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| <p style="text-align: center;">COMMISSION OF INQUIRY ON HORMONE RECEPTOR TESTING</p> <p style="text-align: center;">BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER</p> <p style="text-align: center;">MAY 16, 2008</p> <p>Appearances:</p> <p>Bernard Coffey, Q.C. Commission Co-counsel Sandra Chaytor, Q.C. Commission Co-counsel</p> <p>Rolf Pritchard/Megan Collins Her Majesty in Right of NL</p> <p>Peter Browne Doctors Kara Laing et al</p> <p>Daniel Simmons/Sarah Learmonth . . . Eastern Regional Integrated Health Authority</p> <p>Pamela Taylor Members of the Breast Cancer Testing Class Action</p> <p>Mark Pike NL Medical Association Jennifer Newbury Canadian Cancer Society (NL Division) Stacey O’Dea. Central, Western and Labrador-Grenfell Regional Integrated Health Authorities</p> | <p style="text-align: center;">THIS PAGE ONLY REVISED ON NOVEMBER 18, 2008</p> <p style="text-align: center;">LIST OF EXHIBITS</p> <p>EXHIBIT P-0905 Pg. 298</p> <p>EXHIBIT P-0912 Pg. 298</p> <p>EXHIBIT P-0913 Pg. 298</p> <p>EXHIBIT P-0918 Pg. 298</p> <p>EXHIBIT P-1347 Pg. 298</p> <p>EXHIBIT P-1364 Pg. 298</p> <p>EXHIBITS P-1390 TO P-1395, INCLUSIVE Pg. 298</p> |
| <p style="text-align: center;">TABLE OF CONTENTS</p> <p>DR. ROBERT WILLIAMS - RESUMES THE STAND</p> <p>Examination by Bernard Coffey, Q.C. Pgs. 4 - Certificate</p> | <p style="text-align: right;">Page 4</p> <p>1 COMMISSIONER: 2 Q. Mr. Coffey. 3 COFFEY, Q.C.: 4 Q. Good morning, Commissioner. Good morning, Dr. 5 Williams. 6 DR. ROBERT WILLIAMS, EXAMINATION-IN-CHIEF BY BERNARD 7 COFFEY, Q.C. (CONTINUED) 8 COFFEY, Q.C.: 9 Q. Registrar, please, Exhibit P-0074. This is an 10 e-mail, it wasn’t sent to you, Doctor, but 11 there is a statement in it that Mr. Tilley, on 12 July 20th, made to the board chair, Joan Dawe. 13 DR. WILLIAMS: 14 A. Um-hm. 15 COFFEY, Q.C.: 16 Q. I’m just going to read it to you. He says, 17 "Bob Williams has been heavily involved and is 18 providing great leadership to the follow-up. 19 I will keep you posted." I just wanted to ask 20 you, at that time, July 20th, and in this case 21 the follow-up, I gather, is in the context of 22 the investigation that was ongoing? 23 DR. WILLIAMS: 24 A. Yes. 25 COFFEY, Q.C.:</p> |

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1 Q. On July 20th.
 2 DR. WILLIAMS:
 3 A. And the retesting.
 4 COFFEY, Q.C.:
 5 Q. Retesting?
 6 DR. WILLIAMS:
 7 A. Retesting.
 8 COFFEY, Q.C.:
 9 Q. Sure. So would you have agreed or understood
 10 at the time that you were the leader in that
 11 regard?
 12 DR. WILLIAMS:
 13 A. Yeah, I was the leader in terms of following
 14 up and getting the retesting done and working
 15 with, obviously, in the future with the
 16 patient contact follow-up. I wouldn't see my
 17 role as being leader for communications, this
 18 type of thing, no.
 19 COFFEY, Q.C.:
 20 Q. And you had made that distinction yesterday?
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Yes. And in that regard and would that have
 25 also included trying to figure out what had

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1 happened in the sense of if there had been a
 2 problem, what had caused it?
 3 DR. WILLIAMS:
 4 A. Yes, we were--you know what we did in that
 5 sense.
 6 COFFEY, Q.C.:
 7 Q. Sure. But you would have seen yourself as the
 8 leader -
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. - in that regard?
 13 DR. WILLIAMS:
 14 A. And working with the team.
 15 COFFEY, Q.C.:
 16 Q. If we could, Exhibit P-0928, please? And this
 17 is a pathology working group minutes, July
 18 20th, 2005. You're one of the attendees?
 19 DR. WILLIAMS:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. I take it that this is part of that continuing
 23 effort to improve the remuneration and working
 24 conditions for pathologists?
 25 DR. WILLIAMS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Okay.
 4 DR. WILLIAMS:
 5 A. By that time it was known or felt that this
 6 was going to be a major problem, it was
 7 becoming a problem.
 8 COFFEY, Q.C.:
 9 Q. Yeah. And as well, I take it, that it was a
 10 problem from the perspective of the
 11 pathologists were very dissatisfied?
 12 DR. WILLIAMS:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. With their conditions, their working
 16 conditions?
 17 DR. WILLIAMS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And there was envisaged, I'm going to suggest
 21 to you, at the time, you and other physicians
 22 involved understood at the time that those
 23 problems would likely lead to inadequate
 24 staffing levels in the future for
 25 pathologists?

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1 DR. WILLIAMS:
 2 A. Yes, but there was already some evidence that
 3 that was happening.
 4 COFFEY, Q.C.:
 5 Q. Sure, of that, it was already on and projected
 6 into the future?
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. And did you understand at the time, as well,
 11 the group of you involved in this, that you
 12 anticipated that there might be some
 13 reluctance on the part of the government to
 14 provide the money to improve the remuneration?
 15 DR. WILLIAMS:
 16 A. I think we felt that we had to make a strong
 17 case.
 18 COFFEY, Q.C.:
 19 Q. Okay.
 20 DR. WILLIAMS:
 21 A. And we were about making a strong case, so we
 22 wouldn't know if there was reluctance until we
 23 really made the case -
 24 COFFEY, Q.C.:
 25 Q. And we'll come to -

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1 DR. WILLIAMS:
 2 A. - and saw the response.
 3 COFFEY, Q.C.:
 4 Q. Okay. And so you're making, preparing the
 5 case at this point?
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. July of '05?
 10 DR. WILLIAMS:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. Right. If we could, please, Exhibit P-0075?
 14 Page 3, please? We looked at this yesterday,
 15 Doctor, but just one point on this. The
 16 bottom of the page, the last paragraph says,
 17 "Dr. Williams has also asked if we could
 18 repeat any of the negative tested specimens
 19 again on the 'old' DAKO system to confirm that
 20 it was indeed the system and not a lab error.
 21 Terry Gulliver, the laboratory director,
 22 laboratory program director, says it is
 23 unlikely we would be able to obtain such a
 24 system at this time to retest on that method."
 25 Would you tell the Commissioner, please, what

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1 that was about?
 2 DR. WILLIAMS:
 3 A. Well, what we were--what the suggestion was,
 4 let's get out or old equipment, the DAKO, and
 5 retest on that to see if there's any equipment
 6 problem here, but when we went back, the
 7 system was no longer in existence.
 8 COFFEY, Q.C.:
 9 Q. The actual -
 10 DR. WILLIAMS:
 11 A. We didn't have it, yes, the actual -
 12 COFFEY, Q.C.:
 13 Q. The DAKO machine was gone?
 14 DR. WILLIAMS:
 15 A. - piece of equipment was gone, yes. That was
 16 just a thought at the time.
 17 COFFEY, Q.C.:
 18 Q. From your perspective?
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. Now, you mentioned this yesterday, Doctor, to
 23 the Commissioner, that certainly at some point
 24 you understood that that DAKO system, the
 25 semi-automated DAKO?

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. And I'm not sure the term "semi-automated" is,
 5 in fact, necessarily accurate, but that's
 6 what's referred to as a semi-automated system.
 7 You understood at some point that that system,
 8 same system, was still being used in '05 and
 9 '06, in fact, as it turned out, across Canada?
 10 DR. WILLIAMS:
 11 A. Oh, yes, I mean -
 12 COFFEY, Q.C.:
 13 Q. And used successfully?
 14 DR. WILLIAMS:
 15 A. Yes, that's correct. We just wanted to make
 16 sure. At some time during our review Dr. Cook
 17 and maybe myself, too, had talked to Dr.
 18 O'Brien, who was the--Dr. Cook's counterpart
 19 in the St. John General Hospital.
 20 COFFEY, Q.C.:
 21 Q. Yes.
 22 DR. WILLIAMS:
 23 A. I knew her husband because he was my
 24 counterpart in St. John. And I don't have any
 25 notes of that, but there was some discussion

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1 with her and she had some concerns about the
 2 DAKO and some kind of an issue there. I don't
 3 know the details. Dr. Cook would know the
 4 details about that. So I don't know if that
 5 actually occurred around this time when Dr.
 6 Cook was making the phone calls and this might
 7 have stimulated that particular paragraph.
 8 But Dr. Cook would be able, he may--I would
 9 suspect he would have some notes on this
 10 discussion with Dr. O'Brien.
 11 COFFEY, Q.C.:
 12 Q. Sure, yeah.
 13 DR. WILLIAMS:
 14 A. I can remember it -
 15 COFFEY, Q.C.:
 16 Q. In fact, there are notes here, okay, I won't
 17 be referring you to them but there are notes
 18 on that conversation -
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. - that will be before the Commissioner. On
 23 this point, though, subsequent, I take it, to
 24 that, you understood--was it your
 25 understanding that that DAKO system that had

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1 been used, the same machinery that had been
 2 used between '97 and 2004 in St. John's was
 3 still being used and apparently satisfactorily
 4 elsewhere?
 5 DR. WILLIAMS:
 6 A. Oh, yes, I knew it was being used in Mount
 7 Sinai, for instance.
 8 COFFEY, Q.C.:
 9 Q. Okay.
 10 DR. WILLIAMS:
 11 A. I know some organizations were using Ventana,
 12 some DAKO. Some organizations had made the
 13 switch from the sort of, quote, semi-automated
 14 system to the more automated system and other
 15 organizations had not.
 16 COFFEY, Q.C.:
 17 Q. Yeah.
 18 DR. WILLIAMS:
 19 A. And that, I guess, if one looked at it now
 20 versus three years ago, I would suspect you
 21 would find that more had made the switch, but
 22 I may not--I'm not sure of that.
 23 COFFEY, Q.C.:
 24 Q. Okay. If we could, please, Exhibit P-0515?
 25 Page 2, please, of it, when it's up? This we

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1 just looked at briefly yesterday, the July
 2 21st, 10:30 a.m. meeting you had with Doctors
 3 Carter, Cook and Williams, yourself, of
 4 course, being there. The second bullet says
 5 you were advised at that time that the, by
 6 either Dr. Cook or Carter that the sentinel
 7 case they reviewed the old slides and the
 8 program would not always run a control. This
 9 is what these two pathologists were telling
 10 you.
 11 DR. WILLIAMS:
 12 A. Um-hm.
 13 COFFEY, Q.C.:
 14 Q. You then, if I could, please, bring up P-0516,
 15 page 2, please? And this is the typed version
 16 of your notes of the meeting at 3:30 p.m. on
 17 that day with Mr. Gulliver and Dr. Cook.
 18 There's no note here suggesting that you
 19 raised with Mr. Gulliver the issue concerning
 20 whether the program had always run controls,
 21 because the two pathologists were telling you
 22 that in the morning and now you're meeting
 23 with the chief--or the person who's
 24 responsible, the chief technologist in the
 25 sense of he's the program director that

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1 afternoon. Did you raise it with Mr. Gulliver
 2 at the time?
 3 DR. WILLIAMS:
 4 A. I'm not sure. It's not in the notes, so I
 5 can't, I can't be sure.
 6 COFFEY, Q.C.:
 7 Q. Would it be something that from your
 8 perspective would be important to ascertain?
 9 DR. WILLIAMS:
 10 A. Yes. And I'm sure there was discussion on
 11 that and I can't--I would have to look through
 12 my notes to see if there was any further
 13 discussion. I understood that at some point
 14 in time that maybe they didn't document it,
 15 but I was still told that they ran controls.
 16 COFFEY, Q.C.:
 17 Q. But they may not have documented it?
 18 DR. WILLIAMS:
 19 A. Yes, yes.
 20 COFFEY, Q.C.:
 21 Q. IE, they didn't record anywhere in writing
 22 that they were doing so?
 23 DR. WILLIAMS:
 24 A. Yes, yes.
 25 COFFEY, Q.C.:

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1 Q. And if we could, please, Exhibit P-0531? The
 2 quality of the original exhibit we received,
 3 the Commission received was poor and I
 4 apologize then for the quality of this. I
 5 gather this came from your office, though?
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. And at the top there I believe you've
 10 handwritten Dr. Cook and?
 11 DR. WILLIAMS:
 12 A. Dr. Laing.
 13 COFFEY, Q.C.:
 14 Q. Dr. Laing.
 15 DR. WILLIAMS:
 16 A. I sent a copy to them.
 17 COFFEY, Q.C.:
 18 Q. And this is 2002 by month ER and PR results?
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. And was this prepared at your request?
 23 DR. WILLIAMS:
 24 A. I would expect it was prepared at my request
 25 because there was some comment that, in late--

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1 there was no positive tests after June of
 2 2002. So I would have asked if that was the
 3 case. I expect that's why this document
 4 appeared.
 5 COFFEY, Q.C.:
 6 Q. And, in fact, as it turns out, when you look
 7 at it, June is to the top right-hand side and
 8 the role of, well, weak positive, three, and
 9 positive is six?
 10 DR. WILLIAMS:
 11 A. Um-hm.
 12 COFFEY, Q.C.:
 13 Q. Right? And then July, 2002 weak positive,
 14 two, positive, eight. August, weak positive,
 15 one, positive, four and so on. So there were
 16 positives and weak positives after -
 17 DR. WILLIAMS:
 18 A. Yes. I think on looking at that, from a
 19 statistical basis, there seemed to be a little
 20 difference in the final six months and the
 21 first six months, but not dramatic to the
 22 point that I was told earlier.
 23 COMMISSIONER:
 24 Q. I'm sorry, Dr. Williams, I think I didn't
 25 quite catch what it was that triggered this.

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1 You had been told that -
 2 DR. WILLIAMS:
 3 A. There was a comment made somewhere, as you see
 4 in some of my notes, somebody said after the
 5 middle of June there wasn't any positive
 6 tests, all the tests were negative.
 7 COMMISSIONER:
 8 Q. Yes.
 9 DR. WILLIAMS:
 10 A. And so I asked--I presume that's why I go this
 11 document outlining to me the number of
 12 positive tests by month.
 13 COMMISSIONER:
 14 Q. Yes.
 15 DR. WILLIAMS:
 16 A. For that particular year.
 17 COMMISSIONER:
 18 Q. Um-hm.
 19 DR. WILLIAMS:
 20 A. And it does not confirm that there were no
 21 positives.
 22 COMMISSIONER:
 23 Q. No positives, yes.
 24 DR. WILLIAMS:
 25 A. There, in fact, were positive tests. I think-

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1 -I checked the rates and I think there was a
 2 little difference, but I wouldn't know if
 3 that's statistically significant because I'd
 4 have to get--it's not a large number of cases.
 5 And there certainly were positive tests beyond
 6 the middle of June, so that didn't confirm
 7 that statement that somebody made.
 8 COFFEY, Q.C.:
 9 Q. It kind of put that statement or I'll use the
 10 word "rumour" or suggestion to rest?
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. If we could, please, Exhibit P-0522? Here,
 15 this is one of those kind of spreadsheets, as
 16 it were, that you received from Terry
 17 Gulliver, in the materials, they appear
 18 throughout the materials at various times.
 19 Doctor, this is all broken down by year, total
 20 number of tests, difference between out of
 21 town and the total Health Care Corporation of
 22 St. John's tests. It's broken down by
 23 positive, number of positive, percentage of
 24 positive, number of weak positive, percentage
 25 of weak positive, number of negative and

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1 percentage of negative?
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. And then total positivity in numbers, total
 6 percent positivity and total percent negative.
 7 And those last three groupings, I take it, are
 8 based upon the Health Care Corporation because
 9 you wouldn't know about the other regions'
 10 results?
 11 DR. WILLIAMS:
 12 A. That's correct.
 13 COFFEY, Q.C.:
 14 Q. At this point.
 15 DR. WILLIAMS:
 16 A. That's correct, that's only based on the total
 17 of Health Care Corporation's tests, that's
 18 correct.
 19 COFFEY, Q.C.:
 20 Q. So Commissioner is clear on this, why was it
 21 thought necessary to figure out the
 22 percentages at this point?
 23 DR. WILLIAMS:
 24 A. Just -
 25 COFFEY, Q.C.:

Page 21

1 Q. You're into a full blow retesting anyway?
 2 DR. WILLIAMS:
 3 A. Yes. But really, you want to see your
 4 percentages, compare them to other--to the
 5 data that was in the literature to see how
 6 much of a magnitude of a problem you might
 7 have and if it was--it seemed to be any
 8 particular time frames that it occurred in.
 9 COFFEY, Q.C.:
 10 Q. Okay.
 11 DR. WILLIAMS:
 12 A. But we already decided we'd retest, and the
 13 reason we decided we would retest, that we had
 14 some conversions from a number of different
 15 years other than 2002. So even though some of
 16 the data looks pretty good for certain years,
 17 once you had some conversions it would be hard
 18 for us not to retest, I think.
 19 COFFEY, Q.C.:
 20 Q. In fact, just looking at this one it's one
 21 thing, I suppose, to look at the total
 22 positivity percentage, of course, the converse
 23 of that is the total percentage of negative?
 24 DR. WILLIAMS:
 25 A. Um-hm.

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1 COFFEY, Q.C.:
 2 Q. And 2002 it was 32 percent negative?
 3 DR. WILLIAMS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. For the Health Care Corporation. But 2000 had
 7 been 38 percent?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. It was even higher?
 12 DR. WILLIAMS:
 13 A. Um-hm. Correct.
 14 COFFEY, Q.C.:
 15 Q. And again, coming across the page there, from
 16 1999, because I gather '97 and '98 weren't yet
 17 available, in '99 was 24 percent, 2000, 38
 18 percent, back down to 23 percent in 2001,
 19 2002, back up to 32 percent, and then in 2003,
 20 17 percent?
 21 DR. WILLIAMS:
 22 A. Um-hm.
 23 COFFEY, Q.C.:
 24 Q. Now, when you first saw that, the percentage
 25 of negative is almost halved from--almost

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1 dropped or cut in half from 2002 to 2003, at
 2 the time you saw this in the latter part of
 3 July, did you have any thoughts about what
 4 might have caused that drop off?
 5 DR. WILLIAMS:
 6 A. Only that percent of positive -
 7 COFFEY, Q.C.:
 8 Q. What, if anything, had happened in '03?
 9 DR. WILLIAMS:
 10 A. Well, in '03 there were some changes in the
 11 titration and the pHs and this type of thing.
 12 COFFEY, Q.C.:
 13 Q. That was, you understood by now that was Dr.
 14 Ejeckam's intervention?
 15 DR. WILLIAMS:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. In early '03?
 19 DR. WILLIAMS:
 20 A. It could have been his intervention, yes.
 21 COFFEY, Q.C.:
 22 Q. It could have been.
 23 DR. WILLIAMS:
 24 A. Then you look at in 2001, that looks pretty
 25 good, in 99, that looks pretty good, as well.

Page 24

1 There were some years that when we look at
 2 1999, 2001, they would be well within the
 3 parameters. 2000, 2002 looked like there was
 4 a problem.
 5 COFFEY, Q.C.:
 6 Q. And 2003, in fact, it's -
 7 DR. WILLIAMS:
 8 A. It looks pretty--within the parameters.
 9 COFFEY, Q.C.:
 10 Q. Yes. And you've already pointed out to the
 11 Commissioner yesterday that the 10 percent for
 12 '04/5 -
 13 DR. WILLIAMS:
 14 A. We had a look at that, it was really, it was
 15 17 percent, 18 percent, something in that
 16 range, yes.
 17 COFFEY, Q.C.:
 18 Q. As it turned out, the 17 to 18 percent
 19 negative, in fact, you know, when you finally
 20 had a chance to take out the, what I'll refer
 21 to as perhaps the skewing effect of using
 22 other non-breast cancer ER/PR results, you
 23 ended up back around the same 17 percent that
 24 you'd had in '03?
 25 DR. WILLIAMS:

Page 25

1 A. Yes. And the reason why those would skew it
 2 so much is because the numerator and
 3 denominator were the same.
 4 COFFEY, Q.C.:
 5 Q. The same, yeah. I appreciate that. So,
 6 Doctor, upon the proper calculation of the
 7 '04/5 number, using the, from your
 8 perspective, comparing apples with apples.
 9 DR. WILLIAMS:
 10 A. Um-hm.
 11 COFFEY, Q.C.:
 12 Q. Say. And you say that occurred in early '06,
 13 by the time that -
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. That actually got done. The percentage of
 18 negatives there, your recollection is is it
 19 was generally the same as it was for '03 here?
 20 DR. WILLIAMS:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. About 17 percent?
 24 DR. WILLIAMS:
 25 A. Um-hm.

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1 COFFEY, Q.C.:
 2 Q. And that would be then even after the Ventana
 3 came into effect?
 4 DR. WILLIAMS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. Once the Ventana--the proper figure for the
 8 Ventana year?
 9 DR. WILLIAMS:
 10 A. Would have been around 17 percent negatively.
 11 COFFEY, Q.C.:
 12 Q. Which was the same figure as for the last DAKO
 13 year?
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Which the last DAKO year being after Dr.
 18 Ejeckam intervened?
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. When you learned that in--when you realized
 23 that in early '06, did you have any thoughts
 24 on--or draw any conclusions from that?
 25 DR. WILLIAMS:

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1 A. Well, one conclusion you could draw is that in
 2 2002 and 2000, there were some issues there
 3 that were corrected in 2003, but the issues
 4 seemed to be--when you look at '99 and 2000,
 5 those figures seem to be already--you know,
 6 from year to year, you might expect the five
 7 or six percent difference.
 8 COFFEY, Q.C.:
 9 Q. Sure, okay.
 10 DR. WILLIAMS:
 11 A. That's why we were looking at sort of a
 12 temporal relationship. The other thing that
 13 we subsequently wanted to get, and we never
 14 did get it, was we were going to get--as I
 15 said earlier sometime, get a statistical--get
 16 a statistician to look at what happened year
 17 by year and conversion by conversion, month by
 18 month, to see if that would tell us anything.
 19 COFFEY, Q.C.:
 20 Q. If we could, please, Exhibit P-0524? Now
 21 these are handwritten notes, July 25 2005. Do
 22 you recognize the handwriting?
 23 DR. WILLIAMS:
 24 A. That would be--I'm pretty sure that's Dr.
 25 Cook's handwriting. I may be wrong, but it

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1 looks like his.
 2 COFFEY, Q.C.:
 3 Q. Now the Commission received these documents
 4 from, of course, counsel for Eastern Health,
 5 and in doing so, that header, "documents
 6 collected by the VP Medical and Diagnostic
 7 Services" was put on it. Would these--these
 8 sorts of notes, a copy of these have been in
 9 your office as well?
 10 DR. WILLIAMS:
 11 A. They should be. I had a binder that I put
 12 things in.
 13 COFFEY, Q.C.:
 14 Q. So in terms of that then, the idea that Dr.
 15 Cook might make a note, a handwritten note,
 16 and whether he was going--and passed that on
 17 to you?
 18 DR. WILLIAMS:
 19 A. Yes, at times he did. Other times he didn't,
 20 and I don't know if that was in my binder or
 21 not, at the time.
 22 COFFEY, Q.C.:
 23 Q. Well, this -
 24 MR. SIMMONS:
 25 Q. Commissioner, if I can help on that point.

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1 COFFEY, Q.C.:

2 Q. Yes, if you could.

3 MR. SIMMONS:

4 Q. The header there just indicates that that was

5 put on by us as counsel to identify the

6 material that came from two binders that we

7 were provided with, that we were told were

8 materials that had been collected by Dr.

9 Williams in his capacity as VP Medical and

10 subsequently continued in some respects, I

11 think, by Dr. Howell after he took over. So

12 that's what the header indicates.

13 THE COMMISSIONER:

14 Q. That's what I understood from what Mr. Coffey

15 was saying, thank you.

16 COFFEY, Q.C.:

17 Q. Yes, and I appreciate that confirmation, Mr.

18 Simmons. So in fact, what I was asking you

19 about, Doctor, really was just that point, is

20 that at times you kept binders or -

21 DR. WILLIAMS:

22 A. Yes, what I would -

23 COFFEY, Q.C.:

24 Q. - or files in your office?

25 DR. WILLIAMS:

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1 A. Early on, I had a big brown file, and as

2 things came in, I would chuck them in that

3 file. Later, it got so big that we set up a

4 binder because there was so much stuff in it,

5 especially all the literature articles.

6 COFFEY, Q.C.:

7 Q. And in terms of that, the idea that Dr. Cook

8 might send along a note, a handwritten note

9 like this, that would end up in the binder?

10 DR. WILLIAMS:

11 A. If I had it, yes. I would just--now some

12 things may have got misplaced.

13 COFFEY, Q.C.:

14 Q. Oh yes.

15 DR. WILLIAMS:

16 A. I can't be sure of that, but what we did is

17 just put it in there and eventually we made a

18 real binder like this.

19 COFFEY, Q.C.:

20 Q. Sure. Now this particular note, which

21 apparently was sourced to, after you left your

22 office, back into your office.

23 DR. WILLIAMS:

24 A. Yeah.

25 COFFEY, Q.C.:

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1 Q. It says "July 25, 2005. Spoke to Barry Dyer"

2 which would be Dr. Cook apparently spoke to

3 him?

4 DR. WILLIAMS:

5 A. Yes.

6 COFFEY, Q.C.:

7 Q. "Barry admits documentation is bad. Numerous

8 documents may have been destroyed during the

9 lab flood in November 2004. Also advised him

10 to order ASCP check path for immunoperoxidase

11 stains."

12 MR. BROWNE:

13 Q. I think that would be check list.

14 COFFEY, Q.C.:

15 Q. Check list.

16 MR. BROWNE:

17 Q. Possibility.

18 COFFEY, Q.C.:

19 Q. No, it looks like it's check path to me, but I

20 mean, I--do you, the idea of check list, check

21 path?

22 DR. WILLIAMS:

23 A. I would say that that's probably--that

24 association is similar to CAP, College of

25 American Pathologists.

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1 COFFEY, Q.C.:

2 Q. Yes.

3 DR. WILLIAMS:

4 A. And they have a proficiency testing program,

5 more towards the--it deals with--if it's the

6 same as College of American Pathologists, it

7 deals with the staining and also the

8 interpretation.

9 COFFEY, Q.C.:

10 Q. We'll hear from Dr. Cook ultimately, it's his

11 handwriting, as to what exactly that is, but,

12 and then there's "Ventana arrived December

13 '03. Operational April '04, three-four months

14 evaluation and training period. Tech were

15 sent for company training in Arizona during

16 this time." So I take it this was a report by

17 Dr. Cook as to the history of the Ventana?

18 DR. WILLIAMS:

19 A. Yeah, he was following up on probably some of

20 the issues that came up at our meeting.

21 COFFEY, Q.C.:

22 Q. But this reference to the documentation being

23 bad and some of it perhaps, or numerous

24 documents having been destroyed in a flood in

25 the lab, you would have been aware that there

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1 had been, I take it -

2 DR. WILLIAMS:

3 A. I was aware, you know, that there had been the

4 flood.

5 COFFEY, Q.C.:

6 Q. Sure.

7 DR. WILLIAMS:

8 A. I had forgotten it until I saw this, but yeah,

9 the whole upstairs, the whole ceiling came

10 down from a flood upstairs in the lab, and we

11 had to shut down sections of the lab, in

12 retrospect, for three or four days, maybe a

13 week, and some of our equipment was damaged by

14 the water. I think it occurred in the night,

15 at night, so -

16 COFFEY, Q.C.:

17 Q. Do you recall when -

18 DR. WILLIAMS:

19 A. - unfortunately nobody was in the lab at the

20 time, and so there was a significant amount of

21 damage. Now that's what I recollect. But if

22 you didn't show me this, I would--I had

23 forgotten it.

24 COFFEY, Q.C.:

25 Q. But the idea here, you're being notified, July

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1 25 or whenever this note arrived in your

2 office from Dr. Cook that Barry Dyer, who was

3 the site -

4 DR. WILLIAMS:

5 A. He was the manager, pathology manager.

6 COFFEY, Q.C.:

7 Q. Pathology manager for both -

8 DR. WILLIAMS:

9 A. For pathology within Health Care Corporation.

10 COFFEY, Q.C.:

11 Q. Health Care Corporation, period, which would

12 include St. Clare's and the General?

13 DR. WILLIAMS:

14 A. Yes.

15 COFFEY, Q.C.:

16 Q. "Admits documentation is bad," now what did

17 you understand from that at the time?

18 DR. WILLIAMS:

19 A. I would have understood, I guess, that the--

20 although people were saying that the controls

21 were run, I was always told that they were

22 run, in terms of Mr. Gulliver, that the

23 documentation was bad and they couldn't always

24 document that they were run. That's my--now

25 that's, I'm just trying to remember.

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1 COFFEY, Q.C.:

2 Q. Yes, okay. The idea that they now could not

3 go back and point to a piece of paper for a

4 particular day saying that -

5 DR. WILLIAMS:

6 A. Every situation, and then there was some

7 concern, I see that, that maybe the flood

8 destroyed some of the stuff too.

9 COFFEY, Q.C.:

10 Q. So it was kind of, perhaps, a dual reason why

11 there were no--there wasn't documentation.

12 DR. WILLIAMS:

13 A. I know we lost a lot of things in that flood,

14 now that you're bringing it back to memory,

15 papers and things like that.

16 THE COMMISSIONER:

17 Q. I think that's the question, Dr. Williams, is

18 this is--was this indicating to you that

19 documentation was bad because they'd had a

20 flood and the documentation was destroyed, or

21 documentation was bad because of it hadn't

22 properly been documented in the first place?

23 DR. WILLIAMS:

24 A. A combination of both, that would be my

25 understanding.

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1 THE COMMISSIONER:

2 Q. Okay, thank you.

3 COFFEY, Q.C.:

4 Q. Thank you.

5 DR. WILLIAMS:

6 A. But I can't even remember this document here.

7 COFFEY, Q.C.:

8 Q. Exhibit P-0930, please? This is a letter,

9 Pathology Working Services Group letterhead,

10 from yourself.

11 DR. WILLIAMS:

12 A. Yes.

13 COFFEY, Q.C.:

14 Q. To Dr. Jenkins.

15 DR. WILLIAMS:

16 A. Yes.

17 COFFEY, Q.C.:

18 Q. And so you're following up then on this

19 remuneration issue?

20 DR. WILLIAMS:

21 A. Yes.

22 COFFEY, Q.C.:

23 Q. For pathologists.

24 DR. WILLIAMS:

25 A. It was workload and remuneration and human

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1 resource issues, in terms of there was a very
 2 big concern that we're going to get into a
 3 real mess with the number of pathologists in
 4 our province, for a variety of reasons.
 5 COFFEY, Q.C.:
 6 Q. Exhibit P-0137 please? This is a series of e-
 7 mails between Mr. Abbott and Mr. Tilley of
 8 July 25, 2005, but the one at 3:38 p.m. from
 9 Mr. Abbott says "thanks for this. Also, I e-
 10 mailed Bob Williams earlier today to let him
 11 know that Rob Ritter would be in contact with
 12 him for a briefing." And the e-mail below
 13 from Mr. Tilley at 11:44 a.m. that morning to
 14 Mr. Abbott dealt with the ER/PR issue, when
 15 you look down through it.
 16 DR. WILLIAMS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. Did you receive an e-mail, do you recall, from
 20 -
 21 DR. WILLIAMS:
 22 A. I would expect I might have received that e-
 23 mail or I might have just got a call. I'm not
 24 sure. If it was in my binder, I would have
 25 got it.

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1 COFFEY, Q.C.:
 2 Q. Sir, did Mr. Ritter contact you about the
 3 ER/PR matter?
 4 DR. WILLIAMS:
 5 A. I had so many conversations with Mr. Ritter
 6 over a number of issues. I don't want to--I'm
 7 sure he did.
 8 COFFEY, Q.C.:
 9 Q. Okay.
 10 DR. WILLIAMS:
 11 A. But now I can't recollect the--because I had
 12 so many conversations with Mr. Ritter, and at
 13 the time, dealing with Mr. Ritter, we were
 14 also dealing with him on the pathology issue
 15 in general that's referenced in our minutes,
 16 because his organization was heavily involved
 17 in that Stephen Jerrett, who is director of
 18 economics, was on the committee and Mr. Brown
 19 was sort of the person who was doing the leg
 20 work for the committee.
 21 COFFEY, Q.C.:
 22 Q. So I appreciate you had a lot of contact with
 23 him for other reasons.
 24 DR. WILLIAMS:
 25 A. Yes.

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1 COFFEY, Q.C.:
 2 Q. But do you recall if you spoke to him about
 3 ER/PR, in July, late July or early August of
 4 '05?
 5 DR. WILLIAMS:
 6 A. I think we did, but the gist of the
 7 conversation -
 8 COFFEY, Q.C.:
 9 Q. The purpose of you doing so would be what?
 10 What would the purpose be of having the deputy
 11 minister of Health having you speak to Mr.
 12 Ritter about ER/PR, at least from your
 13 perspective?
 14 DR. WILLIAMS:
 15 A. The only thing I can think of is that as he
 16 was the representative for physicians in the
 17 province, he may want to know, in terms of
 18 this lab issue, what the role of the
 19 pathologists might be. That's the only thing
 20 I could figure out.
 21 COFFEY, Q.C.:
 22 Q. And the role in the sense of how they might
 23 have been involved?
 24 DR. WILLIAMS:
 25 A. Been involved in this, yes, I expect.

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1 COFFEY, Q.C.:
 2 Q. And were you contacted by anybody else in a
 3 similar vein? Mr. Ritter is there for the
 4 pathologists, as it were.
 5 DR. WILLIAMS:
 6 A. Um-hm.
 7 COFFEY, Q.C.:
 8 Q. How about for the technologists?
 9 DR. WILLIAMS:
 10 A. I don't recollect any contact by anybody on
 11 behalf of the technologists, no.
 12 COFFEY, Q.C.:
 13 Q. If we could, please, Exhibit P-0513? These
 14 are your handwritten notes, I gather, for a
 15 conference call, July 25, 2005 at 5 p.m. If
 16 we could go to page two please of the exhibit.
 17 This is a typed version of the notes. There's
 18 a long list of names, Dr. Cook, Mr. Gulliver,
 19 Mr. Dan Boone, Deborah Thomas, Susan Bonnell,
 20 Heather Predham, Dr. Kara Laing, Dr. Joy
 21 McCarthy, both by phone, Dr. Alan Kwan, Mr.
 22 Tilley, but his name is then crossed out, Dr.
 23 Paul Gardiner, and of course, yourself, and
 24 the bullets indicate "overview of our data,
 25 average 73 percent. Dr. Cook gave results of

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1 discussion with Dr. Walters in Montreal." The
 2 bullets there are "they will stain but send
 3 back here for interpretation. Halifax, no
 4 information on test of ER/PR. Sloan-
 5 Kettering, no information. Mayo Clinic, don't
 6 know their rates, no" and it says goal here,
 7 but if we look back -
 8 DR. WILLIAMS:
 9 A. Gold. It should be gold, yes.
 10 COFFEY, Q.C.:
 11 Q. Yes, your handwriting certainly suggests it's
 12 G-O-L-D "standard and worried re: this issue"
 13 and then "decision, share new information as
 14 soon as possible when it becomes available,
 15 and meet on a regular basis." Now sir, first
 16 of all, decision to share new information as
 17 soon as possible when it becomes available.
 18 Share it with whom?
 19 DR. WILLIAMS:
 20 A. With the group, I guess, in terms of the
 21 oncologists, pathologists, and everybody
 22 involved.
 23 COFFEY, Q.C.:
 24 Q. And the idea of meeting on a regular basis?
 25 DR. WILLIAMS:

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1 A. Well, I think we would need to meet because
 2 new information was coming available and we
 3 had this group involved in a decision making
 4 role, an advisory role, yes.
 5 COFFEY, Q.C.:
 6 Q. Now sir, was this list--well, there's a number
 7 of people here, listed here. Some of their
 8 names are the same ones we've seen in earlier
 9 meeting attendees.
 10 DR. WILLIAMS:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. Was there ever actually any structure put in
 14 place to kind of say, well, look, the
 15 following people, eight or ten or twelve
 16 people, are in the group, as it were? Was
 17 there any kind of -
 18 DR. WILLIAMS:
 19 A. It's hard to get -
 20 COFFEY, Q.C.:
 21 Q. - semi-formal -
 22 DR. WILLIAMS:
 23 A. In a sense, we've got our leadership in
 24 surgery, Dr. Kwan and Dr. Felix. We invited
 25 them to the meetings. Our leadership in

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1 oncology, Dr. Laing and Dr. McCarthy, were
 2 invited to the meetings. Now they couldn't
 3 always get there. Sometimes they had to
 4 participate by conference call, and I suspect
 5 they were on a conference call, because they
 6 do a lot of travelling outside.
 7 COFFEY, Q.C.:
 8 Q. So it's leadership of surgery, leadership of
 9 oncology.
 10 DR. WILLIAMS:
 11 A. Dr. Gardiner from the Cancer Clinic.
 12 COFFEY, Q.C.:
 13 Q. Cancer Clinic.
 14 DR. WILLIAMS:
 15 A. Some, you know, obviously the lab leadership
 16 team, Mr. Gulliver and Dr. Cook, and Dr.
 17 Carter on occasion, and somebody from
 18 communications, usually Ms. Bonnell would be
 19 invited and it would be up to her then who she
 20 can get somebody. We'd get Mr. Tilley in the
 21 loop. He would be invited. Heather Predham
 22 obviously.
 23 COFFEY, Q.C.:
 24 Q. And here at this point, and another meeting or
 25 two, Mr. Boone.

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1 DR. WILLIAMS:
 2 A. Yes, he was--he came sometimes.
 3 COFFEY, Q.C.:
 4 Q. At this point, what was Mr. Boone bringing to
 5 the table, as it were, here?
 6 DR. WILLIAMS:
 7 A. Well, I think Mr. Boone was there, maybe not
 8 bringing much to the table, but listening
 9 because he was representing our insurers and
 10 to see what the implications might be for
 11 them. So he wasn't, in my view, bringing a
 12 lot to the table, but he was more in a
 13 listening capacity.
 14 COFFEY, Q.C.:
 15 Q. Now the reference to "Sloan Kettering, no
 16 information," what was that?
 17 DR. WILLIAMS:
 18 A. I guess there was no new information that we'd
 19 gotten on that issue.
 20 COFFEY, Q.C.:
 21 Q. On that which we referred to yesterday.
 22 DR. WILLIAMS:
 23 A. So we never did get any information.
 24 COFFEY, Q.C.:
 25 Q. But I take it as of July 27th, you were still

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1 asking?
 2 DR. WILLIAMS:
 3 A. Yeah, I guess so.
 4 COFFEY, Q.C.:
 5 Q. And then the reference though here to the Mayo
 6 Clinic.
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. "Don't know their rates. No gold standard.
 11 Worried re: this issue."
 12 DR. WILLIAMS:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. Who was reporting on that?
 16 DR. WILLIAMS:
 17 A. Dr. Cook and there would be some extensive
 18 notes on this discussion with Dr. Dogan in the
 19 Mayo Clinic, and I think at the time, Dr. Cook
 20 was phoning him for two reasons, probably to
 21 find out some information and possibly to
 22 flush out the situation with respect to
 23 getting some tests done there. It was two
 24 reasons. That's my recollection, that Dr.
 25 Cook would be phoning Dr. Dogan, because we

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1 did have a history of sending tests to Mayo
 2 Clinic in the past, and you know, the way the
 3 American system operates, they seem to have--
 4 don't have the capacity problems Canadian
 5 systems have and if you're willing to pay, you
 6 can get the service done. That's my
 7 recollection--you know, that's my take on
 8 them.
 9 COFFEY, Q.C.:
 10 Q. And you understood that Dr. Cook had taken
 11 extensive notes -
 12 DR. WILLIAMS:
 13 A. And I saw his notes?
 14 COFFEY, Q.C.:
 15 Q. You saw his notes.
 16 DR. WILLIAMS:
 17 A. He shared the notes with me and we had a
 18 discussion about the notes.
 19 COFFEY, Q.C.:
 20 Q. Could you tell us, please, about that?
 21 DR. WILLIAMS:
 22 A. Well he talked to Dr. Dogan, whom my
 23 understanding is he had just come over a year
 24 or two earlier from the United Kingdom.
 25 COFFEY, Q.C.:

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1 Q. Uh-hm.
 2 DR. WILLIAMS:
 3 A. And Dr. Dogan said "you're ahead of us in
 4 terms of your analysis of what's going on", I
 5 think that's what the note says.
 6 COFFEY, Q.C.:
 7 Q. Yes.
 8 DR. WILLIAMS:
 9 A. Something to that effect. And that "I got a
 10 problem, I'm worried about the
 11 immunoperoxidase testing here at the Mayo
 12 Clinic" and more or less that I guess, Don,
 13 Dr. Cook would have shied off about sending
 14 down there after getting that kind of a
 15 message.
 16 COFFEY, Q.C.:
 17 Q. So you discussed this with Dr. Cook -
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. And saw--he gave you or showed you a copy of -
 22 DR. WILLIAMS:
 23 A. He made some handwritten notes and that's my
 24 understanding that the Mayo Clinic may have a
 25 problem, so we're not going to get any help

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1 there.
 2 COFFEY, Q.C.:
 3 Q. And that's the message you took from Dr. Cook
 4 in speaking to him about it?
 5 DR. WILLIAMS:
 6 A. That's the message I took, yes.
 7 COFFEY, Q.C.:
 8 Q. And Commissioner, of course, I will be
 9 pursuing that matter with Dr. Cook.
 10 COMMISSIONER:
 11 Q. Right.
 12 COFFEY, Q.C.:
 13 Q. But I got to ask you about it, Doctor, because
 14 again, as the person he was reporting to, to
 15 get some sense from where you understood
 16 things were yourself.
 17 DR. WILLIAMS:
 18 A. Yes, and I would have understood that if the
 19 Mayo Clinic has a problem with these tests, it
 20 may be a problematic test.
 21 COFFEY, Q.C.:
 22 Q. And Doctor, at the same time, because I gather
 23 around this time there was, you know, thought
 24 being given to--if a decision hadn't already
 25 been made, it was about to be made to utilize

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1 Mount Sinai -
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. - to do the retests. Were you comfortable
 6 with sending the material to Mount Sinai?
 7 DR. WILLIAMS:
 8 A. Yes, and for a number of reasons.
 9 COFFEY, Q.C.:
 10 Q. Okay. So -
 11 DR. WILLIAMS:
 12 A. Do you want me to enunciate them?
 13 COFFEY, Q.C.:
 14 Q. And I will in a second, but overall, I take it
 15 then that you, by the end of July, had the
 16 sense that the test could be done properly,
 17 accurately?
 18 DR. WILLIAMS:
 19 A. We read in the literature, yes.
 20 COFFEY, Q.C.:
 21 Q. But that attention had to be paid to certain
 22 aspects -
 23 DR. WILLIAMS:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. Of the whole process to try to ensure that it
 2 was done accurately.
 3 DR. WILLIAMS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. That was your understanding?
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. Okay, if you could please, because on the
 11 point of finally deciding to use Mount Sinai,
 12 whose decision was that? Was that yours or
 13 was that Dr. Cook's?
 14 DR. WILLIAMS:
 15 A. The decision to use Mount Sinai was based on a
 16 number of factors.
 17 COFFEY, Q.C.:
 18 Q. Was it yours or his, first of all?
 19 DR. WILLIAMS:
 20 A. Well he would have recommended it and I would
 21 have said, okay, based upon the information I
 22 had.
 23 COFFEY, Q.C.:
 24 Q. Okay, go ahead, tell the Commissioner?
 25 DR. WILLIAMS:

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1 A. Well there was a number of issues--factors,
 2 one Dr. Cook would have got a lot of
 3 information from Dr. Carter. Given Dr.
 4 Carter's role in the organization and past
 5 experience, she knew Dr. Francis O'Malley in
 6 Mount Sinai and knew their reputation in terms
 7 of this particular issue. And Mount Sinai was
 8 referenced in some of the literature that we
 9 read I think from the United Kingdom that they
 10 were a lab that had been found to be
 11 proficient. I think they were enrolled in the
 12 external quality program in the United Kingdom
 13 and were a lab that was proficient in this
 14 particular area. So based upon some things in
 15 the literature, but based upon the
 16 recommendation that Dr. Carter and, you know,
 17 her testation to Dr. O'Malley's and the lab's
 18 ability there, that's why Mount Sinai was
 19 chosen, I guess.
 20 COFFEY, Q.C.:
 21 Q. And if we could, please, exhibit P-0534. Now,
 22 sir, this is a memo on the Health Care
 23 Corporation of St. John's letterhead, which I
 24 gather was still being utilized and it was
 25 "waste not, want not", from Dr. Cook, July

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1 28th, 2005, re: HER2/neu, it's to all
 2 pathologists and lab directors and the listing
 3 there is the lab directors throughout
 4 Newfoundland and the pathologists in Eastern
 5 Health. Also to Mr. Gulliver, Mr. Dyer and
 6 yourself and it's about HER2/neu, the upper
 7 part of it, I'm not going to take you through
 8 that, but he ends with saying, "As a reminder
 9 when choosing blocks to send for both hormone
 10 receptor testing and HER2/neu testing, please
 11 select a section that contains both tumor and
 12 normal or benign epithelium. The normal
 13 and/or benign epithelium acts as an internal
 14 control for immunohistochemical staining. If
 15 you have any questions, please call Dr.
 16 Beverley Carter." What, if anything, did you
 17 understand that that final paragraph was
 18 directed at? Because it's a -
 19 DR. WILLIAMS:
 20 A. I understood -
 21 COFFEY, Q.C.:
 22 Q. Why was it necessary to send that as a
 23 reminder?
 24 DR. WILLIAMS:
 25 A. I wouldn't know of why, just that he's just

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1 stating it, I didn't discuss it with him.
 2 COFFEY, Q.C.:
 3 Q. That's what I'm asking.
 4 DR. WILLIAMS:
 5 A. At some stage in this series of events, I was
 6 down to the lab and had been talking, pretty
 7 sure it was Dr. Fontaine, Mr. Gulliver and Mr.
 8 Dyer and had actually gone to the microscope
 9 and looked at some slides and was told at that
 10 stage that you need--I'm pretty sure I was
 11 told at that stage that Dr. Fontaine is
 12 reviewing all the blocks to make sure the
 13 blocks had normal breast tissue, as well as
 14 tumor in them.
 15 COFFEY, Q.C.:
 16 Q. And that's the blocks being chosen to be sent
 17 to Mount Sinai for retesting.
 18 DR. WILLIAMS:
 19 A. Sent to Mount Sinai, yes. I don't know when I
 20 went down to the lab, it was probably in
 21 August, after this memo.
 22 COFFEY, Q.C.:
 23 Q. If we could, please, exhibit P-0076, yes, this
 24 is a memo again to all pathologists, pathology
 25 residents. This is only within Eastern

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1 Health. From Dr. Cook and Dr. Carter and
 2 July--again, the same date, July 28th, 2005,
 3 it's re: "Optimal Assessment and Reporting of
 4 Hormone Receptor Status and Infiltrating
 5 Carcinoma." And it begins, "When ordering and
 6 reporting ER/PR status and infiltrating
 7 carcinoma of the breast"--and there are
 8 actually nine specific directions given.
 9 DR. WILLIAMS:
 10 A. Yes, okay.
 11 COFFEY, Q.C.:
 12 Q. And the space for the signatures of Drs. Cook
 13 and Carter. Now, as a VP Medical, were you
 14 aware at the end of July, 2005 that this sort
 15 of a letter was being sent to all
 16 pathologists? Because in effect, I'm going to
 17 suggest to you, it's a letter instructing them
 18 as to how to do this?
 19 DR. WILLIAMS:
 20 A. Uh-hm.
 21 COFFEY, Q.C.:
 22 Q. Isn't it, that's the sort of letter -
 23 DR. WILLIAMS:
 24 A. Yes, that's correct and the residents and this
 25 type of thing, right.

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1 COFFEY, Q.C.:
 2 Q. Both the pathologists and the residents.
 3 DR. WILLIAMS:
 4 A. Uh-hm.
 5 COFFEY, Q.C.:
 6 Q. And that is how one should go about ordering
 7 and reporting ER/PR status on infiltrating
 8 carcinoma.
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Were you aware that this was being sent out?
 13 DR. WILLIAMS:
 14 A. I would probably have seen it, yes. Probably,
 15 I can't be sure.
 16 COFFEY, Q.C.:
 17 Q. And why was that thought necessary from your
 18 perspective or your understanding at the end
 19 of July?
 20 DR. WILLIAMS:
 21 A. Well I would have seen this as that we have a
 22 problem here and this was an attempt to make
 23 sure that any issues surrounding this problem
 24 that revolved around the pathologists and
 25 pathology residents, was restated to make sure

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1 that all these things were being followed.
 2 That's the way I would have looked at it.
 3 COFFEY, Q.C.:
 4 Q. Did Drs. Cook or Carter, you know, around that
 5 time period, the end of July, beginning of
 6 August, ever speak to you about any short
 7 comings that they were, by then, aware of
 8 concerning this?
 9 DR. WILLIAMS:
 10 A. Well one of the notes says that somebody
 11 mentioned that the interpretation may have
 12 been an issue, you saw in a previous--I think
 13 we covered it yesterday.
 14 COFFEY, Q.C.:
 15 Q. What about the choice of controls or the
 16 ensuring that there were controls--internal
 17 controls? This is a very detailed list, isn't
 18 it?
 19 DR. WILLIAMS:
 20 A. Yes, it covers everything. It says "when
 21 reporting, always check internal and external
 22 controls", it didn't say put internal and
 23 external controls there, it assumed that they
 24 had them and to make sure they checked them.
 25 COFFEY, Q.C.:

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1 Q. So your understanding of the necessity was
 2 because--did you understand at the time that
 3 Dr. Cook or Carter or both of them by this
 4 point in time were of the view that the
 5 matters addressed here, may have contributed
 6 to the problem?
 7 DR. WILLIAMS:
 8 A. I don't remember Dr. Cook or Dr. Carter coming
 9 in and sitting down with me. Maybe it passed
 10 over me, to say that look, some of the
 11 problems here is related to what Dr. Banerjee
 12 said in his report subsequently.
 13 COFFEY, Q.C.:
 14 Q. Which is subsequently, yes.
 15 DR. WILLIAMS:
 16 A. I don't recollect that, if they said it to me,
 17 it didn't register. I was looking at this in
 18 terms of make sure you do all of these, cover
 19 all of these bases because we've got a
 20 problem. But I think it's a question that
 21 obviously you'll be asking Dr. Carter and Dr.
 22 Cook, but I'm not saying that they didn't, I
 23 just don't remember them sitting down and us
 24 talking about it, but it may have happened.
 25 THE COMMISSIONER:

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1 Q. And just to make sure I'm perfectly clear on
 2 what you're saying, I think you are saying
 3 that you do not recall either Dr. Cook or Dr.
 4 Carter raising with you as a possible answer
 5 to the problem any one of the things that
 6 subsequently turned up in Dr. Banerjee's
 7 report?
 8 DR. WILLIAMS:
 9 A. The issue of sitting down with me and saying
 10 maybe the problems were related to not looking
 11 at the internal controls, I can't remember,
 12 Commissioner, if they said that to me.
 13 THE COMMISSIONER:
 14 Q. All right.
 15 DR. WILLIAMS:
 16 A. And it doesn't mean that they didn't; they may
 17 have, but I just can't recollect it and I
 18 don't want to try and say they didn't or they
 19 did, I don't remember them doing it.
 20 THE COMMISSIONER:
 21 Q. And in respect of this particular document,
 22 your interpretation of this document is a
 23 heads up to everybody that -
 24 DR. WILLIAMS:
 25 A. Here's a heads up to everybody, we've got a

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1 problem, make sure all the bases--here's all
 2 the things you need to do and that's my
 3 understanding of that. Now there was some
 4 reference yesterday about pathology
 5 interpretation may be an issue, so that may
 6 have been stated in keeping with the question
 7 you just asked me and I made a note if it, but
 8 I can't remember explicitly.
 9 COFFEY, Q.C.:
 10 Q. Now in terms of these eight items specified
 11 here or eight directions given, did your
 12 understanding that each of those aspects of
 13 ordering and reporting ER status, all were
 14 functions performed by pathologists? Have a
 15 look through it, are any of these directed at
 16 the technologists that you can see?
 17 DR. WILLIAMS:
 18 A. This is all to do with interpretation.
 19 COFFEY, Q.C.:
 20 Q. And you used the word "interpretation"?
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. So you used the word "interpretation" to
 25 include, for example, the choice of which

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1 block to use?
 2 DR. WILLIAMS:
 3 A. Yes, I think they're all important in
 4 interpreting a stain. That's what I
 5 subsequently found out through this whole
 6 process.
 7 COFFEY, Q.C.:
 8 Q. So the word "interpreting" is not, in your--
 9 when you use that word here, speaking to the
 10 Commissioner, you're not using it from the
 11 perspective of just looking through the scope
 12 and figuring out the percentage?
 13 DR. WILLIAMS:
 14 A. No, I'm looking at it in broad sense, you have
 15 to have other factors in place so you can
 16 interpret it properly, that would be my--I
 17 look at the interpretation as the role of the
 18 pathologist. I look at the--well, it's not
 19 the staining aspect of it, it's the
 20 interpretation of the stain and you need other
 21 things in play to be able to do that
 22 correctly, that's my understanding of
 23 interpretation. But I don't remember it
 24 hitting me in the fact about the negative
 25 controls and lack of interpretation thereof,

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1 hit me in the face until Dr. Banerjee put it
 2 in his report, that's what I'm trying to say.
 3 COFFEY, Q.C.:
 4 Q. Sure and I understand that, I appreciate the
 5 distinction.
 6 DR. WILLIAMS:
 7 A. Dr. Cook and Dr. Carter may well have told me
 8 that reference to the interpretation may have
 9 been an issue, that may have been it, but it
 10 didn't hit me smack in the face.
 11 COFFEY, Q.C.:
 12 Q. And, Doctor, if I could please, Registrar,
 13 exhibit P-0934, please? Doctor, this is a
 14 series of e-mails between Ms. Predham and Mr.
 15 Boone and yourself and Dr. Cook, Ms. Bonnell,
 16 Ms. Thomas. I'm just going to look at the
 17 bottom of it first, it's--she writes, Ms.
 18 Predham writes, "I discovered this website
 19 which is cited in an article, I will be
 20 circulating the articles today as well. This
 21 is an external quality assurance program, co-
 22 ordinated out of the U.K. As you can see, the
 23 page I have e-mailed, they have an external
 24 program and one of the countries participating
 25 is Canada. If you go to the external web

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1 link, it brings you to an immunocytochemistry
 2 website which has a journal attached. This
 3 journal summarizes the activity that the
 4 review group has done. I'm trying to get
 5 through using the number listed. I'll let you
 6 know what happens." And then, in fact she,
 7 having sent that internally, she then above at
 8 3:36 p.m. reports to the people involved,
 9 including yourself, that she had tried the
 10 phone number, "got a recording saying it was
 11 out of service, had problems getting an
 12 outside line in the first place, I have e-
 13 mailed them since then and asked them to
 14 contact me. It's late over there now and I'll
 15 let you know what I hear." Now is this the
 16 first reference to the UKNEQAS?
 17 DR. WILLIAMS:
 18 A. I would expect it was, but we--Ms. Predham I
 19 think has got a lot of articles from over
 20 there written by Dr. Rhodes especially, he
 21 seems to be the guru over there for that kind
 22 of thing. But I remember reading them, yes,
 23 subsequently.
 24 COFFEY, Q.C.:
 25 Q. Now why was it that Ms. Predham was out doing

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1 that kind of research, as opposed to a
 2 physician?
 3 DR. WILLIAMS:
 4 A. I think basically at this stage Dr. Cook and
 5 Dr. Carter were heavily focused on this and
 6 Heather was reviewing the literature and
 7 journals and getting some information for us.
 8 COFFEY, Q.C.
 9 Q. Did, at the time did it occur to you to
 10 perhaps have somebody at the medical school do
 11 an exhaustive search on it?
 12 DR. WILLIAMS:
 13 A. No it did not, Heather did get some good
 14 articles, a lot of good articles. Dr. Carter
 15 got some articles and gave some to me and we
 16 had a fair number of articles.
 17 COFFEY, Q.C.:
 18 Q. Oh, I appreciate.
 19 DR. WILLIAMS:
 20 A. There's only so much you can read, they
 21 covered the bases, I thought.
 22 COFFEY, Q.C.:
 23 Q. In terms of--was there any one person, kind
 24 of, deputized, as it was, to go and research
 25 the literature?

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1 DR. WILLIAMS:
 2 A. No, Heather was doing it. I thought she was
 3 doing a good job, so kept on that basis.
 4 COFFEY, Q.C.:
 5 Q. Do you know if she had any actual clinical
 6 background that would, you know, suit her to
 7 do that?
 8 DR. WILLIAMS:
 9 A. No, she's a nursing background and, you know,
 10 these days with the internet and that, you
 11 plug in a few key words, you can get a lot of
 12 information and did get a lot of information.
 13 COFFEY, Q.C.:
 14 Q. Yes. If we could, please, Exhibit P-0935,
 15 please. Doctor, this is from Janet Laidley,
 16 it's to yourself, Dr. Cook and Ms. Predham.
 17 It's the survey results of pathology
 18 departments re: ER/PR results.
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. And she says, "attached are surveys completed
 23 as of today, July 28, from hospital/labs from
 24 across Canada with our survey questions about
 25 PR/ER testing".

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. And she talks about who is an isn't available
 5 and follow up on it, to finish off the three
 6 she hadn't completed. This whole exhibit, P-
 7 0935 goes on for 23 pages.
 8 DR. WILLIAMS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. Whose idea was the survey?
 12 DR. WILLIAMS:
 13 A. I'm not sure, Mr. Coffey, probably arose from
 14 discussions that we had as a group, but I
 15 can't put the finger on any one person who
 16 would have suggested -
 17 COFFEY, Q.C.:
 18 Q. What was the purpose of the survey?
 19 DR. WILLIAMS:
 20 A. The purpose was to see what was going on in
 21 other centres across the country. And if they
 22 had any information on ER/PR and if they had
 23 any problems with ER/PR and what their rates
 24 of positivity were, if they were checking
 25 their rates. So, we wanted to find out if

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1 there were any problems being detected across
 2 the country and what was going on.
 3 COFFEY, Q.C.:
 4 Q. And why was that important, what might be
 5 going on elsewhere?
 6 DR. WILLIAMS:
 7 A. It might help us if there were problems in it
 8 that they detected a problem with their
 9 detection systems or their antigen retrieval
 10 systems or other things. It might be helpful
 11 to know that.
 12 COFFEY, Q.C.:
 13 Q. And if we could, please, Exhibit P-0535. This
 14 is another one of those letters from Drs.
 15 Carter and Cook, July 29, 2005 to Dr. Joy
 16 McCarthy reporting on the repeat estrogen
 17 receptor and progesterone receptor tests for
 18 those patients or some patients listed here
 19 initially identified as estrogen receptor
 20 negative and giving the results. Do you know
 21 if this letter was every actually sent?
 22 DR. WILLIAMS:
 23 A. I'm not sure.
 24 COFFEY, Q.C.:
 25 Q. Did you receive a copy of it, do you recall?

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1 DR. WILLIAMS:
 2 A. Am I copied on the bottom of it?
 3 COFFEY, Q.C.:
 4 Q. Actually the last page we have, no.
 5 DR. WILLIAMS:
 6 A. Well, I can't really answer that question with
 7 any -
 8 COFFEY, Q.C.:
 9 Q. Degree of certainty, I take it.
 10 DR. WILLIAMS:
 11 A. Yes, that's what I mean. I really can't.
 12 COFFEY, Q.C.:
 13 Q. Okay. But by the end of July, July 29, 2005,
 14 the determination, I take it, had been made
 15 that the repeats on the Ventana, locally, were
 16 not going to be reported.
 17 DR. WILLIAMS:
 18 A. Yeah, we were getting--yeah, the issue of
 19 Ventana was already raised as a problem. I
 20 have to look back at my notes, but there would
 21 be a note that we were sending out 25 of those
 22 cases, the second batch and the first batch to
 23 be retested even though the people who were
 24 identified in the first group of testing had
 25 already been, the process of notification was

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1 well advanced and people were told and
 2 treatment was changed based upon them. My
 3 recollection is the oncologists, and I can
 4 understand why -
 5 COFFEY, Q.C.:
 6 Q. Sure.
 7 DR. WILLIAMS:
 8 A. - based on the questions that were raised
 9 about the Ventana, still wanted that. And you
 10 look at, just looking at those figures there
 11 and you can see that a lot of the staining is
 12 very, very high with that Ventana system,
 13 which was something that was unusual, but it
 14 was later verified in the literature that
 15 that's some of the way the new systems are.
 16 There's not a--there's a bimodal curve.
 17 COFFEY, Q.C.:
 18 Q. Exhibit P-0536, please? Now, this is letter
 19 from yourself July 29th, 2005 to Dr. Cook.
 20 It's "RE: ER/PR receptors." You write "The
 21 following suggestions are made for Dr.
 22 Carter's and your best advice on how to
 23 proceed from here. (1) New testing results.
 24 Send out ER/PR for staining at the outside lab
 25 for the next few months. Process the same

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1 slides here. Have both sets of slides read by
 2 the same pathologist. Check comparability
 3 between stains and when we are satisfied
 4 revert to processing here. (2) Retesting.
 5 Have the negative results reviewed by
 6 pathology type and a consultation with an
 7 oncologist to see which cases should be
 8 restrained and reviewed." Second bullet,
 9 "These cases should follow the same procedure
 10 as outlined for No. 1 above. (3) Ask Ventana
 11 to send out one of their technical experts
 12 very soon to look at our staining technique.
 13 Yours sincerely." So your purpose in writing
 14 this was?
 15 DR. WILLIAMS:
 16 A. Really things seemed to be dragging a little
 17 bit. We needed to focus what were going to do
 18 and get on with it. There had been questions
 19 raised about Ventana and we needed--I put this
 20 out, I guess, as a straw person, sort of, to
 21 get some feedback and let's make some
 22 decisions and move on. Now, that's my
 23 recollection of why I sent it. I wanted to
 24 sort of focus us around this issue and let's
 25 get on with what we're going to do.

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1 COFFEY, Q.C.:
 2 Q. Yeah. So I take it that by that point, by
 3 July 29th, you were feeling, perhaps, that
 4 there was -
 5 DR. WILLIAMS:
 6 A. I was feeling -
 7 COFFEY, Q.C.:
 8 Q. - things not entirely focused?
 9 DR. WILLIAMS:
 10 A. Well, I was feeling that, not that we weren't
 11 focused on trying to do something, but that we
 12 needed to make a decision and get on with it.
 13 That's why I put it out.
 14 COFFEY, Q.C.:
 15 Q. Exhibit P-0938, please? Now, this is a letter
 16 of July 29th, 2005, there's just an extra zero
 17 in '05.
 18 DR. WILLIAMS:
 19 A. Um-hm.
 20 COFFEY, Q.C.:
 21 Q. To Dr. Ejeckam, Chairperson of the Surgical
 22 Pathology Review Committee. And this is a
 23 letter, I take it, in the third paragraph you
 24 say, "We had a chance to have a detailed
 25 discussion of the issue of having adequate

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1 medical information on surgical tissue
 2 specimens sent to pathology for review."
 3 DR. WILLIAMS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. "This was an issue that was raised by the
 7 surgical pathology review committee in
 8 September, 2003." And you go on to speak
 9 about it from there. And, in fact, here you
 10 open with, "It was a pleasure to meet with you
 11 and Dr. Cook on July 15th, 2004 to discuss the
 12 activities of the pathology" -
 13 DR. WILLIAMS:
 14 A. Yes, that's wrong.
 15 COFFEY, Q.C.:
 16 Q. That should be July, 2005?
 17 DR. WILLIAMS:
 18 A. 14th, 2005. July 14th, 2005.
 19 COFFEY, Q.C.:
 20 Q. 14th, 2005. So both dates are wrong, both the
 21 -
 22 DR. WILLIAMS:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Okay.

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1 DR. WILLIAMS:
 2 A. I should have took the four and put it by the
 3 five and the five and put it by the four.
 4 COFFEY, Q.C.:
 5 Q. Okay. So, Doctor, I gather that there had
 6 been an issue identified as far back as
 7 September, '03?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. And Dr. Ejeckam and his committee was pursuing
 12 it?
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Complaining, in effect, that the pathologists,
 17 pathology service was getting inadequate
 18 requisition forms in terms of their
 19 completeness?
 20 DR. WILLIAMS:
 21 A. Yes, and we had endeavoured to correct that.
 22 COFFEY, Q.C.:
 23 Q. Yes.
 24 DR. WILLIAMS:
 25 A. And I wanted to outline to him what had been

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1 done and where we were with that situation.
 2 COFFEY, Q.C.:
 3 Q. And still by the end of July, 2005 it still
 4 was not satisfactorily addressed?
 5 DR. WILLIAMS:
 6 A. But it was very close to be addressed. And I
 7 can say why it did get delayed, because we
 8 tried to use the carrot rather than the stick
 9 approach.
 10 COFFEY, Q.C.:
 11 Q. Okay. And perhaps you could, on that point,
 12 because this is perhaps it's ER/PR, but
 13 perhaps you could just briefly -
 14 COMMISSIONER:
 15 Q. Can I just perhaps clarify for me what the
 16 problem was here?
 17 DR. WILLIAMS:
 18 A. Oh.
 19 COMMISSIONER:
 20 Q. I'm not sure I understand what the problem was
 21 that gave rise to the discussion first.
 22 DR. WILLIAMS:
 23 A. Okay. The problem, I'll take you through that
 24 if you wish me to.
 25 COMMISSIONER:

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1 Q. Um-hm.
 2 DR. WILLIAMS:
 3 A. The problem is that when pathologists review,
 4 they're under the microscope, they're looking
 5 at a tissue specimen.
 6 COMMISSIONER:
 7 Q. Um-hm.
 8 DR. WILLIAMS:
 9 A. And the work of the pathologist is not black
 10 and while. There's some black and there's
 11 some white but there's a big, big grey area in
 12 between. It requires the pathologist to make
 13 an assessment and make a diagnosis, when
 14 things are not always as clear. For instance,
 15 I'll just take a sample. When you take out a
 16 mole on somebody, is that mole malignant, is
 17 it malignant melanoma or is it a benign mole?
 18 And sometimes it's very easy to see and
 19 sometimes it's very easy to see it's
 20 malignant, sometimes it's very easy to see
 21 that it's benign, but sometimes it's a very
 22 difficult decision to make. And a pathologist
 23 will often consult another pathologist.
 24 THE COMMISSIONER:
 25 Q. Um-hm.

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1 COFFEY, Q.C.:
 2 Q. Part of the assessment that the pathologist
 3 will have make the diagnosis for the
 4 pathologist is what's the clinical history
 5 related to--and I use the example of a mole
 6 because that's a simple thing to talk about.
 7 What did it look like in the gross specimen?
 8 Did it look like it was irregular borders,
 9 when you look at it in a gross specimen? Did
 10 it look like there was an area of irritation?
 11 Had it been growing rapidly in the previous
 12 three or four months and this kind of thing.
 13 Those kinds of things would be important in
 14 helping the pathologist make an adequate
 15 interpretation. We would expect a physician
 16 who's operating on that patient and sending
 17 the sample to send that kind of stuff in a
 18 history. So, it would help the pathologist do
 19 their job. That's as simple as I can explain
 20 it and that's the issue.
 21 THE COMMISSIONER:
 22 Q. So the issue was what was coming to the
 23 pathologist, not what the pathologist was
 24 sending to somebody else?
 25 DR. WILLIAMS:

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1 A. That's correct. It was the information that
 2 they were getting to help them do their job.
 3 Now, in some parts of our organization, for
 4 instance, the dermatologist, they were very
 5 diligent in giving good information. Some
 6 other people were tardy and just send down the
 7 sample without a lot of history or very little
 8 history. What was decided first? The issue
 9 was taken to the clinical chiefs and the
 10 medical advisory committee.
 11 COFFEY, Q.C.:
 12 Q. That was as far back as when?
 13 DR. WILLIAMS:
 14 A. Dr. Cook would have taken that in the fall of
 15 2003.
 16 COFFEY, Q.C.:
 17 Q. '03?
 18 DR. WILLIAMS:
 19 A. Yes. And it was decided when we went to
 20 clinical chiefs and that that we'd try the -
 21 COFFEY, Q.C.:
 22 Q. Carrot.
 23 DR. WILLIAMS:
 24 A. - carrot approach and send out something
 25 through the clinical chiefs to all their

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1 program areas and give it some months to deal
 2 with. That was done -
 3 COFFEY, Q.C.:
 4 Q. Asking them politely to -
 5 DR. WILLIAMS:
 6 A. Yes. That was done and there was some
 7 improvement noted initially, especially in the
 8 obstetrical/gynecological area. So that took
 9 some time. After a while it seemed like it
 10 fell off again.
 11 COFFEY, Q.C.:
 12 Q. They fell back into their old habits.
 13 DR. WILLIAMS:
 14 A. Yes, the old habits. And then Dr. Kwan, I
 15 think on behalf of the surgery program in 2004
 16 maybe, wrote something to all the surgeons
 17 saying, look, we got to smarten up here. That
 18 didn't seem to work as well. So, what we had
 19 drafted up was a new requisition for
 20 requesting laboratory tests. And we were
 21 going to put it in bold red letters so nobody
 22 would no understand because if you just write
 23 it down, it may not be processed if you don't
 24 have a good history. Somebody say, we didn't
 25 see it; they didn't note it. So, what we was,

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1 we were going to get a new form printed up
 2 with big red letters in bold and red that this
 3 will not be processed unless we get an
 4 adequate history on it. And somehow in that
 5 process, Barry Dyer was going to be involved
 6 in getting that form. There was some delays
 7 in getting the form out.
 8 COFFEY, Q.C.:
 9 Q. I'm sorry, who -
 10 DR. WILLIAMS:
 11 A. Some delays in getting the form done.
 12 COFFEY, Q.C.:
 13 Q. Who was going to do it?
 14 DR. WILLIAMS:
 15 A. Barry Dyer was, because really he was the
 16 manager of the laboratory and there's many
 17 notes, if you wanted to look, in our monthly
 18 meeting between Dr. Cook, Mr. Gulliver and
 19 myself, tracing this through and then the MAC
 20 and clinical chiefs. And there was something
 21 happened, there was--something happened, Mr.
 22 Dyer didn't get around to it as well. He got
 23 around--when he did do it, then the forms
 24 committee, there's a creature called the forms
 25 committee that they have to approve any new

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1 forms in the organization and that's, I think,
 2 where it was. And I remember having to phone
 3 the chair of the forms committee and say,
 4 look, really there's--I didn't think there was
 5 any role for them there. We were only putting
 6 a new thing on the same old form, but we
 7 wanted to highlight this so that nobody would
 8 misunderstand. Now, that was done and I
 9 understand that issue is pretty well resolved.
 10 And if it's not resolved, then the specimens
 11 are not processed until they do get a history.
 12 COFFEY, Q.C.:
 13 Q. Okay.
 14 DR. WILLIAMS:
 15 A. So, that would be an important issue to deal
 16 with.
 17 COFFEY, Q.C.:
 18 Q. So, where did the surgical pathology review
 19 committee come into this?
 20 DR. WILLIAMS:
 21 A. Well, that was a recommendation they made to
 22 Dr. Cook and myself. That was the one
 23 recommendation they made, that we do this,
 24 that this be done.
 25 COFFEY, Q.C.:

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1 Q. Okay. But this had pre-dated the surgical
 2 pathology review committee?
 3 DR. WILLIAMS:
 4 A. No, no, the recommendation came from them.
 5 COFFEY, Q.C.:
 6 Q. Oh, from them, going all the way to '03?
 7 DR. WILLIAMS:
 8 A. Yes. That was a recommendation they made.
 9 COFFEY, Q.C.:
 10 Q. Fair enough, in the fall of '03.
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And then Dr. Ejeckam, I take it, at times was,
 15 as the years went on, pursuing this on behalf
 16 of that committee?
 17 DR. WILLIAMS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. As were you?
 21 DR. WILLIAMS:
 22 A. Yes, I would expect that Dr. Cook would have
 23 kept Dr. Ejeckam in the loop of what he was
 24 doing as clinical chief to bring this to
 25 fruition which was what he should do and he

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1 did what he should do, bring it to the other
 2 clinical chiefs meetings, bring it up to the
 3 MAC as an issue and then work to resolve it.
 4 I mean, you got other positions who are
 5 leaders there, I mean, you expect them to help
 6 as well.
 7 COFFEY, Q.C.:
 8 Q. So, it took until when to get this settled?
 9 DR. WILLIAMS:
 10 A. It took until 2005 to get this settled.
 11 COFFEY, Q.C.:
 12 Q. And it was settled by way of, I take it,
 13 putting a warning in big bold print.
 14 DR. WILLIAMS:
 15 A. Yeah, we're not going to--
 16 COFFEY, Q.C.:
 17 Q. In red.
 18 DR. WILLIAMS:
 19 A. Yeah, we're not going to process, deal with--
 20 now, we had to process it to a certain extent,
 21 but it's not going to be interpreted until you
 22 get us some history.
 23 COFFEY, Q.C.:
 24 Q. Sure.
 25 DR. WILLIAMS:

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1 A. And so that everybody would know that that's
 2 the way it's going to be. And it's
 3 unfortunate that that's the way you got to do
 4 it, but that's the way we had to do it.
 5 COFFEY, Q.C.:
 6 Q. And these requisition forms and this warning,
 7 I take it or caveat warning, was directed at
 8 other doctors -
 9 DR. WILLIAMS:
 10 A. Yes, to other programs. Whoever wanted--
 11 whoever had requested a pathologist to
 12 interpret tissue specimen on their behalf
 13 would now have that and would be expected to
 14 conform to that.
 15 COFFEY, Q.C.:
 16 Q. If we could please, Exhibit P-0538. These are
 17 some handwritten notes. Do you recognize the
 18 handwriting?
 19 DR. WILLIAMS:
 20 A. That's Dr.--I'm starting to recognize Dr.
 21 Cook's notes.
 22 COFFEY, Q.C.:
 23 Q. And there's a reference to a meeting with
 24 pathologists, August 1, 2005 and there's a
 25 list of pathologists. I take it, it was your

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1 understanding, as this unfolded in the summer
 2 of '05 that Dr. Cook was the liaison with the
 3 pathologists?
 4 DR. WILLIAMS:
 5 A. Well, Dr. Cook was our clinical chief.
 6 COFFEY, Q.C.:
 7 Q. So, he was -
 8 DR. WILLIAMS:
 9 A. He would work with the site chiefs, one of
 10 which was himself, he still kept the site
 11 chief role at St. Clare's and we had a site
 12 chief at the General site. I think by that
 13 time it was Dr. Fontaine, rather than Dr.
 14 Parai, but I'd have to check and see when Dr.
 15 Parai stepped down and when Dr. Fontaine
 16 stepped up to the plate.
 17 COFFEY, Q.C.:
 18 Q. All right. And "things to do" he's got listed
 19 here, one of them is, the second last one, get
 20 Allan Gown, do you see that?
 21 DR. WILLIAMS:
 22 A. Yep.
 23 COFFEY, Q.C.:
 24 Q. What, from your perspective, who is Doctor
 25 Gown, first of all?

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1 DR. WILLIAMS:
 2 A. Allan Gown is a specialist, I suspect, is
 3 immunopathology. He is in Seattle and he's
 4 recognized as one of the world leaders in
 5 immunohistochemistry. That's my
 6 understanding. Dr. Cook was referencing him,
 7 now that I see it, in the summer of 2005.
 8 COFFEY, Q.C.:
 9 Q. Did you know that he was trying to -
 10 DR. WILLIAMS:
 11 A. Oh, I knew--now, that you're bringing it back
 12 to me, I knew he was trying to contact Dr.
 13 Gown, but my understanding, he didn't have
 14 much success.
 15 COFFEY, Q.C.:
 16 Q. What was the purpose, you understood -
 17 DR. WILLIAMS:
 18 A. Oh, we were looking now for somebody to come
 19 in and have a look at our lab.
 20 COFFEY, Q.C.:
 21 Q. Okay. So -
 22 DR. WILLIAMS:
 23 A. That's the purpose.
 24 COFFEY, Q.C.:
 25 Q. To perform the same function that Dr. Banerjee

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1 had -
 2 DR. WILLIAMS:
 3 A. Correct, correct. Dr. Gown subsequently did
 4 come in, as you know.
 5 COFFEY, Q.C.:
 6 Q. For the lawyers?
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. Okay.
 11 THE COMMISSIONER:
 12 Q. I'm taking it, initially within your
 13 organization, you thought of consulting this
 14 individual to do the same kind of thing that
 15 subsequently -
 16 DR. WILLIAMS:
 17 A. Dr. Banerjee did.
 18 THE COMMISSIONER:
 19 Q. - Dr. Banerjee did.
 20 DR. WILLIAMS:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. All right. Thank you.
 24 COFFEY, Q.C.:
 25 Q. And if we could, please, Exhibit P-0539, page

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1 three please. Now, this is your notes of a
 2 meeting of August 1, 2005. And if I could
 3 just go back to--so the Commissioner can get
 4 some sense of it, the way you wrote this.
 5 These are your notes, I take it?
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. Okay. August -
 10 DR. WILLIAMS:
 11 A. I didn't lay it out who was at the meeting,
 12 unfortunately.
 13 COFFEY, Q.C.:
 14 Q. Sure, but you attribute though here certain
 15 comments to certain people.
 16 DR. WILLIAMS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. So, when Dr. Cook--and there's a number of
 20 bullets, Dr. McCarthy, a number of bullets,
 21 Dr. Cook again and Dr. McCarthy, Dr. Carter.
 22 At this point you were attributing certain
 23 comments to certain people.
 24 DR. WILLIAMS:
 25 A. Yes.

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1 COFFEY, Q.C.:
 2 Q. Okay. Go then to page 3. The purpose--well,
 3 first of all, where was this meeting held and
 4 what was it's purpose?
 5 DR. WILLIAMS:
 6 A. I'm not sure, I would suspect it might held in
 7 my office, given the people that were there
 8 because Dr. McCarthy would be at the Health
 9 Sciences Centre site.
 10 COFFEY, Q.C.:
 11 Q. And do you recall what the purpose of it was?
 12 DR. WILLIAMS:
 13 A. I think, I would say, just to go over where we
 14 were with the oncologists and the
 15 pathologists.
 16 COFFEY, Q.C.:
 17 Q. Do you recall whether on August 1, 2005, how
 18 many meetings you attended that day?
 19 DR. WILLIAMS:
 20 A. If I -
 21 COFFEY, Q.C.:
 22 Q. In the sense of related ER/PR now. I'm not -
 23 DR. WILLIAMS:
 24 A. I would have no idea of that.
 25 COFFEY, Q.C.:

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1 Q. Okay. There is -
 2 DR. WILLIAMS:
 3 A. I went back and tried to get my appointment
 4 book and if I had it here you could look at it
 5 and see how many meetings I was at that day.
 6 COFFEY, Q.C.:
 7 Q. Not so much the number of meetings, it's how
 8 many related to ER/PR because -
 9 DR. WILLIAMS:
 10 A. I would not remember that, Mr. Coffey.
 11 COFFEY, Q.C.:
 12 Q. Because why I'm asking you is this, the
 13 Commissioner has heard evidence that there was
 14 a very large meeting, large scale meeting of
 15 August 1, '05. Mr. Tilley was there, a number
 16 of oncologists, a number of pathologists, Mr.
 17 Gulliver, a number of media, communications
 18 people.
 19 DR. WILLIAMS:
 20 A. I haven't got a note of -
 21 COFFEY, Q.C.:
 22 Q. No, I'm just asking you, do you recall if you
 23 attended a -
 24 DR. WILLIAMS:
 25 A. I remember a big meeting one day where there

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1 was a cast of thousands around the table, yes,
 2 in the--we probably had to have it in the
 3 board room of the General Hospital downstairs
 4 right around the corner from my office, it was
 5 such a big meeting that we--a lot of our
 6 meetings were held in there to be honest with
 7 you. And I can remember--but I thought I had
 8 a note on that meeting, but obviously I
 9 didn't.

10 COFFEY, Q.C.:

11 Q. And do you recall anything about the meeting
 12 itself? This is a meeting where there was -

13 THE COMMISSIONER:

14 Q. Are you talking about this meeting -

15 COFFEY, Q.C.:

16 Q. No, no, I'll go to the other one. The big -

17 DR. WILLIAMS:

18 A. You're talking about the -

19 COFFEY, Q.C.:

20 Q. The one -

21 DR. WILLIAMS:

22 A. - letter that--Dr. Carter subsequently wrote a
 23 letter about.

24 COFFEY, Q.C.:

25 Q. Yes, exactly.

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1 DR. WILLIAMS:

2 A. Yeah, I remember being at that meeting, trying
 3 to chair the meeting. I thought I took some
 4 notes, but obviously I didn't take notes.

5 COFFEY, Q.C.:

6 Q. I stand to be corrected. I don't think we've
 7 got -

8 MR. SIMMONS:

9 Q. These are the only notes we have -

10 COFFEY, Q.C.:

11 Q. Yeah, I understood that from Mr. Simmons.

12 DR. WILLIAMS:

13 A. Okay. And we were looking at the whole thing
 14 and trying to figure out, in fact, still
 15 trying to figure out what happened. And in
 16 the--I guess we were in the final stages of
 17 making a decision on what we were going to do
 18 about -

19 COFFEY, Q.C.:

20 Q. Move ahead.

21 DR. WILLIAMS:

22 A. Yes. And Mr. Tilley was there. And there was
 23 an issue between Dr. Carter and Mr. Gulliver.
 24 Mr. Gulliver--I can't remember the details.
 25 Mr. Gulliver would have made a statement such

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1 as, the whole problem here is that we got new
 2 technology and that's, you know, to be
 3 expected with new technology. We didn't have
 4 much of a problem. The problem was just a new
 5 technology issue. And Dr. Carter would have
 6 disagreed with that and--there was a little
 7 bit of -

8 COFFEY, Q.C.:

9 Q. Who did she attribute the cause of the problem
 10 to?

11 DR. WILLIAMS:

12 A. The attributed the problem that--well, we had
 13 new technology that other organizations had
 14 used the DAKO semi-automated system
 15 successfully. So, we did have a problem.
 16 That's basically it. Now, I can't remember
 17 the details. There was a--but that didn't
 18 last, that wasn't what the meeting was about
 19 and I didn't see that, among all the other
 20 things we had to discuss, as a major, major
 21 issue. There was a disagreement and you'll
 22 have to ask Dr. Carter, but I think she may
 23 have interpreted that Mr. Tilley might have
 24 sided with Mr. Gulliver a little bit. I'm not
 25 sure if that's the case because I was told

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1 that second hand by Dr. Cook, that was, that
 2 seemed to be an issue.

3 COFFEY, Q.C.:

4 Q. Well, -

5 DR. WILLIAMS:

6 A. And then she subsequently wrote a letter about
 7 that meeting. That's what I recollect about
 8 the meeting.

9 COFFEY, Q.C.:

10 Q. And that's certainly in her letter and the
 11 letter is P-0079. You were copied on that
 12 letter?

13 DR. WILLIAMS:

14 A. Correct.

15 COFFEY, Q.C.:

16 Q. So, it is apparent, I'm going to suggest to
 17 you, from that letter that she certainly
 18 viewed Mr. Tilley as siding with Mr. Gulliver.
 19 You can tell that from the letter.

20 DR. WILLIAMS:

21 A. I was told that by Dr. Cook.

22 COFFEY, Q.C.:

23 Q. Okay. You didn't interpret the letter that
 24 way yourself?

25 DR. WILLIAMS:

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1 A. Well, I'm not sure because we talked--as soon
 2 as I got the letter, I phoned Dr. Cook -
 3 COFFEY, Q.C.:
 4 Q. Okay.
 5 DR. WILLIAMS:
 6 A. - and talked to him about it with a view to
 7 asking Dr. Cook could I intercede and would
 8 that make a difference to having Dr. Carter
 9 carry on the role she had laid out.
 10 COFFEY, Q.C.:
 11 Q. Which is that very detailed review?
 12 DR. WILLIAMS:
 13 A. Yes, very detailed thing. And Dr. Cook told
 14 me, no, he's discussed it with her fully. She
 15 will not continue in that role, but she will
 16 continue to help me out. So, he told me not
 17 to--more or less got--me getting involved in
 18 it wouldn't help the situation. He had a good
 19 working relationship with Dr. Carter and he
 20 was relying on Dr. Carter heavily for advice
 21 and getting the organization and him through
 22 this. So, he advised me not to get involved;
 23 it wouldn't do any good. She was determined
 24 that she was not going to continue in that
 25 role, but she also told him that she would

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1 help and continue in working with us to deal
 2 with this issue. Now, that's my recollection
 3 of it, Mr. Coffey.
 4 COFFEY, Q.C.:
 5 Q. Do you recall if there were any other
 6 disagreements or differences of opinion during
 7 the meeting?
 8 DR. WILLIAMS:
 9 A. No, not meaning that there weren't, but I
 10 didn't recall it. I also would have phoned
 11 Mr. Tilley when I got the letter and I did
 12 phone Mr. Tilley because he was in the letter
 13 and asked him did he want to see the letter.
 14 I started to read it out to him and he didn't-
 15 -said he didn't want a copy, but he knew -
 16 COFFEY, Q.C.:
 17 Q. He did not -
 18 DR. WILLIAMS:
 19 A. But he knew that the issue was there and he
 20 knew the letter was there, yes. I remember
 21 discussing it with him.
 22 COFFEY, Q.C.:
 23 Q. And you asked him if he wanted a copy and he
 24 declined.
 25 DR. WILLIAMS:

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1 A. Yes, that's my--I may be wrong, but I know I
 2 would have phoned him. I didn't write it
 3 down, but I would have phoned him and made him
 4 aware of the letter and what was happening.
 5 COFFEY, Q.C.:
 6 Q. And at the time, did you have any
 7 understanding as to whether or not Mr. Tilley
 8 understood what Dr. Carter's role had been up
 9 to that point? The significance of her
 10 saying, I'm out of this.
 11 DR. WILLIAMS:
 12 A. I couldn't be sure to that, Mr. Coffey.
 13 COFFEY, Q.C.:
 14 Q. If we could just looking at P-0539 in
 15 particular. I'm not going to take through the
 16 details of it. I take it this is as best you
 17 could at the time, your notes as to who said
 18 what.
 19 DR. WILLIAMS:
 20 A. Correct, but they're notes. Now, I didn't
 21 send them out as minutes. Somebody might
 22 disagree with my notes.
 23 COFFEY, Q.C.:
 24 Q. I appreciate that, but the bottom, the
 25 consensus "test and reconfirm ten cases which

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1 tested positive. Develop -
 2 DR. WILLIAMS:
 3 A. That should be 16, I think.
 4 COFFEY, Q.C.:
 5 Q. 16, yes, and you were referring to 16 out of
 6 the 25.
 7 DR. WILLIAMS:
 8 A. Correct.
 9 COFFEY, Q.C.:
 10 Q. The original ones which you've told the
 11 Commissioner about it, and "develop a process
 12 to identify negative testing patients and
 13 retest as soon as possible. Oncologists to
 14 notify Dr. Carter of urgent cases."
 15 DR. WILLIAMS:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. I take it that would be to get them kind of
 19 done as consults?
 20 DR. WILLIAMS:
 21 A. Done quickly, get them out, yes, quickly.
 22 COFFEY, Q.C.:
 23 Q. Right away. "Develop a process to identify
 24 negative testing patients and retest as soon
 25 as possible," what was that?

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1 DR. WILLIAMS:
 2 A. That's just, I think, a statement that we were
 3 going to--we got the years now, we got them
 4 all laid out, and we got to get on with
 5 getting the blocks out and sent away.
 6 COFFEY, Q.C.:
 7 Q. The reference to--sorry, just a moment. This
 8 note, number 11, might this have been your
 9 notes of what was said by these individuals at
 10 that larger meeting?
 11 DR. WILLIAMS:
 12 A. You know, you may be right. You may be right.
 13 Unfortunately -
 14 COFFEY, Q.C.:
 15 Q. Otherwise it suggests that you had a meeting
 16 with -
 17 DR. WILLIAMS:
 18 A. Another meeting separate, yeah.
 19 COFFEY, Q.C.:
 20 Q. - and to cover the same ground.
 21 DR. WILLIAMS:
 22 A. Yes, you may right, and most of the meetings
 23 seemed to involve--yeah, you could be right
 24 there.
 25 COFFEY, Q.C.:

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1 Q. And here, Dr. Carter, comment attributed to
 2 her, "there's been known variability in the
 3 results over the years."
 4 DR. WILLIAMS:
 5 A. Yeah.
 6 COFFEY, Q.C.:
 7 Q. Do you recall what that was about?
 8 DR. WILLIAMS:
 9 A. She might have been just looking at the
 10 numbers we had at that time, year by year. I
 11 can't recall that, Mr. Coffey. I'm just
 12 attributing it to the fact that by that time,
 13 we would have had the breakdown year by year
 14 and that there was variability from year to
 15 year. I may be wrong.
 16 COFFEY, Q.C.:
 17 Q. Sure, in the fourth bullet, is "June-November
 18 2002, follow up that year and no positive
 19 reports."
 20 DR. WILLIAMS:
 21 A. That relates to--that comment came and that
 22 relates to the subsequent document that Mr.
 23 Gulliver gave me showing that, in fact, we did
 24 have positive cases beyond June of 2002.
 25 COFFEY, Q.C.:

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1 Q. So is it possible that this is where the
 2 source of that assertion was?
 3 DR. WILLIAMS:
 4 A. Yes, that came out of that meeting. Looks
 5 like I attributed it to Dr. Carter, but I may
 6 be wrong. Yeah, because some of the other
 7 bullets are not nothing to do with Dr. Carter,
 8 so they might not--I wouldn't want to
 9 attribute that to her.
 10 COFFEY, Q.C.:
 11 Q. Exhibit P-0542, please? This is a memo from
 12 Dr. Cook, August 2, 2005 to all pathologists.
 13 He says "resource person for
 14 immunohistochemistry" and he writes "Dr.
 15 Ejeckam is currently our resource person for
 16 immunohistochemistry. All inquiries regarding
 17 immunohistochemistry should be referred to Dr.
 18 Ejeckam. In the event Dr. Ejeckam is not
 19 available, all inquiries will be referred to
 20 the site chief, who is currently Dr. Dan
 21 Fontaine."
 22 DR. WILLIAMS:
 23 A. Um-hm.
 24 COFFEY, Q.C.:
 25 Q. Were you aware that this was being sent out?

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1 DR. WILLIAMS:
 2 A. I'm not sure. I may have been, and I would--I
 3 don't know if I was, but I know why it
 4 probably would have been sent out, to make
 5 sure that people know that Dr. Ejeckam is the
 6 man that the person is going to be dealing
 7 with and all the pathologists would have to go
 8 through him, and anybody else, he'd be -
 9 COFFEY, Q.C.:
 10 Q. In relation to IHC?
 11 DR. WILLIAMS:
 12 A. Yes. Because Heather Predham had identified
 13 earlier, I think, in some of the earlier
 14 things that there was some communications
 15 issues around the immunohistochemistry. So I
 16 expect that letter from Dr. Cook suggests that
 17 all the pathologists that--you know, Dr.
 18 Ejeckam, and there was a subsequent letter
 19 sent to Dr. Ejeckam again in the fall, after
 20 Dr. Banerjee's report came out.
 21 COFFEY, Q.C.:
 22 Q. And in relation to that, Heather Predham had
 23 identified what issue?
 24 DR. WILLIAMS:
 25 A. That there was--when she went down early on

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1 when we started--she was going to do the QA, I
 2 guess, but when it became a much bigger
 3 problem, we decided to get some outside people
 4 to come in, that there was some communication
 5 issues.
 6 COFFEY, Q.C.:
 7 Q. Between whom and whom?
 8 DR. WILLIAMS:
 9 A. Pathologists and techs and this type of thing.
 10 So this was an attempt to say -
 11 COFFEY, Q.C.:
 12 Q. What was the nature of the issue?
 13 DR. WILLIAMS:
 14 A. Well, I guess other pathologists might have
 15 been saying things to the techs and the techs
 16 needed to have one person they could go to and
 17 clarify situations and not have other people
 18 picking at them. So this was--now that I see
 19 the letter, I think this was making sure that
 20 this was clarified, and if any other
 21 pathologists, and Dr. Ejeckam wasn't there,
 22 had a problem, then they had to go to Dr.
 23 Fontaine. I think I'm right on that, but you
 24 need to--obviously you need to ask Dr. Cook.
 25 COFFEY, Q.C.:

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1 Q. If we could, please, Exhibit P-0541? These, I
 2 take it, are your handwritten notes of August
 3 2, 2005.
 4 DR. WILLIAMS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. You've noted here "key points. Mount Sinai to
 8 do all new cases. All reports to go to St.
 9 Clare's. We will do all the new cases. We
 10 will correlate our results with Mount Sinai to
 11 correlate technical capability and pathologist
 12 capability. Waiting for Ventana technical
 13 expert for Canada to phone back Mr. Terry
 14 Gulliver to arrange an early site visit.
 15 Heather Predham to do QI review process the
 16 a.m." It says processing, but your
 17 handwritten note says process. And then
 18 there's a summary of 2002, 2003 and 2004, at
 19 least certain information concerning them, and
 20 other information concerning the first
 21 retesting on the Ventana back in the summer.
 22 Now sir, I take it then by August 2, the
 23 decision, at least from your perspective, is
 24 made that Mount Sinai would do all further
 25 cases?

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. All new cases?
 5 DR. WILLIAMS:
 6 A. Yeah, therefore I would expect they would do
 7 all previous cases too, because if you're not
 8 going to do all future cases on your Ventana,
 9 you're not going to do the previous cases.
 10 COFFEY, Q.C.:
 11 Q. And with respect to what else was going on, P-
 12 0939, please? This is an e-mail, I take it
 13 it's copied to you. By August 3rd, you were
 14 aware that Dr. Banerjee was coming?
 15 DR. WILLIAMS:
 16 A. Yes, I would expect -
 17 COFFEY, Q.C.:
 18 Q. In September.
 19 DR. WILLIAMS:
 20 A. - Dr. Cook would have discussed with me Dr.
 21 Banerjee. I don't see any notes, but I knew
 22 Dr. Banerjee, what his role was and things
 23 like that, and I knew he was head of Cancer
 24 Pathology at the B.C. Cancer Institute.
 25 COFFEY, Q.C.:

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1 Q. Okay. If we could, please, Exhibit P-0544?
 2 Now these are notes sent to Don Cook and
 3 Heather Predham. It's a meeting with
 4 Kwan/Williams, and then there's a meeting of
 5 August 2, 2005 you had with Dr. Kwan?
 6 DR. WILLIAMS:
 7 A. Yes, Dr. Kwan, we talked about him yesterday.
 8 COFFEY, Q.C.:
 9 Q. Yes.
 10 DR. WILLIAMS:
 11 A. He's a senior surgeon in our organization.
 12 He's an oncologist, surgical oncologist. He
 13 was a former medical director of the
 14 Newfoundland Cancer Treatment and Research
 15 Foundation, in years gone by, and he was
 16 really the senior surgeon at the General
 17 Hospital site, had a special knowledge,
 18 interest and skill in surgical oncology. He
 19 was our co-clinical chief of the perioperative
 20 program in our organization, and I really
 21 valued his opinion as being a leader in the
 22 organization, but a leader with considerable
 23 experience and common sense. So I just asked
 24 him--he used to come to our meetings, and he
 25 would speak around the table, but I asked him

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1 what some of his thoughts might be.
 2 COFFEY, Q.C.:
 3 Q. I'm sorry, what--okay. Number six, in
 4 particular, "need to have outside review of
 5 the ER/PR receptor" I presume that should be -
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. - "testing. Need to look at whole
 10 immunohistochemistry system."
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. So his view was that -
 15 DR. WILLIAMS:
 16 A. Well, his view was when you're going to get
 17 that -
 18 COFFEY, Q.C.:
 19 Q. - it's not enough to look at ER -
 20 DR. WILLIAMS:
 21 A. - look at the system as well.
 22 COFFEY, Q.C.:
 23 Q. Okay.
 24 DR. WILLIAMS:
 25 A. And that's what we did, in terms of the terms

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1 of reference.
 2 COFFEY, Q.C.:
 3 Q. And number ten was "meet with oncologists."
 4 So I take it that up to that point in time, as
 5 a group, they had not been met with?
 6 DR. WILLIAMS:
 7 A. Not in our thing, but I think I would have
 8 left that to Dr. Laing and Dr. McCarthy to
 9 meet with the group, and I think they were--to
 10 be honest with you, I think they were keeping
 11 their group informed. That's my
 12 understanding.
 13 COFFEY, Q.C.:
 14 Q. If we could, Exhibit P-0545? These are your
 15 handwritten notes, I gather, of August 3rd,
 16 2005.
 17 DR. WILLIAMS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. And it's notes on PR/ER issues, and you had a
 21 meeting with Doctors Cook and--Dr. Cook and
 22 Ms. Predham, and "QI follow up and interviews
 23 were held with techs involved in the
 24 immunohistochemistry in the a.m. Heather
 25 Predham gave me a debriefing on the issue and

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1 the lack of communication between techs and
 2 pathologists."
 3 DR. WILLIAMS:
 4 A. So that's the issue we discussed.
 5 COFFEY, Q.C.:
 6 Q. Yes. Did you instruct anyone to address the
 7 issue?
 8 DR. WILLIAMS:
 9 A. I would expect that I would ask Dr. Cook to--
 10 Dr. Fontaine was already in the loop,
 11 according to Mrs. Predham, and he was the site
 12 chief. So I expect I might have said to Dr.
 13 Cook that that was an issue that needed to be
 14 addressed. Maybe that's why he wrote the
 15 memo. Now I forget when you said the memo was
 16 written.
 17 COFFEY, Q.C.:
 18 Q. It's around the same time.
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. Not the same day, but "meet with Dr. Cook
 23 afterwards and discussed issue and need for
 24 techs to have a pathologist who they can go to
 25 for advice and communication."

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. And it turned out it was Dr. Ejeckam.
 5 DR. WILLIAMS:
 6 A. Yeah, it sounds like that memo was to address
 7 the discussion we had, so all the pathologists
 8 would know that--and if Dr. Ejeckam wasn't
 9 there, and the techs would know that, you
 10 know, Dr. Ejeckam was the point person and in
 11 his absence, it would be Dr. Fontaine.
 12 COFFEY, Q.C.:
 13 Q. The second last bullet does refer to a follow
 14 up with Mr. Gulliver on broad and specific
 15 communications issues.
 16 DR. WILLIAMS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. If we could, please, Exhibit P-0547?
 20 DR. WILLIAMS:
 21 A. I think it also references, the last bullet is
 22 "Dr. Cook is waiting to hear back from Mount
 23 Sinai re: completing all negative ER and P
 24 testing." So that looks like the decision was
 25 made. He had contacted Mount Sinai and they

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1 were getting back to him.
 2 COFFEY, Q.C.:
 3 Q. Yes, in fact Exhibit 0543, please? I didn't
 4 refer you to this, Doctor, this is a letter of
 5 August 2, 2005 to Kenneth Pritzker, Dr.
 6 Pritzker, the lab director, pathologist in
 7 chief at Mount Sinai, from Dr. Cook.
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. He didn't copy it to you and that's why I
 12 didn't refer it to you, but he says "as
 13 discussed in our telephone conversation, I am
 14 currently putting a hold on the reporting of
 15 all estrogen and progesterone receptors from
 16 the Lab Medicine program at Eastern Health.
 17 For all urgent and newly diagnosed patients
 18 with breast cancer, I certainly appreciate
 19 your laboratory's assistance in performing
 20 immunohistochemistry staining along with
 21 interpretive results on these cases. I
 22 anticipate we may be dealing with anywhere
 23 from 30 to 40 cases per month, and we will
 24 correlate Mount Sinai's results with our own
 25 to further help us validate our Ventana

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1 automated system." So that was -
 2 DR. WILLIAMS:
 3 A. Yes, I probably--he would have sent me that,
 4 probably, or he would have talked to me before
 5 he did it, put it that way, because there was
 6 a financial issue there.
 7 COFFEY, Q.C.:
 8 Q. Now you mentioned money.
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. At any stage in this, once it became an issue,
 13 brought to your attention in May of '05, were
 14 you ever denied, by your administration, any
 15 financial resources to deal with this?
 16 DR. WILLIAMS:
 17 A. No, not that I can recollect. I just took it
 18 that we were going to deal with it, and would
 19 have told Dr. Cook to go ahead and tell them
 20 to bill us. I wasn't--we weren't going to get
 21 hung up on that, to be honest. I don't know
 22 if I even asked, in some situations.
 23 COFFEY, Q.C.:
 24 Q. Exhibit P-0940, please?
 25 THE COMMISSIONER:

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1 Q. What was that number? Did you deal with 0547?
 2 COFFEY, Q.C.:
 3 Q. Apologize, Commissioner. Oh yes, I apologize,
 4 Commissioner, yes, and there's just a point,
 5 if I could? Thank you, Commissioner, for
 6 reminding me of that. It involves UKNEQAS.
 7 I'm sorry, this is the Ontario Lab
 8 Accreditation on UKNEQAS.
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. This is an e-mail from Dr. Richardson, you
 13 referred to, I believe, yesterday.
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Sent Thursday, August 4th, to yourself and
 18 others. Subject is lab accreditation. He
 19 writes "Dear Dr. Williams: Thank you very
 20 much for your recent inquiry. Ontario
 21 Laboratory Accreditation, a division of the
 22 QMP-LS" is the short for it. "We would be
 23 very interested in working with you to develop
 24 and initiate a similar program in
 25 Newfoundland. As requested, information on

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1 the program is most readily available through
 2 the QMP-LS website," and gives you the URL and
 3 suggests you click on the accreditation
 4 button.
 5 DR. WILLIAMS:
 6 A. Yeah.
 7 COFFEY, Q.C.:
 8 Q. "If this does not include the information you
 9 would like to see, or if you have any
 10 difficulty assessing the site, please let us
 11 know by e-mail." And I take it that was
 12 pursued?
 13 DR. WILLIAMS:
 14 A. Yes, and in fact, I had a phone conversation
 15 with Dr. Richardson. I didn't contact him by
 16 e-mail. I phoned him on the phone. We had a
 17 long conversation about the history of their
 18 program, why they were doing it, how it was
 19 being done and I asked him did he think if
 20 Newfoundland and Labrador approached him that
 21 they might be able to help us enrol in that
 22 program, and he said, yeah, you know, in a
 23 general sense, they'd give consideration to
 24 it, and so I--he did e-mail me that stuff off
 25 the website and I sent it to Mr. Tilley. Now

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1 it may have been in follow up to what was
 2 already going on in terms of some meetings
 3 that were held in late 2004 on our former
 4 quality assurance committee at the Health Care
 5 Corporation of St. John's. I'm not sure.
 6 Because I know there was some discussion, I
 7 thought, at Mr. Tilley's level, with the
 8 deputy and other CEOs, about enrolling the
 9 Newfoundland labs in the Ontario program, and
 10 this was sort of conceived before the ER/PR
 11 became an issue.
 12 COFFEY, Q.C.:
 13 Q. But I take it it took on some urgency when
 14 ER/PR became an issue?
 15 DR. WILLIAMS:
 16 A. Well then, yes, and now Dr. Richardson told me
 17 he was stepping down, but I don't know if it
 18 was then or if it was--I contacted him again
 19 the following year, because I did--that was
 20 still ongoing.
 21 COFFEY, Q.C.:
 22 Q. I'm sorry?
 23 DR. WILLIAMS:
 24 A. Dr. Richardson was--in my conversation, one of
 25 my conversations with Dr. Richardson, he told

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1 me he'd be stepping down soon from that
 2 position.
 3 COFFEY, Q.C.:
 4 Q. Yes.
 5 DR. WILLIAMS:
 6 A. And Dr. Flynn would be replacing him.
 7 COFFEY, Q.C.:
 8 Q. So enrolment, did that ever occur, while you
 9 were still VP?
 10 DR. WILLIAMS:
 11 A. No, I followed up--I think we got--I think
 12 this ER/PR issue, we got tangled up in that
 13 heavily. It came back to me again before I
 14 left and I think I wrote Mr. Gulliver and
 15 asked him to take the necessary measures to
 16 enrol us in the program. There may be some
 17 letter in 2006 to that effect.
 18 COFFEY, Q.C.:
 19 Q. So having made the inquiry in late July, early
 20 August 2005, by the time you left in September
 21 of '06, the lab was still not enrolled in it?
 22 DR. WILLIAMS:
 23 A. Yes, but I had written Mr. Gulliver sometime
 24 during that summer to start the process of
 25 enrolling.

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1 COFFEY, Q.C.:
 2 Q. That would be the summer of?
 3 DR. WILLIAMS:
 4 A. '06.
 5 COFFEY, Q.C.:
 6 Q. '06.
 7 DR. WILLIAMS:
 8 A. And in December '06, I wrote Dr. Howell and
 9 just brought it up again. Now I thought there
 10 was some discussion at the--I really did feel
 11 that it was broached for the province at the
 12 forum that the new--the Regional Integrated
 13 CEOs had with the Department of Health, but I
 14 don't know if that's documented in any of
 15 their meetings.
 16 COFFEY, Q.C.:
 17 Q. And if it had been broached, it certainly
 18 hadn't been accomplished?
 19 DR. WILLIAMS:
 20 A. No, but I don't know, you know, I thought Mr.
 21 Tilley was going to bring it up at that forum.
 22 I don't know whether it was done or not.
 23 COFFEY, Q.C.:
 24 Q. Exhibit P-0940, please?
 25 THE COMMISSIONER:

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1 Q. When you find a convenient place, Mr. Coffey.
 2 COFFEY, Q.C.:
 3 Q. Thank you, Commissioner. This is an e-mail of
 4 August 4th '05 from Ms. Predham to Dr. Cook
 5 and yourself and she says "just want to let
 6 you know that I met the technical expert from
 7 Ventana this a.m. with Terry and Barry. We
 8 went over the issues and what we needed from
 9 her. Terry told me that we would meet with
 10 her tomorrow to hear her assessment of our
 11 system" and then there's a discussion about--
 12 you were advised about a discussion Mr.
 13 Gulliver had had with her and his views of the
 14 48 out of 51 that had converted on the
 15 Ventana.
 16 So you would have been aware that the
 17 Ventana expert was in St. John's, or technical
 18 expert?
 19 DR. WILLIAMS:
 20 A. I met with the Ventana expert.
 21 COFFEY, Q.C.:
 22 Q. Yes.
 23 DR. WILLIAMS:
 24 A. After her first day. I didn't meet with her
 25 on her second day. I think I had something

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1 else on, so that's why she met with me after
 2 her first day, and I have some notes, as you
 3 can see, on that meeting.
 4 COFFEY, Q.C.:
 5 Q. And yes, you do, and your notes do indicate
 6 that you're not certain whether it's the 4th
 7 or 5th, the meeting itself.
 8 DR. WILLIAMS:
 9 A. No. It would be the first day she was here.
 10 COFFEY, Q.C.:
 11 Q. Okay.
 12 DR. WILLIAMS:
 13 A. Because I didn't meet with her--I didn't do an
 14 exit interview. I had to do an interview
 15 after her first full day, because either she
 16 was going back the next day and I wasn't
 17 available to meet with her.
 18 COFFEY, Q.C.:
 19 Q. What did she tell you at the end of her first
 20 day?
 21 DR. WILLIAMS:
 22 A. Exactly, I expect, what was told--what I said
 23 in the notes. Basically that all the
 24 instruments, she had retested them by the end
 25 of the first day, all within specs, according

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1 to her. Everything working as it should.
 2 Number two, "ER/PR protocols same as in other
 3 labs across the country. Trying two different
 4 protocols using our control, just to"--she was
 5 doing a--I guess some what she ever does,
 6 "doing validation of instruments." So she was
 7 going to do that. "Results of one and two
 8 today. Went over with the techs the
 9 maintenance of instruments, done monthly and
 10 quarterly." So I guess she had the results of
 11 number one and number two, as I outlined
 12 above, that seemed to be all right. "Did one
 13 instrument yesterday and the second today."
 14 So I guess maybe I did meet her on the second
 15 day, by the sound of it. "Instruments were
 16 giving good results. Assessment of four
 17 staff. They are within the competencies of
 18 other techs throughout the country." That's
 19 what she says here. And "Knowledge and
 20 training adequate without any problems." Now,
 21 there's an illegible word there, I don't know
 22 what it is.
 23 COFFEY, Q.C.:
 24 Q. So, Doctor, I take it overall then the news
 25 from the Ventana front, as it were, was that,

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1 from her perspective, the machinery was
 2 working fine. It had to be--it was relatively
 3 new machinery. And she's pointing out that -
 4 DR. WILLIAMS:
 5 A. The impression I got from her is that the
 6 equipment, the only problem she had was we
 7 weren't doing preventative maintenance on the
 8 equipment.
 9 COFFEY, Q.C.:
 10 Q. Yes.
 11 DR. WILLIAMS:
 12 A. And she picked us up on that. And we presume
 13 we're doing it now. And the other benefit,
 14 she talked about the automated system and some
 15 of these proved to be true. Consistencies,
 16 reproducibility, remove a lot of human steps
 17 and possible human error is what she said.
 18 "In semi-automated system there are a lot of
 19 variabilities and problems that can be
 20 removed" and she talked about even the
 21 temperature and humidity can be a problem.
 22 "Stains are crisper and more intense." And
 23 that's what the literature is now saying. And
 24 "Antibody clone (phonetic) could be an issue
 25 for the PR" and I don't know what that issue

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1 was. "At the end of the line the pathologist
 2 has to make the call." That's the points.
 3 COFFEY, Q.C.:
 4 Q. So you came away from that and I take it she
 5 did confirm that in writing?
 6 DR. WILLIAMS:
 7 A. There was a report, yes, the report should be
 8 in the file. Report said basically the same
 9 thing.
 10 COFFEY, Q.C.:
 11 Q. On this, so you came away from that
 12 understanding what?
 13 DR. WILLIAMS:
 14 A. I came away from that understanding that our
 15 Ventana system should be pretty good.
 16 COFFEY, Q.C.:
 17 Q. If I could, just one other thing before we
 18 break, Exhibit P-0555. Now, sir, these are
 19 some notes and some handwriting on them. It
 20 says, "Meeting of pathologists on August 5,
 21 2005, 3 p.m." There's a listing of
 22 pathologists with various names, including the
 23 last one is Dr. Cook, D. Cook. And -
 24 DR. WILLIAMS:
 25 A. They're the pathologists at the general site,

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1 by the looks of it.
 2 COFFEY, Q.C.:
 3 Q. The General Hospital site. And you recognize
 4 the names. And this says, "This is a list of
 5 some concerns which have emerged during
 6 conversations about the current problem.
 7 Included are some of our suggestions about how
 8 to approach this. It is important that we
 9 work together and support each other as a
 10 department. Important features of the ongoing
 11 process should include, cooperation,
 12 transparency, communication, dissemination of
 13 information, as the process involves avoidance
 14 of finger pointing to other individuals or a
 15 group of individuals, input into the procedure
 16 and quality control and assurance initiatives
 17 surrounding it. We should ensure that no bias
 18 is introduced into the ongoing study. If the
 19 purpose is to compare methods, then the
 20 following are important features. Assume that
 21 the pathologists reported the original tests
 22 correctly, then only the report needs to be
 23 compared to the result of the current accepted
 24 method. Send an addendum if there is, in
 25 fact, a change in the result." And this

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1 portion of it is circled and asterisked and
 2 arrowed, "Persons conducting the study do no
 3 need to know which pathologist signed the
 4 report originally." And it goes on, "Anything
 5 else is an audit of individual pathologists
 6 and if that is the aim, this is not the proper
 7 procedure for an audit of pathologists'
 8 performance. We should not be working in a
 9 culture where pathologists feel they are being
 10 criticized for past performances. Avoid
 11 generalized statements such as 'pathologists
 12 don't know how to report the ER/PR,' 'a single
 13 pathologist has repeatedly reported the ER/PR
 14 incorrectly' and 'keeping statistics on
 15 individual pathologists'" And it goes on,
 16 "These statements, as well as loud discussions
 17 around the issue in corridors with high public
 18 traffic are threatening and demoralizing (we
 19 all assume that we are the pathologists being
 20 referred to, however anonymously). This issue
 21 concerns pathologists outside of the Health
 22 Care Corporation and they also need to be
 23 informed and reassured that the process is
 24 proceeding in a fair and productive manner."
 25 Now, if I recall correctly, we received this

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1 from, this document, the Commission received
 2 this from Dr. Cook, okay.
 3 DR. WILLIAMS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. Were you made aware, in early August of '05,
 7 of the kind of the sentiment reflected here?
 8 DR. WILLIAMS:
 9 A. No, I can't remember being that. I didn't see
 10 this.
 11 COFFEY, Q.C.:
 12 Q. Yes, I appreciate there's no suggestion you
 13 saw -
 14 DR. WILLIAMS:
 15 A. No.
 16 COFFEY, Q.C.:
 17 Q. You didn't see the document?
 18 DR. WILLIAMS:
 19 A. No.
 20 COFFEY, Q.C.:
 21 Q. And but the sentiments and the thoughts
 22 expressed in it, if this had been brought to
 23 your attention, do you think you'd remember
 24 it?
 25 DR. WILLIAMS:

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1 A. I think I would, but I don't remember it.
 2 COFFEY, Q.C.:
 3 Q. As the VP Medical responsible for medical
 4 services in the institution or for Eastern
 5 Health, from your perspective, would it have
 6 been useful to know that this was apparently
 7 the sentiment in the beginning of August of
 8 '05?
 9 DR. WILLIAMS:
 10 A. I would expect if Dr. Cook felt there was any
 11 value in it, he would have brought it to my
 12 attention. Now, I know from my involvement in
 13 peer reviews before that you would expect a
 14 sentiment similar to this. When you're having
 15 a peer review done, people get nervous and
 16 probably a bit defensive. That's -
 17 COFFEY, Q.C.:
 18 Q. In this, certainly, reading this now, this
 19 suggests to you at least the pathologists, if
 20 it was their view, that this would be a peer
 21 review, amount to a peer review?
 22 DR. WILLIAMS:
 23 A. Well -
 24 COFFEY, Q.C.:
 25 Q. Or could amount to a peer review?

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1 DR. WILLIAMS:
 2 A. Yeah, we were doing--we were calling it a
 3 quality--I think peer, peer to me interprets
 4 more one on one and quality means a little bit
 5 more than one on one, to me. They both mean
 6 the same in that you're looking--you're
 7 reviewing something from a quality
 8 perspective. So you could use peer in its
 9 broader sense, I guess, in terms of the lab.
 10 But anyway, it's a quality review, peer
 11 review, sometimes--they mean the same to me,
 12 but in a different sense.
 13 COFFEY, Q.C.:
 14 Q. And there's a reference here to "If that is
 15 the aim, this is not the proper procedure for
 16 an audit of pathologists' performance."
 17 DR. WILLIAMS:
 18 A. Yeah, we weren't doing an audit of
 19 pathologists' performance individually.
 20 COFFEY, Q.C.:
 21 Q. But they are referring to here there was a
 22 process, a formal process that existed, wasn't
 23 there, for peer review?
 24 DR. WILLIAMS:
 25 A. Peer review of individual -

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1 COFFEY, Q.C.:
 2 Q. Of a physician?
 3 DR. WILLIAMS:
 4 A. - pathologist, yes, we did have a peer review.
 5 COFFEY, Q.C.:
 6 Q. And in relation to that, was there ever any
 7 peer review within the formal mechanism of the
 8 MAC rules or bylaws?
 9 DR. WILLIAMS:
 10 A. Would they ever do a peer review?
 11 COFFEY, Q.C.:
 12 Q. In relation to ER/PR?
 13 DR. WILLIAMS:
 14 A. No, we didn't do a peer review of individual
 15 people.
 16 COFFEY, Q.C.:
 17 Q. Did you ever do a peer review of the group?
 18 DR. WILLIAMS:
 19 A. We did a quality review of the group, so that
 20 looked at the group of pathologists as a
 21 whole, that's what was done here, but not by
 22 name or not by individual. And a lot of the
 23 people who actually would have been reviewed
 24 were probably not in the organization any
 25 more. But they weren't interviewed as an

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1 individual, but the quality review would have
 2 reviewed things as a group, that would be my
 3 view.
 4 COFFEY, Q.C.:
 5 Q. Thank you, Commissioner, thank you.
 6 COMMISSIONER:
 7 Q. Take 15 minutes.
 8 (RECESS)
 9 COMMISSIONER:
 10 Q. Please be seated. Mr. Coffey.
 11 COFFEY, Q.C.:
 12 Q. Thank you, Commissioner. P-0081, please?
 13 Doctor, this is a note from, dated August 8th,
 14 2005 to yourself and Dr. Cook. It's from Dr.
 15 Beverley Carter. And she says, "The following
 16 are to the best of my current knowledge. The
 17 figures I have compiled with respect to
 18 estrogen receptor and progesterone receptor
 19 testing for cases seen at the Health Care
 20 Corporation of St. John's in 2002." And she
 21 says, "Number of patients identified as ER
 22 negative using a ten percent cutoff point or
 23 other surrogate markers such as male gender
 24 and are favourable histologic subtype with a
 25 low positivity, 87." That's the number of

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1 patients. It's "(Based on reading selected
 2 pathology reports given to me by Barry Dyer."
 3 She says, "Number of patients undergoing ER
 4 testing at the Health Care Corporation of St.
 5 John's, 189, based on figure given by Terry
 6 Gulliver re in town cases. Please see his
 7 memo." And she then has a figure, "87/ 89
 8 equals a 46 percent negative rate." And she
 9 writes, "Of the 87 cases 18 have not been
 10 retested. Of the 69 retested, 43 have
 11 converted (read by Dr. Carter and Dr. Cook)
 12 using the Ventana machine, that's 43/69 equals
 13 62 percent conversion rate. Assuming a 62
 14 percent conversion rate of all 87 negatives,
 15 54 positives and 23 true negatives, 33/ 189
 16 equals 17.5 percent true negative rate using
 17 the Ventana." And she concludes, "From these
 18 very preliminary and very raw numbers, I
 19 believe that the idea that the DAKO system,
 20 both its performance and interpretation
 21 greatly underestimated the number of women who
 22 would benefit from hormonal manipulation of
 23 their breast cancer and should be
 24 investigated. From these numbers it would
 25 also appear that the Ventana system is over

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1 estimating the number of patients who are ER
 2 positive. Couple this finding with the recent
 3 60 percent disagreement with Mount Sinai
 4 Hospital on crude progesterone status,
 5 positive versus negative and not percentile
 6 staining and it appears that we have another
 7 system that needs investigating." She signed
 8 her name. Now, Doctor, did you request this
 9 report?
 10 DR. WILLIAMS:
 11 A. No, I don't remember requesting this, Mr.
 12 Coffey. I did see it. What's the date on it?
 13 COFFEY, Q.C.:
 14 Q. It's August 8th, 2005. It's right at the top
 15 there of the page.
 16 DR. WILLIAMS:
 17 A. Okay.
 18 COFFEY, Q.C.:
 19 Q. When you received it, I take it you would have
 20 reviewed it?
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Now, if you have a 17.5 percent true negative
 25 rate using the Ventana, she asserts there,

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1 then, for 2002, that would mean you would have
 2 a positivity rate of 82 and a half percent?
 3 DR. WILLIAMS:
 4 A. Um-hm.
 5 COFFEY, Q.C.:
 6 Q. 2002. After the Ventana conversions for '02
 7 were added back onto the original DAKO
 8 positives?
 9 DR. WILLIAMS:
 10 A. Yeah.
 11 COFFEY, Q.C.:
 12 Q. Now, your understanding of her overall message
 13 here was what?
 14 DR. WILLIAMS:
 15 A. My understanding that we had a problem with
 16 the DAKO system but that the Ventana system
 17 may be over reading. That was my
 18 interpretation of it at the time. And this
 19 was the basis for, I guess, not going forward
 20 using the Ventana System and shutting it down
 21 at the time.
 22 COFFEY, Q.C.:
 23 Q. Now, we've looked at, before the break, some
 24 material earlier. Is this the actual deciding
 25 factor in that or was it already actual, the

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1 decision already made?
 2 DR. WILLIAMS:
 3 A. I think there was some information or maybe
 4 that had come out and this was just, I guess,
 5 additional information. But it looks like we
 6 decided that we were going to shut the Ventana
 7 system down, anyway. Now, Dr. Cook may have
 8 known it, and Dr. Carter, that this
 9 information was there and it's just -
 10 COFFEY, Q.C.:
 11 Q. This if formally recording it?
 12 DR. WILLIAMS:
 13 A. Yeah. August the 8th it says on that.
 14 COFFEY, Q.C.:
 15 Q. Yes.
 16 DR. WILLIAMS:
 17 A. It sounds like it might have been typed up
 18 before that date. And that kind of
 19 information went into the decision making.
 20 Even though the Ventana rep came down in early
 21 August and, you know, chief technical person
 22 for Canada tells us that it looks like it's
 23 pretty good, this is such a complicated system
 24 and when you have a pathologist who has this
 25 kind of experience telling you this kind of

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1 information, then that's why we didn't proceed
 2 with continuing with the Ventana. That's my
 3 take on it.
 4 COFFEY, Q.C.:
 5 Q. On that point, I just want to be clear on
 6 this, as of August 8th was it your
 7 understanding that the Ventana machine was not
 8 being, going to, like, on August 9th, 10th,
 9 11th and 12th was not going to be used at all?
 10 DR. WILLIAMS:
 11 A. It was not going to be used for ER and PR,
 12 that's my understanding.
 13 COFFEY, Q.C.:
 14 Q. Okay, yeah, I wanted to clarify that. It was
 15 to be -
 16 DR. WILLIAMS:
 17 A. That's what I think -
 18 DR. WILLIAMS:
 19 A. Oh, yes.
 20 DR. WILLIAMS:
 21 A. - I understood, yeah.
 22 COFFEY, Q.C.:
 23 Q. Okay, it's not going to be used for estrogen
 24 receptor staining and progesterone receptor
 25 staining.

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1 DR. WILLIAMS:
 2 A. Um-hm. That's my understanding. Now -
 3 COFFEY, Q.C.:
 4 Q. At that time, if I could.
 5 DR. WILLIAMS:
 6 A. Yeah.
 7 COFFEY, Q.C.:
 8 Q. At that time did you have any understanding
 9 about how many stains were being utilized in
 10 the IHC lab?
 11 DR. WILLIAMS:
 12 A. I'm not sure. I knew after that there was
 13 probably 100 stains or so.
 14 COFFEY, Q.C.:
 15 Q. Yes.
 16 DR. WILLIAMS:
 17 A. But I also don't remember any discussion about
 18 any of the other stains at that time except
 19 that I was told by Dr. Cook on the 21st of
 20 July, when I went to his and Dr. Carter's
 21 office, I asked him about the other tests,
 22 immunohisto--now, I can't, I can't tell you--I
 23 can't remember asking, but I must have asked
 24 because I must have had it on my mind that
 25 what about the other tests, and I was told

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1 that--I asked them what should we do and they
 2 told me nothing at that time.
 3 COFFEY, Q.C.:
 4 Q. Yeah. Nothing in relation to other 90 or 100
 5 IHC stains?
 6 DR. WILLIAMS:
 7 A. That's what -
 8 COFFEY, Q.C.:
 9 Q. Sure.
 10 DR. WILLIAMS:
 11 A. - the question I asked.
 12 COFFEY, Q.C.:
 13 Q. And you were assured -
 14 DR. WILLIAMS:
 15 A. I was--Dr. Cook and Dr. Carter. Now, I can't
 16 remember asking it. I was told I did.
 17 COFFEY, Q.C.:
 18 Q. Yeah. And from that perspective, Doctor,
 19 though, by the beginning of August, when you
 20 say "shut down" I appreciate it's a shorthand
 21 for saying stop using the Ventana to process
 22 ER and PR?
 23 DR. WILLIAMS:
 24 A. That's my understanding.
 25 COFFEY, Q.C.:

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1 Q. That's what you mean. You're not talking
 2 about stopping using the Ventana period?
 3 DR. WILLIAMS:
 4 A. No. That's--and now I don't know, again, if
 5 we had any major discussion about that. I was
 6 told that I asked the question.
 7 COFFEY, Q.C.:
 8 Q. Do you recall who told you that? You say you
 9 were told you asked the question?
 10 DR. WILLIAMS:
 11 A. Dr. Cook told me.
 12 COFFEY, Q.C.:
 13 Q. Okay.
 14 DR. WILLIAMS:
 15 A. I asked the question. And I can't remember
 16 asking the question.
 17 COFFEY, Q.C.:
 18 Q. Okay. So -
 19 DR. WILLIAMS:
 20 A. But it's a lot of things that may have
 21 happened that I did but I can't remember.
 22 COFFEY, Q.C.:
 23 Q. Okay. When was it you discussed that with Dr.
 24 Cook, do you know?
 25 DR. WILLIAMS:

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1 A. He told me it was after we left the minister's
 2 office to come back. I asked Dr. Carter,
 3 actually.
 4 COFFEY, Q.C.:
 5 Q. Okay. That would be back in July of -
 6 DR. WILLIAMS:
 7 A. Yes, but it's not in my notes.
 8 COFFEY, Q.C.:
 9 Q. But you discussed this when with Dr. Cook?
 10 DR. WILLIAMS:
 11 A. He told me on the 21st of July.
 12 COFFEY, Q.C.:
 13 Q. Okay.
 14 DR. WILLIAMS:
 15 A. I asked the question, though, all of a sudden,
 16 unexpectedly.
 17 COFFEY, Q.C.:
 18 Q. And I appreciate that. But you'd forgotten
 19 that you'd asked it?
 20 DR. WILLIAMS:
 21 A. Yes.
 22 COFFEY, Q.C.:
 23 Q. When have you discussed it since to be
 24 reminded of it?
 25 DR. WILLIAMS:

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1 A. Oh, maybe a couple of months ago or something,
 2 I'm not sure.
 3 COFFEY, Q.C.:
 4 Q. Okay.
 5 DR. WILLIAMS:
 6 A. Because I've run into Dr. Denic and Dr. Cook
 7 on a number of occasions.
 8 COFFEY, Q.C.:
 9 Q. And here when Dr. Carter has written "I
 10 believe that the idea that the DAKO system," I
 11 apologize, I'll bring it down here, "both its
 12 performance and interpretation, greatly under
 13 estimated the number of women who would
 14 benefit from hormonal manipulation of their
 15 breast cancer and should be investigated." So
 16 she was, I take it, did you interpret that as
 17 she was suggesting that the DAKO, period, had
 18 to be investigated? She acknowledged that?
 19 DR. WILLIAMS:
 20 A. Well, I took it to mean that it had some
 21 problems identifying positives on the system
 22 and that we had--that's what we did, we had a
 23 quality review of the lab, basically, what was
 24 going on.
 25 COFFEY, Q.C.:

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1 Q. And I'll get to that. But she was saying, the
 2 overall message here was the Ventana has to be
 3 looked at, in her view?
 4 DR. WILLIAMS:
 5 A. Yes.
 6 COFFEY, Q.C.:
 7 Q. And the former system and what happened under
 8 the former system had to be looked at, as
 9 well?
 10 DR. WILLIAMS:
 11 A. Um-hm, um-hm.
 12 COFFEY, Q.C.:
 13 Q. And in terms of she refers to as the DAKO
 14 system, its performance and interpretation?
 15 DR. WILLIAMS:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. Now, you interpreted that to mean what, like
 19 the machine?
 20 DR. WILLIAMS:
 21 A. I didn't interpret it to mean -
 22 COFFEY, Q.C.:
 23 Q. Itself or -
 24 DR. WILLIAMS:
 25 A. I didn't interpret it to mean the machine.

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1 COFFEY, Q.C.:
 2 Q. Okay, you interpreted it as -
 3 DR. WILLIAMS:
 4 A. I might have missed that.
 5 COFFEY, Q.C.:
 6 Q. Sure. No, you interpreted it as what?
 7 DR. WILLIAMS:
 8 A. I interpreted it to mean how the whole system
 9 performed, not just the machine. That's what
 10 I interpreted.
 11 COFFEY, Q.C.:
 12 Q. So it wasn't just the machinery, it would be
 13 the technologists, their procedures and the
 14 pathologists?
 15 DR. WILLIAMS:
 16 A. Yeah, I didn't interpret this as we got a
 17 problem with the machine, I didn't--that's
 18 not--I didn't interpret it as problem with the
 19 machine, Mr. Coffey.
 20 COFFEY, Q.C.:
 21 Q. You looked at the word "system"?
 22 DR. WILLIAMS:
 23 A. Yeah.
 24 COFFEY, Q.C.:
 25 Q. As a broader sense?

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1 DR. WILLIAMS:
 2 A. Yeah, I was looking--I was never told that the
 3 machine is the problem, only the machine is a
 4 problem, I guess.
 5 COFFEY, Q.C.:
 6 Q. Okay.
 7 DR. WILLIAMS:
 8 A. Although the word here is the "machine" isn't
 9 it?
 10 COFFEY, Q.C.:
 11 Q. Actually, the word is -
 12 DR. WILLIAMS:
 13 A. She says "DAKO system".
 14 COFFEY, Q.C.:
 15 Q. "System" she does, yeah. If we could, please,
 16 P-0560? Now, this is a memo of August 8th,
 17 2005 to all pathologists in St. John's, in
 18 Eastern Health and to Mr. Dyer and Gulliver
 19 and yourself. The stamp, your office is
 20 there. And it's "RE: Estrogen receptors and
 21 progesterone receptors on current cases." And
 22 I take it this is Dr. Cook advising everyone
 23 as to how current cases were to be handled and
 24 that the--he says, "There will be a hold on
 25 the reporting of ER and PRs by all

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1 pathologists in the division of anatomical
 2 pathology, St. John's Hospitals, Eastern
 3 Health. All ERs and PRs will be forwarded to
 4 Mount Sinai Hospital for immunohistochemical
 5 processing and reporting." And "These reports
 6 will be returned to Dr. Carter and released
 7 into the hospital information system."
 8 DR. WILLIAMS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. "Hard copies of these reports will be
 12 forwarded to the appropriate physician." And
 13 "All pathologists will continue to order ER
 14 and PRs on their respective cases, fill out
 15 the immunohistochemical request form and
 16 forward this to the technologist. The ER/PR
 17 immunohistochemical stain will simultaneously
 18 be processed by our technologist and sent back
 19 to the ordering pathologist. Once these
 20 stains are received, the ordering pathologist
 21 will give an interpretation using the enclosed
 22 form and forward this to Dr. Beverley Carter.
 23 This report is not to be released within the
 24 hospital information system." So, Doctor, had
 25 you been aware Dr. Cook was going to send

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1 this?
 2 DR. WILLIAMS:
 3 A. Yes, I would think so.
 4 COFFEY, Q.C.:
 5 Q. And might it be summarized as in future,
 6 ER/PRs will be done -
 7 DR. WILLIAMS:
 8 A. Outside -
 9 COFFEY, Q.C.:
 10 Q. Mount Sinai.
 11 DR. WILLIAMS:
 12 A. We'll be sending anyone's we received, we'll
 13 be sending them to Mount Sinai and we would--
 14 they would send a report back and that would
 15 be--we wouldn't use the report on our
 16 retesting, we were tested here.
 17 COFFEY, Q.C.:
 18 Q. The Mount Sinai report would be dictated, in
 19 effect, into the Meditech system, in some way.
 20 DR. WILLIAMS:
 21 A. Yes, this would be the report that would be
 22 used for patient care.
 23 COFFEY, Q.C.:
 24 Q. For patient care. And it would be, in fact, a
 25 hard copy, a paper copy would be sent to the

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1 treating physician?
 2 DR. WILLIAMS:
 3 A. Whatever the normal process was, instead of
 4 using our own report, we'd use their report.
 5 Now that's my understanding.
 6 COFFEY, Q.C.:
 7 Q. Now the reference in three to, "All
 8 pathologists will continue to order ER and PRs
 9 on their respective cases, fill out the
 10 immunohistochemical request form and forward
 11 this to the technologist and the ER/PR IHC
 12 stain will simultaneously be processed by our
 13 technologist and sent back to the ordering
 14 pathologists", that will be a parallel
 15 testing.
 16 DR. WILLIAMS:
 17 A. Yeah, looks like we were going to try to do
 18 some parallel testing to see how we compared
 19 to Mount Sinai.
 20 COFFEY, Q.C.:
 21 Q. So when you say "it looks like", were you
 22 involved in that, in the sense of making that
 23 decision?
 24 DR. WILLIAMS:
 25 A. Not to that--not making that decision, no,

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1 that's the kind of decision that I would leave
 2 to really Dr. Cook.
 3 COFFEY, Q.C.:
 4 Q. Do you know whether or not in fact that ever
 5 occurred?
 6 DR. WILLIAMS:
 7 A. I can't say with any certainty, Mr. Coffey,
 8 that that occurred. I didn't get a report on
 9 what the correlation was subsequently, but -
 10 COFFEY, Q.C.:
 11 Q. P-0561 please? This is again an August 8th
 12 memo from Dr. Cook, it's got your office
 13 received stamp on it, to all pathologists in
 14 Eastern Health and yourself, Mr. Dyer and Mr.
 15 Gulliver. It's Re: ER/PR on cases from May
 16 '97 to August 9th, 2005. And it says, "Cases
 17 from May '97 to March 31, 2004 that are ER
 18 negative, except those from patients who are
 19 deceased, will be referred to Mount Sinai.
 20 Paraffin block that ER and PR was originally
 21 performed on, will be forward to Mount Sinai
 22 for repeat testing. Once the Mount Sinai
 23 report has been received at the St. Clare's
 24 site, an addendum will be issued by Dr. Cook
 25 or Dr. Carter in the hospital information

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1 system. This applies to all cases that are ER
 2 negative on a primary breast lesion,
 3 independent of ER status; ER negative being
 4 defined as 10 percent or less. All ER and PRs
 5 performed on the Ventana system from April 1,
 6 2004 to August 9th, 2005, will be referred to
 7 Mount Sinai as above." Okay?

8 DR. WILLIAMS:
 9 A. Uh-hm.

10 COFFEY, Q.C.:
 11 Q. Do you know if this is the one that actually
 12 got sent out?

13 DR. WILLIAMS:
 14 A. It's signed.

15 COFFEY, Q.C.:
 16 Q. And it's stamped from your office.

17 DR. WILLIAMS:
 18 A. I presume it got sent out, I can't answer your
 19 question in terms of -

20 COFFEY, Q.C.:
 21 Q. Okay, because here, this in No. 4--there's no
 22 reference here to 30 percent.

23 DR. WILLIAMS:
 24 A. No.

25 COFFEY, Q.C.:

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1 Q. The only reference in paragraph four is to
 2 this 10 percent, so this was to cover all
 3 ER/PR on cases from May '97 to August 9th,
 4 '05. The first paragraph deals with those
 5 from May '97 to March 31, '04, they are ER
 6 negative. And your understanding here, ER
 7 negative was defined as what in this context?

8 DR. WILLIAMS:
 9 A. Less than 10 percent.

10 COFFEY, Q.C.:
 11 Q. So the intent would be, in terms of 1997,
 12 1998, 1999 and 2000, okay, anything that was
 13 reported as 10 percent or less would be
 14 retested?

15 DR. WILLIAMS:
 16 A. That's what it says here, yes.

17 COFFEY, Q.C.:
 18 Q. So something that was reported as 20 percent,
 19 back then, in those years I just named, would
 20 not be captured by this -

21 DR. WILLIAMS:
 22 A. By this memo, no, I don't know if a subsequent
 23 memo went out, if this is the final one
 24 because I know the decision on what would be
 25 considered ER negative was made by Dr. Cook in

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1 consultation with Dr. Laing, that's my
 2 understanding, so this may not be the final
 3 version, I can't be sure. Is there any other
 4 version -

5 COFFEY, Q.C.:
 6 Q. Well there's a lot more material, but I just
 7 at the time, again, your understanding at the
 8 time as VP Medical -

9 DR. WILLIAMS:
 10 A. That the decision of what would be considered
 11 negative was a decision and I--at some stage I
 12 understood that it was 10 and 30 percent at
 13 different times. So that may be a draft that
 14 got changed, I'm not sure. It's signed, why I
 15 presume it might have went out is it's signed.

16 COFFEY, Q.C.:
 17 Q. As well it's stamp received from your office.

18 DR. WILLIAMS:
 19 A. In my office, but still it may not have been
 20 sent out.

21 COFFEY, Q.C.:
 22 Q. Sir, if we could, please, exhibit P-0557.
 23 These are your handwritten notes for a meeting
 24 of August 8th, 2005?

25 DR. WILLIAMS:

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1 A. Yes.

2 COFFEY, Q.C.:
 3 Q. If we could, page 3, please? I take it this
 4 was an update for yourself as to where Dr.
 5 Cook and Mr. Gulliver were?

6 DR. WILLIAMS:
 7 A. This looks like, to me, we're starting the
 8 process, where are we to in that process?

9 COFFEY, Q.C.:
 10 Q. Now here in the fifth bullet, there's a note
 11 "Dr. Cook will speak to Dr. Laing re: how
 12 cases were treated based upon degree of
 13 positivity."

14 DR. WILLIAMS:
 15 A. Yes.

16 COFFEY, Q.C.:
 17 Q. So that, I take it, was still, as of the time
 18 of the meeting on August 8th, wasn't finally
 19 nailed down.

20 DR. WILLIAMS:
 21 A. It looked like that wasn't, yes.

22 COFFEY, Q.C.:
 23 Q. A reference in two bullets down from that is,
 24 "All blocks will be pulled and then Dr. Cook
 25 and Dr. Fontaine will review blocks and then

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1 send one big package."
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. What was envisaged at that point?
 6 DR. WILLIAMS:
 7 A. Well a lot of work has to go into getting the
 8 blocks out, and a lot of work has to go in by
 9 the pathologists to see which blocks to send
 10 off, you had to have blocks--my understanding
 11 with breast tissue and normal tissue, these
 12 would have to be reviewed by the pathologists
 13 before they were sent out. And then they
 14 would batch them up and send them out in one--
 15 it was anticipated in one big batch when they
 16 got the work done. There's a lot of issue as
 17 to--logistics has to go into that and maybe
 18 the thought by sending up one of those
 19 batches, there may be one--might have been
 20 more things can go wrong, I don't know, but it
 21 was decided to send them in one big batch at
 22 that time.
 23 COFFEY, Q.C.:
 24 Q. Page 4, please of this exhibit? Sir, this is
 25 a note, it's undated, it's a typed version of-

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1 -handwritten note of your own, I gather if we
 2 go back to--stay on this now, it says "Dr.
 3 Cook and myself talked with Dr. Laing prior to
 4 2002 ER/PR negative, post menopausal women got
 5 Tamoxifen anyway. This practice changed in
 6 2002. Of women who test positive, most are ER
 7 positive and PR positive. Less are ER
 8 positive and PR negative. 5 - 10 percent are
 9 ER negative plus PR positive (it was felt this
 10 number is now less than 5 - 10 percent)."
 11 Just looking at this note, are you able to
 12 provide the Commissioner with any thought as
 13 to when this might have been written?
 14 DR. WILLIAMS:
 15 A. Looks like we had--the reference is a briefing
 16 with Mr. Tilley and Ms. Predham on August
 17 10th--sorry, on Wednesday a.m., so if you turn
 18 over the page, you'll see August 10th, 2005,
 19 Mr. Tilley is there, I don't see Ms. Predham.
 20 It may be--no, it says Ms. Predham's updates,
 21 so her name comes up down in the document
 22 further. So I would just think that it was
 23 probably, probably that Monday or Tuesday that
 24 week, I'd have to look at it -
 25 COFFEY, Q.C.:

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1 Q. The week of August -
 2 DR. WILLIAMS:
 3 A. Is in fact, August 10th a Wednesday?
 4 COFFEY, Q.C.:
 5 Q. It was. So it would be in the early part,
 6 August, in preparation for a meeting with Mr.
 7 Tilley that week.
 8 DR. WILLIAMS:
 9 A. Yes, we had a meeting on August 8th, so it may
 10 have been August 8th, 9th, we referenced Dr.
 11 Laing there, so maybe it was a follow up to
 12 that.
 13 COFFEY, Q.C.:
 14 Q. Sir, if we could please, exhibit P-0941?
 15 Here's an e-mail of August 8th, 2005, 9:59
 16 a.m. to yourself, Dr. Cook, Mr. Gulliver and
 17 Patricia Pilgrim. The subject is the overall
 18 database and there's two headings "Database",
 19 "I've got the Lab Database and NCRTF database
 20 combined, but I still have issues to clarify.
 21 There are data and quality issues, such as
 22 people with the same name and address and
 23 different MCP numbers and people with
 24 different names and address, but with the same
 25 MCP numbers. Also there are a lot of

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1 individuals with incomplete MCP numbers, I'll
 2 work on that today." And she then goes on to
 3 say "there are a couple of issues that came to
 4 light though during this process." There's a
 5 reference to St. Pierre patients and in that
 6 context she says, "We haven't discussed the
 7 process for informing or providing hotline
 8 service to individuals from St. Pierre." And
 9 the third bullet, "Rough numbers from the
 10 combined database show 4,510 people overall"
 11 and she notes "the cancer registry does not
 12 identify almost 2100 of individuals who had
 13 ER/PR testing." And she goes on from there
 14 and refers to "overall ER positivity by year"
 15 and she notes "and remember this is rough" and
 16 she's got particular positivity rates spelled
 17 out there. Now, sir, having read that at the
 18 time, what if any sense or comfort or
 19 confidence did you have in terms of their
 20 ability to identify the patients who had to be
 21 retested?
 22 DR. WILLIAMS:
 23 A. Well I still thought that our Meditech system
 24 would be valid, the fact that there's a lot of
 25 names not on the cancer registry list that we

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1 had on our list would indicate that, and I
 2 would have known that there was some problems
 3 with the cancer--may have been some problems
 4 with their database because Bertha Paulse had
 5 asked all labs to provide that information
 6 directly.
 7 COFFEY, Q.C.:
 8 Q. You mentioned that -
 9 DR. WILLIAMS:
 10 A. And so that would be my take on that at the
 11 time, Mr. Coffey.
 12 COFFEY, Q.C.:
 13 Q. Here she says "hotline", it's a heading
 14 "Hotline, I'm meeting with our staff re: the
 15 hotline and what needs to be put in place.
 16 The biggest thing from our perspective will be
 17 the answers to the items identified in our
 18 script. We'll work on those today. Also will
 19 we be informing the GPs of this issue? I
 20 think Kara Laing suggested that the letter use
 21 wording like "you will be notified by the
 22 physician following your cancer and an
 23 appointment made to discuss results". I was
 24 thinking that if the specialist is no longer
 25 here and an individual may contact their GP in

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1 the interim? What do you think? As always,
 2 if you need to page me"--and Heather Predham
 3 gives a number.
 4 DR. WILLIAMS:
 5 A. Uh-hm.
 6 COFFEY, Q.C.:
 7 Q. Now what was this hotline about and the
 8 script--and I'll deal with that first, what
 9 was--this is August 8th, Monday, August 8th.
 10 DR. WILLIAMS:
 11 A. I guess we were talking about if we were going
 12 to go out with some public announcement, we'd
 13 need to have a hotline in place and this type
 14 of thing. The other thing, it was
 15 contemplated a letter to the general
 16 practitioners which was subsequently sent to
 17 the Cancer Clinic from Dr. Gardiner, so things
 18 would indicate to me that we were working on
 19 that at the time.
 20 COFFEY, Q.C.:
 21 Q. In terms of the idea of having, I take it the
 22 script would be -
 23 DR. WILLIAMS:
 24 A. What people would say when people phoned in,
 25 you want some -

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1 COFFEY, Q.C.:
 2 Q. On the hotline.
 3 DR. WILLIAMS:
 4 A. - commonality of approach on the hotline.
 5 COFFEY, Q.C.:
 6 Q. And the letter, though, for individual
 7 patients, I take it -
 8 DR. WILLIAMS:
 9 A. Didn't appear in this e-mail, no.
 10 COFFEY, Q.C.:
 11 Q. No, but it was being worked on, I take it, if
 12 Kara Laing was being asked for input.
 13 DR. WILLIAMS:
 14 A. It looks that way, yes.
 15 COFFEY, Q.C.:
 16 Q. And the question, will we be informing GPs of
 17 this issue? That was Heather was asking and
 18 amongst the people involved, I take it you and
 19 Patricia Pilgrim would be the two most senior
 20 who got the e-mail.
 21 DR. WILLIAMS:
 22 A. Uh-hm.
 23 COFFEY, Q.C.:
 24 Q. What did you tell her about whether the GPs
 25 would be -

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1 DR. WILLIAMS:
 2 A. I can't remember, I would have told her
 3 something by phone, I expect I would have
 4 phoned her up. I know the issue of St. Pierre
 5 got--we had a system in place to deal with
 6 that and Heather didn't know about our
 7 relationship with St. Pierre, and so I must
 8 have phoned her about St. Pierre because there
 9 was a process put in place for St. Pierre.
 10 COFFEY, Q.C.:
 11 Q. And in the course of that you may have
 12 discussed with her the issue of informing the
 13 GPs?
 14 DR. WILLIAMS:
 15 A. Yeah, I probably would have discussed with
 16 her, I would hope that I would have phoned her
 17 back and we would have had a discussion on
 18 that.
 19 COFFEY, Q.C.:
 20 Q. What was--I mean as the VP Medical, whose
 21 choice or decision would it be to let the GPs
 22 know through the NLMA? Would that be your
 23 decision or Mr. Tilley's?
 24 DR. WILLIAMS:
 25 A. It would probably be my decision. I don't

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1 know if we had something out in the public at
 2 the time, then letting the GPs know would
 3 probably be a reasonable thing to do.
 4 COFFEY, Q.C.:
 5 Q. Well how about even if it hadn't yet gone
 6 public, of letting the GPs know before it had
 7 gone public?
 8 DR. WILLIAMS:
 9 A. Well that's a decision I think I would bring
 10 forward because it, you know, if you're going
 11 to go to all the GPs in the province and
 12 you've got around 4 or 500 people and letters
 13 going all over the place, then that's
 14 tantamount to making it public.
 15 COFFEY, Q.C.:
 16 Q. So in terms of, just so the Commissioner is
 17 clear, so in terms of this, once it had gone
 18 public, the decision as to whether or not to
 19 communicate with the GPs and the methodology
 20 of doing that would be your decision -
 21 DR. WILLIAMS:
 22 A. Yeah, I wouldn't necessarily bring that to Mr.
 23 Tilley.
 24 COFFEY, Q.C.:
 25 Q. I appreciate, so that would be yours, as VP

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1 Medical -
 2 DR. WILLIAMS:
 3 A. And I'd work it with other people, yes.
 4 COFFEY, Q.C.:
 5 Q. But before it went public, you would not -
 6 DR. WILLIAMS:
 7 A. Sent out letter to GPs unless we--I would talk
 8 to Mr. Tilley about that because it would,
 9 again, be tantamount to making the issue
 10 public.
 11 COFFEY, Q.C.:
 12 Q. Exhibit P-0562 please? Now this is an e-mail
 13 from Debbie Parsons to yourself and others.
 14 The subject is "Re: Dr. Carter's retesting
 15 results." She says, "Hi all, I have Dr.
 16 Carter's retesting results entered in the
 17 database and have summarized the results as
 18 attached. I think I may be able to get the
 19 Tamoxifen prescribed by MCP number from
 20 pharmacy, if I can, then I should be able to
 21 have that part completed for the morning. If
 22 not, we'll have to review individual charts
 23 and that will take longer to complete. In the
 24 morning I will bring whatever I have done in
 25 terms of Tamoxifen information, as well as the

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1 details for what is attached." And if we
 2 could, please, that is what is attached, page
 3 two of the exhibit, which is again, a form of
 4 a spreadsheet. Sir, what was this, looking
 5 back at it, Dr. Carter's retesting results
 6 entered in the database, what database are we
 7 talking about and what retesting results?
 8 DR. WILLIAMS:
 9 A. I can only presume that it would be on
 10 individual patients and if you're going to--
 11 I'd have to really look at it and think about
 12 it for awhile. I can't remember what the
 13 reference was there.
 14 COFFEY, Q.C.:
 15 Q. Okay, and the reference there to "I think I
 16 may be able to get the Tamoxifen prescribed by
 17 MCP number from pharmacy", what was that
 18 about?
 19 DR. WILLIAMS:
 20 A. I remember that, she wanted to see if there
 21 was any way she could reference people who
 22 were on Tamoxifen with the people who are
 23 positive and this type of thing. I'm pretty
 24 sure I discussed it with her and at the end of
 25 the day, that proved futile and she gave up on

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1 it, you'd have to check with her on that. I
 2 don't think it was of any value in what we
 3 were doing.
 4 COFFEY, Q.C.:
 5 Q. Exhibit P-0163 please?
 6 THE COMMISSIONER:
 7 Q. When you say "wasn't of any value to what you
 8 were doing" in the sense that you couldn't get
 9 the inform--you didn't anticipate you would
 10 get the information or the information would
 11 not be useful?
 12 DR. WILLIAMS:
 13 A. I think there was trouble with getting the
 14 information and it proved futile, but I may be
 15 wrong on that, that's my understanding.
 16 THE COMMISSIONER:
 17 Q. All right.
 18 COFFEY, Q.C.:
 19 Q. Now this is an e-mail of August 9th, 2005 at
 20 10:08 a.m. from John Abbott to yourself.
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. The subject is "Letters to Patients". He
 25 writes to you, "Just checking in to see if the

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1 letters to the patients respecting retesting
 2 of negative ER/PR test results are being sent.
 3 Please advise. Meanwhile, thanks for your
 4 continued assistance/advice in this matter."
 5 Now, how common, if at all, was it for John
 6 Abbott to send an e-mail directly to you?
 7 DR. WILLIAMS:
 8 A. I would get e-mails from John Abbott over the
 9 years, not regularly.
 10 COFFEY, Q.C.:
 11 Q. Not regularly, okay, so it was uncommon.
 12 DR. WILLIAMS:
 13 A. It was uncommon.
 14 COFFEY, Q.C.:
 15 Q. This particular one, what was this about?
 16 DR. WILLIAMS:
 17 A. It was in follow up, I guess, to the meeting
 18 we had with the Minister, the first meeting we
 19 had with the Minister.
 20 COFFEY, Q.C.:
 21 Q. And that would be July 21?
 22 DR. WILLIAMS:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Do you know if there was a meeting with the

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1 Minister early in August?
 2 DR. WILLIAMS:
 3 A. There was a follow up meeting with the
 4 Minister, I would have my notes of that here,
 5 a meeting on August 15th.
 6 COFFEY, Q.C.:
 7 Q. 15th, so that was afterward.
 8 THE COMMISSIONER:
 9 Q. Now we're assuming again that this is an
 10 August memo?
 11 COFFEY, Q.C.:
 12 Q. This has already been so identified, so
 13 identified by John Abbott, Commissioner. At
 14 least that's my memory of it is, I'm pretty
 15 sure on that, I remember coming -
 16 MR. PIKE:
 17 Q. He said it was August, yes.
 18 COFFEY, Q.C.:
 19 Q. It was, he did. Mr. Pike is confirming me on
 20 that.
 21 THE COMMISSIONER:
 22 Q. Thank you.
 23 COFFEY, Q.C.:
 24 Q. There was an exchange between yourself and Mr.
 25 Abbott about, you know, how -

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1 THE COMMISSIONER:
 2 Q. Oh yes.
 3 COFFEY, Q.C.:
 4 Q. Which date is which.
 5 THE COMMISSIONER:
 6 Q. I don't know why this is bugging me, but it
 7 does.
 8 COFFEY, Q.C.:
 9 Q. Just, the reference to "just checking in to
 10 see", so this suggests that Mr. Abbott at the
 11 time thought that those letters were -
 12 DR. WILLIAMS:
 13 A. Being prepared.
 14 COFFEY, Q.C.:
 15 Q. - being prepared.
 16 DR. WILLIAMS:
 17 A. Yes. That would be the understanding, I
 18 think, when we left the meeting of the 21st of
 19 July.
 20 COFFEY, Q.C.:
 21 Q. Well not only being prepared, but he's asking
 22 are they being sent?
 23 DR. WILLIAMS:
 24 A. Okay.
 25 COFFEY, Q.C.:

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1 Q. Did you respond to this?
 2 DR. WILLIAMS:
 3 A. I would have talked to Mr. Tilley about that
 4 e-mail and I think Mr. Tilley may have
 5 responded by phoning Mr. Abbott and arranged
 6 for that meeting with the Minister.
 7 COFFEY, Q.C.:
 8 Q. What did you tell Mr. Tilley at the time?
 9 DR. WILLIAMS:
 10 A. I can't remember other than we may have some
 11 concern about sending the letters, it may have
 12 been expressed to us by that time.
 13 COFFEY, Q.C.:
 14 Q. And who is that by?
 15 DR. WILLIAMS:
 16 A. I think at that time there may have been some
 17 concern by the oncologists. At least that's
 18 what's identified in the minutes of the
 19 meeting of August 15th.
 20 COFFEY, Q.C.:
 21 Q. And well if we could, perhaps the meeting of
 22 August 10th, P-0564 please? I take it these
 23 are your handwritten notes of that date?
 24 DR. WILLIAMS:
 25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. A meeting, if you go to page 5 please? Now

3 you identify Dr. Laing, Mr. Tilley, Ms.

4 Pilgrim, Dr. Cook and yourself as being

5 present. It's on ER/PR receptors, the meeting

6 was. And so this would have followed on Mr.

7 Abbott's query as to what the status was of

8 that letters to individual patients and are

9 they being sent?

10 DR. WILLIAMS:

11 A. I expect that it was an update on where we

12 were. There were some other things discussed

13 too.

14 COFFEY, Q.C.:

15 Q. Sure. Up to August 9th, up to the time you

16 received that e-mail on August 9th, is it your

17 understanding that the Minister was in favour

18 of sending such letters?

19 DR. WILLIAMS:

20 A. Yes, I mean, that was what was said -

21 COFFEY, Q.C.:

22 Q. That was the point.

23 DR. WILLIAMS:

24 A. - in the July meeting. We left the meeting

25 with that understanding.

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1 COFFEY, Q.C.:

2 Q. Back on July 21st.

3 DR. WILLIAMS:

4 A. Yes.

5 COFFEY, Q.C.:

6 Q. That the Minister wanted contact with

7 individual patients and letter was the

8 preferred way.

9 DR. WILLIAMS:

10 A. Uh-hm.

11 COFFEY, Q.C.:

12 Q. That was your understanding?

13 DR. WILLIAMS:

14 A. That's what I think I noted in the minutes--

15 well I'm not sure if it was my minutes or

16 somebody else's minutes.

17 COFFEY, Q.C.:

18 Q. Now this draft letter, who was in charge of

19 preparing the draft letter?

20 DR. WILLIAMS:

21 A. It may have been Heather doing it with other

22 people, I wasn't directly involved at the

23 time.

24 COFFEY, Q.C.:

25 Q. You're being kept apprised of it, but you

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1 weren't managing it.

2 DR. WILLIAMS:

3 A. I would expect she would seek advice maybe

4 from Dr. Laing because we were talking, we'll

5 be writing patients.

6 COFFEY, Q.C.:

7 Q. Now here under Dr. Cook's update, I take it is

8 the status of the retesting effort.

9 DR. WILLIAMS:

10 A. Yes.

11 COFFEY, Q.C.:

12 Q. That's what he's tasked with. The fourth

13 bullet "Two weeks to get blocks to Mount

14 Sinai", I take it he was reporting then, that

15 would be, of course, the St. John's--or the

16 Health Care Corporation's blocks.

17 DR. WILLIAMS:

18 A. Yes.

19 COFFEY, Q.C.:

20 Q. That wouldn't involve the rest of Newfoundland

21 at all.

22 DR. WILLIAMS:

23 A. That's correct, but he's been phoning out to

24 the other organizations and you see in late

25 August they're coming into it from other years

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1 other than 2002.

2 COFFEY, Q.C.:

3 Q. Well we'll get to that in a moment, but as of

4 August 10th, other than Dr. Dalton's 2002

5 blocks -

6 DR. WILLIAMS:

7 A. That's all we had.

8 COFFEY, Q.C.:

9 Q. That's all you had. The four to six weeks for

10 Mount Sinai to report these specimens.

11 DR. WILLIAMS:

12 A. Uh-hm.

13 COFFEY, Q.C.:

14 Q. Is that four to six weeks after the blocks got

15 to Mount Sinai, or is that four to six weeks

16 from this point?

17 DR. WILLIAMS:

18 A. I would have expect it would be four to six

19 weeks after they got the blocks, but you'd

20 have to ask Dr. Cook about that. That would

21 be my understanding from reading it this way,

22 but you know, I can't--I wouldn't be able to

23 recollect without these notes here that we

24 even discussed it, so -

25 COFFEY, Q.C.:

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1 Q. And Dr. Laing's update, so I take it that she
 2 is attending this meeting, by this point she
 3 is actively involved in this effort?
 4 DR. WILLIAMS:
 5 A. Correct.
 6 COFFEY, Q.C.:
 7 Q. Do you recall when she became a member of the
 8 group, as it were?
 9 DR. WILLIAMS:
 10 A. We invited her as the--she was the chief of
 11 medical oncology at the time. So, obviously
 12 would have a big role in treating patients
 13 with breast cancer. She subsequently became
 14 our clinical chief.
 15 COFFEY, Q.C.:
 16 Q. So she, in the fifth bullet, was indicating
 17 "all patients will need an individual re-
 18 assessment".
 19 DR. WILLIAMS:
 20 A. Yes, that would--she talked about that before
 21 in that when you get any changes, that it's an
 22 individual decision, it's no rule, if one size
 23 fits all rule, that you apply, you had to look
 24 at everything else.
 25 COFFEY, Q.C.:

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1 Q. And here there's a note, the last bullet for
 2 her under this part of your notes are "Dr.
 3 Laing has a problem with sending out letter
 4 until we know how much of a problem we have".
 5 DR. WILLIAMS:
 6 A. Yes, that's what I attributed--the statement I
 7 attributed to her.
 8 COFFEY, Q.C.:
 9 Q. And what was her concern, as best you can
 10 recall in that regard?
 11 DR. WILLIAMS:
 12 A. My recollection is that if we sent out
 13 information in a letter, that we would have a
 14 large number of people we'd probably be
 15 sending the letters to, we didn't know how
 16 many at the time, because, you know, we didn't
 17 know if we presume the rate of positivity and
 18 negative was the same in St. John's, as
 19 outside, we could have a significant number of
 20 people, you wouldn't be able to tell them
 21 anything other than they were retested,
 22 according to her, and that she, you know, as a
 23 person who is treating the patients, we may
 24 alarm them unnecessarily, number three, and
 25 that, number four is that obviously they'd

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1 want some information and they'd be phoning
 2 and this type of thing and we couldn't give
 3 them anything, a lot of the oncologist's time
 4 might be taken up with dealing with that when
 5 they had a full clinical workload that may,
 6 that may impair their ability to continue with
 7 their clinical workload. So that's my
 8 understanding.
 9 COFFEY, Q.C.:
 10 Q. Well I'm going to take you through some of
 11 that, sir, okay.
 12 DR. WILLIAMS:
 13 A. Okay.
 14 COFFEY, Q.C.:
 15 Q. Here, the way you would have written your
 16 notes, I take it, chronologically as things
 17 were said?
 18 DR. WILLIAMS:
 19 A. I may have, I was trying to partake in the
 20 meeting and make notes as well.
 21 COFFEY, Q.C.:
 22 Q. Here you've attributed Dr. Laing's update and
 23 then you have, you attribute a remark to Mr.
 24 Tilley "advised of status of meetings with the
 25 government and need to get out a letter",

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1 suggesting that having heard from Dr. Laing,
 2 Mr. Tilley and, you know, spoke up and said,
 3 well the government wants a letter sent out.
 4 DR. WILLIAMS:
 5 A. Uh-hm. That's just to advise her that that
 6 was what we were planning to do.
 7 COFFEY, Q.C.:
 8 Q. And then there are some more remarks then
 9 attributed to Dr. Laing, including "feels this
 10 has happened over eight years, should be
 11 approaching a systematic way, we can't fix
 12 overnight. She doesn't feel we are trying to
 13 cover things up. What is appropriate for
 14 patient care testing of ER negative patients
 15 and when results come back, then tell patients
 16 individually and not create panic in patients
 17 at this point in time. Can't tell them. It
 18 is too soon to tell the patients. Dr. Laing
 19 not worried about, is doing the right thing,
 20 given our current knowledge. She feels
 21 sending out information now until we can give
 22 them the answers, leave clinical management to
 23 oncologists, Dr. Laing feels we are creating
 24 unnecessary anxiety to a lot of patients.
 25 Need the information on hand before we go to

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1 these women. Need to strike a balance between
 2 waiting and giving good information we are
 3 giving now, and causing anxiety unduly." So I
 4 take it then in your notes you were trying to
 5 capture as much as you could?
 6 DR. WILLIAMS:
 7 A. Uh-hm.
 8 COFFEY, Q.C.:
 9 Q. By way of handwriting.
 10 DR. WILLIAMS:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. What it was she was saying.
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Did anyone at the meeting take any issue, do
 18 you recall, with what she said or her views?
 19 DR. WILLIAMS:
 20 A. I can't recall, I didn't make any notes of
 21 people who have told me that I was trying to
 22 lay out the pros and cons and this type of
 23 thing at the meeting, other people that were
 24 there, but I can't remember exactly what I
 25 said.

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1 COFFEY, Q.C.:
 2 Q. So you could see some disadvantages in the
 3 proposed course of action that she was
 4 advocating?
 5 DR. WILLIAMS:
 6 A. I would think so, like I say, other people who
 7 were there said I would lay out the pros and
 8 cons, but I can't remember exactly.
 9 COFFEY, Q.C.:
 10 Q. Well what would the cons be?
 11 DR. WILLIAMS:
 12 A. The cons would be that, exactly what's
 13 happened that people feel that if you don't
 14 get the information out, you're trying to hide
 15 something, this type of thing. I expect that
 16 would be one of the ones I would have
 17 suggested and you need to get out information
 18 so people could make informed decisions would
 19 be probably another thing I would say, but I'm
 20 surmising that now, Mr. Coffey, and I'm not
 21 sure if that's what I would have said.
 22 COFFEY, Q.C.:
 23 Q. Now, sir, and I take it then amongst those in
 24 the room, you were the only one with a decade
 25 of experience as a Deputy Minister of Health?

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1 DR. WILLIAMS:
 2 A. Yeah, I had that experience.
 3 COFFEY, Q.C.:
 4 Q. You brought that kind of experience -
 5 DR. WILLIAMS:
 6 A. Yes, I had some background, yes.
 7 COFFEY, Q.C.:
 8 Q. In that regard, I gather that Dr. Laing's view
 9 carried the day, at this point?
 10 DR. WILLIAMS:
 11 A. Well it may have carried the day at this
 12 point, I think there was a subsequent meeting
 13 with the Minister -
 14 COFFEY, Q.C.:
 15 Q. Yes, and we'll get to that in a moment. Going
 16 way from this meeting, your understanding was
 17 what was going to be Eastern Health's position
 18 before you saw the Minister, what was Eastern
 19 Health's position?
 20 DR. WILLIAMS:
 21 A. I understood Eastern Health's position would
 22 be we'll go and see the Minister and have a
 23 discussion similar to what we had at this
 24 meeting. I may be wrong on that, that would
 25 be my recollection.

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1 COFFEY, Q.C.:
 2 Q. Here you've got some remarks attributed to Dr.
 3 Cook. You write "There were deficiencies in
 4 our system making communication proficiency
 5 tests and quality assurance, need QI program
 6 for the lab, test all ER negative less than 30
 7 percent, about 400 cases to be tested." Do
 8 you recall what that was about, other than
 9 what's there?
 10 DR. WILLIAMS:
 11 A. No, it looks like it's just reiteration of the
 12 QI, lack of QI in the immunohistochemistry
 13 section and a little comment on--I wouldn't
 14 attribute too much to that.
 15 COFFEY, Q.C.:
 16 Q. There's three notes, "Mr. Tilley requested
 17 that we not wait until we get all one batch,
 18 can we make three or four large batches." I
 19 take it he was suggesting breaking down and
 20 send them in blocks.
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. Number two, "What are key messages we should
 25 be saying?" Who was concerned about that and

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1 saying to whom?
 2 DR. WILLIAMS:
 3 A. I'm not sure, Mr. Coffey.
 4 COFFEY, Q.C.:
 5 Q. And number three, "Decide on how we will
 6 address deceased people in terms of testing."
 7 What was the concern there, because you
 8 earlier had said -
 9 DR. WILLIAMS:
 10 A. Yeah, I think we always intended to retest
 11 deceased people, I think it was how we were
 12 going to address it and what time, I expect
 13 that's what was discussed there.
 14 COFFEY, Q.C.:
 15 Q. If I could, please, exhibit P-0565? Now this,
 16 sir, is a two-page document, it was found in
 17 your office, in the VP Medical. It's entitled
 18 "Review of ER/PR service to date, August 10th,
 19 '05." And we look here, it's signed by Mr.
 20 Gulliver. I take it this is some sort of a
 21 summary he had prepared for you?
 22 DR. WILLIAMS:
 23 A. I presume.
 24 COFFEY, Q.C.:
 25 Q. And this, I take it, was a way of him

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1 informing you as to the actual kind of nitty
 2 gritty of when the machinery, certain
 3 machinery had and hadn't been used in the lab?
 4 DR. WILLIAMS:
 5 A. I presume, it was just a chronological series
 6 of things that happened.
 7 COFFEY, Q.C.:
 8 Q. If we could please, in the second page, the
 9 fourth last paragraph says, "Provided to Dr.
 10 Williams a log sheet of 202 ER/PR tests by
 11 month. This showed that every month there
 12 were negatives and positives, as it had been
 13 suggested that the laboratory did not report a
 14 positive result from mid June '02 to November
 15 '02. So that's that--a confirmation of that.
 16 DR. WILLIAMS:
 17 A. That's that note that keeps coming up, yes.
 18 COFFEY, Q.C.:
 19 Q. And he notes at the bottom of July, 2005,
 20 "Ventana sent in their technical expert for
 21 Canada and performed a complete review of our
 22 instruments, protocols, reagents, et cetera.
 23 A written report was submitted to Dr. Williams
 24 outlining that the system is working as it
 25 should be and that our lab and technologists

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1 are as good as any in Canada. The only
 2 recommendation was to perform monthly and
 3 quarterly routine maintenance on the
 4 instruments." So that was reflecting what -
 5 DR. WILLIAMS:
 6 A. What the Ventana representative -
 7 COFFEY, Q.C.:
 8 Q. - had said, okay. If we could please, exhibit
 9 P-0568. This is your handwritten notes, I
 10 gather, Doctor, "Note to file, August 12th,
 11 '05". If you can look at page two, please?
 12 Here, you have on ER/PR receptors, you have in
 13 fact five different paragraphs numbered? So
 14 at times you would write notes to file for
 15 yourself?
 16 DR. WILLIAMS:
 17 A. I wrote notes to myself, yes.
 18 COFFEY, Q.C.:
 19 Q. Oh yeah, and I take it the purpose of that
 20 would be to kind of -
 21 DR. WILLIAMS:
 22 A. If I might need to go back to and see what the
 23 chronology was and see when we made certain
 24 decisions. I might need to refer back to
 25 them.

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1 COFFEY, Q.C.:
 2 Q. In terms of the overall effort, I take it
 3 there was never any such central repository?
 4 We've spoken about that already?
 5 DR. WILLIAMS:
 6 A. That's correct, yes.
 7 COFFEY, Q.C.:
 8 Q. And that's one thing that perhaps -
 9 DR. WILLIAMS:
 10 A. Well we talked about my comments about setting
 11 up a task force. I think we'll probably come
 12 back to that at the end, I suspect.
 13 COFFEY, Q.C.:
 14 Q. And that would, in effect, the task force
 15 would, one of their functions would be to keep
 16 track of their work in a systematic way?
 17 DR. WILLIAMS:
 18 A. Yeah. I think if you had that kind of
 19 approach only--we might talk about it later,
 20 we need to develop, really, a policy, and what
 21 would happen, we've developed a policy, I
 22 presume, on if we're going to get a pandemic
 23 of influenza for the province and a strategy
 24 to deal with that. So I think it sounds like
 25 we need to build up a strategy to deal with

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1 these kind of events. That's done
 2 provincially, but the regional integrated
 3 health authorities had the major role in it
 4 with some role for co-ordination from the
 5 department, something--I was thinking of
 6 something along those lines. Pandemic
 7 influenza outbreak would have major
 8 implications in this type of thing. This kind
 9 of thing, in my view, has major implications
 10 and you're not always prepared to deal with
 11 it. You got to get a hotline up and running.
 12 You got to get all these things in place. So,
 13 it strikes me as something that lends itself
 14 to that kind of planning.

15 COFFEY, Q.C.:
 16 Q. Doctor, number four paragraph here, you say,
 17 "this week has been productive. We should
 18 know if we have a major problem once slides we
 19 will send out next week are reviewed at Mount
 20 Sinai".

21 DR. WILLIAMS:
 22 A. I guess we were thinking that these things are
 23 going to be turning around pretty quick.
 24 We'll get these reports back pretty quick and
 25 we'll have a good idea then because, don't

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1 forget, we had--the first samples we sent were
 2 biased samples and that we selected patients
 3 who you would expect the ER/PR positive or
 4 they were from a year that we had the lower
 5 rate of positivity than some other years.

6 COFFEY, Q.C.:
 7 Q. And number five, "Dr. Laing advises that ten
 8 patients were told to date, re results".

9 DR. WILLIAMS:
 10 A. That's my understanding, by the Cancer Clinic.

11 COFFEY, Q.C.:
 12 Q. And that would be going back to the June 29 -

13 DR. WILLIAMS:
 14 A. The original 16.

15 COFFEY, Q.C.:
 16 Q. The original 16 conversions.

17 DR. WILLIAMS:
 18 A. And I thought there was a combination of some
 19 people deceased or people that are already on
 20 treatment for four of them and Dr. Boone and
 21 Dr. Felix were notified in the other two
 22 cases. That's what my notes say.

23 COFFEY, Q.C.:
 24 Q. Now Doctor, on this point, for each of those
 25 10 or 12 patients -

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1 DR. WILLIAMS:
 2 A. Yes.

3 COFFEY, Q.C.:
 4 Q. - okay, out of the original 16 who converted
 5 on retest on the Ventana, for each of those
 6 patients, would you consider that they had
 7 suffered an adverse event?

8 DR. WILLIAMS:
 9 A. Well everybody that reconverted, I would think
 10 you'd conclude in the adverse event category
 11 and I know -

12 COFFEY, Q.C.:
 13 Q. At that point in time, because this is the end
 14 of the summer.

15 DR. WILLIAMS:
 16 A. Yes.

17 COFFEY, Q.C.:
 18 Q. Well I shouldn't say that, it's mid-way
 19 through August.

20 THE COMMISSIONER:
 21 Q. It was the end of the summer.

22 COFFEY, Q.C.:
 23 Q. Yes, probably, it's faster yet. Doctor, at
 24 the time you had signed an adverse events
 25 policy dated August 1, 2005, hadn't you?

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1 DR. WILLIAMS:
 2 A. Well, I'd have to go back and look, but I
 3 wouldn't disagree with you. You already know
 4 the answer.

5 COFFEY, Q.C.:
 6 Q. Yes, because we've seen it here before. We've
 7 already looked at it, and it actually
 8 originally was typed and, I suppose, approved,
 9 as it were, in a formal way back in, I
 10 believe, late '04, but it was finally signed
 11 and dated by you August 1/05.

12 DR. WILLIAMS:
 13 A. Yeah.

14 COFFEY, Q.C.:
 15 Q. And with that in mind, if indeed that's the
 16 day you signed it, August 1, and this is 11
 17 days later, how, if at all, was that policy
 18 being complied with in relation to these ten
 19 people?

20 DR. WILLIAMS:
 21 A. We would have sent out that policy to all
 22 physicians in our organization, I'm pretty
 23 sure, then or at some other stage, but I'm
 24 pretty sure we sent it out. I'd have to go
 25 back and look. When we signed it, I think we

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1 sent it out to physicians.
 2 COFFEY, Q.C.:
 3 Q. And it would certainly be there. I mean, it's
 4 in the system somehow or another, however it's
 5 maintained.
 6 DR. WILLIAMS:
 7 A. I think we actually sent it out, because it
 8 was a policy that applied to all our staff,
 9 including physicians.
 10 COFFEY, Q.C.:
 11 Q. But it spells out a number of steps?
 12 DR. WILLIAMS:
 13 A. Yes, it does.
 14 COFFEY, Q.C.:
 15 Q. Patients being informed.
 16 DR. WILLIAMS:
 17 A. Yes.
 18 COFFEY, Q.C.:
 19 Q. You know, and in a fairly structured way.
 20 DR. WILLIAMS:
 21 A. Um-hm.
 22 COFFEY, Q.C.:
 23 Q. Isn't it?
 24 DR. WILLIAMS:
 25 A. I'd have to go and look at the document, but

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1 it took us a long time to develop it and we
 2 developed that document in cooperation with
 3 people in our organization, with the Canadian
 4 Medical Protective Association and with the
 5 Medical Board.
 6 COFFEY, Q.C.:
 7 Q. Was any attempt made to actually comply with
 8 it, in relation to those first 10 or 12
 9 patients, do you know?
 10 DR. WILLIAMS:
 11 A. I can't remember, Mr. Coffey. I remember the
 12 feedback that Dr. Laing gave us on what had
 13 been said and the feedback from patients on
 14 that.
 15 COFFEY, Q.C.:
 16 Q. And what had Dr. Laing told you about that?
 17 DR. WILLIAMS:
 18 A. That the patients had been told that we had a
 19 problem with our testing that caused us to
 20 retest, that we didn't know at this point
 21 specifically what the problem was, but that it
 22 resulted in a change of treatment and they
 23 wanted to discuss it with the patients and
 24 that's what patients were told, I understand.
 25 COFFEY, Q.C.:

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1 Q. Do you know if any such assertion or any such
 2 statement was ever recorded on any of the
 3 patients' charts?
 4 DR. WILLIAMS:
 5 A. No, I do not, Mr. Coffey.
 6 COFFEY, Q.C.:
 7 Q. Did the adverse events policy, in fact,
 8 stipulate that such a thing should be recorded
 9 on their chart?
 10 DR. WILLIAMS:
 11 A. I'd have to look at the policy.
 12 COFFEY, Q.C.:
 13 Q. If we could, please, Exhibit P-0333? Now
 14 Doctor, this is an e-mail from Susan Bonnell,
 15 Friday, August 12th, 2005 to yourself and Mr.
 16 Tilley. "Attached are a memo which includes
 17 the key messages, draft, not reviewed and the
 18 draft letter from QI/communications. For
 19 changes, revisions, I can be reached at" and
 20 she gives a number. And then, when we look,
 21 there's really a spreadsheet in one way. She
 22 has headings, approach, strengths and
 23 weaknesses. The approach is a patient letter.
 24 She has a list of strengths and a list of
 25 weaknesses. She has individual patient

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1 notification, a list of strengths and
 2 weaknesses, and this particular one is not in
 3 order. Page four--it's not in order in the
 4 exhibit. It's the order in which, I believe,
 5 the Commission received it. And she goes
 6 through the strengths and weaknesses from her
 7 perspective.
 8 She also spells out a--she has a memo
 9 there. In fact, it's communications option is
 10 the actual--it's page three of the Exhibit,
 11 Commissioner. ER/PR testing at St. John's
 12 Hospitals, August 12th 2005. She has a
 13 heading, issue, the approach, and text after
 14 each and then the approach, the first
 15 approach, in fact, is a media release,
 16 strengths and weaknesses. Page two of this
 17 memo actually is the one with the patient
 18 letter as an approach, and then the individual
 19 patient notification.
 20 She also, this same e-mail, sent you a
 21 list of key messages on process, key messages
 22 on ER/PR tests, and key messages in
 23 understanding immunoperoxidase staining.
 24 Okay.
 25 And if we could, please, if we could

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1 bring up, because the e-mail refers to a
 2 drafted letter from QI/communications. It's
 3 not with that particular exhibit, but if you
 4 could bring up, please, Exhibit P-0331?
 5 You see page two of this exhibit is the
 6 same communications options memo, I gather,
 7 and then you go through this, the key messages
 8 page, and at page five of this exhibit,
 9 there's a draft letter on Eastern Health
 10 letterhead, "dear whomever," and it ends with
 11 a thank you at the bottom and there's a text
 12 of a letter.
 13 Now Doctor, in relation to this
 14 communications issue, as of August 12th '05,
 15 was this your responsibility or Mr. Tilley's,
 16 from your perspective?
 17 DR. WILLIAMS:
 18 A. In getting things together?
 19 COFFEY, Q.C.:
 20 Q. Yes.
 21 DR. WILLIAMS:
 22 A. I would think it was communications to bring
 23 things together and then we would comment on
 24 it.
 25 COFFEY, Q.C.:

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1 Q. Did you comment upon it, yourself?
 2 DR. WILLIAMS:
 3 A. I'm not sure if I did comment upon it. I
 4 probably would have, but I don't remember
 5 doing it in writing.
 6 COFFEY, Q.C.:
 7 Q. You would have commented, at that point, to
 8 Mr. Tilley?
 9 DR. WILLIAMS:
 10 A. No, I might have talked to Susan or Mr.
 11 Tilley. The problem we have here is that we
 12 were in the throes of whether we were going to
 13 send anything out or what we were going to do.
 14 COFFEY, Q.C.:
 15 Q. And what was your view expressed at the time,
 16 do you recall?
 17 DR. WILLIAMS:
 18 A. No, I don't. I know what my view was as we
 19 went through this.
 20 COFFEY, Q.C.:
 21 Q. Okay, so your view that you've expressed to
 22 the Commissioner earlier, did that change at
 23 this point? Was it any different?
 24 DR. WILLIAMS:
 25 A. At one point, we reached a consensus to do

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1 what we did.
 2 COFFEY, Q.C.:
 3 Q. And I appreciate that, and we'll get to that
 4 on August 15th or 16th, but your own view,
 5 leaving aside--I'm not asking about the
 6 consensus view, your own view.
 7 DR. WILLIAMS:
 8 A. My own view may have been still that we may be
 9 moving forward with this, but we had to wait
 10 until we met with the Minister.
 11 COFFEY, Q.C.:
 12 Q. And you preferred to move forward by way of a
 13 public announcement -
 14 DR. WILLIAMS:
 15 A. My view is that by the time you get really all
 16 these letters prepared and identify everybody,
 17 that's going to take quite a while. So I
 18 guess at one--at the start of this and as we
 19 moved through it, I didn't see anything wrong
 20 with a public announcement saying that we had
 21 this problem and that we were going to be
 22 following up and people would be notified and
 23 give people a hotline number to phone in on.
 24 I think that was my views.
 25 COFFEY, Q.C.:

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1 Q. Your own?
 2 DR. WILLIAMS:
 3 A. My own personal views.
 4 COFFEY, Q.C.:
 5 Q. And Exhibit P-0138, please? Doctor, I gather
 6 these are your notes of a meeting you attended
 7 August 15th, 2005.
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. This is the typed version of them. It's on
 12 ER/PR receptor issues. The attendees are: the
 13 Minister, that would be Mr. Ottenheimer; Dr.
 14 Fleming, he's a staff doctor with the
 15 Department of Health, I gather; Ms. Hennessey,
 16 the ADM; Mr. Tilley; Dr. Cook; Dr. Laing; and
 17 yourself.
 18 DR. WILLIAMS:
 19 A. Um-hm.
 20 COFFEY, Q.C.:
 21 Q. And the purpose of this meeting, you
 22 understood, was what?
 23 DR. WILLIAMS:
 24 A. To bring the Minister up to speed on any
 25 events that had happened since our last

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1 meeting and really to discuss, with the
 2 oncologist present, how we were going to
 3 handle the public issue?
 4 COFFEY, Q.C.:
 5 Q. And I take it that, if you look down through
 6 your notes, most of the remarks--I shouldn't
 7 say most, but the person who was noted to have
 8 said the most is perhaps Dr. Laing.
 9 DR. WILLIAMS:
 10 A. That's correct.
 11 COFFEY, Q.C.:
 12 Q. She has a significant contribution to the
 13 meeting. And I take it, was it your
 14 understanding she was there to advise the
 15 Minister or inform the Minister as to the view
 16 of oncologists?
 17 DR. WILLIAMS:
 18 A. Yes, to give that perspective from the people
 19 who were actually on the frontlines in looking
 20 after patients.
 21 COFFEY, Q.C.:
 22 Q. The fourth bullet says "Mount Sinai needs six
 23 to eight weeks to test. Given this, issues
 24 arose when consulted with Dr. Laing and her
 25 colleagues. Consensus re: concerns with what

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1 to say at this time." So I take it that's
 2 really what's out there for discussion here?
 3 DR. WILLIAMS:
 4 A. Yes, it appears to be.
 5 COFFEY, Q.C.:
 6 Q. And you note "Dr. Laing gave overview of ER/PR
 7 testing, how things work in 2005 and how it
 8 has changed over the years. On retesting, a
 9 certain percentage will convert. How it
 10 impacts on therapy is an individual patient
 11 issue. Dr. Laing says first samples for
 12 retesting biased and also retested on Ventana
 13 system. Therefore, our problem, although
 14 undefined at present, may not be as bad as
 15 thought. Can't really have a value discussion
 16 until information available. Will notify
 17 everyone who is retested. Doesn't feel now is
 18 the time to write the letter. Better to wait
 19 until we have more information." And then you
 20 attribute to the Minister, the comment
 21 "Minister: if people advised as soon as
 22 possible, then patients can do what he/she
 23 wishes to deal with the issues" and you
 24 attribute a remark to Dr. Cook, "there is a
 25 problem with the immunoperoxidase testing,"

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1 and then Dr. Laing, you say "Dr. Laing advised
 2 that Dr. McCarthy, Dr. Ganguly agree with
 3 waiting to send something out until we have
 4 more information," and then the Minister, you
 5 attribute to him "will accept best advice for
 6 now. Wishes to meet again within the next two
 7 weeks, and will develop what should go in a
 8 letter in the meantime."
 9 DR. WILLIAMS:
 10 A. Okay.
 11 COFFEY, Q.C.:
 12 Q. On that last point, I take it that's the
 13 letter to the individual patients?
 14 DR. WILLIAMS:
 15 A. Um-hm.
 16 COFFEY, Q.C.:
 17 Q. That was the idea that that would be developed
 18 in the meantime going away from this.
 19 DR. WILLIAMS:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. So I take it then that--when you say the
 23 Minister, Mr. Ottenheimer accepted the best
 24 advice for now, that was the advice of Dr.
 25 Laing?

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COFFEY, Q.C.:
 4 Q. Did Mr. Tilley or yourself or Dr. Cook make
 5 any comment in that regard?
 6 DR. WILLIAMS:
 7 A. I don't recall if we did. We may have, or Mr.
 8 Tilley may have.
 9 COFFEY, Q.C.:
 10 Q. In any case, was it your sense then, and based
 11 upon your note and your recollection, that Mr.
 12 Ottenheimer accepted Dr. Laing's advice in
 13 that regard?
 14 DR. WILLIAMS:
 15 A. And it may have been that it was said that it
 16 was consensus view from the organization at
 17 the time, Mr. Coffey, I'm not sure.
 18 COFFEY, Q.C.:
 19 Q. Okay, and if that was to be said, that would
 20 be said by?
 21 DR. WILLIAMS:
 22 A. Probably be said by Mr. Tilley if it was to be
 23 said.
 24 COFFEY, Q.C.:
 25 Q. Mr. Tilley, and you, yourself, though had

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1 reservations about -

2 DR. WILLIAMS:

3 A. Well, I really was listening, you know, to--I

4 don't have the market on being right or wrong.

5 COFFEY, Q.C.:

6 Q. Oh no.

7 DR. WILLIAMS:

8 A. And when you consult people who have

9 credibility, who thought about it a lot, who

10 are closer to the situation, you can rely on

11 their views or else you shouldn't consult

12 them.

13 COFFEY, Q.C.:

14 Q. Doctor, in that regard, do you know of any

15 individuals or groups within Eastern Health,

16 other than the oncologists, who were

17 advocating not going public or not letting the

18 patients know at that point?

19 DR. WILLIAMS:

20 A. I don't recall any groups--I don't know if

21 there was any other groups we talked to, in a

22 sense. We would have talked around the table

23 with other people there, and I'm not sure if

24 Dr. Felix or Dr. Kwan expressed -

25 COFFEY, Q.C.:

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1 Q. Yes, that's who I'm -

2 DR. WILLIAMS:

3 A. - a view contrary to finally what was decided.

4 COFFEY, Q.C.:

5 Q. If we could, please, Exhibit P-0577? These

6 are your notes of August 23rd 2005.

7 DR. WILLIAMS:

8 A. Yes.

9 COFFEY, Q.C.:

10 Q. Okay, and there's a--attendees you noted as

11 "Mr. Terry Gulliver, a phone discussion, 1997

12 onwards to 2004, Carbonear 14 cases, Gander 64

13 cases. These will be sent off today or

14 tomorrow. Haven't heard from Corner Brook.

15 2002 from Grand Falls and they were sent off.

16 Will ask Dr. Don Cook to follow up with Grand

17 Falls and Corner Brook."

18 DR. WILLIAMS:

19 A. Um-hm.

20 COFFEY, Q.C.:

21 Q. So I take it at that point, you became aware

22 that certainly some centres in the province

23 had not yet sent material in?

24 DR. WILLIAMS:

25 A. Some centres did, and some centres hadn't.

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1 COFFEY, Q.C.:

2 Q. And you were asking Dr. Cook to follow up?

3 DR. WILLIAMS:

4 A. Correct.

5 COFFEY, Q.C.:

6 Q. Now Doctor, Exhibit P-0584, please? Now this

7 is a memo to yourself from Dr. Cook. It's got

8 a received stamp by your office. It's dated

9 August 24th '05, and do you know if--because

10 this memo is sent to you, and if I could just

11 bring up, please, Exhibit P-0580? Now this is

12 a memo of the same date from Dr. Cook, August

13 24th '05, re: ER and PR, and it's addressed to

14 all laboratory directors, as well as yourself.

15 This one happens to be signed by Dr. Cook.

16 And do you know if, in fact, this memo ever

17 actually got sent?

18 DR. WILLIAMS:

19 A. I'm not sure, Mr. Coffey. It's signed, so -

20 COFFEY, Q.C.:

21 Q. Yes. But on that point, that's what I want to

22 ask you about, what was the relationship

23 between yourself and Dr. Cook in terms of

24 whether or not you had to approve of something

25 that he was sending outside the organization

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1 to other laboratories?

2 DR. WILLIAMS:

3 A. He would phone me and he'd usually send me

4 over a draft and it would go out.

5 COFFEY, Q.C.:

6 Q. A draft?

7 DR. WILLIAMS:

8 A. Yes.

9 COFFEY, Q.C.:

10 Q. So and that was the understanding you and he

11 had?

12 DR. WILLIAMS:

13 A. Basically, yes, yeah.

14 COFFEY, Q.C.:

15 Q. And if you got a draft -

16 DR. WILLIAMS:

17 A. If I had any changes, I'd let him know.

18 COFFEY, Q.C.:

19 Q. Yes, okay. And they'd be incorporated and

20 then it would be -

21 DR. WILLIAMS:

22 A. Go out, yes.

23 COFFEY, Q.C.:

24 Q. Go out, okay. If we could, please, Exhibit P-

25 0581? Now this is, it's collected by your

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1 office, although I gather this is probably Dr.
 2 Cook's one of those notes of Dr. Cook? Do you
 3 recognize that?
 4 DR. WILLIAMS:
 5 A. It looks like Dr. Cook's writing, yeah.
 6 COFFEY, Q.C.:
 7 Q. Writing, yeah. He refers to "Spoke to Barry
 8 Gallagher, August 24th, 2005." There are
 9 notes on that. "Spoke to Gary Baker August
 10 24th, 2005. Tried to" might be "reach" but
 11 anyway, "Dr. Dankwa and spoke to Maurice
 12 Dalton, September 1, 2005." And they are all
 13 pathologists, aren't they?
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. But why would the note that Dr. Cook had on
 18 his phone conversations end up in your office?
 19 DR. WILLIAMS:
 20 A. I don't know because I don't remember seeing
 21 these, to be honest with you.
 22 COFFEY, Q.C.:
 23 Q. Okay. And I say in your office because
 24 they're indicated, this header indicates that
 25 they were found -

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1 DR. WILLIAMS:
 2 A. I'm not sure--well, I don't remember seeing
 3 these before. I knew Dr. Cook was phoning out
 4 around the province because I've seen some
 5 notes of it. I don't remember this particular
 6 note.
 7 COFFEY, Q.C.:
 8 Q. Okay.
 9 DR. WILLIAMS:
 10 A. But if he was, that's fine.
 11 COFFEY, Q.C.:
 12 Q. And might he at times--I'm sorry.
 13 MR. SIMMONS:
 14 Q. Yeah, following up on a point I made earlier,
 15 my understanding is the binders might have
 16 been maintained by Dr. Howell after Dr.
 17 Williams left and at the point we received
 18 them, they were the binders from the office,
 19 so it's conceivable that the note got added
 20 after Dr. Howell -
 21 COFFEY, Q.C.:
 22 Q. That Dr. Howell might have gathered it up
 23 from--okay, we'll see -
 24 COMMISSIONER:
 25 Q. Could we go to the top of that memo again,

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1 please, for a moment?
 2 COFFEY, Q.C.:
 3 Q. Yes.
 4 COMMISSIONER:
 5 Q. Okay. Thank you.
 6 COFFEY, Q.C.:
 7 Q. That header, I gather, Commissioner, from Mr.
 8 Simmons, identifies it as having come from a
 9 couple of binders, but that's as far as we
 10 know.
 11 COMMISSIONER:
 12 Q. Oh, yes. No, no, I was--it was a date I had
 13 noted, but I see what Dr. Cook was doing was
 14 noting when he made each of these -
 15 COFFEY, Q.C.:
 16 Q. Various phone calls.
 17 COMMISSIONER:
 18 Q. - and I should not read the August 24th on the
 19 top as being the date of the document.
 20 COFFEY, Q.C.:
 21 Q. No.
 22 COMMISSIONER:
 23 Q. It's just the date of the contact.
 24 COFFEY, Q.C.:
 25 Q. Contact, yes, apparently. Because the last

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1 one down is September 1, Commissioner.
 2 COMMISSIONER:
 3 Q. Exactly, that's why I was looking.
 4 COFFEY, Q.C.:
 5 Q. Sure. If we could, please, Exhibit P-0582?
 6 And, Doctor, these are your handwritten notes
 7 of August 24th, 2005?
 8 DR. WILLIAMS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. And you had apparently met with Mr. Gulliver
 12 and Dr. Cook. And you note, "In addition to
 13 Dr. Cook's memo of August 24th, '05 we will
 14 adjust our Ventana system based on our new
 15 controls." And then you go on to say in the
 16 second bullet, "Dr. Cook will be sending out a
 17 number of memos on this and other issues."
 18 And refers to blocks for 2004 and '05 are
 19 being pulled and "hope to start in-house
 20 testing on all specimens, then pack blocks to
 21 send to Mount Sinai so that they will be
 22 processed as soon as current workload there
 23 are completed." So I take it at that point in
 24 time there was still some thought given to
 25 actually doing some retesting internally?

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1 DR. WILLIAMS:
 2 A. It looks like that, but it probably would be
 3 parallel, I suspect.
 4 COFFEY, Q.C.:
 5 Q. That's what I'm getting at.
 6 DR. WILLIAMS:
 7 A. Yeah.
 8 COFFEY, Q.C.:
 9 Q. A parallel.
 10 DR. WILLIAMS:
 11 A. Yeah.
 12 COFFEY, Q.C.:
 13 Q. At the next, the next, there's a note of
 14 August 26th, '05, the last, you met with Mr.
 15 Gulliver and Mr. Dyer and the fourth bullet
 16 says, "Testing to be done as soon as controls
 17 verified."
 18 DR. WILLIAMS:
 19 A. Yes, that seems like we were doing our own
 20 controls here to do some testing on the
 21 Ventana, not for reporting purposes.
 22 COFFEY, Q.C.:
 23 Q. Oh, I appreciate that.
 24 DR. WILLIAMS:
 25 A. But just to -

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1 COFFEY, Q.C.:
 2 Q. See where you were -
 3 DR. WILLIAMS:
 4 A. - comparative purposes as we went along. Now,
 5 I--anyway, we'll discuss that.
 6 COFFEY, Q.C.:
 7 Q. P-0585, please? And this is a letter of
 8 August 24th, 05 to Dr. Carter from Dr. Cook.
 9 And she acknowledges--he acknowledges receipt
 10 of her August 2nd, 2005 letter, the one in
 11 which she resigned from her involvement in
 12 this. And it's copied to yourself?
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. And he says, "I do, however, greatly recognize
 17 your role as a resource individual in breast
 18 pathology."
 19 DR. WILLIAMS:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. "And greatly appreciate your professional
 23 advice, opinion, advice and suggestions
 24 regarding the whole issue of estrogen receptor
 25 status." So, Doctor, put this delicately,

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1 after this was Dr. Carter, in fact, involved
 2 in some of the kind of ongoing efforts to
 3 address the ER/PR matter?
 4 DR. WILLIAMS:
 5 A. That's my understanding--well, that's what I
 6 observed, yes.
 7 COFFEY, Q.C.:
 8 Q. You observed, yes.
 9 DR. WILLIAMS:
 10 A. My observation is yes, she worked very closely
 11 with Dr. Cook and he much appreciated her
 12 advice and so did I, to be honest with you,
 13 and valued her role in carrying this forward.
 14 She also went on the panel when that was set
 15 up in October, this type of thing. You know,
 16 she continued to be actively involved and
 17 working very closely with Dr. Cook. That
 18 would be my take. He might have a different
 19 perspective, but that was what I observed.
 20 COFFEY, Q.C.:
 21 Q. Now, one final thing before lunch, if I could,
 22 Commissioner. P-0334. Now, sir, this is an
 23 e-mail from Susan Bonnell, Friday, August
 24 26th, 2005 at 3:53 p.m. It's to George
 25 Tilley, Dr. Cook and yourself. The subject is

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1 "As per your request." And then there's a
 2 text and the text, I'm not going to read it
 3 all, but it begins, "I wish to advise you that
 4 we are doing a review of our estrogen,
 5 progesterone receptors. I expect to have more
 6 information within the next few weeks and will
 7 keep you updated. Please note the following
 8 points," and there are a number of points.
 9 And there's a text, "The laboratory medicine
 10 program for St. John's hospitals is currently
 11 undergoing a quality review process,
 12 consequently, please note the following
 13 changes," and there are three bullets. "If
 14 you have any questions, please feel free to
 15 call me at," "sincerely yours, Donald M. Cook,
 16 Clinical Chief." Now, I mean, looking at the
 17 format of that, that suggests that Ms. Bonnell
 18 was, in fact, drafting or had drafted a letter
 19 for Dr. Cook, is that -
 20 DR. WILLIAMS:
 21 A. It looks like that, yes. She was helping him.
 22 COFFEY, Q.C.:
 23 Q. I ask you about it because it's sent to you.
 24 DR. WILLIAMS:
 25 A. Yeah. I would, I guess--I can't remember, you

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1 know, this particular event, but it looks like
 2 she's helping him draft the letter that's
 3 going out. I presume all the technical stuff
 4 he would have put together and then she would
 5 have helped him sort of with how he put it in
 6 writing.
 7 COFFEY, Q.C.:
 8 Q. Okay.
 9 DR. WILLIAMS:
 10 A. I'd forgotten about that.
 11 COFFEY, Q.C.:
 12 Q. So, the communications personnel,
 13 communications director, such as Ms. Bonnell
 14 might at times be utilized to help -
 15 DR. WILLIAMS:
 16 A. It looks like in this particular case. I
 17 don't recall referring Dr. Cook to her, but
 18 maybe I did.
 19 COFFEY, Q.C.:
 20 Q. Commissioner.
 21 COMMISSIONER:
 22 Q. Are you ready for lunch now? All right.
 23 2:05.
 24 COFFEY, Q.C.:
 25 Q. Thank you.

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1 (LUNCH BREAK)
 2 COMMISSIONER:
 3 Q. Thank you, please be seated. Mr. Coffey.
 4 COFFEY, Q.C.:
 5 Q. Thank you, Commissioner. Exhibit P-0589,
 6 please. Now these came, apparently, from your
 7 office, Doctor. Do you recognize the
 8 handwriting?
 9 DR. WILLIAMS:
 10 A. The more I see things, it's probably Dr.
 11 Cook's.
 12 COFFEY, Q.C.:
 13 Q. Okay, so--and do you ever recall going around
 14 and kind of gathering up information from Dr.
 15 Cook? So -
 16 DR. WILLIAMS:
 17 A. No, I didn't go around and gather information
 18 from Dr. Cook.
 19 COFFEY, Q.C.:
 20 Q. Okay. In terms--like -
 21 DR. WILLIAMS:
 22 A. No. Dr. Cook would send information from time
 23 to time.
 24 COFFEY, Q.C.:
 25 Q. Oh, okay.

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1 DR. WILLIAMS:
 2 A. To me or drop--sometimes he'd send it by mail,
 3 a lot of times he'd just drop it over.
 4 COFFEY, Q.C.:
 5 Q. So is it possible that he would give you kind
 6 of a listing of his notes on certain things,
 7 handwritten notes from time to time?
 8 DR. WILLIAMS:
 9 A. I know, for instance, I saw the note that he,
 10 in the follow-up to his discussion with Dr.
 11 Dogan very well.
 12 COFFEY, Q.C.:
 13 Q. Sure.
 14 DR. WILLIAMS:
 15 A. At the Mayo Clinic because I was very
 16 surprised that, what was in the note.
 17 COFFEY, Q.C.:
 18 Q. Yes.
 19 DR. WILLIAMS:
 20 A. After talking to Mayo. So if he sent me that
 21 note, I'm sure from time to time I'd get
 22 notes.
 23 COFFEY, Q.C.:
 24 Q. Okay.
 25 DR. WILLIAMS:

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1 A. I may not have all of them, but I certainly
 2 would have some.
 3 COFFEY, Q.C.:
 4 Q. If we could, Exhibit P-1281? Now, Doctor,
 5 this is an e-mail from George Tilley to Moira
 6 Hennessey, September 1, '05, 12:44. It's
 7 copied to yourself. And it's, I gather it's
 8 advising Ms. Hennessey of the status of the
 9 retesting. But there's a reference at the
 10 bottom to "Dr. Williams has met with one lady
 11 who inquired about this issue."
 12 DR. WILLIAMS:
 13 A. Um-hm.
 14 COFFEY, Q.C.:
 15 Q. Do you recall what that was about?
 16 DR. WILLIAMS:
 17 A. There were--I met with two ladies who inquired
 18 about the issue. So can I just check my notes
 19 for a second?
 20 COFFEY, Q.C.:
 21 Q. Sure.
 22 DR. WILLIAMS:
 23 A. The temporal relationship. The date of this -
 24 COFFEY, Q.C.:
 25 Q. September 1.

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1 DR. WILLIAMS:
 2 A. September 1. Yes, this was a lady.
 3 COFFEY, Q.C.:
 4 Q. Yes.
 5 DR. WILLIAMS:
 6 A. Do you want me to tell you the details?
 7 COFFEY, Q.C.:
 8 Q. Yeah, if you would, please, without naming -
 9 COMMISSIONER:
 10 Q. Without the names -
 11 COFFEY, Q.C.:
 12 Q. Without naming.
 13 DR. WILLIAMS:
 14 A. Yes, sure.
 15 COFFEY, Q.C.:
 16 Q. Okay. If you would, please.
 17 DR. WILLIAMS:
 18 A. Who was concerned because she had breast
 19 cancer herself and her sister had died from
 20 breast cancer.
 21 COFFEY, Q.C.:
 22 Q. Yes.
 23 DR. WILLIAMS:
 24 A. Her sister was ER negative, ER/PR negative and
 25 she was ER/PR positive and felt that there

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1 should be some relationship, her sister was
 2 negative, she should be negative or vice
 3 versa.
 4 COFFEY, Q.C.:
 5 Q. Yes.
 6 DR. WILLIAMS:
 7 A. So she was quite distraught and upset. And I
 8 met with her -
 9 COFFEY, Q.C.:
 10 Q. And how did she know at this point about this?
 11 DR. WILLIAMS:
 12 A. I expect that she heard it from some other
 13 patient that -
 14 COFFEY, Q.C.:
 15 Q. Okay. Perhaps one of those, of the first -
 16 DR. WILLIAMS:
 17 A. Of the early group.
 18 COFFEY, Q.C.:
 19 Q. - 12, 10 or 12?
 20 DR. WILLIAMS:
 21 A. That's my understanding.
 22 COFFEY, Q.C.:
 23 Q. Okay.
 24 DR. WILLIAMS:
 25 A. We would have met with her, let me see, looks

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1 like August the 25th Ms. Pilgrim, Dr. Zulfiqar
 2 and myself. He was the oncologist of record.
 3 And to discuss the situation. And she was
 4 distraught and wanted to be retested and her
 5 sister to be retested and we arranged to have
 6 that done.
 7 COFFEY, Q.C.:
 8 Q. Okay. And Mr. Tilley, It's apparent, I take
 9 it, from this, that he was -
 10 DR. WILLIAMS:
 11 A. I would have told Mr. Tilley that because I
 12 thought it was--the issue as it related to
 13 what we were doing at the time was important,
 14 not the individual issue that we're talking
 15 about here, but related to overall situation,
 16 yes.
 17 COFFEY, Q.C.:
 18 Q. But you understood in relation to this lady
 19 that she had become aware of this ER/PR issue?
 20 DR. WILLIAMS:
 21 A. Yes. She didn't become aware of it -
 22 COFFEY, Q.C.:
 23 Q. - informally?
 24 DR. WILLIAMS:
 25 A. Yes, informally, that's my understanding.

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1 COFFEY, Q.C.:
 2 Q. Informally in the sense of not from the
 3 Eastern Health itself?
 4 DR. WILLIAMS:
 5 A. No.
 6 COFFEY, Q.C.:
 7 Q. But she'd become aware of it -
 8 DR. WILLIAMS:
 9 A. Yes, that's -
 10 COFFEY, Q.C.:
 11 Q. Who had told you about the contact by her, who
 12 brought that to your attention, do you recall?
 13 Who within your own organization brought that
 14 to your attention?
 15 DR. WILLIAMS:
 16 A. Oh, she phoned my office, I think.
 17 COFFEY, Q.C.:
 18 Q. Oh, she phoned, okay. You were probably the
 19 initial point?
 20 DR. WILLIAMS:
 21 A. Yes, that's my recollection, she phoned.
 22 COFFEY, Q.C.:
 23 Q. You say there was a second one, as well?
 24 DR. WILLIAMS:
 25 A. Yes, but the other person had contacted us,

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1 there's some e-mails there, from--through Ross
 2 Reid's office.
 3 COFFEY, Q.C.:
 4 Q. Okay.
 5 DR. WILLIAMS:
 6 A. So I didn't know which one this was referring
 7 to.
 8 COFFEY, Q.C.:
 9 Q. Okay. But this would--Mr. Reid is in October?
 10 DR. WILLIAMS:
 11 A. Yes and that's why -
 12 COFFEY, Q.C.:
 13 Q. And I appreciate that, Doctor. So this is
 14 one. And I take it she was told, this lady in
 15 August was told that she would--her tissue
 16 samples would be retested?
 17 DR. WILLIAMS:
 18 A. We did retest them, yes.
 19 COFFEY, Q.C.:
 20 Q. Yes. If we could, please, Exhibit P-0590?
 21 This, Doctor, is a memo from Dr. Cook,
 22 September 6th, 2005 to again all these lab
 23 directors listed and yourself. And I take it
 24 this is the one where Dr. Cook is asking that
 25 they all send in, that is, all the other lab

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1 directors, send in their ER/PR--or just ER
 2 negatives?
 3 DR. WILLIAMS:
 4 A. ER negatives as defined in this document.
 5 COFFEY, Q.C.:
 6 Q. As defined.
 7 DR. WILLIAMS:
 8 A. And that, I note, that the 10 percent and 30
 9 percent are now in there.
 10 COFFEY, Q.C.:
 11 Q. Yeah, it's very particular here and very--
 12 dates are spelled out and so on.
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. The actual decision as to the criteria, both
 17 temporally and quantitatively percentage wise?
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. I take it you were being told that, you had no
 22 input into that yourself?
 23 DR. WILLIAMS:
 24 A. No, I wouldn't make--I would leave that
 25 decision to the professionals in that area,

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1 yes, Dr. Cook, the pathologists, really, and
 2 Dr. Cook and Dr. Laing representing oncology.
 3 COFFEY, Q.C.:
 4 Q. If we could, please, Exhibit P-1283? Now,
 5 Doctor, this is an e-mail from Heather Predham
 6 to yourself and Dr. Cook, September 12th, '05.
 7 She says, "Please find attached the terms of
 8 reference for the peer review consultant. Let
 9 me know if you need any changes." We go to
 10 page 2, that's the terms of reference,
 11 "External quality review of the
 12 immunohistochemistry service." And that's the
 13 third page of it. Had you requested this?
 14 DR. WILLIAMS:
 15 A. Yes, I would have requested that, Mr. Coffey.
 16 COFFEY, Q.C.:
 17 Q. And you requested it of whom?
 18 DR. WILLIAMS:
 19 A. I would say from Heather Predham.
 20 COFFEY, Q.C.:
 21 Q. Had you ever had occasion in your entire
 22 career to request such a terms of reference
 23 before in relation to, you know, other than
 24 for one doctor?
 25 DR. WILLIAMS:

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1 A. Well, we--yes, I'd done up terms of reference
 2 before, not always from Heather Predham. We
 3 had done peer reviews before.
 4 COFFEY, Q.C.:
 5 Q. Yes, and -
 6 DR. WILLIAMS:
 7 A. But they were individual peer reviews.
 8 COFFEY, Q.C.:
 9 Q. Exactly, that's what I was getting at. In
 10 terms of more than one doctor at a time?
 11 DR. WILLIAMS:
 12 A. No.
 13 COFFEY, Q.C.:
 14 Q. Was there any, from your perspective, any
 15 procedure put forth in the then existing
 16 medical bylaws that -
 17 DR. WILLIAMS:
 18 A. And you want the -
 19 COFFEY, Q.C.:
 20 Q. - would have applied to a grouping of doctors?
 21 DR. WILLIAMS:
 22 A. No. And the peer review wouldn't be in our
 23 bylaws, either. It was a policy, a board
 24 policy.
 25 COFFEY, Q.C.:

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1 Q. Okay.
 2 DR. WILLIAMS:
 3 A. That's how we got the peer review put through.
 4 COFFEY, Q.C.:
 5 Q. Okay.
 6 DR. WILLIAMS:
 7 A. It wouldn't be a very popular thing to put
 8 through in a normal, some normal course of
 9 events, so we--we had--which took about three
 10 years to get that in place and drafted because
 11 nobody else in the province--so we couldn't go
 12 to any other board, nobody else in the
 13 province had peer review, as far as we knew
 14 from our legal counsel, and they were doing
 15 some legal work for other boards, so we might
 16 have been the prototype.
 17 COFFEY, Q.C.:
 18 Q. So at that time, September of '05, was there,
 19 in fact, a bylaw, do you know, or if you
 20 wanted to do an individual peer review, what
 21 were you relying upon?
 22 DR. WILLIAMS:
 23 A. On our peer review policies.
 24 COFFEY, Q.C.:
 25 Q. Policies?

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1 DR. WILLIAMS:
 2 A. As adopted by the board.
 3 COFFEY, Q.C.:
 4 Q. And that had been adopted when?
 5 DR. WILLIAMS:
 6 A. I'd have to go back and--if you have the peer
 7 review documents there which says when it
 8 adopted on the front of that.
 9 COFFEY, Q.C.:
 10 Q. Was it already in existence in September of
 11 '05?
 12 DR. WILLIAMS:
 13 A. Yes.
 14 COFFEY, Q.C.:
 15 Q. Okay. So it existed before September of '05?
 16 DR. WILLIAMS:
 17 A. Correct.
 18 COFFEY, Q.C.:
 19 Q. That policy, though, did not have any kind of
 20 provision or envisaged -
 21 DR. WILLIAMS:
 22 A. No.
 23 COFFEY, Q.C.:
 24 Q. - a number of doctors being looked at at once?
 25 DR. WILLIAMS:

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1 A. No, it did not. And before, of course, that
 2 policy document came into existence it was
 3 intended to capture and put a process in
 4 place. We had done peer reviews before on
 5 individual physicians before we had the policy
 6 in place.
 7 COFFEY, Q.C.:
 8 Q. And you had first requested these terms of
 9 reference when, do you recall?
 10 DR. WILLIAMS:
 11 A. I would say fairly close to the time they were
 12 done. I don't think I was waiting months or
 13 weeks for them.
 14 COFFEY, Q.C.:
 15 Q. So that would be -
 16 DR. WILLIAMS:
 17 A. But I can't give you the exact date.
 18 COFFEY, Q.C.:
 19 Q. Sure. So that would be sometime shortly
 20 before September 12th?
 21 DR. WILLIAMS:
 22 A. I would say when we had captured the time
 23 frames people were coming in, who the people,
 24 we needed to put together something for them
 25 to work on.

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1 COFFEY, Q.C.:
 2 Q. Now, sir, so the idea of terming these quality
 3 review and/or peer review, I take it, that was
 4 yours?
 5 DR. WILLIAMS:
 6 A. That was always my thinking, if you're going
 7 to bring in--if you're going to bring in
 8 somebody to do the kind of review you want
 9 done and not pull any punches, then I was
 10 thinking of doing it under a quality
 11 framework, yes.
 12 COFFEY, Q.C.:
 13 Q. And with that in mind, the purpose of trying
 14 to achieve the goal, not pulling any punches,
 15 to use your words, what is it about a peer
 16 review or quality review that would facilitate
 17 the reviewer not pulling any punches?
 18 DR. WILLIAMS:
 19 A. Well, under the Evidence Act there's a
 20 provision there that quality assurance
 21 committees and things like that are not the
 22 subject of passing any information out to any
 23 third party. That and the peer reviews that
 24 we had done were done under that approach.
 25 And really, when we do a peer review, we want

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1 everything to come out, whatever the findings
 2 are, good and bad, in detail, so the purpose
 3 of them is get everything out, whatever the
 4 problems are, and then work through those
 5 problems so that things don't reoccur in the
 6 future.
 7 COFFEY, Q.C.:
 8 Q. Okay. Now, at that point, in the middle of
 9 September of '05 was there any other
 10 investigation going on into what had happened
 11 other than Dr. Banerjee and Trish
 12 Wegrynowski's?
 13 DR. WILLIAMS:
 14 A. Well, Dr. Carter was going to do some work,
 15 but that had stopped.
 16 COFFEY, Q.C.:
 17 Q. Had stopped?
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. So as of September 12th, 2005 was there any
 22 other investigation going on into what had
 23 happened?
 24 DR. WILLIAMS:
 25 A. I don't--you know.

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1 COFFEY, Q.C.:
 2 Q. That you knew of?
 3 DR. WILLIAMS:
 4 A. No.
 5 COFFEY, Q.C.:
 6 Q. And then these two investigations that you had
 7 arranged for, I take it?
 8 DR. WILLIAMS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. By Dr. Banerjee and Trish Wegrynowski, you saw
 12 them as covered by peer review, quality
 13 assurance?
 14 DR. WILLIAMS:
 15 A. I saw this done under the quality assurance.
 16 COFFEY, Q.C.:
 17 Q. Quality assurance?
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. And not peer review?
 22 DR. WILLIAMS:
 23 A. Well, to me they're very, very similar. The
 24 quality assurance committee would usually be
 25 in place for any peer review, and that would

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1 be the leadership team of that particular
 2 program.
 3 COFFEY, Q.C.:
 4 Q. And in this particular instance was the work
 5 of one of the members of that leadership
 6 program his actual work subject to part of
 7 this?
 8 DR. WILLIAMS:
 9 A. Well, we weren't doing it on an individual
 10 basis, so, you know, we weren't going to be
 11 naming persons on an individual basis, so we
 12 saw this as a quality assurance review that
 13 could go through under that way, Mr. Coffey.
 14 COFFEY, Q.C.:
 15 Q. Yes. And I gather -
 16 COMMISSIONER:
 17 Q. Sorry, I just--sorry to interrupt but you said
 18 something that I really want to make sure I
 19 understand. When you saw "we weren't doing it
 20 on an individual basis" did the instructions
 21 include you don't refer to anyone
 22 individually?
 23 DR. WILLIAMS:
 24 A. It was -
 25 COMMISSIONER:

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1 Q. I mean, I understand that you were -
 2 DR. WILLIAMS:
 3 A. Yes, yes, yeah.
 4 COMMISSIONER:
 5 Q. - looking at a broad thing and not necessarily
 6 the work of one person -
 7 DR. WILLIAMS:
 8 A. Yeah, we were looking -
 9 COMMISSIONER:
 10 Q. - coming through the door. But would the
 11 instructions to the people coming in have
 12 included, we're not interested in your
 13 comments on one individual, we want you to
 14 look at this more broadly?
 15 DR. WILLIAMS:
 16 A. We wouldn't have said that in the document,
 17 but when I do a review--you know, before they
 18 went off we said we wanted a reviews of the
 19 whole lab. I don't know if I said we don't
 20 want you to comment on any one individual, I
 21 can't remember that -
 22 COMMISSIONER:
 23 Q. Um-hm.
 24 DR. WILLIAMS:
 25 A. - Commissioner, if I would have said that.

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1 I'm not sure I would have said that.
 2 COMMISSIONER:
 3 Q. Okay.
 4 DR. WILLIAMS:
 5 A. But I wouldn't have stopped them, but I
 6 didn't--I don't think I addressed it, really.
 7 COMMISSIONER:
 8 Q. Okay. Thank you.
 9 COFFEY, Q.C.:
 10 Q. And at the time then, so these are the only
 11 two as of mid September investigations being
 12 conducted?
 13 DR. WILLIAMS:
 14 A. That's -
 15 COFFEY, Q.C.:
 16 Q. Correct? And you understood that their
 17 findings, whatever they might be, were not
 18 going to be generally circulated?
 19 DR. WILLIAMS:
 20 A. Only in the way we normally did a peer review,
 21 those who were involved -
 22 COFFEY, Q.C.:
 23 Q. Sure, yeah.
 24 DR. WILLIAMS:
 25 A. - would--and in this case we didn't circulate

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1 it, but they had certainly an opportunity to
 2 put feedback in.
 3 COFFEY, Q.C.:
 4 Q. That's the pathologists and the technologists,
 5 I take it?
 6 DR. WILLIAMS:
 7 A. Yes, yes.
 8 COFFEY, Q.C.:
 9 Q. But in terms of they weren't circulated to
 10 them, it wasn't envisaged at the time that
 11 they would be circulated to all, these reports
 12 would go to the pathologists or the
 13 technologists?
 14 DR. WILLIAMS:
 15 A. I don't think we thought that, you know, I
 16 can't remember thinking that far ahead, now,
 17 when we get the reports, how are we going to--
 18 but when we got the reports, we felt that, you
 19 know, obviously if--although not on an
 20 individual basis, the lab and people who
 21 worked in the lab should be provided an
 22 opportunity to provide commentary back.
 23 COFFEY, Q.C.:
 24 Q. Yeah.
 25 DR. WILLIAMS:

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1 A. I'm sorry, should be provided an opportunity
 2 at least to know what was in the reports.
 3 COFFEY, Q.C.:
 4 Q. Know what was in them?
 5 DR. WILLIAMS:
 6 A. Yes.
 7 COFFEY, Q.C.:
 8 Q. Okay. And I take it, though, that whatever
 9 the findings might be, if these were the only
 10 two investigations, then no one outside that
 11 was privy to those report would ever find out
 12 what had happened?
 13 DR. WILLIAMS:
 14 A. They were done as we have a normal peer review
 15 -
 16 COFFEY, Q.C.:
 17 Q. Yeah.
 18 DR. WILLIAMS:
 19 A. - in our organization.
 20 COFFEY, Q.C.:
 21 Q. So you -
 22 DR. WILLIAMS:
 23 A. Try to identify the problem and take measures
 24 to fix it and ensure it doesn't happen again.
 25 That would be the approach we took.

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1 COFFEY, Q.C.:
 2 Q. Oh, using a mechanism which would result in no
 3 one outside those, and a very small group,
 4 ever learning what the cause was or causes
 5 were? Is that correct?
 6 DR. WILLIAMS:
 7 A. From that perspective. Now, after the fact,
 8 once all that was done, there could be some
 9 information shared, but that would be much
 10 later. But the approach at the time was do it
 11 in a quality assurance peer review approach.
 12 COFFEY, Q.C.:
 13 Q. Which meant keeping it within a very small
 14 group?
 15 DR. WILLIAMS:
 16 A. Which meant making sure that everything would
 17 get out that needed to come out, nobody would
 18 pull any punches and we would address
 19 everything.
 20 COFFEY, Q.C.:
 21 Q. But patient would never learn, would they,
 22 under that regime patients would never be told
 23 what the cause or causes were of the problem?
 24 DR. WILLIAMS:
 25 A. Under a peer review approach, no, we would -

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1 COFFEY, Q.C.:

2 Q. Would they?

3 DR. WILLIAMS:

4 A. Yeah. Not under a peer review approach, no.

5 COFFEY, Q.C.:

6 Q. Nor a quality assurance approach as laid out

7 there?

8 DR. WILLIAMS:

9 A. No. That was what was kind contemplated in

10 the selection.

11 COFFEY, Q.C.:

12 Q. So it was contemplated that the patients would

13 never learn if the cause or causes were

14 identified, it was contemplated that the

15 patients would never know what the cause or

16 causes were?

17 DR. WILLIAMS:

18 A. We never sat down and said, no, we're not

19 going to do that, but we wanted to make sure

20 that everything came out so we did it in a

21 peer review format.

22 COFFEY, Q.C.:

23 Q. Everything came out to whom, not to the

24 patients -

25 DR. WILLIAMS:

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1 A. To our organization and -

2 COFFEY, Q.C.:

3 Q. Yeah. But not to the patients?

4 DR. WILLIAMS:

5 A. - we were making sure we fixed the problem.

6 COFFEY, Q.C.:

7 Q. Would you agree, not to the patients?

8 DR. WILLIAMS:

9 A. In that type of a forum, no.

10 COFFEY, Q.C.:

11 Q. Okay.

12 COMMISSIONER:

13 Q. Dr. Williams, you added a minute ago a little

14 phrase, and I'm afraid I've forgotten already

15 what it was, but you seemed to indicate that

16 you would have this process called--which you

17 see as quality review?

18 DR. WILLIAMS:

19 A. Yes.

20 COMMISSIONER:

21 Q. Because I gather the wide nature of what was

22 being reviewed?

23 DR. WILLIAMS:

24 A. Yes.

25 COMMISSIONER:

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1 Q. And that the report would come in, would go to

2 a narrow group of people. You indicated that,

3 as at least maybe I'm misinterpreting you, but

4 let's make sure I understand, that those in

5 the lab and I presume pathologists whose work

6 was being reviewed -

7 DR. WILLIAMS:

8 A. Yes.

9 COMMISSIONER:

10 Q. - although they would not be given the

11 reports, they would what?

12 DR. WILLIAMS:

13 A. They would be, I think, read the reports and

14 the recommendations.

15 COMMISSIONER:

16 Q. Read the reports and the recommendations?

17 DR. WILLIAMS:

18 A. Yes.

19 COMMISSIONER:

20 Q. So do you know whether in this case they were,

21 in fact, read the reports?

22 DR. WILLIAMS:

23 A. My understanding is, and I'd have to ask Mr.

24 Gulliver from the technologists' perspective,

25 but certainly the pathologists had, the report

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1 was read to them with the recommendations.

2 COMMISSIONER:

3 Q. Okay. So it was read to all of the

4 pathologists?

5 DR. WILLIAMS:

6 A. Well, there was a meeting called and -

7 COMMISSIONER:

8 Q. Okay.

9 COFFEY, Q.C.:

10 Q. And when was that?

11 DR. WILLIAMS:

12 A. Sometime after we received the written report.

13 I can't give you the exact date.

14 COFFEY, Q.C.:

15 Q. Well, do you know if it was in '05 or '06?

16 DR. WILLIAMS:

17 A. It would have been after the first report, so

18 I would expect it was in '05.

19 COFFEY, Q.C.:

20 Q. So it's your understanding that what happened?

21 I'm just, I want to be, just to be clear.

22 DR. WILLIAMS:

23 A. When the report came in.

24 COFFEY, Q.C.:

25 Q. Yes. That would be Dr. Banerjee's report, in

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1 particular?

2 DR. WILLIAMS:

3 A. Yes. Dr. Cook would have taken that report

4 and would have met with the pathologists and

5 provided the information in that report, read

6 it to them, but would not give them a copy.

7 COFFEY, Q.C.:

8 Q. Why read it to them and yet not give them a

9 copy, what's -

10 DR. WILLIAMS:

11 A. Because once you circulate a lot of copies,

12 you're circulating a lot of copies all over

13 your organization and that may not protect the

14 integrity of trying to keep it as a document.

15 COMMISSIONER:

16 Q. Okay. So, can we come back to this little

17 added rider which I thought I heard. And in

18 answer to Mr. Coffey's question you're saying

19 you keep it within that narrow group?

20 DR. WILLIAMS:

21 A. Um-hm.

22 COFFEY, Q.C.:

23 Q. And you fix the problem, whatever that was?

24 DR. WILLIAMS:

25 A. Yes.

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1 COFFEY, Q.C.:

2 Q. And then you seemed to add a little rider to

3 the effect that maybe further down the road -

4 DR. WILLIAMS:

5 A. We never discussed that -

6 COMMISSIONER:

7 Q. - it gets shared?

8 DR. WILLIAMS:

9 A. Maybe. I don't--you know, we never had a

10 discussion about that.

11 COMMISSIONER:

12 Q. Okay.

13 DR. WILLIAMS:

14 A. At the time.

15 COMMISSIONER:

16 Q. So what you do--here's my reaction to that

17 statement.

18 DR. WILLIAMS:

19 A. Um-hm.

20 COMMISSIONER:

21 Q. Is that you fix the problem, even if you're

22 correct, assuming for the moment you're

23 correct and everything is wonderful within

24 Eastern Health.

25 DR. WILLIAMS:

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1 A. Um-hm.

2 COMMISSIONER:

3 Q. But you don't share what the problem was with

4 the authorities in the rest of the province?

5 You see my problem?

6 DR. WILLIAMS:

7 A. Um-hm.

8 COMMISSIONER:

9 Q. Particularly since, as I understand it, the

10 kinds of things that Dr. Banerjee was

11 referring to vis-a-vis the work of

12 pathologists would be wide enough to include

13 the work of pathologists in other places?

14 DR. WILLIAMS:

15 A. Um-hm.

16 THE COMMISSIONER:

17 Q. Now, as a bayman, I got a real problem with

18 that. It seems to me that you're condemning

19 the people from outside of your institution to

20 having the problem continue. Now is there a

21 way or did you have in your plan some way of

22 making sure that didn't happen?

23 DR. WILLIAMS:

24 A. Well, the issue of the immunohistochemistry,

25 of course, was going to be centralized, the

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1 reading would be centralized to St. John's.

2 That was part--that was what was envisioned in

3 the recommendations.

4 THE COMMISSIONER:

5 Q. So would not--would there be no role for

6 fixation outside of St. John's?

7 DR. WILLIAMS:

8 A. Yes, and the issue of fixation was an issue

9 that Dr. Denic was following up on. We were

10 going to do a protocol on fixation and share

11 that with the other centres, and in fact,

12 there was a meeting in December of 2006 where

13 the other pathologists from around the

14 province were on a conference call and a

15 review--there was a series of presentations by

16 Dr. Carter, Dr. Elms, Dr. Laing, Dr. Denic.

17 COFFEY, Q.C.:

18 Q. So that's a full year after or more than a

19 year after Dr. Banerjee's report came in?

20 DR. WILLIAMS:

21 A. Yeah.

22 COFFEY, Q.C.:

23 Q. So it took more than a year to tell

24 pathologists outside St. John's what Dr.

25 Banerjee's observations had been?

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1 DR. WILLIAMS:
 2 A. Well, Dr. Cook was in contact with the other
 3 directors from time to time. The issue of the
 4 fixation, I presume, was known by other
 5 people. I had mentioned it in my briefing of
 6 the medical directors when I briefed them in
 7 September and in the fall. I would have gone
 8 over some of the issues, in terms of fixation,
 9 not necessarily attributing it to Dr. Banerjee
 10 because my first briefing was just after he
 11 left and we didn't have his report. But the
 12 issue of fixation was an issue.
 13 COFFEY, Q.C.:
 14 Q. And you mentioned it to the medical directors,
 15 but I'm going to suggest to you, Doctor, they
 16 probably had no more knowledge of fixation
 17 than you had had before May 24th. Would that
 18 be correct?
 19 DR. WILLIAMS:
 20 A. And -
 21 COFFEY, Q.C.:
 22 Q. Would that -
 23 DR. WILLIAMS:
 24 A. Probably. They wouldn't have had, yes, that's
 25 right.

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1 COFFEY, Q.C.:
 2 Q. In terms of the significance to this whole
 3 process of fixation, you know, a non-
 4 pathologist probably wouldn't be all that
 5 acutely aware or tuned into that, would he, he
 6 or she?
 7 DR. WILLIAMS:
 8 A. But part of the plan was that when we
 9 repatriated the program, that would be part of
 10 the strategy. In the meantime, the specimens
 11 were being assessed at Mount Sinai so some
 12 assumption is if they saw a fixation problem,
 13 they'd tell the referring lab.
 14 COFFEY, Q.C.:
 15 Q. Okay. So you were going to -
 16 THE COMMISSIONER:
 17 Q. Sorry, I'm going to butt in again.
 18 COFFEY, Q.C.:
 19 Q. Yes, go ahead, Commissioner.
 20 THE COMMISSIONER:
 21 Q. When you said "when we repatriated the
 22 program"
 23 DR. WILLIAMS:
 24 A. Yes.
 25 THE COMMISSIONER:

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1 Q. And I presume meaning going back to testing in
 2 Eastern Health?
 3 DR. WILLIAMS:
 4 A. Yes.
 5 THE COMMISSIONER:
 6 Q. And the new program would be you would do the
 7 reading at Eastern Health?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 THE COMMISSIONER:
 11 Q. Instead of sending them back to the regions.
 12 Why do you assume that the regions would want
 13 to send them back to you?
 14 DR. WILLIAMS:
 15 A. Well, the -
 16 THE COMMISSIONER:
 17 Q. Is there a deal that they have to?
 18 DR. WILLIAMS:
 19 A. No, they may not.
 20 THE COMMISSIONER:
 21 Q. Or is that -
 22 DR. WILLIAMS:
 23 A. They may not send them back to us.
 24 THE COMMISSIONER:
 25 Q. Okay. But you would--you're saying when, if

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1 they chose to use your particular expertise in
 2 the future, then you would say to them, "if
 3 we're going to do your slides, we'll also have
 4 to do the reading" or would you say to them -
 5 DR. WILLIAMS:
 6 A. Yeah, we would offer.
 7 THE COMMISSIONER:
 8 Q. Offer to do the reading, as opposed to saying
 9 to them -
 10 DR. WILLIAMS:
 11 A. Yes.
 12 THE COMMISSIONER:
 13 Q. I'm just saying that if, for example, it seems
 14 to me that for authorities outside of Eastern
 15 Health, they had a number of possibilities.
 16 One of which is to say, of course, "thank you
 17 very much, but we'd just as soon -
 18 DR. WILLIAMS:
 19 A. Not give it to us.
 20 THE COMMISSIONER:
 21 Q. - not give you our work." Or they could say
 22 "we want to give it to you, but we want to
 23 stick to the old system. We want to continue
 24 to read in our own facilities."
 25 DR. WILLIAMS:

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1 A. Yes.
 2 THE COMMISSIONER:
 3 Q. And presumably that wouldn't have solved your
 4 problem of--that wouldn't have dealt with the
 5 problem that we're just discussing because the
 6 reading part would then be back in those other
 7 regions.
 8 DR. WILLIAMS:
 9 A. Yes.
 10 THE COMMISSIONER:
 11 Q. Or as you say, they could send it to you and
 12 you would do the reading and the only thing we
 13 would have to worry about, presumably, would
 14 be fixation in those other regions.
 15 DR. WILLIAMS:
 16 A. Yes, but that--as part of that, Dr. Denic was
 17 doing up a fixation protocol.
 18 THE COMMISSIONER:
 19 Q. Okay.
 20 DR. WILLIAMS:
 21 A. That would apply to our organization and every
 22 organization that was sending these specimens
 23 in.
 24 THE COMMISSIONER:
 25 Q. I had a conversation with another witness in

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1 which I sort of said "what's the real story
 2 here?" So I'll give you an opportunity to do
 3 the same thing, because it seems to me that
 4 the message I was getting from that witness--
 5 and I'd really appreciate it if you could tell
 6 me whether or not, in your view, this is the
 7 way it works. Because the message I was
 8 getting from that witness is I shouldn't worry
 9 about these other places because we have ways
 10 of letting them know.
 11 Now do you think I shouldn't be worried
 12 about whether or not these other places get
 13 the information that they need to make sure
 14 that the quality of care is out there because
 15 gee, they'll know?
 16 DR. WILLIAMS:
 17 A. No, I think everybody should be worried that
 18 we get the information out.
 19 THE COMMISSIONER:
 20 Q. But in your view, the way to get the
 21 information out is to rely on Eastern Health
 22 to send them the protocols?
 23 DR. WILLIAMS:
 24 A. And have a discussion about those protocols
 25 and the reason for those protocols.

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1 THE COMMISSIONER:
 2 Q. Well, the reason for the protocols will go
 3 back to what the problem was in your lab.
 4 DR. WILLIAMS:
 5 A. Yes, yeah.
 6 THE COMMISSIONER:
 7 Q. Which really says that informally you're going
 8 to tell them what you say nobody outside that
 9 very narrow number of people would know.
 10 DR. WILLIAMS:
 11 A. You're going to have to talk about that there
 12 was, you know, some fixation problems, sure.
 13 THE COMMISSIONER:
 14 Q. Yes.
 15 DR. WILLIAMS:
 16 A. By that time, they may have already known
 17 about that, because of some conversations that
 18 came up even before the--Dr. Banerjee came in.
 19 There was some -
 20 THE COMMISSIONER:
 21 Q. Well, yes.
 22 DR. WILLIAMS:
 23 A. - thought process about that.
 24 THE COMMISSIONER:
 25 Q. Things do get around.

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1 COFFEY, Q.C.:
 2 Q. Thank you, Commissioner. If we could, please,
 3 Exhibit 1289? So Doctor, this is a note. It
 4 says, one, and this is on your letterhead,
 5 "one, do up brief to the Board, one page,
 6 September 21." I take it you briefed the
 7 Board of Trustees on September 21st?
 8 DR. WILLIAMS:
 9 A. Yes, I did.
 10 COFFEY, Q.C.:
 11 Q. And in terms of that, if we could, please, at
 12 Exhibit P-0593? This is an e-mail from
 13 yourself to George Tilley. You say "it's hard
 14 to make this small and maintain its integrity.
 15 Maybe I should use this with my briefing of
 16 the Board next week, and do a short version to
 17 send out to the Board at this time." If we
 18 look, please, at page two of it, it's a
 19 briefing note, "ER/PR testing results,
 20 September 14th 2005." You'll see it's just
 21 over a page long. The purpose you prepared
 22 this for was what?
 23 DR. WILLIAMS:
 24 A. Maybe some background information, it looks
 25 like it, in preparation for--as part of what I

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1 would have said to the Board.
 2 COFFEY, Q.C.:
 3 Q. You did brief the Board September 21st?
 4 DR. WILLIAMS:
 5 A. I did brief the Board. My briefing lasted
 6 from 30 to 45 minutes.
 7 COFFEY, Q.C.:
 8 Q. And without recounting it for 30 to 40 minutes
 9 for us, what generally--what was your aim in
 10 briefing the Board?
 11 DR. WILLIAMS:
 12 A. Well, my aim in briefing the Board was to do a
 13 comprehensive briefing, not only to talk about
 14 the lab side, but to talk about--and I had to
 15 ask Dr. Laing for some information on that, to
 16 talk about: ER/PR, what was ER/PR testing, to
 17 start off with; what the importance of it was;
 18 what--in doing that, I had to capture how
 19 breast cancer was treated and where this issue
 20 fell into the treatment protocols and so I had
 21 to put it in context, not just say we're doing
 22 ER/PR testing and people get Tamoxifen. It
 23 would be broader than that. And then move
 24 into the--about the DAKO and Ventana systems
 25 and I would have, at the time, told them what

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1 we knew at the time and would have told them
 2 we had a consultant in, Dr. Banerjee, and give
 3 them something verbal on what he had said,
 4 without going in, you know.
 5 COFFEY, Q.C.:
 6 Q. Do you recall what it was you told the Board?
 7 DR. WILLIAMS:
 8 A. I would have told -
 9 COFFEY, Q.C.:
 10 Q. In a summary way, as to what he had said.
 11 DR. WILLIAMS:
 12 A. I remember telling the Board that--because I
 13 remember this from Dr. Banerjee, that he came
 14 in and when he was leaving, he said that he'd
 15 reviewed our lab, he'd reviewed a lot of other
 16 labs, and although we had problems, he felt we
 17 were in the middle of the pack, in terms of
 18 the labs that he had reviewed, and I think I
 19 would have told him that, in a general sense,
 20 that there would--there'd probably been some--
 21 identified some problems in staining, some
 22 problems in the control area, I expect. I had
 23 a series of notes, which I put inside the
 24 binder to jog my memory as I went through.
 25 COFFEY, Q.C.:

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1 Q. Okay. Do you know if we have those notes?
 2 DR. WILLIAMS:
 3 A. No, I'm sorry. I looked for those notes
 4 after. I would put them in the Board binder,
 5 but the Board binder in my office, but they
 6 had thrown them out.
 7 COFFEY, Q.C.:
 8 Q. Okay, and now had--on his way--well, in the
 9 debriefing of Dr. Banerjee, after he'd done
 10 his investigation locally.
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. That occurred before September 21st? You
 15 briefed the Board on the 21st. You're telling
 16 them about what, in a general way, what
 17 Banerjee has told you?
 18 DR. WILLIAMS:
 19 A. Yeah, I wouldn't have had his report. I
 20 wouldn't have had his report at the time.
 21 COFFEY, Q.C.:
 22 Q. Yes, but you had debriefed him as it were?
 23 DR. WILLIAMS:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. Okay.
 2 DR. WILLIAMS:
 3 A. I didn't take any notes of that debriefing.
 4 He told me his report would be along fairly
 5 quickly.
 6 COFFEY, Q.C.:
 7 Q. Now with respect to that, had Dr. Banerjee, at
 8 that time, told you that, in his view, there
 9 was nothing wrong with the DAKO machine or
 10 nothing wrong with the Ventana machine?
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. He assured you in the beginning -
 15 DR. WILLIAMS:
 16 A. Yeah, that our problem was not -
 17 COFFEY, Q.C.:
 18 Q. Was not the machines?
 19 DR. WILLIAMS:
 20 A. - not a fault of the machine.
 21 COFFEY, Q.C.:
 22 Q. Okay.
 23 DR. WILLIAMS:
 24 A. Or he also felt that the Ventana machine was
 25 working well, but we didn't -

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1 COFFEY, Q.C.:
 2 Q. Did you pass that on to the Board?
 3 DR. WILLIAMS:
 4 A. In what sense?
 5 COFFEY, Q.C.:
 6 Q. In the sense of tell the Board that it wasn't
 7 the machinery?
 8 DR. WILLIAMS:
 9 A. I wouldn't have said to the Board, you know,
 10 that it was the machinery, if it wasn't.
 11 COFFEY, Q.C.:
 12 Q. I'm just saying, did you tell the Board that
 13 it was not the machinery?
 14 DR. WILLIAMS:
 15 A. I'm not--I can't be certain exactly, but I
 16 wouldn't have told them it was the machinery,
 17 if it wasn't.
 18 COFFEY, Q.C.:
 19 Q. I appreciate that, okay. Is there anything
 20 that you recall you might have said that might
 21 have left anybody there, some people there, or
 22 one or more people there with the impression
 23 that it was the machine?
 24 DR. WILLIAMS:
 25 A. No, other than the fact that I probably would

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1 have said it might have been easier with the
 2 Ventana because it was automated, over the
 3 semi-automated, for us to get a better result.
 4 COFFEY, Q.C.:
 5 Q. Is there any reason why you would not have
 6 told the Board, on September 21st, that it was
 7 not the machines? Is there anything that
 8 could have prevented you or what, if anything,
 9 did prevent you from telling the Board that
 10 it's not the machinery?
 11 DR. WILLIAMS:
 12 A. I wouldn't have told the Board it's not the
 13 machinery, as far as I know. I might have
 14 told them that, what we knew that there wasn't
 15 a problem with the DAKO machine, but that the
 16 Ventana machine made it easier for our lab to
 17 get a better result. That's the only context
 18 I would have put that in.
 19 COFFEY, Q.C.:
 20 Q. Why would you not tell the Board that it's not
 21 the machines?
 22 DR. WILLIAMS:
 23 A. I'm not sure if, you know, I didn't tell the
 24 Board that.
 25 COFFEY, Q.C.:

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1 Q. Okay. So you're not sure--you don't -
 2 DR. WILLIAMS:
 3 A. No, I don't remember every detail I told the
 4 Board, but I certainly, I don't think, would
 5 leave the Board the impression that we had a
 6 machinery problem here.
 7 COFFEY, Q.C.:
 8 Q. Afterward, in all of the communications
 9 afterward that you made on this, in terms of
 10 to the media, we're going to see some of them,
 11 did you ever inform the media that it was not
 12 the machinery?
 13 DR. WILLIAMS:
 14 A. I can't--I'm not sure of that question. I
 15 never informed the media that it was the
 16 machinery.
 17 COFFEY, Q.C.:
 18 Q. When you were interviewed though by the media,
 19 did you tell them that we had used the DAKO up
 20 to 2004 and we had a new Ventana in '04?
 21 DR. WILLIAMS:
 22 A. Yes, I would have told them that. That was
 23 the sequence of what happened.
 24 COFFEY, Q.C.:
 25 Q. Why speak of the machinery at all?

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1 DR. WILLIAMS:
 2 A. Only because -
 3 COFFEY, Q.C.:
 4 Q. After Dr. Banerjee had told you it wasn't the
 5 machines.
 6 DR. WILLIAMS:
 7 A. Only because historically that we changed the
 8 equipment. That's part of the--something that
 9 was done, that's all.
 10 COFFEY, Q.C.:
 11 Q. But Dr. Banerjee had assured you that, in his
 12 view, it wasn't the machinery.
 13 DR. WILLIAMS:
 14 A. Yeah, but it was just historical that we had
 15 the DAKO machine, we went to a Ventana
 16 machine, nothing other than that.
 17 COFFEY, Q.C.:
 18 Q. Did it have any relevance to the actual
 19 problem, based upon what Dr. Banerjee had told
 20 you?
 21 DR. WILLIAMS:
 22 A. No, it didn't have any relevance, other than I
 23 think it--after 2000--when we put the Ventana
 24 machine in, it enabled us to get better
 25 results, easier results, because it was

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1 automated rather than semi-automated.
 2 COFFEY, Q.C.:
 3 Q. Did you consult with anyone about the approach
 4 of terming these reviews, these two external
 5 reviews, quality assurance reviews or was that
 6 your idea?
 7 DR. WILLIAMS:
 8 A. That was, I guess, my idea in a sense, that
 9 they were quality reviews.
 10 COFFEY, Q.C.:
 11 Q. Okay. If we could, Exhibit P-0596, please?
 12 Now Doctor, these are handwritten notes of
 13 September 22nd, 2005, a debriefing, Dr. Cook,
 14 Dr. Laing, Ms. Predham, Mr. Gulliver and
 15 yourself, of the Mount Sinai technical person?
 16 DR. WILLIAMS:
 17 A. That's correct.
 18 COFFEY, Q.C.:
 19 Q. And I take it there are a number of topics
 20 covered because your handwritten notes go on
 21 for about two and a quarter pages. What--and
 22 can you summarize what Ms. Wegrynowski was
 23 telling you?
 24 DR. WILLIAMS:
 25 A. Well, let me tell you, I guess I'll go back to

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1 my first meeting with Ms. Wegrynowski. I met
 2 with her before she did the review and again,
 3 told her that this was a quality review,
 4 whatever the problems were, I wanted her to
 5 identify those, cross all the T's and dot all
 6 the I's and be very thorough, and that's what
 7 we got, a very thorough report. She told me,
 8 after the review, and I don't know if I met
 9 with her individually, but there was a
 10 debriefing obviously -
 11 COFFEY, Q.C.:
 12 Q. And that's that group debriefing.
 13 DR. WILLIAMS:
 14 A. Yes, but I may have met with her individually.
 15 I'm not sure. She told me that the--she had--
 16 this was different than the kind of lab she
 17 had reviewed in Ontario. That we had some
 18 issues in the lab and we had a long way to go
 19 to come up to the standard in Ontario, which
 20 she said was the gold standard, and then she
 21 laid out the series of issues for us.
 22 COFFEY, Q.C.:
 23 Q. And at--go ahead, Doctor, I'm sorry.
 24 DR. WILLIAMS:
 25 A. Yes, and that we had a lot of work to do on

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1 our documentation and procedures, these type
 2 of things, and I didn't think her conclusions
 3 were that dissimilar to Dr. Banerjee's, in
 4 terms of you want to pay some attention to
 5 your fixation issues. He said that in his
 6 report. That the immunohistochemistry is very
 7 tricky and we have to pay a lot of attention
 8 to how that's done. You have to document
 9 everything and you have to be very thorough.
 10 In Ontario, she said they had a standard that
 11 was higher than the College of American
 12 Pathologists, as far as she was concerned.
 13 COFFEY, Q.C.:
 14 Q. Yes.
 15 DR. WILLIAMS:
 16 A. And that with a lot of work, she thought we
 17 could achieve what she said was the gold
 18 standard, and we should work towards that.
 19 COFFEY, Q.C.:
 20 Q. Now those remarks, did you pass those on to
 21 Mr. Tilley?
 22 DR. WILLIAMS:
 23 A. I offered Mr. Tilley a chance--you know, a
 24 chance to read the report and this type of
 25 thing. I'm pretty sure I discussed it with

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1 Mr. Tilley, but I can't be sure of that.
 2 COFFEY, Q.C.:
 3 Q. No, and I appreciate that, and I'm going to
 4 get to the reports in a moment, but did you--
 5 those remarks that she had made to you orally,
 6 would you have -
 7 DR. WILLIAMS:
 8 A. I may have done it. See, I can't--sometimes I
 9 would phone Mr. Tilley and talk to him on the
 10 phone about things.
 11 COFFEY, Q.C.:
 12 Q. Did you pass those--you know, those remarks on
 13 to Dr. Cook?
 14 DR. WILLIAMS:
 15 A. Well, I guess this is what--the same that she
 16 would have said with the debriefing.
 17 COFFEY, Q.C.:
 18 Q. Oh, with the group, yes.
 19 DR. WILLIAMS:
 20 A. Yes.
 21 COFFEY, Q.C.:
 22 Q. This group I looked at here.
 23 DR. WILLIAMS:
 24 A. I don't think there's anything--you know.
 25 COFFEY, Q.C.:

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1 Q. She said to you perhaps one on one that she
 2 didn't say to the group?
 3 DR. WILLIAMS:
 4 A. No.
 5 COFFEY, Q.C.:
 6 Q. Okay.
 7 DR. WILLIAMS:
 8 A. And I know at the end, the gold standard is
 9 attainable.
 10 COFFEY, Q.C.:
 11 Q. Yes.
 12 DR. WILLIAMS:
 13 A. Need to be additional human and financial
 14 resources go in towards that.
 15 COFFEY, Q.C.:
 16 Q. Now Doctor, having received this, having
 17 talked to Dr. Banerjee just before this and
 18 now Ms. Wegrynowski, and you're the VP
 19 Medical, how did you feel about this?
 20 DR. WILLIAMS:
 21 A. Well, I felt, you know, we had some work to do
 22 and we needed to get on and doing it as
 23 quickly as we could. I asked Dr. Cook and Mr.
 24 Gulliver to prepare a document that would
 25 capture the essence of what was said and would

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1 enable us to move forward. I remember talking
 2 to Mr. Tilley and telling him that if we
 3 didn't move forward, we really needed to
 4 consider whether we were going to continue to
 5 have a immunohistochemical lab here. So I did
 6 talk to him about that.
 7 COFFEY, Q.C.:
 8 Q. You would have made him understand that it's
 9 kind of we're either in this or not?
 10 DR. WILLIAMS:
 11 A. We're either in it or not.
 12 COFFEY, Q.C.:
 13 Q. We're going to do it right, is that the -
 14 DR. WILLIAMS:
 15 A. Yes, and around the time that we presented
 16 that document, I would have told him that, and
 17 said that, you know, we're either going to do
 18 this or I told Dr. Cook and Mr. Gulliver,
 19 presume that when you do the document that
 20 funding is going to be provided and move
 21 forward on that basis, and then I did talk to
 22 Mr. Tilley, in some detail, on the phone. I
 23 did send a document in to them.
 24 COFFEY, Q.C.:
 25 Q. Yes.

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1 DR. WILLIAMS:
 2 A. But we had a fundamental discussion, if we
 3 were going to continue to do
 4 immunohistochemistry, we had to start
 5 implementing.
 6 COFFEY, Q.C.:
 7 Q. And you had that with Mr. Tilley?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. And the conclusion was what?
 12 DR. WILLIAMS:
 13 A. Conclusion was that he supported that and said
 14 we could go on and start to plan to do these
 15 things and expend the funds to do them.
 16 COFFEY, Q.C.:
 17 Q. Now Doctor, I appreciate in asking the
 18 question, you've said about what you--having
 19 learned what these two individuals were
 20 telling you, external reviewers had told you,
 21 what you did, but were you surprised by what
 22 they said? Had you -
 23 DR. WILLIAMS:
 24 A. Yes, I was--I would have been surprised at the
 25 time, yes.

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1 COFFEY, Q.C.:
 2 Q. And why is that?
 3 DR. WILLIAMS:
 4 A. To be honest with you, given the commitment
 5 Dr. Cook had to quality and the lab and things
 6 I'd heard before, and involved in proficiency
 7 testing and that throughout the lab, I was
 8 very--well, I guess when I heard that there
 9 was none of these things in the
 10 immunohistochemistry section, number one, I
 11 was concerned and then when we got these
 12 reports, I was concerned and we were
 13 determined to move forward as quickly as we
 14 could and act on them.
 15 COFFEY, Q.C.:
 16 Q. Exhibit P-1290 please? Now this is a letter
 17 written to yourself, September 26, 2005, it's
 18 from Dr. Cook and it involved ER and PR
 19 review. And he refers to "the following exit
 20 interviews of both the medical and technical
 21 consultants, one of the issues identified in
 22 immunohistochemical staining of ER and PR
 23 concerns adequate fixation of the specimen."
 24 And he goes on then to talk about or he points
 25 out, "It appears that in some cases the

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1 mastectomy specimens and other breast biopsies
 2 could very well be left lying overnight or
 3 over the weekend in the OR without adequate
 4 formalin fixation.
 5 DR. WILLIAMS:
 6 A. Uh-hm.
 7 COFFEY, Q.C.:
 8 Q. "I would strongly recommend that all
 9 mastectomies and so on should be booked first
 10 thing in the morning in the OR from Monday to
 11 Friday and ideally they should not be
 12 performed on Friday afternoons." Now, Doctor,
 13 up to this point in late September, had you
 14 been aware of this aspect of the matter that
 15 it was possible that mastectomy specimens were
 16 being left?
 17 DR. WILLIAMS:
 18 A. I'm not aware I was aware of that, no.
 19 COFFEY, Q.C.:
 20 Q. No, I'm not suggesting you were at all, I'm
 21 just -
 22 DR. WILLIAMS:
 23 A. No.
 24 COFFEY, Q.C.:
 25 Q. This is kind of a heads up to you at the end

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1 of September from Dr. Cook.
 2 DR. WILLIAMS:
 3 A. If we could, looking at the top--because that
 4 is your handwriting, is it, to the -
 5 DR. WILLIAMS:
 6 A. No, it's not.
 7 COFFEY, Q.C.:
 8 Q. It's not yours?
 9 COFFEY, Q.C.:
 10 Q. No.
 11 COFFEY, Q.C.:
 12 Q. Okay. That would be probably Dr. Cook's then?
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. Were you aware of whether or not this was
 17 attended to?
 18 DR. WILLIAMS:
 19 A. I remember getting a document from Dr. Cook
 20 because I would have sent to the vice-
 21 president, Louise Jones, Marie Tracey and our
 22 two chief surgeons, Dr. Felix and Dr. Kwan.
 23 Dr. Felix was clinical chief of surgery and
 24 site chief at St. Clare's; and Dr. Kwan was
 25 site chief at the General site. And I

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1 remember a document coming from Dr. Cook that
 2 I would have sent to them and more or less
 3 said, look, this got to be dealt with?
 4 COFFEY, Q.C.:
 5 Q. And I take it you would have left it then to
 6 the surgeons and the nursing, perioperative
 7 program -
 8 DR. WILLIAMS:
 9 A. I would have left it but the vice-president
 10 was copied to Louise Jones, so I would have
 11 left it to her and her perioperative
 12 leadership team to deal with that. That
 13 should be somewhere in the documents here.
 14 COFFEY, Q.C.:
 15 Q. Now, and if we could please, exhibit P-1219
 16 and there is material, Doctor, I'm not going
 17 to take you through it in detail, but there is
 18 material, you did send it out to Louise Jones
 19 and so on, that is here before the
 20 Commissioner, okay. Ms. Jones was, in fact,
 21 asked about it.
 22 DR. WILLIAMS:
 23 A. Okay.
 24 REGISTRAR:
 25 COFFEY, Q.C.:

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1 Q. Excuse me, Mr. Coffey, you did say 1219?
 2 COFFEY, Q.C.:
 3 Q. I apologize, 1291, I apologize. This is an e-
 4 mail from Dr. Cook, Tuesday, September 27th,
 5 2005 at 10:23 a.m. to yourself and he's
 6 forwarding, apparently, ER/PR results, both
 7 the results No. 1 and the ER/PR code and below
 8 that there's an e-mail of September 26th,
 9 2005, at 6:09 p.m. from Dr. Brendan Mullen to
 10 Dr. Donald Cook. It's the ER/PR results. Dr.
 11 Mullen has written, "If you have any
 12 questions, please do not hesitate to call me."
 13 So was this the first return of results?
 14 DR. WILLIAMS:
 15 A. That would be my understanding of the first
 16 return, of a number of results, I don't know
 17 how many would be in that -
 18 COFFEY, Q.C.:
 19 Q. And yet this is not the consults, which is
 20 another issue, they may have come back
 21 individually, but the first kind of batch
 22 return would be -
 23 DR. WILLIAMS:
 24 A. Uh-hm, I think so, yes. My memory is that it
 25 was late September, early October.

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1 COFFEY, Q.C.:

2 Q. Yes. P-0141. Now this is an e-mail from

3 Denise Dunn, Friday, September 30th, 2005,

4 5:04 p.m. to Mr. Tilley, Ms. Predham, Ms.

5 Hennessey and Susan Bonnell. The attachment

6 is a briefing note of September 30th, 2005 and

7 Denise Dunn was your executive assistant.

8 DR. WILLIAMS:

9 A. Uh-hm.

10 COFFEY, Q.C.:

11 Q. If we look at page two of this, it's a

12 briefing note again for September 30th, 2005.

13 Did you prepare this or have someone prepare

14 it for you?

15 DR. WILLIAMS:

16 A. I would say somebody prepared it, probably.

17 COFFEY, Q.C.:

18 Q. And you would have vetted it, I take it?

19 DR. WILLIAMS:

20 A. I may have edited before it went out, yes.

21 COFFEY, Q.C.:

22 Q. Well if it's being sent by Denise Dunn to Mr.

23 Tilley, Ms. Predham, Ms. Hennessey and Susan

24 Bonnell, I take it that -

25 DR. WILLIAMS:

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1 A. I probably would have seen it.

2 COFFEY, Q.C.:

3 Q. And your executive assistant is distributing

4 it to some of the senior people involved?

5 DR. WILLIAMS:

6 A. Yes, yes.

7 COFFEY, Q.C.:

8 Q. The purpose of that at the time, do you know

9 what was going on at that point?

10 DR. WILLIAMS:

11 A. Who is the briefing note to, did you say?

12 COFFEY, Q.C.:

13 Q. It's to Mr. Tilley, Ms. Predham, Ms.

14 Hennessey, the ADM; and Susan Bonnell.

15 DR. WILLIAMS:

16 A. No, I'm not sure why on that particular day a

17 briefing note was done up.

18 COFFEY, Q.C.:

19 Q. Well "The Independent" newspaper story was

20 October 2nd, a Sunday.

21 DR. WILLIAMS:

22 A. Uh-hm.

23 COFFEY, Q.C.:

24 Q. Like this was a Friday afternoon and "The

25 Independent" broke the story for the first

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1 time that Sunday, so -

2 DR. WILLIAMS:

3 A. Okay, that's why then, okay.

4 COFFEY, Q.C.:

5 Q. So that's probably why the note was prepared.

6 DR. WILLIAMS:

7 A. Okay.

8 COFFEY, Q.C.:

9 Q. In relation to that, Doctor, I want to ask you

10 about that, what, if any notice did you have

11 that this was going to go public on that

12 Friday?

13 DR. WILLIAMS:

14 A. A phone call from Susan Bonnell.

15 COFFEY, Q.C.:

16 Q. Okay, could you tell the Commissioner what you

17 recall about that and -

18 DR. WILLIAMS:

19 A. I'm pretty sure it was Susan Bonnell or

20 somebody in communications, the story was

21 going to go public and we wanted to have a

22 spokesperson there to address that issue. I

23 think the feeling at the time was it would be

24 better to have somebody who had--was from a

25 clinical side of the organization than the lab

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1 side, or administrative side, because the

2 initial issue would be obviously what's the

3 effect of this on patients. So my

4 recollection of this is that I phoned Kara

5 Laing, I managed--she was out of the province

6 at the time, in Toronto, I think, and had some

7 discussion with her about whether she could at

8 least be the initial spokesperson here. And

9 then if she said yes, then my understanding

10 was she gave us some timeframes along which

11 she would be available and then I think Susan

12 Bonnell was going to follow up with her to co-

13 ordinate the interview. That's my

14 recollection of it.

15 COFFEY, Q.C.:

16 Q. So I take it that there'd be no plan in place

17 as to who this spokesperson might be if this

18 broke?

19 DR. WILLIAMS:

20 A. I think there was some discussion earlier on

21 in some of the notes that Dr. Laing and

22 myself--I saw it in one of the notes anyway

23 that, do some discussion.

24 COFFEY, Q.C.:

25 Q. Concerning who would be the spokesperson, if

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1 and when the media did call?
 2 DR. WILLIAMS:
 3 A. Yeah, there was some, I think Dr. Laing's name
 4 was mentioned as being one of the
 5 spokespersons, but I'd have to look back at
 6 the notes.
 7 COFFEY, Q.C.:
 8 Q. Sure. Now if we could, please, exhibit P-
 9 0603. Now here, this is your handwritten
 10 notes of October 3rd, '05?
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. And it's a meeting of Drs. Kwan, Felix, Hunt,
 15 Laing, Mr. Tilley, Dr. Cook, Ms. Bonnell, Ms.
 16 Predham, Ms. Parsons, Ms. Pilgrim and yourself
 17 and I take it then, that this was a meeting
 18 that Monday, October 3rd to try and figure out
 19 where you were going to go from there, in
 20 light of it going public and in light of the
 21 results now starting to come back.
 22 DR. WILLIAMS:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. Had there been any actual planning done,

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1 concrete planning done as to how this was to
 2 be handled when the first wave of results came
 3 back?
 4 DR. WILLIAMS:
 5 A. I think what we were probably going to do at
 6 the time is when we got the results, see what
 7 they were and then do a strategy and then go
 8 out publicly.
 9 COFFEY, Q.C.:
 10 Q. Okay.
 11 DR. WILLIAMS:
 12 A. So I don't think there was a plan in place,
 13 that if this breaks on us before that happens.
 14 COFFEY, Q.C.:
 15 Q. So the first wave batch had been sent off back
 16 in August of '05 at the Mount Sinai.
 17 DR. WILLIAMS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. With the expectation they'd be back in three
 21 to six weeks, I think that was the reference
 22 we saw?
 23 DR. WILLIAMS:
 24 A. Yes, at that time, yes.
 25 COFFEY, Q.C.:

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1 Q. And this is about actually four weeks, the
 2 first group coming back, four or five weeks
 3 later, at the end of September and by the time
 4 they come back, there's no actual plan in
 5 place?
 6 DR. WILLIAMS:
 7 A. We had a lot of draft things up that could be
 8 ready to go out, but we contemplated having
 9 the results come back, sitting down and then
 10 saying here is what we'll do and here's when
 11 we'll do it. That's my recollection at the
 12 time.
 13 THE COMMISSIONER:
 14 Q. When you say you had some draft things up -
 15 DR. WILLIAMS:
 16 A. Some draft letters and things like that.
 17 THE COMMISSIONER:
 18 Q. Like draft letters and things like that.
 19 DR. WILLIAMS:
 20 A. Yes.
 21 THE COMMISSIONER:
 22 Q. Had anybody, for example, pulled names and
 23 addresses, doctors who had treated the
 24 particular patients whose blocks had gone off,
 25 that kind of stuff?

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1 DR. WILLIAMS:
 2 A. We would have the names of people who were
 3 being redone or the names of the physicians
 4 who were involved in those cases.
 5 THE COMMISSIONER:
 6 Q. But you at least had that together.
 7 DR. WILLIAMS:
 8 A. We had that, but then again, we had things
 9 coming in from outside St. John's as well, so
 10 I had to get that.
 11 COFFEY, Q.C.:
 12 Q. But with respect to just within St. John's,
 13 your own patients, what, if any, concrete
 14 steps had been taken to the best of your
 15 recollection, before the end of September as
 16 to what we're going to do when the first
 17 spreadsheet comes back with, you know, 50 or
 18 70 or 100 names on it.
 19 DR. WILLIAMS:
 20 A. I don't remember any detailed plans such as
 21 that. I think the plan was to sit down when
 22 they come back and then roll things out from
 23 there, to be honest with you.
 24 THE COMMISSIONER:
 25 Q. Had you thought about whether everybody would

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1 be contacted when the information came back or
 2 was that something that had not yet been
 3 considered?
 4 DR. WILLIAMS:
 5 A. I can't remember that we had talked about
 6 that, to be honest with you, and said here's
 7 how and here's how we're going to do it.
 8 THE COMMISSIONER:
 9 Q. Well, for example, you said that you had
 10 thought that they would come back, you would
 11 sort of figure out what the result was -
 12 DR. WILLIAMS:
 13 A. We'd spend some time, yes, and see what -
 14 THE COMMISSIONER:
 15 Q. I presume look at how many people actually
 16 converted, as the term turns out to be.
 17 DR. WILLIAMS:
 18 A. Yes.
 19 THE COMMISSIONER:
 20 Q. And look at what the result was.
 21 DR. WILLIAMS:
 22 A. I think it was contemplated then we'd probably
 23 be in a position to say something publicly, is
 24 my -
 25 THE COMMISSIONER:

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1 Q. Although by then you knew that you weren't
 2 getting them all back, so then you -
 3 DR. WILLIAMS:
 4 A. So we didn't know we were getting them all
 5 back, but I think, to be honest with you, that
 6 once you get some back, you have to inform
 7 those patients that the results -
 8 THE COMMISSIONER:
 9 Q. Which had been your thinking from the
 10 beginning, really.
 11 DR. WILLIAMS:
 12 A. Yes.
 13 THE COMMISSIONER:
 14 Q. That you couldn't keep it quiet for very long.
 15 DR. WILLIAMS:
 16 A. No.
 17 THE COMMISSIONER:
 18 Q. When you knew that because people were turning
 19 up on your doorstep.
 20 DR. WILLIAMS:
 21 A. Yes.
 22 THE COMMISSIONER:
 23 Q. So when they came back in September, which
 24 would be the first of a group, within the
 25 organization was it acknowledged, in your

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1 view, that by that time you were going to have
 2 to go public, even though you would not have
 3 all of them back?
 4 DR. WILLIAMS:
 5 A. It was my--that was my sense that we would
 6 have to go public because you wouldn't be able
 7 to contact people, everybody who had been
 8 retested in a reasonable timeframe, you'd have
 9 to say something public and say that you were
 10 going to go out, you were going to contact
 11 people and you were going, phoning them up and
 12 letting them know that they were being
 13 retested, this type of thing.
 14 THE COMMISSIONER:
 15 Q. Except that earlier on you told me that it was
 16 your feeling that that's what you'd do in the
 17 beginning and your feeling didn't prevail in
 18 the end.
 19 DR. WILLIAMS:
 20 A. No.
 21 THE COMMISSIONER:
 22 Q. So do you have any reason to think it was
 23 going to prevail this time around?
 24 DR. WILLIAMS:
 25 A. Well I think when you have, it's the only

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1 thing practical to do, I would think, that
 2 you'd have to say something publicly and then
 3 follow it up on an individual basis. But
 4 you'd have a better idea, maybe, people
 5 thought we'd have a better idea of what the
 6 situation was when we got a larger batch back.
 7 THE COMMISSIONER:
 8 Q. All right.
 9 COFFEY, Q.C.:
 10 Q. If we could, exhibit P-0616. Now this is an
 11 e-mail from Ms. Bonnell to yourself and Denise
 12 Dunn, October 4th, '05, 2:59 p.m. It's a
 13 letter to physicians for NLMA website, it says
 14 "Dear Physician" and it's informing, I take
 15 it, that physicians of Newfoundland through
 16 the NLMA of the situation and it's prepared
 17 for your signature, dated October 4th. With
 18 respect to this, was this prepared at your
 19 request?
 20 DR. WILLIAMS:
 21 A. I couldn't say for sure.
 22 COFFEY, Q.C.:
 23 Q. Do you know if in fact you did sign it and
 24 send it on to the NLMA?
 25 DR. WILLIAMS:

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1 A. I think a letter went out from Dr. Gardiner,
 2 there's a letter went out from Dr. Gardiner.
 3 COFFEY, Q.C.:
 4 Q. Yes.
 5 DR. WILLIAMS:
 6 A. I think that was how it was handled.
 7 COFFEY, Q.C.:
 8 Q. Okay, and Dr. Gardiner at the time was?
 9 DR. WILLIAMS:
 10 A. He was the medical director of the Cancer
 11 Clinic.
 12 COFFEY, Q.C.:
 13 Q. If we could, exhibit P-0620? And if we could,
 14 is that the letter of Dr. Paul Gardiner?
 15 DR. WILLIAMS:
 16 A. Yes.
 17 COFFEY, Q.C.:
 18 Q. October 4th. And why Dr. Gardiner as opposed
 19 to yourself?
 20 DR. WILLIAMS:
 21 A. Maybe because this was an issue, a cancer
 22 issue and probably better coming from the
 23 cancer clinic, I'm not sure why that was.
 24 COFFEY, Q.C.:
 25 Q. Were you in fact prepared to sign the letter

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1 yourself?
 2 DR. WILLIAMS:
 3 A. I would be prepared to sign the letter too,
 4 yes.
 5 COFFEY, Q.C.:
 6 Q. Do you recall whose decision it was?
 7 DR. WILLIAMS:
 8 A. I don't have any notes about it, so I can't
 9 recall. I'm sure I was involved in that
 10 decision.
 11 COFFEY, Q.C.:
 12 Q. Exhibit P-0087 please? These are, I take it,
 13 typed version of notes of yours, October 4th,
 14 '05, refers to a conference call with other
 15 regional boards. And boards are central,
 16 western Labrador and then Carbonear, St.
 17 John's Health Board Association rep and on the
 18 General Hospital site, including yourself, and
 19 you've just written down full overview of
 20 background given by yourself, RW. "Specific
 21 issues review", DC would be Donald Cook and
 22 "questions of whether we should notify all
 23 patients who are being retested." Now was
 24 this the first time, to your knowledge, that
 25 there had been, you had made contact with your

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1 counterparts elsewhere?
 2 DR. WILLIAMS:
 3 A. Yes, that was the first--now, I talked to the
 4 medical records the previous week. So the
 5 medical records would have been aware on
 6 Friday--wait now, I'm pretty sure my notes
 7 would say, there should be something in the
 8 file that I talked to them in the last of
 9 September.
 10 COFFEY, Q.C.:
 11 Q. Okay.
 12 DR. WILLIAMS:
 13 A. At our first meeting of medical directors
 14 since this issue became an issue.
 15 COFFEY, Q.C.:
 16 Q. And by now, I take it that it's out in public
 17 by this point.
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. "Issue of whether we should notify all
 22 patients who are being retested." What was
 23 that about?
 24 DR. WILLIAMS:
 25 A. That was discussing whether people who are

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1 going to be retested would be notified and how
 2 they would be notified.
 3 COFFEY, Q.C.:
 4 Q. Well why was there a question about that? Why
 5 was that an issue at all?
 6 DR. WILLIAMS:
 7 A. Well we had been discussing with the other
 8 boards and we needed to talk about how we'd go
 9 about this.
 10 COFFEY, Q.C.:
 11 Q. Was it whether they would be notified and if
 12 so how, or -
 13 DR. WILLIAMS:
 14 A. It was probably more about how we would notify
 15 them or what process we'd use, I'd think.
 16 COFFEY, Q.C.:
 17 Q. If we could, please, exhibit P-0623, page 3,
 18 please, well actually if you could go back,
 19 please, to page 1. This is an e-mail from
 20 Susan Bonnell, October 5, 11:19 a.m. to quite
 21 a number of people, mostly board members, I
 22 gather, and but as well VPs and--sorry,
 23 corporate directors and secretaries, not board
 24 members, I apologize. And I believe you are
 25 listed amongst those.

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1 DR. WILLIAMS:
 2 A. Uh-hm.
 3 COFFEY, Q.C.:
 4 Q. If we could go then to page 3, please? Now
 5 this is a "Telegram" story printed October 5,
 6 2005, I apologize for the quality of it here,
 7 but you were interviewed by "The Telegram" I
 8 take it?
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. By Deanne -
 13 DR. WILLIAMS:
 14 A. Sullivan, it looks like.
 15 COFFEY, Q.C.:
 16 Q. - Sullivan. And there are a number of quotes
 17 attributed to you and this particular one
 18 right here, right there, quote, "we had about
 19 73 percent of tests that were positive. So,
 20 we're only retesting the 27 percent or so that
 21 were negative". And then she says, "and from
 22 the early results, Williams said it appears
 23 that only about 10 percent of the overall
 24 tests performed", something "over the past ten
 25 years show different results". And she goes

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1 on to say in the second paragraph below that,
 2 "Williams said retesting is not uncommon when
 3 additional information becomes available about
 4 a patient or through new research. The reason
 5 for the discrepancy by the breast tissue
 6 results isn't clear, but last year, Eastern
 7 Health implemented a new fully automated
 8 system for detecting hormone receptors in
 9 breast tissue". And she then says, "Williams
 10 said the older system was semi-automated and
 11 the testing involved multiply steps including
 12 boiling or microwaving specimens to 'tease'
 13 out the antigen from the nucleus of the cell
 14 so the staining would be taken up by the
 15 antigen if there are"--I'm not sure what the
 16 word is.
 17 MR. SIMMONS:
 18 Q. There's a better copy at Exhibit P-0345, page
 19 2.
 20 COFFEY, Q.C.:
 21 Q. Thank you very much. There's at least one
 22 more and perhaps multiple ones. Thank you,
 23 Mr. Simmons. Yes, thank you--"if there are
 24 receptors there", it goes on to say, "it was
 25 the new automated system that yielded

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1 conflicting results on retesting. Now
 2 Williams said Eastern Health contacted other
 3 labs across the country, reviewed some
 4 literature and consulted with oncologists and
 5 surgeons with expertise in this area".
 6 Attributing a quote to you, "after
 7 consultation and a review of our results with
 8 them, it was determined that we should, in the
 9 interest of patient care, retest all patients
 10 who had tested negative for these particular
 11 receptors back to 1997". And then finally,
 12 the second last paragraph, "we want to make
 13 sure if there's a patient out there who could
 14 benefit from some change in therapy, that we
 15 identify those patients as soon as we can and
 16 provide them with any additional or different
 17 therapy if that's indicated. We felt it
 18 warranted further review". And then it goes
 19 on to say, "a quality review is expected to
 20 provide recommendations for future testing of
 21 breast tissue samples in the Eastern Health
 22 Authorities Labs".
 23 Now sir, by this date, October 5 or
 24 perhaps October 4 is perhaps when you were
 25 interviewed, by the time you were interviewed

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1 by Ms. Sullivan, you would have known
 2 generally what the overall view of Dr.
 3 Banerjee and Ms. Wegrynowski were, views were?
 4 DR. WILLIAMS:
 5 A. Um-hm.
 6 COFFEY, Q.C.:
 7 Q. At the time, why wouldn't you just simply have
 8 said, it's not the machines, it's probably the
 9 procedures carried out by our personnel and
 10 we're attending to it?
 11 DR. WILLIAMS:
 12 A. I -
 13 COFFEY, Q.C.:
 14 Q. Why wouldn't you say that?
 15 DR. WILLIAMS:
 16 A. I did, I think, allude to that and some other
 17 that there are system--checks and balances
 18 failed and the problem seemed to be getting
 19 the antigen retrieved. That's my recollection
 20 of what I said.
 21 COFFEY, Q.C.:
 22 Q. Yeah, and there is a reference to antigen
 23 retrieval, but that again, doesn't--it doesn't
 24 acknowledge--this doesn't let somebody know,
 25 does it, somebody who is reading this that

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1 it's not the machinery, it's perhaps the
 2 processes followed and maybe all the way back
 3 to the OR, in terms of fixation. I mean, it
 4 could go all the way back to their, you would
 5 have understood that.
 6 DR. WILLIAMS:
 7 A. At the time, I felt that I presented as best I
 8 could and as we moved on, I alluded to the
 9 fact that we--our checks and balances didn't
 10 fail, had failed and that there was a problem
 11 with our antigen retrieval area.
 12 COFFEY, Q.C.:
 13 Q. And I appreciate that, by not just come right
 14 out and say it?
 15 DR. WILLIAMS:
 16 A. Well, I said that, if you look at some of the
 17 other -
 18 COFFEY, Q.C.:
 19 Q. Yes, other than that, but why not just come
 20 right out and say it's not the machines; it's,
 21 according to the outside reviewers, it's our
 22 personnel and we are taking steps to address
 23 it? Why wouldn't you just simply say that?
 24 DR. WILLIAMS:
 25 A. Well, I couldn't use the--I didn't want to use

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1 the peer reviews to deal with that and I felt
 2 that by making statements such as our system
 3 of checks and balances failed which really
 4 mean the--was really meant the control system,
 5 and that there was problems in our antigen
 6 retrieval, that that--I didn't think we were
 7 saying that it was the machines.
 8 COFFEY, Q.C.:
 9 Q. I appreciate -
 10 THE COMMISSIONER:
 11 Q. Is there something in that that you--is there
 12 something in this report of what you said that
 13 you believe is inaccurate, that you didn't say
 14 it, that misrepresents what you said?
 15 DR. WILLIAMS:
 16 A. I'd have to go and read it in detail. I could
 17 do that.
 18 COFFEY, Q.C.:
 19 Q. Okay, but certainly--I take it--well, do you
 20 recall, because you would have, I take it,
 21 because this was e-mail to you afterward, you
 22 would have followed this in the media.
 23 DR. WILLIAMS:
 24 A. At least, a little bit.
 25 COFFEY, Q.C.:

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1 Q. Do you ever recall the media inaccurately
 2 reporting or misrepresenting from your
 3 perspective what you had said?
 4 DR. WILLIAMS:
 5 A. There was one situation with Doug Learning, I
 6 think that the 10 percent came out as 10
 7 percent of retests and I thought that was--it
 8 may have been interpreted as that. What I was
 9 trying to get across here was that we had a
 10 positivity rate of about 73 percent and up to
 11 82, 83 percent could be positive and we have a
 12 10, would affect 10 percent overall tests. I
 13 didn't think what I said there indicated that
 14 it was a machine problem
 15 COFFEY, Q.C.:
 16 Q. No, I'm not suggesting it does, but it doesn't
 17 say it's not either, does it?
 18 DR. WILLIAMS:
 19 A. No, it doesn't say it's not, but it doesn't
 20 say it is.
 21 COFFEY, Q.C.:
 22 Q. On this point, on this 10 percent, if we look
 23 at this column here, do you see that right
 24 here, where I have the cursor?
 25 DR. WILLIAMS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. "And from the early results, Williams said it
 4 appears only about 10 percent of the overall
 5 tests performed over the past seven years show
 6 different results".
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. So, I take it by this point in time you were
 11 talking about 10 percent of the total number
 12 of tests done on breast carcinoma for ER/PR?
 13 DR. WILLIAMS:
 14 A. All 2500.
 15 COFFEY, Q.C.:
 16 Q. 2500. And based upon the results you had up
 17 to that point, you were kind of projecting out
 18 -
 19 DR. WILLIAMS:
 20 A. Yes, I was using two ways to do this. One, 73
 21 percent on average and we could have up to 80,
 22 82 percent, 83 percent positive, number one.
 23 Number two is the first batch of tests that
 24 came back -
 25 COFFEY, Q.C.:

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1 Q. Which is just the difference between 73 and
 2 83.
 3 DR. WILLIAMS:
 4 A. And 83, 82, 83. The second--the first batch
 5 of tests, to my recollection, that came back
 6 had about 64 percent or two thirds were non
 7 converters. That would mean that one third
 8 were converters and one third of one third is
 9 about nine percent.
 10 COFFEY, Q.C.:
 11 Q. So, about nine -
 12 DR. WILLIAMS:
 13 A. That's what I was thinking at the time.
 14 COFFEY, Q.C.:
 15 Q. And then if somebody, in fact, read this
 16 carefully, what's written here, and they
 17 actually just did the arithmetic which is 350
 18 per year, right down there, see that?
 19 DR. WILLIAMS:
 20 A. Um-hm.
 21 COFFEY, Q.C.:
 22 Q. Three fifty were done annually and the past
 23 seven years, multiply 350 times seven and you
 24 get about twenty four hundred and fifty.
 25 DR. WILLIAMS:

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1 A. Um-hm.
 2 COFFEY, Q.C.:
 3 Q. And ten percent of that would 240, 250.
 4 DR. WILLIAMS:
 5 A. Yes, that was what I thought would have
 6 occurred at that time.
 7 COFFEY, Q.C.:
 8 Q. Now, if I could please, Exhibit P-0629.
 9 THE COMMISSIONER:
 10 Q. Mr. Coffey, we'll take the break after you
 11 finish with this exhibit.
 12 COFFEY, Q.C.:
 13 Q. Yes, thank you, Commissioner. This is an e-
 14 mail of October 7 from Denise Dunn who is your
 15 executive assistant to Pat Parfrey, I take it,
 16 pparfrey@mun.ca, a message from Dr. Bob
 17 Williams, "Pat, is there any document that
 18 gives a meta-analysis of the benefit of
 19 Tamoxifen in ER/PR receptor positive patients
 20 with breast cancer? Thanks, Bob". What was
 21 the purpose of that and what, if any, response
 22 did you get from Dr. Parfrey?
 23 DR. WILLIAMS:
 24 A. The response I got was that he was too busy at
 25 the time. What he's done since then is

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1 probably taken that issue up, from what I can
 2 gather, from what he's done.
 3 COFFEY, Q.C.:
 4 Q. Well, first of all, why were you looking for
 5 it?
 6 DR. WILLIAMS:
 7 A. I was just looking to see what the literature
 8 said and how much of an impact this was going
 9 to be. I had some information already, but I
 10 just wanted to see if he had any more
 11 information.
 12 COFFEY, Q.C.:
 13 Q. And this wasn't in terms of the benefit of
 14 Tamoxifen, like, given five or six years after
 15 the fact. This was the benefit of Tamoxifen,
 16 period, for ER/PR?
 17 DR. WILLIAMS:
 18 A. No, I think it would probably have subsume
 19 everything.
 20 COFFEY, Q.C.:
 21 Q. Like it, given, period.
 22 DR. WILLIAMS:
 23 A. Yeah.
 24 COFFEY, Q.C.:
 25 Q. Whether it was given -

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1 DR. WILLIAMS:
 2 A. Yeah, I just wanted to know was in the
 3 literature and that, any meta-analysis. He
 4 wasn't able to do it and I dropped it at the
 5 time.
 6 COFFEY, Q.C.:
 7 Q. And with respect to that, so not that
 8 everybody might understand what meta-analysis
 9 is. What is meta-analysis?
 10 DR. WILLIAMS:
 11 A. Meta-analysis is where you take a review of
 12 all the literature that's been done on it and
 13 it's all put together into sort of one
 14 document that, if there was 50 studies done,
 15 it brings those 50 studies together and draws
 16 some conclusions. Some of the studies might
 17 give different results.
 18 COFFEY, Q.C.:
 19 Q. And in terms of this then, you were looking
 20 for, if he could find it or do it -
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. - a meta-analysis of the benefits of
 25 Tamoxifen, hormonal treatment for ER/PR

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1 positive patients.
 2 DR. WILLIAMS:
 3 A. Yes, and the context--I wanted to know, I
 4 guess I was trying to see what it would all
 5 mean.
 6 COFFEY, Q.C.:
 7 Q. Yes, and in terms, for those then who were
 8 converters, in this context, what, if
 9 anything--what benefits they might not have
 10 received by reason of not having -
 11 DR. WILLIAMS:
 12 A. That type of approach, yes.
 13 COFFEY, Q.C.:
 14 Q. Yes. Thank you, Commissioner.
 15 THE COMMISSIONER:
 16 Q. We'll take 15 minutes.
 17 (RECESS)
 18 THE COMMISSIONER:
 19 Q. Please be seated. Mr. Coffey?
 20 COFFEY, Q.C.:
 21 Q. Commissioner, just several exhibits, if I
 22 could, please, have them entered, P-0905.
 23 THE COMMISSIONER:
 24 Q. 905?
 25 COFFEY, Q.C.:

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1 Q. Yes. P-0912, P-0913, P-0918, P-1347, P-1364,
 2 P-1390 through P-01395 inclusive.
 3 THE COMMISSIONER:
 4 Q. Entered
 5 EXHIBIT P-0905 and P-0912 MARKED AND ENTERED
 6 EXHIBIT P-0913 MARKED AND ENTERED
 7 EXHIBIT P-0918 MARKED AND ENTERED
 8 EXHIBIT P-1347 MARKED AND ENTERED
 9 EXHIBIT P-1364 MARKED AND ENTERED
 10 EXHIBITS P-1390 TO P-1395, INCLUSIVE, MARKED AND ENTERED
 11 COFFEY, Q.C.:
 12 Q. Thank you. Now, Doctor, if we could please
 13 Exhibit P-0348. This is a series of e-mails
 14 but it's a reference--they're between Susan
 15 Bonnell, I'm sorry and George Tilley, October
 16 6, 2005, but in the middle one, the one at
 17 9:38 a.m. from Mr. Tilley to Ms. Bonnell, Mr.
 18 Tilley writes, "Bob Williams and I meet with
 19 Peter 4:30 p.m. yesterday. It appears that he
 20 did the interview with the "Globe" before we
 21 met. In the meantime, he is referring to the
 22 CBC story. And the e-mail from Ms. Bonnell
 23 that had occasioned that was at 9:30 that
 24 morning to Mr. Tilley. She had written
 25 "George, I thought the "Globe" piece was

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1 accurate. Peter is referring to his own quote
 2 which was very negative by the way. The best
 3 thing he could do at this point is to let this
 4 go, but by the sounds of it, he's going to go
 5 to the media again. How informed is he"?
 6 And then we get this e-mail from Mr.
 7 Tilley at 9:38 saying you and he had met with
 8 Peter, that would have been 4:30 on October 5.
 9 Now, this is Peter Dawe?
 10 DR. WILLIAMS:
 11 A. Yes.
 12 COFFEY, Q.C.:
 13 Q. And you've told the Commissioner how you knew
 14 of Mr. Dawe. What was the purpose in yourself
 15 and Mr. Tilley meeting with Mr. Dawe?
 16 DR. WILLIAMS:
 17 A. It sounds like and I can't remember the
 18 meeting. I remember at some point in time I
 19 was asked to liaise with Mr. Dawe on a regular
 20 basis and provide information and he'd--we got
 21 a two way communication stream set up. He
 22 could phone me and I could phone him.
 23 COFFEY, Q.C.:
 24 Q. On this issue?
 25 DR. WILLIAMS:

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1 A. Yes.
 2 COFFEY, Q.C.:
 3 Q. Okay.
 4 DR. WILLIAMS:
 5 A. But that was after the meeting. It sounds
 6 like here and I don't remember, to be honest
 7 with you, I know obviously we met, but I don't
 8 remember the meeting.
 9 COFFEY, Q.C.:
 10 Q. Okay. Who asked that or who suggested that
 11 you set up that arrangement?
 12 DR. WILLIAMS:
 13 A. Mr. Tilley.
 14 COFFEY, Q.C.:
 15 Q. And -
 16 DR. WILLIAMS:
 17 A. It probably would have occurred after this
 18 meeting, I suspect.
 19 COFFEY, Q.C.:
 20 Q. And the purpose in doing so is, I take it,
 21 that Mr. Dawe was the chief spokesperson for -
 22 DR. WILLIAMS:
 23 A. Canadian Cancer Society, yeah.
 24 COFFEY, Q.C.:
 25 Q. - one of the -

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1 DR. WILLIAMS:
 2 A. You'd expect Mr. Dawe, as an advocate to speak
 3 on the issue. And the purpose of you
 4 liasoning with him was to keep him informed.
 5 DR. WILLIAMS:
 6 A. Yeah, if I had any new information that I
 7 thought might be pertinent to his role, that I
 8 would phone and if he had any information or
 9 an information request that he wanted
 10 information on, that he could just phone. We
 11 had an open-line policy; he gave me a cell
 12 phone number and things like that. So, I
 13 remember over the next, well until I left, I
 14 would have--I wouldn't have a planned regular
 15 contact, but we did talk a lot on the phone.
 16 COFFEY, Q.C.:
 17 Q. Now, if we could bring up please, Exhibit P-
 18 1297. Now, these are handwritten notes,
 19 refers to "Robert Williams, telephone call,
 20 October 7, '05" and there's a reference to 210
 21 tests sent out so far and returned, 41
 22 conversions. Letter from Dr. Williams to GPS,
 23 letter from Dr. Gardiner to surgeons" and then
 24 there's a reference to HIROC, "didn't want to
 25 disclose to patients until we have test

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1 results back. This caused unnecessary worry
 2 in Labrador last year when patients contacted
 3 before results available. Will try to arrange
 4 teleconference with CEOs HIROC to discuss.
 5 THE COMMISSIONER:
 6 Q. Mr. Coffey, can you tell me the source of this
 7 document? There's nothing on it.
 8 COFFEY, Q.C.:
 9 Q. Well, it's -
 10 MR. SIMMONS:
 11 Q. It's not from us, Commissioner.
 12 COFFEY, Q.C.:
 13 Q. No, it's not and it's one of the other boards
 14 and I can't recall off the top of my head, but
 15 I will -
 16 THE COMMISSIONER:
 17 Q. Locate that.
 18 DR. WILLIAMS:
 19 A. - on Tuesday, let you know that. But -
 20 THE COMMISSIONER:
 21 Q. But the source of it is another board?
 22 COFFEY, Q.C.:
 23 Q. Yes, is one of the other boards.
 24 THE COMMISSIONER:
 25 Q. Ms. O'Dea, can you, off the top of you head,

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1 tell us which one.
 2 MS. O'DEA:
 3 Q. I can't.
 4 THE COMMISSIONER:
 5 Q. Well, we'll locate it.
 6 COFFEY, Q.C.:
 7 Q. The reference to October 7, '05, the telephone
 8 call, this would be in the first week?
 9 DR. WILLIAMS:
 10 A. It looks--yeah, that would be -
 11 COFFEY, Q.C.:
 12 Q. And the indication is that you're a party to
 13 this. The reference to HIROC and what's noted
 14 there about HIROC and our views--in the
 15 beginning of October, was that your
 16 understanding of the situation?
 17 DR. WILLIAMS:
 18 A. There was some discussion, we seen some e-
 19 mails that there was a concern about Labrador
 20 handled it and HIROC would have been involved
 21 in the Labrador case. And I think that's come
 22 up--that's just been confirmed with other bits
 23 of information you have.
 24 COFFEY, Q.C.:
 25 Q. So, throughout the summer, beginning in July,

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1 through August and September and now into
 2 October, you became aware of HIROC's concerns
 3 and they came up from time to time.
 4 DR. WILLIAMS:
 5 A. Well, I know that HIROC was concerned, but
 6 from my perspective, they didn't play a major
 7 role, if any role in our decision making
 8 process about that.
 9 COFFEY, Q.C.:
 10 Q. Well, on that point, I take it they didn't
 11 play any role or major role in your own views.
 12 Is that -
 13 DR. WILLIAMS:
 14 A. Yes, they didn't, in my view.
 15 COFFEY, Q.C.:
 16 Q. And you say "our" -
 17 DR. WILLIAMS:
 18 A. I don't think that Eastern Health, at the
 19 time, based their decisions on HIROC's.
 20 Although they asked HIROC for--obviously, they
 21 had a view and an opinion.
 22 COFFEY, Q.C.:
 23 Q. Um-hm.
 24 DR. WILLIAMS:
 25 A. This writing is awful good, it can't be

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1 another physician.
 2 COFFEY, Q.C.:
 3 Q. And the--if we could bring up, please, Exhibit
 4 P-0804. Now, this is two e-mail of October
 5 12, 2005 involving Ross Reid and John Abbott.
 6 And this, I gather, is in relation to--and the
 7 Commissioner has seen this before--the person
 8 that Ross Reid referred to you.
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Okay. And you met with that individual -
 13 DR. WILLIAMS:
 14 A. Yes, Pat Pilgrim and myself met with her, yes.
 15 COFFEY, Q.C.:
 16 Q. Okay. And -
 17 DR. WILLIAMS:
 18 A. Spent about, a fairly lengthy meeting, if I
 19 can recollect it correctly.
 20 COFFEY, Q.C.:
 21 Q. And she expressed her concerns to you?
 22 DR. WILLIAMS:
 23 A. Yes, about the lack of communication, in a
 24 sense.
 25 COFFEY, Q.C.:

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1 Q. If we could just look at this, just going to
 2 look down through this, because this and the
 3 one at 10:52 a.m. is from Ross Reid to John
 4 Abbott and here in writing, Mr. Reid has said,
 5 "this woman has three concerns at this point.
 6 The first mistake is a serious one that will
 7 have an impact on hundreds of women and their
 8 families. She believes she would never have
 9 been told if she did not ask, did not press
 10 for information about her own medical
 11 condition. The question is not just that
 12 those with changed results be told, but that
 13 all be told. It is their right to expect this
 14 level of disclosure and respect. And the
 15 retesting is taking time as Mount Sinai is
 16 very busy, and this is time that many women do
 17 not have. She believes it is not good enough
 18 to wait for one hospital lab, that every
 19 effort should be made to make up for the five
 20 months of therapy some women may have lost,
 21 and she expresses perhaps, or says that she
 22 has lost all confidence in the health care
 23 system, the overall effect on her, and on this
 24 point, when we look at it further up in the e-
 25 mail, the paragraph beginning "on Wednesday,

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1 she'd read in the paper that since May there
 2 had been questions about the validity of the
 3 negative tests. She immediately phoned her
 4 oncologist who she could not immediately reach
 5 and was referred to a 'point person' at
 6 Eastern Health who clearly said all the wrong
 7 things, including a number of which were
 8 simply not correct. After 14 hours, she did
 9 speak to her oncologist who informed her that
 10 her test samples were some of the first sent
 11 away for testing and the results had not
 12 changed. She still has not heard back from
 13 Eastern Health, despite assurances she would."
 14 Now does that assist you in recalling
 15 what it was this lady said to you, in terms of
 16 the overall?
 17 DR. WILLIAMS:
 18 A. We had a detailed discussion about her
 19 concerns, yes.
 20 COFFEY, Q.C.:
 21 Q. Did she complain or raise concerns about this
 22 point person, not the individual point person,
 23 but -
 24 DR. WILLIAMS:
 25 A. I can't remember if she raised it at the

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1 discussion in the office. I attribute her
 2 main concern as not being told, no public
 3 message going out, and the reason she had for
 4 that, and we had a lengthy meeting, tried--you
 5 know, explained to her what had happened, why
 6 it had happened, in terms of the decision, the
 7 points around public disclosure, this type of
 8 thing, and wanted to make sure that Mr. Tilley
 9 had a full flavour of her concerns, so I sent
 10 the e-mail on to him because we told her we
 11 would share the e-mail, and she agreed that we
 12 could share the e-mail, and I think if you
 13 look farther, she did get back to Mr. Reid in
 14 terms of what she felt was, I guess, the
 15 response that she got from Ms. Pilgrim and
 16 myself.
 17 COFFEY, Q.C.:
 18 Q. She was, in fact, expressed that she was
 19 thankful for it, in fact, the opportunity to
 20 speak with you, I take it. She was grateful
 21 or expressed--or words to that effect?
 22 DR. WILLIAMS:
 23 A. She said a little bit more than that, yes.
 24 COFFEY, Q.C.:
 25 Q. Oh yes, I appreciate that, something else.

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1 She was certainly -
 2 DR. WILLIAMS:
 3 A. The gist of that, yes, and certainly her
 4 comments in that would probably have certainly
 5 an impact on us, in the sense of here's
 6 somebody who's in the middle of this, from a
 7 patient perspective, and she made some good
 8 points about people should know, and I think
 9 that probably factored heavily into making
 10 sure we got the information out to people and
 11 we decided to do it by phone. Some of us felt
 12 that that was a better way to do it.
 13 COFFEY, Q.C.:
 14 Q. And that, in fact, the patient contact by
 15 phone started not too long after that?
 16 DR. WILLIAMS:
 17 A. Correct.
 18 COFFEY, Q.C.:
 19 Q. Was any thought given to phoning them and also
 20 sending them a letter?
 21 DR. WILLIAMS:
 22 A. No, the follow up with a letter, I don't
 23 remember having that discussed, and I'm not
 24 sure if we discussed asking them if they
 25 wanted something in writing, once they--it

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1 might have been an issue we discussed, but I'm
 2 not sure. You know, ask them if they want
 3 some follow up in writing.
 4 COFFEY, Q.C.:
 5 Q. Yes.
 6 DR. WILLIAMS:
 7 A. We did get some feedback from Heather Predham
 8 about what people were saying when we did
 9 phone, and you've seen that as part of your
 10 package. But we thought going--rather than
 11 send a letter out to somebody and they might
 12 get it at any time of the day or night, not
 13 able to talk to anybody, personal contact was
 14 the best way to go.
 15 COFFEY, Q.C.:
 16 Q. And phone call, yes, but I'm going to--not so
 17 much that, as is why not send a letter
 18 afterward? Was that discussed, that you
 19 recall?
 20 DR. WILLIAMS:
 21 A. I don't think that was discussed.
 22 COFFEY, Q.C.:
 23 Q. Okay.
 24 DR. WILLIAMS:
 25 A. And I'm not sure--it didn't look like we had

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1 any feedback from the people contacted that
 2 they would be looking for a letter or
 3 something in writing.
 4 COFFEY, Q.C.:
 5 Q. I gather that back as far as the summer,
 6 there'd been a letter prepared?
 7 DR. WILLIAMS:
 8 A. Yes, that's true.
 9 COFFEY, Q.C.:
 10 Q. If we could, please, Exhibit P-0350? Now this
 11 is a letter from Eastern Health, on the
 12 Eastern Health letterhead. It's from
 13 yourself.
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Copied to Mr. Tilley and Ms. Pilgrim, October
 18 12th '05. It's to a number of individual
 19 physicians, as well as Ms. Predham, and you
 20 write "I am writing with respect to a
 21 suggestion that has been made to this
 22 organization with respect to making decisions
 23 on patients whose ER and PR results change as
 24 testing is received back from Mount Sinai
 25 Hospital. The suggestion was that we get

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1 together with a panel of physicians"--sorry,
 2 "that we get together a panel of physicians to
 3 review all patients in this category so that a
 4 plan can be recommended to the physician who
 5 is following up on each of these patients.
 6 The suggestion is an excellent one and I want
 7 to thank you for agreeing to serve on this
 8 panel," and you then set up a time, and you go
 9 on to say "I want to thank all of you for
 10 agreeing to serve on this panel, and
 11 especially to Dr. Laing who has agreed to
 12 chair this group" and you indicate who will
 13 provide the secretarial support, and then you
 14 say "Dr. Don Cook will sit on the panel ex
 15 officio to ensure that all the information
 16 from the laboratory medicine program is
 17 available to the panel. Again, thank you very
 18 much for agreeing to serve on this panel," and
 19 you assure them or--yes, you want to--it
 20 should be "assure" them, I suppose.
 21 DR. WILLIAMS:
 22 A. Ensure, yes.
 23 COFFEY, Q.C.:
 24 Q. Ensure, "want to ensure that you have the full
 25 support of this organization for the very

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1 difficult and important work you're about to
 2 undertake." So whose idea was the physician
 3 review panel?
 4 DR. WILLIAMS:
 5 A. If I can remember correctly, I think it was
 6 Dr. Kwan and Dr. Laing's. I know Dr. Laing
 7 had a role to play in it. I think it was Dr.
 8 Kwan as well, but I may have some notes to
 9 confirm that somewhere. It strikes me that it
 10 may have been both of them.
 11 COFFEY, Q.C.:
 12 Q. And was it the plan to have that review,
 13 physician review panel review all of the
 14 results that came back from Mount Sinai?
 15 DR. WILLIAMS:
 16 A. The ones that had changed, there was any
 17 degree of change at all.
 18 COFFEY, Q.C.:
 19 Q. Any degree at all?
 20 DR. WILLIAMS:
 21 A. Yeah, if they came back zero and zero, no.
 22 COFFEY, Q.C.:
 23 Q. And they had gone up, I take it, zero/zero and
 24 come back zero/zero, then -
 25 DR. WILLIAMS:

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1 A. Then they would be told that there was no
 2 change. That's my understanding. If there
 3 was anything at all that changed at all, then
 4 the panel, even though some of the cases the
 5 panel reviewed probably weren't necessary to
 6 be reviewed, they still present there. That's
 7 my understanding.
 8 COFFEY, Q.C.:
 9 Q. And your understanding, what was to be done by
 10 the panel?
 11 DR. WILLIAMS:
 12 A. The panel, because this was an issue that
 13 probably people had never faced before, the
 14 panel would review the history. They would
 15 have the chart there.
 16 COFFEY, Q.C.:
 17 Q. Yes.
 18 DR. WILLIAMS:
 19 A. They would review the results, the laboratory
 20 results, and combine the current medical
 21 history of the patient concerned with the
 22 laboratory results and have a discussion and
 23 make a recommendation to the attending
 24 physician.
 25 COFFEY, Q.C.:

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1 Q. And that would be done, how? Like through
 2 what medium?
 3 DR. WILLIAMS:
 4 A. A round table discussion on each patient.
 5 COFFEY, Q.C.:
 6 Q. Oh no, but I mean, how would the physician be
 7 told?
 8 DR. WILLIAMS:
 9 A. Oh, that would be in writing.
 10 COFFEY, Q.C.:
 11 Q. And then with the view, I take it, the
 12 physician, treating physician would deal with
 13 the patient?
 14 DR. WILLIAMS:
 15 A. Correct, and of course, in this situation, we
 16 would expect, having never been faced with
 17 that, a lot of the treating physicians would
 18 want to have a consult and phone up somebody
 19 to see what to do. So this sort of short
 20 circuited that approach. It sort of did that
 21 upfront rather than at the end part.
 22 COFFEY, Q.C.:
 23 Q. If we could, please, Exhibit P-0637?
 24 THE COMMISSIONER:
 25 Q. Before you move on, you said that they would

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1 have the chart?
 2 DR. WILLIAMS:
 3 A. I think there was--they would have whatever
 4 charts we had on the patient, yes.
 5 THE COMMISSIONER:
 6 Q. Well, would you, in Eastern Health, have a
 7 chart on people from other parts of the
 8 province?
 9 DR. WILLIAMS:
 10 A. No, but we might have it at the Cancer Clinic
 11 from other parts of the province.
 12 THE COMMISSIONER:
 13 Q. Might.
 14 COFFEY, Q.C.:
 15 Q. Who was responsible for ensuring that, you
 16 know, that any one patient's medical history,
 17 appropriate medical history, was before this
 18 panel?
 19 DR. WILLIAMS:
 20 A. I would expect the panel would ask for
 21 whatever they wanted and Heather would
 22 probably get it out of the--or she would ask
 23 the Cancer Clinic to get the information. I
 24 know that there was medical information being
 25 provided. I went to two meetings, but not--I

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1 didn't participate in the deliberations. I
 2 just went to the first meeting to thank them
 3 and this type of thing, and went to another
 4 meeting to ask them if they'd have more panel
 5 meetings because we were falling behind in
 6 dealing with the results that came back.
 7 COFFEY, Q.C.:
 8 Q. Exhibit P-0637, please? This is a letter,
 9 stamped or received by your office. It's
 10 October 13th '05. It's from Dr. Cook to a
 11 number--well, it's actually to Dr. Ejeckam,
 12 but it's copied to yourself, and he refers to
 13 Dr. Ejeckam's continuing role in overseeing
 14 the immunoperoxidase service, and then in the
 15 third sentence says "it is agreed you," that's
 16 Dr. Ejeckam, "will oversee all aspects of the
 17 immunoperoxidase operation and have direct
 18 supervision over the technologists involved in
 19 the service. You will also provide direction
 20 to all pathologists involved in the
 21 immunoperoxidase interpretation. In areas
 22 where we hope to develop sub-specialized
 23 service, there will obviously be consultation
 24 between you and the appropriate pathologist on
 25 immunoperoxidase staining."

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1 Now you had done exit interviews with Dr.
 2 Banerjee and Trish Wegrynowski?
 3 DR. WILLIAMS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. Had either of them spoken to you about Dr.
 7 Ejeckam?
 8 DR. WILLIAMS:
 9 A. No. The reason for Dr. Cook writing Dr.
 10 Ejeckam was that in Dr. Banerjee's
 11 recommendations and in Trish Wegrynowski's
 12 recommendations, she referred to it as having
 13 a triangular structure in the lab, and the
 14 triangle to me meant that we'd have somebody
 15 at the top and at the other two corners, you'd
 16 have two groups of people. Dr. Ejeckam would
 17 be at the top and the pathologists would be at
 18 one end of the triangle and the technologists
 19 there at the other end of the triangle. So
 20 this, I think, was closing the loop on that
 21 recommendation. That's the way I read it when
 22 I saw it.
 23 COFFEY, Q.C.:
 24 Q. Exhibit P-0351? Sir, this is a review of
 25 immunohistochemistry lab, General Hospital

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1 site, St. John's, Eastern Health, prepared for
 2 Dr. Williams, prepared by Terry Gulliver and
 3 Dr. D. Cook, and I take it, you've written
 4 here, "Mr. Tilley, now that you have seen this
 5 document, can we discuss implementation? This
 6 is for all immunohistochemistry, not just ER
 7 and PR. BW, October 31st, 2005."
 8 DR. WILLIAMS:
 9 A. Um-hm.
 10 COFFEY, Q.C.:
 11 Q. So that's--this is the report you referred the
 12 Commissioner to earlier?
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. And this is prepared at your request by Mr.
 17 Gulliver and Dr. Cook?
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. And I take it, with a view to--up to this
 22 point, October 13th, you did not have any
 23 written reports from the external reviewers?
 24 DR. WILLIAMS:
 25 A. I thought Dr. Banerjee's was in around that

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1 time.
 2 COFFEY, Q.C.:
 3 Q. It's October 17th.
 4 DR. WILLIAMS:
 5 A. Okay.
 6 COFFEY, Q.C.:
 7 Q. Okay, so, but they--I take it that -
 8 DR. WILLIAMS:
 9 A. This is October -
 10 COFFEY, Q.C.:
 11 Q. - both Dr. Cook and Mr. Gulliver would have
 12 been privy to the -
 13 DR. WILLIAMS:
 14 A. Yes, because they were there at the exit
 15 interview.
 16 COFFEY, Q.C.:
 17 Q. Exit interview.
 18 DR. WILLIAMS:
 19 A. Can you just look down--scroll down to the
 20 date again?
 21 COFFEY, Q.C.:
 22 Q. Sure, I certainly can. It says--and again,
 23 I'm just going by -
 24 DR. WILLIAMS:
 25 A. October 13th, okay. That's fine, okay.

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1 COFFEY, Q.C.:

2 Q. And now sir, I take it that Mr. Tilley, at the

3 end of October, beginning of November, was of

4 a view, let's get on with it.

5 DR. WILLIAMS:

6 A. He agreed.

7 COFFEY, Q.C.:

8 Q. He accepted it.

9 DR. WILLIAMS:

10 A. He accepted it. We discussed it on the phone.

11 I don't think I discussed it face to face.

12 COFFEY, Q.C.:

13 Q. Sure.

14 DR. WILLIAMS:

15 A. And I told him that really we had--we were at

16 a crossroads here. We'd either move forward

17 or we'd have to--we may have to make another--

18 make a different kind of decision. We'd

19 either have to invest in that area or we'd

20 have to do something else.

21 COFFEY, Q.C.:

22 Q. And I take it that that was not only for

23 ER/PR, but for all IHC?

24 DR. WILLIAMS:

25 A. That was for--no, we wanted to have, you know,

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1 improved immunohistochemistry service, yes.

2 COFFEY, Q.C.:

3 Q. Okay. Sir, Exhibit P-0092, please? Now this

4 is a couple of e-mails, one from Heather

5 Predham, October 19th, 2005, 8:28 a.m. to Ms.

6 Pilgrim, yourself, and Ms. Bonnell, forwarding

7 a patient letter. She says "Hi, here's Dan's

8 view on the feedback" and then there's an e-

9 mail from Mr. Boone, October 18th 2005 at 2:05

10 p.m. to Heather Predham, copied to two

11 individuals at HIROC, and this is an e-mail by

12 Mr. Boone. Refresh your memory of it, he says

13 "my initial reaction is that I do not agree

14 with sending this letter at this time. There

15 are a significant number of people whose

16 results will not be changed. Notifying these

17 people may be seen as raising their hopes for

18 treatment possibilities. In most cases, these

19 expectations or hopes will not be satisfied.

20 It's a possibility we could be sued in a class

21 action by those people who receive this

22 proposed correspondence whose test results do

23 not change. Otherwise, these people would not

24 have a cause of action, so sending the letter

25 actually exposes us to a liability which does

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1 not now exist. I have not given significant

2 thought to the issue from the perspective as

3 to whether it is appropriate to test these

4 specimens without advising the patients.

5 However, again, my initial thought is that the

6 original consent would be broader enough to

7 cover retesting. With the media coverage and

8 the information already disseminated by you, I

9 would think that most of the people who have

10 tested negative would have enough information

11 to consider whether they would like to be

12 retested, if they have not, and to inquire

13 whether they have been retested. Therefore, I

14 do not see how the letter advances the health

15 care of the affected patients and it increases

16 our exposure to claims for damages. I would

17 recommend against sending it."

18 Now sir, do you recall receiving that?

19 DR. WILLIAMS:

20 A. I'm sure I received it.

21 THE COMMISSIONER:

22 Q. I take it you don't recall getting it? Is

23 that what you're saying?

24 DR. WILLIAMS:

25 A. No, no, but I'm sure I would have. I can't

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1 remember everything, all these e-mails, but

2 certainly I think I would have--I've seen this

3 before.

4 COFFEY, Q.C.:

5 Q. Yes.

6 DR. WILLIAMS:

7 A. Whether it's in the lawyer's office or here,

8 or whatever, but I'm sure I would have seen

9 that. Does it say I'm copied on it?

10 COFFEY, Q.C.:

11 Q. Yes, you're right -

12 DR. WILLIAMS:

13 A. Well, I would have seen it then.

14 COFFEY, Q.C.:

15 Q. You're at the top there. So certainly Mr.

16 Boone apparently expressed himself fairly

17 clearly here?

18 DR. WILLIAMS:

19 A. He did, yes.

20 COFFEY, Q.C.:

21 Q. As of October 19th that -

22 DR. WILLIAMS:

23 A. Yes.

24 COFFEY, Q.C.:

25 Q. - suggesting that Eastern Health, for the

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1 reason he sets out, "not send a letter."
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. Now was that discussed?
 6 DR. WILLIAMS:
 7 A. No. Because he'd missed the boat. The
 8 previous day on October 18th we'd made a
 9 decision that we were going to contact people
 10 by phone.
 11 COFFEY, Q.C.:
 12 Q. Yes. And but that still wouldn't prevent you
 13 from -
 14 DR. WILLIAMS:
 15 A. Sending a letter about the issue of letter
 16 coming up and Mr. Boone not--opposing it had
 17 not, far as I can remember, was discussed.
 18 COFFEY, Q.C.:
 19 Q. So, okay, just so I'm clear. So your
 20 recollection is on October 18th there was a
 21 decision to contact patients individually by
 22 phone?
 23 DR. WILLIAMS:
 24 A. Yes. That was the decision was made.
 25 COFFEY, Q.C.:

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1 Q. And who was that made by?
 2 DR. WILLIAMS:
 3 A. The people who were at the meeting.
 4 COFFEY, Q.C.:
 5 Q. Okay. And was the idea of using a letter
 6 discussed at the time?
 7 DR. WILLIAMS:
 8 A. I have no notes of it being discussed, so I
 9 presume it probably was not, but I can't be
 10 sure. I can only refer to my notes.
 11 COMMISSIONER:
 12 Q. Refresh my memory again, who was at the
 13 meeting the day before?
 14 COFFEY, Q.C.:
 15 Q. You have your -
 16 DR. WILLIAMS:
 17 A. Yes, I do. Dr. Kara Laing.
 18 COMMISSIONER:
 19 Q. Um-hm.
 20 DR. WILLIAMS:
 21 A. Mr. Tilley, Heather Predham, Susan Bonnell,
 22 Dr. Cook, Pat Pilgrim and myself.
 23 COMMISSIONER:
 24 Q. So Ms. Predham, Ms. Pilgrim and Susan Bonnell
 25 and yourself?

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1 DR. WILLIAMS:
 2 A. Yes.
 3 COMMISSIONER:
 4 Q. All the people who were on this e-mail list
 5 were at the meeting the day before?
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COMMISSIONER:
 9 Q. So why is Ms. Predham bothering to send it to
 10 you if the decision is made and -
 11 DR. WILLIAMS:
 12 A. Just maybe for information or in case it came
 13 up in the future. You'll have to ask her why,
 14 but -
 15 COMMISSIONER:
 16 Q. I'm sure we will.
 17 COFFEY, Q.C.:
 18 Q. Yeah. Why--was the idea of a letter discussed
 19 the day before? And if I could, bring up P-
 20 0308, please? Now, here is an e-mail from
 21 Heather Predham the day before, 1:12 p.m.
 22 DR. WILLIAMS:
 23 A. Yes.
 24 COFFEY, Q.C.:
 25 Q. To Dr. Laing, Ms. Pilgrim, yourself and Ms.

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1 Bonnell. "Patient letter. I've attached the
 2 draft letter with the suggested changes." So
 3 certainly--and she says, she concludes at the
 4 bottom by saying, "I'm going to send this on
 5 to Dan Boone, as well. I'm not sure how HIROC
 6 will feel about notifying people at this point
 7 in time and whether the media attention will
 8 make any difference. Let me know about
 9 changes you want made." And, in fact, she has
 10 posited above in the third bullet right here,
 11 "Will we send the letter out via registered
 12 mail through one central area such as QSI? We
 13 can then monitor the undeliverable mail." And
 14 she says, "I guess we also have to remember
 15 that we will get a negative reaction from the
 16 letters, everything from timing, upsetting
 17 people with no information, and of course, we
 18 will send some unintentionally to people who
 19 have died. I guess we should compare the
 20 mailing list to the obituaries to ensure we
 21 don't send letters to the recently deceased.
 22 Finally, I think we should be aware that we
 23 will not be able to notify everyone. Several
 24 on the list have moved and we have no other
 25 contact information." Well, sir -

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1 DR. WILLIAMS:
 2 A. I'm trying--Mr. Coffey, I'm trying to be
 3 helpful. I'm looking at my notes of October
 4 18th.
 5 COFFEY, Q.C.:
 6 Q. Sure.
 7 DR. WILLIAMS:
 8 A. And now that I look at them carefully, it
 9 says, "Review media releases and patient
 10 letter and suggestions made." So it sounds
 11 like we looked at the media releases and the
 12 patients, according to these notes, now, just
 13 now that I'm looking at them.
 14 COFFEY, Q.C.:
 15 Q. Yeah.
 16 DR. WILLIAMS:
 17 A. And suggestions were made probably around the
 18 media releases because then it says down
 19 below, "Suggestion is that we would call all
 20 people to be retested." Now, if I didn't have
 21 these notes, I wouldn't even remember the
 22 meeting, I don't think, Commissioner. So, I
 23 can just go by my notes. I'm sorry I can't
 24 elucidate any more.
 25 COMMISSIONER:

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1 Q. So you're, wait now, you're now--by your notes
 2 you know that there was a discussion of media
 3 release and -
 4 DR. WILLIAMS:
 5 A. And it looks like patient letter.
 6 COMMISSIONER:
 7 Q. And looks like patient letter?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COMMISSIONER:
 11 Q. But you don't recall that discussion?
 12 DR. WILLIAMS:
 13 A. No, I don't.
 14 COMMISSIONER:
 15 Q. And the only thing you can say from your note
 16 is that a decision was made to call the
 17 patients?
 18 DR. WILLIAMS:
 19 A. Yes. So the decisions are down below. "Get
 20 out information to media in print." which we
 21 did throughout the province that weekend, I
 22 think. "Phone patients who are retested.
 23 Phone patients who have been retested and are
 24 not converters. Patients panelled by tumor
 25 board to be contacted by physician." And

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1 "Western and Central to phone their patients,"
 2 their own patients. So that was the decision--
 3 -that was a record of the decisions. And I
 4 guess my notes try to capture the decisions we
 5 made. If I didn't have the notes, I wouldn't
 6 be able to remember some of this.
 7 COFFEY, Q.C.:
 8 Q. So then do you have any recollection of Mr.
 9 Boone's view being discussed at all?
 10 DR. WILLIAMS:
 11 A. No, I do not. I'd like to say I did, but I
 12 don't recollect Mr. Boone's, and I don't have
 13 any--I mean, I don't--I just can't recollect
 14 if he had any impact on our decision.
 15 COFFEY, Q.C.:
 16 Q. Okay. Now, with respect to that, sir, can you
 17 tell the Commissioner any reason why there was
 18 no letter sent?
 19 DR. WILLIAMS:
 20 A. The only reason I can think is that they felt
 21 that phoning a person personally, providing
 22 all the information and ask them if they had
 23 any questions and giving them a name and a
 24 contact to--once they had a chance to
 25 assimilate the information.

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1 COFFEY, Q.C.:
 2 Q. Okay.
 3 DR. WILLIAMS:
 4 A. But I don't--I really can't, you know, answer
 5 the question. If the question is did Mr. Boone
 6 have an influence on us sending a letter or
 7 not sending out the letter, I don't recollect
 8 him having a major--any influence on that from
 9 our -
 10 COFFEY, Q.C.:
 11 Q. Okay.
 12 DR. WILLIAMS:
 13 A. I don't think. Other people might say
 14 different.
 15 COFFEY, Q.C.:
 16 Q. Is it major or any?
 17 DR. WILLIAMS:
 18 A. I don't think it's any, from my perspective.
 19 COFFEY, Q.C.:
 20 Q. I appreciate that, yeah.
 21 DR. WILLIAMS:
 22 A. From my perspective I don't.
 23 COFFEY, Q.C.:
 24 Q. On that point, was there--would you agree that
 25 making a phone call and sending a letter are

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1 not mutually exclusive?
 2 DR. WILLIAMS:
 3 A. They're not mutually exclusive, no.
 4 COFFEY, Q.C.:
 5 Q. So was any consideration ever given to making
 6 a phone call first, that personal contact you
 7 referred to?
 8 DR. WILLIAMS:
 9 A. Yes.
 10 COFFEY, Q.C.:
 11 Q. And following it up with a letter?
 12 DR. WILLIAMS:
 13 A. I can't remember that, Mr. Coffey, if there
 14 was that conscious discussion and decision.
 15 I'm sorry, I can't--if I can't help you there,
 16 I just can't help you and to make up
 17 something, I can't do it.
 18 COFFEY, Q.C.:
 19 Q. No, I'm not asking you to at all, sir. I'm
 20 just, what I'm getting at here is is that
 21 because patient letters go all the way back to
 22 the summer.
 23 DR. WILLIAMS:
 24 A. Yes, I understand, sir.
 25 COFFEY, Q.C.:

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1 Q. If you recall. And because the draft's there.
 2 DR. WILLIAMS:
 3 A. I understand. I understand everything you're
 4 questioning me, but I just can't. If I can't,
 5 I can't.
 6 COFFEY, Q.C.:
 7 Q. Okay. Now, sir, throughout October of 2005,
 8 I'm not going to take you through all of them
 9 or into any more of them if I don't have to,
 10 but you did give a number of media interviews?
 11 DR. WILLIAMS:
 12 A. Yes, I did.
 13 COFFEY, Q.C.:
 14 Q. Was there--and but eventually you stopped, I
 15 shouldn't say stopped, eventually there were
 16 no more media interviews of yourself?
 17 DR. WILLIAMS:
 18 A. Yes.
 19 COFFEY, Q.C.:
 20 Q. Was there any reason for that?
 21 DR. WILLIAMS:
 22 A. Not that I can recollect other than maybe
 23 nobody phoned up.
 24 COFFEY, Q.C.:
 25 Q. Okay. Well, on that point, were you ever made

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1 aware of any suggestion or view within Eastern
 2 Health that perhaps you should stop giving
 3 media interviews?
 4 DR. WILLIAMS:
 5 A. No.
 6 COFFEY, Q.C.:
 7 Q. No -
 8 DR. WILLIAMS:
 9 A. Not--now, I was--subsequent, yes, to Mr.
 10 Simmons showing me an e-mail.
 11 COFFEY, Q.C.:
 12 Q. Showing you the document recently.
 13 DR. WILLIAMS:
 14 Q. But I never knew at the time.
 15 COFFEY, Q.C.:
 16 Q. Okay, that's what I'm getting at.
 17 DR. WILLIAMS:
 18 A. So I knew last week, maybe.
 19 COFFEY, Q.C.:
 20 Q. Okay. So for the first time you learned last
 21 week that -
 22 DR. WILLIAMS:
 23 A. y
 24 COFFEY, Q.C.:
 25 Q. - there was, apparently, some view within the

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1 organization that you were saying too much
 2 publicly?
 3 DR. WILLIAMS:
 4 A. Yes.
 5 COFFEY, Q.C.:
 6 Q. You saw that in an e-mail this past week, but
 7 -
 8 DR. WILLIAMS:
 9 A. Yeah.
 10 COFFEY, Q.C.:
 11 Q. - you back then in '05 didn't know that?
 12 DR. WILLIAMS:
 13 A. I would not do any media interviews unless
 14 communications came to me and asked me to do
 15 media interviews.
 16 COFFEY, Q.C.:
 17 Q. Okay. So if there was a view within
 18 communications, though, expressed within
 19 communications personnel -
 20 DR. WILLIAMS:
 21 A. Well, they shouldn't have come to me and asked
 22 me to do them.
 23 COFFEY, Q.C.:
 24 Q. But if they then decided within themselves
 25 that it wouldn't be a good idea for you do any

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1 more, if they stopped coming to you, then that
 2 would be the end of the matter, wouldn't it?
 3 DR. WILLIAMS:
 4 A. If I didn't know the media was--you know, I
 5 don't go out and seek out the media.
 6 COFFEY, Q.C.:
 7 Q. Yes, and I appreciate that. That's what I'm
 8 getting at, Doctor, is is that here is that if
 9 they stopped coming to you, that is, they,
 10 your own communications people -
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. - asking you to do -
 15 DR. WILLIAMS:
 16 A. I would presume then that the media didn't
 17 come to them, probably.
 18 COFFEY, Q.C.:
 19 Q. Okay.
 20 COMMISSIONER:
 21 Q. Do I assume that in Eastern Health, large
 22 organization that it is, someone from the
 23 media would not contact you directly?
 24 DR. WILLIAMS:
 25 A. No, if somebody from the media -

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1 COMMISSIONER:
 2 Q. The policy would be to go through
 3 communications, in any event?
 4 DR. WILLIAMS:
 5 A. Communications, yes. And if somebody did
 6 contact me from the media, I'd ask them to go
 7 through communications first -
 8 COMMISSIONER:
 9 Q. Communications.
 10 DR. WILLIAMS:
 11 A. - and then communications would come back to
 12 me. That was the way we operated.
 13 COMMISSIONER:
 14 Q. Yes.
 15 COFFEY, Q.C.:
 16 Q. Now, sir, you know, as October became
 17 November, became December of '05.
 18 DR. WILLIAMS:
 19 A. Yes.
 20 COFFEY, Q.C.:
 21 Q. Okay. Were you aware that Peter Dawe was
 22 making comments in the media that were
 23 critical of Eastern Health concerning this
 24 issue?
 25 DR. WILLIAMS:

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1 A. Yes. And in one in particular where he, and
 2 his right to do it, that where there was a
 3 delay in getting the results back, and I
 4 remember Mr. Dawe in late November or early
 5 December of 2005 making that comment.
 6 COFFEY, Q.C.:
 7 Q. Um-hm.
 8 DR. WILLIAMS:
 9 A. So I don't have any problem with that. What I
 10 did with that comment, then I phoned Dr.
 11 Pritzker at the--and there's no e-mail there,
 12 but I know it's Dr. Pritzker's number because
 13 I remember talking to him. I took advantage
 14 of that statement Mr. Dawe made and turned it
 15 into something that we could use to paddle
 16 Mount Sinai with. So I phoned Dr. Pritzker
 17 said, look, it's impossible for us to continue
 18 to continue to wait for those tests, I've got--
 19 -you know, here's the kind of things that are
 20 being said, and can you please do something to
 21 help us. And what Dr. Pritzker said, he went
 22 into about capacity issues and all the work
 23 they had done there and this type of thing and
 24 that type of thing, but he did give me, I
 25 guess he did give me--told me that he would,

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1 over Christmas, have the staining done. He
 2 would ask the techs to come back between the
 3 Christmas break and New Year's, because at
 4 that time in Mount Sinai, as in every
 5 hospital, there's a shutdown in your ORs and
 6 the surgical specimens are--so the lab is not
 7 busy in that particular area. So he would ask
 8 the technologists to come in and do all our
 9 staining over the Christmas week and then when
 10 Dr. Mullen got back after the holidays in
 11 early January, Dr. Mullen would have all the
 12 stains done and then it would be up to Dr.
 13 Mullen to read the reports. And Dr. Pritzker
 14 assured me that by the end of January he would
 15 have things clued up.
 16 COFFEY, Q.C.:
 17 Q. And, in fact, that is what happened, isn't it?
 18 DR. WILLIAMS:
 19 A. That's what happened because he told me what
 20 happened. Now, what happened is Dr. Cook
 21 phoned him before that and talked to him.
 22 When Dr. Cook got back, I asked Dr. Cook to
 23 phone him again so to make sure that what he
 24 told me he would confirm with Dr. Cook. So
 25 you probably should see an e-mail from Dr.

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1 Cook saying that sometime in December.
 2 COFFEY, Q.C.:
 3 Q. Yes.
 4 DR. WILLIAMS:
 5 A. But so I remember Mr. Dawe and I remember--and
 6 I expect Mr. Dawe to advocate on behalf, so I
 7 used that, I think I used that probably that
 8 to help us achieve what we wanted to achieve,
 9 which was a quicker turnaround of tests.
 10 COFFEY, Q.C.:
 11 Q. Sir, if we could, Exhibit P-0684? It's an e-
 12 mail of November 24th, 2006, 1:39 p.m. from
 13 Ms. Predham to yourself, copied to Dr. Cook,
 14 Ms. Elliott and Ms. Pilgrim, "Update on
 15 ER/PR." And she writes, "As you requested,
 16 here's an update on ER/PR. There hasn't been
 17 much activity other than getting two more
 18 converted results back. Dr. Kwan made a
 19 suggestion at the last panel that I should
 20 track those we may have potentially harmed.
 21 We had agreed to classify patients as being
 22 converted with or without recommendations, but
 23 Dr. Kwan, and rightly so, felt it didn't
 24 accurately reflect those who have been
 25 impacted. For example, if a person was

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1 initially diagnosed with breast cancer in the
 2 left breast and was ER/PR negative and then
 3 had metastases to the right breast which was
 4 ER/PR positive, the patient would then be
 5 treated with Tamoxifen, so when we panelled
 6 the person after their first results
 7 converted, the panel would have no
 8 recommendations by there has been a potential
 9 impact. At the last panel meeting out of the
 10 17 panelled there were seven patients who were
 11 potentially negatively impacted. I will have
 12 to review all the patients panelled, but I'll
 13 try to have this complete information for you
 14 next week. As always, if you have any
 15 questions, just call me." Signed, "Heather."
 16 Now, Doctor, while you were there as VP
 17 medical, do you know if, in fact, that
 18 tracking occurred?
 19 DR. WILLIAMS:
 20 A. I can't answer the--I don't see anything in
 21 the--that would occur--I would expect that if
 22 she was going to do it, she would have done it
 23 and -
 24 COFFEY, Q.C.:
 25 Q. But were you ever made aware of any kind of

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1 total tallies as to those, she puts it here,
 2 or as Dr. Kwan put it, those who have been
 3 impacted.
 4 DR. WILLIAMS:
 5 A. I know -
 6 COFFEY, Q.C.:
 7 Q. Not just by converting, but -
 8 DR. WILLIAMS:
 9 A. Yes. I know that before I left there was a
 10 total tally done up in late August sometime.
 11 COFFEY, Q.C.:
 12 Q. Yeah. Which -
 13 DR. WILLIAMS:
 14 A. I would presume that Ms. Predham would do
 15 that. She's the one that said in the e-mail
 16 that she would do it and I didn't have any
 17 reason to believe that it wouldn't be done.
 18 But for me to tell you that it was done, I'm
 19 not sure.
 20 COFFEY, Q.C.:
 21 Q. Up to the time you left in September of '06
 22 you hadn't seen it?
 23 DR. WILLIAMS:
 24 A. Well, it might have been included in the way
 25 she broke -

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1 COFFEY, Q.C.:
 2 Q. It might have been, sorry, I apologize.
 3 COMMISSIONER:
 4 Q. Sometime in August.
 5 DR. WILLIAMS:
 6 A. Yes, it was a big sheet, I think, come down -
 7 COFFEY, Q.C.:
 8 Q. August.
 9 DR. WILLIAMS:
 10 A. - that I didn't see or Dr. Denic didn't see in
 11 an e-mail, and I don't know if it would've
 12 been included in those.
 13 COFFEY, Q.C.:
 14 Q. Okay.
 15 DR. WILLIAMS:
 16 A. Dr. Kwan, by the way, sat on the panel, so if
 17 he made the suggestion, I presume if it wasn't
 18 carried out, he might have something to say
 19 about it. But, you know, I'd have to go and
 20 look. When I get an e-mail like that and
 21 somebody's going to do something, I just
 22 presume they do it and if they're not going to
 23 do it, they tell me.
 24 COFFEY, Q.C.:
 25 Q. If we could, please, just one moment. Now, in

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1 December of, November, December of '05 were
 2 you aware of whether or not Mr. Dawe was in
 3 the media asking questions or, you know,
 4 raising concerns about the fact that up to
 5 that point Eastern Health had said nothing
 6 about how this had happened? And, for
 7 example, in those informal conversations you
 8 would have with Mr. Dawe over time -
 9 DR. WILLIAMS:
 10 A. I don't remember that issue coming up, I
 11 didn't--I wasn't a media guru in following the
 12 media in detail, but there may be some things
 13 in there -
 14 COFFEY, Q.C.:
 15 Q. Were you aware that during the fall of '05,
 16 into the winter of '06, that there were
 17 certainly whether Mr. Dawe or otherwise, there
 18 were people asking the question how did this
 19 happen, publicly?
 20 DR. WILLIAMS:
 21 A. I can't remember, Mr. Coffey.
 22 COFFEY, Q.C.:
 23 Q. Did Mr. Dawe raise it with you in your
 24 informal conversations?
 25 DR. WILLIAMS:

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1 A. I can't remember him raising it with me.
 2 COFFEY, Q.C.:
 3 Q. If he did, what would you have told him?
 4 DR. WILLIAMS:
 5 A. I would have told him, you know, well that's a
 6 hypothetical question, really. I would try to
 7 address his concerns as best I could without
 8 getting into the--in too much detail the
 9 quality reviews.
 10 COFFEY, Q.C.:
 11 Q. If I could, please, exhibit P-0101. This is a
 12 letter of December 7th, 2005, it's addressed
 13 to yourself, vice-president of, amongst other
 14 things, Medical Services at Eastern Health.
 15 The third page there, it's from Dr. Carter.
 16 It's copied to Dr. Cook, Mr. Gulliver and Dr.
 17 Ejeckam. First of all, did you ever discuss
 18 this with Dr. Cook?
 19 DR. WILLIAMS:
 20 A. Oh yes.
 21 COFFEY, Q.C.:
 22 Q. Did you ever discuss it with Mr. Gulliver?
 23 DR. WILLIAMS:
 24 A. I may have discussed it with Mr. Gulliver, I'm
 25 not sure, but I certainly did discuss it with

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1 Dr. Cook.
 2 COFFEY, Q.C.:
 3 Q. Did you ever discuss it with Dr. Ejeckam?
 4 DR. WILLIAMS:
 5 A. No, I may not have discussed it with Dr.
 6 Ejeckam, I copied him on my response and when
 7 I discussed it with Dr. Cook, I developed a
 8 response to the letter.
 9 COFFEY, Q.C.:
 10 Q. Did you ever discuss the IHC or ER/PR matter
 11 at all with Dr. Ejeckam?
 12 DR. WILLIAMS:
 13 A. Not at the time, no, I would go through the
 14 clinical chief on that and would leave it to
 15 Dr. Cook to deal with that.
 16 COFFEY, Q.C.:
 17 Q. So when you say at the time, you mean never?
 18 DR. WILLIAMS:
 19 A. That's right, I didn't discuss it. I had Dr.
 20 Cook deal with Dr. Ejeckam.
 21 COFFEY, Q.C.:
 22 Q. Now here, this is a letter where Dr. Carter
 23 opens by saying she was "most recently asked
 24 by Dr. Don Cook to comment on the suggestion
 25 of Mr. Barry Dyer had stated he felt the

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1 Ventana testing for estrogen receptor and
 2 progesterone receptor and HER2/neu could be
 3 started at any time. I find this comment
 4 quite startling in the face of the two fairly
 5 damning reports sent by Dr. Banerjee and Trish
 6 Wegrynowski on their review of our
 7 immunohistochemistry laboratory with special
 8 emphasis on the predictive factors for breast
 9 cancer patients." And she goes on at some
 10 length afterward.
 11 DR. WILLIAMS:
 12 A. Uh-hm.
 13 COFFEY, Q.C.:
 14 Q. Now, her characterization of those two reports
 15 as two fairly damning reports, at the time did
 16 you think, would that have been a fair or
 17 unfair assessment?
 18 DR. WILLIAMS:
 19 A. My assessment of those reports was that we had
 20 significant problems and they would detail
 21 those significant problems and give us a road
 22 map to overcome those difficult problems, so
 23 she uses the word "damning", I use it to say
 24 we had significant problems and we were
 25 working through those problems, Mr. Coffey.

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1 And you see we did work through them and I did
 2 respond to Dr. Carter's letter.
 3 COFFEY, Q.C.:
 4 Q. And exhibit P-1339, this is, I take it, your
 5 response of December 14th, 2005 to Dr. Carter,
 6 you copied it to the people she had copied it
 7 to. And the, you do point out that, you thank
 8 her for her letter and you point out that
 9 you've asked Dr. Cook and Mr. Gulliver to
 10 review all the recommendations to external
 11 reviewers and provide you with a spreadsheet
 12 of those recommendations, "indicating our
 13 progress and the status with respect to
 14 implementation, Dr. Banerjee has agreed to
 15 participate in a conference call if required.
 16 Unless there's a full review of the
 17 recommendations that were made and we achieved
 18 consensus around their status and our ability
 19 to provide reliable and reproducible results,
 20 a decision will be made around timeframes for
 21 instituting this service within the
 22 organization. I understand that you will be
 23 involved in the process and look forward to
 24 your input in the decision-making process in
 25 the future delivery of reliable and accurate

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1 results in this area." Now, sir, your
 2 understanding that she would be involved is
 3 from whom?
 4 DR. WILLIAMS:
 5 A. That would be my discussion probably with Dr.
 6 Cook.
 7 COFFEY, Q.C.:
 8 Q. Okay. The idea of reaching out to Dr.
 9 Banerjee to participate in a conference call
 10 if required.
 11 DR. WILLIAMS:
 12 A. Yes.
 13 COFFEY, Q.C.:
 14 Q. I take it that that did arise, this
 15 possibility?
 16 DR. WILLIAMS:
 17 A. It probably arose in my discussion with Dr.
 18 Cook if we were contemplating re-instituting
 19 the test, it might be a good idea to talk to
 20 Dr. Banerjee before we moved forward. Now
 21 that subsequently changed, as you know.
 22 COFFEY, Q.C.:
 23 Q. Yes. And what about Ms. Wegrynowski?
 24 DR. WILLIAMS:
 25 A. That wasn't mentioned there but that

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1 subsequently changed, as you know as well.
 2 COFFEY, Q.C.:
 3 Q. Yes, but the idea of you go talk to the
 4 doctor, but why not the technologist?
 5 DR. WILLIAMS:
 6 A. They, you know, anyway, we did talk to both.
 7 COFFEY, Q.C.:
 8 Q. Yes, and I take it with a view to having them
 9 come back in late April, early May of 2006?
 10 DR. WILLIAMS:
 11 A. They both came back, I don't know when we
 12 would have contacted them, there should be
 13 some record of when we made that decision to
 14 contact them both and ask them to come in and
 15 take another look.
 16 COFFEY, Q.C.:
 17 Q. Now with respect to that, sir, you are
 18 acknowledging to Dr. Carter her letter of
 19 December 7th. You didn't take any issue here
 20 with her characterization of the reports as
 21 two fairly damning reports.
 22 DR. WILLIAMS:
 23 A. No, maybe I could have, but I didn't want to,
 24 you know, she wanted--I guess I felt I
 25 answered her letter in the sense of are we

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1 going to start retest--the main thrust of the
 2 letter was you shouldn't be doing those tests
 3 until you've really had a good go at
 4 implementing, you're not ready to do it. So I
 5 tried to address that issue in her letter. I
 6 didn't go through line by line, sentence by
 7 sentence in her letter. I wanted to address--
 8 the key point was what are we going to do in
 9 terms of retesting and I told her what we were
 10 going to do, what we contemplated at the time,
 11 where we were.
 12 COFFEY, Q.C.:
 13 Q. Did you discuss her characterization with
 14 anyone?
 15 DR. WILLIAMS:
 16 A. I probably discussed it with Dr. Cook.
 17 COFFEY, Q.C.:
 18 Q. The characterization of -
 19 DR. WILLIAMS:
 20 A. I'm sure that came up, I can't remember the
 21 details of it.
 22 COFFEY, Q.C.:
 23 Q. Did you discuss with Dr. Cook how Dr. Carter
 24 would have even known what was in the reports?
 25 DR. WILLIAMS:

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1 A. Well she's a pathologist, he read the reports
 2 to her.
 3 COFFEY, Q.C.:
 4 Q. When was it then that Dr. Cook told you that
 5 he had read these reports to all the
 6 pathologists?
 7 DR. WILLIAMS:
 8 A. I'm not--I don't have any chronology of that.
 9 He would have told me, I guess I didn't write
 10 it down. Now I would expect him to, on this
 11 issue, as Dr. Carter was his point person and
 12 they were juxtapositioned over there and they
 13 were dealing with this on a day-to-day basis
 14 that they might have had some kind of a
 15 conversation about it.
 16 COFFEY, Q.C.:
 17 Q. Now in preparing to deal with myself and Ms.
 18 Chaytor as Commission counsel were to come
 19 here to testify, have you seen anything in
 20 writing that records or reflects Dr. Cook
 21 having read those reports to the pathologists?
 22 DR. WILLIAMS:
 23 A. No, I don't, but I'm pretty--well I know he
 24 told me. He might have a note, himself, on
 25 it.

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1 COFFEY, Q.C.:
 2 Q. Okay. If I could please, now with respect to
 3 by the end of '05, you got the reports, Ms.
 4 Wegrynowski's and Dr. Banerjee's reports, did
 5 you ever take up the issue or take up the
 6 matter with Dr. Cook as to how this state of
 7 affairs could have come about?
 8 DR. WILLIAMS:
 9 A. Yes, and I took it up with other people, past
 10 and present.
 11 COFFEY, Q.C.:
 12 Q. Well with Dr. Cook, first of all, did you take
 13 it up with him?
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. And what, if anything, happened? What was
 18 said?
 19 DR. WILLIAMS:
 20 A. We talked about it and it looked like when it
 21 was set up there was nothing put in place at
 22 the time, in terms of external quality, I
 23 mean, there was a lot of work done in terms of
 24 setting up the tests.
 25 COFFEY, Q.C.:

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1 Q. Back in '97, '98?
 2 DR. WILLIAMS:
 3 A. Correct. And the scenario that, if you look
 4 at Dr. Cook's review there and his regular
 5 goals and objectives, it's something that he
 6 just didn't see in terms of, on the radar
 7 screen that this was an area that didn't have
 8 those normal things in place.
 9 COFFEY, Q.C.:
 10 Q. Okay.
 11 THE COMMISSIONER:
 12 Q. Now I think the kinds of quality measures,
 13 that's what we're talking about?
 14 DR. WILLIAMS:
 15 A. Yes, they had internal quality measures, but
 16 not enrolment in the College of American
 17 Pathologists or some such organization for
 18 proficiency testing there.
 19 THE COMMISSIONER:
 20 Q. And you would have expected those to be
 21 present from the beginning?
 22 DR. WILLIAMS:
 23 A. Yes, they were present everywhere else.
 24 THE COMMISSIONER:
 25 Q. In the lab?

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1 DR. WILLIAMS:
 2 A. Yes.
 3 THE COMMISSIONER:
 4 Q. And did anybody give you any reason why they
 5 shouldn't be in this particular area of the
 6 lab?
 7 DR. WILLIAMS:
 8 A. No.
 9 COFFEY, Q.C.:
 10 Q. Had you ever checked with Dr. Cook at any
 11 point in time before this to ask him, are
 12 quality external proficiency testing
 13 procedures in place for all the lab? Had you
 14 ever actually asked him that?
 15 DR. WILLIAMS:
 16 A. Well I was--when I was, I guess briefed coming
 17 into the role, I would have understood that we
 18 had proficiency testing throughout our lab and
 19 we had every day in the lab they did normal
 20 checks and balances and controls, and then
 21 they were participating in the College of
 22 American Pathologist program for pathologists
 23 throughout our organization. All these
 24 things, I was told were in place. As Dr. Cook
 25 explained to me when he looked at this area,

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1 this was like an island in the sea, it's an
 2 area that didn't have those in place.
 3 COFFEY, Q.C.:
 4 Q. Well I'm just asking you, had you ever before
 5 that asked Dr. Cook -
 6 DR. WILLIAMS:
 7 A. No, I had not.
 8 COFFEY, Q.C.:
 9 Q. - are you sure there are no islands, as it
 10 were.
 11 DR. WILLIAMS:
 12 A. No, I don't think I would have, as I was told
 13 that was the normal standard operations in our
 14 lab.
 15 COFFEY, Q.C.:
 16 Q. Okay. If we could, please, exhibit P-1394.
 17 Now before I go on to this, before I leave the
 18 earlier topic, you, in your role as VP
 19 Medical, would have prepared, I take it,
 20 performance evaluations for Dr. Cook and for
 21 Mr. Gulliver?
 22 DR. WILLIAMS:
 23 A. I had what we called goals and objectives that
 24 we met, we prepared it annually and sat down
 25 four times a year and reviewed.

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1 COFFEY, Q.C.:
 2 Q. Was the ER/PR issue ever, to your
 3 recollection, referred to in either of those
 4 reports in relation to either of those
 5 gentlemen?
 6 DR. WILLIAMS:
 7 A. I cannot remember that they were, so they
 8 probably weren't.
 9 COFFEY, Q.C.:
 10 Q. Is there any reason why they weren't?
 11 DR. WILLIAMS:
 12 A. No, not that I'm aware of.
 13 COFFEY, Q.C.:
 14 Q. Is it the sort of thing that one could
 15 potentially raise in a type of performance
 16 evaluation?
 17 DR. WILLIAMS:
 18 A. Yes, it could come forward, you know, if
 19 somebody raised it, yes.
 20 COFFEY, Q.C.:
 21 Q. Well as a supervisor, I take it it would be
 22 your position, your place to raise it.
 23 DR. WILLIAMS:
 24 A. I didn't, I wasn't aware of that level of
 25 detail in the lab, that we got a little

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1 section over here or another section over
 2 there.
 3 COFFEY, Q.C.:
 4 Q. Oh no, no, I mean after Banerjee's report and
 5 Trish Wegrynowski's report, after you were
 6 aware of the problems -
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. Did you ever raise it in either of their
 11 performance evaluations?
 12 DR. WILLIAMS:
 13 A. No, because we had a report, we were going to
 14 implement it.
 15 COFFEY, Q.C.:
 16 Q. Yes.
 17 DR. WILLIAMS:
 18 A. And we were working on that separately from
 19 their performance evaluations and implementing
 20 it, you mean.
 21 COFFEY, Q.C.:
 22 Q. So it never got reflected, if we were to go
 23 and look at their performance evaluations now,
 24 at least while you were VP Medical, those you
 25 were involved in, there's no reference there

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1 to the ER/PR matter.
 2 DR. WILLIAMS:
 3 A. No, because I didn't pick it up in their
 4 performance evaluations because it wasn't part
 5 of their goals and objectives setting for
 6 those years.
 7 COFFEY, Q.C.:
 8 Q. Well it certainly in '05 would have become
 9 part of their goals and objectives, I take it.
 10 DR. WILLIAMS:
 11 A. Yes, but in '05, Dr. Cook's year would have
 12 started in '04/'05, so the goals would have
 13 been set in '04 and -
 14 COFFEY, Q.C.:
 15 Q. The one for '05/'06?
 16 DR. WILLIAMS:
 17 A. Dr. Cook would have been stepping down, he
 18 stepped down, so I don't know if we set any
 19 because I knew in October he was stepping
 20 down.
 21 COFFEY, Q.C.:
 22 Q. Now looking at this, this letter on September
 23 30th, 2003, it's to yourself in your capacity
 24 as VP Medical, annual review of laboratory
 25 medicine program, 2002. And this is from Dr.

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1 Cook.
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. As the clinical chief. And here he says
 6 "submitted is the annual review of the medical
 7 staff of laboratory medicine program for the
 8 year 2002. Following my discussion with
 9 staff, a number of common issues arose,
 10 examples of these include"--and then Dr. Cook
 11 has listed 12 different issues, common issues,
 12 as he refers to it, and everything from in the
 13 beginning, number one, workload issues
 14 relating to "vacant positions with a need for
 15 attaining pathology assistance and reducing
 16 the high level of service work", presumably
 17 that would be for reducing the strain on a
 18 pathologist -
 19 DR. WILLIAMS:
 20 A. Uh-hm.
 21 COFFEY, Q.C.:
 22 Q. Two, "disparity in income between university
 23 and service-based pathologists." So I take it
 24 there must have been some kind of -
 25 DR. WILLIAMS:

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1 A. Yes, there was a disparity.
 2 COFFEY, Q.C.:
 3 Q. Was that ever addressed?
 4 DR. WILLIAMS:
 5 A. We tried to address that with the Department
 6 of Health and then Dr. Robb in 2003, there was
 7 some meetings around 2003 to look at, try to
 8 address it through an alternate payment plan
 9 for pathologists in our labs. Dr. Robb took
 10 the lead in that and in May, 2003, there was
 11 supposed to be some committee formed and we
 12 wrote the Department of Health because that
 13 would have to be an issue, some years before
 14 the Department of Health negotiated a pay
 15 benefit's package for the, through the Dean of
 16 Medicine for the university-based pathologists
 17 that had a little bit of different
 18 remuneration. Before they were less than the
 19 hospital based and after that, they were a
 20 little bit more, so that's an issue that we
 21 would have had some discussion with the
 22 Department of Health about?
 23 COFFEY, Q.C.:
 24 Q. Did the disparity in income get addressed,
 25 ultimately?

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1 DR. WILLIAMS:
 2 A. We tried to get it addressed, but it wasn't
 3 addressed. Dr. Robb was following up on that.
 4 Dr. Cook didn't push it after because he felt
 5 that the, he wasn't that keen on an alternate
 6 based payment plan, but we had discussed it
 7 with the Department of Health on a number of
 8 occasions.
 9 COFFEY, Q.C.:
 10 Q. Number three, "Protected time to pursue
 11 special interest in research work." Four
 12 "Need for ongoing management courses and
 13 skills for those involved in administration."
 14 Five, "Appropriate funding and remuneration
 15 for on call." Six, "Adequate funding for
 16 purchase of textbooks and journals." Seven,
 17 "Issue of space at the General Hospital for
 18 pediatric, surgical pathological work and
 19 fetal perinatal autopsies." Eight, "Increase
 20 funding for CME"--continuing medical education
 21 that would be.
 22 DR. WILLIAMS:
 23 A. Uh-hm.
 24 COFFEY, Q.C.:
 25 Q. And "Multi-media review". Nine, "Issue a pay

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1 scale and proportional payment of Ph.D lab
 2 scientists in relation to laboratory
 3 physicians." Ten, "The need for a Ph.D
 4 microbiologist." Eleven, "Consolidation of
 5 pathology technical services." And twelve,
 6 "Issue of retirement for a number of our
 7 pathologists." And he goes on to talk about
 8 particular performance issues related to three
 9 individuals.
 10 DR. WILLIAMS:
 11 A. Do you want me to go through these--ten
 12 recommendations with me?
 13 COFFEY, Q.C.:
 14 Q. No, well in terms of that, and I appreciate
 15 some of them may or may not have been
 16 addressed and why I raise them now with you is
 17 this, is that because you have said, told the
 18 Commissioner that Dr. Cook was an energetic
 19 organized individual, from your perspective.
 20 DR. WILLIAMS:
 21 A. Uh-hm.
 22 COFFEY, Q.C.:
 23 Q. Okay, and this certainly does reflect that,
 24 doesn't it, he was advocating on behalf of the
 25 people who were working for him.

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1 DR. WILLIAMS:
 2 A. Uh-hm.
 3 COFFEY, Q.C.:
 4 Q. At the time in 2003 and up to that point,
 5 because Dr. Haegert had been there before as
 6 clinical chief and now Dr. Cook. How much, if
 7 any, money was being spent or made available
 8 to the pathologist for continuing medical
 9 education?
 10 DR. WILLIAMS:
 11 A. We had in our budget over a hundred thousand
 12 dollars for CME and each year a pathologist
 13 could get \$2,000 to assist in any CME
 14 education activities and I don't--on request,
 15 I don't think we denied any requests when I
 16 was there for that funding. In later stages,
 17 some of them wanted or in some--we had it for
 18 our salaried doctors, university, for the
 19 university based pathologists, they had a
 20 separate scheme from the university for that
 21 type of thing. So we used the money we had
 22 for the non-university based pathologists, so
 23 each year they would get \$2,000 towards CME.
 24 THE COMMISSIONER:
 25 Q. And when you say there was a hundred thousand,

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1 that was a hundred thousand for the
 2 institution -
 3 DR. WILLIAMS:
 4 A. That was for the--no, no, for the Health Care
 5 Corporation of St. John's for salaried doctors
 6 to undertake continuing medical education.
 7 THE COMMISSIONER:
 8 Q. But all--doctors of all -
 9 DR. WILLIAMS:
 10 A. Just the salaried, no, not the fee for
 11 service, just the salaried Doctors.
 12 THE COMMISSIONER:
 13 Q. Just the salaried, okay, but there would be
 14 more than pathologists in that, would there?
 15 DR. WILLIAMS:
 16 A. There was some psychiatrists, mostly it was
 17 psychiatrists and pathologists.
 18 COFFEY, Q.C.:
 19 Q. So what--a cap for each of them of \$2,000 per
 20 year.
 21 DR. WILLIAMS:
 22 A. Correct. \$2,500 for the clinical chiefs. In
 23 addition for the clinical chief, we offered
 24 Dr. Cook, as you see in other documentation,
 25 an option to partake in the CMA sponsored

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1 Physician Management Institute. We did send
 2 some people out of province if they wanted to
 3 go and we did bring in the Physicians
 4 Management Institute starting in 2004, we
 5 brought them into the province, so rather than
 6 having to send our doctors out, they came into
 7 the province and we offered physicians at the
 8 clinical chief and maybe at the division chief
 9 or site chief level an opportunity to
 10 participate, if they wanted to enrol. And
 11 that was specific for physician leaders and to
 12 give them expertise in management and
 13 administrative issues, designed for physicians
 14 through the CMA.
 15 COFFEY, Q.C.:
 16 Q. Now, sir, were there complaints by the
 17 pathologists, to your knowledge, going back to
 18 2002, 2003, 2004, about the \$2,000 being
 19 inadequate?
 20 DR. WILLIAMS:
 21 A. There was complaints from all doctors about we
 22 need to get more. I tried to get more. One
 23 year I got the budget increased, but it was
 24 difficult in times of restraint.
 25 COFFEY, Q.C.:

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1 Q. And from your perspective and as a VP Medical,
 2 what's the downside or potential cost of not
 3 providing sufficient funds?
 4 DR. WILLIAMS:
 5 A. Well you got to try and support CME
 6 activities, sure, not just for pathologists,
 7 for everybody.
 8 COFFEY, Q.C.:
 9 Q. What's the risk.
 10 DR. WILLIAMS:
 11 A. Well you get out of touch, you can get out of
 12 touch, that's why I supported it and tried to
 13 get more funding for it.
 14 COFFEY, Q.C.:
 15 Q. The person you were reporting to, Mr. Tilley,
 16 did you ever make him aware or say to him, one
 17 of the potential costs or risks associated
 18 here, George, is that these physicians can
 19 lose their edge, get out of touch?
 20 DR. WILLIAMS:
 21 A. I'm not sure if I made that specifically with
 22 Mr. Tilley. I would certainly advocate in the
 23 budget process to get more funds and I did,
 24 one year, get more funds. And it's tough in
 25 times of restraint and I had an obligation to

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1 get more funds for other people throughout the
 2 organization as well.
 3 THE COMMISSIONER:
 4 Q. Was the allocation to pathologists any
 5 different than it was to other -
 6 DR. WILLIAMS:
 7 A. No, it was not -
 8 THE COMMISSIONER:
 9 Q. So it was two thousand across the board?
 10 DR. WILLIAMS:
 11 A. Yeah, the policy was for GPs it was thousand,
 12 I think; for specialists it was two thousand;
 13 for clinical chiefs, twenty-five hundred to
 14 assist in continuing--now they would get time
 15 off to do that as well.
 16 THE COMMISSIONER:
 17 Q. Although they might not get very far.
 18 DR. WILLIAMS:
 19 A. No, on twenty-five hundred dollars. The other
 20 things I can deal with those, but you may not
 21 be interested in how we dealt with them.
 22 COFFEY, Q.C.:
 23 Q. No, and I appreciate there's only, of course,
 24 so much time to--available, but in terms of
 25 that, Doctor, on that point, I take it, though

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1 that in that sort of a letter, you would have
 2 done what you could?
 3 DR. WILLIAMS:
 4 A. I did what I could, not just for the
 5 pathologists, but for the psychiatrists as
 6 well, they were the two big groups, so you
 7 only had a few GPs working at the Waterford,
 8 most of the specialists were in psychiatry and
 9 in pathology.
 10 COFFEY, Q.C.:
 11 Q. And on that point and I just want to be sure,
 12 without going into the nitty gritty or the
 13 details of what happened for any individual
 14 request, as the VP Medical, you did what you
 15 could.
 16 DR. WILLIAMS:
 17 A. Yes, and I did not deny anybody an
 18 opportunity, as far as I can remember. They
 19 all got the two thousand if they wanted to
 20 partake in--and I think at a later date some
 21 would want to get journals or something, so I
 22 think we let them use that money for that.
 23 COFFEY, Q.C.:
 24 Q. Now Doctor, if we could, please--Commissioner,
 25 I just want to--here, if we could bring up,

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1 please, Exhibit P-1358? This is an e-mail,
 2 February 20th, 2006 from Ms. Predham to a
 3 number of individuals, including yourself.
 4 The attachment is panel summary february.doc
 5 and she says "Hi, I was looking at this table
 6 the weekend and I changed it a bit from Friday
 7 to be clearer. Let me know if it makes sense,
 8 please" and if we just go to the second page,
 9 if we could, of that, it's a panel summary,
 10 and I take it then that Ms. Predham was
 11 keeping yourself and these other management
 12 individuals apprised from time to time as to
 13 where she was with the panelling?
 14 DR. WILLIAMS:
 15 A. Yes.
 16 COFFEY, Q.C.:
 17 Q. Okay, and as well, Exhibit P-1359? Now this,
 18 Doctor, is a memo apparently to yourself from
 19 Heather Predham, February 22nd, 2006 and it's
 20 update on estrogen progesterone receptor
 21 testing, and it begins "a total of 851
 22 patients have had their results returned from
 23 Mount Sinai," and then she goes on at some
 24 length to break down as to where the--what the
 25 status is.

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1 DR. WILLIAMS:
 2 A. Um-hm.
 3 COFFEY, Q.C.:
 4 Q. And there are columns and descriptions and, I
 5 take it then, from that point on, I take it
 6 really from February 2006 onward, you were
 7 periodically being updated by Ms. Predham as
 8 to the status?
 9 DR. WILLIAMS:
 10 A. Yes, of the panelling.
 11 COFFEY, Q.C.:
 12 Q. Of the panelling.
 13 DR. WILLIAMS:
 14 A. Yes.
 15 COFFEY, Q.C.:
 16 Q. And that would affect how these numbers
 17 appeared in the spreadsheet, as it were.
 18 DR. WILLIAMS:
 19 A. Yes, and there was a couple of occasions when,
 20 I think, we had some problems and we asked the
 21 panel to spend more time because we were
 22 falling behind, and then some other issues
 23 came up that we had to deal with, not ER/PR
 24 issues.
 25 COFFEY, Q.C.:

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1 Q. That would be DSCIS?
 2 DR. WILLIAMS:
 3 A. DSCIS and retroconverters.
 4 COFFEY, Q.C.:
 5 Q. In fact, the first of them is referred to
 6 there, I believe.
 7 DR. WILLIAMS:
 8 A. Yes.
 9 COFFEY, Q.C.:
 10 Q. Back on page two of P-1360, I'll just go up
 11 here, right there. That's 13-
 12 DR. WILLIAMS:
 13 A. No, just the next--the last one down there.
 14 COFFEY, Q.C.:
 15 Q. Yes. There we are, page two of 1359,
 16 confirmed DSCIS 2, and so on, and so, if we
 17 could, please, Exhibit P-1361? Now this is an
 18 e-mail from Dr. Banerjee to Don Cook, copied
 19 to yourself, February 22nd '06. Subject is
 20 ER/PR and Dr. Banerjee simply says okay. Dr.
 21 Cook had written to him earlier that same
 22 morning saying "Hi, Diponkar. I'm talking to
 23 people, I think the best date would be April
 24 9th to 11th inclusive. We will keep in touch.
 25 Regards, Don." And I take it this was the

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1 idea of bringing -
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. - Dr. Banerjee in to have a look again?
 6 DR. WILLIAMS:
 7 A. Correct.
 8 COFFEY, Q.C.:
 9 Q. At where you were, and he subsequently did
 10 come in?
 11 DR. WILLIAMS:
 12 A. He did come in.
 13 COFFEY, Q.C.:
 14 Q. And provide a written report?
 15 DR. WILLIAMS:
 16 A. Correct.
 17 COFFEY, Q.C.:
 18 Q. Which went to yourself as well?
 19 DR. WILLIAMS:
 20 A. Correct, and we did an exit interview at that
 21 time with him.
 22 COFFEY, Q.C.:
 23 Q. And before we get to that, if we could,
 24 Exhibit P-129, please? Yes. Now I just bring
 25 this up here just to ask you, this involves

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1 government response to an ATIPP request?
 2 DR. WILLIAMS:
 3 A. Um-hm.
 4 COFFEY, Q.C.:
 5 Q. From CBC?
 6 DR. WILLIAMS:
 7 A. Yes.
 8 COFFEY, Q.C.:
 9 Q. And there is a--Mr. Tilley has spoken to us
 10 about the removal of a particular paragraph in
 11 that July 20th briefing note involving a
 12 reference to Dr. Ejeckam in '03?
 13 DR. WILLIAMS:
 14 A. Yeah.
 15 COFFEY, Q.C.:
 16 Q. Were you ever asked about that in 2006?
 17 DR. WILLIAMS:
 18 A. I do not recall being asked about that, Mr.
 19 Coffey.
 20 COFFEY, Q.C.:
 21 Q. And I'm not suggesting you were at all, just -
 22 DR. WILLIAMS:
 23 A. Yeah, I don't recall being asked about it. I
 24 don't know what the paragraph was.
 25 COFFEY, Q.C.:

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1 Q. It's the one where Dr. Williams has requested
 2 that an investigation be conducted -
 3 DR. WILLIAMS:
 4 A. Okay.
 5 COFFEY, Q.C.:
 6 Q. - into the 2003 stoppage.
 7 DR. WILLIAMS:
 8 A. Okay. I don't recollect that.
 9 COFFEY, Q.C.:
 10 Q. But the idea of that being classified as a QA
 11 activity, any -
 12 DR. WILLIAMS:
 13 A. I don't recollect the discussion, so I can't -
 14 COFFEY, Q.C.:
 15 Q. Okay. Would you have thought of that, at that
 16 time, as a QA activity?
 17 DR. WILLIAMS:
 18 A. Well, I only--well -
 19 COFFEY, Q.C.:
 20 Q. But you didn't know about it, I gather, in
 21 '03.
 22 DR. WILLIAMS:
 23 A. No, I didn't know. I can't recollect being
 24 involved in that, but it was a request. I
 25 asked Dr. Cook just to go back and just--I

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1 didn't ask him to do a big report, a report or
 2 anything. I just asked him to check to see if
 3 there was any more information available,
 4 that's all.
 5 COFFEY, Q.C.:
 6 Q. If we could, please -
 7 DR. WILLIAMS:
 8 A. So there'd be no report related to that.
 9 COFFEY, Q.C.:
 10 Q. P-0405, please? Doctor, I've referred to this
 11 just simply to ask you--this is a series of e-
 12 mails of March 15th and 16th and 17th '06
 13 within Eastern Health, but the first one, at
 14 the bottom of the page, March 15th to a number
 15 of individuals, you're the first in the list
 16 at 3:42 p.m. says "I just received the ATIPP
 17 request from Mark Quinn at CBC for all
 18 reports, memos, letters, briefing notes and e-
 19 mails at the Eastern Regional Health Authority
 20 between May 1, 2005 and the present regarding
 21 hormone receptor tests for people with breast
 22 cancer" and then she goes on from there. Were
 23 you ever involved in responding to that or
 24 preparing the response?
 25 DR. WILLIAMS:

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1 A. No, I wasn't involved in preparing the
 2 response, but I was at a meeting, I know, down
 3 in the Quality offices at the old General
 4 Hospital Nurses' Residence -
 5 COFFEY, Q.C.:
 6 Q. Yes.
 7 DR. WILLIAMS:
 8 A. - when they came to a final list of what they
 9 were going to send, and I would have been
 10 asked probably if there was anything
 11 belonging, a e-mail from me or something,
 12 might have been asked if I didn't want to send
 13 it out or if I had a reason not to send it
 14 out, but I don't recall any real issues from
 15 my perspective, because that--when I would
 16 have got involved, they would have had the
 17 final list they were going to send. That's my
 18 understanding. I think Deanne Emberley was
 19 the one that was designated to do that, I
 20 think, but I may be wrong.
 21 COFFEY, Q.C.:
 22 Q. Exhibit P-0944, please? Now this, I believe
 23 they're handwritten notes of yours, April 25.
 24 DR. WILLIAMS:
 25 A. 25th, I got them here, yes.

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1 COFFEY, Q.C.:
 2 Q. Yes, and you actually have the original, I
 3 believe?
 4 DR. WILLIAMS:
 5 A. Yes, I do.
 6 COFFEY, Q.C.:
 7 Q. And there's a list of people. Who's there at
 8 the time?
 9 DR. WILLIAMS:
 10 A. Sure. Dr. Banerjee, Dr. Cook, Dr. Denic,
 11 because by that time, Dr. Denic had taken over
 12 as clinical chief. You're aware of that. Dr.
 13 Carter, because I said she was going to be
 14 involved in any of this decision making.
 15 COFFEY, Q.C.:
 16 Q. Yes.
 17 DR. WILLIAMS:
 18 A. Dr. Fontaine, because he was site chief at the
 19 General. Dr. Ejeckam because he was head of
 20 the immunohistochemistry section. Mr.
 21 Gulliver, Dr. McCarthy and myself. I would
 22 involve--try to involve an oncologist in these
 23 procedures because I wanted them to get a
 24 flavour.
 25 COFFEY, Q.C.:

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1 Q. Okay.
 2 DR. WILLIAMS:
 3 A. And then do you want me to read what he said?
 4 COFFEY, Q.C.:
 5 Q. Well -
 6 DR. WILLIAMS:
 7 A. Okay, go through it? I can read it.
 8 COFFEY, Q.C.:
 9 Q. Now this, it's some length. If I could,
 10 Doctor, this, because--and I appreciate and
 11 tell the Commissioner that you were very
 12 helpful in providing a typed version of your
 13 notes in the past.
 14 DR. WILLIAMS:
 15 A. Yes, I did -
 16 COFFEY, Q.C.:
 17 Q. This particular one would not be because of
 18 the time the issue of, the status of those
 19 reports and anything related to them was not -
 20 DR. WILLIAMS:
 21 A. We can have a typed version for you, if you
 22 want.
 23 COFFEY, Q.C.:
 24 Q. If you would, please, okay. And I think Mr.
 25 Simmons would be able to provide that -

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1 DR. WILLIAMS:
 2 A. We will do that for you yes.
 3 COFFEY, Q.C.:
 4 Q. Sure. But how did that compare with what he
 5 told you in the exit interview with what's in
 6 his report, do you recall?
 7 DR. WILLIAMS:
 8 A. Well, I'd have to look at his -
 9 COFFEY, Q.C.:
 10 Q. Okay, I'm -
 11 DR. WILLIAMS:
 12 A. Just let me see what he said in the exit
 13 interview.
 14 COFFEY, Q.C.:
 15 Q. Sure, why not.
 16 DR. WILLIAMS:
 17 A. "Dr. Banerjee, very pleased at state of his
 18 recommendations, looked at quality of slides,
 19 acceptable, all internal controls worked
 20 appropriately, it is performing well,
 21 equipment up to date, protocols optimized with
 22 dedicated techs, plan for medical supervision
 23 of the lab". And we'll talk about that in a
 24 minute. "All the right things to do and
 25 should maintain quality. Continue with

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1 external Q/A programs. Source of variability
 2 is how tissue is handled at various hospitals,
 3 need to provide guidelines to the hospitals
 4 and process for feedback when tissue
 5 processing not optimal". This is--Dr. Denic
 6 was going to follow up on that recommendation.
 7 COFFEY, Q.C.:
 8 Q. This is this fixation -
 9 DR. WILLIAMS:
 10 A. Yes, correct. "Need to standardize a tissue
 11 processing approach", this is something the we
 12 were going to do. "Will recommend that we can
 13 restart the testing". And then Dr. Ejeckam is
 14 there, "need to appoint a director
 15 immunohistochemistry" because by that time Dr.
 16 Ejeckam had stepped down, was leaving at the
 17 end of April, that's my recollection. Dr.
 18 Banerjee, head of different sections in BC
 19 received an administrative stipend, also need
 20 to reduce clinical service load to enable
 21 administrative role to be carried out". That
 22 would be whoever is going to replace Dr.
 23 Ejeckam. "Need administrative support for
 24 document control. Ongoing CME for the techs
 25 is an important issue. Succession planning

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1 for techs" and I got a little note "need to
 2 consult with HR on that. Look at issue of
 3 education/standards for certain jobs"--talking
 4 about the new type of tech might be somebody
 5 with a Ph.D. or Masters; that would be new for
 6 us. That's really a high level -
 7 COFFEY, Q.C.:
 8 Q. Um-hm.
 9 DR. WILLIAMS:
 10 A. And so he's suggesting that we need to take a
 11 look at that. "HER2/neu currently sending
 12 out, need to spend more time on this and
 13 correlate with FISH and optimize staining".
 14 So, he's saying that, I guess, we can't keep
 15 sending it out, you got to sort of develop an
 16 in-house, I think that's what he's saying.
 17 And then Dr. McCarthy said, "recently
 18 oncologists discussed cut off for ER/PR, for
 19 treatment purposes. Some use one percent,
 20 some use ten percent, no clinical randomized
 21 data to say who will benefit from Tamoxifen".
 22 Now, that's her statement there.
 23 COFFEY, Q.C.:
 24 Q. Yes.
 25 DR. WILLIAMS:

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1 A. And Dr. Ejeckam, "there are many sections" and
 2 I can't read my writing, re: precision issues
 3 or precursor issues. I'll have to have that
 4 corrected. "Mr. Gulliver intensity as well as
 5 percentages important in decisions." And then
 6 we have the first appearance of the breast
 7 tumor group, "Pathologists, oncologists must
 8 get together to determine approach in the
 9 future." So this is the--it comes up a little
 10 later, but that's where it first surfaced, at
 11 that meeting. So that's basically a summary
 12 of what he said, what notes I took.
 13 COFFEY, Q.C.:
 14 Q. That was his, on a go-forward plan, I take it,
 15 both from based upon his comments and the
 16 input from the others present.
 17 DR. WILLIAMS:
 18 A. Yes, mostly his input, to be honest with you.
 19 COFFEY, Q.C.:
 20 Q. I appreciate it, but the breast group -
 21 DR. WILLIAMS:
 22 A. The breast group came around, seems like the
 23 plan was started at that meeting, that we're
 24 going to get pathologists into sub-specialized
 25 centre, but why don't we, together, to do the

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1 breast pathology, so why don't we get an
 2 ER/PR, so why don't we get the oncologists
 3 involved and we'll have a breast expert group
 4 of oncologists and pathologists who would
 5 monitor the situation in the future, I guess.
 6 COFFEY, Q.C.:
 7 Q. If we could, please, exhibit P-1366, now I
 8 take it, though, that Dr. Banerjee's report
 9 did show up and he still, subsequently, and he
 10 still had further recommendations -
 11 DR. WILLIAMS:
 12 A. Oh his report showed up, yes, there was a
 13 couple of others we had to follow up on, if
 14 you want to discuss them now, we can or would
 15 you -
 16 COFFEY, Q.C.:
 17 Q. Well would it, because I haven't actually gone
 18 through all his recommendations from the
 19 original one, I take it though from your
 20 perspective as the VP Medical, you were
 21 tasking Mr. Gulliver and Dr. Cook, but now Dr.
 22 Denic -
 23 DR. WILLIAMS:
 24 A. Yes.
 25 COFFEY, Q.C.:

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1 Q. To incorporate any new recommendations -
 2 DR. WILLIAMS:
 3 A. As we move forward. I had one issue that I
 4 attended to, but it was after I left, when I
 5 wrote Dr. Howell. There was one issue, I
 6 think left outstanding, is how the laboratory
 7 medicine program was structured. It was
 8 structured like every other program in our
 9 organization and I thought about that, that's
 10 one area that I felt needed to be followed up
 11 on and I did write Dr. Howell in December of
 12 2006 when I had reflected on it and talked to
 13 Dr. Flynn in Ontario, because I wanted to see
 14 how their labs were structured up there with
 15 respect to administration and how the doctors
 16 would--now I recommended, it's not the
 17 approach that they took eventually, they went
 18 further than I recommended, but that was--that
 19 recommendation of Dr. Banerjee's was followed
 20 up on.
 21 COFFEY, Q.C.:
 22 Q. Looking at P-1366, it's a fax transmission
 23 from your office to Pam Elliott and Heather
 24 Predham. It's "Re: Letter to Peter Dawe."
 25 "Pam, Heather, Dr. Williams would like"--

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1 presumably it's "both you to review the
 2 attached letter and provide him with comments
 3 before he sends." And then there's a draft of
 4 a letter April 27th, 2006 to Peter Dawe and
 5 you say, the draft says, "I'm writing in
 6 follow up to discussions we've had in the past
 7 and our most recent discussion of today's
 8 date." And then you go on at some length and
 9 you say at the bottom, at least in the draft,
 10 "As I advised your two consultants have re-
 11 visited the province to review our efforts
 12 here and once we receive their reports, we
 13 will be making a decision concerning re-
 14 instituting immunohistochemical testing within
 15 the laboratory services here in St. John's.
 16 Before we re-institute testing, we will be
 17 doing an update and a briefing session and I
 18 would like to extend to you an opportunity to
 19 be involved in that process. Again, thank you
 20 for your interest to date." Now why were you
 21 sending this letter to Mr.--or contemplating
 22 anyway, sending this letter to Mr. Dawe?
 23 DR. WILLIAMS:
 24 A. I'm sure--I think I sent it.
 25 COFFEY, Q.C.:

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1 Q. Okay, and why?
 2 DR. WILLIAMS:
 3 A. I think we wanted to move the agenda forward
 4 nationally and I saw Mr. Dawe as an ali in
 5 doing that, and the national--the Canadian
 6 Cancer Society was working on developing, not
 7 only Provincial strategy for cancer control
 8 and care, but there was a national strategy
 9 being developed at the time, I think. I may
 10 have referenced it in the letter.
 11 COFFEY, Q.C.:
 12 Q. You do.
 13 DR. WILLIAMS:
 14 A. And I thought that maybe Mr. Dawe, given what
 15 had happened in our province, could make sure
 16 when they were developing the strategy,
 17 perhaps the issue of ER and PR testing and the
 18 standardization across the country could be
 19 pursued, it was from that perspective, I think
 20 I was writing him and I gave him some
 21 background, issues from the literature to show
 22 him what's happening in ER and PR testing.
 23 COFFEY, Q.C.:
 24 Q. You were aware, I take it, in the spring of
 25 '06, though, that Mr. Dawe was still

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1 complaining, at least publicly, about the--how
 2 long it was taking to finalize the ER/PR
 3 matter?
 4 DR. WILLIAMS:
 5 A. Well, he might have, I can't remember that.
 6 COFFEY, Q.C.:
 7 Q. Okay.
 8 DR. WILLIAMS:
 9 A. I would have had discussions with Mr. Dawe on
 10 the cell phone and he would phone me and I
 11 would keep him updated.
 12 COFFEY, Q.C.:
 13 Q. Okay.
 14 DR. WILLIAMS:
 15 A. He had to advocate, he has to advocate.
 16 COFFEY, Q.C.:
 17 Q. Sure. If we could -
 18 COMMISSIONER:
 19 Q. Mr. Coffey -
 20 COFFEY, Q.C.:
 21 Q. If I could, a couple.
 22 COMMISSIONER:
 23 Q. - near the--are you close to finishing or -
 24 COFFEY, Q.C.:
 25 Q. No.

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1 COMMISSIONER:
 2 Q. - if not, or -
 3 COFFEY, Q.C.:
 4 Q. - but there are a couple -
 5 COMMISSIONER:
 6 Q. - on this point?
 7 COFFEY, Q.C.:
 8 Q. A couple of little things, if I could, to get
 9 us to -
 10 COMMISSIONER:
 11 Q. Okay.
 12 COFFEY, Q.C.:
 13 Q. - toward the end.
 14 COMMISSIONER:
 15 Q. Then we'll break for the day.
 16 COFFEY, Q.C.:
 17 Q. Close to the end. P-1367, please? This, I
 18 take it, is a letter from Trish Wegrynowski,
 19 May 2nd, '06, received by you May 4th, '06.
 20 She's sending her second report?
 21 DR. WILLIAMS:
 22 A. Yes.
 23 COFFEY, Q.C.:
 24 Q. And she, as well, her May 2nd, 2006 report,
 25 she, as well, had a number of follow-up

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1 recommendations?
 2 DR. WILLIAMS:
 3 A. Yes.
 4 COFFEY, Q.C.:
 5 Q. And if we could, please, Exhibit P-1374? This
 6 again is, I take it, or this is not again,
 7 this is a letter May 23rd, '06 from Dr.
 8 Banerjee?
 9 DR. WILLIAMS:
 10 A. Yes.
 11 COFFEY, Q.C.:
 12 Q. Sending along his written report?
 13 DR. WILLIAMS:
 14 A. Um-hm.
 15 COFFEY, Q.C.:
 16 Q. And both of their reports, I take it, the
 17 recommendations in them, you've already talked
 18 about Dr. Banerjee's, Ms. Wegrynowski's were
 19 also incorporated into this spreadsheet?
 20 DR. WILLIAMS:
 21 A. Yes. And we did have a detail, which you
 22 don't have in evidence in the--my handwriting
 23 form, but we did have a meeting on May 30th,
 24 looks like May 30th, Dr. Denic, Mr. Gulliver,
 25 Mr. Dyer and myself to go through every

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1 recommendation that Ms. Wegrynowski made and a
 2 person was designated on that to follow up on
 3 those recommendations.
 4 COFFEY, Q.C.:
 5 Q. And with respect to that, was there a
 6 debriefing of Ms. Wegrynowski, do you recall?
 7 DR. WILLIAMS:
 8 A. I can't recall.
 9 COFFEY, Q.C.:
 10 Q. Okay. You can't recall, you can't find any
 11 notes -
 12 DR. WILLIAMS:
 13 A. I think if I--no, I can't find in my notes.
 14 And I think if I did one, that I might have
 15 had a chat with her and she might have gave me
 16 the general overview and I may not have made
 17 any notes.
 18 COFFEY, Q.C.:
 19 Q. Those notes of May 30th?
 20 DR. WILLIAMS:
 21 A. Yes. They're very detailed.
 22 COFFEY, Q.C.:
 23 Q. Okay. I don't know that we -
 24 MR. SIMMONS:
 25 Q. (Inaudible) copy now. I'm just wondering

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1 myself if we have (inaudible) materials from
 2 me, but there's no harm in (inaudible).
 3 COMMISSIONER:
 4 Q. (Inaudible).
 5 COFFEY, Q.C.:
 6 Q. Okay. And so if perhaps we could break for
 7 the day now. I'll take it up, I can tell the
 8 Commissioner on Monday, right now--first I'll
 9 have to look at those notes over the weekend
 10 and there are just one or two topics and I'll
 11 be concluding with the doctor, okay.
 12 COMMISSIONER:
 13 Q. All right. Can we do the rounds of the room
 14 because we do have another witness who's lined
 15 up to be here on Tuesday. I'm sure you'll,
 16 all be overjoyed to hear that we have a long
 17 weekend. Although, I have to tell you that
 18 before you leave, administration does have a
 19 present for you. Mr. Pritchard?
 20 MR. PRITCHARD:
 21 Q. At this point I don't have any questions.
 22 COMMISSIONER:
 23 Q. All right. Mr. Browne?
 24 MR. BROWNE:
 25 Q. I'm mulling over a couple here. I don't

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1 anticipate being any long than 15 minutes to
 2 30 minutes, and it may -
 3 COMMISSIONER:
 4 Q. Yeah.
 5 MS. NEWBURY:
 6 Q. I'll be about 20 minutes, 20, 30 minutes.
 7 COMMISSIONER:
 8 Q. Okay.
 9 MS. O'DEA:
 10 Q. I won't have very many question, if any.
 11 COMMISSIONER:
 12 Q. All right. Ms. Taylor?
 13 MS. TAYLOR:
 14 Q. Depending on the other questions -
 15 COMMISSIONER:
 16 Q. Yes, of course.
 17 MS. TAYLOR:
 18 Q. I'm anticipating about a half hour.
 19 COMMISSIONER:
 20 Q. All right.
 21 MR. PIKE:
 22 Q. Fifteen minutes, Commissioner.
 23 COMMISSIONER:
 24 Q. And Mr. Simmons.
 25 MR. SIMMONS:

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1 Q. After listening to everyone else, I wouldn't
 2 think I'd be very long.
 3 COMMISSIONER:
 4 Q. Okay. I'm just trying to be of assistant in
 5 terms of doing the estimate on the next
 6 witness who will be with us on Tuesday. Thank
 7 you all. 9:30 Tuesday morning.
 8 Upon conclusion at 4:58 p.m.

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1 CERTIFICATE
 2 I, Judy Moss, hereby certify that the foregoing is
 3 a true and correct transcript in the matter of the
 4 Commission of Inquiry on Hormone Receptor Testing,
 5 heard on the 16th day of May, A.D., 2008 before the
 6 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 16th day of May, A.D., 2008
 13 Judy Moss

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