can just scroll back up there.
 17 CHAYTOR, Q.C.:
 18 Q. Sure, go ahead.
 19 MS. PREDHAM:
 20 A. I think this is still what Dr. Kwan was - that
 21 was his feedback.
 22 CHAYTOR, Q.C.:
 23 Q. Okay. So all of these notes are the feedback
 24 from Dr. Kwan?
 25 MS. PREDHAM:

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1 A. Kwan.
 2 CHAYTOR, Q.C.:
 3 Q. And so in terms of a decision within Eastern
 4 Health, was there ever a point in time where
 5 it was contemplated that only patients whose
 6 results changed would be notified?
 7 MS. PREDHAM:
 8 A. No.
 9 CHAYTOR, Q.C.:
 10 Q. "Schedule extra clinics for oncologists and
 11 compensate". That's to deal, I take it, with
 12 the results coming back?
 13 MS. PREDHAM:
 14 A. Change in results.
 15 CHAYTOR, Q.C.:
 16 Q. And having to see additional patients. Is
 17 this now still dealing with August 2nd
 18 discussion you're having with Dr. Cook?
 19 MS. PREDHAM:
 20 A. Dr. Williams.
 21 CHAYTOR, Q.C.:
 22 Q. Sorry, Dr. Williams, yes.
 23 MS. PREDHAM:
 24 A. I think it must be.
 25 CHAYTOR, Q.C.:

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1 Q. Okay, I just want to bring you back to this
 2 one, the large numbers, this part. If we
 3 could just bring up P-0544 for a second. Just
 4 to help you out and see if we can - your
 5 memory of this. This is notes typed up,
 6 August 2nd, 2005, Dr. Kwan and Dr. Williams.
 7 You didn't attend this meeting, did you?
 8 MS. PREDHAM:
 9 A. No.
 10 CHAYTOR, Q.C.:
 11 Q. And number three written here is, "Extrapolate
 12 change over all the patients". Is that -
 13 MS. PREDHAM:
 14 A. Okay, that was - that was using the total
 15 number of patients as the denominator if we're
 16 trying to get a rate of change from.
 17 CHAYTOR, Q.C.:
 18 Q. I'm sorry, what was it about?
 19 MS. PREDHAM:
 20 A. The denominator. If you were trying to
 21 determine a rate of change -
 22 CHAYTOR, Q.C.:
 23 Q. Yes.
 24 MS. PREDHAM:
 25 A. How many change you would use for the

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1 denominator, you would use all patients who
 2 had ER/PR done.
 3 CHAYTOR, Q.C.:
 4 Q. Regardless if they'd been retested or not?
 5 MS. PREDHAM:
 6 A. Right.
 7 CHAYTOR, Q.C.:
 8 Q. And did you have any concern with that method
 9 of doing that in terms of if only some of your
 10 patients had been retested?
 11 MS. PREDHAM:
 12 A. I can see the point that they were bringing
 13 forward, you know, that that would be - these
 14 were all the test results and this would be
 15 our positivity now with all those because the
 16 ones we didn't retest were positive anyway. I
 17 could see that.
 18 CHAYTOR, Q.C.:
 19 Q. So for not looking at rate of change then, for
 20 looking at future calculations on positivity
 21 rates?
 22 MS. PREDHAM:
 23 A. Right. I, you know -
 24 CHAYTOR, Q.C.:
 25 Q. You wouldn't calculate your changed results on

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1 the basis of using the whole number of
 2 patients if they hadn't in fact all been
 3 retested. Is that what was -
 4 MS. PREDHAM:
 5 A. Actually, I'm surmising again. I do know
 6 there was discussion about what a denominator
 7 would be for something, and that's what I'm
 8 guessing that's what that is.
 9 CHAYTOR, Q.C.:
 10 Q. If we could go back then, please, to the other
 11 exhibit, 2954. On page 14, eleven cases out,
 12 and then you've got 10 out of 11; one ER
 13 negative that was positive; PR is -
 14 MS. PREDHAM:
 15 A. "More of an issue. There is an issue with our
 16 over staining".
 17 CHAYTOR, Q.C.:
 18 Q. Okay, and what's that referring to?
 19 MS. PREDHAM:
 20 A. I guess that's the results from Mount Sinai
 21 and our Ventana, the 11 that got sent away.
 22 CHAYTOR, Q.C.:
 23 Q. Okay, "The slides that -
 24 MS. PREDHAM:
 25 A. "Go to Montreal for check regarding staining

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1 and interpretation. Also in-house
 2 pathologists will be asked to review this for
 3 QA".
 4 CHAYTOR, Q.C.:
 5 Q. And what's that referring to?
 6 MS. PREDHAM:
 7 A. I do believe that we had slides sent away to
 8 Montreal just to be verified.
 9 CHAYTOR, Q.C.:
 10 Q. "All Mount Sinai reports to come back to St.
 11 Clare's, so results can be correlated. All
 12 the demographic results have to go with the
 13 slides. The Mount Sinai info, re; test
 14 results, will have to be put in Meditech as an
 15 addendum".
 16 MS. PREDHAM:
 17 A. And that's logistics on when we got the
 18 results back from Mount Sinai.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. Then you have, "2002, DAKO, Ventana,
 21 Mount Sinai". Looks like you're doing some
 22 sort of a chart again.
 23 MS. PREDHAM:
 24 A. Yeah. I guess Dr. Williams was asking me if I
 25 could do that up.

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1 CHAYTOR, Q.C.:

2 Q. Okay. "Mount Sinai doing the new cases".

3 MS. PREDHAM:

4 A. Yes.

5 CHAYTOR, Q.C.:

6 Q. "Retesting".

7 MS. PREDHAM:

8 A. And retesting, and Ventana, somebody was

9 coming here.

10 CHAYTOR, Q.C.:

11 Q. And pathologists, and you have two

12 pathologists names here. Were they being

13 considered for an external review?

14 MS. PREDHAM:

15 A. Yes.

16 CHAYTOR, Q.C.:

17 Q. Were they being considered by Eastern Health -

18 well, we know, of course, Dr. Gown ultimately

19 gets involved through the class action.

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. So was that what this is referencing or were

24 they actually being considered as opposed to,

25 for example, Dr. Banerjee?

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1 MS. PREDHAM:

2 A. I think that was Dr. Gown - Dr. Cook was going

3 to - had mentioned those names.

4 CHAYTOR, Q.C.:

5 Q. So this was -

6 MS. PREDHAM:

7 A. And I don't think he was at this meeting. I

8 think this is Dr. Williams telling me that Dr.

9 Cook is thinking about these two people,

10 approaching them to come down.

11 CHAYTOR, Q.C.:

12 Q. So at this point in time, the decision had

13 been made to bring in not only - you knew

14 already you were going to be bringing in Trish

15 Wegrynowski.

16 MS. PREDHAM:

17 A. Yes.

18 CHAYTOR, Q.C.:

19 Q. But the decision is also made now to bring in

20 an external pathologist?

21 MS. PREDHAM:

22 A. Yes.

23 CHAYTOR, Q.C.:

24 Q. Dr. Banerjee hadn't been identified at this

25 point?

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1 MS. PREDHAM:

2 A. No.

3 CHAYTOR, Q.C.:

4 Q. If we could have, please, P-0545, and this is,

5 I believe, August 3rd notes -

6 MS. PREDHAM:

7 A. Thank you.

8 CHAYTOR, Q.C.:

9 Q. We keep saying that every time we see the

10 typed version, and these are Dr. Williams

11 notes, and he refers to having met with Dr.

12 Cook and yourself two times, "QI follow up,

13 and interviews were held with techs involved

14 in the immunohistochemistry in the a.m.

15 Heather Predham gave me a debriefing on the

16 issue and the lack of communication between

17 techs and pathologists. Heather Predham gave

18 Dr. Cook and general site chief, Dr. Dan

19 Fontaine, a briefing on her interview in the

20 p.m. Met with Dr. Cook afterwards and

21 discussed the issue, and need for techs to

22 have a pathologist who they can go to for

23 advice and communication", and is that you

24 that met or is that -

25 MS. PREDHAM:

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1 A. Dr. Williams and Dr. Cook, and the meeting

2 that I had, he's got it a little bit wrong

3 there, I was meeting with Dr. Cook and Dan

4 Fontaine as part of the review, and I told

5 them what was in the first part, but not as a

6 briefing. I didn't, you know, meet with them

7 to do a briefing.

8 CHAYTOR, Q.C.:

9 Q. Did you point out, though, to Dr. Cook and Dr.

10 Fontaine some of the -

11 MS. PREDHAM:

12 A. Yes.

13 CHAYTOR, Q.C.:

14 Q. Frustrations of the technologists. "Dr. Cook

15 and I will follow up with Mr. Gulliver on

16 broad and specific communication issues

17 identified". So I take it, this is in

18 relation to what you have reported back to Dr.

19 Williams?

20 MS. PREDHAM:

21 A. Yes.

22 CHAYTOR, Q.C.:

23 Q. "Dr. Cook waiting to hear back from Mount

24 Sinai, re; completing all negative ER/PR

25 testing on a very expeditious basis". Ms.

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1 Predham, in risk management, are there
 2 recommendations in terms of the volume of work
 3 required for an individual to be able to keep
 4 up their skills at a particular task?
 5 MS. PREDHAM:
 6 A. There is literature on that in various
 7 disciplines, I guess.
 8 CHAYTOR, Q.C.:
 9 Q. And in your review of this matter, did you
 10 come across any information as to an
 11 appropriate number of ER/PR tests to enable
 12 technologists and pathologists to maintain
 13 their skills?
 14 MS. PREDHAM:
 15 A. I didn't. I know that somewhere along the way
 16 we did have that discussion when we were
 17 talking about pathologists interpreting that
 18 in smaller centres around the island, both
 19 from keeping up their skills, but also that
 20 they didn't have the same - they didn't have
 21 the same ability to have interaction with the
 22 techs or with other pathologists, but also
 23 they couldn't pick up any trends because the
 24 volume would be so low.
 25 CHAYTOR, Q.C.:

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1 Q. So in your review and study, I guess, around
 2 this matter, that came up as a concern in
 3 terms of pathologists outside of St. John's.
 4 What about within St. John's if it's divided
 5 amongst quite a number of pathologists?
 6 MS. PREDHAM:
 7 A. Oh, the same issues would be there as well.
 8 CHAYTOR, Q.C.:
 9 Q. If we could go back, please, to P-2940, and
 10 it's page 29 of this exhibit, please. Let's
 11 see if we can give any context to this to help
 12 you - so August 2nd. Yes, this is the one
 13 here, I think, 27. So this appears to be the
 14 same date, August 2nd. Dr. Williams, Dr.
 15 Cook, yourself, and Terry, "Dr. Williams spoke
 16 with Dr. Kwan", and we've gone through some
 17 detailed notes on that. "Do critical
 18 patients. First get Ventana asap", and this
 19 all appears to be similar to your other notes
 20 that we've gone through. Then the next page
 21 is that lab review, "Maintenance done since
 22 Ventana" with a question mark.
 23 MS. PREDHAM:
 24 A. "Where there any maintenance done since
 25 Ventana got introduced".

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1 CHAYTOR, Q.C.:
 2 Q. Okay, and who was asking that question, is
 3 that something that you were posing yourself?
 4 MS. PREDHAM:
 5 A. I guess it was - I guess it must have been
 6 part of that discussion in anticipation of a
 7 lab review. If we had Ventana in and it was
 8 validated by a person there, what maintenance
 9 had happened since then.
 10 CHAYTOR, Q.C.:
 11 Q. And did the person who came in raise issues in
 12 terms of lack of maintenance being done on the
 13 Ventana machine?
 14 MS. PREDHAM:
 15 A. I do believe that that was an issue, but I'm
 16 not sure if that was - if that was that
 17 meeting because I'm asking a question, the
 18 second one, who provided detail for the
 19 manuals and documentation.
 20 CHAYTOR, Q.C.:
 21 Q. So this is probably something that came out
 22 outside of the Ventana representative raising
 23 it, and this question, "Who will provide
 24 detail", do you know what's being referred to
 25 here?

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1 MS. PREDHAM:
 2 A. Well, if - you know, if the lab was going to
 3 develop manuals, policy and procedure manuals,
 4 where were they going to get the details for
 5 that.
 6 CHAYTOR, Q.C.:
 7 Q. Okay, and NCLS guidelines, what are you
 8 referring to there?
 9 MS. PREDHAM:
 10 A. I have no idea.
 11 CHAYTOR, Q.C.:
 12 Q. And ER/PR then, this continues on, page 29,
 13 "Twenty patients. 73 out of 327". Is this
 14 later on, this note? There's a reference to
 15 Andre Picard article. It comes up in your
 16 book at this point -
 17 MS. PREDHAM:
 18 A. Yes, yeah.
 19 CHAYTOR, Q.C.:
 20 Q. So I'm just wondering. So if I just take you
 21 through it then, "Pathologist knew about a
 22 conversion in 2000". What are you referring
 23 to there?
 24 MS. PREDHAM:
 25 A. I think that was more of a rumour, I think,

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1 that somebody said that they knew about a
 2 conversion back in 2000.
 3 CHAYTOR, Q.C.:
 4 Q. And did you investigate that rumour?
 5 MS. PREDHAM:
 6 A. Yes, I didn't find any evidence of it at the
 7 time.
 8 CHAYTOR, Q.C.:
 9 Q. So you asked each of the pathologists whether
 10 or not they knew about a conversion in 2000?
 11 MS. PREDHAM:
 12 A. I didn't ask each of the pathologists, but
 13 whoever told me that, I - you know, can you
 14 get me more information, who told you, where
 15 did you hear this, what was done, that type of
 16 thing.
 17 CHAYTOR, Q.C.:
 18 Q. And did you ever ask the pathologists whether
 19 or not they were aware of prior conversions?
 20 MS. PREDHAM:
 21 A. I didn't.
 22 CHAYTOR, Q.C.:
 23 Q. Did anyone?
 24 MS. PREDHAM:
 25 A. I'm not sure really.

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1 CHAYTOR, Q.C.:
 2 Q. Would that be an important piece of
 3 information to know?
 4 MS. PREDHAM:
 5 A. Oh, yes, it would be, it would be.
 6 CHAYTOR, Q.C.:
 7 Q. But you didn't ask that question?
 8 MS. PREDHAM:
 9 A. No.
 10 CHAYTOR, Q.C.:
 11 Q. And whether or not anyone else asked it, you
 12 don't know?
 13 MS. PREDHAM:
 14 A. No.
 15 CHAYTOR, Q.C.:
 16 Q. Then "73, 1999/2000" appears to be a time
 17 frame here, 2000/2001?
 18 MS. PREDHAM:
 19 A. Uh-hm.
 20 CHAYTOR, Q.C.:
 21 Q. "Tamoxifen literature review, efficacy in five
 22 years. Andre Picard article". Sue and Judy
 23 maybe, is it?
 24 MS. PREDHAM:
 25 A. I think they're the - Sue Sullivan and Judy

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1 Budgell were the risk managers for Western and
 2 Central.
 3 CHAYTOR, Q.C.:
 4 Q. Okay, and the plan, "Letter to oncologists,
 5 surgeons, and public notice". So do you have
 6 any idea when your - at what stage then these
 7 notes are being made?
 8 MS. PREDHAM:
 9 A. I think it was the beginning of August.
 10 CHAYTOR, Q.C.:
 11 Q. And likewise in terms of oncologists, did
 12 anyone ever inquire of the oncologists as to
 13 whether or not they were aware of any prior
 14 conversions?
 15 MS. PREDHAM:
 16 A. We had that discussion back when there was a
 17 reference to the tumour boards and talking
 18 about that. That was a discussion about
 19 whether anybody had heard about any
 20 conversions before that, and I think the
 21 answer was, no, that they hadn't.
 22 CHAYTOR, Q.C.:
 23 Q. And have you subsequently learned differently?
 24 MS. PREDHAM:
 25 A. Yes.

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1 CHAYTOR, Q.C.:
 2 Q. Did you ever ask Mr. Gulliver or Mr. Dyer
 3 whether they knew about any conversions?
 4 MS. PREDHAM:
 5 A. Well, they would have been in that discussion
 6 as well, so, you know, I - no one came forward
 7 and said, yes, we had a definite conversion,
 8 look at this one, this is the results that we
 9 had.
 10 CHAYTOR, Q.C.:
 11 Q. Did they -
 12 MS. PREDHAM:
 13 A. That was -
 14 CHAYTOR, Q.C.:
 15 Q. Did they even say there was something that
 16 could be interpreted as a conversion?
 17 MS. PREDHAM:
 18 A. No.
 19 CHAYTOR, Q.C.:
 20 Q. So nobody knew anything about any conversion
 21 prior to Peggy Dean?
 22 MS. PREDHAM:
 23 A. No.
 24 CHAYTOR, Q.C.:
 25 Q. And in your investigation of this matter, we

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1 see one note as to - there was a reference to
 2 optimal fixation. What if anything were you
 3 able to determine about the practises around
 4 fixation?
 5 MS. PREDHAM:
 6 A. Only my memories of what I've already
 7 discussed about the grossing and the
 8 discussions with Dr. Cook and Dr. Fontaine.
 9 CHAYTOR, Q.C.:
 10 Q. Did you have - did you visit the perioperative
 11 program and speak to the people there?
 12 MS. PREDHAM:
 13 A. Not at that time.
 14 CHAYTOR, Q.C.:
 15 Q. And when did you do that?
 16 MS. PREDHAM:
 17 A. I never did that. One of the things that I
 18 would do differently is that someone would
 19 have to be dedicated to this and nothing else.
 20 At the time, you know, there was a lot of
 21 other responsibilities that we all had, and
 22 trying to get everything done, everything you
 23 wanted to do at the time was a problem.
 24 CHAYTOR, Q.C.:
 25 Q. So in the - other than what we've already

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1 discussed in your review and discussions
 2 around the issue particularly in the beginning
 3 of August, and I understand what you're saying
 4 that you walked away from it in terms of
 5 saying to Dr. Williams, you need - let's rely
 6 on the external people coming in to look at
 7 this.
 8 MS. PREDHAM:
 9 A. Because we had suspended testing, so there
 10 wasn't, you know, there wasn't anything from--
 11 and I can appreciate your point about ER/PR,
 12 but we had, in my view, we had suspended
 13 testing right now, so we could wait for them
 14 to come down and have a look at it.
 15 CHAYTOR, Q.C.:
 16 Q. And so we could wait for Trish Wegrynowski and
 17 Dr. Banerjee, who was later identified to come
 18 and do this.
 19 MS. PREDHAM:
 20 A. Yes.
 21 CHAYTOR, Q.C.:
 22 Q. Were there any other issues from a risk
 23 management perspective other than what we've
 24 already discussed that came to your attention
 25 and were of concern to you?

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1 MS. PREDHAM:
 2 A. In that part of the lab?
 3 CHAYTOR, Q.C.:
 4 Q. Anything that might impact on the ER/PR test?
 5 MS. PREDHAM:
 6 A. I can't think of anything right now. I know
 7 from probably as I went forward to that, there
 8 seemed to be, once I understood how the test
 9 was interpreted and that it was a very
 10 subjective percentage, it seemed that on the
 11 oncologist side from the interpreting is that
 12 it was more black and white, and that was a
 13 bit of a concern to me that there seemed to be
 14 this disconnect between how the pathologists
 15 were--how they calculated that number and how
 16 the oncologists treated that number or looked
 17 at that number. And that seemed to be a bit
 18 of a--that was a concern to me. Now whether
 19 from a clinical perspective that was, but that
 20 was just a concern.
 21 CHAYTOR, Q.C.:
 22 Q. Okay. And when did you first understand about
 23 the importance of fixation and for example
 24 that a large specimen shouldn't be left in the
 25 OR in formalin and the importance of getting a

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1 large specimen to the lab and dealt with in a
 2 timely fashion.
 3 MS. PREDHAM:
 4 A. I'm really not sure when I learned that.
 5 CHAYTOR, Q.C.:
 6 Q. I take it it was much later than in the
 7 process?
 8 MS. PREDHAM:
 9 A. I think it was after Dr. Banerjee came.
 10 CHAYTOR, Q.C.:
 11 Q. Were you ever aware prior to 2005 of any issue
 12 with respect to the peri-operative program and
 13 in particular, any issue or concern regarding
 14 specimens not being placed in fixative or in
 15 the appropriate amount of fixative in a timely
 16 manner?
 17 MS. PREDHAM:
 18 A. Over the, you know, over the past ten years I
 19 think there may have been one or two
 20 incidents, it was more the handling or getting
 21 the specimen to the lab in a timely manner
 22 from the OR, but it was more of a single
 23 event, rather than a systemic thing.
 24 CHAYTOR, Q.C.:
 25 Q. Did it involve breast tissue, breast

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1 specimens?
 2 MS. PREDHAM:
 3 A. I don't think so.
 4 CHAYTOR, Q.C.:
 5 Q. And how about any issues involving specimens
 6 being left overnight or for inordinate amounts
 7 of time in the OR?
 8 MS. PREDHAM:
 9 A. There was one way back, I think it involved
 10 the Grace, actually, and it was a specimen
 11 that was left for a period of time, but again,
 12 it was a one-off type of thing. It didn't--
 13 there was no pattern, there was no--it was
 14 overlooked.
 15 CHAYTOR, Q.C.:
 16 Q. And in dealing with those issues, were there
 17 protocols put in place to ensure that it
 18 wouldn't happen?
 19 MS. PREDHAM:
 20 A. I think they were in place at the time and
 21 they had to be reinforced or reviewed and
 22 probably tightened up.
 23 THE COMMISSIONER:
 24 Q. Ms. Predham, the references on the screen at
 25 the moment, Tamoxifen, something review.

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1 MS. PREDHAM:
 2 A. Literature review.
 3 THE COMMISSIONER:
 4 Q. And under that?
 5 MS. PREDHAM:
 6 A. Efficacy.
 7 THE COMMISSIONER:
 8 Q. And on the side?
 9 MS. PREDHAM:
 10 A. Five years.
 11 THE COMMISSIONER:
 12 Q. What's that about?
 13 MS. PREDHAM:
 14 A. It looks like somebody was telling me that
 15 what the literature is saying, Tamoxifen was
 16 good five years after, now we went--I don't
 17 know where this came from, but we were going
 18 forward on research that showed that Tamoxifen
 19 had a benefit 11 years after.
 20 THE COMMISSIONER:
 21 Q. Sorry, 11 years after?
 22 MS. PREDHAM:
 23 A. Yes. I think that was April 2005 article,
 24 that was one of the impetuses at the beginning
 25 of this in May, 2005, Dr. Laing or Dr.

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1 McCarthy brought it forward.
 2 THE COMMISSIONER:
 3 Q. So the idea that Tamoxifen might have a
 4 benefit some years removed from the initial
 5 surgery was not new at this time, this was
 6 just additional information?
 7 MS. PREDHAM:
 8 A. Yes.
 9 THE COMMISSIONER:
 10 Q. Okay.
 11 CHAYTOR, Q.C.:
 12 Q. If I could have, please, P-0076? And this is
 13 a memo that went to all pathologists in St.
 14 John's hospitals from Drs. Cook and Carter and
 15 this particular version is dated July 28th,
 16 2005 and it's "re: optimal assessment and
 17 reporting of hormone receptor status and
 18 infiltrating carcinoma. When ordering and
 19 reporting ER/PR status on infiltrating
 20 carcinoma of the breast"--and then you'll see
 21 there's nine points listed as to what the
 22 pathologist should do, including selecting a
 23 block that contains the tumour, a normal
 24 tissue as well. "When reporting, always check
 25 on the internal and external controls. The

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1 external positive control should show a
 2 variability"--and it goes on from there
 3 dealing with external, internal controls.
 4 Were you at the time in late July, early
 5 August when you were looking at this issue and
 6 investigating the issue, were you made aware
 7 that Dr. Cook was sending this out to
 8 pathologists and that these had been
 9 identified as things that he felt fit that
 10 they should be reminded of?
 11 MS. PREDHAM:
 12 A. I don't recall that I was made aware, I don't
 13 think I ever saw this one before.
 14 CHAYTOR, Q.C.:
 15 Q. And in terms of keeping you informed of what's
 16 going on, would this be an important piece of
 17 information for you to have?
 18 MS. PREDHAM:
 19 A. Oh, you know, even from consistency in
 20 reporting as a quality activity would be
 21 important.
 22 CHAYTOR, Q.C.:
 23 Q. Yes, and these, of course, are--this is long
 24 before Dr. Banerjee comes to St. John's. If
 25 we could have, please, P-0940? And this is an

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1 e-mail communication from yourself to Drs.
 2 Cook and Williams, August 4th, 2005 and I
 3 believe this is Dr. Cook's handwriting over
 4 here. "Just want to let you know that I met
 5 the technical expert from Ventana this a.m.
 6 with Terry and Barry. We went over the issues
 7 and what we needed from her. Terry told her
 8 that we would be meeting with her tomorrow to
 9 hear her assessment of our system. During our
 10 conversation with her, Terry questioned
 11 whether the 58 cases that we retested were all
 12 negatives or did they include weak positives
 13 as well. He had a feeling that Dr. Carter may
 14 have included weak positives in this group and
 15 the slides were pulled and if that is the
 16 case, then we haven't had 41 out of 58
 17 convert, and that was the reason we began
 18 questioning the Ventana system. Barry is
 19 going to recheck these cases to see that they
 20 were all negative. He should know this by
 21 this afternoon." What's that all about? What
 22 do you recall about that?
 23 MS. PREDHAM:
 24 A. At that period of time, I personally, I would
 25 get confused with the negative and weak

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1 positives and the clinical determination of
 2 negative verses the technical version of
 3 negative. And Mr. Gulliver would always--when
 4 he would talk about the negatives, he was
 5 always referring about the zero zeros and the
 6 weak positives would be then the clinical
 7 negatives, the 30 or less, the 10 or less,
 8 that area. And in this conversation, he was
 9 questioning whether all 58 cases were
 10 negatives and I don't think I had, when I was
 11 referring here, I think I was getting confused
 12 again because I didn't have a clear--or I
 13 don't think we even had a clear definition of
 14 what we were considering negative as, you
 15 know, an overall definition, the 30 or less or
 16 10 or less.
 17 CHAYTOR, Q.C.:
 18 Q. Yes, and if the purpose in terms of doing the
 19 retest is to offer treatment to people who
 20 otherwise perhaps hadn't been offered the
 21 treatment -
 22 MS. PREDHAM:
 23 A. The clinical definition was the key, not the
 24 technical one.
 25 CHAYTOR, Q.C.:

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1 Q. Is the key, it doesn't matter that they're
 2 negative negative.
 3 MS. PREDHAM:
 4 A. Right. And I would tend to, especially at
 5 this stage, I'd tend to get mixed up when
 6 everybody started talking about it, I'd get
 7 mixed up in the definitions.
 8 CHAYTOR, Q.C.:
 9 Q. Okay, and so I take it that when you got your
 10 head back around this -
 11 MS. PREDHAM:
 12 A. It was a non issue.
 13 CHAYTOR, Q.C.:
 14 Q. - you realized this is another one of those
 15 red herrings, we do have 41 out of 58
 16 conversions.
 17 MS. PREDHAM:
 18 A. Yes.
 19 CHAYTOR, Q.C.:
 20 Q. For the purpose of who needs to be offered
 21 treatment.
 22 THE COMMISSIONER:
 23 Q. Can we just sort of, hopefully once and for
 24 all, figure out what a conversion is? What is
 25 a conversion?

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1 MS. PREDHAM:
 2 A. That's a million dollar question. The most I
 3 -
 4 THE COMMISSIONER:
 5 Q. Well what was a conversion in Eastern Health?
 6 MS. PREDHAM:
 7 A. A conversion was anything from a clinical
 8 negative and from a clinical point of view, a
 9 conversion was anything that was previously
 10 met the clinical definition of negative and
 11 then went to the clinical definition of
 12 positive from the focus of retesting the
 13 patients and in terms of treatment. From a
 14 lab perspective, I can see where their focus
 15 would be on zero zeros to some with positivity
 16 because that's an issue with the test, but
 17 from a clinical perspective looking at the
 18 patients, the change would be from whatever we
 19 determined negative was to whatever we
 20 determined positive.
 21 THE COMMISSIONER:
 22 Q. And when you were looking at that, were you
 23 taking--using a precise number?
 24 MS. PREDHAM:
 25 A. At that time I was relying on the fact that

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1 Dr. Carter and at least Joy McCarthy had
 2 reviewed that and determined, like, they had
 3 determined that 41 out of 58 had converted, so
 4 that was using the combination of the two of
 5 them to determine that. Then when we went
 6 forward to determine that, we came up with--we
 7 focused only on ER in our looking and we only
 8 went for 30 percent and less to 2000 and then
 9 after that, 10 percent or less.

10 THE COMMISSIONER:
 11 Q. So if--okay, if you had, on January 1st, 2001
 12 a nine percent and on retest it was an eleven
 13 percent, it was a conversion?

14 MS. PREDHAM:
 15 A. It was a conversion.

16 THE COMMISSIONER:
 17 Q. And on December 25th, the year before, that
 18 would be a confirmed negative?

19 MS. PREDHAM:
 20 A. No, because we were still using the ten
 21 percent there. That was the group that I
 22 think I identified in one of the briefing
 23 notes that they fundamentally didn't change,
 24 but the definition of negative changed.

25 THE COMMISSIONER:

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1 Q. Okay, but if the definition of negative was 30
 2 percent two weeks before and you went from
 3 nine percent to eleven percent, then
 4 presumably you were still a negative?

5 MS. PREDHAM:
 6 A. Well we were looking at it in 2005 where we
 7 would consider 10 percent, so if you were nine
 8 percent in December of 2000--of course, we
 9 were looking at broad categories, trying to be
 10 inclusive.

11 THE COMMISSIONER:
 12 Q. Uh-hm.

13 MS. PREDHAM:
 14 A. So if you were nine percent in December of
 15 2000, you were retested now in 2005 where 10
 16 percent would have been the difference.

17 THE COMMISSIONER:
 18 Q. So in determining whether or not somebody had
 19 a conversion, it was always 10 percent, as
 20 opposed to determining whether or not you were
 21 retested?

22 MS. PREDHAM:
 23 A. Yes, you're right.

24 THE COMMISSIONER:
 25 Q. So am I right about that?

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1 MS. PREDHAM:
 2 A. Yes.

3 THE COMMISSIONER:
 4 Q. Okay, so whether or not you have a conversion
 5 is determined, in your figuring in the terms
 6 of the statistical analysis done within
 7 Eastern Health, I know there's not supposed to
 8 be a statistical analysis, but in terms of
 9 looking at the documentation -

10 MS. PREDHAM:
 11 A. Yes.

12 THE COMMISSIONER:
 13 Q. - when you're looking at somebody who was
 14 retested, it doesn't matter when you are
 15 determining whether or not they converted, it
 16 does not matter when the original test took
 17 place. What matters is if they are now above
 18 10?

19 MS. PREDHAM:
 20 A. Yes.

21 THE COMMISSIONER:
 22 Q. But in determining whether or not they get
 23 retested, it matters whether they were below
 24 10 or below 30 in the first place, is that
 25 right?

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1 MS. PREDHAM:
 2 A. Yes.

3 THE COMMISSIONER:
 4 Q. I think I have to think about that for a bit.

5 CHAYTOR, Q.C.:
 6 Q. Us too.

7 THE COMMISSIONER:
 8 Q. Yes, this is something we maybe should come to
 9 tomorrow, I have to think this one through.

10 CHAYTOR, Q.C.:
 11 Q. A bit late in the day. That's what we're
 12 trying to figure here, so if you're 20 percent
 13 in 1999 and in 2005 you come back as 20
 14 percent, you've stayed the same but you've
 15 converted.

16 MS. PREDHAM:
 17 A. From a treatment perspective and there was a
 18 category in that briefing note and this was
 19 the difficulty in sharing this information and
 20 getting this information out.

21 THE COMMISSIONER:
 22 Q. Uh-hm.

23 MS. PREDHAM:
 24 A. There were people who fundamentally didn't
 25 change, but the definition of negative changed

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1 over the interim, so now they were getting
 2 treatment--they were a candidate for
 3 treatment.
 4 THE COMMISSIONER:
 5 Q. Although for the purposes of examining the
 6 validity of the test, which is how we started
 7 out on this, there would be a confirmation
 8 that the test was properly done?
 9 MS. PREDHAM:
 10 A. Yes. But see, that's a fundamental problem
 11 that you had in looking at it, it's almost two
 12 separate reviews. You were looking at it from
 13 a clinical perspective and you had clinical
 14 numbers based on this definition and whether
 15 you were a candidate for Tamoxifen and all
 16 that, but then from a lab perspective, then
 17 you had, did the number change, did it go from
 18 zero to what, that whole side and you will get
 19 into it later, but that was my difficulty in
 20 2006 with using the numbers from a clinical
 21 perspective for an error rate because you're
 22 talking about a different thing, a different
 23 perspective on those numbers. But this is why
 24 we get confused when I talk to the different
 25 groups and talk about the numbers, I'd get

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1 mixed up at times to get what I was trying to
 2 say.
 3 THE COMMISSIONER:
 4 Q. And were the two groups still continuing to
 5 view it separately? I mean, in the sense of
 6 when you were talking to somebody, like Mr.
 7 Gulliver who came out of lab who saw
 8 conversions quite differently, were you
 9 talking his language or some kind of -
 10 MS. PREDHAM:
 11 A. I was always talking patient language, that
 12 was my focus because that was the focus of us
 13 doing this. The problem that I'd have is that
 14 if I started talking to Mr. Gulliver or Mr.
 15 Dyer, I'd misinterpret what they were saying
 16 because they had the technical focus of it.
 17 CHAYTOR, Q.C.:
 18 Q. During your--one second, I'll come back to
 19 this, but a question that I meant to ask you
 20 before when we were talking about your review
 21 and discussions with the technologists, did
 22 you learn whether the technologists had been,
 23 throughout the relevant time period, using
 24 consistent protocols for ER and PR? Were you
 25 able to come across any information or through

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1 your discussions with them to reassure
 2 yourself that they had been using consistent
 3 protocols?
 4 MS. PREDHAM:
 5 A. I can't remember, but it wasn't an issue for
 6 me. So, I don't know if I had felt that I was
 7 comfortable with that, but it hadn't come up
 8 as an issue for me.
 9 CHAYTOR, Q.C.:
 10 Q. And were you able to see any standard
 11 operating procedures for the various points in
 12 time, from 1997 on through?
 13 MS. PREDHAM:
 14 A. No, I don't think so. You know, the concern
 15 always was, is that whatever--however well
 16 they were doing the test, they didn't have the
 17 documentation to back it up.
 18 CHAYTOR, Q.C.:
 19 Q. So, I take it in that respect, the lack of
 20 documentation to show a standard operating
 21 procedure as time went on, was of concern to
 22 you?
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. If we could just go back to P-0940 and the
 2 issue you began with, you've met with the
 3 technical expert from Ventana and "went over
 4 the issues and what we needed from her". What
 5 was it that she was asked to do?
 6 MS. PREDHAM:
 7 A. I think that was on the previous one, we had
 8 asked her three issues that we wanted her to
 9 do. I can't recall what they are right now,
 10 but we already discussed that in an earlier -
 11 CHAYTOR, Q.C.:
 12 Q. Okay. In terms of looking at the Ventana
 13 system, assessing the technologists and the
 14 issue of the maintenance of the machine.
 15 MS. PREDHAM:
 16 A. Yes, I think that's what it was. It was on an
 17 earlier one, I can't remember right now.
 18 CHAYTOR, Q.C.:
 19 Q. Okay. And the issue too of "Barry will pull
 20 the cases tested between June 29 and November
 21 1 to confirm that all results in that period
 22 of time were negative".
 23 MS. PREDHAM:
 24 A. Yes.
 25 CHAYTOR, Q.C.:

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1 Q. I take it that flows from the comment that Dr.
 2 Carter had made in the August 1 meeting?
 3 MS. PREDHAM:
 4 A. Exactly.
 5 CHAYTOR, Q.C.:
 6 Q. Okay. And what did you understand to be the
 7 outcome of that exercise?
 8 MS. PREDHAM:
 9 A. That they weren't negative; it was the--
 10 results were the same as results had been all
 11 along. There wasn't anything startling, out
 12 of the way.
 13 CHAYTOR, Q.C.:
 14 Q. Okay. And was there any concern about the
 15 number of positives in that time period?
 16 MS. PREDHAM:
 17 A. No, my only memory is that there wasn't any
 18 concern with that period of time.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. And you end by saying, "I had a long
 21 chat with Barry and Terry after we got the
 22 Ventana lady settled away ...", and what do
 23 you recall, what was your long chat with them
 24 on that day?
 25 MS. PREDHAM:

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1 A. I guess we were just talking about, you know,
 2 the issues with the communication, the issues
 3 with the documentation and, you know, that--
 4 what I had seen in the review.
 5 CHAYTOR, Q.C.:
 6 Q. What you had learned from the technologists?
 7 MS. PREDHAM:
 8 A. Yes.
 9 CHAYTOR, Q.C.:
 10 Q. And so you shared with them your concerns.
 11 Did you also discuss with them Dr. Carter's
 12 concerns that she had raised?
 13 MS. PREDHAM:
 14 A. I don't think so, not at that meeting, not at
 15 that time. But you see, you know, this is
 16 part of the problem you can see there. We had
 17 a critical incident with a high risk drug at
 18 St. Clare's, so I'm--you know, that's a very
 19 risk management issue there. So, I'm there in
 20 that and then I'm over here at that. So, it's
 21 difficult to keep up with all the things that
 22 you want to do.
 23 CHAYTOR, Q.C.:
 24 Q. Yes. So, this ER/PR issue is one occurrence
 25 that you're investigating along with others

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1 that come up along the way?
 2 MS. PREDHAM:
 3 A. Yes.
 4 CHAYTOR, Q.C.:
 5 Q. Okay. And the Ventana review, the review by
 6 Carole Quevillon, what was the outcome? How
 7 did it go?
 8 MS. PREDHAM:
 9 A. If I recall, she was fairly please with what
 10 we were doing, but we didn't maintain
 11 maintenance logs for the daily maintenance or
 12 the preventative maintenance. That's the main
 13 -
 14 CHAYTOR, Q.C.:
 15 Q. Was it the logs or that the maintenance wasn't
 16 happening?
 17 MS. PREDHAM:
 18 A. I can't recall now.
 19 CHAYTOR, Q.C.:
 20 Q. Okay. Perhaps we can bring up--Registrar,
 21 would you be able to bring up that report? I
 22 don't have the exhibit number, but if you
 23 search Carole's name, we should be able to get
 24 it.
 25 COFFEY, Q.C.:

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1 Q. Exhibit 552.
 2 CHAYTOR, Q.C.:
 3 Q. Oh, P-0552, thank you, Mr. Coffey. And she
 4 writes it to Mr. Gulliver, August 5, 2005 and
 5 she's performed a level one on both
 6 instruments and a full coverage and again this
 7 is what she's done; "checked the pH of the
 8 solutions within specifications; I asked
 9 questions to the different technicians using
 10 instruments they are properly training and
 11 able to troubleshoot if a problem occurs. I
 12 found out that the recommended maintenance
 13 procedures, monthly and quarterly, were never
 14 done on the instruments. We did it monthly
 15 and quarterly on one benchmark yesterday and
 16 they are doing the second one today. Monthly
 17 and quarterly maintenance will be put in
 18 place". So, she's indicating that it's not
 19 just that they weren't documented -
 20 MS. PREDHAM:
 21 A. They weren't done.
 22 CHAYTOR, Q.C.:
 23 Q. - it didn't happen. Okay. And did that cause
 24 you concern?
 25 MS. PREDHAM:

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1 A. Oh yes.
 2 CHAYTOR, Q.C.:
 3 Q. And from a risk management point of view, did
 4 that then cause you to wonder, is this
 5 happening in other parts of the laboratory or
 6 with other equipment in relation to IHC?
 7 MS. PREDHAM:
 8 A. I did have that concern. We did talk about
 9 that, I think, Dr. Cook and Mr. Gulliver and
 10 myself at some point in the fall, but I had
 11 had a lot of--not a lot of experience, but
 12 sporadic experience in a lot of different
 13 areas of the lab and I'd never come across and
 14 area that had no documentation before. All my
 15 experiences in the lab was extremely good
 16 documentation.
 17 THE COMMISSIONER:
 18 Q. Ms. Chaytor, wherever you can find a spot,
 19 we'll break for the day.
 20 CHAYTOR, Q.C.:
 21 Q. And in terms of this particular issue, did you
 22 pursue that then with Mr. Gulliver, the fact
 23 that the maintenance hadn't been carried out?
 24 MS. PREDHAM:
 25 A. Yes, and they were going to put the procedures

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1 in place and get that done.
 2 CHAYTOR, Q.C.:
 3 Q. And did you ask them how that could be? How
 4 it could be that this important piece of
 5 equipment was not having its regular
 6 maintenance performed?
 7 MS. PREDHAM:
 8 A. I don't think I asked him that at that time.
 9 CHAYTOR, Q.C.:
 10 Q. And Ms. Predham, it appears that in terms of a
 11 system itself and the technician's knowledge
 12 of the instrument, it seems to have been found
 13 to be okay by this representative from
 14 Ventana. Why then, after this, wasn't the
 15 retesting carried out on Ventana and why
 16 wasn't ER/PR continued to be performed on the
 17 Ventana machine?
 18 MS. PREDHAM:
 19 A. Well, I guess we were having two external
 20 people come in and review it and we would wait
 21 until they came rather than someone from the
 22 manufacturer.
 23 CHAYTOR, Q.C.:
 24 Q. So, was there concern that there were other
 25 issues, other quality assurance issues, some

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1 of which you had identified yourself that came
 2 into play and -
 3 MS. PREDHAM:
 4 A. Well, this was only looking at the machine.
 5 CHAYTOR, Q.C.:
 6 Q. Yes.
 7 MS. PREDHAM:
 8 A. So, I mean, it wasn't looking at the entire
 9 process. We had no documentation for what the
 10 entire process was. We already had agreed
 11 we'd have these two external reviews. So,
 12 there was no point in doing any--you know,
 13 this was good to know, but we also needed more
 14 work -
 15 CHAYTOR, Q.C.:
 16 Q. And without even the external reviewers
 17 stepping foot in St. John's you had identified
 18 a number of areas in which quality assurance
 19 was lacking and so had Dr. Cook and Dr.
 20 Carter?
 21 MS. PREDHAM:
 22 A. Yes.
 23 CHAYTOR, Q.C.:
 24 Q. Thank you, Commissioner.
 25 THE COMMISSIONER:

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1 Q. Registrar, I had one of those friendly little
 2 notes about an exhibit. Did we enter that
 3 exhibit?
 4 REGISTRAR:
 5 Q. No, we didn't.
 6 THE COMMISSIONER:
 7 Q. My note says that there should be an exhibit -
 8 CHAYTOR, Q.C.:
 9 Q. There is .
 10 THE COMMISSIONER:
 11 Q. - P-3463.
 12 CHAYTOR, Q.C.:
 13 Q. I apologize. Thank you. Please P-3463,
 14 please, if we could have that entered.
 15 THE COMMISSIONER:
 16 Q. All right, entered. 9:30 in the morning.
 17 Thank you.
 18 EXHIBIT ENTERED AND MARKED P-3463
 19 Upon conclusion at 4:58 p.m.

CERTIFICATE

1
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 17th 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 17th day of October, A.D., 2008
13 Judy Moss

Inquiry on Hormone Receptor Testing

<p align="center">-&-</p> <p>& [1] 322:21</p> <hr/> <p align="center">-?-</p> <p>'05 [3] 82:5 244:19,24 '96 [2] 284:4 300:17 '97 [2] 317:17 320:20 '98 [1] 341:20</p> <hr/> <p align="center">---</p> <p>-I [2] 65:1 78:4 -if [1] 131:24 -or [1] 97:4 -you're [1] 83:4</p> <hr/> <p align="center">-0-</p> <p>0/0 [1] 190:24 0510 [1] 57:21 0925 [2] 158:1 166:15</p> <hr/> <p align="center">-1-</p> <p>1 [3] 219:19 388:21 389:2 10 [19] 187:10,25 188:4,6 270:13 275:18,23 277:8 277:10,13 355:12 378:7 378:16 381:9 382:7,15 382:19 383:18,24 100 [6] 41:2 191:16,18 192:9,10 336:5 10:00 [1] 59:19 10:05 [1] 51:9 10th [1] 149:20 11 [7] 270:25 274:11 316:1 355:12,21 374:19 374:21 11th [1] 202:9 12 [3] 79:3 129:15 150:2 12:30 [1] 22:9 12th [5] 4:18,22 166:18 291:15 313:6 13 [2] 183:8 346:11 13th [1] 12:2 14 [1] 355:11 14th [6] 4:12,17,25 13:9 33:5 137:10 15 [5] 135:6 184:14 228:20 254:21,22 154 [1] 206:12 15th [10] 17:9 33:3,11 138:19,20 139:16 144:10 144:12 147:4 243:16 16 [6] 11:25 177:3 218:14 270:8 345:24 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