

# Investigations and Evaluations – High Risk Cases

*Case Study: Sudden Acceleration*



**NEW HAMPSHIRE ADJUSTERS ASSOCIATION**  
**21st Annual**  
**Fall Education Conference**  
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*Presented by Michelle Schaffer*  
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# Checklist of Tasks



- **Early Investigation**
  - ✦ Reports
  - ✦ Inspect and photograph
  - ✦ Interview
  - ✦ Locate the vehicle
  - ✦ Conduct vehicle inspection
  - ✦ Obtain medical records
  - ✦ Obtain weather reports
  - ✦ Obtain driver's history
  - ✦ Obtain vehicle history

# *Case Study: Sudden Acceleration*

## Checklist



### • **Discovery**

- ✦ Additional culpable parties?
- ✦ Preliminary discovery request
  - To confirm claim of defect:
    - Design vs manufacturing
    - Repair or maintenance
    - Mechanical or electrical systems
    - After-market parts
  - To confirm damages claims:
    - Personal injury
    - Emotional distress
    - Property damage
    - Punitive damage

# *Case Study: Sudden Acceleration*

## Checklist



- **Discovery *cont'd***
  - ✦ Consider requesting other incident evidence
  - ✦ Depose the driver and all passengers and witnesses
  - ✦ Depose investigating officer
  - ✦ Depose first responders
  - ✦ Depose plaintiff, spouse and medical providers

# *Case Study: Sudden Acceleration*

## Checklist



- **Expert Issues**
  - ✦ Identify and retain appropriate experts
    - Supply all relevant materials
    - Is additional discovery necessary?
    - Consider testing
  - ✦ Depose plaintiff's experts

# *Case Study: Sudden Acceleration*

## Checklist



- **Trial**

- ✦ Trial motions to file:

- Motions to preclude experts
    - Evidentiary motions
    - Bifurcation of liability and damages
    - Motions to strike punitive damage claims

# *Case Study: Sudden Acceleration*

## Checklist



- *Trial cont'd*

- ✦ Key documents/exhibits:

- Japan Ministry of Transport article
- Transport Canada article
- NHTSA's Investigative Report re: Audi 5000 cars
- NHTSA report on unintended acceleration
- Petition to NHTSA to reopen investigation and response to Petition
- NASA report
- Exemplar components
- Depictions of the scene

- ✦ Use of document presentation equipment

- ✦ Fact witness and expert line up



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