

1        **Compensation Board Meeting Minutes**

2        **Date:**                    **Tuesday; September 15, 2020**  
3        **Location:**                **328 State Street; Schenectady, NY**  
4        **Time:**                     **WebEx/Live Broadcast**  
5        **10:00 a.m.**

6        **MEMBERS OF THE BOARD**

7        Clarissa M. Rodriguez, Chair  
8        Freida Foster, Vice Chair  
9        Ellen O. Paprocki  
10       Mark Higgins  
11       Loren Lobban, Esq.  
12       Samuel G. Williams  
13       Linda Hull  
14       Fredrick M. Ausili, Esq.  
15       Steven A. Crain, Esq.  
16       Mark R. Stasko  
17       Arelis Tavares (absent)  
18       Martin M. Dilan  
19       Pamela Caggianelli

20       **SECRETARY TO THE BOARD**

21       Kim McCaroll

22       **GENERAL COUNSEL**

23       David Wertheim, Esq.

24       **SPECIAL COUNSEL**

25       Elizabeth Lott, Esq.

26       **ALSO PRESENT**

27       Joseph Cavalcante - Advocate for Injured Workers  
28       Patrick Cremo - Associate Counsel  
29       Michael Gifford - Media Specialist  
30       Melissa Stewart - Public Information Officer  
31       Mary Beth Woods - Executive Director  
32       Steven Smith - Deputy Executive Director  
33       Natacha Carbajal-Evangelista - Deputy Director of  
34       Regulatory Affairs  
35       Omotolani Elumade - Assistant to Deputy Director of  
36       Regulatory Affairs  
37       Neil Gilberg - Advocate for Business

38       **SPECIAL GUESTS**

39       Jeremy Attie, President  
40       Ziv Kimmel, Senior Vice President & Chief Actuary  
41       New York Compensation Rating Board (NYCIRB)

1 CLARISSA RODRIGUEZ: Good morning everyone,  
2 and thank you for joining us today. I am  
3 Clarissa Rodriguez, Chair of the New York State  
4 Workers' Compensation Board. Due to the Coronavirus  
5 pandemic and State regulations on social distancing,  
6 today's Board meeting is being conducted remotely from  
7 various locations throughout the State of New -- of  
8 New York. This meeting is also being webcast live for  
9 members of the public.

10 Board members, please be reminded that there's a  
11 slight pause in audio transmission. Also, please  
12 state your full name each time you speak. Now, I have  
13 the honor of calling the 991st meeting of the Board to  
14 order. Madame Secretary, will you please call  
15 attendance?

16 KIM MCCARROLL: Yes, Madame Chair. Vice  
17 Chair Foster.

18 FREIDA FOSTER: Here.

19 KIM MCCARROLL: Board Member Paprocki. Board  
20 Member Paprocki. It seems -- I can see Board Member  
21 Paprocki but I cannot hear any sound. We'll come back  
22 to that. Board Member Higgins. Clarissa, you're on  
23 mute. Can you hear me?

24 CLARISSA RODRIGUEZ: Oh, sor -- my

1           apologies.  Yes, Kim, maybe you can go ahead and  
2           unmute them.  See if that works.

3                   KIM MCCARROLL:        Okay.  Board Member  
4           Paprocki.  Board Member Higgins.

5                   MARK HIGGINS:        Board Member Higgins present.

6                   KIM MCCARROLL:        Board Member Lobban.

7                   LOREN LOBBAN:        Board Member Lobban here.

8                   KIM MCCARROLL:        Board Member Williams.

9                   SAMUEL WILLIAMS:       Board Member Williams  
10          here.

11                  KIM MCCARROLL:        Board Member Hull.

12                  LINDA HULL:        Board Member Hull here.

13                  KIM MCCARROLL:        Board Member Ausili.

14                  FREDRICK AUSILI:        Board Member Ausili here.

15                  KIM MCCARROLL:        Board Member Crain.

16                  STEVEN CRAIN:        Board Member Crain here.

17                  KIM MCCARROLL:        Board Member Stasko.

18                  MARK STASKO:        Board Member Stasko here.

19                  KIM MCCARROLL:        Board Member Tavares.  Okay.  
20          I believe she's absent.  I don't see her present on  
21          the screen.  Board Member Caggianelli.

22                   PAMELA CAGGIANELLI:        Board Member  
23          Caggianelli here.

24                  KIM MCCARROLL:        Board Member Dilan.

1                   MARTIN DILAN:        Board Member Dilan present.

2                   KIM McCARROLL:       And, Board Member Paprocki.

3                   ELLEN PAPROCKI:       Present.

4                   KIM McCARROLL:       Chair, we have 12 members

5 present today. Board Member Tavares is absent.

6                   CLARISSA RODRIGUEZ:    Okay. Will everyone

7 else please mute yourselves. Kim went ahead and

8 unmuted everyone, so apologies. Just everyone please

9 mute themselves. Thank you. Also, may I have a

10 motion to approve the absence of Board Member Tavares?

11                   STEVEN CRAIN:         This is Board Member

12 Steven Crain. I -- I move to approve the absence of

13 Board Member Tavares.

14                   CLARISSA RODRIGUEZ:    Okay. Thank you, Board

15 Member Crain. Is there a second?

16                   MARTIN DILAN:         This is Board Member

17 Martin Dilan and I second the motion.

18                   CLARISSA RODRIGUEZ:    Okay. Thank you so

19 much, Board Member Dilan. Is there any opposition to

20 the motion? Okay. Seeing and hearing none, all Board

21 members please say aye if you approve.

22                   ALL:                 Aye.

23                   CLARISSA RODRIGUEZ:    Okay. Thank you very

24 much. That motion is passed. Secretary Kim McCaroll,

1           who else is present in the meeting today?

2                   KIM McCARROLL:       Well, we have General  
3           Counsel David Wertheim; Special Counsel  
4           Elizabeth Lott; Advocate for Injured Worker  
5           Joe Cavalcante; Advocate for Business Neil Gilbert. I  
6           see our Public Information Officer Melissa Stewart;  
7           our Media Services Representative Michael Gifford.  
8           Sorry, Michael. Natacha Carbajal-Evangelista, our  
9           Deputy Director; Patrick Cremo, Supervising Attorney.  
10          And, oh, Executive Director, Steve -- Steve Smith.  
11          Mary Beth Woods, Executive Director. And I'm sorry,  
12          Omotolani Elumade, assistant to, I believe, Natacha.  
13          And special guest Ziv Kimmel and Jeremy Attie from  
14          NYCIRB. I hope I got everybody.

15                   CLARISSA RODRIGUEZ:       Yes. Thank you so  
16          much, Kim. And welcome everyone. Okay. Now, on to  
17          our agenda. Agenda Item 1, approval of the July 21,  
18          2020 meeting minutes. You have all -- Board members,  
19          you have all received a copy of the July 21, 2020  
20          meeting minutes for your review. Are there any  
21          questions or need for discussion? Okay. Hearing  
22          none, may I have a motion to approve the meeting  
23          minutes?

24                   STEVEN CRAIN:       This is Board Member

1 Steven Crain. I move to approve the July 21, 2020  
2 Board Meeting Minutes.

3 CLARISSA RODRIGUEZ: Thank you, Board Member  
4 Crain. Is there a second?

5 MARTIN DILAN: This is Board Member  
6 Martin Dilan. And, Madame Chair, I second the motion.

7 CLARISSA RODRIGUEZ: Thank you very much,  
8 Board Member Dilan. Is there any opposition? Okay.  
9 Hearing none, we will do a roll call vote for our  
10 record. Thank you. Go ahead, Madame Secretary.

11 KIM MCCARROLL: Board Member Ausili.

12 FREDRICK AUSILI: Yes.

13 KIM MCCARROLL: Board Member Caggianelli.

14 PAMELA CAGGIANELLI: Yes.

15 KIM MCCARROLL: Board Member Crain.

16 STEVEN CRAIN: Yes.

17 KIM MCCARROLL: Board Member Dilan.

18 MARTIN DILAN: Yes.

19 KIM MCCARROLL: Board Member Higgins.

20 MARK HIGGINS: Yes.

21 KIM MCCARROLL: Board Member Hull.

22 LINDA HULL: Yes.

23 KIM MCCARROLL: Board Member Lobban.

24 LOREN LOBBAN: Yes.

1 KIM McCARROLL: Board Member Paprocki.

2 ELLEN PAPROCKI: Yes.

3 KIM McCARROLL: Board Member Stasko.

4 MARK STASKO: Yes.

5 KIM McCARROLL: Board Member Williams.

6 SAMUEL WILLIAMS: Yes.

7 KIM McCARROLL: Vice Chair Foster.

8 FREIDA FOSTER: Yes.

9 KIM McCARROLL: And, Chair Rodriguez.

10 CLARISSA RODRIGUEZ: Yes.

11 KIM McCARROLL: That motion is passed  
12 unanimately.

13 CLARISSA RODRIGUEZ: Okay. Thank you so  
14 much. Agenda Item 2, Office of General Counsel's  
15 Departmental Report. General Counsel David Wertheim  
16 will now present the Statistical and Informational  
17 Report for July and August. Welcome, David.

18 DAVID WERTHEIM: Thank you. Good morning,  
19 Chair, Vice Chair, Board members, and distinguished  
20 colleagues. Here is a report for the resolution of  
21 issues at the Board for the months of July and August.  
22 First, with respect to hearings held, in July, 13,794  
23 regular hearings, 9,219 issues were resolved fully at  
24 the hearing, and 377 reserve decisions were issued.

1 In August, 14,865 regular hearings, 9,283 issues fully  
2 resolved at the hearing, and 430 reserve decisions  
3 issued. With respect to Waiver Agreements, in July,  
4 there were 1,547 Waiver Agreements approved, 1,470  
5 through the hearing process, and 77 in desk review  
6 upon mutual agreement of the parties. In August,  
7 there were 1,828 Waiver Agreements approved, 1,764  
8 through the hearing process, 64 on the desk review  
9 process. Administrative Review Division in terms of  
10 applications for Administrative Review, in July, 1,053  
11 were received, 1,138 were processed, leaving an  
12 inventory at end of July of 2,491. And in August, 860  
13 received, 898 processed, leaving an inventory at end  
14 of August of 2,451 with 94 percent of applications  
15 processed within six months of the application.

16 With respect to Full Board Review, in July, there  
17 were 146 applications for Full Board Review received,  
18 159 were processed, leaving an inventory of 183. And  
19 in August, 125 were received, 136 were processed,  
20 leaving an inventory at the end of August of 172.  
21 That concludes the Statistical and Informational  
22 Report, and of course I would take any questions.

23 CLARISSA RODRIGUEZ: Okay. Are there any  
24 questions or need for discussion? Okay. Hearing

1 none, may I please have a motion to accept the report?

2 STEVEN CRAIN: Madame Chair, this is Board  
3 Member Steve Crain. I move to accept the statistical  
4 and informational report of the -- of the Office of  
5 General Counsel.

6 CLARISSA RODRIGUEZ: Okay, thank you. Is  
7 there a second?

8 MARTIN DILAN: Yes, Madame Chair. This is  
9 Martin Dilan, and I second the motion.

10 CLARISSA RODRIGUEZ: Okay. Thank you so  
11 much, Board Member Dilan. Is there any opposition?  
12 Okay. Madame Secretary, may I please have a roll call  
13 vote?

14 KIM McCARROLL: Board Member Ausili.

15 FREDRICK AUSILI: Yes.

16 KIM McCARROLL: Board Member Caggianelli.

17 PAMELA CAGGIANELLI: Yes.

18 KIM McCARROLL: Board Member Crain. Board  
19 Member Crain.

20 STEVEN CRAIN: Yes. Yes.

21 KIM McCARROLL: Thank you. Board Member  
22 Dilan.

23 MARTIN DILAN: Yes.

24 KIM McCARROLL: Board Member Higgins. Board

1 Member Higgins.

2 MARK HIGGINS: Yes.

3 KIM MCCARROLL: Board Member Hull.

4 LINDA HULL: Yes.

5 KIM MCCARROLL: Board Member Lobban.

6 LOREN LOBBAN: Yes.

7 KIM MCCARROLL: Board Member Paprocki.

8 ELLEN PAPROCKI: Yes.

9 KIM MCCARROLL: Board Member Stasko.

10 MARK STASKO: Yes.

11 KIM MCCARROLL: Board Member Williams. Hang  
12 on, Sam. Board Member Williams.

13 SAMUEL WILLIAMS: Yes.

14 KIM MCCARROLL: Vice Chair Foster.

15 FREIDA FOSTER: Yes.

16 KIM MCCARROLL: Madame Chair.

17 CLARISSA RODRIGUEZ: Yes.

18 KIM MCCARROLL: That motion is passed  
19 unaniously.

20 CLARISSA RODRIGUEZ: Okay. Thank you.

21 Agenda Item 3, licensed applications. Elizabeth Lott,  
22 Special Counsel of the Office of General Counsel will  
23 now present any licensing applications.

24 ELIZABETH LOTT: Thank you. Good morning,

1 Chair Rodriguez, Vice Chair Foster, Board members,  
2 colleagues, and guests. You have before you the  
3 recommendation from the Assigned Board Panel regarding  
4 licensing applications listed in Part 3 of today's  
5 agenda. Section 24-a, Marjorie C. Furscione,  
6 three-year renewal. Section 50(3-b), NCA Comp, Inc.,  
7 three-year renewal. Section 50(3-d), Larkin Benefit  
8 Administrators of New York, Inc., three-year renewal.  
9 Creative Risk Solutions, LLC, three-year renewal.  
10 Emerald Claims Management of New York, LLC, the Panel  
11 recommends a hold to the October Board meeting. I  
12 present these recommendations to the Board for your  
13 consideration.

14 CLARISSA RODRIGUEZ: Okay. Thank you very  
15 much, Elizabeth. Are there any questions or need for  
16 discussion? Okay. Hearing none, may I have a motion  
17 to accept the recommendations of the Panel? May I  
18 have a motion from one of our Board members?

19 STEVEN CRAIN: Yes, Madame Chair. This is  
20 Board Member Steven Crain. I move to accept the  
21 recommendations of the Panels as presented.

22 CLARISSA RODRIGUEZ: Thank you very much for  
23 that. Is there a second?

24 MARTIN DILAN: Madame Chair, this is Board

1 Member Martin Dilan, and I second that motion.

2 CLARISSA RODRIGUEZ: Okay. Thank you so  
3 much, Board Member Dilan. Is there any opposition?  
4 Okay. Madame Secretary, may I please have a roll call  
5 vote?

6 KIM MCCARROLL: Yes. Board Member Ausili.  
7 FREDRICK AUSILI: Yes.  
8 KIM MCCARROLL: Board Member Caggianelli.  
9 PAMELA CAGGIANELLI: Yes.  
10 KIM MCCARROLL: Board Member Crain.  
11 STEVEN CRAIN: Yes.  
12 KIM MCCARROLL: Board Member Dilan. Board  
13 Member Dilan. Was that yes, Board Member Dilan?  
14 MARTIN DILAN: Yes.  
15 KIM MCCARROLL: Thank you. Board Member  
16 Higgins. Board Member Higgins.  
17 MARK HIGGINS: Yes.  
18 KIM MCCARROLL: Thank you. Board Member  
19 Hull.  
20 LINDA HULL: Yes.  
21 KIM MCCARROLL: Board Member Lobban.  
22 LOREN LOBBAN: Yes.  
23 KIM MCCARROLL: Board Member Paprocki.  
24 ELLEN PAPROCKI: Yes.

1 KIM MCCARROLL: Board Member Stasko.

2 MARK STASKO: Yes.

3 KIM MCCARROLL: Board Member Williams.

4 Board Member Williams.

5 SAMUEL WILLIAMS: Yes.

6 KIM MCCARROLL: Vice Chair Foster.

7 FREIDA FOSTER: Yes.

8 KIM MCCARROLL: Madame Chair.

9 CLARISSA RODRIGUEZ: Yes.

10 KIM MCCARROLL: That motion is passed  
11 unanimately.

12 CLARISSA RODRIGUEZ: Okay. Thank you so  
13 much. Agenda Item 4, Legal Appeals. General Counsel  
14 David Wertheim will now present the recommendations  
15 concerning decisions by the Appellate Division.

16 DAVID WERTHEIM: Thank you again, Madame  
17 Chair. From the time of the July Board meeting until  
18 today, the Appellate Division, Third Department has  
19 issued ten decisions with respect to Workers'  
20 Compensation claims set forth at Item 4A through J of  
21 your agenda. In those ten decisions, eight were  
22 affirmances, one appeal was dismissed, and one was a  
23 reversal. It's the recommendation of General Counsel  
24 that all of the decisions of the Court be adopted as

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decisions of the Board.

CLARISSA RODRIGUEZ: Okay. Thank you. May I have a motion to accept the recommendations of the Office of General Counsel?

STEVEN CRAIN: Yes, Madame Chair. This is Board Member Steven Crain. I move to accept the recommendations of the Office of General Counsel.

CLARISSA RODRIGUEZ: Thank you so much, Board Member Crain. Is there a second?

MARTIN DILAN: Yes, Madame Chair. This is Member Martin Dilan, and I second that motion.

CLARISSA RODRIGUEZ: Okay. Thank you, Board Member Dilan. Is there any opposition? Okay. Madame Secretary, may I please have a roll call vote?

KIM MCCARROLL: Yes. Board Member Ausili.

FREDRICK AUSILI: Yes.

KIM MCCARROLL: Board Member Caggianelli.

PAMELA CAGGIANELLI: Yes.

KIM MCCARROLL: Board Member Crain.

STEVEN CRAIN: Yes.

KIM MCCARROLL: Board Member Dilan.

MARTIN DILAN: Yes.

KIM MCCARROLL: Board Member Higgins.

MARK HIGGINS: Yes.

1 KIM McCARROLL: Board Member Hull.  
2 LINDA HULL: Yes.  
3 KIM McCARROLL: Board Member Lobban.  
4 LOREN LOBBAN: Yes.  
5 KIM McCARROLL: Board Member Paprocki.  
6 ELLEN PAPROCKI: Yes.  
7 KIM McCARROLL: Board Member Stasko.  
8 MARK STASKO: Yes.  
9 KIM McCARROLL: Board Member Williams.  
10 SAMUEL WILLIAMS: Yes.  
11 KIM McCARROLL: Vice Chair Foster.  
12 FREIDA FOSTER: Yes.  
13 KIM McCARROLL: Madame Chair.  
14 CLARISSA RODRIGUEZ: Yes.  
15 KIM McCARROLL: That motion is passed  
16 unaniously.  
17 CLARISSA RODRIGUEZ: Okay. Thank you.  
18 Agenda Item 5, Mandatory Full Board Review. We start  
19 with Case 5A, JP Morgan Chase, Case Number G1116661.  
20 Is there a motion with respect to 5A on the agenda?  
21 LOREN LOBBAN: Yes, Madame Chair. This is  
22 Loren Lobban, and I would recommend that the majority  
23 opinion be adopted as the opinion of the Full Board.  
24 CLARISSA RODRIGUEZ: Thank you so much,

1 Board Member Lobban. Is there a second?

2 MARTIN DILAN: Madame Chair, this is Board  
3 Member Martin Dilan, and I second the motion.

4 CLARISSA RODRIGUEZ: Thank you very much,  
5 Board Member Dilan. Are there any recusals in this  
6 matter? Okay. Is there any opposition to the motion?

7 PAMELA CAGGIANELLI: Yes, Madame Chair,  
8 there is opposition. This is Board Member  
9 Caggianelli.

10 CLARISSA RODRIGUEZ: Thank you, Board Member  
11 Caggianelli. In light of the opposition, I call upon  
12 the secretary for a roll call vote.

13 KIM McCARROLL: Board Member Ausili.

14 FREDRICK AUSILI: Yes.

15 KIM McCARROLL: Board Member Caggianelli.

16 PAMELA CAGGIANELLI: No.

17 KIM McCARROLL: Board Member Crain.

18 STEVEN CRAIN: Yes.

19 KIM McCARROLL: Board Member Dilan.

20 MARTIN DILAN: Yes.

21 KIM McCARROLL: Board Member Higgins.

22 MARK HIGGINS: Yes.

23 KIM McCARROLL: Board Member Hull.

24 LINDA HULL: Yes. Yes.

1 KIM McCARROLL: Board Member Lobban.  
2 LOREN LOBBAN: Yes.  
3 KIM McCARROLL: Board Member Paprocki.  
4 ELLEN PAPROCKI: Yes.  
5 KIM McCARROLL: Board Member Stasko.  
6 MARK STASKO: Yes.  
7 KIM McCARROLL: Board Member Williams.  
8 SAMUEL WILLIAMS: Yes.  
9 KIM McCARROLL: Vice Chair Foster.  
10 FREIDA FOSTER: Yes.  
11 KIM McCARROLL: Madame Chair.  
12 CLARISSA RODRIGUEZ: Yes.  
13 KIM McCARROLL: That motion is carried  
14 eleven, one.  
15 CLARISSA RODRIGUEZ: Okay. Thank you,  
16 Madame Secretary. 5B, Coca-Cola Refreshments USA,  
17 Incorporated, Case Number G1603071. Is there a motion  
18 with respect to 5B on the agenda?  
19 STEVEN CRAIN: Yes, Madame Chair. This is  
20 Board Member Steven Crain. I move that the majority  
21 opinion be adopted as the opinion of the Full Board.  
22 CLARISSA RODRIGUEZ: Thank you, Board Member  
23 Crain. Is there a second?  
24 SAMUEL WILLIAMS: Yes. Yes, Madame Chair.

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This is Board Member Sam Williams, I second the motion.

CLARISSA RODRIGUEZ: Thank you, Board Member Williams. Are there any recusals in this matter? Okay. Hearing none, is there any opposition to the motion?

ELLEN PAPROCKI: Yes, Madame Chair. This is Board Member Ellen Paprocki and there is opposition.

CLARISSA RODRIGUEZ: Okay. Thank you, Board Member Paprocki. Madame Secretary, may I please have a roll call vote?

KIM MCCARROLL: Board Member Ausili.

FREDRICK AUSILI: No.

KIM MCCARROLL: Board Member Caggianelli.

PAMELA CAGGIANELLI: No.

KIM MCCARROLL: Board Member Crain.

STEVEN CRAIN: Yes.

KIM MCCARROLL: Board Member Dilan.

MARTIN DILAN: Yes.

KIM MCCARROLL: Board Member Higgins.

MARK HIGGINS: Yes.

KIM MCCARROLL: Board Member Hull.

LINDA HULL: Yes.

KIM MCCARROLL: Board Member Lobban.

1                   LOREN LOBBAN:        Yes.

2                   KIM McCARROLL:        Board Member Paprocki.

3                   ELLEN PAPROCKI:        No.

4                   KIM McCARROLL:        Board Member Stasko.

5                   MARK STASKO:           No.

6                   KIM McCARROLL:        Board Member Williams.

7                   SAMUEL WILLIAMS:       Yes.

8                   KIM McCARROLL:        Vice Chair Foster.

9                   FREIDA FOSTER:         Yes.

10                  KIM McCARROLL:        Madame Chair.

11                  CLARISSA RODRIGUEZ:    Yes.

12                  KIM McCARROLL:        All right. That motion is

13 carried eight, four.

14                  CLARISSA RODRIGUEZ:    Okay. Thank you so

15 much, Madame Secretary. Now, 5C, Macy's Corporate

16 Services, Incorporated, Case Number G1444584. Is

17 there a motion with respect to 5C on the agenda?

18                  ELLEN PAPROCKI:        Yes, Madame Chair. This is

19 Board Member Ellen Paprocki, and I would move that the

20 dissenting opinion be adopted as the opinion of the

21 Full Board.

22                  CLARISSA RODRIGUEZ:    Thank you, Board Member

23 Paprocki. Is there a second?

24                  MARK STASKO:           Yes, Madame Chair. This is

1 Board Member Mark Stasko. I second that motion.

2 CLARISSA RODRIGUEZ: Thank you, Board Member  
3 Stasko. Are there any recusals in this matter? Okay.  
4 Is there any opposition to the motion?

5 STEVEN CRAIN: Yes, Madame Chair. This is  
6 Board Member Steven Crain. There is opposition to the  
7 motion.

8 CLARISSA RODRIGUEZ: Thank you, Board Member  
9 Crain. Madame Secretary, may I please have a roll  
10 call vote?

11 KIM MCCARROLL: Yes, ma'am. Board Member  
12 Ausili.

13 FREDRICK AUSILI: Yes.

14 KIM MCCARROLL: Board Member Caggianelli.

15 PAMELA CAGGIANELLI: Yes.

16 KIM MCCARROLL: Board Member Crain.

17 STEVEN CRAIN: No.

18 KIM MCCARROLL: Board Member Dilan.

19 MARTIN DILAN: No.

20 KIM MCCARROLL: Board Member Higgins. Board  
21 Member Higgins.

22 MARK HIGGINS: No.

23 KIM MCCARROLL: Board Member Hull.

24 LINDA HULL: Yes.

1 KIM McCARROLL: Board Member Lobban.  
2 LOREN LOBBAN: Yes.  
3 KIM McCARROLL: Board Member Paprocki.  
4 ELLEN PAPROCKI: Yes.  
5 KIM McCARROLL: Board Member Stasko.  
6 MARK STASKO: Yes.  
7 KIM McCARROLL: Board Member Williams.  
8 SAMUEL WILLIAMS: No.  
9 KIM McCARROLL: Vice Chair Foster.  
10 FREIDA FOSTER: No.  
11 KIM McCARROLL: Chair Rodriguez.  
12 CLARISSA RODRIGUEZ: Yes.  
13 KIM McCARROLL: That motion is carried  
14 seven, five.  
15 CLARISSA RODRIGUEZ: Okay. Thank you. 5D,  
16 Skanska-Walsh JV, Case Number G2569489. Is there a  
17 motion with respect to 5D on the agenda?  
18 STEVEN CRAIN: Yes, Madame Chair. This is  
19 Board Member Steven Crain. I move that the majority  
20 opinion be adopted as the opinion of the Full Board.  
21 CLARISSA RODRIGUEZ: Thank you, Board Member  
22 Crain. Is there a second?  
23 SAMUEL WILLIAMS: Yes, Madame Chair. This  
24 is Board Member Sam Williams, and I second the motion.

1 CLARISSA RODRIGUEZ: Thank you, Board Member  
2 Williams. Does anyone need to be recused from this  
3 matter? Okay. Is there any opposition to the motion?  
4 ELLEN PAPROCKI: Yes, Madame Chair. This is  
5 Board Member Ellen Paprocki. There is opposition.  
6 CLARISSA RODRIGUEZ: Thank you, Board Member  
7 Paprocki. Madame Secretary, may I please have a roll  
8 call vote?  
9 KIM MCCARROLL: Yes. Board Member Ausili.  
10 FREDRICK AUSILI: No.  
11 KIM MCCARROLL: Board Member Caggianelli.  
12 PAMELA CAGGIANELLI: No.  
13 KIM MCCARROLL: Board Member Crain.  
14 STEVEN CRAIN: Yes.  
15 KIM MCCARROLL: Board Member Dilan.  
16 MARTIN DILAN: Yes.  
17 KIM MCCARROLL: Board Member Higgins.  
18 MARK HIGGINS: Yes.  
19 KIM MCCARROLL: Board Member Hull.  
20 LINDA HULL: No.  
21 KIM MCCARROLL: Board Member Lobban.  
22 LOREN LOBBAN: Yes.  
23 KIM MCCARROLL: Board Member Paprocki.  
24 ELLEN PAPROCKI: No.

1 KIM McCARROLL: Board Member Stasko.  
2 MARK STASKO: No.  
3 KIM McCARROLL: Board Member Williams.  
4 SAMUEL WILLIAMS: Yes.  
5 KIM McCARROLL: Vice Chair Foster.  
6 FREIDA FOSTER: Yes.  
7 KIM McCARROLL: Chair Rodriguez.  
8 CLARISSA RODRIGUEZ: Yes.  
9 KIM McCARROLL: That motion is carried  
10 seven, five.  
11 CLARISSA RODRIGUEZ: Okay. Thank you,  
12 Madame Secretary. 5E, CIDNY - Center for  
13 Independence, Case Number G2369162. Is there a motion  
14 with respect to 5E on the agenda?  
15 SAMUEL WILLIAMS: Yes, Madame Chair. This  
16 is Board Member Sam Williams, and I move that the  
17 majority opinion be adopted as the opinion of the Full  
18 Board.  
19 CLARISSA RODRIGUEZ: Thank you, Board Member  
20 Williams. Is there a second? Does anyone second the  
21 motion?  
22 LOREN LOBBAN: I second the motion. This is  
23 Loren Lobban.  
24 CLARISSA RODRIGUEZ: Thank you, Board Member

1 Lobban. Are there any recusals in this matter? Okay.  
2 Hearing none, is there any opposition to the motion?  
3 PAMELA CAGGIANELLI: Yes, Madame Chair.  
4 This is Board Member Caggianelli and there is  
5 opposition.  
6 CLARISSA RODRIGUEZ: Okay. Thank you, Board  
7 Member Caggianelli. Madame Secretary, may I please  
8 have a roll call vote?  
9 KIM McCARROLL: Board Member Ausili.  
10 FREDRICK AUSILI: No.  
11 KIM McCARROLL: Board Member Caggianelli.  
12 PAMELA CAGGIANELLI: No.  
13 KIM McCARROLL: Board Member Crain.  
14 STEVEN CRAIN: Yes.  
15 KIM McCARROLL: Board Member Dilan.  
16 MARTIN DILAN: Yes.  
17 KIM McCARROLL: Board Member Higgins.  
18 MARK HIGGINS: Yes.  
19 KIM McCARROLL: Board Member Hull.  
20 LINDA HULL: No.  
21 KIM McCARROLL: Board Member Lobban.  
22 LOREN LOBBAN: Yes.  
23 KIM McCARROLL: Board Member Paprocki.  
24 ELLEN PAPROCKI: Yes. I'm sorry. No. No.

1 KIM McCARROLL: Board Member Stasko.  
2 MARK STASKO: No.  
3 KIM McCARROLL: Board Member Williams.  
4 SAMUEL WILLIAMS: Yes.  
5 KIM McCARROLL: Vice Chair Foster.  
6 FREIDA FOSTER: Yes.  
7 KIM McCARROLL: Madame Chair.  
8 CLARISSA RODRIGUEZ: Yes.  
9 KIM McCARROLL: That motion is carried  
10 seven, five.  
11 CLARISSA RODRIGUEZ: Okay. Thank you,  
12 Madame Secretary. 5F, Toprock Interiors, Case Number  
13 G1402072. Is there a motion with respect to 5F on the  
14 agenda?  
15 MARK HIGGINS: Yes, Madame Chair. This is  
16 Board Member Mark Higgins, and I move that the opinion  
17 of the majority be adopted as the opinion of the Full  
18 Board.  
19 CLARISSA RODRIGUEZ: Thank you, Board Member  
20 Higgins. Is there a second?  
21 SAMUEL WILLIAMS: Yes, Madame Chair. This  
22 is Board Member Sam Williams, and I second that  
23 motion.  
24 CLARISSA RODRIGUEZ: Thank you, Board Member

1 Williams. Are there any recusals in this matter?  
2 Okay. Hearing none, is there any opposition to the  
3 motion?

4 FREDRICK AUSILI: Yes, Madame Chair. This  
5 is Board Member Fredrick Ausili. There is opposition  
6 to this motion.

7 CLARISSA RODRIGUEZ: Thank you, Board Member  
8 Ausili. Madame Secretary, may I please have a roll  
9 call vote?

10 KIM MCCARROLL: Board Member Ausili.

11 FREDRICK AUSILI: No.

12 KIM MCCARROLL: Board Member Caggianelli.

13 PAMELA CAGGIANELLI: Yes.

14 KIM MCCARROLL: Board Member Crain.

15 STEVEN CRAIN: Yes.

16 KIM MCCARROLL: Board Member Dilan.

17 MARTIN DILAN: Yes.

18 KIM MCCARROLL: Board Member Higgins.

19 MARK HIGGINS: Yes.

20 KIM MCCARROLL: Board Member Hull.

21 LINDA HULL: Yes.

22 KIM MCCARROLL: Board Member Lobban.

23 LOREN LOBBAN: Yes.

24 KIM MCCARROLL: Board Member Paprocki.

1 ELLEN PAPROCKI: Yes.

2 KIM MCCARROLL: Board Member Stasko.

3 MARK STASKO: Yes.

4 KIM MCCARROLL: Board Member Williams.

5 SAMUEL WILLIAMS: Yes.

6 KIM MCCARROLL: Vice Chair Foster.

7 FREIDA FOSTER: Yes.

8 KIM MCCARROLL: Madame Chair.

9 CLARISSA RODRIGUEZ: Yes.

10 KIM MCCARROLL: That motion is carried  
11 eleven, one.

12 CLARISSA RODRIGUEZ: Okay. Thank you,  
13 Madame Secretary. And finally, 5G, Suffolk County  
14 Police Department, Case Number 40700904. Is there a  
15 motion with respect to 5G on the agenda?

16 ELLEN PAPROCKI: Yes, Madame Chair. This is  
17 Board Member Ellen Paprocki. I would move that the  
18 dissenting opinion be adopted as the opinion of the  
19 Full Board.

20 CLARISSA RODRIGUEZ: Okay. Thank you, Board  
21 Member Paprocki. Is there a second?

22 MARK STASKO: Yes, Madame Chair. This is  
23 Board Member Mark Stasko, and I second that motion.

24 CLARISSA RODRIGUEZ: Okay. Thank you, Board

1 Member Stasko. Are there any recusals in this matter?  
2 Hearing none, is there any opposition to the motion?  
3 Okay. Hearing none, Madame Secretary, may I please  
4 have a roll call vote?

5 KIM McCARROLL: Board Member Ausili.  
6 FREDRICK AUSILI: Yes.  
7 KIM McCARROLL: Board Member Caggianelli.  
8 PAMELA CAGGIANELLI: Yes.  
9 KIM McCARROLL: Board Member Crain.  
10 STEVEN CRAIN: Yes.  
11 KIM McCARROLL: Board Member Dilan.  
12 MARTIN DILAN: Yes.  
13 KIM McCARROLL: Board Member Higgins.  
14 MARK HIGGINS: Yes.  
15 KIM McCARROLL: Board Member Hull.  
16 LINDA HULL: Yes.  
17 KIM McCARROLL: Board Member Lobban.  
18 LOREN LOBBAN: Yes.  
19 KIM McCARROLL: Board Member Paprocki.  
20 ELLEN PAPROCKI: Yes.  
21 KIM McCARROLL: Board Member Stasko.  
22 MARK STASKO: Yes.  
23 KIM McCARROLL: Board Member Williams.  
24 SAMUEL WILLIAMS: Yes.

1 KIM McCARROLL: Vice Chair Foster.  
2 FREIDA FOSTER: Yes.  
3 KIM McCARROLL: Madame Chair.  
4 CLARISSA RODRIGUEZ: Yes.  
5 KIM McCARROLL: That motion is carried  
6 unanimately.  
7 CLARISSA RODRIGUEZ: Okay. Thank you so  
8 much, Madame Secretary. All right. On to Agenda  
9 Item 6 our cases for Discretionary Full Board Review.  
10 Now I turn this portion of the agenda over to Vice  
11 Chair Foster. Vice Chair Foster, you're muted.  
12 FREIDA FOSTER: Thank you, Madame Chair.  
13 For the cases listed in Item 6 on your agenda, it's  
14 been recommended that Full Board Review be granted.  
15 Those cases are 6A, Matter of ConEdison; 6B, Matter of  
16 Via Transportation; 6C, Matter of City of Schenectady;  
17 6D, Matter of Carrier Industries; 6E, Matter of Tempco  
18 Services; 6F, Matter of Land Productions, Inc.; and  
19 6G, Matter of New York City HA -- Human Resources  
20 Authority, HAU. I move to refer the cases back to  
21 their respective panels for further consideration.  
22 CLARISSA RODRIGUEZ: Thank you so much. Is  
23 there a second?  
24 MARTIN DILAN: Madame Chair, this is Board

1 Member Martin Dilan, and I second that motion.

2 CLARISSA RODRIGUEZ: Thank you, Board Member  
3 Dilan. Does anyone need to be recused from any of  
4 these cases?

5 LOREN LOBBAN: Yes, Madame Chair. This is  
6 Board Member Loren Lobban, and I would like to be  
7 recused from 6A, 6C, and 6D. I will vote  
8 affirmatively in 6B, 6E, 6F, and 6G. Thank you.

9 CLARISSA RODRIGUEZ: Okay. Thank you so  
10 much. Duly noted, Board Member Lobban. Is there any  
11 opposition to the motion? Hearing no opposition,  
12 Madame Secretary, may I please have a roll call vote?

13 KIM MCCARROLL: Board Member Ausili.

14 FREDRICK AUSILI: Yes.

15 KIM MCCARROLL: Board Member Caggianelli.

16 PAMELA CAGGIANELLI: Yes.

17 KIM MCCARROLL: Board Member Crain.

18 STEVEN CRAIN: Yes.

19 KIM MCCARROLL: Board Member Dilan.

20 MARTIN DILAN: Yes.

21 KIM MCCARROLL: Board Member Higgins.

22 MARK HIGGINS: Yes.

23 KIM MCCARROLL: Board Member Hull.

24 LINDA HULL: Yes.

1 KIM McCARROLL: Board Member Lobban.  
2 LOREN LOBBAN: Yes, for the ones indicated.  
3 KIM McCARROLL: Board Member Paprocki.  
4 ELLEN PAPROCKI: Yes.  
5 KIM McCARROLL: Board Member Stasko.  
6 MARK STASKO: Yes.  
7 KIM McCARROLL: Board Member Williams.  
8 SAMUEL WILLIAMS: Yes.  
9 KIM McCARROLL: Vice Chair Foster.  
10 FREIDA FOSTER: Yes.  
11 KIM McCARROLL: Chair Rodriguez.  
12 CLARISSA RODRIGUEZ: Yes.  
13 KIM McCARROLL: That motion is passed  
14 unanimately.  
15 CLARISSA RODRIGUEZ: Okay. Thank you,  
16 Madame Secretary, and Vice Chair Foster.  
17 FREIDA FOSTER: Thank you.  
18 CLARISSA RODRIGUEZ: Agenda Item 7, any  
19 other business?  
20 KIM McCARROLL: Chair, I think I would like  
21 to note for the record that the verbatim reporter  
22 today is Karen Hayes. I missed that --  
23 CLARISSA RODRIGUEZ: Okay.  
24 KIM McCARROLL: -- at the beginning of the

1 meeting.

2 CLARISSA RODRIGUEZ: Okay. Thank you so  
3 much for that. I appreciate it. All right. Hearing  
4 no other business, we'll move on to our most important  
5 business of today, Agenda Item 8, which is our special  
6 guests. Jeremy Attie and Ziv Kimmel of the New York  
7 Compensation Insurance Rating Board. They will be  
8 presenting their annual report today. So I'm pleased  
9 to welcome these two special guests from NYCIRB.  
10 Jeremy Attie, like I said, president, and Ziv Kimmel,  
11 Sen -- Senior Vice President and Chief Actuary.

12 Now, before I turn it over, just let me give you  
13 a little background on these impressive guys. First,  
14 Jeremy. He joined NYCIRB as president elect in late  
15 February 2016 and assumed the position as president  
16 that July. Prior to joining the Rating Board, Jeremy  
17 served on the office of the New York State Governor  
18 from 2012 to 2016, most recently as assistant counsel  
19 to the governor for labor and financial services.  
20 Now, prior to joining the governor's office, Jeremy  
21 was a litigator in a New York City law firm. He is a  
22 graduate of Cornell University and Brooklyn Law  
23 School. Welcome, Jeremy.

24 And Ziv Kimmel joined the Rating Board in 2008 as

1 Director of Actuarial Research and was named senior  
2 vice president and chief actuary in 2016. Ziv started  
3 his career in 1997 as an actuarial analyst at ISO  
4 where he worked on commercial property pricing. He  
5 joined the National Council on Compensation Insurance  
6 in 2001 where he worked on legislative analysis,  
7 medical cost research, and state rate filing. He's a  
8 fellow of the Casualty Actuarial Society and member of  
9 the American Academy of Actuaries. He earned his BA  
10 in Mathematics from Queens College in 1997. Welcome,  
11 gentlemen. Thank you so much for joining us.

12 JEREMY ATTIE: Thank you so much for the  
13 kind introduction. So I am Jeremy Attie. I'm the  
14 President and CEO of the New York Compensation  
15 Insurance Rating Board. I'd like to do a quick  
16 introduction before turning it over to Ziv. For those  
17 of you who are not familiar with the Rating Board, we  
18 are a private nonprofit association licensed by the  
19 New York State Department of Financial Services to  
20 serve as the rate service organization for Workers'  
21 Compensation insurance in New York State. And what  
22 this means is that all insurance carriers who write  
23 Workers' Compensation insurance in the state are our  
24 members and provide data to us. We use that data to

1 provide services to the marketplace, develop a loss  
2 cost recommendation for the superintendent of  
3 financial services each year, maintain all Workers'  
4 Compensation related manuals, which are the rule books  
5 for writing Workers' Compensation policies in  
6 New York, maintain all class codes, develop cost  
7 analyses of legislative and regulatory changes in the  
8 system, as well as conduct research and perform market  
9 conduct functions.

10 Now, in 2020 we continue to perform all these  
11 functions in the midst of a global pandemic that's  
12 brought significant uncertainty to an industry that  
13 relies on historical experience to make future  
14 projections. So as we think about that, there are a  
15 lot of questions that remain unanswered; how many  
16 workers will contract COVID-19, how many will file  
17 Workers' Comp claims, which claims will be  
18 compensable, to what degree has the stay-at-home order  
19 impacted claim frequency, when will a vaccine be  
20 available, will most people take it, what will the  
21 workplace look like in six months, one year, or two  
22 years. And with early data offering limited guidance,  
23 the Rating Board has been making significant efforts  
24 to prepare for what will likely be an extended period

1 of uncertainty. Importantly, we are putting ourselves  
2 in a position to serve the industry in a way that is  
3 faithful to our vision, which is to serve as the  
4 objective and trusted thought leader in the New York  
5 State Workers' Compensation marketplace. And this  
6 vision moves well beyond the numbers crunch of loss  
7 cost filings and in to finding the stories and the  
8 data and relaying those stories in a way that's  
9 accessible to everyone. We believe that you shouldn't  
10 have to be an insurance expert or an actuary to  
11 understand the system and marketplace. And to realize  
12 our vision, we have been remaking ourselves. We are  
13 changing how we work, how we interact with our  
14 stakeholders, and how we view our role in the  
15 marketplace. And our vision brings three important  
16 objectives into view that I just want to share with  
17 you today.

18 First, we are focussed on developing a productive  
19 partnership with our regulators. What does this mean?  
20 It means that when -- when we interact with our  
21 regulators, it won't be with our hands out asking for  
22 something. Rather, we want to lend our expertise and  
23 make sure that our regulators understand the most  
24 recent market data and research and are in the best

1 position to regulate the marketplace and community.

2 Second, we've begun to leverage our repository of  
3 data to produce thought-provoking research and  
4 reports, regularly and often, for our regulators and  
5 the broader Workers' Compensation community. You will  
6 see today the latest of our efforts in this regard.  
7 Ziv Kimmel, the Rating Board's chief actuary, will  
8 present an abbreviated 2020 State of the System  
9 Report, the full version of which was just released  
10 last week and provides vital statistics in the  
11 marketplace. Last week we also released a 2020  
12 frequency study, and in June of 2020, we released a  
13 COVID-19 study. Our body of research has been growing  
14 since 2016. We've released a motor vehicle accident  
15 study, a medical payment study, a drug study, a large  
16 claim study, and a regional study. We've also recent  
17 -- we've also recently participated in a  
18 multi-jurisdictional study on Medi-Claims. All of our  
19 research papers are publicly available on our website.

20 Finally, we've begun to engage the State's  
21 Workers' Compensation community. Beginning in  
22 September of 2017 we hold annual forums and invite  
23 representatives from all stakeholder groups to attend  
24 and present our latest research and pre -- and

1 reports. Our forums provide stakeholders with an  
2 opportunity to get together, listen to one another,  
3 and hopefully develop working relationships and  
4 dialogs. Because we believe that when we understand  
5 each other, we move forward together. While our 2020  
6 forum was held virtually, we hope that future forums  
7 will once again be in-person events, and we look  
8 forward to that. And those events will be open and  
9 free to the entire community. In the meantime, all of  
10 our 2020 forum presentations are available for viewing  
11 on our website.

12 So in conclusion, we want your feedback.  
13 Maintaining a productive partnership with our  
14 stakeholders is central to our vision and we want to  
15 know how we can be helpful. So either at the end of  
16 the discussion today or in the days that follow,  
17 please be in touch and let us know what you think and  
18 how we can help. Our time is limited today, so  
19 without further ado, I'd like to turn the floor over  
20 to Ziv Kimmel, the Rating Board's chief actuary for  
21 the presentation of the 2020 State of the System  
22 Report. It's over to you, Ziv.

23 ZIV KIMMEL: Good morn -- thank you, Jeremy,  
24 and good morning everybody. I'm going to go ahead and

1 share my screen. I hope everybody can see it, and  
2 I'll go ahead and start the presentation. Can you  
3 folks see the screen, State of the System?

4 ALL: Yes.

5 ZIV KIMMEL: Good. Thank you. So welcome  
6 to the 2020 State of the System presentation. Many of  
7 the results and figures that I'm going to share with  
8 you today are based on data that is fairly recent;  
9 however, some of it may be perceived as old news,  
10 given the new reality role we found ourselves living  
11 through these past several months. But the data I  
12 will present you today is still very relevant. This  
13 is the moment in time when the COVID pandemic --  
14 COVID-19 pandemic hit. And we want to use the latest  
15 statistics as a benchmark to compare how things  
16 change. We want to understand where things were  
17 before the pandemic so that we can compare that  
18 against what we'll see in the future in a post  
19 pandemic environment. It's also important to  
20 understand how we got to this point in terms of the  
21 2020 loss cost filing and some of the changes we made  
22 this year.

23 So let's get to it and we'll start with some key  
24 figures. And I'd like to focus your attention on two

1 key figures. First, the negative 1 percent indication  
2 displayed on the upper left side of the slide. This  
3 approval represents the fifth straight year that the  
4 Department of Financial Services approved the loss  
5 cost change recommended by the Rating Board's  
6 actuarial committee. We'll discuss the loss cost  
7 filing in more detail later.

8 The second fig -- key figure I'd like to point  
9 out is on the lower right-hand corner. It's the  
10 calendar year combined ratio of 81.8 percent. The  
11 calendar year combined ratio measures the ratio of  
12 losses, expenses, and dividends to premiums based on  
13 transactions occurring in a particular calendar year.  
14 It is the second year in a row with a combined ratio  
15 in the low 80s and a historic low result.

16 Here is the agenda of some of the topics we're  
17 going to cover today. As I already mentioned, I'll go  
18 into some of the detail of the loss cost filing and  
19 discuss some changes in methodology that the Rating  
20 Board implemented this past year. I will then address  
21 the issues associated with COVID-19 and the impact of  
22 the pandemic on the loss cost filing. I will share  
23 some very preliminary statistics related to the  
24 pandemic and its effects on the Workers' Compensation

1 system. I will then proceed to discuss some premiums,  
2 market share statistics, and we'll conclude with some  
3 loss statistics.

4 We'll start with the loss cost filing. In July  
5 the New York State Department of Financial Services  
6 approved the Rating Board's actuarially recommended  
7 negative 1 percent, average loss cost change, insuring  
8 that loss cost in the New York State system remained  
9 at adequate levels. Here we have a historical  
10 perspective of loss costs and -- loss cost and rate  
11 level changes with the blue bars representing rate  
12 changes. And in October of 2008 we moved to a loss  
13 cost system, which are represented by the purple box.  
14 Interestingly, over the past 20 years, the cumulative  
15 change represented by the yellow line is a decrease of  
16 4.6 percent. This means that on average, Workers'  
17 Compensation premium rates are 4.6 percent lower than  
18 they were back in 2001. You can see that the 2020  
19 approval is the fourth consecutive decrease,  
20 forewarning the 4 and a half percent decrease in 2017  
21 and two consecutive double digit decreases in 2018 and  
22 2019. But if you focus for a moment on the right side  
23 of this exhibit, you could see that from 2016 to 20 --  
24 to 2019, the loss cost level in the state has been

1 relatively volatile with a more than a 9 percent  
2 increase in 2016, which was then followed by the  
3 significant decreases. We have some volatility. And  
4 in a minute I'll discuss some of the changes we made  
5 in the filing process to control for some of that  
6 volatility.

7 So let's discuss the loss cost filing process and  
8 the steps we take to derive the overall indication.  
9 So there are several components to the loss cost  
10 filing. First, experience. In this component we look  
11 at the latest two policy years of available data and  
12 measure how losses compare to premium. In the trend  
13 section we want to see how these measures in the  
14 premium and losses are projected to change over time  
15 from the experience period to the prospective filing  
16 period. To that we add benefit-level changes, which  
17 primarily result from changes in the maximum weekly  
18 benefit and the projected change in loss of jobs with  
19 expenses to bring us to the overall indication.

20 We're going to take a deeper look into the  
21 experience and trend components. We're going to start  
22 with experience. For the experience section we  
23 examine how premiums and losses compare. The latest  
24 two policy years for which we have complete data are

1 2017 and 2018. And though the data is valued as of  
2 December 31st, 2019, for each of these years, we're  
3 looking at both incurred loss amounts at -- which  
4 include payments and case reserves, and we also  
5 perform a separate analysis looking at paid losses  
6 only. Prior to this year's filing, our loss -- loss  
7 cost level analysis focus on incurred amounts only.  
8 Averaging the incurred and paid indication is intended  
9 to protect ourselves from overreacting to sudden  
10 changes in reserving practices or in settlement rates  
11 that may be more temporary.

12 The blue bars represent the premium amounts for  
13 the two policy years. The reported premium amounts  
14 are the loss cost levels, so they do not include the  
15 effects of loss cost multipliers. They are also  
16 adjusted to the level of the current loss cost,  
17 because really what we're trying to measure is the  
18 adequacy of the current loss cost level.

19 The red bars represent total reports of loss  
20 amounts for the two policy years on an incurred basis  
21 and on a paid basis. These loss amounts are valued as  
22 of December 31st, 2019. We know, however, that  
23 regardless of whether we look at paid or incurred loss  
24 amounts, the value of claims changes over time as they

1           develop until they reach ultimate value. So we have  
2           to adjust the reported losses to estimate what the  
3           ultimate value would be. And we do that by applying a  
4           development factor, which is based on a historical  
5           pattern of how loss valuations changed over time.

6           So we're going to start with the incurred loss  
7           indication for 2017, and we're going to apply the  
8           development factor to the losses and to bring those  
9           losses to ultimate level. And now we have one  
10          estimate of ultimate losses in the red and yellow  
11          column, but we actually have another estimate of  
12          ultimate losses represented by the blue column. It's  
13          technically the premium column, but since these are  
14          premiums at loss cost level, it actually represents an  
15          additional estimate of ultimate losses, the ultimate  
16          losses without underlying the current premium. So to  
17          promote stability, we take the weight of the average  
18          of the red and yellow loss estimate with the blue loss  
19          estimate to derive the green loss estimate. The green  
20          loss estimate is what we're going to use to derive the  
21          indication. And the experience indication for policy  
22          year 2017 based on incurred losses is the difference  
23          between the blue column, representing premium, and the  
24          green column, representing our estimated ultimate

1 losses, and in this case, an increase of 1.7 percent.

2 We then perform the same analysis, but this time  
3 we just use -- we utilize the paid loss of  
4 information. We develop the reported paid losses to  
5 ultimate level averaging the two loss estimates to  
6 derive the green loss estimate. And now the  
7 indication based on paid losses for 2017 is an  
8 increase of 3.6 percent. So the average indication  
9 for policy year 2017 is the average of the paid  
10 indication and the incur -- and the incurred  
11 indication, or plus 2.7 percent. We do the exact same  
12 thing for policy year 2018. After employing our  
13 procedure, the incurred loss indication for policy  
14 year 2018 is plus 1.4 percent, and the paid loss  
15 indication for policy year 2018 is plus 1.9 percent  
16 for an average of plus 1.7 percent. So our experience  
17 indication for 2017 is plus 2.7 percent, the  
18 experience indication for 2018 is plus 1.7 percent,  
19 and the average experience indication for the two  
20 policy years is plus 2.2 percent. So we're going to  
21 go ahead and plug that in for the experience  
22 component.

23 Let's talk about trend. For the 2020 filing,  
24 which was -- which has an effective date of

1           October 1st, 2020, we use experience information for  
2           policy years 2017 and 2018. We have to remember  
3           though that we're not trying to determine what the  
4           loss cost should have been back in 2017 and 2018.  
5           We're trying to determine what the appropriate loss  
6           cost level should be in the future for policies that  
7           will be written starting in October of 2020, but also  
8           for policies that will be written in September of  
9           2021, which will remain in effect until September of  
10          2022. So we know our starting point is plus 2.2  
11          percent, but we need to determine how the measures of  
12          premiums and losses are projected to change from the  
13          experience period until the prospective filing period,  
14          which is what we refer to as trend. A trend period  
15          really spends three and a quarter years from the  
16          midpoint of the experience period of policy years 2017  
17          and 2018 to the midpoint of the prospective filing  
18          period, which starts October 1st, 2020 and ends  
19          September of 2022.

20                 So let's take a look at the different components  
21                 of the trend factor, which are indemnity severity,  
22                 medical severity, claim frequency, and wages. We'll  
23                 start with the indemnity severity. We'll begin with  
24                 the blue line representing actual indemnity average

1 cost per case over the past five policy years. The  
2 black line represents the valuation date of the  
3 reported data. Based on the observed pattern of  
4 indemnity severity, we can tell that at least through  
5 the latest point of known data, indemnity severity is  
6 increasing at this projected rate, about 4.1 percent  
7 per year; however, from this point forward, we're not  
8 using the same growth rate. Instead, we're using a  
9 growth rate of a selected index. And for indemnity  
10 severity, the most appropriate index is wages, because  
11 indemnity benefits are functional wages. So here the  
12 red line represents the wages which are consistently  
13 increasing over time, and the purple line is the  
14 projected increase in wages. And in this case the  
15 projected rate of increase in wages is very similar to  
16 the in -- project -- to the increase that you see for  
17 the wage line. But we're going to go ahead and use  
18 the rate of increasing wages from the index. From the  
19 latest point of known data to the midpoint of the  
20 prospective filing period is the estimate of future  
21 changes in indemnity severity.

22 Let's examine medical severity. Similarly, the  
23 blue line represents medical severity or average  
24 medical cost per lost time claim. Over the most

1 recent five policy years, although we notice some  
2 volatility, overall we observe a slightly decreasing  
3 pattern. So we project that from the experience  
4 period to the latest point of known data, there will  
5 be a small decrease at a rate of about 0.2 percent per  
6 year.

7 For medical severity we use a different index  
8 called the chain-weighted personal healthcare index.  
9 It's published by CMS. And studies have shown that it  
10 is pretty good reflection of the services that are  
11 performed in the Workers' Compensation system. This  
12 index has been steadily increasing at a very  
13 consistent rate, and the projection is that it will  
14 continue to do so. And using the same approach, we  
15 projected from the latest point of known data to the  
16 midpoint of the prospective filing period, medical  
17 severity will move at the same rate as the index.

18 For claim frequency, which is the number of loss  
19 time claims per mill -- one million dollars of  
20 premium, we use the same methodology as we did in the  
21 past. We don't have an index to tie it to. Claim  
22 frequency has been decreasing very consistently at a  
23 rate of 0.9 percent per year, and we project that it  
24 will continue to decrease at the same rate.

1           Here the red line represents wages. And as you  
2           can see, again, they are increasing at a rate of about  
3           3 percent per year. So over the trend period, or  
4           three and a quarter years, wages are projected to  
5           increase by over 10 percent. More wages would bring  
6           in more premium. So just because wages are  
7           increasing, even if we don't attach the loss costs,  
8           premium volume in the state would increase. Now, if  
9           losses are increasing at the same pace as premium,  
10          then we don't need to make any further adjustment. If  
11          losses are increasing faster than premium, then we  
12          would need to adjust the loss cost higher. And if  
13          losses are increasing slower than premiums, we would  
14          need a downward adjustment.

15          The blue line represents the loss ratio trend,  
16          which is really a combination of the frequency,  
17          indemnity severity, and medical severity. As you can  
18          see, it is experience that decreased through 2016 but  
19          has increased since then. And this is our combined  
20          projection line after applying the trend projection  
21          methodology for the different components. We can see  
22          that there is -- it -- it's also increasing but at a  
23          lower rate than wages, which creates a gap at the  
24          midpoint of the prospective filing period and results

1 in a trend factor of negative 4 percent.

2 So we started with an ex -- with experience at  
3 plus 2.2 percent. This is the trend section. We add  
4 on plus 1 percent to account for the annual increase  
5 in maximum weekly benefits and a small change of  
6 negative 0.1 percent in the loss adjustment expense  
7 provision. And putting everything together, we get  
8 negative 1 percent.

9 Of course as we were preparing the 2020 filing,  
10 the COVID-19 pandemic hit. We did not make any  
11 adjustments to reflect the potential impact of the  
12 pandemic because things are changing quickly and may  
13 affect the system in many different ways. The  
14 challenge is that we have different forces that could  
15 affect the loss cost level in different directions.  
16 For example, while the overall number of claims may  
17 decrease as a result of the economic downturn, the  
18 premium volume is expected to decrease as well. Will  
19 the decrease in premium be the same, greater, or less  
20 than the de -- than the decrease in claims.  
21 Similarly, there would be difficulties projecting the  
22 impact of the pandemic on average claim severities.  
23 Will claimants stay out of work longer due to the  
24 economic conditions, will injured workers experience

1 difficulty, excuse me, obtaining the necessary medical  
2 care, what will be the effect of telemedicine, how  
3 will the changing economy of the workforce affect  
4 claim frequency and severity. The Rating Board is  
5 continuing to -- to study the effects of the pandemic  
6 on the Workers' Compensation system.

7 That said, we do have some preliminary statistics  
8 on the rapidly changing Workers' Compensation claim  
9 environment as well as some early information on COVID  
10 claims. First, let's take a look at the percentage  
11 difference in claims activity between 2019 and 2020.  
12 We see that in January and February, claim activity  
13 was relatively similar with a decrease of about  
14 5 percent in February. In March the pandemic really  
15 hit New York. In mid-March Governor Cuomo issued a  
16 stay-at-home order putting New York on pause. This  
17 resulted in a significant decrease (audio fades out)  
18 in claim activity with March down 24 percent. But  
19 this was just when New York was on pause for half of  
20 the month. April and May were full months with  
21 New York on pause. With the New York economy starting  
22 to reopen in June and July, the effects on claim  
23 activity is clear; still down significantly from 2019,  
24 but not as much as in April and May, enduring a

1 decrease of 27 percent in June and 20 percent in July.  
2 In total over the first half of 2020, claim activity  
3 is down about 24 percent. This is what we know so  
4 far, but we also know that there is a lot more that we  
5 don't know, such as the effect of the economic change  
6 in amount of Workers' Comp premiums. Clearly there  
7 will be some sort of decrease due to layoffs,  
8 furloughs, et cetera, but it will be several months  
9 before we get the full information on premium changes  
10 so that the effect of the economic changes on loss  
11 cost and other end results can be estimated.

12 Next, let's take a look at what we know so far  
13 about Workers' Compensation COVID claims. We start  
14 with the total number of known COVID infections.  
15 These are our confirmed positive cases in New York.  
16 Let's narrow that down to the estimated number of  
17 COVID infections in people that are between the ages  
18 of 18 and 64. As of early August we're at about  
19 305,000. Now, let's take a look at the number of  
20 COVID Workers' Compensation claims. You can see it in  
21 the bottom of your screen just over 11,000 as of early  
22 August, or just about three and a -- three and a half  
23 percent of positive cases in the working-age  
24 population. While it may appear like a low

1 percentage, there are a variety of reasons for that.  
2 According to the CDC, about 40 percent of cases are  
3 asymptomatic, and out of the symptomatic cases, only  
4 about 3.4 percent require hospitalization. So the  
5 vast majority of cases are either -- either  
6 asymptomatic or relatively mild. Also, in order to  
7 receive Workers' Comp benefits, claimants will have to  
8 show that they contracted COVID at the workplace, and  
9 many possibly didn't. And those who may have  
10 contracted it at the workplace and do end up missing a  
11 limited amount of time from work, may rely on other  
12 paid leave programs for income security instead of  
13 turning to the Workers' Comp system for relief, either  
14 because they don't want the reduction in pay or they  
15 just don't want to go through the Workers' Comp  
16 system.

17 With that in mind, let's discuss some other  
18 statistics on premiums and losses in New York from the  
19 pre pandemic era. These various statistics are  
20 important to understand as they would serve as a  
21 benchmark to measure how they change between the pre  
22 and post pandemic eras. Premium volume in the state  
23 decreased from 5.9 billion in 2018 to 5.6 billion in  
24 2019. This is really the first significant decrease

1 in premium volume since 2008. Gross in payroll as  
2 well as increase in loss cost resulted in significant  
3 premium growth from 2010 until 2016 where loss cost  
4 stabilized. Recent significant decreases in the loss  
5 cost level are the primary driver of the decrease in  
6 2019.

7 Let's talk about classifications. This is a view  
8 of the top ten governing classes in New York in terms  
9 of payroll. Not surprisingly, clerical office  
10 employees represent the largest class in terms of  
11 payroll. It is followed by hospitals, physicians,  
12 schools, and clerical service contractors. The top  
13 ten classes by payroll represents 52 percent of the  
14 total statewide payroll, but only 17 percent of the  
15 standard premium. This is because some classes, such  
16 as the clerical office employees' class, have very low  
17 loss cost and generate very little premium. In fact,  
18 when you rate the classes in terms of premium, the  
19 clerical office employee code doesn't even make it to  
20 the top ten. Hospitals generate more premiums than  
21 any other class. And interestingly, in the top ten,  
22 we have three classes in terms of premium volume that  
23 are from the healthcare -- from healthcare-related  
24 industries. And these points are in accordance of the

1 healthcare sector in Workers' Compensation and to the  
2 economy in general.

3 Moving on to market share information. The  
4 New York State Fund is a competitive State Fund and is  
5 not there strictly to serve the residual market as may  
6 be the case in some other jurisdictions. And the  
7 market share is often viewed as a measure of how  
8 competitive the market is. So this is a view of the  
9 how -- how the State Fund market share has changed  
10 over time. And we know that after gradually  
11 increasing market share up to a high of 45.1 in 2014,  
12 we're observing five straight years of decreasing  
13 market shares down to a level of 35.5 percent, which  
14 is the lowest we've seen in quite some time.

15 Now, let's examine the distribution of policies  
16 by policy size. Most policies in the state over  
17 400,000 are relatively small policies with premium  
18 under \$5,000. And despite the large number of these  
19 policies representing more than 75 percent of all  
20 policies in the state, because of their smaller size,  
21 they only generate less than 6 percent of the total  
22 premium in the state. Larger policies represent a  
23 small portion of policies but a significant portion of  
24 premiums. Policies with the -- with premium over

1           \$50,000 represent less than 5 percent of policies but  
2           account for more than 75 percent of premium.

3           We're going to shift gears and discuss some loss  
4           statistics. We're going to start with examining the  
5           distribution of claims and losses by injury type. And  
6           we observe that although medical-only claims account  
7           for almost 60 percent of claims, they are generally  
8           very small claims and represent only 2 percent of the  
9           total loss amounts.

10          Fatal and permanent total claims don't happen  
11          often, but they still represent almost 6 percent of  
12          losses. Permanent partial claims are the most  
13          significant cost driver accounting for almost  
14          75 percent of the losses, even though they represent  
15          just under 20 percent of claims. These are the top  
16          ten parts of body in terms of claim counts on the left  
17          and in terms of total losses on the right. It's  
18          interesting to know that injuries to certain part of  
19          bodies -- parts of body are clearly more expensive  
20          than others. For example, shoulder injuries represent  
21          9.3 percent of claim counts but close to 15 percent of  
22          lost dollars. On the other hand, fingers and thumbs  
23          represent more than 12 percent of injuries but just  
24          3 percent of losses. Injuries to the lower back,

1 knee, and shoulder represent the highest percentage of  
2 losses.

3 Next we're going to look at the distribution of  
4 medical costs, and the numbers over the next several  
5 slides are going to be from a medical data poll  
6 representing payments made for services performed in  
7 2019. And we start with the overall distribution of  
8 2019 medical payments into major -- major medical cost  
9 categories. And you observe that physicians  
10 represented the largest medical payment category with  
11 almost half the medical payments in 2019, which is  
12 followed by hospitals with 22 percent and prescrip --  
13 prescription drugs at under 10 percent. Digging a  
14 little deeper into the largest category, which is  
15 physician cost, we see that in 2019, payments for  
16 surgical procedures represent just over a quarter of  
17 physician payments, followed by physical medicine,  
18 which represents an additional 25 percent of physician  
19 costs, and evaluation and management services at 18  
20 percent. The physical medicine and evaluation and  
21 management percentages represent an increase from what  
22 we saw in 2018, which may be attributable, at least in  
23 part, to the changes in the state's medical fee  
24 schedule, which went into effect in April of 2019.

1 I wanted to focus just for a few -- few seconds  
2 on the ambulatory surgical standards category as we  
3 examine the changes in the percentage of payments for  
4 ambulatory surgical centers over the past several  
5 years, there's a clear trend with continuous increases  
6 from 2.4 percent of total medical payments in 2011 to  
7 7.9 percent in 2019.

8 Let's take a closer look at prescription drugs.  
9 An examination of drug payments as the percentage of  
10 total medical payments shows an increase from 2011 to  
11 2014. At that point, the combination of a nationwide  
12 battle against the opioid epidemic, which included the  
13 I-STOP legislation in New York, as well as stronger  
14 adherence to Medical Treatment Guidelines may have  
15 contributed to the significant decrease in payments  
16 for prescription drugs down to the level of just under  
17 10 percent in 2019.

18 Taking a closer look at various prescription drug  
19 categories, we see that opioids on top are still the  
20 biggest contributor to drug costs. Several years ago,  
21 however, opioids represented 29 percent of drug costs.  
22 So the opioid share of total prescription drug spent  
23 decreased significantly to just under 22 percent in  
24 2019. So this decrease in the opioid categories

1 clearly contributor to the overall decrease in the  
2 share of prescription drug spent out of total medical  
3 spent. So this concludes the presentation. And thank  
4 you.

5 CLARISSA RODRIGUEZ: Okay. Thank you so  
6 very much. The -- that was really informative. We do  
7 have a few questions. There's a -- a question from  
8 one of our Board members. Board Member Linda Hull,  
9 would you like to go ahead and ask your question?

10 LINDA HULL: Yes, I will. I -- I know in  
11 the -- your presentation there was another  
12 presentation that I actually watched. And it was just  
13 reference in the future that somehow the loss cost  
14 formula was going to factor in safety programs. You  
15 know, and I know in the past there have been some  
16 safety programs legislated, but I'm just wondering  
17 what your thoughts are on that.

18 ZIV KIMMEL: Thank you. Thank you very much  
19 for the question. Safety programs are clearly an  
20 integral part of what -- of -- of the -- of the  
21 Workers' Comp system and what premiums are being  
22 charged. And there are several credit programs for --  
23 within -- within the final premium calculation for  
24 employers for employers that have implemented these

1 types of programs. Obviously, as more employers  
2 implement those safety programs, they're getting  
3 credit for them, and hopefully, and what we see, in --  
4 in -- at least in recent years, is the loss amounts  
5 are starting to come down. So there's certainly a re  
6 -- a result, or I would say a positive result, in that  
7 there's, you know, lower losses, less frequency, and  
8 less claim frequency in the system as a result of the  
9 implementation of these safety programs and, you know,  
10 employers are appropriately rewarded for that. And it  
11 also affects the overall loss cost level. As losses  
12 come down and -- which resulted in as -- as you may  
13 have seen, some of the -- some of the recent years  
14 we've seen two consecutive -- before this negative  
15 1 percent indication that we saw this year, we had two  
16 consecutive years of double digit decreases in the  
17 loss cost, which are in part attributable to some of  
18 those safety programs.

19 CLARISSA RODRIGUEZ: Okay. Thank you so  
20 much. Great question. Thank you for the answer. I  
21 also have a question. I think that -- I noticed --  
22 well, you know, with the pandemic, it is very  
23 difficult to do business as usual, especially in our  
24 industry. One of the things that I noted you're doing

1 is virtual audits since in-person audits cannot be  
2 done. I just wanted to know how that's going and just  
3 more generally how you think the industry is  
4 adjusting. I guess, a question for Jeremy.

5 JEREMY ATTIE: So -- thank you so much.  
6 It's -- it's a very good question. So we've actually  
7 moved to virtual audits. It started with a temporary  
8 approval by DFS in the spring and then actually DFS  
9 made that a permanent change to our manual. So going  
10 forward -- which I think reflects really mod -- modern  
11 technology, convenience for both insurers and New York  
12 State businesses and hopefully some cost savings. So,  
13 you know, it -- it's going pretty well for the audits.  
14 Really it's -- it's -- it's a back and forth  
15 electronically of payroll, spreadsheets, and  
16 communication with employers, and really no -- no  
17 trouble thus far that we can tell. Our inspection  
18 program, you know, we -- we do inspect -- we do  
19 inspect a limited number of New York State businesses  
20 each year, it has been on pause because of the threat,  
21 obviously, the public health threat posed by the  
22 COVID-19 pandemic. But we are hopeful that in -- in  
23 some time sooner rather than later we will get -- be  
24 able to get back to that.

1 CLARISSA RODRIGUEZ: Okay. Thank you,  
2 Jeremy. Are there any other questions from Board  
3 members? Okay. Hearing none, I just want to thank  
4 you both again for joining us today and for sharing an  
5 abbreviated version of a very important presentation  
6 of the state of the Workers' Compensation Board or the  
7 Workers' Compensation in the state. Thank you so much  
8 for being here.

9 Lastly, I will just need a motion to adjourn the  
10 meeting today. Can I please have a motion?

11 FREIDA FOSTER: Move to adjourn.

12 CLARISSA RODRIGUEZ: Is there any Board --  
13 sorry. Go ahead.

14 FREIDA FOSTER: This is Freida Foster, Vice  
15 Chair. I move to adjourn.

16 CLARISSA RODRIGUEZ: Okay. Thank you. Is  
17 there a second?

18 MARTIN DILAN: Madame Chair, this is Board  
19 Member Martin Dilan, and I second the motion to  
20 adjourn.

21 CLARISSA RODRIGUEZ: Okay. Thank you very  
22 much. Is there any opposition? Hearing no  
23 opposition, all in favor say aye.

24 ALL: Aye.

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CLARISSA RODRIGUEZ: All right. Thank you  
all very much. Take care.

JEREMY ATTIE: Thank you very much.

CLARISSA RODRIGUEZ: Thank you.

ALL: Thank you.

WHEREUPON THE BOARD MEETING WAS ADJOURNED.