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1 A. Uh-huh, yeah.  
2 Q. Where did you see a white board with numbers?  
3 MR. SHEA: Objection to form.  
4 THE WITNESS: Tom, in the office of Tom  
5 -- I can't pronounce his name now, Lamar, Tom Lamar.  
6 BY MR. DARRAS:  
7 Q. The numbers that you saw on the white board  
8 in Tom Lamar, the consultant's office or cubby,  
9 measured what?  
10 MR. SHEA: Objection to form.  
11 THE WITNESS: I had seen the numbers  
12 before when I had gone to a team meeting with David  
13 Solomon where he would go through and tell the folks  
14 that we were a million off but we could make up the  
15 million over the next week or so. And, you know, I  
16 didn't -- I mean, I would only pass in and out of Tom  
17 Lamar's office because he wanted me to look at a  
18 surveillance or he wanted to talk to me about a case or  
19 something. And so I just passed by it, and I would be  
20 mostly paying attention to him, so I didn't  
21 actually -- I looked at the numbers, I -- they looked  
22 as if they were the same kind of numbers as David  
23 Solomon, but they weren't -- I didn't look closely and  
24 say that's, that exact number, because that would be  
25 rude. I don't nose around people's cubicles sort of

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1 trying to find out --  
2 MR. SHEA: Motion to strike.  
3 BY MR. DARRAS:  
4 Q. The one million dollar number that you  
5 mentioned was off, what did that relate to?  
6 MR. SHEA: Objection to form.  
7 THE WITNESS: Well, the reserves were  
8 -- you know, I don't totally understand the insurance  
9 industry because I'm not totally -- I'm not an  
10 insurance executive, really, and -- but they appeared  
11 to me to be the amount of the reserve that the premium  
12 that they wanted to pay back for that month.  
13 MR. SHEA: Motion to strike.  
14 BY MR. DARRAS:  
15 Q. Let's go back -- let's go and let's define  
16 the word reserve. What's your understanding of what  
17 that means, what is a reserve?  
18 A. Reserve is the amount of money an insurance  
19 company or a bank indeed has to have to allow them to  
20 pay their claims.  
21 Q. So the million dollars that you referred to  
22 earlier, was that a million dollars' worth of claim  
23 closures that Mr. Solomon suggested that the unit was  
24 off for the month?  
25 MR. SHEA: Objection, to form, leading.

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1 THE WITNESS: Yes, it was the number of  
2 resolutions as it was called, that you had to meet a  
3 certain -- not so much amount of resolution but total  
4 resolutions or you wouldn't meet the goals that had  
5 been set by, in his case, it was Rob Hecker.  
6 BY MR. DARRAS:  
7 Q. The white board which had numbers on it, what  
8 was your understanding if any as to what the numbers on  
9 the board meant?  
10 MR. SHEA: Objection to form.  
11 THE WITNESS: That it was the individual  
12 --  
13 MR. SHEA: Asked and answered.  
14 THE WITNESS: Individual claimant, an  
15 individual claim representative or claim handler, that,  
16 you know, that that was there -- well, I don't say if  
17 it was part of their performance, I don't know, except  
18 that that is what -- they had to present what they  
19 hoped to achieve every month, and that was kind of a  
20 reminder of what they had to achieve, I believe.  
21 MR. SHEA: Motion to strike.  
22 BY MR. DARRAS:  
23 Q. David Solomon was one of the consultants for  
24 the impairment unit?  
25 A. Yes.

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1 Q. Tom Lamar was also a consultant for --  
2 A. No, I'm sorry, David Solomon was a --  
3 Q. Director?  
4 A. Director. Tom Lamar reported to David  
5 Solomon.  
6 Q. And did you actually see a white board with  
7 claim handler's names on it with insureds' names as  
8 well?  
9 MR. SHEA: Objection to form.  
10 THE WITNESS: Well, what I saw, which I  
11 just happened to see, was -- actually I believe it  
12 was sent to me, was a spreadsheet of what each claimant  
13 was going to produce that month or had produced, I'm  
14 not sure which. Let me see if I --  
15 MR. SHEA: Motion to strike  
16 BY MR. DARRAS:  
17 Q. You saw some spreadsheet that listed the  
18 claim handler's name and to the side of that was the  
19 insured's claim number and the reserve that was going  
20 to be released?  
21 MR. SHEA: Objection  
22 BY MR. DARRAS:  
23 Q. Did I hear you right?  
24 MR. SHEA: Objection as to form  
25 THE WITNESS: Yes, and the total of what

<p style="text-align: right;">Page 154</p> <p>1 that reserve that would be met for that month. That's 2 what it looked like to me anyway. 3 MR. SHEA: Objection, motion to strike. 4 BY MR. DARRAS: 5 Q. Let me have you take a look at what we've 6 marked as Exhibit 6. 7 MR. BURNETTE: That's the document that 8 I had supplied to them that I redacted the names of the 9 individual claimants from so that you all wouldn't have 10 the names of the claimants on the document. I have the 11 original here that actually has the names of the 12 claimants, but you all had wanted to preserve the 13 identity of the insureds. So if -- I mean, you know, 14 I have the original that has the name of the insureds 15 as well and I have provided to you all but not to 16 plaintiff's counsel, whereas I provided to 17 UnumProvident's attorneys but not to the plaintiffs' 18 counsels. 19 MR. SHEA: My only concern is to have a 20 copy of this document while the examination proceeds. 21 MR. DARRAS: I would love to give you 22 one, counsel. I have two copies, so what we need to do 23 is -- yeah, we can get an additional copy there. 24 Have you looked at the document now? Actually -- 25 MR. SHEA: Why don't we just get it</p>	<p style="text-align: right;">Page 156</p> <p>1 Q. All right. 2 A. And yes, my interpretation was these were the 3 claim numbers, the numbers, the numbers, everybody 4 talked about the numbers for December. And I explained 5 it to myself, I wrote dollar amounts equal reserves. 6 MR. SHEA: Motion to strike. 7 BY MR. DARRAS: 8 Q. And the dollar amount equaling reserves at 9 the top, what was your understanding of what that 10 meant, was that the savings to the company when the 11 claims were going to be closed or something different? 12 MR. SHEA: Object to the form. 13 THE WITNESS: No, it was -- savings is 14 not a good word to use. It's cost containment amount. 15 It's the amount that you can -- amount of claims you 16 can deny and, therefore, not have to pay the reserve on 17 that claim. 18 MR. SHEA: Motion to strike. 19 BY MR. DARRAS: 20 Q. Let's do it differently. Under that first 21 column, there are some names, and on the document there 22 are six names. Boles -- seven names. Boothby, Carter, 23 Estes, Foster, and I can't read the other one. 24 A. Kettnering. 25 Q. Who were those people?</p>
<p style="text-align: right;">Page 155</p> <p>1 copied? 2 BY MR. DARRAS: 3 Q. Dr. McSharry, I'm going to hand you the only 4 copy of the document that I have. Earlier when you 5 were talking about the target for the month, does this 6 document have anything to do with that testimony? 7 MR. SHEA: Object to the form. 8 THE WITNESS: Yes, this would be what 9 David Solomon would talk at the team meeting about 10 target, this is that final figure, \$1,098,748 is 11 the -- I believe. I mean, I'm not -- I wasn't part 12 of the claims numbers team, but from my interpretation, 13 this is what I saw. 14 MR. SHEA: Motion to strike 15 BY MR. DARRAS: 16 Q. Let's go ahead and identify the document 17 What is the document? 18 MR. SHEA: Object to the form. 19 THE WITNESS: The document is -- I have 20 written some things on it, because when I just came 21 across it initially and I photocopied it I never took 22 anything away from UnumProvident without -- you know, 23 it was a copy whenever I copied something, whenever I 24 took something away. 25 BY MR. DARRAS:</p>	<p style="text-align: right;">Page 157</p> <p>1 A. They were the claims representatives that I 2 worked closely with. 3 Q. And at the top of the document, there's a 4 line for claim number, and what was your understanding 5 of what would go there? 6 MR. SHEA: Object to the form. 7 BY MR. DARRAS: 8 Q. If anything? 9 A. Well, there were all the claim numbers of the 10 individual claimants. 11 Q. All right. And in terms of the name, what 12 was your understanding if any as to what went under the 13 name? 14 MR. SHEA: Object to the form. 15 THE WITNESS: It was the number 16 BY MR. DARRAS: 17 Q. The claim number related to the insured? 18 MR. SHEA: Object to the form. 19 THE WITNESS: Yes, I think it was the 20 universal number that they would continue to be 21 assigned by UnumProvident to handle their claim. That 22 was their claim number 23 BY MR. DARRAS: 24 Q. And there's two amount numbers. There's an 25 amount, for instance, at the top of 162,702, and then</p>

FILE DOCUMENT ION

1. We should make sure that our claim file is document in such a way a

A. that it proves whatever we are saying.

B. that everything should be in writing.

C. that everything is from the logical source for the information. ex. medical records from: doctors + hospital  
income → from claimant's tax return records

2. We should make sure that we do not have anything in our claim files that could be used against the company if the file winds up in court; such as statements: CLAIMANT is crook

3. When we obtain medical information, we should request it from ALL SOURCES AVAILABLE TO US, + NOT FROM ONE SOURCE

[AND IT SHOWS THAT PROVI IS GETTING ALL THE INFORMATION IN ORDER TO MAKE A GOOD DECISION]

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
Case No. C97 4646 SC  
PLAINTIFF Exhibit No. 440  
Date Entered: 4/21/99  
RICHARD W. WIERING, CLERK  
BY: T. O. M. J.

AKO944

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## Provident Internal Memorandum

To: Tom Heys  
From: Ralph McInney  
Date: July 17, 1995  
Re: Individual Disability Claims - Monthly Report

### Claim Results

As reflected in the attached Exhibit I, claim results were outstanding in June. New claims declined to the lowest level this year, reopens were at the lowest level in the last four years and claim terminations were at the highest level in the last year.

Strong results in both May and June contributed to a record quarter. The attached Exhibit II reflects quarterly results for the past five quarters. Exhibit III provides a graphical presentation of this data over the last six quarters.

- New claims of \$147.0 million were \$3.2 million (5.9%) above the previous four quarter average. Higher claim size (due principally to larger monthly indemnities) accounted for the increase as the number of new claims actually declined 3%. Excluding the seasonally low fourth quarter, new claims were up only \$1.3 million (.9%). Exhibit IV reflects a profile of new claims for 1995 and 1996.
- Reopens declined to \$23.0 million - the lowest level for which we have comparable data (last four years) and \$9.0 million (26%) below the previous four quarter average. As a percentage of terminations, second quarter reopens were 14% compared to 26% in all of 1995. The continued improvement in the reopen ratio reflects a higher quality of claim terminations.
- Terminations reached a record level of \$166.7 million, up \$16.5 million (11%) from the previous fourth quarter average. The size of terminated claims was up 9% while the number of terminations increased 2%.
- At \$38.6 million, the tabular change was \$5.6 million (13%) below the previous four quarter average.

Obviously, we are pleased with second quarter results. These results represent a return on the investments which have been made over the last 13 months to improve our claim effectiveness. As such, we believe they are sustainable and that the momentum of the last six quarters will continue into the third quarter of 1995.

As reflected in the attached Exhibit V, on a year-to-date basis, net terminations are up \$91.4 million (51%) while new claims are up only \$6.7 million (2%) compared to the first half of 1995.

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EXHIBIT

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