

NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
120 Torbay Road, P.O. Box 21040, St. John's, Newfoundland and Labrador, Canada, A1A 5B2

Hearing Transcript

2017 Automobile Insurance Review

June 7, 2018

PRESENT:

The Board:

Darlene Whalen, Chair and CEO
Dwanda Newman, Vice-Chair
James Oxford, Commissioner

Board Counsel/ Staff:

Jacqueline Glynn, Board Counsel
Ryan Oake, Board Staff

Parties (Alphabetical Order)

Atlantic Provinces Trial Lawyers Association
Ernest Gittens
Barry Mason, Q.C.

Presenters

Paula Elliott, Oliver Wyman

Campaign to Protect Accident Victims

Colin Feltham
Jerome Kennedy, Q.C.

Consumer Advocate

Dennis Browne, Q.C.
Andrew Wadden

Insurance Bureau of Canada (IBC)

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

Spinal Cord Injury NL

Thomas Fraize, Q.C.
Lara Fraize-Burry
Michael Burry

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1 (9:00 a.m.)
 2 CHAIR:
 3 Q. Good morning, everybody. I understand that
 4 we are ready to proceed with the next
 5 presentation, Ms. Glynn.
 6 MS. GLYNN:
 7 Q. Yes, Ms. Whalen. Ms. Elliott is ready to
 8 start her presentation of the Minor Injury
 9 Reform Cost Estimates, and then the order of
 10 questioning for this particular report will
 11 remain as it has been. The Campaign will
 12 start questioning on this report.
 13 MS. ELLIOTT:
 14 Q. Good morning. Hopefully in making our
 15 process more efficient, I thought two things
 16 I want to start with. First of all is
 17 explain our report on the reform costing was
 18 amended and that was due to a calculation
 19 error found that affected the premium table,
 20 one of the first tables in the chart. The
 21 amendment is highlighted in grey so you can
 22 easily find it. That was the only change in
 23 the body of the report, and then some
 24 supporting appendices were amended as well,
 25 and that was oversight and the calculation

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1 error, so it's fortunate that it was amended
 2 before this hearing.
 3 I thought it would be helpful to
 4 explain the process of how we do the
 5 costing. We've described it in our report
 6 and that's on page 19 of the .pdf
 7 accounting. So as we discussed yesterday,
 8 we have a closed claim sample of data.
 9 There are 1,741 claimant files, and each of
 10 these files contains information on that
 11 claimant and the party that's responsible
 12 for the event, this bodily injury claim, and
 13 there are columns and columns of data.
 14 There's nearly 90 columns of data, so for
 15 each claimant there's this long row of data.
 16 For example, for each of the injury types
 17 that that claimant might have suffered,
 18 there are 35 alternatives, and so each of
 19 those claimant types is listed, and if that
 20 claimant suffered that injury, it would be
 21 reported in this database for that claimant
 22 as a 1, and if they didn't, as a 0. The
 23 amounts paid for each head of damage is
 24 recorded. So we have this long row of data
 25 for each claimant and we have 1,741 rows of

Page 3

1 this data, so that's what we're working
 2 with.
 3 We project all the costs because the
 4 claims occurred at different dates. They
 5 could have occurred in 2012, they could have
 6 occurred in 2016. 2002 is the oldest claim.
 7 We project all those costs to a common cost
 8 level, and they're projected to a cost level
 9 of July 1st, 2017. So we're dealing with
 10 cost all at the same approximate point in
 11 time.
 12 So our next step is to go through each
 13 of the claimant's data, and depending upon
 14 which injury types would comprise the
 15 definition of a minor injury, we would then
 16 go through and identify which claimants have
 17 those specific injury types, and that
 18 claimant would be flagged, if you will, in
 19 our calculation process. Once those
 20 claimants are flagged as meeting the minor
 21 injury definition, then we would calculate
 22 how much would that pain and suffering award
 23 that they did receive, how much would that
 24 change if there was a cap of either
 25 \$5,000.00, \$7,500.00, or \$10,000.00, or a

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1 deductible introduced. So we do those
 2 calculations for each and every claimant.
 3 We go through row by row, 1,741 of them, and
 4 then at the end of that process, we now have
 5 a new cost estimate for the non-pecuniary
 6 award amount that's either a cap amount or a
 7 deductible amount, and from there we can
 8 calculate what the percentage reduction in
 9 the costs are. So we know the percentage
 10 reduction in the non-pecuniary amount and we
 11 know the percentage reduction of the total
 12 award, and we do that for each and every
 13 claimant, and then – so that's the process
 14 that we go through.
 15 Of course, what I haven't described
 16 here are how we would identify those
 17 claimants that would meet the minor injury
 18 definition, and we describe that in the
 19 prior page 18.
 20 MS. GLYNN:
 21 Q. Which is page 14 of the paper copy.
 22 MS. ELLIOTT:
 23 Q. Yes, and defining – the exercise of defining
 24 who would meet the minor injury definition
 25 is not an easy task, and we have presented

Page 5

1 here three alternative definitions that we
 2 think would fall within the range of meeting
 3 the minor injury definition, and our first
 4 one is only those claimants that had one or
 5 more of what was described yesterday and
 6 discussed, the Class 1 type injuries.
 7 Definition 2 was any claimant that would
 8 have fallen within Definition 1, plus they
 9 had a Class 1 or a Class 2 injury type, but
 10 their non-pecuniary loss amount was the
 11 average or lower, and that represented about
 12 76 percent of all claimants. Then
 13 Definition 3 was any claimant with one or
 14 more of the Class 1 or Class 2 injury types,
 15 but their total settlement amount was within
 16 the first 75 percentile of all claimants.
 17 So what we've presented here is a range
 18 of possible definitions for a minor injury
 19 claimant, and, of course, the lawyers would
 20 know better than I, each individual is
 21 different and all the attributes for that
 22 claimant are reviewed in deciding whether
 23 that individual would meet the minor injury
 24 definition. So we're dealing with
 25 aggregated data. Our task is to estimate a

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1 cost percentage, a reduction in the minor
 2 injury - for those minor injury claimants
 3 for the non-pecuniary amount, so we've
 4 presented three alternatives that we think
 5 would approximate what that cost reduction
 6 would be.
 7 Finally, I want to speak on the
 8 frequency and this is on page 25 of the pdf
 9 counting. So we thought it would be - well,
 10 it was insightful for me, but helpful for
 11 the reader, to review the frequency level in
 12 New Brunswick and Nova Scotia, and
 13 particularly focusing on the timelines when
 14 the reforms were introduced. This is a 20
 15 year period and this is for bodily injury,
 16 the number of claims that occurred per 1,000
 17 cars insured. That's what the frequency
 18 rate represents, and the black line is New
 19 Brunswick, the blue line is Nova Scotia, and
 20 prior to the reforms being introduced in
 21 2003 in New Brunswick and Nova Scotia, and
 22 at the time when those reforms were
 23 introduced you can appreciate that the
 24 review of the data at the time was looking
 25 at the experience that would have been

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1 published and made available through GISA in
 2 the 2000/2001 time period, because the
 3 studies were being done in 2002 and
 4 introduced the reform in 2003. So you're
 5 looking at, at the time that the reforms
 6 were introduced, the data that was being
 7 used would have been prior to that, older.
 8 So there certainly was an increase in the
 9 frequency rate you can see from 1998 up to
 10 2000. Then it started to decline prior to
 11 the reforms. Reforms were introduced and we
 12 see what would appear to be a decline in the
 13 frequency immediately following the reforms
 14 and it continued to decline in the frequency
 15 for both Nova Scotia and New Brunswick, and
 16 I can't explain specifically, but certainly
 17 the frequency rates line up during that
 18 period post-2003 for New Brunswick and Nova
 19 Scotia.
 20 Then Nova Scotia amended its reforms
 21 effective in April of 2010, and at that time
 22 following the reform amendment, the
 23 frequency flattened out and has somewhat
 24 been declining since. One would argue maybe
 25 flat, maybe declining, but certainly not

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1 increasing.
 2 At that time in New Brunswick when Nova
 3 Scotia implemented its reforms, the New
 4 Brunswick frequency rate continued to
 5 decline. Then it amended its reforms
 6 effective July, 2013, and its frequency rate
 7 flattened out and then declined more
 8 recently in the last year or so.
 9 So when we looked at this data, it
 10 would appear that the minor injury reform
 11 may contribute, and I don't know to what
 12 degree, but it may contribute to the
 13 frequency rate for bodily injury, and there
 14 are many things that affect frequency rate;
 15 would it be the weather that year,
 16 improvement in road safety, building better
 17 roads, construction, cars that are safer,
 18 have there been many advances in cars. So
 19 there are a number of reasons that can
 20 contribute to a decline in frequency rate,
 21 but based on the graph, based on the changes
 22 that we see coincident with the changes in
 23 the reforms, it would appear that the minor
 24 injury reform has some effect on the
 25 frequency rate.

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1 I'm going to move to the next page and
 2 these three bar graphs, the bar graphs for
 3 the three provinces; New Brunswick, Nova
 4 Scotia, and Newfoundland, what we're seeing
 5 and this is what we're seeing in really most
 6 provinces, is that there has been a decline
 7 in the frequency rate over time, and again
 8 there are many reasons why it would decline,
 9 and personally, without giving anecdotal
 10 information, I think the safety features
 11 that have been introduced in cars over the
 12 last 20 years has contributed to an
 13 improvement or decline in the claims
 14 frequency rate. Of course, there are ups
 15 and downs in frequency that can be
 16 attributed to severe winter storms and what
 17 not, but we do see all three provinces
 18 declining.
 19 In addition, we can see again that's
 20 coincident with the reforms. These periods
 21 are accident half year periods, so if you
 22 look at December, '03, you can see that
 23 there is a substantive drop in New Brunswick
 24 and Nova Scotia. It's claim frequency rate
 25 that did not happen at the same time as

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1 Newfoundland, the lighter bar, so albeit
 2 Newfoundland did continue to decline, as did
 3 Nova Scotia and New Brunswick, the gap
 4 widened between the two provinces in the
 5 number of claims reported between
 6 Newfoundland and Nova Scotia and New
 7 Brunswick, coincident with the introduction
 8 of the reforms. That is the end of my
 9 discussion.
 10 MS. GLYNN:
 11 Q. Ms. Elliott is available for questions.
 12 CHAIR:
 13 Q. Mr. Kennedy or Mr. Feltham.
 14 MR. FELTHAM:
 15 Q. Thank you, Chair. It's going to be me this
 16 morning. Good morning, Ms. Elliott.
 17 MS. ELLIOTT:
 18 A. Good morning.
 19 (9:15 a.m.)
 20 MR. FELTHAM:
 21 Q. I'm going to start. It's going to feel a
 22 little bit like some degree of repetition
 23 like yesterday, but this is a different
 24 report and so we do need to establish what
 25 it's based on. So the analysis and the

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1 findings that you presented in this report
 2 today are based on the database that was
 3 collected by IBC for your review, correct?
 4 MS. ELLIOTT:
 5 A. Yes, it's based on the 1,741 claimants, yes.
 6 MR. FELTHAM:
 7 Q. For the Closed Claim Study?
 8 MS. ELLIOTT:
 9 A. Correct.
 10 MR. FELTHAM:
 11 Q. And you've relied on the data that IBC have
 12 provided without independent audit?
 13 MS. ELLIOTT:
 14 A. We relied upon IBC's collection, checking,
 15 and validation of that data, yes.
 16 MR. FELTHAM:
 17 Q. Without independent audit?
 18 MS. ELLIOTT:
 19 A. Without independent audit.
 20 MR. FELTHAM:
 21 Q. And so again you've not audited or otherwise
 22 verified the data?
 23 MS. ELLIOTT:
 24 A. Oliver Wyman has performed no audit of the
 25 data.

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1 MR. FELTHAM:
 2 Q. Or otherwise verified the data?
 3 MS. ELLIOTT:
 4 A. Well, we have looked at the data and
 5 satisfied ourselves that it is a reasonable
 6 database to use.
 7 MR. FELTHAM:
 8 Q. Ms. Elliott, let's go to page 25 of your
 9 report, if we could. I don't have the pdf
 10 number, sorry.
 11 MS. ELLIOTT:
 12 A. All right.
 13 MR. FELTHAM:
 14 Q. So this is under Section 9 of your report,
 15 Consideration of Limitations. I guess, we'll
 16 begin with the fact that your report has
 17 limitations?
 18 MS. ELLIOTT:
 19 A. Yes.
 20 MR. FELTHAM:
 21 Q. Just stating the obvious, I suppose. So
 22 there you note in the first paragraph,
 23 second sentence, "Although we've reviewed
 24 the data for reasonableness and consistency,
 25 we have not audited or otherwise verified

Page 13

1 this data". So, in fact, you have not
 2 otherwise verified this data?
 3 MS. ELLIOTT:
 4 A. Well, we have not taken the data and
 5 verified it with a file from the – the
 6 actual file in any way to validate that the
 7 data elements entered are accurate. No, we
 8 have not done that. We've looked at the
 9 aggregate data, and in our opinion the
 10 aggregate data together is reasonable for
 11 the purpose that we're using it for.
 12 MR. FELTHAM:
 13 Q. And you also note that your review of the
 14 data may not have always revealed
 15 imperfections in the data that might exist.
 16 So, I mean, imperfections, we're talking
 17 about if there are mistakes or errors, your
 18 review may not have revealed that?
 19 MS. ELLIOTT:
 20 A. Correct. They could have recorded that the
 21 vehicle was garaged in St. John's and
 22 perhaps it was garaged in Gander, and they
 23 put the wrong code in. Our review would not
 24 identify that in any manner, no.
 25 MR. FELTHAM:

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1 Q. Okay, but you've not qualified that
 2 statement in your report in that manner?
 3 You have indicated –
 4 MS. ELLIOTT:
 5 A. I didn't provide that example, is that what
 6 you're saying?
 7 MR. FELTHAM:
 8 Q. Yes.
 9 MS. ELLIOTT:
 10 A. I didn't provide any examples.
 11 MR. FELTHAM:
 12 Q. You also note that, "The results of your
 13 analysis are dependent on the assumption
 14 that the data is accurate and complete"?
 15 MS. ELLIOTT:
 16 A. That's correct.
 17 MR. FELTHAM:
 18 Q. Okay, so your findings in your report then
 19 are sensitive to those assumptions, and
 20 particularly sensitive to certain
 21 assumptions. You will agree with me?
 22 MS. ELLIOTT:
 23 A. Yes.
 24 MR. FELTHAM:
 25 Q. And particularly sensitive to certain

Page 15

1 assumptions, such as the impact that the
 2 reforms might have on bodily injury
 3 frequency rates? That's a big one.
 4 MS. ELLIOTT:
 5 A. No, that's not an assumption of our report
 6 in terms of that database, no. The closed
 7 claim database is a closed list of claims
 8 that occurred and there they are. There's
 9 no frequency associated with the closed
 10 claim database. They're all there. It's
 11 not a matter of what's a possibility that
 12 there might be a claim. These are the
 13 claims that occurred that we're studying.
 14 It is completely separate from the frequency
 15 issue. There's no association, no
 16 assumption within that database on
 17 frequency.
 18 MR. FELTHAM:
 19 Q. So it's your position that you have not made
 20 assumptions around the impact that reforms
 21 might have on bodily injury frequency rates?
 22 MS. ELLIOTT:
 23 A. No, that's not what I stated, and I might be
 24 confusing, which I understand. The closed
 25 claim database is a listing of all the

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1 claims that closed in a certain time period.
 2 It's the box, it's closed. Out in the
 3 environment in the province, I think there
 4 are approximately 250,000 vehicles insured
 5 for private passenger approximately, and so
 6 there's a frequency rate. Some of those
 7 vehicles might have claims, some might not,
 8 and that's how the frequency issue, as we
 9 just discussed, is based upon all those cars
 10 insured. The closed claim database is a
 11 listing of claims that have occurred.
 12 There's no issue of frequency rate, it
 13 happened, it's 100 percent done, they're
 14 there. So frequency is a thought, an
 15 element outside of the closed claim
 16 database.
 17 MR. FELTHAM:
 18 Q. Okay, we'll come back to that in just a
 19 second. Before I leave page 25, again I
 20 want to go back to your sentence that says
 21 you have not audited or otherwise verified
 22 this data. At the very first of the page,
 23 "We relied on data and information available
 24 from GISA and IBC without independent
 25 audit". So why is it important to include

Page 17

1 that statement?

2 MS. ELLIOTT:

3 A. Because it's a standard statement that my

4 lawyers require me to include in all our

5 reports that we're referencing that, and

6 it's important to state that if for some

7 unknown reason it becomes evident that the

8 data was wrong after we prepared our report

9 and relied on – this and any other report,

10 that we have that statement in our report.

11 It's a standard terminology that we use.

12 It's not unique to –

13 MR. FELTHAM:

14 Q. Okay. So, you're telling me that it's in

15 there because your lawyers tell you to put

16 it in there?

17 MS. ELLIOTT:

18 A. Yes. I work for a firm that has contracts

19 and limitations and if we believe that we're

20 provided data and we're told later that data

21 was wrong, regardless of whether it's this

22 database or rate fettering that we're doing

23 or financial work for a company, if the data

24 provided to us is wrong and we didn't know

25 that and we relied upon it, we would state

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1 that here is this data that we've used and

2 if it becomes apparent after the fact that

3 the data provided to us was some unknown

4 error; maybe there was a system error in the

5 company that it was wrong, we include that

6 in our reports, yes.

7 MR. FELTHAM:

8 Q. So, this is a warning to the reader?

9 MS. ELLIOTT:

10 A. All our reports would contain that, yes.

11 MR. FELTHAM:

12 Q. All right. And it's a warning to the reader

13 that "hey, we've gotten data here and we've

14 made some calculations and did some work

15 with that data, but we haven't audited it.

16 We can't tell you that it's accurate"?

17 MS. ELLIOTT:

18 A. We're not auditors. We don't do that.

19 MR. FELTHAM:

20 Q. So, I'm correct in what I say?

21 MS. ELLIOTT:

22 A. We have not audited the data and if the data

23 in any report that we prepare was to be

24 found to be incorrect, we list this as a

25 limitation to our report, yes.

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1 MR. FELTHAM:

2 Q. Okay. Let's go to page 4, if we could,

3 please? This is where I got the idea that

4 there were assumptions made concerning the

5 impact of the forms on BI frequency, bodily

6 injury frequency rates. So, if we look down

7 underneath the tables, paragraph that begins

8 with "It is important". "It is important to

9 note that due to the nature of any forecast,

10 the estimates being presented in this report

11 are based on numerous assumptions, both

12 explicit and implicit."

13 MS. ELLIOTT:

14 A. That's right.

15 MR. FELTHAM:

16 Q. "Our findings are sensitive to these

17 assumptions" and I think we've established

18 that much. Then you go on to say "and are

19 particularly sensitive to certain

20 assumptions such as: 1. The impact that

21 reforms may have on bodily injury coverage

22 claim frequency rates."

23 MS. ELLIOTT:

24 A. Correct.

25 MR. FELTHAM:

Page 20

1 Q. Right. So that is an assumption that you've

2 made?

3 MS. ELLIOTT:

4 A. Oh yes, yes.

5 MR. FELTHAM:

6 Q. Okay. And then as well, the second

7 assumption that I'll suggest is of most

8 importance of these two, "the percentage of

9 all claimants that will be defined as minor

10 injury claimants in Newfoundland and

11 Labrador". So, those two assumptions, those

12 are – if those assumptions are wrong in any

13 way, your findings are going to be

14 particularly sensitive to change?

15 MS. ELLIOTT:

16 A. And I think it – let me – can I explain

17 that? Yes, on Table 2 – let me go – I think

18 Table 1 is more informative, on page 6 of

19 it, I think. 6 of the pdf counting. We've

20 presented a range with alternative impacts

21 on the Minor Injury Frequency Rate. So,

22 what we're telling the reader is that there

23 is some assumptions and range around the

24 possible impact of frequency and we

25 presented it in this format. We have not

Page 21

1 stated that the frequency rate will change
 2 by X percent and we've calculated it. We
 3 just believe, referring back to the graph
 4 that we just looked at on frequency, that
 5 the minor injury reform will likely have
 6 some impact on the frequency rate.
 7 MR. FELTHAM:
 8 Q. Okay. And we'll get into that in some more
 9 detail.
 10 MS. ELLIOTT:
 11 A. And then secondly, to answer your question
 12 regarding the definition, we presented three
 13 alternative definitions that we think
 14 provide a range around likely the percentage
 15 of claimants that would meet a minor injury
 16 reform definition.
 17 MR. FELTHAM:
 18 Q. Okay, thank you. So, if we could go back to
 19 page 4, please? Maybe the best I can do in
 20 summarizing this is to use the words that
 21 you've used in the report rather than me
 22 trying to state it. Again, in the same
 23 paragraph that begins with "it is important
 24 to note", if we go to the final sentence of
 25 that paragraph "While we believe our

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1 assumptions to be reasonable, to the extent
 2 that they prove not to be valid, the actual
 3 experience that emerges may be materially
 4 different than what we have estimated." And
 5 those – what you're referring to there
 6 includes the average reduction in premiums
 7 that you are estimating come from a minor
 8 injury cap? That could be materially
 9 different?
 10 MS. ELLIOTT:
 11 A. Well, we presented – yes, it's possible.
 12 For example, if the frequency rate dropped
 13 30 percent and that was outside of the range
 14 of possible assumptions, then it would be
 15 materially different. It would be much
 16 lower. And similarly, if more claimants met
 17 the minor injury definition than what we
 18 have assumed in the three alternatives that
 19 we've presented, then there would be a
 20 larger reduction in cost and if fewer met,
 21 then there would be a smaller reduction in
 22 costs, yes.
 23 MR. FELTHAM:
 24 Q. Okay. So, I'd like to turn to page 5 of
 25 your report, please, and here we find some

Page 23

1 caveats, some additional limitation
 2 language. So, just to be clear what we're
 3 dealing with, so under bullet point 2, "the
 4 findings apply only to private passenger
 5 vehicles." So, this is not something
 6 applicable to the taxi experience?
 7 MS. ELLIOTT:
 8 A. The findings are based on private passenger
 9 experience. As I understand, legislation
 10 would apply across – typically would apply
 11 across all automobile coverages but our
 12 report was prepared for private passenger
 13 vehicles.
 14 MR. FELTHAM:
 15 Q. Right, and not taxis?
 16 MS. ELLIOTT:
 17 A. Not taxis, not trucks, no.
 18 MR. FELTHAM:
 19 Q. Right. So, then we also note in the last
 20 caveat item here, second sentence, "we would
 21 expect that economic forces will impact
 22 future insurance claim costs and required
 23 premium levels under the current \$2500
 24 deductible in the province. As a result, to
 25 the extent that reforms will be implemented

Page 24

1 at a date in the future, there is additional
 2 uncertainty around the estimates presented
 3 in this report." So, then on top of what
 4 we've already talked about, now we've got
 5 this other possible additional uncertainty
 6 in terms of future economic forces that
 7 might be at play?
 8 MS. ELLIOTT:
 9 A. Right. We don't know what the economy will
 10 be in 2019 and how that might change costs.
 11 MR. FELTHAM:
 12 Q. And those things could derail your
 13 projections as well?
 14 MS. ELLIOTT:
 15 A. That applies to premiums regardless that are
 16 being charged right now by companies. So,
 17 any projection when there's a change that's
 18 not expected that will affect costs.
 19 MR. FELTHAM:
 20 Q. And also to your findings in the report?
 21 MS. ELLIOTT:
 22 A. Our findings, yeah, as well.
 23 MR. FELTHAM:
 24 Q. Okay. All right. So, let's have a look at
 25 page 2, please, second paragraph. So, in

Page 25

1 your report, you've estimated that
 2 approximately 66 to 76 percent of all
 3 private passenger bodily injury claimants
 4 will be subject to pay capping, I'll say, of
 5 non-pecuniary losses if there was a minor
 6 injury definition instituted similar to Nova
 7 Scotia and New Brunswick? That's correct?
 8 MS. ELLIOTT:
 9 A. Yes.
 10 MR. FELTHAM:
 11 Q. Okay. Have you read the submission of
 12 Intact Insurance to the Board?
 13 MS. ELLIOTT:
 14 A. No, I have not.
 15 MR. FELTHAM:
 16 Q. Okay. Did you know that Intact did its own
 17 Closed Claims Study?
 18 MS. ELLIOTT:
 19 A. No, I was not provided that. I didn't read
 20 the report, so, no, I didn't know that.
 21 MR. FELTHAM:
 22 Q. Okay. Well, maybe the best thing to do is
 23 if we could bring that report up. So, this
 24 would be the submission of Intact Insurance.
 25 It's called 8-point Plan for Auto Insurance

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1 in Newfoundland and Labrador. And I'm not –
 2 I just want to confirm for you that that
 3 closed claim – that they do confirm the
 4 closed claim study was done, and I'd like to
 5 go to page 4 of the report, once we find it.
 6 Okay. Can you see that?
 7 (9:30 a.m.)
 8 MS. ELLIOTT:
 9 A. Yeah.
 10 MR. FELTHAM:
 11 Q. Okay. It's pretty small. Okay, there,
 12 that's better. Okay. So, they're talking
 13 about the minor injury cap and the last sort
 14 of wording above the chart, so they say
 15 "we've done an analysis of a small subset of
 16 claims to calculate the impacts of a minor
 17 injury cap in Newfoundland and Labrador
 18 based on Intact claims closed between 2011
 19 to 2015 across all brands." So, then they
 20 provide their results of that in the table
 21 in terms of what claims they think would be
 22 within the scope of a proposed minor injury
 23 definition versus not. And if you look at
 24 the claims count at the bottom, so they've –
 25 of the total 388 that they looked at,

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1 they've determined that there'd be 213 of
 2 those would be within the scope of a
 3 proposed minor injury definition.
 4 MS. ELLIOTT:
 5 A. Um-hm.
 6 MR. FELTHAM:
 7 Q. Are you with me so far?
 8 MS. ELLIOTT:
 9 A. Yeah.
 10 MR. FELTHAM:
 11 Q. Okay. So, and then if we do the math that
 12 turns out to be 55 percent.
 13 MS. ELLIOTT:
 14 A. Um-hm.
 15 MR. FELTHAM:
 16 Q. So, 213 of the 388, that's 55 percent.
 17 MS. ELLIOTT:
 18 A. Um-hm.
 19 MR. FELTHAM:
 20 Q. So, if Intact was accurate and 55 percent of
 21 the claims were subject to a cap versus your
 22 range of 66 to 76 percent, it would mean
 23 that the cost savings you've projected and
 24 the premium reductions you projected would
 25 be less.

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1 MS. ELLIOTT:
 2 A. Well, I think in a comparison, if we can
 3 scroll, I don't know what they're basing
 4 their definition on, which injury type, so -
 5 MR. FELTHAM:
 6 Q. No, I'm not asking you to get into that.
 7 MS. ELLIOTT:
 8 A. Okay.
 9 MR. FELTHAM:
 10 Q. I'm only asking you if this is correct, if
 11 this particular closed claim study result is
 12 correct -
 13 MS. ELLIOTT:
 14 A. Right.
 15 MR. FELTHAM:
 16 Q. - and it turns out that 55 percent are
 17 capped not 66 to 76 percent, your
 18 projections would have to change. Your cost
 19 savings would be reduced, the premium
 20 savings to consumers would be reduced?
 21 MS. ELLIOTT:
 22 A. Well, I think an apples-to-apples
 23 comparison, I don't think it's fair that –
 24 if the definition is firmed up and we – I
 25 haven't read and you haven't pointed to how

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1 they define which injury types will meet the
 2 minor injury definition. We've presented
 3 three and they, I'm not sure, I assume, have
 4 used one definition. Their sample size is
 5 smaller. So, to the extent that a
 6 definition is determined and the definition
 7 is specific as to the injuries that would
 8 meet that and we've presented three
 9 alternatives once that is narrowed that
 10 starts to narrow the cost impact, what the
 11 percentage reduction in non-pecuniary awards
 12 would be. So, that's not too far out of the
 13 range of reduction that's possible, but it's
 14 a smaller sample and I don't know what
 15 they're using for the injury types.
 16 MR. FELTHAM:
 17 Q. And I'm not asking you to comment on the
 18 reasonableness of the work that they did in
 19 coming up with their closed claim sample.
 20 I'm asking you to accept their data as
 21 provided to you and they've determined that
 22 55 percent of claims would be defined as
 23 minor injury.
 24 MS. ELLIOTT:
 25 A. Yes, well -

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1 MR. FELTHAM:
 2 Q. And if that is the case, and it's not 66
 3 percent - sorry, 66 percent to 76 percent,
 4 and it's 55 percent, the numbers that you
 5 have in your report for what the cost
 6 savings would be and what the premium
 7 reductions would be would decline. It would
 8 be less than what you have stated?
 9 MS. ELLIOTT:
 10 A. I would think a fair comparison is to
 11 understand how they're defining - what
 12 injury types are they using. We also spoke
 13 yesterday that there may be - I found with
 14 respect to the two insurers, perhaps their
 15 sample may not be complete due to old system
 16 issues. So, yes, you can take another
 17 smaller sample of data and get a different
 18 finding and I assure you, if we were to look
 19 at the data, the 1741 claimants that we
 20 reviewed and stratified that by company,
 21 looked at Intact, looked at Novex, looked at
 22 Royal, looked at each and every company, we
 23 would get a different number. But our study
 24 is based on aggregate data. We also say in
 25 our report that the findings that we present

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1 are not applicable to each and every
 2 insurer. It's aggregated data. So, we
 3 would expect there to be a difference.
 4 Intact's finding being different than ours
 5 does not imply that our findings are wrong
 6 or that their findings are wrong.
 7 MR. FELTHAM:
 8 Q. Well, let me ask this a different way. So,
 9 setting aside who did the work and so on, if
 10 it turned out that 55 percent of claimants
 11 were determined to be within the cap pool,
 12 if you will, the result would be, based on
 13 your analysis, that the cost savings would
 14 be less to insurers and the premium
 15 reductions would be less for Newfoundland
 16 and Labrador consumers?
 17 MS. ELLIOTT:
 18 A. Well, what would happen would be if the
 19 Board was to accept our findings and we said
 20 the savings with a 25 percent reduction and
 21 Intact had said 19.9-20 percent and that
 22 number was closer to reality as the data
 23 emerge, well what would happen, if the Board
 24 said "okay, we're going to accept Oliver
 25 Wyman's findings until the real data

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1 emerges", then the Board would say 25
 2 percent reduction to your cost when you're
 3 doing your rate setting and so the premiums
 4 would be lower. But in actual fact, so the
 5 consumers would be charged a lower premium
 6 and then when the actual data emerges, it
 7 would say "well, it really wasn't 25 percent
 8 savings. It was only 20 percent" and then
 9 that would be reflected as the actual data
 10 emerges.
 11 MR. FELTHAM:
 12 Q. All right. Let's take a look - we'll move
 13 on to the minor injury frequency aspect of
 14 your report. So, if we go to page 2 of your
 15 report, this is above Table 1, okay. And
 16 this would be in the third paragraph, last
 17 sentence. "Based on our judgment and
 18 review" - so, "based on our judgment and
 19 review of the experience in other provinces,
 20 we present our findings assuming the bodily
 21 injury claim frequency rates for claimants
 22 with a minor injury may decline by up to 15
 23 percent with the introduction of a cap."
 24 So, that's our starting point.
 25 So, you'll agree with me that if there

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1 is no change in the frequency rate, the
 2 savings or the cost reductions will be less?
 3 MS. ELLIOTT:
 4 A. Yes. We present a table showing such, yes.
 5 MR. FELTHAM:
 6 Q. Okay. And then if we go to page 20 of your
 7 report, so this is the section of your
 8 report that deals with the claims frequency
 9 rate in more detail. And you say in
 10 paragraph 1 that – in the second sentence
 11 “it is reasonable to expect that there is a
 12 correlation between the cap amount and the
 13 likelihood that a claim is not reported.”
 14 Okay?
 15 MS. ELLIOTT:
 16 A. Yes.
 17 MR. FELTHAM:
 18 Q. But, you’ve not done or examined any study
 19 to determine whether such a correlation
 20 actually exists?
 21 MS. ELLIOTT:
 22 A. Well, in both provinces, Nova Scotia and New
 23 Brunswick, we do analyse their data and we
 24 do use what’s called a parameter in our
 25 regression models to test the impact, the

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1 cost level change and the frequency level
 2 change with respect to the minor injury
 3 reforms. We test that parameter for
 4 reasonableness using T tests and P values.
 5 We do a very rigorous review. So, we are
 6 able to identify that there was an impact on
 7 the reforms at that time – sorry, an impact
 8 on the frequency rate at the time of the
 9 reform introduction. So, yes, we do look at
 10 that. We do test that. What is difficult,
 11 and I tried to express that earlier, was
 12 there was a drop in the frequency rate
 13 before the reforms were introduced.
 14 MR. FELTHAM:
 15 Q. Well, and we’ll get to that. I want to -
 16 MS. ELLIOTT:
 17 A. Well, I’m answering a question.
 18 MR. FELTHAM:
 19 Q. I do want to get into that in some more
 20 detail, but -
 21 MS. ELLIOTT:
 22 A. I would like to answer.
 23 MR. FELTHAM:
 24 Q. - I want to distinguish between your
 25 analysis -

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1 BROWNE, Q.C.:
 2 Q. I’d like to hear the answer that the witness
 3 is trying to give. Is that possible?
 4 CHAIRPERSON:
 5 Q. I would as well.
 6 MR. FELTHAM:
 7 Q. This is -
 8 CHAIRPERSON:
 9 Q. I would as well actually.
 10 MS. ELLIOTT:
 11 A. When we looked at the – and perhaps if I go
 12 to the graph, it’ll help me. When we look
 13 at this data -- and this is the graph, the
 14 first graph on the frequency showing Nova
 15 Scotia and New Brunswick – it’s challenging
 16 because at the time of preparing the minor
 17 injury reform costings, we were seeing
 18 frequency rate really peaking in 2000 and
 19 then really unbeknownst to us because we
 20 were using the data back in 2002. The
 21 frequency rate began a decline before the
 22 injury reform was introduced, but – so,
 23 people were not, if you will, expecting
 24 that. That came out after. It was
 25 hindsight. And then the frequency rate

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1 continued to decline and it has declined in
 2 many provinces, not just those with minor
 3 injury reform, continued to decline, and
 4 then we see a change coincident with April
 5 2010 in Nova Scotia where it flattens out
 6 where they increased the cap amount and
 7 similarly with New Brunswick, there was a
 8 change.
 9 So, we feel looking at that, just
 10 looking at it graphically and trying to
 11 understand the data, that it’s pretty
 12 reasonable to assume that the minor injury
 13 reform had some impact on the frequency
 14 rate. We test for that in our regression
 15 model statistically for that. But, like
 16 anything, it could have been a mild winter.
 17 It could have been other things. So, we
 18 believe that the minor injury reform has
 19 contributed to the decline in frequency. To
 20 separate out very clearly was it a mild
 21 winter, was it the minor injury reform, was
 22 it more people with ABS brakes, all sorts of
 23 reasons can affect frequency rate, but we
 24 believe that the minor injury reform
 25 contributed to a decline in frequency rate.

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1 MR. FELTHAM:
 2 Q. Okay, I understand that's your position.
 3 We'll come back—again, I do want to talk to
 4 you about it, and we'll come back to it in
 5 some more detail, but I'd like to finish up
 6 with where—I was on page 20, please, first.
 7 So, the first sentence there says, "The
 8 introduction of a minor injury cap may
 9 influence the propensity to report and
 10 pursue a claim." And you say "may" because
 11 it's uncertain? That's why you use that
 12 word?
 13 MS. ELLIOTT:
 14 A. Yeah.
 15 MR. FELTHAM:
 16 Q. Yes?
 17 MS. ELLIOTT:
 18 A. Yeah, yes. I think that there is a
 19 correlation between the cap amount and the
 20 propensity to report the claim. And minor
 21 injury reform doesn't mean that people stop
 22 having accidents, right? Like that's not—
 23 it's the propensity to report the claim and
 24 pursue the claim. So, we saw the shift in
 25 Nova Scotia when the cap increased from 2500

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1 to 7500, flattened out. So, we believe that
 2 the cap and the level of the cap affects the
 3 propensity to report a claim.
 4 MR. FELTHAM:
 5 Q. So, again though, you say "may" because
 6 there is an uncertainty to that? You don't
 7 say it's probable.
 8 MS. ELLIOTT:
 9 A. No, it's—it certainly may—someone might want
 10 to, and someone might not want to, depending
 11 upon the level of the cap. So, it's
 12 uncertain.
 13 MR. FELTHAM:
 14 Q. Right.
 15 MS. ELLIOTT:
 16 A. So, it's uncertain.
 17 MR. FELTHAM:
 18 Q. It might occur, it might not occur?
 19 MS. ELLIOTT:
 20 A. Yes, someone will make that personal choice.
 21 MR. FELTHAM:
 22 Q. Okay. And you don't say it's probable? You
 23 say it "may" occur. You don't use the word
 24 "probable." You say "may."
 25 MS. ELLIOTT:

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1 A. Well, we believe –
 2 MR. FELTHAM:
 3 Q. The cap "may" influence.
 4 MS. ELLIOTT:
 5 A. All right. We don't know the cause of
 6 accidents, the exact cause. We do not know
 7 the exact reason why people choose to pursue
 8 or not pursue a claim. We don't know those
 9 reasons. That's not provided in the data
 10 available to us. We're just looking at the
 11 data in aggregate and seeing that there was
 12 a change in the frequency rate coincident
 13 with changes in the legislation for the
 14 minor injury reform in both provinces.
 15 We've tested for that in regression models.
 16 We believe that the minor injury reform has
 17 contributed to the change in the frequency
 18 rate.
 19 MR. FELTHAM:
 20 Q. Okay. Well, let's have a look then at your—
 21 on page 21 of the chart that you referred to
 22 earlier. So, this chart uses GISA data, or
 23 it's derived from GISA data? Yes?
 24 MS. ELLIOTT:
 25 A. Yes, that's correct.

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1 MR. FELTHAM:
 2 Q. Okay. And so, what we're seeing here is,
 3 just so I'm clear, you're displaying the
 4 bodily injury claim frequency rates for New
 5 Brunswick and Nova Scotia from June '98 to
 6 June '16?
 7 MS. ELLIOTT:
 8 A. It goes through to –
 9 MR. FELTHAM:
 10 Q. Well, just after, sure.
 11 MS. ELLIOTT:
 12 A. The first half in 2017.
 13 MR. FELTHAM:
 14 Q. Yes, okay. Yes.
 15 MS. ELLIOTT:
 16 A. Um-hm.
 17 MR. FELTHAM:
 18 Q. So, now let's take a look at the period just
 19 before June of 2002 and going forward to
 20 2003 when the New Brunswick and Nova Scotia
 21 caps were introduced.
 22 MS. ELLIOTT:
 23 A. Um-hm.
 24 MR. FELTHAM:
 25 Q. So, you'll agree with me that there is a

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1 decline in claim frequency during that
 2 periodic, and I think you mentioned that?
 3 MS. ELLIOTT:
 4 A. Yes, yeah.
 5 MR. FELTHAM:
 6 Q. Okay. And no cap was in place during that
 7 period?
 8 MS. ELLIOTT:
 9 A. That's correct.
 10 MR. FELTHAM:
 11 Q. Yet, frequency did decline?
 12 MS. ELLIOTT:
 13 A. Yes.
 14 (9:45 a.m.)
 15 MR. FELTHAM:
 16 Q. Okay. And frequency has continued to
 17 decline in these two provinces as a general
 18 trend up until the end of your graph in
 19 2017?
 20 MS. ELLIOTT:
 21 A. Yes. So, New Brunswick is a little steeper
 22 of a decline and it's lower than Nova
 23 Scotia.
 24 MR. FELTHAM:
 25 Q. Yes.

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1 MS. ELLIOTT:
 2 A. Yes.
 3 MR. FELTHAM:
 4 Q. But that's the general trend here?
 5 MS. ELLIOTT:
 6 A. Yeah, um-hm.
 7 MR. FELTHAM:
 8 Q. Yes, okay. So, that trend is continuing
 9 post 2003 cap institution, and if I were to
 10 take—if you were to do a straight line on
 11 this graph, from the period of or in around
 12 2002 or just before 2002, onward, the trend
 13 would be a declining trend?
 14 MS. ELLIOTT:
 15 A. Yeah.
 16 MR. FELTHAM:
 17 Q. Yes.
 18 MS. ELLIOTT:
 19 A. Um-hm, um-hm.
 20 MR. FELTHAM:
 21 Q. Okay. So, now if we go over to page 22, and
 22 this time we've got a bar graph type chart
 23 that includes Newfoundland and Labrador data
 24 for the same period, correct?
 25 MS. ELLIOTT:

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1 A. Correct.
 2 MR. FELTHAM:
 3 Q. Dealing with the same data if you will. So,
 4 the Newfoundland and Labrador experience we
 5 see here is also showing a declining trend
 6 for claim frequency, and you've mentioned
 7 that before?
 8 MS. ELLIOTT:
 9 A. Yeah, um-hm.
 10 MR. FELTHAM:
 11 Q. The chart does show that the Nova Scotia and
 12 New Brunswick frequency has been lower than
 13 the Newfoundland and Labrador frequency over
 14 time?
 15 MS. ELLIOTT:
 16 A. Yeah.
 17 MR. FELTHAM:
 18 Q. And that was the case before and after the
 19 implementation of a cap, wasn't it? In New
 20 Brunswick and Nova Scotia.
 21 MS. ELLIOTT:
 22 A. Yes, Newfoundland has been higher than the
 23 other two provinces and presumably, as I
 24 said, we don't know the cause of accidents,
 25 but that may be associated with weather in

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1 this province compared to the--Nova Scotia
 2 and New Brunswick. Traffic density, road
 3 conditions, many other reasons cause
 4 accident, yeah.
 5 MR. FELTHAM:
 6 Q. Okay. So, we had a higher frequency in
 7 Newfoundland and Labrador as compared to New
 8 Brunswick and Nova Scotia before 2003 caps
 9 and we've got it after?
 10 MS. ELLIOTT:
 11 A. Correct.
 12 MR. FELTHAM:
 13 Q. Okay. And then the magnitude for the
 14 difference in frequency, that didn't
 15 significantly widen after the introduction
 16 of caps in 2003 either, did it?
 17 MS. ELLIOTT:
 18 A. Well –
 19 MR. FELTHAM:
 20 Q. As between the provinces, between
 21 Newfoundland and Labrador and the other
 22 provinces.
 23 MS. ELLIOTT:
 24 A. I think the difference widened. If I look
 25 at June '03, December '03, the gap is larger

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1 than the difference between the light-blue
 2 graph and the black and the darker blue
 3 compared to the periods prior to that.
 4 There's a wider gap in there.
 5 MR. FELTHAM:
 6 Q. Yes, I'll agree with you. There's some
 7 variation over time there.
 8 MS. ELLIOTT:
 9 A. Um-hm.
 10 MR. FELTHAM:
 11 Q. But as a general trend, those changes in
 12 frequency have run fairly parallel?
 13 MS. ELLIOTT:
 14 A. They've all shifted down.
 15 MR. FELTHAM:
 16 Q. Right.
 17 MS. ELLIOTT:
 18 A. Yes, and –
 19 MR. FELTHAM:
 20 Q. And in terms of the degree between
 21 Newfoundland and Labrador and New Brunswick
 22 and Nova Scotia, that's also run fairly
 23 parallel, hasn't it? The degree to which
 24 Newfoundland and Labrador frequency has
 25 exceeded the New Brunswick/Nova Scotia

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1 frequency over time –
 2 MS. ELLIOTT:
 3 A. Well, that –
 4 MR. FELTHAM:
 5 Q. - has remained fairly constant?
 6 MS. ELLIOTT:
 7 A. Like I'd say it changed in the more recent
 8 period, the last five years or so. So, the
 9 far right of the graph, the gap is smaller
 10 now than it would be in, if you will, the
 11 middle of the graph. And at that time,
 12 we're also looking at where the cap amount
 13 increased in Nova Scotia and New Brunswick
 14 to—the net 7,500. So, I think the gap,
 15 graphically, I can get the data, but the gap
 16 is narrower in the more recent timeframes.
 17 MR. FELTHAM:
 18 Q. So, if we look at page 23, go to the next
 19 page, you say there that, "From the
 20 available data is it difficult to determine
 21 the exact degree to which the Minor Injury
 22 Regulation," MRI, "contributed to the
 23 decline in frequency that was observed in
 24 Nova Scotia and New Brunswick with the
 25 introduction of the Minor Injury

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1 Regulation." You also note that, "It is
 2 difficult to determine the exact degree the
 3 amendments to the MIR in 2010 for Nova
 4 Scotia and 2013 for New Brunswick
 5 contributed to the change to a more-flat
 6 frequency trend following the amendments.
 7 However, it is plausible that the MRI and
 8 the amendments thereto contributed to some
 9 degree to the changes in the frequency
 10 rate?"
 11 MS. ELLIOTT:
 12 A. Um-hm.
 13 MR. FELTHAM:
 14 Q. Okay. So, despite noting that it's
 15 difficult to determine the exact degree to
 16 which the MRI contributed to the decline in
 17 frequency, and further difficult to
 18 determine the degree the amendments to the
 19 regulation in 2013 contributed to any
 20 frequency changes, despite those two
 21 comments, you go on to state that it's
 22 plausible still that the Minor Injury
 23 Regulation contributed to some degree to a
 24 claim frequency rate decline?
 25 MS. ELLIOTT:

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1 A. Um-hm, uh-hm, that's correct.
 2 MR. FELTHAM:
 3 Q. Okay. And you qualify the contribution with
 4 "to some degree." And you say that because
 5 the degree is really unknown, isn't it?
 6 MS. ELLIOTT:
 7 A. Yes, and what's challenging--it is in just
 8 that we don't get data that tells us the
 9 cause of a claim or the reason why they
 10 submitted the claim or didn't submit the
 11 claim. And what's most challenging here is
 12 the decline in the frequency rate prior to
 13 the introduction of the MRI. That's
 14 challenging with this process. And I think
 15 as I--I know I'm probably repeating myself
 16 at this point. The fact that there was a
 17 change in the frequency rate in the
 18 following amendment in 2010 for Nova Scotia,
 19 again contributes to, you know, our belief
 20 in our testing that the minor injury reform
 21 has impacted the frequency, that there's
 22 some relation to it is plausible. And it's
 23 very difficult because we don't get data
 24 that's reported to us. It's an MIR regime,
 25 and this is why I'm submitting the claim.

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1 We just have aggregated data.
 2 MR. FELTHAM:
 3 Q. And again, you use the word “plausible” and
 4 you don’t say it’s “probable.” You say it’s
 5 just—it’s a “plausible” thing.
 6 MS. ELLIOTT:
 7 A. Because no one tells us why that change
 8 occurred. We can test for it. We have
 9 regression variables that tell us, yes, you
 10 know, there’s change, but we don’t have
 11 information that checks off a box that says,
 12 you know, why this was reported, was this
 13 the cause of it, and the difference, yeah.
 14 MR. FELTHAM:
 15 Q. You can’t say it’s likely?
 16 MS. ELLIOTT:
 17 A. Likely, plausible? I just don’t know to
 18 what degree. What I really don’t know, and
 19 time will tell, if it’s introduced, the
 20 reforms in this province, is how it will
 21 affect frequency in Newfoundland. We don’t
 22 know that.
 23 MR. FELTHAM:
 24 Q. Okay. Let’s go to page 17, please. So, in
 25 this section of your report, you’ve made an

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1 assumption that there will be a reduction in
 2 claims-handling expense costs if non-
 3 pecuniary losses are capped?
 4 MS. ELLIOTT:
 5 A. Um-hm.
 6 MR. FELTHAM:
 7 Q. For so-called minor injury claims. And you
 8 conclude in the second-last paragraph,
 9 “Based on our judgment, we estimate that
 10 there are to be a 25 percent reduction in
 11 ALAE costs for minor claimants who would be
 12 subject to the cap.” And a reduction in
 13 ALAE costs, you say will mean an overall
 14 reduction in costs? It’s part of the
 15 equation?
 16 MS. ELLIOTT:
 17 A. Yes, there’s costs associated with claims
 18 handling, and particularly so for bodily
 19 injury. They are very specific to that
 20 claim, so outside legal counsel that’s
 21 hired, experts, whatnot. So, there would be
 22 proportionately as the claim size reduces,
 23 there is typically a reduction in the claims
 24 handling costs.
 25 MR. FELTHAM:

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1 Q. Okay. In the paragraph above, you say, “The
 2 average ALAE amount for all claimants in the
 3 Newfoundland Closed Claim Study of 2018 was
 4 2,227”?
 5 MS. ELLIOTT:
 6 A. Um-hm.
 7 MR. FELTHAM:
 8 Q. And then, you project that to be 3227 for
 9 July 2017, a cost low. And you did that,
 10 you used an assumed severity trend rate of
 11 seven percent?
 12 MS. ELLIOTT:
 13 A. That’s correct.
 14 MR. FELTHAM:
 15 Q. Okay. And you borrowed that seven percent
 16 severity trend rate from the year-to-year
 17 increase in claim severity that you saw?
 18 MS. ELLIOTT:
 19 A. That we measured.
 20 MR. FELTHAM:
 21 Q. Right. So, claims in your view increased by
 22 seven percent and so you’ve used that same
 23 rate to apply to ALAE costs?
 24 MS. ELLIOTT:
 25 A. Well, all right. When we calculate our

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1 trend rate costs, the severity and the
 2 frequency, and we do this with the data
 3 that’s released from GISA every six months.
 4 And in our review, we use the aggregated
 5 claim settlement amounts which would include
 6 claim—costs for handling the claim, whether
 7 external or internal, and our measurement of
 8 that change in costs from year to year is
 9 seven percent for bodily injury.
 10 MR. FELTHAM:
 11 Q. Right, okay. And then, you assume that ALAE
 12 costs would follow the same severity in
 13 trend?
 14 MS. ELLIOTT:
 15 A. That was part of our measurement for losses
 16 and ALAE together. Maybe ALAE is going up a
 17 little bit more or a little bit less, but an
 18 aggregate. We project all of the costs that
 19 were included in the sample, forward, at the
 20 same rate.
 21 MR. FELTHAM:
 22 Q. But it’s an assumption that you’re making
 23 around the seven percent, that it will also
 24 apply to ALAE costs? You’ve seen it and
 25 when you’ve examined the –

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1 MS. ELLIOTT:
 2 A. That is part and parcel of the measurement
 3 of the seven percent, that the ALAE is
 4 included in those costs, yes.
 5 MR. FELTHAM:
 6 Q. Right. You assume that because the severity
 7 increase trend was seven percent, that the
 8 ALAE costs –
 9 MS. ELLIOTT:
 10 A. No, no.
 11 MR. FELTHAM:
 12 Q. - will follow the same?
 13 MS. ELLIOTT:
 14 A. No, that's not what I said.
 15 MR. FELTHAM:
 16 Q. Okay.
 17 MS. ELLIOTT:
 18 A. The measurement of the seven percent is
 19 based on the claim payments, indemnity
 20 amount, all the amounts for claim settlement
 21 costs, whether they're internal or external
 22 costs that are associated with bodily injury
 23 coverage. All those costs, when we do a
 24 regression analysis, are combined and we
 25 determine that on a combined basis, a seven

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1 percent annual trend rate. So, we'll apply
 2 that same severity seven percent trend rate
 3 to the indemnity amount and the ALAE. It—
 4 the seven percent is based on the ALAE and
 5 the indemnity amount.
 6 MR. FELTHAM:
 7 Q. And the 25 percent figure reduction that
 8 you've used that you say would come with the
 9 cap –
 10 MS. ELLIOTT:
 11 A. That's based on our judgment.
 12 MR. FELTHAM:
 13 Q. That's just judgment?
 14 MS. ELLIOTT:
 15 A. That's our judgment.
 16 MR. FELTHAM:
 17 Q. Right.
 18 MS. ELLIOTT:
 19 A. Yes.
 20 MR. FELTHAM:
 21 Q. And if a judgment is wrong, 25 percent will
 22 be wrong?
 23 MS. ELLIOTT:
 24 A. It could be higher or lower, yeah.
 25 MR. FELTHAM:

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1 Q. Right.
 2 MS. ELLIOTT:
 3 A. Um-hm.
 4 MR. FELTHAM:
 5 Q. Okay. Now, so if we go to—go back to your
 6 Tables 1 and 2, so these all reflect values
 7 at a five-thousand dollar, seventy-five
 8 hundred, and ten-thousand-dollar cap
 9 scenario?
 10 MS. ELLIOTT:
 11 A. I'm sorry, what—oh, we're there. Okay.
 12 MR. FELTHAM:
 13 Q. Oh, I'm sorry. I'm not following the screen
 14 over there. So, the Nova Scotia cap has
 15 been adjusted for inflation and in 2018 it's
 16 \$8,579. Are you aware of that?
 17 MS. ELLIOTT:
 18 A. Yes.
 19 MR. FELTHAM:
 20 Q. Okay.
 21 MS. ELLIOTT:
 22 A. Yeah, um-hm.
 23 MR. FELTHAM:
 24 Q. All right. So, to be comparable to Nova
 25 Scotia today if a cap of \$8,579 were

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1 utilized in place of your 75-hundred-dollar
 2 cap row in these charts, the result would be
 3 reduction in the cost savings and premium
 4 reductions under each minor frequency change
 5 category, wouldn't it?
 6 MS. ELLIOTT:
 7 A. Right. You'd expect some number and if
 8 you're going to look at it, you'd say, well,
 9 if 7500 falls at the low end, 19 percent,
 10 and the high end for a 10,000 cap, 16
 11 percent, you would expect an 85-hundred-
 12 dollar cap to fall somewhere in between
 13 those two.
 14 MR. FELTHAM:
 15 Q. Okay.
 16 MS. ELLIOTT:
 17 A. Yeah.
 18 MR. FELTHAM:
 19 Q. Are you aware that data from GISA shows that
 20 over the period of 2001 to 2017 that in
 21 Newfoundland and Labrador the third-party
 22 liability premium per earned vehicle has
 23 increased at a rate below the rate of
 24 inflation? Do you know that?
 25 MS. ELLIOTT:

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1 A. Well, I haven't look at it from that
 2 perspective, but –
 3 MR. FELTHAM:
 4 Q. Okay. So, you haven't looked at that. Are
 5 you aware that between 2006 and 2017 the
 6 average premium for third-party liability
 7 coverage has grown at a rate, average rate
 8 of 1.3 percent? Do you know that?
 9 MS. ELLIOTT:
 10 A. Not at my fingertips. I certainly have
 11 access to the data, but that's not a
 12 measurement –
 13 MR. FELTHAM:
 14 Q. Have you examined that? Have you looked at
 15 that trend?
 16 MS. ELLIOTT:
 17 A. I certainly have examined what the premiums
 18 are in the province, yes.
 19 MR. FELTHAM:
 20 Q. Okay. And did you know that that 1.3
 21 percent that I'm referring to, I'm pointing
 22 that out specifically because that's below
 23 that rate of growth in the Consumer Price
 24 Index.
 25 MS. ELLIOTT:

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1 A. I'm sorry, that was 1.3 percent for which
 2 premium?
 3 MR. FELTHAM:
 4 Q. For the third-party liability coverage.
 5 Okay?
 6 MS. ELLIOTT:
 7 A. Um-hm.
 8 MR. FELTHAM:
 9 Q. And 1.3 percent, you'll agree with me that—
 10 for that period, that's below CPI?
 11 MS. ELLIOTT:
 12 A. Um-hm.
 13 MR. FELTHAM:
 14 Q. Which as I understand it, has averaged about
 15 two percent per year for the same period?
 16 MS. ELLIOTT:
 17 A. Sure, yeah.
 18 MR. FELTHAM:
 19 Q. Okay. And it's the third-party liability
 20 coverage that pays the non-pecuniary damage
 21 settlements, isn't it?
 22 MS. ELLIOTT:
 23 A. That's correct.
 24 MR. FELTHAM:
 25 Q. Okay.

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1 MS. ELLIOTT:
 2 A. Yeah.
 3 MR. FELTHAM:
 4 Q. And are you aware that over the same period—
 5 -so we're talking 2006 to 2017, okay? So,
 6 whilst the CPI was running about two percent
 7 annually, the optional physical damage
 8 premiums in Newfoundland and Labrador
 9 increased at an average annual rate of 4.7
 10 percent. Do you know that?
 11 (10:00 a.m.)
 12 MS. ELLIOTT:
 13 A. Well, I don't have that at my fingertips,
 14 but I'll accept what you're saying.
 15 MR. FELTHAM:
 16 Q. Yes. You didn't examine that as part of his
 17 process?
 18 MS. ELLIOTT:
 19 A. No, I did look at the physical damage
 20 coverages. I just don't know what the
 21 percentage of change is over the timeframe
 22 that you've stated.
 23 MR. FELTHAM:
 24 Q. Okay. And it's not part of anything to do
 25 with minor injury reform cost estimates that

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1 you've presented here?
 2 MS. ELLIOTT:
 3 A. Collision is not part of minor injury
 4 reforms, no.
 5 MR. FELTHAM:
 6 Q. So, something else we understand is that
 7 part of that 4.7 percent average annual
 8 increase in price for physical damage
 9 coverage was brought about by the fact that
 10 there's been an increase in the number of
 11 vehicles in Newfoundland and Labrador that
 12 are carrying optional physical damage
 13 coverages, okay? Are you aware that there's
 14 been that increasing trend?
 15 MS. ELLIOTT:
 16 A. Yes, I am.
 17 MR. FELTHAM:
 18 Q. Okay, and we're also advised that the
 19 percentage of insurers in the province, with
 20 optional physical coverage has gone from
 21 about 63 percent in 2001 to 77 percent in
 22 2017. Were you aware of that market
 23 development?
 24 MS. ELLIOTT:
 25 A. I'm sorry, I don't mean to overstep my

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1 bounds here, but is that a question specific
 2 to this report on the reform costing, or –
 3 MR. FELTHAM:
 4 Q. Well, it is, because my point here is that
 5 none of that's been examined in the context
 6 of what you've done in this work.
 7 MS. ELLIOTT:
 8 A. We were asked to examine three alternative
 9 cap levels under a minor injury reform
 10 definition, similar to Nova Scotia and New
 11 Brunswick, the other Atlantic Provinces and
 12 our report has responded to that. You're
 13 asking me questions regarding other
 14 coverages that are not affected by a minor
 15 injury reform, so –
 16 MR. FELTHAM:
 17 Q. Okay. So, let's shift gears a little bit.
 18 So, Intact Insurance, I'll go back to
 19 picking on Intact a little bit today, but
 20 they've made some public statements. So,
 21 one of the things that they've stated
 22 publicly is that caps won't reduce premium
 23 rates in Newfoundland and Labrador. Are you
 24 aware of that statement that was made?
 25 MS. ELLIOTT:

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1 A. I—someone said that the other day, yes.
 2 MR. FELTHAM:
 3 Q. Okay. So, you've heard that before?
 4 MS. ELLIOTT:
 5 A. In this room, maybe Tuesday it was said.
 6 MR. FELTHAM:
 7 Q. And Intact has about 25 percent of the
 8 private/passenger auto market in
 9 Newfoundland?
 10 MS. ELLIOTT:
 11 A. I believe that's correct, I don't have an
 12 exact number, but, yeah.
 13 MR. FELTHAM:
 14 Q. Okay. So, if we take Intact at its word and
 15 premiums won't be reduced with the gap?
 16 MS. ELLIOTT:
 17 A. No, no, no –
 18 MR. FELTHAM:
 19 Q. Well let me finish my question, please.
 20 MS. ELLIOTT:
 21 A. Okay.
 22 MR. FELTHAM:
 23 Q. So if we do that, we take Intact at its
 24 word, that premiums won't be reduced with a
 25 cap, where will the monies be going that are

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1 no longer being paid out to accident victims
 2 who are hurt by Intact's insurers, where is
 3 the money going?
 4 MS. ELLIOTT:
 5 A. Right. Well, Intact may have well said
 6 that, but Intact is required to follow the
 7 decision and direction by the Board and
 8 Intact is, I would say, formulating perhaps
 9 what they would, you know, think might want
 10 to occur, but it certainly is not—companies
 11 are not allowed to change the rates the way
 12 that they would like to. They are required
 13 to file their rates with the Board. The
 14 Board will do a rigorous review of those
 15 rates and make a decision. So I would say,
 16 let's say perhaps that's premature of Intact
 17 to make that statement, that is not how the
 18 regulation works in this province.
 19 MR. FELTHAM:
 20 Q. But I'm asking you a bit of a hypothetical,
 21 I'm asking you to take them at their word
 22 that they're correct, let's assume they're
 23 correct, where does the money go?
 24 MS. ELLIOTT:
 25 A. Well they are not correct because they

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1 haven't filed the rates with the Board.
 2 MR. FELTHAM:
 3 Q. I'm not asking you if they are or are not
 4 correct. I'm saying if they are correct –
 5 MS. ELLIOTT:
 6 A. That the rates won't be reduced?
 7 MR. FELTHAM:
 8 Q. And what they say is that premiums won't be
 9 reduced with the cap, okay, and that we know
 10 then in that situation that the monies that
 11 would otherwise would have been going to
 12 accident victims would be going to insurer's
 13 bottom line.
 14 MS. ELLIOTT:
 15 A. All right, well we can break your question
 16 down to answer the hypothetical and albeit,
 17 under the premise that they must file their
 18 rate for approval with the Board, but if a
 19 company has rates that are too low in the
 20 current environment and let's just say that
 21 their premium should be \$125.00 but instead
 22 it's only \$100.00, and if a reform is
 23 introduced that reduces cost to some degree,
 24 they may say well yes, it will reduce costs,
 25 but I'm still short, I should be charging

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1 125 but I'm only charging 100 and I need to
 2 get my rates up, so that, what perhaps
 3 Intact is saying is that there may be some
 4 give and take between those two changes,
 5 what the real rate need is and what the
 6 reduction might be for a reform change.
 7 Perhaps that's what they are alluding to,
 8 but regardless of what they're alluding to
 9 or might hope, what I've said, all rates
 10 have to go before the Board for approval to
 11 support whatever change is made.
 12 MR. FELTHAM:
 13 Q. Okay, so let's take a look at page 3 of your
 14 report, please. So you're looking at Table
 15 2 and there we see that if there were no
 16 change in minor frequency at a \$7,500 cap,
 17 you've determined that the average reduction
 18 in premiums would be somewhere between
 19 \$7,323.
 20 MS. ELLIOTT:
 21 A. Uh-hm.
 22 MR. FELTHAM:
 23 Q. The mid point of that being somewhere around
 24 \$90.00 or so. So then if we go over to page
 25 16.

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1 STAMP, Q.C.:
 2 Q. Excuse me, Madam Chair, I'm just wondering
 3 if there is something wrong. I'm looking at
 4 a different chart numbers than my friend is
 5 referring to.
 6 MS. GLYNN:
 7 Q. Thank you. We were just trying to check
 8 that as well. Table 2.
 9 MR. FELTHAM:
 10 Q. Oh, sorry, sorry, no, I'm working from the—
 11 we'll have to change, yes, okay. So we
 12 should be looking at what's on the screen,
 13 that's fine, we can do that. So it's
 14 between 97 and \$123.00, at zero percent
 15 change in minor injury frequency, I
 16 apologize.
 17 CHAIR:
 18 Q. 83 maybe?
 19 MR. FELTHAM:
 20 Q. Under Table 2.
 21 CHAIR:
 22 Q. Are you referring to, your \$7,500 cap,
 23 you're looking at 97 to 123, that's the
 24 right line?
 25 MR. FELTHAM:

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1 Q. That's correct, yes, okay. Thank you.
 2 Okay, so that's the range we're dealing
 3 with. So then if we go over to Table 5,
 4 which is on page 16 of your report and
 5 there, correct me if I'm wrong here, but
 6 what we're seeing is that the same \$7,500
 7 cap, you say would save insurers, insurance
 8 companies, an amount that's equal to 53
 9 percent of the total settlements that would
 10 be paid to minor injury claims. So the
 11 insurers will be saving over half of what
 12 they pay out to upwards of 76 percent of
 13 claimants.
 14 MS. ELLIOTT:
 15 A. Well, there would be a reduction in the
 16 claim settlement amount for the minor injury
 17 claimants, and of course, that wouldn't
 18 affect claimants with serious, of course non
 19 minor injury, and they would have an
 20 aggregate for all claimants a lower
 21 percentage and that would then apply to the
 22 premiums that are set, that it would reduce
 23 the premiums for all policy holders.
 24 MR. FELTHAM:
 25 Q. Yeah, so for minor injury claimants only,

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1 forgetting all claimants for a moment, under
 2 the \$7,500 cap, the insurance companies
 3 would save upwards of 53 percent of the
 4 total settlements amounts that otherwise
 5 would have been paid to so called minor
 6 injury claimants, that's what that's saying.
 7 MS. ELLIOTT:
 8 A. That's the estimate, correct, yeah, for the
 9 sample that that reduction is anticipated,
 10 yeah.
 11 MR. FELTHAM:
 12 Q. And the consumer in Newfoundland and
 13 Labrador, if we go back to Table 2, their
 14 savings annually under a \$7,500 cap might be
 15 less than \$100.00.
 16 MS. ELLIOTT:
 17 A. Right, the math is all connected, so we take
 18 what's paid in total now, the aggregate
 19 costs and reduce them by the percentages as
 20 per Table 1 and then convert that to a
 21 premium level before or after the reform to
 22 calculate that, that's correct. And the
 23 reduction in premium applies to all policy
 24 holders.
 25 MR. FELTHAM:

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1 Q. No, I understand, I understand. So, just
 2 one other issue that I wanted to cover off.
 3 Did you make any allowance for cap erosion
 4 in this study?
 5 MS. ELLIOTT:
 6 A. Well, there's not—I'm not sure what you mean
 7 by "cap erosion"?
 8 MR. FELTHAM:
 9 Q. Well the concept that over time a cap's
 10 effectiveness would be eroded. It's
 11 similar, you spoke of it in the context of a
 12 deductible I think yesterday.
 13 MS. ELLIOTT:
 14 A. Right, and perhaps you can explain how it's
 15 eroded to me and I could speak to that.
 16 MR. FELTHAM:
 17 Q. Well, I'm asking you if you've included that
 18 concept in your report, have you done any
 19 calculations or assumptions that a cap could
 20 be eroded over time and be less effective?
 21 MS. ELLIOTT:
 22 A. And I'm sorry, I don't understand what you
 23 mean by a cap being eroded. If a cap is
 24 \$2,500, the cap is \$2,500. That amount—I'm
 25 not sure what you mean, so –

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1 MR. FELTHAM:
 2 Q. Okay, so do you recall, if I refer you back
 3 to the report that Oliver Wyman did in
 4 January of 2005, do you know or recollect
 5 whether that, forgetting what the concept is
 6 for a moment, the notion of cap erosion was
 7 factored in in the analysis that was done in
 8 2005?
 9 MS. ELLIOTT:
 10 A. Well, in terms of deductible we consider a
 11 relation because of the process, but a cap
 12 number barring it being indexed from year to
 13 year is a set dollar amount, yeah, it's a
 14 limitation, so it doesn't really erode from
 15 my perspective unless you have a different
 16 understanding and I'm not –
 17 MR. FELTHAM:
 18 Q. I don't know if this is available or not.
 19 The 2005 report that—there's a January 2005
 20 report revision of Oliver Wyman and this is
 21 part of the 2005 review documents.
 22 MS. GLYNN:
 23 Q. What was the date? Sorry, Mr. –
 24 MR. FELTHAM:
 25 Q. It's 2005 and it's referenced to being

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1 revised. January 18th, 2005.
 2 MS. GLYNN:
 3 Q. And it's in Oliver Wyman's –
 4 MR. FELTHAM:
 5 Q. It's in Oliver Wyman's report, Mercer Oliver
 6 Wyman.
 7 MS. KEAN:
 8 Q. Revision of January 7th, 2005.
 9 MR. FELTHAM:
 10 Q. January 18th, 2005 is the date I have. 2005
 11 review documents. That one has January 7th.
 12 Mine has January 18th. I don't know if that
 13 particular portion of it would be different
 14 or –
 15 MS. KEAN:
 16 Q. So your cover says January 18th?
 17 MR. FELTHAM:
 18 Q. It does.
 19 MS. GLYNN:
 20 Q. Is this it here?
 21 MR. FELTHAM:
 22 Q. That's it. So on page 19, second paragraph
 23 under the chart says "For capping, we assume
 24 that erosion will occur to some extent,
 25 either due to the inflating of injuries so

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1 as to overcome the minor injury definition
 2 by the cap becoming a target for claimants
 3 and attorneys to reach or by insurance
 4 companies not rigidly applying the cap." So
 5 my question is only whether or not you
 6 consider that—I mean, it appears you didn't,
 7 in this 2018 study.
 8 (10:15 a.m.)
 9 MS. ELLIOTT:
 10 A. Yeah, and I appreciate you refreshing my
 11 memory on that one. So in terms of the
 12 dollar perspective, no. In terms of erosion
 13 of the cap definition, I was thinking
 14 numerically when you asked me the question,
 15 and certainly that is a very complex topic
 16 and we certainly see issues of the
 17 interpretation of what that minor injury
 18 reform means and so does it erode in the
 19 sense that it's not applied, not the amount,
 20 so yeah, that's a complex issue and the
 21 importance of having definition that's
 22 clearly understood and consistently applied
 23 helps with the stability of that cap
 24 percentage reduction. So no, we haven't
 25 considered that, whatever the definition

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|---|---|
| <p>1 might be, which we don't know, that it might</p> <p>2 erode.</p> <p>3 MR. FELTHAM:</p> <p>4 Q. Okay, thank you. I just want to look at my</p> <p>5 notes really quick, Chair. Okay, those are</p> <p>6 all my questions, thank you.</p> <p>7 CHAIR:</p> <p>8 Q. Thank you, Mr. Feltham. Mr. Gittens are you</p> <p>9 ready to –</p> <p>10 MR. GITTENS:</p> <p>11 Q. Certainly, thank you, Madam Chair. Good</p> <p>12 morning, Ms. Elliott.</p> <p>13 MS. ELLIOTT:</p> <p>14 A. Good morning.</p> <p>15 MR. GITTENS:</p> <p>16 Q. Before I go into just a few questions that I</p> <p>17 have for you, I just need some clarification</p> <p>18 because I don't seem to be understanding a</p> <p>19 whole lot about the timeframes that you used</p> <p>20 in your study. I draw your attention to</p> <p>21 page 2 of your report. I was under the</p> <p>22 impression—and in the very first paragraph,</p> <p>23 by the way, I was under the impression when</p> <p>24 we spoke yesterday that the Closed Claims</p> <p>25 Study, the period it was involved for the</p> | <p>1 taking up very recent claims that were</p> <p>2 closed.</p> <p>3 MS. ELLIOTT:</p> <p>4 A. Yeah, a small handful.</p> <p>5 MR. GITTENS:</p> <p>6 Q. But that should have started back, heavens</p> <p>7 knows when, as far back as 2001, I believe</p> <p>8 it was.</p> <p>9 MS. ELLIOTT:</p> <p>10 A. 2002, yeah.</p> <p>11 MR. GITTENS:</p> <p>12 Q. Okay. But this paragraph says, top</p> <p>13 paragraph, “Our findings are based on the</p> <p>14 private passenger automobile bodily injury</p> <p>15 claimant data collected on 1741”—which was</p> <p>16 the number I think we were using before,</p> <p>17 claimants, “whose claims during the period</p> <p>18 January 1, 2016 to November 30, 2017” and</p> <p>19 the extension to November 30, 2017 I</p> <p>20 couldn't quite figure because are you saying</p> <p>21 that these were claims that were closed—were</p> <p>22 started in November of 2017 but closed by –</p> <p>23 MS. ELLIOTT:</p> <p>24 A. No, I'm not saying—closed by that date,</p> <p>25 closed. Closed in that window that is</p> |
| <p>Page 74</p> <p>1 findings that you made was from—and I</p> <p>2 roughed it in, I thought, as July 1st of 2016</p> <p>3 to June 30th, 2017, I think, and then we said</p> <p>4 that the IBC or the companies had decided to</p> <p>5 extend that backwards by May or June because</p> <p>6 they didn't get enough of meet the two</p> <p>7 thousand –</p> <p>8 MS. ELLIOTT:</p> <p>9 A. They extended it. It was mainly going</p> <p>10 backwards, there were a very small number</p> <p>11 that went forward.</p> <p>12 MR. GITTENS:</p> <p>13 Q. Back to June and then back to May, I think.</p> <p>14 MS. ELLIOTT:</p> <p>15 A. Right, and there were a few that went after</p> <p>16 June 30th, 2017 into the second half of 2017,</p> <p>17 a small number.</p> <p>18 MR. GITTENS:</p> <p>19 Q. Okay, so they went backwards and forwards</p> <p>20 then?</p> <p>21 MS. ELLIOTT:</p> <p>22 A. Mainly backwards, there were just a few that</p> <p>23 went forward, yeah.</p> <p>24 MR. GITTENS:</p> <p>25 Q. A few that went forward which would end up</p> | <p>Page 76</p> <p>1 referenced here, closed.</p> <p>2 MR. GITTENS:</p> <p>3 Q. And then we go on to, let's see “January 1st,</p> <p>4 2016 to November 30, 2017, regardless of the</p> <p>5 date when the accident that gave rise to the</p> <p>6 claim occurred, and we refer to this as the</p> <p>7 2018 database.” Once you took out the</p> <p>8 number of files that you felt misrepresented</p> <p>9 or were incomplete, you were down to 66 to</p> <p>10 76 percent? Am I mixing that up?</p> <p>11 MS. ELLIOTT:</p> <p>12 A. I don't know what you mean by 66 percent.</p> <p>13 MR. GITTENS:</p> <p>14 Q. “Based upon a review of this 2018 data, we</p> <p>15 estimated about 66 to 76 percent of the</p> <p>16 private passenger bodily injury claimants</p> <p>17 would be subject to the capping of non-</p> <p>18 pecuniary losses.”</p> <p>19 MS. ELLIOTT:</p> <p>20 A. Right, so within that—this is a summary,</p> <p>21 right, so we have taken this database of</p> <p>22 1741 claimants and through the process of</p> <p>23 identifying which of those claimants would</p> <p>24 be possibly subject to the minor injury cap,</p> <p>25 we're saying 66 to 76 percent of them might</p> |

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1 be subject to the minor injury cap. In
 2 hindsight, looking back at these claimants.
 3 MR. GITTENS:
 4 Q. To the injury cap, okay. Then you go on to
 5 say in the next paragraph, in the second—
 6 third line, “The lower the cap amount, the
 7 higher the likelihood the claim is not
 8 reported and pursued.” So in effect, you’re
 9 acknowledging that the introduction of the
 10 cap will discourage some people from making
 11 a claim?
 12 MS. ELLIOTT:
 13 A. Right, the propensity to pursue a claim if
 14 you felt that the cap amount wasn’t, if you
 15 will, worth your time, like a small amount.
 16 MR. GITTENS:
 17 Q. Time or your effort, okay.
 18 MS. ELLIOTT:
 19 A. Some people might choose not to pursue a
 20 claim.
 21 MR. GITTENS:
 22 Q. Right, but then you get on to this concept
 23 and Mr. Feltham went into this a little bit,
 24 but I need a little more clarification, that
 25 you felt that merely the introduction of the

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1 reform would result in some of the claims
 2 not being pursued and you made a factor as
 3 to the cost savings that’s involved with
 4 that.
 5 A. What we presented, we presented that there’s
 6 a likelihood that the frequency rate may
 7 change if a minor injury reform legislation
 8 is introduced and it may also vary,
 9 depending upon the amount of that cap. So
 10 if you have a very—let’s just say the cap
 11 was \$500.00, it’s not, but if it was,
 12 there’d be a lot of people that will say I’m
 13 not going to go through all that paperwork,
 14 all that time for something very minor, I
 15 have a bruise, for \$500.00, I’m not doing
 16 it. They’d walk away, they don’t pursue the
 17 claim. So the lower the cap amount, the
 18 more likely that someone will say, you know,
 19 I’ve got other things to do, I’m too busy.
 20 If the cap amount is higher and I’m not
 21 saying everybody, but if the cap amount was
 22 higher, they’d be more likely to pursue
 23 their claim. That’s the point that I’m
 24 making here. And I don’t know what that,
 25 where that line in the sand is.

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1 MR. GITTENS:
 2 Q. And that’s the problem that I have, when you
 3 say those words, you know, I don’t know what
 4 that is because you’re lumping it in –
 5 MS. ELLIOTT:
 6 A. I’m not lumping it in, I’m presenting a
 7 chart with four different alternatives for
 8 the Board’s consideration as it presents its
 9 findings, so I’m giving consideration to it.
 10 I think it would be inappropriate to ignore
 11 it and say that there’s no impact on
 12 frequency, but I’m saying that there likely
 13 will be some impact. I don’t know the
 14 degree that it will happen in this province,
 15 nor do we know what the amount of the cap,
 16 if it is to be introduced, what it might be
 17 either.
 18 MR. GITTENS:
 19 Q. But you’re saying on one hand you don’t know
 20 what amount it would be, but then you give a
 21 chart with 15 percent—what was that chart –
 22 MS. ELLIOTT:
 23 A. Yes, 0, 5, 10 and 15.
 24 MR. GITTENS:
 25 Q. 0, 5, 10 and 15, but you acknowledge that

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1 that may very well have been because of
 2 weather conditions, better equipment on the
 3 vehicle –
 4 MS. ELLIOTT:
 5 A. I said that the decline in the frequency
 6 rate that we’ve observed over the last 20
 7 years, there are reasons for that beyond,
 8 when we’re looking at Nova Scotia and New
 9 Brunswick, beyond just the minor injury
 10 reform.
 11 MR. GITTENS:
 12 Q. And I don’t, you know, you showed us a chart
 13 here and it’s nice pretty colours on it, but
 14 I look at that and I see, if we can get that
 15 chart back, the handout this morning.
 16 MS. GLYNN:
 17 Q. So this chart has not been introduced by IBC
 18 yet, but there is one that has Nova Scotia
 19 and New Brunswick on it, is that the one
 20 you’re referring to?
 21 MR. GITTENS:
 22 Q. Then let’s put that one on, thanks.
 23 MS. KEAN:
 24 Q. Page 25 of the PDF counting.
 25 MS. GLYNN:

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1 Q. We have it there, thank you, Sarah.
 2 MR. GITTENS:
 3 Q. I'm telling you as a layperson, this is what
 4 I see looking at the pretty picture that you
 5 have given here for Nova Scotia and New
 6 Brunswick, is that prior to the introduction
 7 of the new regulations as you have it
 8 labelled here, in July of 2003 and in
 9 November—in New Brunswick—and in November of
 10 2003 in Nova Scotia, there was already a
 11 decline happening in the frequency of the
 12 number of claims, is that a factual
 13 statement?
 14 MS. ELLIOTT:
 15 A. Oh, absolutely, yes.
 16 MR. GITTENS:
 17 Q. Okay, then in comes the reforms that you
 18 have mentioned and that decline continues
 19 and to me, I could be crazy here, it looks
 20 like it's a straight line, so I don't see
 21 the impact of some introduction of the new
 22 regime. Am I missing something?
 23 MS. ELLIOTT:
 24 A. Well the line is declining, so when the
 25 reforms were introduced, there was another

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1 decline and there was a decline before the
 2 reforms were introduced.
 3 MR. GITTENS:
 4 Q. Right, so I mean, there's all kinds of
 5 declines going on here.
 6 MS. ELLIOTT:
 7 A. Yes, and as I said, maybe helping you
 8 understand the picture, the Nova Scotia
 9 change in April 2010, when that was
 10 introduced there's a flattening when the
 11 minor injury cap increased from the \$2,500
 12 to the \$7,500 indexed, we see more of a
 13 flattening change coincident with that and
 14 the same with the New Brunswick reform in
 15 July 23, we see a change, so for that
 16 reason, we believe that the minor injury
 17 reform may contribute to a change in the
 18 frequency rate.
 19 MR. GITTENS:
 20 Q. And you will agree with me, obviously, on
 21 this because I'm using your own words, you
 22 keep saying "we believe that there was some,
 23 a contribution to the decline". "We believe
 24 there was a contribution to the decline."
 25 MS. ELLIOTT:

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1 A. We do.
 2 MR. GITTENS:
 3 Q. "We acknowledge that the decline could be
 4 caused by any other number of factors, but
 5 you know, in our good heart of hearts we
 6 believe there was this change." And I
 7 haven't heard you tell me anything that
 8 makes that a little bit more concrete, you
 9 know what I mean?
 10 MS. ELLIOTT:
 11 A. Okay, well I'll repeat what I said, that
 12 might help make it more concrete. Earlier I
 13 said that we did various regression models
 14 in both Nova Scotia and New Brunswick
 15 independently. We test for, what we refer
 16 to as reform changes or level changes. We
 17 run very rigorous regression models, we
 18 defend those models in other hearings and so
 19 we test to see statistically with P values
 20 and T tests to see was there a change and
 21 is, can we measure that as a variable and
 22 the statistics show us that there is, at
 23 that timeframe, coincident with the reforms,
 24 there was an impact on frequency.
 25 MR. GITTENS:

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1 Q. So maybe we can answer the question, if I
 2 can summarize what you're saying. When I
 3 asked you a question that deals specifically
 4 with a layperson's observation and I say to
 5 you, "you're telling me it could be weather,
 6 you're telling me it could be brakes, you're
 7 telling me it could be the change in the
 8 reform", but you know, when you ask me to
 9 explain it and give me something concrete,
 10 I'll tell you, I'll give you some actuarial
 11 speak, I'll tell you, you know, "we had some
 12 regression theory, we backed it up with some
 13 data and at the end of the day, we believe"
 14 –
 15 MS. ELLIOTT:
 16 A. And I'm trying to be fair to say that when I
 17 test for it, it's there, it's solid, but I
 18 know that I cannot tell you that road
 19 safety, its impact; safety improvements in
 20 cars, it's impact; there are a number of
 21 factors that contribute to this decline that
 22 we're seeing, right, and I don't know why
 23 did the frequency rate decline so marked,
 24 like it's fairly astonishing that the steep
 25 decline prior to the reform, it is very

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1 challenging to understand that, you know,
 2 what was going on to consumers to decide not
 3 to submit a claim? Were they afraid that
 4 their rates might go up? Like, I don't
 5 know, I can't explain why there was that
 6 steep decline before the reform, and then
 7 with the introduction of the reforms, you
 8 know, it continued to decline. We see a
 9 decline and then we see the change in Nova
 10 Scotia, so what I'm expressing to you is
 11 that I can test for it and measure it and
 12 say, gee, my variable is all solid
 13 statistically that the reforms caused a
 14 change in the frequency rate, but I know
 15 full well that it could be partially
 16 attributed to the reform and other things
 17 that are going on in the environment, so I'm
 18 trying to, you know, fairly say, yes,
 19 statistically it shows it, but there are
 20 other contributing factors that may also
 21 explaining part of that drop.
 22 MR. GITTENS:
 23 Q. Understood and I'm going to accept your
 24 explanation. The problem I have with that
 25 is this board is charged with the

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1 responsibility of reporting to government
 2 and translating what goes on here into some
 3 form of meaningful communication to
 4 government.
 5 MS. ELLIOTT:
 6 A. Right.
 7 (10:30 a.m.)
 8 MR. GITTENS:
 9 Q. And what I'm hearing you saying on this
 10 issue is that part of the reduction in
 11 premiums, essentially at the end of the day,
 12 part of the reduction in premiums that
 13 Newfoundland drivers will experience will be
 14 due to a, well if you use a \$5,000 cap, well
 15 may be a change of about 21 to 27 percent
 16 due to this—I'm sorry, I'm using the wrong
 17 table, I think. Yeah, \$5,000 cap, 21 to 27
 18 percent change in the minor injury claims
 19 frequency, I guess, is what the word should
 20 be in there. You're putting a 21 percent,
 21 27 percent possible impact as part of that
 22 reduction that the public would experience
 23 based on your belief and your regression
 24 analysis, am I getting that correct?
 25 MS. ELLIOTT:

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1 A. The 21 to 27 percent?
 2 MR. GITTENS:
 3 Q. If it's \$5,000 –
 4 MS. ELLIOTT:
 5 A. We're assuming that the frequency has no
 6 impact there.
 7 MR. GITTENS:
 8 Q. Okay, so if there's no impact, you're
 9 assuming that there will be a 21 to 27
 10 percent impact on the rates, the premiums
 11 that drivers will have to pay. But if there
 12 is a 5 percent change in the –
 13 MS. ELLIOTT:
 14 A. Let me just –
 15 MR. GITTENS:
 16 Q. Correct me, yeah, I'm pretty sure –
 17 MS. ELLIOTT:
 18 A. - yeah, make sure that's it's the reduction
 19 on the bodily injury claim costs is what we
 20 presented.
 21 MR. GITTENS:
 22 Q. Which I understand will either be passed on
 23 to help the insurance companies reach their
 24 profitability margins or if they have
 25 reached their profitability margins, it will

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1 then be passed on to the consumer, am I
 2 getting that wrong?
 3 MS. ELLIOTT:
 4 A. I wanted to make sure you weren't inferring
 5 that that would be the total premiums. You
 6 said the premiums that they have to pay.
 7 It's very coverage specific here. It's a
 8 bodily injury reduction.
 9 MR. GITTENS:
 10 Q. Okay, fair enough. We can be more specific,
 11 but you're indicating to this Commission
 12 that that is a component of the reduction,
 13 if there's a reduction or the stabilization,
 14 if there's going to be a stabilization, as a
 15 result of your belief that just the mere
 16 implementation of this program will have on,
 17 ultimately, on the consumer.
 18 MS. ELLIOTT:
 19 A. Yes, that was the task that we were assigned
 20 to measure a percentage change in the bodily
 21 injury cost under various cap alternatives,
 22 which we did. We provided a range depending
 23 upon how many claimants could be affected.
 24 And we also took into consideration that
 25 there could be a change in the frequency

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1 rate due to the introduction of the reforms.
 2 MR. GITTENS:
 3 Q. Right. So, at the end of the day you're
 4 saying to the Commission, when you go back
 5 to government and you're going to tell them
 6 what you heard here, whether it's a
 7 recommendation or an observation, please
 8 include the fact that the mere introduction
 9 of these reforms will have an impact on how
 10 much the public will have to pay for their
 11 insurance. Ultimately, that is the take
 12 away from what you're saying here.
 13 MS. ELLIOTT:
 14 A. Well, yes, if--what we're saying is that
 15 cost should reduce for bodily injury.
 16 MR. GITTENS:
 17 Q. Right.
 18 MS. ELLIOTT:
 19 A. And as a result that will transfer through
 20 to the costs that insurance companies would
 21 include, that reduction in claims cost when
 22 they submit their rate filings to the Board
 23 for approval.
 24 MR. GITTENS:
 25 Q. Right. So, we both are on the same wave

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1 length on that statement and what I just
 2 said. I may have jumped over a couple of
 3 steps, but at the end of the day that's what
 4 you're saying, but it's only based on the
 5 fact that you believe that will happen and
 6 your regression analysis tells you you're
 7 right.
 8 MS. ELLIOTT:
 9 A. Well, I think it's pretty—you don't have to
 10 be an actuary to figure out that if you cap
 11 the amount of the non-pecuniary amount for
 12 minor injury claimants, that there would be
 13 a reduction in cost. I think that's a
 14 given. Everybody knows –
 15 MR. GITTENS:
 16 Q. I wouldn't accept that as a given, Mr.
 17 Elliott because the people I deal with,
 18 whether they be lawyers or the members of
 19 the public, are very creative. When you put
 20 a cap on, then we'll be arguing about
 21 whether or not this particular injury meets
 22 the cap or not. So, your costs of defending
 23 that is going to go up. So, let's just not
 24 assume that because you have this cap you're
 25 going to end up with a reduction which is

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1 what you're doing. You saying you're going
 2 to end up with this reduction in the cost of
 3 the claims and in the cost of managing these
 4 claims, where in fact, there may very well
 5 be an increase based on the fact that people
 6 who don't like the fact that they're being
 7 told that their injury is capped, will now
 8 say to the lawyer, yeah, you got to go and
 9 argue that my injury doesn't meet that cap,
 10 I'm outside of it. So, that's going to be
 11 increased cost for the insurance industry as
 12 well.
 13 MS. ELLIOTT:
 14 A. We didn't include in our pricing estimate
 15 that the lawyers would argue more.
 16 MR. GITTENS:
 17 Q. There you go, there you go. So, you've—one
 18 that you believe will occur which, with all
 19 due respect, doesn't show up on your chart
 20 here, but which you say, your regression
 21 theory convinces you it exists. It's like
 22 the atom, I've never seen one, but they tell
 23 me it exists. And then you haven't
 24 considered all the other options, the fact
 25 that this may trigger more litigation. Are

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1 we now on the same page?
 2 MS. ELLIOTT:
 3 A. Well, I think what you're referring to is
 4 the erosion that was eluded to earlier of
 5 the definition that it's possible if a
 6 definition is not clear enough, that it may
 7 erode through to the interpretation of what
 8 that really means and be argued. And I
 9 think until the definition is defined, and
 10 how much clarity there is to that
 11 definition, that is a concept that should be
 12 considered. And hopefully, history and what
 13 has occurred in other provinces and learning
 14 from others will be used in the definition
 15 that is—if one is decided upon, that they'll
 16 take advantage of what's happened in other
 17 provinces and learn from that.
 18 MR. GITTENS:
 19 Q. Okay. So, thank you. So, I guess the take
 20 away we can suggest to the Board as a result
 21 of this little discussion is that the Board
 22 should not take at first impression that
 23 there will necessary be this reduction in
 24 the costs that the insurances companies will
 25 incur simply due to the fact of the

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1 introduction of the reforms.
 2 MS. ELLIOTT:
 3 A. Well, that—there is no secret that the
 4 reforms in other provinces have been
 5 challenged and a challenge may occur in
 6 Newfoundland as well, I don't know that.
 7 But the task that we were assigned with was
 8 to estimate the cost reduction, if a cap was
 9 to be introduced. We have not, sort of,
 10 moved past that. The definition isn't
 11 provided to us. We have no opinion, you
 12 know, what will finally be decided, if it is
 13 introduced, what it will be. Then so,
 14 they're depending upon how it's written. It
 15 might be very tight or it might be loose,
 16 so, I don't know.
 17 MR. GITTENS:
 18 Q. Okay, but you must admit, as the person who
 19 has been charged with the responsibility of
 20 bringing as much information as you can to
 21 the Board, it's something that the Board
 22 should be made aware of that your assumption
 23 that there will necessarily be a cost
 24 reduction as a result of the introduction of
 25 these reforms is not the only story on the

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1 table.
 2 MS. ELLIOTT:
 3 A. Well, in Nova Scotia there was a challenge
 4 and you know, the definition is holding.
 5 So, I get—there's no definition that the—
 6 there's no agreement that a cap will be
 7 introduced on minor injuries, nor is there a
 8 final definition in front of us to even
 9 formulate an opinion on whether it's tight
 10 or loose. So, -
 11 MR. GITTENS:
 12 Q. I agree, Ms. Elliott, and we can talk about
 13 Nova Scotia; we can talk about New
 14 Brunswick; we can talk about any of the
 15 other provinces, but the reality is—I'm
 16 suggesting to you that part of your
 17 responsibility here is to educate this
 18 Commission in relation to the possible
 19 impacts of what's being proposed. And one
 20 of the possible impacts is the fact that
 21 there may be increased costs as opposed to
 22 just accepting, without further
 23 investigation, that there is necessarily
 24 going to be a reduction, in this aspect of
 25 things.

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1 MS. ELLIOTT:
 2 A. Well, I'm not a policy expert; I don't write
 3 legislation, but certainly I think there are
 4 enough lawyers that will take that into
 5 consideration if and when there is a
 6 definition.
 7 MR. GITTENS:
 8 Q. Right, but it's not reflected in your
 9 report?
 10 MS. ELLIOTT:
 11 A. No.
 12 MR. GITTENS:
 13 Q. Okay, let's see if there's anything else not
 14 reflected in the report then. Let's go to
 15 page, the next page, page 3. On page 3 at
 16 the very bottom you say, and this was when
 17 you were referring to the—number 6 footnote
 18 would be referring to the introduction of
 19 the deductible or the change in the
 20 deductible. You said in the second to
 21 bottom paragraph, "if the government chooses
 22 to apply a higher deductible than the
 23 current 2,500 deductible, to the non-
 24 pecuniary loss of all claimants instead of a
 25 cap, we estimate that the average total

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1 settlement amount would reduce, but would be
 2 subject to erosion". Then you explain what
 3 you mean by that, you say, "an example of
 4 erosion is the impact of inflation. As
 5 inflation applies to overall settlement
 6 costs over time, the value of a fixed non-
 7 indexed deductible amount will represent a
 8 lower percentage of settlement costs. Thus
 9 the impact of the deductible will erode over
 10 time". So, I understand you to be simply
 11 pointing out to the Board that if you use a
 12 deductible, over time with the impact of
 13 inflation, that deductible becomes less and
 14 less a real amount. Am I getting that
 15 correct?
 16 MS. ELLIOTT:
 17 A. That's correct.
 18 MR. GITTENS:
 19 Q. Okay. Did you go on to explain to the Board
 20 that there's a really easy fix to that?
 21 Just add a consumer price index factor to
 22 the deductible and that eliminates the
 23 erosion.
 24 MS. ELLIOTT:
 25 A. Well, it may not just be a consumer price

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1 index factor that would be applied. When we
 2 look in hindsight at the 2,500 deductible
 3 that was introduced in this province, in
 4 hindsight looking back, it appears to have
 5 had limited impact on the cost. So, I don't
 6 think it's as, you know, it's a suggestion,
 7 you've made it and perhaps the Board will—
 8 you know, they're hearing everybody's
 9 comments –
 10 MR. GITTENS:
 11 Q. That's my problem.
 12 MS. ELLIOTT:
 13 A. - take that into consideration.
 14 MR. GITTENS:
 15 Q. The problem isn't the fact that I believe
 16 that could be a possible solution and I'm
 17 not putting forward as a proposal. My
 18 problem is you're here before the Board to
 19 do the heavy lifting. You've been charged
 20 with the responsibility of putting the
 21 factors before the Board that will make a
 22 difference in this recommendation or this
 23 observation, whatever the Board is supposed
 24 to be doing. And if you're going to be
 25 talking about, you know, there's a

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1 possibility that if you use a deductible, it
 2 will get eroded by inflation over time, why-
 3 -isn't it your responsibility to also say,
 4 but in the alternative, if such a deductible
 5 is used, it can be adjusted for inflation or
 6 consumer price index or whatever it is, so
 7 that it has a neutral impact. I don't see
 8 that I wasn't retained by the Board to come
 9 and bring that as a possible solution to
 10 that issue. I thought you would canvas all
 11 these issues. That's my point.
 12 MS. ELLIOTT:
 13 A. Well, I'm not a policy person. It's not my
 14 –
 15 MR. GITTENS:
 16 Q. I'm not suggesting that's a policy issue,
 17 ma'am. I'm suggesting it's a –
 18 MS. ELLIOTT:
 19 A. It is a policy issue, I beg your pardon,
 20 deciding what alternative, how they would
 21 like to change the legislation in this
 22 province is a policy issue and I'm not
 23 tasked with developing policy for
 24 consideration for the province. I was
 25 tasked to do a costing on what was provided.

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1 MR. GITTENS:
 2 Q. Right. And one of the things that was
 3 provided was the possibility of increasing
 4 the deductible.
 5 MS. ELLIOTT:
 6 A. And I've provided the answer.
 7 MR. GITTENS:
 8 Q. But you did not provide the whole answer,
 9 that's the issue I'm suggesting to you. The
 10 whole answer involves -
 11 MS. ELLIOTT:
 12 A. No, you're suggesting—excuse me—you're
 13 suggesting that I should have provided
 14 another alternative to the Board where they
 15 keep increasing it so that the erosion
 16 essentially doesn't exist. And that is
 17 another option which I was not asked to
 18 cost. So, if you're putting that forward,
 19 there's a transcript here as an option,
 20 perhaps that will be taken into
 21 consideration, but I was not asked to cost
 22 that policy option.
 23 MR. GITTENS:
 24 Q. I thought you did cost that policy option.
 25 MS. ELLIOTT:

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1 A. I costed the option of the 5,000, 7,500 and
 2 10,000 deductible.
 3 MR. GITTENS:
 4 Q. Right.
 5 MS. ELLIOTT:
 6 A. And also presented to the Board that that
 7 amount may—the reduction in the claim
 8 amounts that will paid, may be less than if
 9 there's no consideration of erosion for
 10 that.
 11 MR. GITTENS:
 12 Q. But you didn't go on to say, but you know,
 13 that's not necessarily the case if there was
 14 a compensating factor for –
 15 MS. ELLIOTT:
 16 A. Another option.
 17 MR. GITTENS:
 18 Q. Yes, if there was another option.
 19 MS. ELLIOTT:
 20 A. I wasn't asked to calculate the cost impact
 21 of another option. That is another policy
 22 decision.
 23 MR. GITTENS:
 24 Q. That's another policy decision.
 25 MS. ELLIOTT:

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1 A. You're suggesting another option.
 2 MR. GITTENS:
 3 Q. No, I'm suggesting the same \$2,500 or
 4 \$5,000.00 –
 5 MS. ELLIOTT:
 6 A. And you said, indexed to offset any erosion.
 7 MR. GITTENS:
 8 Q. It may have an impact; it may not, I don't
 9 know.
 10 MS. ELLIOTT:
 11 A. That is another option. Well, that's –
 12 MR. GITTENS:
 13 Q. You're the ones with the map.
 14 MS. ELLIOTT:
 15 A. You're the one that suggested it and it's
 16 another option and we were not asked to cost
 17 it.
 18 (10:45 a.m.)
 19 MR. GITTENS:
 20 Q. Okay, let's agree to disagree on that then
 21 because it strikes me that when Oliver Wyman
 22 is asked to do this type of analysis, your
 23 job is to bring to the Board the information
 24 it needs to be able to asses these various
 25 options.

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1 MS. ELLIOTT:
 2 A. Well, I costed the options I was asked to
 3 cost. I'm not sure—we're going in circles
 4 here, but I did what I was asked to do.
 5 You're saying, why don't we cost another
 6 option that might be offsetting, present
 7 another for the government to consider. And
 8 I wasn't asked to do what you are suggesting
 9 could be another policy option.
 10 MR. GITTENS:
 11 Q. Okay.
 12 MS. ELLIOTT:
 13 A. So, and I'm sure there are other policy
 14 options other people are thinking of, but I
 15 wasn't asked to cost those either.
 16 MR. GITTENS:
 17 Q. And so you consider your role to be as
 18 narrow as you told me, to figure out what
 19 the impact of \$5,000.00 would be, here is
 20 the impact of the \$5,000.00. I don't have
 21 to go anything further than that. Is that –
 22 MS. ELLIOTT:
 23 A. Well, I wouldn't frame the quality of my
 24 work that way, but that's fine for you.
 25 MR. GITTENS:

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1 Q. Then where do you and I disagree on this
 2 point. I don't understand.
 3 MS. ELLIOTT:
 4 A. Well, I'll make it clear again for you.
 5 You're suggesting another option that wasn't
 6 given to me, a policy option to cost, and we
 7 weren't ask to cost another option. I had
 8 no discussion on policy with anybody. I
 9 didn't partake in those discussions with
 10 government. We were given options to cost
 11 which we did. You have another suggestion.
 12 You're saying, why didn't I cost this other
 13 suggestion? I'm saying well, I wasn't to
 14 cost that.
 15 MR. GITTENS:
 16 Q. Very well. So, the Board should make note
 17 that have stuck very strictly to only the
 18 words that were put before you and that
 19 although there may be alternatives to these,
 20 you have not ventured to give any impact –
 21 MS. ELLIOTT:
 22 A. That's why the Terms of Reference are
 23 provided, yes.
 24 MR. GITTENS:
 25 Q. Very well. The nature of your exercise

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1 then, if we go to page 4, is that you are
 2 trying to predict the future to some degree
 3 and that's a very difficult task, I accept
 4 that, but then when one tries to put figures
 5 onto that, it gives the illusion of some
 6 certainty or accuracy when, in fact, much of
 7 what you are saying is based on, as you say,
 8 your judgment, your belief as you used in
 9 the last exercise we did. If we look at
 10 paragraph, second to last on page 4, you
 11 say, "it is important to note that due to
 12 the nature of any forecast, the estimate we
 13 present in this report are based on numerous
 14 assumptions, both explicit and implicit.
 15 Our findings are sensitive to these
 16 assumptions and are particularly sensitive
 17 to certain assumptions such as the impact
 18 that reforms may have on bodily injury
 19 coverage, claim frequency rates"—I repeat,
 20 claim frequency rates—"and the percentage of
 21 all claimants that will be defined as minor
 22 injury claimants in Newfoundland and
 23 Labrador". The reality then is that to the
 24 extent that your figures and the charts that
 25 you have provided include these various

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1 assumptions, this Board has essentially,
 2 unless this Board accepts implicitly that
 3 the assumptions that you have made both
 4 explicit and implicit, that the numbers that
 5 are here are just your best—I don't want to
 6 use the word guess—best estimate.
 7 MS. ELLIOTT:
 8 A. They are our best estimate, that's correct.
 9 MR. GITTENS:
 10 Q. That's your best estimate. And in fact,
 11 when one consider that the source of the
 12 information came from the IBC, whose
 13 information came from the companies, who
 14 have not been audited as to the accuracy and
 15 completeness of their data, at least not by
 16 you, then we have to put some degree of
 17 suspicion—maybe suspicion is too strong of a
 18 word—but some degree of carefulness on that
 19 information before we accept your analysis.
 20 Fair statement?
 21 MS. ELLIOTT:
 22 A. I think we've articulated, I'm not sure
 23 there was a question here, but all our
 24 reports, we're doing calculations, we make
 25 assumptions and we present what we believe

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1 are our best estimates.
 2 MR. GITTENS:
 3 Q. And but you leave it open, as you say at the
 4 end of the paragraph on page 5 that you
 5 expect that economic forces and so on will
 6 have an impact and that you can't really
 7 provide for that, you don't know what's
 8 going to happen there. I think that's the
 9 only questions I had for you. Let me just
 10 make sure and then I'll be done. Just one
 11 clarification, on what's my page 17, I don't
 12 know what's on the .pdf, step 5, third
 13 paragraph in step 5, "based on our judgment
 14 we estimated there to be 25 percent
 15 reduction in ALAE costs for minor claimants
 16 who would subject to the cap". And as a
 17 result you go on to give us some numbers
 18 from—"we estimate the projected ALAE for
 19 minor claimants would reduce by a range from
 20 347 to 419. The reduction contributes to
 21 the overall reduction in costs including
 22 ALAE". Now, as you say, you're looking here
 23 at the aggregate numbers to say that, you
 24 know, it costs—what was it before—seven
 25 percent, seven percent cost for ALAE and

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1 you're simply applying that to the new
 2 figures that you obtain as a result of the
 3 introduction of the reforms, am I getting
 4 that correct?
 5 MS. ELLIOTT:
 6 A. Well, the cost isn't seven percent, but
 7 we've presented an estimate of the ALAE cost
 8 for those that--claimants defined as per our
 9 study, minor versus non-minor and are
 10 suggesting those that would fall within the
 11 minor definition, there would be, you know,
 12 maybe one less hour of legal fee time spent
 13 on the file and there would be a reduction.
 14 MR. GITTENS:
 15 Q. Right. As a result of the fact that you're
 16 only dealing with aggregates here, you're
 17 simply applying a percentage that you worked
 18 out one place else –
 19 MS. ELLIOTT:
 20 A. No, no, that's not correct.
 21 MR. GITTENS:
 22 Q. Then correct me.
 23 MS. ELLIOTT:
 24 A. As I said in my explanation earlier at the
 25 start of the morning, that we go through

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1 each and every one of the claimant files,
 2 all 1741 claimant files, row by row and that
 3 amount for each of the claimants is
 4 adjusted, if they met the minor injury
 5 definition. We do not just take the
 6 percentage at the end and calculate –
 7 MR. GITTENS:
 8 Q. Fair enough. You've worked out the
 9 percentage ALAE costs for those who would
 10 fall into the minor injury category.
 11 MS. ELLIOTT:
 12 A. Yes.
 13 MR. GITTENS:
 14 Q. Alright. I have no argument with you on
 15 that, but that's again based on the
 16 aggregate. In the real world –
 17 MS. ELLIOTT:
 18 A. I'm sorry, it is an individual, it's not an
 19 aggregate calculation and then we add it all
 20 up to give you –
 21 MR. GITTENS:
 22 Q. Well, adding it all up gives you an
 23 aggregate for all the minor injury, am I
 24 crazy on that one too?
 25 MS. ELLIOTT:

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1 A. No, well, let's—ask your question, I'm
 2 sorry.
 3 MR. GITTENS:
 4 Q. Okay, my question was simply this, you've
 5 used an aggregate of the minor injury
 6 claimants to calculate a seven percent cost,
 7 either reduction I believe it may be –
 8 MS. ELLIOTT:
 9 A. No.
 10 MR. GITTENS:
 11 Q. Okay, then explain please.
 12 MS. ELLIOTT:
 13 A. I'm sorry, what –
 14 MR. GITTENS:
 15 Q. I asked you to explain that because I seem
 16 to be getting the seven percent wrong.
 17 MS. ELLIOTT:
 18 A. Well, we didn't use seven percent as a cost.
 19 I'm not sure what you mean.
 20 MR. GITTENS:
 21 Q. Seven percent of the cost of the claims is
 22 applied to the ALAE. Am I getting that
 23 wrong?
 24 MS. ELLIOTT:
 25 A. Yes.

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1 MR. GITTENS:
 2 Q. Okay, then correct me.
 3 MS. ELLIOTT:
 4 A. Well, I don't know what your question is.
 5 MR. GITTENS:
 6 Q. No, I'm asking you, what does that seven
 7 percent represent?
 8 MS. ELLIOTT:
 9 A. It's a trend in the annual increase in costs
 10 from year to year of a claim size.
 11 MR. GITTENS:
 12 Q. Right. For, and is that for minor injury
 13 claimants or those who –
 14 MS. ELLIOTT:
 15 A. All claimants, all claimants.
 16 MR. GITTENS:
 17 Q. All claimants? Alright. So, now if we have
 18 the new regime that results in all of these
 19 people qualifying as minor injury or rather,
 20 I should say, not qualifying anymore as
 21 claimants because they're within the minor
 22 injury –
 23 MS. ELLIOTT:
 24 A. They are still a claimant.
 25 MR. GITTENS:

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1 Q. Okay, they're still a claimant, but they're
 2 not going to get any money.
 3 MS. ELLIOTT:
 4 A. I beg your pardon?
 5 MR. GITTENS:
 6 Q. But they're not going to get any money.
 7 They're not going to get the –
 8 MS. ELLIOTT:
 9 A. I don't think I agree with you that no one—
 10 that they're not going to get any money, but
 11 –
 12 MR. GITTENS:
 13 Q. We can argue over the semantics on that.
 14 The point I'm making is that seven percent
 15 is not an actual reflection on the ground of
 16 what the reduction costs to the individual
 17 company.
 18 MS. ELLIOTT:
 19 A. It has nothing to do with a reduction of
 20 cost, the seven percent, absolutely nothing
 21 to do with that.
 22 MR. GITTENS:
 23 Q. So, when you are saying to the Board that
 24 these figures represent further savings
 25 because you've introduced this cap, is that

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1 a reflection of a savings to the company in
 2 terms of the cost of handling these claims?
 3 MS. ELLIOTT:
 4 A. What we've presented here in terms of the
 5 ALAE would be a reduction in the cost for
 6 each claimant that would be subject to the
 7 minor injury cap of 25 percent.
 8 MR. GITTENS:
 9 Q. Right, of 25 percent. But in –
 10 MS. ELLIOTT:
 11 A. That's right, about 347 to \$419.00, yes.
 12 MR. GITTENS:
 13 Q. Right. And therefore by being able to
 14 identify that, what you say is a 25 percent
 15 reduction, implicit in that is that would be
 16 available then to reduce the overall costs
 17 that the industry is incurring or assist in
 18 reducing the costs of premiums ultimately.
 19 MS. ELLIOTT:
 20 A. Correct.
 21 MR. GITTENS:
 22 Q. Correct. Oh, so I'm not totally crazy. But
 23 in reality if there were, as a result of
 24 fewer claimants coming to the insurance
 25 companies, one could assume that they will

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1 be reducing their staffing or their whatever
 2 it might be that makes up—I simply couldn't
 3 seem to find a word—that makes up this cost,
 4 but that is not necessarily translated in a
 5 reality because if a company has to reduce
 6 2, 3, 4 people, it doesn't mean they're
 7 going to be reducing the cost of the rest of
 8 the overheads. It's only a small portion of
 9 the overhead costs. Is that correct?
 10 MS. ELLIOTT:
 11 A. Well, their costs, I guess we'll just carry
 12 this thought process through for you.
 13 MR. GITTENS:
 14 Q. Um-hm, sir.
 15 MS. ELLIOTT:
 16 A. The cost of automobile insurance, their
 17 expenses of running their operation are
 18 reported and are the basis. So if their
 19 salaries, which is a component, a large
 20 component, if there's a reduction in that,
 21 that makes up their expense costs that are
 22 reported and that will translate through to
 23 the expense provision that is included in
 24 the rates that would be submitted to the
 25 Board for review and approval.

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1 MR. GITTENS:
 2 Q. Understood, but you've quantified that at
 3 about 25 percent, at 25 percent.
 4 MS. ELLIOTT:
 5 A. That's a separate issue. No, reduction in
 6 claim staff, that may happen down the road
 7 is a separate issue. What we're looking at
 8 here are the specific allocated costs to a
 9 file and a large portion of those are
 10 outside legal counsel to assist the
 11 insurance companies. So, we're saying that
 12 there for minor claimants there could be a
 13 couple of hundred dollar reduction with a
 14 minor injury claimant.
 15 MR. GITTENS:
 16 Q. And that is made up of the various
 17 components of overhead whether it be
 18 building maintenance, salaries, whatever
 19 else it may be.
 20 MS. ELLIOTT:
 21 A. It's not building maintenance, but anyway,
 22 yeah.
 23 MR. GITTENS:
 24 Q. Whatever their costs are, the commissions,
 25 whatever expenses they have, medical reports

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1 and so –
 2 MS. ELLIOTT:
 3 A. It's not commission; we're not—allocated
 4 loss adjustment expenses are those amounts
 5 that are specific to the claimant's file and
 6 the bulk of which is legal counsel.
 7 MR. GITTENS:
 8 Q. Okay. So, we're still talking about an
 9 aggregate which may not translate in reality
 10 to the actual costs in reduction on a
 11 particular file for a particular company and
 12 you making your best guess at 25 percent.
 13 MS. ELLIOTT:
 14 A. For these allocated costs, that's correct.
 15 MR. GITTENS:
 16 Q. Alright, that's what I wanted to know. It
 17 was your best guess at 25 percent. Thank
 18 you. Those are all the questions I have.
 19 Thank you.
 20 CHAIR:
 21 Q. Thank you, Mr. Gittens. Mr. Fraize, I'm
 22 assuming you need more than two minutes.
 23 FRAIZE, Q.C.:
 24 Q. Yes, I do.
 25 CHAIR:

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1 Q. Okay. We'll take our break and come back at
 2 11:30.
 3 (BREAK – 10:58 a.m.)
 4 (RESUME – 11:30 a.m.)
 5 CHAIR:
 6 Q. Over to you, Mr. Fraize.
 7 FRAIZE, Q.C.:
 8 Q. Ms. Elliott, as you are aware, I'm here
 9 representing the Spinal Cord Injury of
 10 Newfoundland and Labrador, so called
 11 victims, we're a victim's viewpoint. A
 12 couple of questions, first, in your report
 13 you talk about the cap and the purpose of
 14 the cap is to reduce insurance premiums?
 15 MS. ELLIOTT:
 16 A. Well, the purpose of the cap is to, in this
 17 context, is to reduce the amount that would
 18 be paid for non-pecuniary amounts for those
 19 who would have suffered a minor injury. And
 20 as a result, that would flow through such
 21 that premiums would be lower as well.
 22 FRAIZE, Q.C.:
 23 Q. So, the purpose is to reduce the insurance
 24 premium.
 25 MS. ELLIOTT:

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1 A. That consumers would pay, yes.
 2 FRAIZE, Q.C.:
 3 Q. Okay. Also to increase the profits for the
 4 insurance company, indirectly.
 5 MS. ELLIOTT:
 6 A. No, not necessarily, no, that's not
 7 necessarily a connection there. When you
 8 reduce the cost for claims payments, rate
 9 setting involves really three key
 10 components. It includes the cost of the
 11 claims. So, if they're lower, that must be
 12 taken into account. It includes a provision
 13 for all the operating expenses such as
 14 commissions to brokers, premium taxes, those
 15 costs and it includes a provision for
 16 profit. So, those three components are
 17 looked at for setting premiums. And if the
 18 loss amounts are reduced, less is paid, for,
 19 in this case, for a reformed change, that is
 20 taken into consideration. The profit amount
 21 that's allowed in the premium doesn't
 22 change, the provision that's allowed doesn't
 23 change because the losses are lower.
 24 FRAIZE, Q.C.:
 25 Q. Okay. And looking at it that way, what

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1 about the victim, the person that is
 2 injured?
 3 MS. ELLIOTT:
 4 A. And your question is? Sorry.
 5 FRAIZE, Q.C.:
 6 Q. I'm just saying, the cap, by implication
 7 affects the injured party, not the insurance
 8 company, not the insured, but the person or
 9 persons that are injured. Now, when you use
 10 the word "minor injury with cap", let's back
 11 that off. We're saying the cap talks about
 12 certain injuries which fall within that
 13 definition will be quantified at a certain
 14 amount, correct?
 15 MS. ELLIOTT:
 16 A. The pain and suffering award, no amounts for
 17 their medical care, their loss of wages, any
 18 of those amounts. It's with respect to one
 19 head of damage, yes.
 20 FRAIZE, Q.C.:
 21 Q. What I want to take away from this, don't
 22 keep calling it minor, it's—you're
 23 classifying a group of injuries will fall
 24 under a definition and therefore the amount
 25 for pain and suffering will be a certain

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1 amount.
 2 MS. ELLIOTT:
 3 A. Well –
 4 FRAIZE, Q.C.:
 5 Q. It's not a minor injury, it's just how you
 6 define the injuries that fall within the
 7 cap, correct?
 8 MS. ELLIOTT:
 9 A. Well, I believe that there is a definition
 10 within the legislation of Nova Scotia and
 11 New Brunswick and it refers –
 12 FRAIZE, Q.C.:
 13 Q. We're talking about here right now, I'm just
 14 talking –
 15 MS. ELLIOTT:
 16 A. I understand we're talking about here. In
 17 that they had requested that the definitions
 18 in those two provinces be used as the basis
 19 and in those provinces they have minor
 20 injury regulations. So, I don't think the
 21 use of the word "minor" is not appropriate
 22 in this circumstance.
 23 FRAIZE, Q.C.:
 24 Q. What I'm saying is through your report you
 25 keep calling it "minor", but we haven't got

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1 the legislation here yet, but all I'm saying
 2 is the cap is defined a certain group of
 3 injuries to cover such that the pain and
 4 suffering can be quantified at a certain
 5 maximum, correct?
 6 MS. ELLIOTT:
 7 A. Well, the legislation does use the word
 8 "minor".
 9 FRAIZE, Q.C.:
 10 Q. Yes, but I'm talking about the—the cap by
 11 its very nature, you have to take a group of
 12 injuries and put under it. So, therefore,
 13 as the saying goes in our business, the
 14 devil is in the details. You can change the
 15 structure of that definition in such a way
 16 that you take in more injuries or you can
 17 take in less injuries.
 18 MS. ELLIOTT:
 19 A. That's correct. It will depend upon the
 20 definition.
 21 FRAIZE, Q.C.:
 22 Q. Now, we do agree that over the years, over—
 23 we have litigation where courts have looked
 24 at injuries and they've quantified them;
 25 they've looked at the medical evidence and

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1 they've determined that for a certain type
 2 of injury, this would be a certain amount.
 3 This cap, by definition, excuse the pun, by
 4 definition, will then say this group of
 5 injuries can no longer be viewed in the
 6 context of trying to determine a value
 7 because what we're going to say is this is
 8 what it's worth.
 9 MS. ELLIOTT:
 10 A. Well, there will also be the context
 11 depending on what the cap amount, there may
 12 be many claimants that certainly receive
 13 well less than, just suggest maybe a 10,000
 14 cap, there will be many claimants that
 15 currently receive well less than a 10,000
 16 cap. And effectively, you know, they
 17 wouldn't be—what they would receive wouldn't
 18 change if it was introduced in this
 19 province.
 20 FRAIZE, Q.C.:
 21 Q. But those that would be affected most would
 22 have a change.
 23 MS. ELLIOTT:
 24 A. Well, those that it would apply to would
 25 have a change, yes.

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1 FRAIZE, Q.C.:
 2 Q. Okay. Now, so what's really—the person not
 3 looked at with the studies that we're
 4 talking about here in the reports is that
 5 injured party. Now, in that group of
 6 claims, I don't know if you know the answer
 7 to this, but would that also include any
 8 claims that were settled in court or is it
 9 just what was settled by the adjusters?
 10 MS. ELLIOTT:
 11 A. It's settled between the parties, the
 12 majority of them are settled between the
 13 parties -
 14 FRAIZE, Q.C.:
 15 Q. Do you know if there was a court action that
 16 was settled within that two thousand -
 17 MS. ELLIOTT:
 18 A. No, that's in our Closed Claim Study Summary
 19 Report and I'd have to open it up, but I
 20 don't think that there were any that went to
 21 court, yeah.
 22 FRAIZE, Q.C.:
 23 Q. Now, just looking at this handout. I assume
 24 you've seen that.
 25 MS. ELLIOTT:

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1 A. Um-hm.
 2 FRAIZE, Q.C.:
 3 Q. The hand out that was set out this morning.
 4 I don't think it's in the documents.
 5 MS GLYNN:
 6 Q. It hasn't been entered yet, no.
 7 FRAIZE, Q.C.:
 8 Q. I assume everyone has a copy of it.
 9 CHAIR:
 10 Q. Ms. Glynn, who is -
 11 MS. GLYNN:
 12 Q. IBC had provided it as a questioning tool
 13 for Ms. Elliott.
 14 CHAIR:
 15 Q. Okay.
 16 MS. GLYNN:
 17 Q. So, it has been distributed to all the
 18 parties, so we can certainly accept it now,
 19 but it just hasn't been entered until now.
 20 FRAIZE, Q.C.:
 21 Q. So, it's been talked, but I just have a
 22 couple -
 23 CHAIR:
 24 Q. It hasn't been referred to yet as an IBC
 25 document, I understand, is it?

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1 STAMP, Q.C.:
 2 Q. I'm happy to have Mr. Fraize, if he wishes—
 3 FRAIZE, Q.C.:
 4 Q. I just, I have a question here, looking at
 5 it. This seems to indicate that our claims
 6 are decreasing.
 7 MS. ELLIOTT:
 8 A. The claim frequency rate—well, you're
 9 looking at Nova Scotia and New Brunswick
 10 there and Newfoundland is that -
 11 FRAIZE, Q.C.:
 12 Q. It looks like Newfoundland is there.
 13 MS. ELLIOTT:
 14 A. Yes, in the red, yes.
 15 FRAIZE, Q.C.:
 16 Q. We seem to be going down as well.
 17 MS. ELLIOTT:
 18 A. Yes.
 19 FRAIZE, Q.C.:
 20 Q. So, interesting that we're all, sort of,
 21 going down,
 22 MS. ELLIOTT:
 23 A. Yes.
 24 FRAIZE, Q.C.:
 25 Q. So, if we're all going down, if we looked at

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1 New Brunswick and Nova Scotia, are you
 2 suggesting that somehow the cap caused the
 3 claims to go down? Because in your report
 4 you don't have anything for Newfoundland.
 5 I'm just asking
 6 MS. ELLIOTT:
 7 A. Well, we do have Newfoundland's frequency in
 8 our report. On page 22 of our report we
 9 show the claims frequency rate for
 10 Newfoundland going down along with Nova
 11 Scotia and New Brunswick. That's on page 26
 12 of 47 of our report.
 13 FRAIZE, Q.C.:
 14 Q. So, I think I asked you this before, you
 15 never really looked into what were the
 16 causes of the accidents or—now, especially
 17 if they're going down, it would be nice to
 18 know why they're going down.
 19 MS. ELLIOTT:
 20 A. Yes, that's not captured in the data that we
 21 reported to GISA. So, the insurance
 22 companies report how much is paid for that
 23 claimant, but they don't report that maybe
 24 it was drunk driver or somebody ran a red
 25 light or whatever the issues are, icy roads,

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1 that's not reported within the insurance
 2 industry aggregated database that GISA is
 3 responsible for.
 4 FRAIZE, Q.C.:
 5 Q. Do you not agree that if we could reduce the
 6 number of accidents, that would reduce the
 7 premiums?
 8 MS. ELLIOTT:
 9 A. Oh, I do agree with that, yes.
 10 FRAIZE, Q.C.:
 11 Q. So, if accidents are going down, something
 12 is happening. And as part of this, should
 13 we not look at the causes of the accidents
 14 as opposed to just looking at how much
 15 claims are costing?
 16 MS. ELLIOTT:
 17 A. Well, what—we might have spoken about this
 18 the other day, but the assignment that we
 19 were given was to look at what the cost
 20 level impact would be on the loss amount.
 21 What would be the percentage reduction or
 22 impact on premiums if the reforms that are
 23 under consideration were introduced? I
 24 agree fully with you that if there were less
 25 claims, then in aggregate, total costs would

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1 be less, for sure. And I'm in total
 2 agreement that anything that would assist in
 3 there being fewer claims and fewer people
 4 with injuries, would all be very good
 5 things, but that is not an assignment that
 6 we were given to find ways to have fewer
 7 accidents in this province.
 8 FRAIZE, Q.C.:
 9 Q. Well, the reason I'm going down this road,
 10 we see by these so called diagram, accidents
 11 are going down. So, if the number of
 12 accidents are going down per thousand and
 13 they continue to go down, therefore premiums
 14 will go down.
 15 MS. ELLIOTT:
 16 A. Yes, we take that into consideration when
 17 we're reviewing rate filings that are
 18 provided by companies, that the frequency
 19 rate has been declining in the province,
 20 yes, that's considered.
 21 FRAIZE, Q.C.:
 22 Q. So, if we keep going down this road of
 23 declining claims, whether the police are out
 24 there giving speeding tickets or whatever is
 25 happening, they're going down—so

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1 consequently premiums are doing down. Why
 2 should we be looking at a cap at all because
 3 we're affecting the injured party? By your
 4 person with numbers, the numbers seem to
 5 indicate the claims are going down.
 6 MS. ELLIOTT:
 7 A. Right, well there's two components,
 8 remember, to losses that are paid in
 9 aggregate. One are the number of claims and
 10 we refer to that as the claim frequency
 11 rate, how many claims occur per thousand
 12 cars that are insured. And it is declining
 13 as we are all in agreement with graphically,
 14 seeing that information. But in addition,
 15 there is the average amount paid per
 16 claimant or per claim. And what we're
 17 seeing there is a seven percent increase on
 18 average, those costs increasing. So, the
 19 average amount that is paid per claim is
 20 going up seven percent a year. Offsetting
 21 that is a decline in the number of claims
 22 reported. So, although I agree fewer claims
 23 and any efforts to help reduce the number of
 24 claims that occur are all very positive
 25 steps, but it doesn't mean because we're

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1 seeing a decline in frequency that total
 2 aggregate costs are going down. Because if
 3 you have the average cost of a settlement
 4 going up seven percent a year, then you
 5 know, you have an offsetting occurrence.
 6 FRAIZE, Q.C.:
 7 Q. I think you indicated at one point you were
 8 an adjuster.
 9 MS. ELLIOTT:
 10 A. No, I never was an adjuster.
 11 FRAIZE, Q.C.:
 12 Q. Or you worked with an insurance company.
 13 MS. ELLIOTT:
 14 A. I worked in an insurance company as an
 15 actuary; I wasn't an adjuster.
 16 FRAIZE, Q.C.:
 17 Q. Do you not agree that the claim amounts that
 18 are settled on are based upon amounts that
 19 have been determined in court on other
 20 cases?
 21 MS. ELLIOTT:
 22 A. Yes, certainly some cases set precedent,
 23 yes.
 24 FRAIZE, Q.C.:
 25 Q. So, the amount that individuals have

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1 received, whether by going through a court
 2 process or alternatively through a
 3 settlement process with an adjuster would be
 4 based upon what the courts in conjunction
 5 reviewing medical evidence would have given
 6 for that injury, correct?
 7 MS. ELLIOTT:
 8 A. Yes, they would know what was paid on the
 9 prior claim and the circumstances and take
 10 that knowledge forward, yes.
 11 (11:45 a.m.)
 12 FRAIZE, Q.C.:
 13 Q. Okay, so the amounts that we're talking
 14 about that the injured parties receive are
 15 based upon what cases have determined, what
 16 the value of an injury is. Also, would I
 17 also be correct that you take your victim as
 18 you find them. So, therefore one person
 19 will be affected more than another with
 20 certain injuries, correct?
 21 MS. ELLIOTT:
 22 A. Each individual is individual, sure.
 23 FRAIZE, Q.C.:
 24 Q. Okay. Now, as a proponent here talking
 25 about the erosion, victim price, what

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1 strikes me, when you put in a cap, you
 2 treated everyone the same. And we do know
 3 that different injuries affect different
 4 people in different ways and therefore, the
 5 Courts have reflected that in the amount for
 6 pain and suffering. Now, this cap, an
 7 artificial amount that we're talking about
 8 which our study is based on and you talk
 9 about different cap amounts does not reflect
 10 the effect on the victim, the person that—I
 11 shouldn't say person, but the group that
 12 aren't here. Now, and going back to what I
 13 had said before, your report is based upon
 14 certain definitions of injuries that fall
 15 under the cap.
 16 MS. ELLIOTT:
 17 A. If I can answer, I think, what was your
 18 earlier question about that?
 19 FRAIZE, Q.C.:
 20 Q. Okay.
 21 MS. ELLIOTT:
 22 A. If we look at the definition for the other
 23 Atlantic Provinces, they do consider, if you
 24 will, the impairment of that person, and so,
 25 you know, I believe what you're expressing

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1 is you want to look at the individual and
 2 what their circumstances are and how that –
 3 FRAIZE, Q.C.:
 4 Q. Just like a Judge would.
 5 MS. ELLIOTT:
 6 A. Yes, and I believe that the definition
 7 allows for consideration of how that injury
 8 impacted that individual when you read the
 9 legislation that they have.
 10 FRAIZE, Q.C.:
 11 Q. Do you agree that this cap is putting a
 12 hurdle in front of injured parties because
 13 what has to happen is you've got to get over
 14 the hurdle of the cap? Am I correct?
 15 MS. ELLIOTT:
 16 A. Well, in terms of the definition –
 17 FRAIZE, Q.C.:
 18 Q. Yeah, but we're talking about if you're
 19 going to exclude certain or put a
 20 quantification on, an injured party has to
 21 overcome that definition?
 22 MS. ELLIOTT:
 23 A. If they don't want to be subject to the cap,
 24 their injuries would have to not fall within
 25 the cap definition, yes.

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1 FRAIZE, Q.C.:

2 Q. Okay, so we've created an impediment for

3 injured parties?

4 MS. ELLIOTT:

5 A. I'm not sure why it's –

6 FRAIZE, Q.C.:

7 Q. Impediment in the sense that if they have an

8 injury which has affected them more than

9 someone else, and by chance if it falls

10 within that definition, that person has got

11 a problem, he or she is capped irregardless

12 of what a court would have ordered?

13 MS. ELLIOTT:

14 A. Well, it's still a tort environment. That

15 part of the –

16 FRAIZE, Q.C.:

17 Q. Except you've restricted the victim. It's a

18 court environment, but you've restricted the

19 victim?

20 MS. ELLIOTT:

21 A. When they have a minor injury, they have the

22 cap.

23 FRAIZE, Q.C.:

24 Q. Yeah, but go back to this minor injury, if

25 you have a definition which excludes certain

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1 injuries, it's not a minor injury, you've

2 excluded a group of injuries, and if I see

3 in one of the articles, they're talking

4 about Grade 1 and Grade 2 injuries. I mean,

5 it does take in quite an area. So it does

6 have an effect on the victim, I think we

7 both agree to that, and one thing that was

8 asked was – I think it was Intact. A

9 statement was made – just let me read this

10 to you, "The cap allows us to better

11 stabilize premiums in the province. We can

12 implement better cost management controls".

13 So do you agree with that, does the cap

14 stabilize premiums so we have cost control?

15 MS. ELLIOTT:

16 A. Sure. In terms of cap and stabilizing, sort

17 of saying, you know, how do those connect,

18 if the cap amount is indexed with inflation,

19 so the rate of inflation we'll just call it

20 2 percent a year, and inflation is

21 relatively stable, we know that the cap

22 amount would be going up on a stable number,

23 whereas all costs for the average claim

24 amount that's paid that I referred to

25 earlier is a 7 percent increase currently in

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1 this province. So when you have a cap, that

2 proportion of the total claim amount, the

3 pain and suffering award, would be

4 increasing at the CPI level, whereas the

5 other claims which would be larger and more

6 serious claims have been increasing in

7 average right now – total claims have been

8 increasing at 7 percent. So having the cap

9 amount, which can be a large proportion of

10 claim, the non-pecuniary award, increase at

11 CPI stabilizes the cost from year to year.

12 FRAIZE, Q.C.:

13 Q. The cap amounts that you referred to in your

14 report, where did you get them from? Were

15 they in your instructions?

16 MS. ELLIOTT:

17 A. Yes, they're in the terms of reference, yes.

18 FRAIZE, Q.C.:

19 Q. And who gave you the terms of reference?

20 MS. ELLIOTT:

21 A. The government produced that and it's on the

22 Board's website.

23 FRAIZE, Q.C.:

24 Q. So they put in those values for caps for

25 your purposes?

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1 MS. ELLIOTT:

2 A. Yes.

3 FRAIZE, Q.C.:

4 Q. Just bear with me for one moment. My

5 learned colleague, Mr. Gittens, asked you a

6 question before the break. The deductible,

7 you indicated you didn't have a mandate to

8 look at what the effect would have been if

9 the deductible had followed the inflation

10 rate?

11 MS. ELLIOTT:

12 A. Right, it was listed as set amounts, right.

13 FRAIZE, Q.C.:

14 Q. So if you did, that would affect some of

15 your findings, wouldn't it?

16 MS. ELLIOTT:

17 A. No, our findings – well, yes and no. Our

18 findings are presented for the cap amounts

19 as listed. If any of the amounts were to be

20 adopted and were to be indexed, that would

21 change over time, and so with indexing – let

22 me frame this more simply. The cost that we

23 do today are based on the caps and the

24 deductibles under consideration. If we're

25 to do this study ten years from now and they

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1 were different amounts with the caps due to

2 the indexing over time, the findings would

3 be different.

4 FRAIZE, Q.C.:

5 Q. So I suppose if the deductible had been

6 adjusting each year, therefore, that would

7 affect potentially whether there are losses

8 or what the claim amounts were, correct,

9 that were paid out?

10 MS. ELLIOTT:

11 A. Yes. Well, the higher the deductible, the

12 less that would be. So currently the

13 \$2,500.00, if that was to change and all

14 victims – this would apply to all injured

15 parties, pardon me, that would apply to,

16 yes.

17 FRAIZE, Q.C.:

18 Q. Now going back to this diagram again,

19 theoretically if the number of accidents

20 dropped sufficiently, we would not need a

21 cap and we wouldn't need a deductible,

22 correct?

23 MS. ELLIOTT:

24 Q. Maybe there'd be 0, but I don't think that's

25 likely.

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1 FRAIZE, Q.C.:

2 Q. No, but I'm just saying. I'm not saying 0,

3 but what I do know is they're falling, so at

4 some point if we can control the causes, we

5 don't need to restrict the victim's rights?

6 MS. ELLIOTT:

7 A. I think they are separate issues, and as I

8 indicated earlier, that's one component, the

9 number of claims, but the other component is

10 how much the average cost of a claim is and

11 the rate of change, so the year to year

12 increase in that average cost.

13 FRAIZE, Q.C.:

14 Q. So that's from the point of view of the

15 insurance company, but I'm talking from the

16 point of the victim. If accidents are going

17 down, we should not restrict their right to

18 be able to claim injuries that before we get

19 into caps or deductibles, a court would have

20 given them if we had gone to court?

21 MS. ELLIOTT:

22 A. I'm not sure where there's a connection

23 between a frequency rate that, you know,

24 more recently if you look at the graph, has

25 been running in the 4 or 5 percent range.

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1 The fact that it's been declining doesn't

2 mean that reform changes that would

3 stabilize year to year increases on what

4 claims cost. I don't see that one leads to

5 the other. I don't connect the dots the way

6 that you're suggesting.

7 FRAIZE, Q.C.:

8 Q. Well, I think the reason why - your report

9 is done in a certain fashion, it doesn't

10 reflect "should we be affecting the victim"?

11 MS. ELLIOTT:

12 A. Well, I wasn't tasked to – I was tasked to

13 cost the change in loss amounts for the

14 three dollar amount caps that are under

15 consideration using a minor injury

16 definition as per the other provinces.

17 That's what I was tasked to do.

18 FRAIZE, Q.C.:

19 Q. One other question, with claims going down,

20 in your report have you indicated the

21 insurance costs are going up?

22 MS. ELLIOTT:

23 A. Well, the combination of total cost in year

24 to year – so there are two components.

25 There is the severity amount, which is the

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1 average cost of a claim, and that's

2 increasing at about 7 percent a year, year

3 to year going up 7 percent, and at the same

4 time we see the frequency rate declining,

5 but it's not offsetting the increase in the

6 average cost of claim. So in aggregate

7 they're going up, the claims cost.

8 FRAIZE, Q.C.:

9 Q. Did you look at the two together to see if

10 there's a meeting point, at which point, the

11 fall in claims?

12 MS. ELLIOTT:

13 A. We do look at the trend rate for both

14 frequency and the severity separately to see

15 the change in cost from year to year, yes.

16 FRAIZE, Q.C.:

17 Q. I have no further questions. Thank you.

18 CHAIR:

19 Q. Thank you, Mr. Fraize. Over to you, Mr.

20 Stamp.

21 STAMP, Q.C.:

22 Q. Yes.

23 CHAIR:

24 Q. I think just for information right now, Ms.

25 Glynn, we should number this document.

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1 MS. GLYNN:
 2 Q. We have to number the retainer agreement, so
 3 my suggestion would be that we can circulate
 4 a document with both exhibits numbered -
 5 CHAIR:
 6 Q. Okay, perfect.
 7 MS. GLYNN:
 8 Q. Perhaps later today.
 9 CHAIR:
 10 Q. Excellent, thank you.
 11 STAMP, Q.C.:
 12 Q. So we treat this here as if it's entered, I
 13 presume, in some way.
 14 CHAIR:
 15 Q. We'll officialize it.
 16 STAMP, Q.C.:
 17 Q. Sure.
 18 CHAIR:
 19 Q. If that's a word. Whenever you're ready,
 20 Mr. Stamp.
 21 STAMP, Q.C.:
 22 Q. Thank you. Ms. Elliott, your report that
 23 we're working on at the moment, of course,
 24 is the Reform Report, and there's a couple
 25 more to follow, I know, the profitability

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1 and any other coverages are still yet to
 2 come, so it's been a long week for you, but
 3 I want to just make sure I understand that
 4 this report which looks to, I guess,
 5 calculating the anticipated or expected or
 6 estimated savings in claims cost and maybe
 7 the corresponding reduction in premiums that
 8 would follow, is set out here using various
 9 criteria, the possible deductibles and the
 10 possible cap amounts?
 11 MS. ELLIOTT:
 12 A. Correct, yes.
 13 STAMP, Q.C.:
 14 Q. But in this report, would I find anywhere in
 15 the Reforms Report now, any particular, I
 16 guess, detail that says how much the current
 17 actual premium is deficient from that which
 18 is the required premium?
 19 MS. ELLIOTT:
 20 A. Uh-hm, that is the terminology that we use
 21 in our report thereafter, I believe, Table
 22 2.
 23 STAMP, Q.C.:
 24 Q. On the paper copy – can you tell me where
 25 you're referring?

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1 MS. ELLIOTT:
 2 A. 7.
 3 STAMP, Q.C.:
 4 Q. Page 7?
 5 MS. ELLIOTT:
 6 A. Sorry, no, PDF 7.
 7 STAMP, Q.C.:
 8 Q. Okay.
 9 MS. GLYNN:
 10 Q. Paper copy, 2.
 11 STAMP, Q.C.:
 12 Q. Paper copy is where?
 13 MS. ELLIOTT:
 14 A. Three.
 15 MS. GLYNN:
 16 Q. Three, sorry.
 17 STAMP, Q.C.:
 18 Q. Thank you. Yes, Ms. Elliott, go ahead and
 19 tell me, please?
 20 MS. ELLIOTT:
 21 A. Okay, so these are the reduction in
 22 premiums, as we indicate in the paragraph
 23 below, so this is our best estimate of what
 24 the premium reduction would be for third
 25 party liability coverage for these three cap

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1 alternatives and alternative frequency
 2 reductions, and these are reduction from
 3 what we've calculated as the required rate
 4 level for the 2017 accident year. These are
 5 averages, industry averages, aggregated
 6 data. These numbers do not apply to any
 7 individual company because other companies
 8 may have required rates that are higher or
 9 lower than we've estimated, depending upon
 10 their portfolio of risk, and so this is
 11 based on industry aggregated data. It does
 12 not apply to any individual consumer, nor
 13 does it apply to any individual company. So
 14 it's a change on what our estimate is of the
 15 industry's average required premium.
 16 STAMP, Q.C.:
 17 Q. I guess, what I was perhaps thinking about,
 18 some of the earlier questions have suggested
 19 that if we have caps, or any other form of
 20 reform, that that's going to increase
 21 profits, and I think you tried to explain
 22 that, or did explain it, that that is not
 23 what necessarily is going to happen. What I
 24 was looking at was – and I know, as I say,
 25 that you have other reports to come. So

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1 when we look at this particular Reform
 2 Report, it doesn't tell us sort of – you
 3 tell us the estimates you've come to on
 4 these various possibilities, the various
 5 caps, the various deductibles, the various
 6 frequency changes that might occur, but it
 7 doesn't give us a target of what we need
 8 relative to actual premium currently being
 9 charged and required premium that's needed
 10 to be charged?
 11 MS. ELLIOTT:
 12 A. That's correct. That's a separate item, and
 13 it's an important item, and I think it's
 14 also important to remember that this study
 15 is again aggregated industry data. It does
 16 not apply to any individual company. So
 17 there could be companies that, depending
 18 upon their situation and their current -
 19 maybe their rates are excessive, maybe
 20 they're inadequate, I don't know, so the
 21 effect when they submit a rate filing could
 22 be very different than these numbers if a
 23 cap was introduced.
 24 (12:00 p.m.)
 25 STAMP, Q.C.:

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1 Q. I don't want to jump ahead from your current
 2 report because you'll be coming to it soon
 3 enough, I guess, but at some point you look
 4 at the profitability discussion that you've
 5 done a report in connection with, and in
 6 that report there has been a focus on
 7 identifying the current actual premium?
 8 MS. ELLIOTT:
 9 A. Uh-hm.
 10 STAMP, Q.C.:
 11 Q. And the calculation of the required premium?
 12 MS. ELLIOTT:
 13 A. And there's a gap, yes.
 14 STAMP, Q.C.:
 15 Q. Without sort of jumping ahead, there is a
 16 gap between those two items?
 17 MS. ELLIOTT:
 18 A. Yeah.
 19 STAMP, Q.C.:
 20 Q. And so if I, for the purposes of my
 21 questions to you, call that a target,
 22 because as you say we're here to try and
 23 find some mechanism to reduce premiums?
 24 MS. ELLIOTT:
 25 A. Yes, and expanding upon your thought here

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1 just to maybe add some clarity to it, the
 2 exercise is to say if we have this cost
 3 right now and a reform was introduced, these
 4 total cost for claims, how much would they
 5 change, what percentage reduction would you
 6 get, and so that's kind of a one-time change
 7 that would occur when it's introduced, like,
 8 the subsequent year, and then on top of that
 9 we'd expect there'd be some stability in the
 10 average amount that's paid per claim because
 11 now you would have an indexing on non-
 12 pecuniary awards, so that would kind of
 13 flatten things out a little bit. So that
 14 would happen to the losses, that percentage
 15 change. So that, in and of itself, sort of
 16 stands. Separately, then you go over and
 17 say, well, how much are the premiums right
 18 now; are they too high, are they too low,
 19 and then you want to take into account this
 20 change in cost, this shift down and
 21 hopefully a stability. So they're
 22 integrated, you know. Effectively, when
 23 companies have to come in and file their
 24 rates, you want to take all of that into
 25 account, but this exercise, this report that

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1 we're discussing, is about that percentage
 2 change with a cap that's under
 3 consideration, and then next step if the
 4 government decides that they were going to
 5 do that, introduce a cap and a definition,
 6 then the rates have to be reviewed and in
 7 this province each company must file their
 8 rates with the Board and provide support for
 9 whatever that change is. So these dollar
 10 amounts may not apply to any individual
 11 company at the end of the day when this
 12 change may or may not occur.
 13 STAMP, Q.C.:
 14 Q. And in that context, I guess, this report,
 15 the Reform Report, is an industry aggregate
 16 discussion, and so too the profitability
 17 report that will follow soon, I guess,
 18 whenever it comes, that's an industry
 19 aggregate as well, is it not?
 20 MS. ELLIOTT:
 21 A. Yes, yes.
 22 STAMP, Q.C.:
 23 Q. And again I don't want to jump ahead, but
 24 what we're looking – I guess, at some point
 25 in time what the Board would want to look at

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1 is what can be achieved in various
 2 mechanisms, whether it's a cap or
 3 deductible, at what amount – the amount the
 4 cap would be, for example, and then, of
 5 course, figuring out if there's any
 6 frequency adjustment that has to be taken
 7 into account, and then that would give some
 8 guideline as to the perceived reduction that
 9 you could have in premium?
 10 MS. ELLIOTT:
 11 A. Presumably, if this was to move forward, the
 12 Board would provide guidance to the
 13 companies regarding an adjustment would be
 14 needed to reduce their total estimate of
 15 losses for a cap, that minor injury cap, and
 16 that would be included in their rate filing,
 17 and in the rate filing they'd also consider
 18 what their current rates are, the current
 19 premiums that are being charged, and all of
 20 those pieces would come together for the
 21 proposal of the rate change. So whether
 22 there would be a rate reduction or a rate
 23 increase supported by the company would
 24 depend upon the individual circumstances of
 25 that insurer.

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1 STAMP, Q.C.:
 2 Q. But we can only look at this at the moment
 3 in this aggregated way because you have
 4 aggregated data for this and for the
 5 profitability, and so maybe I can ask you
 6 this way, if, for example, on an aggregated
 7 basis current actual premium is deficient
 8 by, let's pick a number, \$200.00 from
 9 required premium, then when we look at the
 10 changes that might be achieved based on your
 11 Table 2, it's looking at these numbers
 12 compared to some sort of target that would
 13 be identified from that other analysis?
 14 MS. ELLIOTT:
 15 A. Well, maybe to put it in more simple terms,
 16 if there was one company and that one
 17 company's rates were – everyone agreed were
 18 inadequate by \$200.00, and this change was
 19 introduced, you would take, well, I'm off by
 20 \$200.00, and now this will help reduce that,
 21 and so they would still – let's go with
 22 \$100.00 reduction in cost in premiums, and
 23 then that would help offset that \$200.00
 24 that they're short now if there was one
 25 company, but these premiums are individual

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1 rates by company, they're not the same,
 2 there is not just one insurer.
 3 STAMP, Q.C.:
 4 Q. I understand. So, and just to follow up on
 5 a few other points that were made, and I
 6 think you've spoken to this already, the
 7 group that is not falling within the
 8 definition of the column, so the other than,
 9 the non-minor injuries, there is no effect
 10 whatever in respect to those claimants
 11 arising out of the analysis that's been done
 12 here?
 13 MS. ELLIOTT:
 14 A. Yes. Unlike currently, the deductible
 15 applies to all claimants are reduced by
 16 2500. The cap for minor injuries would only
 17 apply to those that meet that definition and
 18 not to the other claimants, the other
 19 injured claimants who currently have the
 20 \$2500 deductible applied to them. So,
 21 there'd be a change for really everybody,
 22 yeah.
 23 STAMP, Q.C.:
 24 Q. So, for example, a spinal injury, which
 25 would be a very serious injury naturally,

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1 that would have – that would not be impacted
 2 by a minor definition at all?
 3 MS. ELLIOTT:
 4 A. Right. They would no longer be subject to
 5 the \$2500 deductible and they would not have
 6 a cap applied.
 7 STAMP, Q.C.:
 8 Q. Sure, I understand. And also I want to make
 9 sure that I'm clear as well, and I think you
 10 did mention this a little earlier today as
 11 well, that when you look at the minor – the
 12 definition of the minor claims and who – you
 13 know, how they'd be adjusted and affected by
 14 a cap, they are – they're non-pecuniary
 15 damages would not be affected at all by that
 16 analysis? Is that right? Say special
 17 damages, for example, loss of wages or
 18 anything like that, any other out-of-pocket
 19 expenses?
 20 MS. ELLIOTT:
 21 A. Right. Wages, lost wages, past, future,
 22 medical costs, they're not affected.
 23 STAMP, Q.C.:
 24 Q. None of that is touched?
 25 MS. ELLIOTT:

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1 A. Only pain and suffering award would be
 2 affected.
 3 STAMP, Q.C.:
 4 Q. Sure, okay. So, all of these things, loss
 5 of income, loss of future income,
 6 housekeeping expenses, home care, none of
 7 those things are affected at all?
 8 MS. ELLIOTT:
 9 A. No, not – they’re not within the definition
 10 of making any effect, correct.
 11 STAMP, Q.C.:
 12 Q. Sure. So, any – so, the whole of the
 13 savings have to come out of this pain and
 14 suffering component in the minor injuries?
 15 It’s not taken out of any money that’s lost
 16 out of people’s direct -
 17 MS. ELLIOTT:
 18 A. Right. Our costing only looks at the non-
 19 pecuniary amount, pain and suffering award,
 20 and reduced or capped accordingly to the cap
 21 amounts, not the other items.
 22 STAMP, Q.C.:
 23 Q. Sure, okay. And you’ve been speaking
 24 particularly recently about the issue of –
 25 or I guess, the features of frequency and

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1 severity. So, the cost of claims, we’re
 2 looking at the chart that was shown to you
 3 recently, which shows the New Brunswick,
 4 Nova Scotia and Newfoundland frequency graph
 5 or line.
 6 MS. ELLIOTT:
 7 A. Um-hm.
 8 STAMP, Q.C.:
 9 Q. It’s a line graph showing frequency for
 10 those three provinces in that period of
 11 time. Now, this is, as you say, one
 12 component of claims cost?
 13 MS. ELLIOTT:
 14 A. Yes, total claims cost, yes.
 15 STAMP, Q.C.:
 16 Q. Because severity is another component?
 17 MS. ELLIOTT:
 18 A. Um-hm.
 19 STAMP, Q.C.:
 20 Q. And if we looked at a similar chart for
 21 severity, the lines wouldn’t be going down;
 22 they’d be going up, would they not,
 23 generally?
 24 MS. ELLIOTT:
 25 A. Yes, they are.

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1 STAMP, Q.C.:
 2 Q. Yeah. So, it’s the two of these combined
 3 that give you the total claims cost?
 4 MS. ELLIOTT:
 5 A. Right.
 6 STAMP, Q.C.:
 7 Q. So, looking at this one alone, you might
 8 think the solution is weighted out, it’ll
 9 take care of itself, but opposite this is
 10 severity going up?
 11 MS. ELLIOTT:
 12 A. Right, and the purpose – this is amended
 13 from what we provided in our report, but the
 14 purpose was to try to review the other, Nova
 15 Scotia and New Brunswick, and to review what
 16 changes happened that were coincident with
 17 the introduction of a minor injury reform.
 18 STAMP, Q.C.:
 19 Q. Sure. And the severity trend, because
 20 that’s a climbing trend at the moment, and I
 21 think you said you looked at about seven
 22 percent a year, I think you said, something
 23 like that?
 24 MS. ELLIOTT:
 25 A. Yes.

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1 STAMP, Q.C.:
 2 Q. That trend is not affected by the cap, I
 3 take it? You don’t see -
 4 MS. ELLIOTT:
 5 A. No, I do see it affected by the cap.
 6 Potentially it would lower because
 7 introducing a cap amount that’s indexed by
 8 inflation. So, now you would have per se if
 9 it was a \$10,000 cap, that 10,000 amount
 10 would increase by a CPI level, let’s assume
 11 that’s two percent, as opposed to the award
 12 increasing now the total claim, all
 13 components, increasing on average by seven
 14 percent. So, the average amount paid would
 15 not be increasing. The severity would not
 16 be increasing at the same rate as we see
 17 now, seven percent a year, which is pretty
 18 high relative to inflation. So, it would
 19 stabilize. It would lower the increase that
 20 we’re seeing in the average cost of claim if
 21 a cap was introduced.
 22 STAMP, Q.C.:
 23 Q. Yes, I understand what you’re saying. So
 24 that because you have that cap, whatever
 25 that amount might be, there’s some

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1 distinction between what's paid under the
 2 cap arrangement and what the claim might
 3 have been without the cap, so that the
 4 overall cost of claims, that measuring of
 5 the cost is somewhat lower because of that?
 6 MS. ELLIOTT:
 7 A. Right. So, if a rate filing came in and the
 8 insurer said "oh gee, it's been going up
 9 seven percent" and a cap was introduced, we
 10 would say "well, no, perhaps the seven
 11 percent is true for the past" but under a
 12 regime of a minor injury reform with
 13 indexing here with a cap, we would not
 14 expect to have such a high trend rate going
 15 forward. So -
 16 STAMP, Q.C.:
 17 Q. On severity?
 18 MS. ELLIOTT:
 19 A. On severity. So, we would not - I would
 20 suggest to the Board that that seven percent
 21 from the past would not be appropriate for
 22 the future moving forward, and so that could
 23 lower the premiums that the insurers might
 24 want to propose.
 25 STAMP, Q.C.:

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1 Q. Right. Now, in terms of the - I think you
 2 spoke about how the - you know, you looked
 3 at the change in frequency and I think you
 4 may have suggested there was some regression
 5 analysis. I kind of glazed over then, but
 6 something was done with P test and T test.
 7 MS. ELLIOTT:
 8 A. It sounds important, but -
 9 STAMP, Q.C.:
 10 Q. But the idea was that it confirmed that
 11 there was a change in frequency?
 12 MS. ELLIOTT:
 13 A. Yes. So, we have a parameter that's added
 14 to the - included within our model to try to
 15 measure the impact of a reform change; and
 16 this would be done in any province where
 17 there's a reform change. We try to measure
 18 that. So, we included that in our models
 19 for Nova Scotia and New Brunswick and we
 20 believe the statistical model tells us that
 21 the reform did affect both the amount paid,
 22 of course, as you'd expect, and also the
 23 frequency. But, other external factors also
 24 affect the frequency, the roads, the winter,
 25 the ice, different things. So, it's hard to

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1 definitively say without a doubt the
 2 frequency rate was affected or that change
 3 that we see at that point in time was
 4 totally attributable to the minor injury
 5 reform.
 6 STAMP, Q.C.:
 7 Q. Sure.
 8 MS. ELLIOTT:
 9 A. So, we believe it contributed to that
 10 change.
 11 STAMP, Q.C.:
 12 Q. So, I can look at the graph and I can see
 13 where the lines come down from time to time,
 14 certainly see that. Does the regression
 15 then tell you specifically why it came down?
 16 MS. ELLIOTT:
 17 A. No. It's - you know, terms that I know are
 18 not probably appropriate in this venue, but
 19 it's a parameter that we add to our model.
 20 We test it statistically with P values and T
 21 tests to say yes, you should have that model
 22 in their parameter. It adds to the value of
 23 your model and it tells you that there was a
 24 change in the level at that point in time.
 25 The data tells us that. Reality is you

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1 could get - you could run a model and have a
 2 great, you know, result, but you don't know
 3 what caused things. I was asked earlier
 4 what caused the accident and it's the same
 5 thing here. We don't know what causes the
 6 frequency rate to go up one year and down
 7 the next as it goes along its path. There
 8 are different reasons: weather, car safety,
 9 all different reasons.
 10 (12:15 p.m.)
 11 STAMP, Q.C.:
 12 Q. So, when you were looking at - for this
 13 purpose, and you suggested "well, I'll
 14 create some calculations for a zero percent
 15 change in frequency and a five and a ten and
 16 a 15", just arbitrary amounts, I guess, that
 17 were selected or picked to do the analysis
 18 at. But, in terms of Nova Scotia and New
 19 Brunswick, which are historical, I guess, in
 20 that regard, and we're not; we're looking -
 21 we're prospectively looking at what might
 22 happen. When you look at that, are you - is
 23 this decision or conclusion that there'll be
 24 this drop in frequency, is that an intuitive
 25

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1 thing or do you look at the data first and
 2 then say “I see it because of the data” or
 3 do you say “I should see it. Let me look at
 4 the data and see if I’m – if my intuition is
 5 confirmed”?

6 MS. ELLIOTT:
 7 A. Okay. Well, life is that, I mean, your
 8 knowledge base and your understanding of
 9 things evolve over time. When the reforms
 10 were introduced in those provinces in 2003,
 11 the work was being done with data that was
 12 available. Say 2001 data might have been
 13 available when we were doing work in 2003,
 14 and at that time, we did not expect the
 15 decline that occurred subsequent, even
 16 before the reforms were introduced, to
 17 occur. Nor did we anticipate that the
 18 reform, following the reform there would be
 19 such a drop in the frequency rate. So, at
 20 the time of costing of those reforms, the
 21 impact that the minor injury reform might
 22 have had or is attributable to that was
 23 unknown at that time. Now it’s hindsight
 24 because if you draw a line say in 2001 in
 25 there, there’d be nothing and if that’s all

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1 you knew, you wouldn’t anticipate that the
 2 frequency rate would be going down, right.
 3 If you kind of drew that imaginary line
 4 along year 2001, you wouldn’t anticipate a
 5 drop. But it did drop. And so, that
 6 occurred and in hindsight now, we can look
 7 back and say “oh, you know, it seems
 8 plausible that the minor injury reform did
 9 affect frequency” and we also are further
 10 confirmed with that idea, that concept, when
 11 we look at the reforms that happened more
 12 recently in 2010 and 2013; that the cap
 13 itself and the amount of the deduct – sorry,
 14 the cap amount would affect the frequency
 15 rate.

16 STAMP, Q.C.:
 17 Q. So, when I look at the line chart or line
 18 graph and just for purposes of, I guess,
 19 explanation from our perspective, this is
 20 the same graph, I’m sure you know, that is
 21 at your page 21 of your report?

22 MS. ELLIOTT:
 23 A. Um-hm.
 24 STAMP, Q.C.:
 25 Q. And the only thing that is added to this

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1 graph at page 21 is that there’s a red line
 2 put on to pick up the data that is in your
 3 bar graph at page 22. So, just to show it
 4 in the same format.

5 MS. ELLIOTT:
 6 A. I understand.
 7 STAMP, Q.C.:
 8 Q. That’s all it is. So, and at page 21 of
 9 your report, you talk about inflection
 10 points which I never heard the term before,
 11 but it’s an inflection point where it
 12 changes direction?

13 MS. ELLIOTT:
 14 A. Um-hm.
 15 STAMP, Q.C.:
 16 Q. So, certainly I can look at the thick blue
 17 line, I guess, which is the vertical line,
 18 which is July 2003-November 2003, the New
 19 Brunswick Nova Scotia introduction of
 20 reform?

21 MS. ELLIOTT:
 22 A. Um-hm.
 23 STAMP, Q.C.:
 24 Q. So, on the left side of that thick line is
 25 New Brunswick and on the right side of that

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1 thick line is Nova Scotia. So, I can look
 2 at this and say, okay, just a little while
 3 after the reforms were introduced in New
 4 Brunswick, the black line, we see this
 5 significant drop?

6 MS. ELLIOTT:
 7 A. Um-hm.
 8 STAMP, Q.C.:
 9 Q. Is that fair?

10 MS. ELLIOTT:
 11 A. Yeah, yeah.
 12 STAMP, Q.C.:
 13 Q. And in terms of Nova Scotia, preceding the
 14 right-hand side of that thick blue line, we
 15 see a drop ongoing which at the point in
 16 November 2003, which is the right side of
 17 the thick line, the drop continues?

18 MS. ELLIOTT:
 19 A. Right, for New Brunswick, yes.
 20 STAMP, Q.C.:
 21 Q. For – no, I’m sorry, New Brunswick, as I
 22 say, a lot of the drop is, I guess, to the
 23 right of the left side of the thick blue
 24 line, which is – the left side of the blue
 25 line, Ms. Elliott, am I correct, is New

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1 Brunswick?

2 MS. ELLIOTT:

3 A. Well, the blue line is Nova Scotia, I'm

4 sorry, and the black line is New Brunswick.

5 STAMP, Q.C.:

6 Q. I'm sorry, maybe I fooled you up by saying

7 blue. I'm told it's grey.

8 MS. ELLIOTT:

9 A. Sorry.

10 STAMP, Q.C.:

11 Q. It's the vertical – it's the thick vertical

12 line. My friend tells me it's grey. I

13 thought I saw blue.

14 MS. ELLIOTT:

15 A. Yes, I apologize. Yes, okay.

16 STAMP, Q.C.:

17 Q. So, anyway, my point is when I look at that

18 thick line, it's only showing it's thick

19 because it picks up July on the left for

20 2003 and November on the right?

21 MS. ELLIOTT:

22 A. Yeah, yeah.

23 STAMP, Q.C.:

24 Q. It could have been two lines, I suppose, in

25 theory. So, if I stay with the left side of

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1 that now grey line and I look at New

2 Brunswick, which is the black graph, I can

3 see that shortly after the introduction of

4 reform in New Brunswick, shortly after that

5 – because for a moment or two on this line,

6 it keeps going up, but shortly after, it

7 falls pretty dramatically?

8 MS. ELLIOTT:

9 A. Um-hm.

10 STAMP, Q.C.:

11 Q. Is that a proper assessment?

12 MS. ELLIOTT:

13 A. Yeah, it's a steep drop.

14 STAMP, Q.C.:

15 Q. Yeah. And then, if I look at Nova Scotia,

16 because the Nova Scotia regulation is the

17 right side of that thick grey line. So, in

18 that context, Nova Scotia has been dropping

19 for some time before November 2003, gets to

20 November 2003 and continues to drop for

21 another while. Is that correct?

22 MS. ELLIOTT:

23 A. Um-hm.

24 STAMP, Q.C.:

25 Q. So, when you do your regression magic and

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1 study this, you are told yes, there is a

2 drop and the drop is, you know, somehow

3 supported by the theories that you look at,

4 the study that you do, but -

5 MS. ELLIOTT:

6 A. It's a data parameter that we put in.

7 STAMP, Q.C.:

8 Q. Sure.

9 MS. ELLIOTT:

10 A. Like we don't put in the model, to be clear,

11 we don't put in the model, MIR, minor injury

12 reform. We put in a value, a parameter, and

13 then we associate and we say well, at that

14 point in time, there was a minor injury

15 reform and therefore we attribute that

16 change to the minor injury reform.

17 STAMP, Q.C.:

18 Q. Right, sure. No, I understand. I think I

19 understand what you're saying in a very

20 broad way. But, if I go back behind the

21 reforms in New Brunswick, for example, if I

22 go back to, I don't know, what looks like

23 maybe, you know, maybe it's December '01 or

24 something, you know. It's the top – it's

25 the peak before the long drop on the black

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1 line before we get to reform.

2 MS. ELLIOTT:

3 A. Yeah.

4 STAMP, Q.C.:

5 Q. Do you see that line – that spot?

6 MS. ELLIOTT:

7 A. Yeah.

8 STAMP, Q.C.:

9 Q. So, at that location there, we have what

10 appears to be – you know, maybe I'm not

11 exactly getting it right, but more or less

12 about the same drop that occurs following

13 reform in New Brunswick, but it's occurring

14 without any reform being introduced?

15 MS. ELLIOTT:

16 A. Right, a drop, a very steep drop.

17 STAMP, Q.C.:

18 Q. Very steep drop.

19 MS. ELLIOTT:

20 A. Prior to reforms, yes.

21 STAMP, Q.C.:

22 Q. And then reform and then another steep drop,

23 and I guess the difficulty I have, just

24 looking at this kind of a chart, not being

25 an actuary and not being a scientist, not

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1 being a mathematician, I look at it and say
 2 “well, I’m not sure that that grey line, the
 3 vertical line, really is meaningful because
 4 it was going on for a while before and it
 5 continues to go on for a while after in
 6 interrupted fashion”. But then I look at
 7 Newfoundland, in particular, the red line.
 8 I see in the middle of the period between
 9 July ’03 and November ’03 the start of a
 10 very dramatic drop in Newfoundland. Am I
 11 right about that?
 12 MS. ELLIOTT:
 13 A. Yes, there was a decline.
 14 STAMP, Q.C.:
 15 Q. But isn’t that decline at that point in
 16 Newfoundland the largest decline shown on
 17 this graph over all this period?
 18 MS. ELLIOTT:
 19 A. It looks that way graphically, yes.
 20 STAMP, Q.C.:
 21 Q. Okay. And of course, we know that in that
 22 timeframe that we’re looking at in
 23 Newfoundland, there was no reform.
 24 MS. ELLIOTT:
 25 A. I apologize, I don’t have the exact date in

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1 my – it was in 2004, the reform.
 2 STAMP, Q.C.:
 3 Q. August, I think.
 4 MS. ELLIOTT:
 5 A. Yes.
 6 STAMP, Q.C.:
 7 Q. I believe it was.
 8 MS. ELLIOTT:
 9 A. Um-hm.
 10 STAMP, Q.C.:
 11 Q. So, I’m thinking that the red line drop that
 12 starts in the middle of the thick grey line
 13 and falls, that drop is achieved before
 14 August 2004 or very close to it. So, you
 15 got this significant drop in Newfoundland
 16 that cannot be attributed to reform. It
 17 appears to mirror, to some extent, the drop
 18 in Nova Scotia and New Brunswick.
 19 MS. ELLIOTT:
 20 A. As the graph would show, although – I’m sure
 21 somebody in the room will remember better
 22 than I, but there were some serious
 23 snowstorms where the snow was over my head.
 24 I recall being here. And that may be
 25 partially attribute for the spike up on the

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1 left side of that grey line for
 2 Newfoundland. And then when you have a
 3 spike up, you know, and you go back to more
 4 normal periods which we’re seeing. So, that
 5 would be a bit of a spike that occurred over
 6 that period of time, which is, as you say,
 7 independent of any reform. But there has
 8 been a long – you know, a long-running
 9 decline of the frequency rate in
 10 Newfoundland.
 11 STAMP, Q.C.:
 12 Q. I mean, it doesn’t exactly parallel what’s
 13 going on in the other two provinces, but it
 14 certainly approximates it in some way.
 15 MS. ELLIOTT:
 16 A. The pattern of decline?
 17 STAMP, Q.C.:
 18 Q. Yes.
 19 MS. ELLIOTT:
 20 A. Yes, yes.
 21 STAMP, Q.C.:
 22 Q. And again, you know, I don’t know if when
 23 you do your regression analysis in New
 24 Brunswick, Nova Scotia or after the fact
 25 even to look at all of this, if you apply

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1 the same regression analysis to Newfoundland
 2 and then you see this happening here as
 3 well, does it explain to you, because that’s
 4 what we’re trying to figure out, how does
 5 this – you know, how does this evolution in
 6 frequency in Newfoundland coincidentally
 7 with Nova Scotia’s drop based on regulation
 8 you say, which occurs – I mean, I think the
 9 Newfoundland drop is actually, you know, as
 10 big or bigger than the other two provinces
 11 after the regulations are introduced.
 12 MS. ELLIOTT:
 13 A. Um-hm, um-hm. I do – and I apologize, I’m
 14 working on memory, but I do recall that –
 15 and I consider that a spike that occurred at
 16 that period of time which sort of straddles
 17 the thick grey line in this province.
 18 STAMP, Q.C.:
 19 Q. Yeah, okay.
 20 MS. ELLIOTT:
 21 A. Might be weather related, and so, I think
 22 that we are seeing a pattern of decline
 23 through the province. We had a spike which
 24 may or may not be weather related, but I do
 25 recall, as I say, massive snowstorms then,

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1 and it's been declining since. So, kind of
 2 that spike that occurred up, snow, and then
 3 goes back down to more normal levels and
 4 following its pattern of decline, that's
 5 what I would see there.
 6 STAMP, Q.C.:
 7 Q. Well, I guess it's fair to say, perhaps you
 8 can think about this, that there is decline
 9 occurring, in Newfoundland particularly,
 10 that doesn't equate to regulation at that
 11 point in time?
 12 MS. ELLIOTT:
 13 A. Correct.
 14 STAMP, Q.C.:
 15 Q. And which is a match for, I guess, your
 16 comments in your report that you say "look,
 17 it's difficult to say, even in New Brunswick
 18 and Nova Scotia, exactly what the driving
 19 force is behind the decline in frequency
 20 was"?
 21 MS. ELLIOTT:
 22 A. Yes, right. We don't know specifically what
 23 causes a claim to occur and then be
 24 reported.
 25 STAMP, Q.C.:

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1 Q. Okay. Can I just ask you to take a look at
 2 some of the exhibits in your reform report,
 3 Paula, please – Ms. Elliott, I'm sorry, Ms.
 4 Elliott? I was going to turn to Exhibit 2.
 5 So, if I can just get under the column 2 in
 6 Exhibit 2 which is the claim count we've
 7 been looking at.
 8 MS. ELLIOTT:
 9 A. Um-hm.
 10 STAMP, Q.C.:
 11 Q. So, this is the 1741 and so on. And then we
 12 have it broken down between, in this case,
 13 593 being 34 percent of the 1741 and 1148
 14 being 66 percent. Is that right?
 15 MS. ELLIOTT:
 16 A. Correct.
 17 STAMP, Q.C.:
 18 Q. Yeah. So, just coming up to the top again,
 19 before any cap, the non-pecuniary deductible
 20 was 43,886,000? Is that correct?
 21 MS. ELLIOTT:
 22 A. Yes.
 23 STAMP, Q.C.:
 24 Q. And then, am I right that the 56,195 that is
 25 below that is that same number, 43 million,

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1 trended?
 2 MS. ELLIOTT:
 3 A. Correct, to all claims to one common date,
 4 yes.
 5 STAMP, Q.C.:
 6 Q. Right. And that's to make that number match
 7 up with all the other numbers so we have the
 8 same – working from the same definition in
 9 terms of numbers?
 10 MS. ELLIOTT:
 11 A. Right, the costs that were paid were all at
 12 the same point in time.
 13 STAMP, Q.C.:
 14 Q. Right. So, that becomes 56 million. And
 15 then this approach breaks that – I'm sorry,
 16 that 56 million down to the non-minor at 27
 17 and a half million or so and to the minor at
 18 28 and a half million or so?
 19 MS. ELLIOTT:
 20 A. Correct.
 21 (12:30 p.m.)
 22 STAMP, Q.C.:
 23 Q. Right. Now, when I look at the minor
 24 claimants, and this is – we have a – the
 25 non-minor claimants total paid trended for

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1 special damages – that's the non-minor now,
 2 so these people are not affected by the cap,
 3 right?
 4 MS. ELLIOTT:
 5 A. Correct.
 6 STAMP, Q.C.:
 7 Q. So, the 8 million and 13 million that are in
 8 special and general, excluding non-
 9 pecuniary, that doesn't change any more with
 10 this cap either, does it?
 11 MS. ELLIOTT:
 12 A. Correct.
 13 STAMP, Q.C.:
 14 Q. And the 27 and a half million or so on the
 15 non-minor that doesn't change either?
 16 MS. ELLIOTT:
 17 A. Correct.
 18 STAMP, Q.C.:
 19 Q. So, I come down to the minor, the number
 20 that would potentially change or would
 21 change is the 28,530,000 that's in column 3?
 22 MS. ELLIOTT:
 23 A. That's correct.
 24 STAMP, Q.C.:
 25 Q. That's the number that would change?

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1 MS. ELLIOTT:
 2 A. Um-hm.
 3 STAMP, Q.C.:
 4 Q. And there's an average to that for this
 5 exhibit, which is the definition one, of
 6 24,800 and change?
 7 MS. ELLIOTT:
 8 A. Right. That's the average award prior to a
 9 cap, yeah.
 10 STAMP, Q.C.:
 11 Q. Right. Now when I look at the special
 12 damages for that same category, the minor
 13 claimants, across from the 1148 claim count,
 14 I see special damages of \$3,469,000, right?
 15 MS. ELLIOTT:
 16 A. Um-hm.
 17 STAMP, Q.C.:
 18 Q. And other non-pecuniary – excluding non-
 19 pecuniary, damages of 4,650,000?
 20 MS. ELLIOTT:
 21 A. Um-hm.
 22 STAMP, Q.C.:
 23 Q. So, when I come down now to the minor
 24 claimants losses capped at 5,000 because the
 25 package before that shows that 28 million,

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1 that's what was actually paid to those non-
 2 minor people and the other we'll call it
 3 special damages, out-of-pocket damages we'll
 4 call it. When I drop--yeah, down to the
 5 minor claimants, that 28,530,000 is reduced
 6 to 5,647,000? Is that correct?
 7 MS. ELLIOTT:
 8 A. Yes, um-hm.
 9 STAMP, Q.C.:
 10 Q. And then the average comes from 24,852 down
 11 to just about 5,000, \$4920. Is that
 12 correct?
 13 MS. ELLIOTT:
 14 A. Correct.
 15 STAMP, Q.C.:
 16 Q. But now, when I look at the special damages
 17 of 3,469,000 which is on the – in the group
 18 above that, that hasn't changed at all?
 19 MS. ELLIOTT:
 20 A. Correct. It was only the non-pecuniary head
 21 of damage that changed.
 22 STAMP, Q.C.:
 23 Q. Right. So, the people who would have a
 24 claim that would be affected by the cap
 25 would continue to have the same special

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1 damages claims and the same general damages
 2 claims, excluding non-pecuniary? Is that
 3 correct?
 4 MS. ELLIOTT:
 5 A. That's our assumption, yes.
 6 STAMP, Q.C.:
 7 Q. Right. So, there's about, you know, \$8
 8 million there in those two amounts?
 9 MS. ELLIOTT:
 10 A. Um-hm, yes.
 11 STAMP, Q.C.:
 12 Q. Something like that?
 13 MS. ELLIOTT:
 14 A. Um-hm.
 15 STAMP, Q.C.:
 16 Q. So, these are the people who are – we're
 17 looking at as the non-minor group in
 18 definition one?
 19 MS. ELLIOTT:
 20 A. Yes.
 21 STAMP, Q.C.:
 22 Q. So, for them to, if you like, forego their
 23 non-pecuniary claim, the \$5,000, to achieve
 24 some frequency reduction, that's how you get
 25 the frequency reduction? They have to

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1 forget the 5,000? Is that right?
 2 MS. ELLIOTT:
 3 A. No. You have a claim and you submit a claim
 4 whether you're minor or non-minor doesn't –
 5 you still have a claim. So, it doesn't
 6 reduce the frequency.
 7 STAMP, Q.C.:
 8 Q. No, but what reduces the frequency is you
 9 don't put your claim in.
 10 MS. ELLIOTT:
 11 A. Well, that's an additional step. If some of
 12 these claimants that are included here opt
 13 not to submit a claim, then the total cost
 14 would reduce further, yes.
 15 STAMP, Q.C.:
 16 Q. Right. Because you'd pay out – you'd pay
 17 less of these amounts to people – well, if
 18 they don't put a claim in, they won't get
 19 paid. That's very simple.
 20 MS. ELLIOTT:
 21 A. They choose not to pursue the claim, yes.
 22 STAMP, Q.C.:
 23 Q. Sure. But, if they don't pursue the claim
 24 for the \$5,000 cap, which is the amount that
 25 they could get, that's as much as they could

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1 get, if that's the cap 5,000, they also have
 2 to forego the – I don't know – the \$8
 3 million or so in special damages or out-of-
 4 pocket damages?
 5 MS. ELLIOTT:
 6 A. Right, which I think is closer to ten there
 7 in total, all these other amounts.
 8 STAMP, Q.C.:
 9 Q. Yeah, maybe so. Yes, of course.
 10 MS. ELLIOTT:
 11 A. But, yes, each individual is different and
 12 their situation would be different. Those
 13 that may opt not to pursue a claim with a
 14 cap, there may be some people that would do
 15 that and so, yes, they'd walk away not just
 16 from the cap amount, but they might be able
 17 to – anything under that that they might be
 18 able to be awarded, but any other
 19 compensation that they would be eligible
 20 for.
 21 STAMP, Q.C.:
 22 Q. But a bunch of this compensation on this
 23 aggregate basis here is money straight out
 24 of their pocket that they've lost. They
 25 didn't get the income. They paid expenses

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1 that they are dollar for dollar entitled to
 2 have back and they would have it back if
 3 they just advanced their claim?
 4 MS. ELLIOTT:
 5 A. Yes. And – yeah, so -
 6 STAMP, Q.C.:
 7 Q. I guess, Ms. Elliott, that's – this is where
 8 the – my intuition is that it's one thing to
 9 think there's too much work or it's a bit of
 10 bother to pursue your claim of, you know, up
 11 to \$5,000, but if I'm actually pursuing a
 12 claim that is, you know, my own out-of-my-
 13 wallet money as well, I'm – in my mind,
 14 intuitively, I say well, I want my own money
 15 back for sure.
 16 MS. ELLIOTT:
 17 A. Um-hm.
 18 STAMP, Q.C.:
 19 Q. You're not doing anything for me if I'm –
 20 you know, if I get my own money back, that's
 21 still only putting me back to where I would
 22 be without my injury, but I still have my
 23 injury.
 24 MS. ELLIOTT:
 25 A. Right, and certainly, you know, there may be

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1 individuals who out-of-pocket costs are
 2 quite limited and we looked at the Closed
 3 Claim Study summary yesterday and I
 4 presented five ranges, the top 20 percent,
 5 the next tier of 20 percent. In that lower
 6 tier, the first one to 20 percent tier, the
 7 pain and suffering non-pecuniary award was
 8 80 percent of the total settlement award.
 9 So, and so maybe perhaps those claimants in
 10 that lower tier, what they're getting in
 11 total, maybe their out-of-pocket costs are
 12 pretty minimal for wage loss or whatever the
 13 items might be, and make a decision that
 14 with the cap they may not pursue a claim.
 15 So, you know, I don't know who would decide
 16 or not decide that, but presumably the lower
 17 the amount, the less likely that they'll
 18 pursue a claim.
 19 STAMP, Q.C.:
 20 Q. Right. But even those people, you say had
 21 like a 20 percent special damages claim?
 22 MS. ELLIOTT:
 23 A. Right, which -
 24 STAMP, Q.C.:
 25 Q. Approximately.

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1 MS. ELLIOTT:
 2 A. Yes. So, there could be, you know, claims
 3 that have a total aggregate amount of maybe
 4 \$4,000 and they may choose – everything all
 5 included – and they may choose not to pursue
 6 the claim.
 7 STAMP, Q.C.:
 8 Q. So, my point, I guess, is just that it seems
 9 to me that intuitively, people who have lost
 10 not only – you know, had some discomfort
 11 because of their injury, pain and suffering,
 12 and because of the amount is capped that you
 13 think there's some possibility they will
 14 forego that. They also have to forego when
 15 they don't – you know, they have to forego
 16 the other amounts as well. If they don't
 17 make a claim, they can't get their out-of-
 18 pocket expenses as well?
 19 MS. ELLIOTT:
 20 A. That's correct. So, you know, we're not
 21 saying – we don't know what percentage of
 22 claimants – not claimants, but people who
 23 are involved in an accident may make the
 24 choice not to pursue the claim and we've
 25 presented possible ranges to zero where they

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1 all pursue their claims, five percent don't,
 2 ten or 15 percent. Don't know what will
 3 occur. Certainly, the larger, the higher
 4 the cap amount, more likely they will pursue
 5 the claim. And so, a lower cap amount might
 6 have more claimants making that choice not
 7 to pursue the claim if it's a smaller
 8 injury.
 9 STAMP, Q.C.:
 10 Q. Yeah. So, if I look at the average for
 11 these non – or the average of the minor
 12 claims, the average special damages,
 13 combined special damages, it's something
 14 like – it's over \$7,000, isn't it?
 15 MS. ELLIOTT:
 16 A. Um-hm.
 17 STAMP, Q.C.:
 18 Q. Certainly the three and the four right there
 19 and then other amounts as well?
 20 MS. ELLIOTT:
 21 A. Yeah.
 22 STAMP, Q.C.:
 23 Q. So, it's well over – maybe it's 8500. It's
 24 almost \$9,000 maybe. So, they're walking
 25 away from maybe \$14,000 to walk away.

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1 MS. ELLIOTT:
 2 A. This is the average of all these claimants.
 3 STAMP, Q.C.:
 4 Q. Yes, I understand.
 5 MS. ELLIOTT:
 6 A. Yes.
 7 STAMP, Q.C.:
 8 Q. Yeah, sure. So, that's what I'm saying. It
 9 just seems to me intuitively that that drop
 10 in frequency – I have trouble understanding
 11 how somebody says “no, I'm not going to
 12 bother to pick up my – I'm not going to walk
 13 past the trays and pick up my \$14,000”.
 14 MS. ELLIOTT:
 15 A. Well, I agree with you. Everyone may
 16 perceive, you know, their situation
 17 differently and the choices that they make
 18 and certainly, the costing that was done
 19 back in 2002 and 2003, that was the thinking
 20 process at the time. But subsequent to
 21 that, you know, with the steep declines that
 22 we saw immediately following, albeit there
 23 was also decline before that, and the
 24 changes with the amendments to Nova Scotia
 25 and New Brunswick, we think that there could

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1 be some impact on frequency with the reform
 2 that's a little bit of that.
 3 STAMP, Q.C.:
 4 Q. Well, I'll just make one last point. You
 5 don't see any savings?
 6 MS. ELLIOTT:
 7 A. I'm sorry.
 8 STAMP, Q.C.:
 9 Q. You don't see any savings. You have total
 10 projected savings of zero and zero and zero
 11 for any of these special damage type
 12 amounts.
 13 MS. ELLIOTT:
 14 A. Right. We're under the assumption that the
 15 cap -- and there's no change in frequency in
 16 this exhibit.
 17 STAMP, Q.C.:
 18 Q. Sure, I understand.
 19 MS. ELLIOTT:
 20 A. That the cap would only affect the non-
 21 pecuniary award.
 22 STAMP, Q.C.:
 23 Q. But obviously if you have zero percent
 24 savings for those – well, as special damage
 25 like amounts, if you have zero savings

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1 there, it means that those people are
 2 picking up their special damages. Everybody
 3 is.
 4 MS. ELLIOTT:
 5 A. Oh yeah, that – this worksheet is on that
 6 premise.
 7 STAMP, Q.C.:
 8 Q. Right.
 9 MS. ELLIOTT:
 10 A. That everybody is – that has a claim is
 11 submitting the claim. That these claimants
 12 all did.
 13 STAMP, Q.C.:
 14 Q. Right, and that's right. So, all of these
 15 people—because there's zero savings here.
 16 You show a savings when you put in the
 17 forty-nine twenty in column 3, right?
 18 That's a savings that you've calculated or
 19 that's an average payment, I'm sorry. And
 20 then, you come down to the savings, and
 21 that's the next block down.
 22 MS. ELLIOTT:
 23 A. Um-hm.
 24 STAMP, Q.C.:
 25 Q. The savings is 19,932, right? But zero for

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1 the special damage like amounts, zero
 2 savings. So, you can't have zero savings it
 3 seems if they don't—if they pursue their
 4 claim, there's—they're going to get paid?
 5 MS. ELLIOTT:
 6 A. Right. So, this is premised, this
 7 worksheet, and we have at the bottom right-
 8 hand corner, total percentage claimants—
 9 sorry, total percentage savings for all
 10 claimants after the cap of 24.3 percent, the
 11 bottom right-hand corner of that worksheet.
 12 STAMP, Q.C.:
 13 Q. Yes.
 14 MS. ELLIOTT:
 15 A. And then, further below in columns 10, 11
 16 and 12, we speak to a percentage reduction
 17 and the frequency. So, again, the first
 18 row, zero percent reduction is the 24.3.
 19 And then, we do some more calculations to
 20 say there is a reduction of five percent in
 21 frequency, how these percentage savings
 22 would in aggregate total, what they would
 23 be.
 24 STAMP, Q.C.:
 25 Q. Well, perhaps I can just summarize what I

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1 think I'm trying to say is this way. At
 2 least the fact that there are other damages
 3 to be recovered as well as non-pecuniary,
 4 sort of mitigates to some extent against the
 5 drop in frequency?
 6 MS. ELLIOTT:
 7 A. Yeah, it's uncertain. We don't know
 8 consumer—like predicting consumer behaviour
 9 is difficult for sure.
 10 STAMP, Q.C.:
 11 Q. Okay. When we have—when we compare the
 12 existing arrangement which is a 25-hundred-
 13 dollar deductible, and change it to, let's
 14 say 5-thousand-dollar cap, isn't there
 15 actually an opportunity that the frequency
 16 could go up? Because people who would—who
 17 had a 25-hundred-dollar or maybe a 3-
 18 thousand-dollar claim, let's say this is
 19 true value, say, "Well, if I go in with"—"If
 20 I present by claim and do all the work that
 21 I have to do, out of 2500, I get nothing
 22 anyway. At a three-thousand-dollar claim I
 23 get \$500," but those people under a cap
 24 arrangement, they could all come in and get
 25 their full amount of their damages up to the

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1 cap?
 2 MS. ELLIOTT:
 3 A. Well, that's a possibility for sure. Well,
 4 it's –
 5 STAMP, Q.C.:
 6 Q. That could happen as well, could it not?
 7 MS. ELLIOTT:
 8 A. I guess it's possible.
 9 STAMP, Q.C.:
 10 Q. Sure. I mean it depends on the individual,
 11 doesn't it? The same way.
 12 MS. ELLIOTT:
 13 A. It's consumer behaviour.
 14 STAMP, Q.C.:
 15 Q. Yes.
 16 MS. ELLIOTT:
 17 A. How they may make that choice, yeah.
 18 STAMP, Q.C.:
 19 Q. Yes, so if I had claim that I could advance
 20 today and get \$2500, but for the cap, I
 21 can't advance it tomorrow subject to the,
 22 you know, reforms going in and that--the
 23 caps being at that amount. I could get my
 24 2500. All I do is ask for it?
 25 MS. ELLIOTT:

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1 A. Yes, there could be the claimants at the
 2 lower level, the smaller claims that—yeah.
 3 (12:45 p.m.)
 4 STAMP, Q.C.:
 5 Q. Yes, sure. And they would be smaller claims
 6 of course, yes.
 7 MS. ELLIOTT:
 8 A. Um-hm.
 9 STAMP, Q.C.:
 10 Q. So, from an aggregate perspective, Ms.
 11 Elliott, and the reform discussion, and the
 12 reduction in premium that you see which is
 13 particularly identified in your Table 2,
 14 that—and I guess a comparable table for
 15 that, for the deductible, is Table 4, the
 16 amounts in Table 4 are dramatically lower
 17 than the Table 2 amounts, are they not?
 18 MS. ELLIOTT:
 19 A. Yes.
 20 STAMP, Q.C.:
 21 Q. And worse with erosion than without erosion
 22 for the deductible?
 23 MS. ELLIOTT:
 24 A. A smaller reduction in premium.
 25 STAMP, Q.C.:

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1 Q. Yes, right. So, for Table 2, ultimately
 2 when we look at it, for purposes—I mean, the
 3 commission won't have—the commissioners
 4 won't have anybody having, you know, rate
 5 particulars filed I guess in the next few
 6 months necessarily to help them in this
 7 discussion. All they have is the aggregate.
 8 They have this. They have this potential or
 9 estimated drop in premiums based on the
 10 various caps and based on the various
 11 frequency adjustments. They have that. And
 12 then, they have the aggregate data that you
 13 will be talking about soon enough which is
 14 the gap between actual premiums and the
 15 aggregate and required premiums? That's
 16 what they'll have?
 17 MS. ELLIOTT:
 18 A. Um-hm. Um-hm.
 19 STAMP, Q.C.:
 20 Q. And they're looking at that aggregate for
 21 the gap in premium and this data here to try
 22 and see what needs to be done or can be done
 23 to close the gap between actual premium
 24 currently and required premium currently,
 25 correct?

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1 MS. ELLIOTT:
 2 A. Well, I don't want to overstep my bounds,
 3 but I would understand following what other
 4 boards have done in the past with reform
 5 changes as such, they'll focus on the Table
 6 1 information if they go with the cap, or
 7 Table 3 with the deductible to look at the
 8 percentage reduction in this case on the
 9 loss amounts.
 10 STAMP, Q.C.:
 11 Q. Yes.
 12 MS. ELLIOTT:
 13 A. And make a decision as to what they will
 14 find reasonable in the circumstance that
 15 they believe companies should use. And
 16 then, each individual company will have to
 17 support its rate change consideration,
 18 taking into account the reduction in costs
 19 that would be expected, the indemnity
 20 amounts to be paid. Yeah.
 21 STAMP, Q.C.:
 22 Q. Right. And so, if we had only one company
 23 instead of this aggregate, the group that
 24 we're looking at now, only the one company,
 25 we would be looking at—you know, this would

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1 be one company's expectation of reduction in
 2 premium and you'd have to compare that with
 3 the profitability for that one company –
 4 MS. ELLIOTT:
 5 A. Right, um-hm.
 6 STAMP, Q.C.:
 7 Q. - in the next report and that would tell you
 8 where the gap lies?
 9 MS. ELLIOTT:
 10 A. Right.
 11 STAMP, Q.C.:
 12 Q. Thank you. I'm almost finished I think,
 13 Madam Chair. Just give me a moment, please.
 14 Is there any distinction, Ms. Elliott, in
 15 whatever limitations exist in this data
 16 that's, you know, through GISA and IBC, that
 17 is available here, is there any distinction
 18 in this data and whatever limitations it
 19 contains and the data that was available to
 20 Nova Scotia and New Brunswick?
 21 MS. ELLIOTT:
 22 A. Not to my recollection, no. No.
 23 STAMP, Q.C.:
 24 Q. Would your report that you did in those
 25 jurisdictions like the one you're doing here

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1 and have done here, have similar sort of the
 2 qualifications?
 3 MS. ELLIOTT:
 4 A. Yes, yeah.
 5 STAMP, Q.C.:
 6 Q. Similar caveats or whatever the words are?
 7 MS. ELLIOTT:
 8 A. Yes, um-hm.
 9 STAMP, Q.C.:
 10 Q. Cautions?
 11 MS. ELLIOTT:
 12 A. Yeah.
 13 STAMP, Q.C.:
 14 Q. They don't change from jurisdiction to
 15 jurisdiction. You're just saying here what
 16 you say in all the jurisdictions?
 17 MS. ELLIOTT:
 18 A. It may not be verbatim, identical, but
 19 certainly the same.
 20 STAMP, Q.C.:
 21 Q. Certainly –
 22 MS. ELLIOTT:
 23 A. Yeah.
 24 STAMP, Q.C.:
 25 Q. The same tone and the –

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1 MS. ELLIOTT:
 2 A. Intent, yes.
 3 STAMP, Q.C.:
 4 Q. The same -
 5 MS. ELLIOTT:
 6 A. The same intent.
 7 STAMP, Q.C.:
 8 Q. Context, yes.
 9 MS. ELLIOTT:
 10 A. Yes.
 11 STAMP, Q.C.:
 12 Q. I want to ask you about the—if you could
 13 just turn to--perhaps page 8 of your report,
 14 Ms. Elliott, is a good place to go. And I
 15 know, of course you've told us you're an
 16 actuary and you told us a bunch of things
 17 that you're not, a claims adjuster for one.
 18 But I'm looking at the definition for minor
 19 personal injury which is a New Brunswick
 20 definition, and I gather that Prince Edward
 21 Island pretty closely follows it because the
 22 wording in both those definitions defines
 23 minor personal injury to mean, "The
 24 following injuries," and then there's a list
 25 of injuries, but it includes—"Including any

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1 clinically associated sequelae." Have I
 2 said that word right, "sequelae"?
 3 MS. ELLIOTT:
 4 A. I think so.
 5 STAMP, Q.C.:
 6 Q. So, tell me this. That's in their
 7 definition. What can you tell us, and I
 8 know you're an actuary, but what can you
 9 tell us—what is the meaning, what is the
 10 medical meaning of "including any clinically
 11 associated sequelae"?
 12 MS. ELLIOTT:
 13 A. Well, really, I really shouldn't be
 14 answering that because I am not a -
 15 STAMP, Q.C.:
 16 Q. Well, if you don't know, that's fine. If
 17 you can't answer, I understand.
 18 MS. ELLIOTT:
 19 A. Yeah, I'm not a medical expert. I just have
 20 my own, you know, personal understanding of
 21 that.
 22 STAMP, Q.C.:
 23 Q. Okay, so this is going to have to be
 24 determined by medical people, I take it?
 25 MS. ELLIOTT:

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1 A. Yes.
 2 STAMP, Q.C.:
 3 Q. Is that right?
 4 MS. ELLIOTT:
 5 A. Yes.
 6 STAMP, Q.C.:
 7 Q. And that language is not in the Nova Scotia
 8 definitions as we know?
 9 MS. ELLIOTT:
 10 A. Right.
 11 STAMP, Q.C.:
 12 Q. I think. Maybe we can just check that if
 13 you want. It's on the previous page, I
 14 believe.
 15 MS. ELLIOTT:
 16 A. Right, right.
 17 STAMP, Q.C.:
 18 Q. So that language is not there. Now, you
 19 know, you've heard some of the lawyers speak
 20 about our world and the world of judges,
 21 they look at legislation, every word has a
 22 meaning, we painfully go over every word,
 23 every phrase, so anybody who looks at this,
 24 you know, a judge who looks at this is going
 25 to want to know what this language has added

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1 to New Brunswick that was not included in
 2 Nova Scotia? Is that fair to say?
 3 MS. ELLIOTT:
 4 A. Yes, there are differences.
 5 STAMP, Q.C.:
 6 Q. Sure, right. And so my point, I guess, is
 7 that without knowing what that means,
 8 medically, and how it changes the
 9 definition, we don't know, we certainly
 10 don't know that Nova Scotia and New
 11 Brunswick are precisely the same?
 12 MS. ELLIOTT:
 13 A. That would be true for a number of reasons,
 14 we could look at the frequency rate between
 15 the two provinces.
 16 STAMP, Q.C.:
 17 Q. I just mean definition, though, I'm just
 18 focussed on definition.
 19 MS. ELLIOTT:
 20 A. Yeah, so there are a number of reasons when
 21 you read the words and then say what other
 22 information do I have that tells me they're
 23 not the same, that said, we did ask for
 24 information on the Closed Claims Study, you
 25 know, between the two definitions to assist

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1 us with that, but, yeah.
 2 STAMP, Q.C.:
 3 Q. But that's the one we looked at, I think it
 4 was yesterday and there was a lot of caution
 5 given to the claims' people to be careful
 6 with what they say there because it may be a
 7 very uncertain thing, a very judgmental
 8 thing and there was a lot of—I guess they
 9 were cautioned not to answer that if they
 10 didn't know the answer.
 11 MS. ELLIOTT:
 12 A. That's correct, yes.
 13 STAMP, Q.C.:
 14 Q. But certainly you will agree that the
 15 definition will decide who fits within it
 16 and who fits without?
 17 MS. ELLIOTT:
 18 A. Yes. So, yes, these definitions are
 19 similar, but they are not identical and
 20 there is some subtle differences between the
 21 two, yes.
 22 STAMP, Q.C.:
 23 Q. So in terms of that phrase in the New
 24 Brunswick, PEI regulations, you'd have to
 25 defer to a medical person to tell you what

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1 that meant?
 2 MS. ELLIOTT:
 3 A. Yeah, I would prefer to do that.
 4 STAMP, Q.C.:
 5 Q. Sure. Thank you, that's all my questions,
 6 Ms. Elliott. Thank you.
 7 MS. ELLIOTT:
 8 A. Thank you.
 9 STAMP, Q.C.:
 10 Q. Thank you, Madam Chair.
 11 CHAIR:
 12 Q. Thank you, Mr. Stamp. Mr. Browne or Mr.
 13 Wadden, who is—Mr. Browne?
 14 BROWNE, Q.C.:
 15 Q. Some questions, I want to focus on the
 16 deductible, a lot has been said about the
 17 cap, but on the deductible and the mandate
 18 was to maintain or increase the current
 19 \$2,500 deductible, page 19, the current
 20 deductible in amendment Section 6 of your
 21 report, page 19, is considering maintaining
 22 or increasing the current \$2,500 deductible
 23 on the non-pecuniary loss that is applied to
 24 all claimants and it referenced to
 25 increasing, there are various tables there

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1 in reference to that, but considering
 2 maintaining, have you any tables or any
 3 considerations if the current \$2,500
 4 deductible was maintained?
 5 MS. ELLIOTT:
 6 A. Well these aren't tables to say, for
 7 example, if the \$5,000 deductible was
 8 introduced, to apply to all claimants and
 9 just for argument sake there's no erosion,
 10 we accept the 4 percent change, we're saying
 11 that we believe total costs for claims
 12 should be reduced by 4 percent if it was a
 13 \$2,500 deductible, there's a change. If we
 14 don't change from \$2,500 to, and we just
 15 stay at \$2,500, well then there's no change
 16 to apply.
 17 BROWNE, Q.C.:
 18 Q. So it would be business as usual.
 19 MS. ELLIOTT:
 20 A. Business as usual, yes.
 21 BROWNE, Q.C.:
 22 Q. And, of course, the insured have actually
 23 been requesting some intervention here and
 24 that's why we're here, I guess, because of
 25 the escalating costs of insurance. People

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1 are looking either for a reduction in rates
 2 or at least rate stability and maintenance
 3 of the current \$2,500 deductible will
 4 probably not realize that for them, is that
 5 a fair comment, do you think?
 6 MS. ELLIOTT:
 7 A. Right, what is forcing premiums to go higher
 8 is where your average cost to settle a claim
 9 is increasing and in the case of bodily
 10 injury our estimate is approximately a 7
 11 percent per year increase in the average
 12 cost of a bodily injury claim from year to
 13 year. Offsetting that is the fact that as
 14 we've, you know, noted from the graphs, are
 15 the frequency, the number of claims per 1000
 16 cars insured is declining, so that's helping
 17 offset that 7 percent. So if there's no
 18 change to the \$2,500 deductible, we are
 19 going to continue to see an increase in
 20 costs.
 21 BROWNE, Q.C.:
 22 Q. Now in reference to the deductible, you've
 23 given certain figures in Table 7 and
 24 otherwise a reference to the \$5,000 if it
 25 was increased to \$5,000 or \$7,500 or

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1 \$10,000, but no doubt other jurisdictions
 2 have considered the deductible as well and
 3 when we look at the Atlantic provinces, they
 4 did not opt in to the deductible regime,
 5 they opted in to a capping regime. Do you
 6 anecdotally or otherwise have any comment on
 7 that, why that was done?
 8 MS. ELLIOTT:
 9 A. I don't know the policy reason behind that.
 10 Ontario does have a deductible but it's a
 11 very high deductible, so it's a very
 12 different threshold to meet. You know, the
 13 issue with a cap, as it was introduced in
 14 Nova Scotia and New Brunswick, held it fixed
 15 at \$2,500, so that really assisted between
 16 the frequency dropping and that lower level
 17 held really assisted in keeping their costs
 18 of their product low. Contra to that with a
 19 deductible, it's like here's your costs and
 20 we take this little bit off; whereas with a
 21 cap, it's here and it's limited, it wasn't
 22 indexed at the time, so there's quite a
 23 difference in the impact on the amount paid
 24 for non-pecuniary amount with a cap versus a
 25 deductible over time.

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1 BROWNE, Q.C.:
 2 Q. And of course, this is reflected in your
 3 tables, Table 7 and Table 5, what the
 4 possibilities are and there are other tables
 5 there as well. So in terms of the
 6 deductible, implicit in the fact that the
 7 other jurisdictions did not adopt the
 8 deductible, is it fair to comment that these
 9 jurisdictions did not see fit to do that
 10 because it wouldn't get the result that they
 11 desired in controlling costs, is that a fair
 12 comment?
 13 (1:00 p.m.)
 14 MS. ELLIOTT:
 15 A. I don't, certainly there would have been a
 16 policy reason for that. I don't recall what
 17 it was. Certainly we can see that the costs
 18 of bodily injury in Nova Scotia and New
 19 Brunswick is substantially less than in
 20 Newfoundland and they're on a different
 21 regime, and of course, there are other
 22 reasons for differences in costs, like
 23 traffic density and modes and weather and
 24 all those sorts of things, but certainly
 25 that product has lowered the cost of bodily

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1 injury claims in total per car there than
 2 the regime that was adopted in Newfoundland
 3 with the deductible.
 4 BROWNE, Q.C.:
 5 Q. With just the deductible.
 6 MS. ELLIOTT:
 7 A. Yeah.
 8 BROWNE, Q.C.:
 9 Q. In terms of Ontario, you mentioned there was
 10 a large deductible, the last time I looked,
 11 I thought it was, is it \$30,000?
 12 MS. ELLIOTT:
 13 A. Yes, it is and I think, I'm recalling
 14 whether it's indexed or not, but it's at
 15 least 30,000.
 16 BROWNE, Q.C.:
 17 Q. It's at least 30,000 and can you comment
 18 from your own experience and your knowledge
 19 of what effect that has had?
 20 MS. ELLIOTT:
 21 A. The Ontario system is quite different
 22 because they have a very broad accident
 23 benefits product. The cost of accident
 24 benefits is many, many times higher in
 25 Ontario than here, so it's like a no-fault

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1 product, so the claimants are compensated
 2 through the accident benefits and to the
 3 extent that they meet the thresholds, both
 4 with the \$30,000 limitation and then other
 5 verbal definitions, then they would go to
 6 tort, so the more serious claims would be
 7 going to tort. So it's quite different,
 8 they're not an "apples to apples"
 9 comparison.
 10 BROWNE, Q.C.:
 11 Q. And other than Ontario with the \$30,000
 12 deductible, subject to your comments, of
 13 course, are there other jurisdictions in
 14 Canada that have adopted a deductible regime
 15 instead of a cap regime, bearing in mind
 16 that some are public systems, we all know
 17 what these are.
 18 MS. ELLIOTT:
 19 A. Uh-hm. No, of course Alberta, as you
 20 probably well know, has a cap.
 21 BROWNE, Q.C.:
 22 Q. Pardon?
 23 MS. ELLIOTT:
 24 A. Alberta has a cap.
 25 BROWNE, Q.C.:

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1 Q. Alberta has a cap, yes.
 2 MR. ELLIOTT:
 3 A. But not a deductible that I can recall in
 4 the other provinces, yeah.
 5 BROWNE, Q.C.:
 6 Q. So even right now with our \$2,500
 7 deductible, we are an outlier from the Pan
 8 Canadian system.
 9 MS. ELLIOTT:
 10 A. Well, I cannot recall another—nothing comes
 11 to mind of another province with the same
 12 system, correct.
 13 BROWNE, Q.C.:
 14 Q. Okay, I have no further questions, but my
 15 colleague might have a question that has
 16 nothing to do with mine. It's just the
 17 system we've been going by previously, so –
 18 MR. WADDEN:
 19 Q. Paula, can you just flip to page 1 for me.
 20 It may seem like an obvious distinction,
 21 I'll reference it anyway, under the summary
 22 of "Key Findings", I'll shorten my reading
 23 of this, "The cap on the non-pecuniary loss
 24 for claimants with a minor injury"—and if
 25 you go down to .3—"would lead to a reduction

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1 in the total claims cost for the industry
 2 and commensurate reduction in required
 3 premiums." I just want to focus on the word
 4 "commensurate". I notice you didn't use the
 5 word "necessitate", you used "commensurate".
 6 My point being, if costs go down, that
 7 doesn't necessarily mean that the premiums
 8 are going to go down, that would be a choice
 9 of the insurer, correct?
 10 MS. ELLIOTT:
 11 A. The required premiums which are different
 12 than what is proposed or filed, but the
 13 required premiums, that when a calculation,
 14 if your losses go down and you want to
 15 estimate what is required with this regime,
 16 they would go down as well.
 17 MR. WADDEN:
 18 Q. Right. I suppose—I'll put it another way,
 19 if a cap, assuming for the moment that a cap
 20 was introduced, forgetting what cap that
 21 might be and that cap resulted in some cost
 22 savings for the insurer, that would not
 23 necessitate them passing those savings on to
 24 the insureds if they didn't choose to do so,
 25 is that right? Unless mandated, of course,

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1 by the Board or a government legislation.
 2 MS. ELLIOTT:
 3 A. Well, they would be required to take that
 4 reduction in claims costs into account in
 5 their rate application.
 6 MR. WADDEN:
 7 Q. Yes.
 8 MS. ELLIOTT:
 9 A. And so maybe the subtlety we're getting at
 10 here is would they be required if a reform
 11 was to occur, would they be required to file
 12 rates to reflect that and I don't know the
 13 answer to how any legislative change would
 14 be implemented.
 15 MR. WADDEN:
 16 Q. Right, okay. Can we flip to page 15 for a
 17 moment? This was discussed briefly earlier,
 18 I just want to get a better understanding of
 19 this. We're at page 15, I'm looking at .3,
 20 after the third paragraph, and you're
 21 talking about the methodology there that was
 22 used to estimate the percentage reduction on
 23 the average non-pecuniary loss, right, and
 24 there was a number of things done. One of
 25 the things done, No. 3, was "projected claim

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1 amount paid under each head of damages for
 2 each individual claimant to a common
 3 accident date of July 1, 2017." Can you
 4 just elaborate on that process for me? I
 5 appreciate it's described somewhat later on
 6 when you give a few lines on step 3. Just
 7 tell me about that. That was essentially,
 8 put it simply, a closed claim file and
 9 you're re-evaluating your claim.
 10 MS. ELLIOTT:
 11 A. Sure. The claim might have occurred in 2010
 12 and maybe the bulk of all the payments have
 13 been made and that there were some, some
 14 issue and it didn't get closed until January
 15 1, 2017. So we take the costs that have
 16 been paid for that claim that occurred back
 17 in 2010 and project them forward to the cost
 18 level which we, on average we estimate costs
 19 are going up for bodily injury by 7 percent
 20 a year, so we take the date of that claim
 21 occurring and project those costs for each
 22 of the heads of damage, project them all to
 23 the cost level, July 1, 2017, using an
 24 annual trend rate of 7 percent a year, and
 25 we do that for each and every claimant. And

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1 then we have the database that we have here
 2 for all these claimants all at a cost level
 3 that is the same, so that when we calculate
 4 the percentage reduction in cost with the
 5 caps that are under consideration, it's all
 6 at a common cost level.
 7 MR. WADDEN:
 8 Q. Okay, that process though of projecting that
 9 claim amount, so I'm clear, would that have
 10 involved going back and looking at, I know
 11 you wouldn't be doing this, but when the
 12 information was created, actually looking at
 13 the file or just looking at the numbers that
 14 came out, settlement or closing those files?
 15 MS. ELLIOTT:
 16 A. Well we know how much is paid on each head
 17 of damage. We know when the claim occurred,
 18 the date of it and so, that's in the file,
 19 information that we have and so we just
 20 forecast, project forward, rather, the costs
 21 at a common date.
 22 MR. WADDEN:
 23 Q. Okay, I must have misunderstood because I'm
 24 just wondering, I thought that part of the
 25 process involved you going back or rather

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1 perhaps the insurer or IBC going back and
 2 determining whether or not a given closed
 3 file would have fallen within a minor injury
 4 definition?
 5 MS. ELLIOTT:
 6 A. No, our first step is all the files were
 7 projected forward the cost to one common
 8 date. Like, for example, if I had a cost
 9 that was essentially occurred in maybe 2010
 10 and what its costs were, it's not comparable
 11 to another claim that might have been paid
 12 in or occurred in 2016 because costs go up
 13 over time.
 14 MR. WADDEN:
 15 Q. Yes.
 16 MS. ELLIOTT:
 17 A. So I want to bring all this data, all these
 18 1741 claimant files to the same cost level.
 19 MR. WADDEN:
 20 Q. At what point though would the files that
 21 were looked upon and sort of reviewed to
 22 determine whether or not the given files
 23 would have fallen within the minor injury
 24 definitions you were looking at, whether it
 25 be –

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1 MS. ELLIOTT:
 2 A. That was the next step.
 3 MR. WADDEN:
 4 Q. That was the next step, okay.
 5 MS. ELLIOTT:
 6 A. Right.
 7 MR. WADDEN:
 8 Q. Can you talk to me briefly about that
 9 process, how that worked, how that was done?
 10 MS. ELLIOTT:
 11 A. Yes, so within the data file for each, I'm
 12 being rather animated here, but they're on
 13 long records and they are the 35 injury
 14 types that were listed and in each of those
 15 files, it's indicated which of the injuries
 16 that that claimant would have suffered from,
 17 and so we read that file and we're looking,
 18 say for definition one, did it meet any of
 19 the, I think there are eight injury types
 20 called Class 1, and we're looking to see if
 21 one of those, one or more of those injuries
 22 occurred in the Class 1 definition and no
 23 other injury, if another injury occurred in
 24 Class 2, then we would reject that, it
 25 wouldn't be called minor, so –

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1 MR. WADDEN:
 2 Q. When you say "we" –
 3 MS. ELLIOTT:
 4 A. My analysts are, in programming.
 5 MR. WADDEN:
 6 Q. Right, your analysts, okay.
 7 MS. ELLIOTT:
 8 A. So we would go through, we regard the
 9 program to read that data and pick those
 10 files that meet the definitions.
 11 MR. WADDEN:
 12 Q. Okay, there's a program that does it.
 13 MS. ELLIOTT:
 14 A. Yes, a big Excel file. It would be a
 15 typical piece of work that we would do. We
 16 have done this before with other Closed
 17 Claims Studies, that's how we would do it,
 18 it's not our first time doing this approach.
 19 MR. WADDEN:
 20 Q. Right, okay. Would you agree with me that
 21 the evaluation of whether a particular
 22 closed claim file would have fallen into a
 23 minor injury definition would have an
 24 element of subjectivity to it?
 25 MS. ELLIOTT:

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1 A. Absolutely. It is very hard to nail down,
 2 looking at data as we're looking at it, and
 3 we've articulated our basis for identifying,
 4 we put three definitions that we think are
 5 perhaps possible forth, but and I think you
 6 can allude to the question that we had for
 7 the adjusters as they were completing it,
 8 does this meet the New Brunswick or the Nova
 9 Scotia definition? And there was some that
 10 they could readily say yes; some they could
 11 say no; and some that, ah, you know, we
 12 need to do more work, we're not really sure.
 13 So I think I'd speak to the fact that it's
 14 not always black and white with what you
 15 have. So yeah, it's difficult to do and the
 16 more clear and definitive the definition
 17 would be, that if the government choses to
 18 say, you know, these specific injury types
 19 you will be, you know, and you won't or
 20 whatever, the clearer it is and the easier
 21 it is to calculate what that cost change
 22 might be, but yeah, we have a range provided
 23 and, you know, we think it's a reasonable
 24 range, but we could be, you know, we could
 25 be outside our range when the actual data

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1 emerges.
 2 MR. WADDEN:
 3 Q. Paula, I'd suggest to you the clearer and
 4 more lengthy the definition is, the more we,
 5 as lawyers, would find ways to interpret it
 6 differently, but that's an aside. Okay, I
 7 just wanted to get an understanding how that
 8 process worked. Can we have a quick look
 9 at—well it's not a particular page really,
 10 throughout the report and as I was going
 11 through it, I kept writing down, I just kept
 12 writing "why?", "why?", every time you
 13 mentioned the propensity or the lack of
 14 propensity, rather, for people to report a
 15 claim when they are under a cap regime,
 16 right. It's mentioned a number of times in
 17 the report, I think it's gone into a little
 18 more extensively at page 20. I know, I'm
 19 sure Mr. Stamp asked you about it, I know
 20 Mr. Feltham asked you about it, so did Mr.
 21 Gittens. I'm not going to belabour it, I'm
 22 just going to come at it from a slightly
 23 different angle.
 24 MS. ELLIOTT:
 25 A. Sure.

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1 MR. WADDEN:
 2 Q. First of all, can you just tell me
 3 succinctly why, why is there a lack of
 4 propensity, rather, for people to report a
 5 claim when they're under a cap regime?
 6 MS. ELLIOTT:
 7 A. And I think it's an individual, clearly,
 8 decision and I think depending upon your
 9 situation and what might be entailed in
 10 pursuing that claim and your time
 11 availability and your injury severity, you
 12 may not feel that the time and effort for
 13 that cap amount is worth your time; you're
 14 just not injured that severely, so I assume
 15 it's related to what the award amount would
 16 be.
 17 MR. WADDEN:
 18 Q. What they may have access to.
 19 MS. ELLIOTT:
 20 A. And the value of your time that you, as an
 21 individual, you may be very busy and that's
 22 not worth it to you; other individuals it
 23 is, they want to pursue it, so –
 24 MR. WADDEN:
 25 Q. Right, I think the words you used a few

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1 minutes ago when you were speaking to Mr.
 2 Stamp was that it's very difficult to
 3 essentially predict consumer heads –
 4 MS. ELLIOTT:
 5 A. And that's what is occurring, yeah.
 6 MR. WADDEN:
 7 Q. And while you're, I suppose, somewhat in the
 8 prediction business, you're not in the
 9 business of predicting what consumers will
 10 do, right? You just use the numbers.
 11 MS. ELLIOTT:
 12 A. Right, we use the numbers to calculate
 13 averages and forecast numbers and now we're
 14 looking back in hindsight at the change in
 15 the frequency rate in Nova Scotia and New
 16 Brunswick to take that into consideration
 17 what happened in those provinces when they
 18 had reforms and how the frequency changed at
 19 those points in time just to give some
 20 consideration to it. So, you know, when you
 21 presented a table with the four, 0, 5, 10,
 22 15 as something to consider, that there may
 23 be a frequency impact.
 24 (1:15 p.m.)
 25 MR. WADDEN:

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1 Q. Okay. So when you make these comments in
 2 the report and again, please understand,
 3 Paula, this is not a criticism, we're just
 4 trying to understand everything that's said
 5 in there so we can know what weight to give
 6 to what when we're making our
 7 recommendations for the consumers.
 8 MS. ELLIOTT:
 9 A. Uh-hm.
 10 MR. WADDEN:
 11 Q. When you make these comments in the report,
 12 and this one in particular that there is a
 13 lack of propensity for the consumer to go
 14 ahead or the claimant, rather, and, or the
 15 injury, to make a claim under a cap regime,
 16 in doing that, you're not factoring in what
 17 I would call the human factor, human
 18 behaviour, you're just looking at the
 19 numbers, right?
 20 MS. ELLIOTT:
 21 A. Well the percentages that we're presenting
 22 as the frequency rate change, we are trying
 23 to take into account that there could be
 24 some consumer behaviour change associated
 25 with it.

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1 MR. WADDEN:
 2 Q. Okay, all right. So this is, in part,
 3 somewhat of an informal proceeding, so I'm
 4 going to take advantage of that for the
 5 moment to the extent that I can.
 6 Newfoundlanders, I think most people in the
 7 room would agree are a unique group, okay.
 8 You know, we're probably the only place in
 9 the world where Coke under sells Pepsi,
 10 which I never understood. I know for a fact
 11 we're the only place in the world, we're the
 12 reason actually, that Maple Leaf still makes
 13 Vienna Sausages because nobody else buys
 14 them.
 15 MS. ELLIOTT:
 16 A. Okay, all right.
 17 MR. WADDEN:
 18 Q. We have our own time zone, in fact, we love
 19 it so much, we doubled it up in the mid
 20 '80s, so the behaviours here, I would
 21 suggest to you, can oftentimes be quite
 22 different than they are anywhere else in the
 23 country. So is there a way through an
 24 actuary report when you're making these
 25 determinations of behaviour and you have

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1 made a behavioural determination here in
 2 terms of propensity to report a claim, is
 3 there a way for you to factor in human
 4 behaviour from any sort of jurisdictional
 5 point of view, or is that just not something
 6 you can do?
 7 MS. ELLIOTT:
 8 A. It's certainly something I cannot do. I
 9 don't think I—my intent here was to, I
 10 believed it would be appropriate to present
 11 the idea that consumer behaviour may change
 12 with the introduction of a cap, and that
 13 it's a consideration. I'm not able to
 14 definitively say by any stretch what that
 15 change in frequency rate might be due to the
 16 introduction of the cap, but I think it's
 17 appropriate to suggest that that is a
 18 plausible idea that the frequency rate may
 19 change with the cap, but I do not know how,
 20 you know, maybe there would be more claims
 21 in Newfoundland, I don't know.
 22 MR. WADDEN:
 23 Q. Well you just went to my next point,
 24 notwithstanding what seems to have happened
 25 or appears to have happened in Nova Scotia

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1 and New Brunswick, it's possible, I suppose
 2 that if a cap regime were implemented that
 3 propensity to report a claim might go up, we
 4 don't know, do we?
 5 MS. ELLIOTT:
 6 A. No, I mean, anything is possible of course,
 7 yeah.
 8 MR. WADDEN:
 9 Q. Okay. If we could just go to page 17
 10 briefly, Mr. Feltham was asking you about
 11 this, the reduction in claims handling costs
 12 and you were quite clear yesterday when I
 13 asked you about claims handling costs and I
 14 was factoring in, not just outside adjusters
 15 but also outside legal costs, things, like
 16 that, even in-house counsel, things like
 17 that as well, hey?
 18 MS. ELLIOTT:
 19 A. Uh-hm.
 20 MR. WADDEN:
 21 Q. You say there, under step 5, "We also assume
 22 that there will be some reduction to the
 23 claims handling expense costs with the
 24 introduction of a cap on non-pecuniary
 25 lost." I appreciate your analysis is in the

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1 aggregate, but did you look at other
 2 jurisdictions, I guess we'll use Nova Scotia
 3 and New Brunswick. Was it the case that
 4 claims costs went down very soon after the
 5 institution of a cap, or did they sort of go
 6 up initially and then go down? How did that
 7 work?
 8 MS. ELLIOTT:
 9 A. Well they did go down, coincident with the
 10 introduction of the cap, for sure, that
 11 lined up. There is, I'll just call it a bit
 12 of a learning curve in any process and the
 13 interpretation of the minor injury
 14 definition.
 15 MR. WADDEN:
 16 Q. Yes.
 17 MS. ELLIOTT:
 18 A. But there certainly was a shift down in
 19 costs with the introduction of the caps,
 20 yeah.
 21 MR. WADDEN:
 22 Q. Okay, but no initial spike and you just
 23 referenced a learning curve and I guess
 24 where my mind is going, I'm working under
 25 the assumption that when, in any

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1 jurisdiction when a cap first comes in, a
 2 minor injury definition is introduced,
 3 there's initially, for a period, going to be
 4 some debate as between the bar and
 5 adjusters, perhaps various applications,
 6 court cases, coming up with specific
 7 definition of the definition. Everyone
 8 settling on what it really means.
 9 MS. ELLIOTT:
 10 A. Yes, and I think what happens is there's
 11 going to be some pretty clear cut situations
 12 that they, you know, just like the New
 13 Brunswick, Nova Scotia, is it or isn't it a
 14 minor, right.
 15 MR. WADDEN:
 16 Q. Right.
 17 MS. ELLIOTT:
 18 A. So there would be some that are very clear
 19 that they are, they meet the definition,
 20 it's not grey at all, and then others where
 21 it's very clear they do not meet the
 22 definition and then there's that middle
 23 area, it's a bit grey, you know, maybe it
 24 is, maybe it isn't, and yes, there would be
 25 a curve when something is introduced, as

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1 staff have to get trained and their
 2 interpretation of it, yeah, there's a
 3 process. But that's not to say that you
 4 don't see a drop and then there can be in
 5 those costs, average costs, and then some
 6 shifting, you know, after, yeah.
 7 MR. WADDEN:
 8 Q. I guess just as we said it was possible that
 9 people reporting claims under a cap regime
 10 if it was instituted here in Newfoundland it
 11 could go up, is it also possible that
 12 adjusting costs could go up here as well,
 13 instead of going down? Like, something
 14 different could happen here?
 15 MS. ELLIOTT:
 16 A. Certainly it's poss—it's not what we have
 17 seen. When you have more claims, a chunk of
 18 claims that are now, let's say that it is
 19 very clear that they meet the minor injury
 20 definition, it's not in that grey maybe, you
 21 know, maybe they do, maybe they don't, that
 22 it's now this new bucket of claims that are
 23 very clearly would meet the minor injury
 24 definition, they're going to be easier to
 25 settle on that context. Then there will be

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1 the, perhaps as you say, the ones that we're
 2 not sure and they're going to have to
 3 determine it, maybe those costs might be
 4 more, but, yeah, with or without the
 5 adjustment for the allocated loss adjustment
 6 expense, that proportion of savings is not
 7 that material to our findings. We present
 8 in our chart the savings before—I can pull
 9 that up, maybe that would be helpful, in
 10 Appendix (2). So it's page 32 of the PDF
 11 counting, so when we looked at the
 12 percentage savings, all claimants, go to the
 13 bottom row, the far right corner we had 24.3
 14 percent for this definition one, for \$5,000
 15 cap, and if you move over two columns to the
 16 left, there's a 25.3 percent, that's a
 17 savings without any inclusion of these
 18 reduction in costs that might be expected
 19 with the allocated loss adjustment expense,
 20 so within the range of percentage
 21 reductions, 25, 24 are very similar. So
 22 even if you ignore, assume there's no change
 23 in the allocated loss adjustment expense,
 24 that's the percentage indemnity reduction
 25 that we're looking at.

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1 MR. WADDEN:
 2 Q. Okay. Thank you, Paula.
 3 CHAIR:
 4 Q. Thank you, Mr. Wadden, Mr. Browne.
 5 COMMISSIONER OXFORD:
 6 Q. No questions.
 7 CHAIR:
 8 Q. Okay, and I have no questions. Thank you,
 9 Paula.
 10 MS. GLYNN:
 11 Q. Well, it's 1:25 Madam.
 12 CHAIR:
 13 Q. What's the wish of the room? We can take a
 14 short break and proceed, or we can start
 15 questioning in the morning.
 16 MS. GLYNN:
 17 Q. A reminder that we only have from 9 to 12
 18 tomorrow morning.
 19 BROWNE, Q.C.:
 20 Q. What's being proposed? I'm missing this.
 21 MS. GLYNN:
 22 Q. The Chairperson is proposing that we could
 23 take a short break and continue on for a bit
 24 of time today, or we could start fresh in
 25 the morning.

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1 MR. FELTHAM:
 2 Q. How much time?
 3 MS. GLYNN:
 4 Q. Perhaps we could get Ms. Elliott's
 5 presentation in.
 6 MR. WADDEN:
 7 Q. How does the witness feel about that?
 8 CHAIR:
 9 Q. Well, that would be my next question.
 10 BROWNE, Q.C.:
 11 Q. Five hours for the witness.
 12 A.
 13 MS. ELLIOTT:
 14 A. Well, I am departing tomorrow at noon and
 15 I'm more than happy to help with the process
 16 through to completion when we end at noon
 17 tomorrow, so I'm happy to do whatever is
 18 required.
 19 MS. GLYNN:
 20 Q. No strong feelings out there, is there?
 21 STAMP, Q.C.:
 22 Q. I'm assuming that the fifteen minutes or the
 23 twenty minutes that it might take, I don't
 24 know how long Ms. Elliott plans to take to
 25 present that, but if that's the only amount

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1 that we're going to save, it's unlikely to
 2 be the key to the whole thing being solved
 3 by 12 tomorrow or not. I don't think that's
 4 going to work, so I would suggest, in
 5 fairness to Ms. Elliott who has been –
 6 CHAIR:
 7 Q. We'll let her go.
 8 STAMP, Q.C.:
 9 Q. - doing all the hard work.
 10 CHAIR:
 11 Q. I will suggest perhaps what we will do
 12 tomorrow is just take a shorter break,
 13 fifteen minutes or so, that might make up
 14 the difference. So we'll start again
 15 tomorrow at 9.
 16 BROWNE, Q.C.:
 17 Q. Chair, we could start at 8:45 or something
 18 too.
 19 CHAIR:
 20 Q. I'll have Ms. Glynn canvass the parties,
 21 we're available.
 22 MS. GLYNN:
 23 Q. Okay, Paula.
 24 MS. ELLIOTT:
 25 A. Thank you.

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1 CHAIR:
 2 Q. Thank you everybody, we'll see you in the
 3 morning.
 4 Upon concluding at 1:26 p.m.
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 15
 16 **CERTIFICATE**
 17
 18 I, Judy Moss, hereby certify that the foregoing is a
 19 true and correct transcript of the 2017 Automobile
 20 Insurance Review hearing, heard on the 7th day of June,
 21 2018 before the Board of Commissioners of Public
 22 Utilities, 120 Torbay Road, St. John's, Newfoundland
 23 and Labrador and was transcribed by me to the best of
 24 my ability by means of a sound apparatus.
 25

Dated at St. John's, Newfoundland and Labrador this
7th day of June, 2018.

Judy Moss

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